

# APPROVED

## MINUTES

### CITY OF FORT LAUDERDALE CIVIL SERVICE BOARD MEETING

Friday March 6, 2020 - 10:00 AM  
City Hall, 1st Floor Commission Chambers  
100 North Andrews Avenue  
Fort Lauderdale, Florida

#### Cumulative Attendance

01/01/2020 – 03/06/2020

<u>Board Member</u>	<u>Attendance</u>	<u>Present</u>	<u>Absent</u>
Lori Adelson, Chair	P	1	0
Shelley Gialluca	P	1	0
Robert Baldwin	P	1	0

#### Call to Order

Ms. Adelson called the meeting to order at 10:03 AM.

#### Roll Call

#### Staff Present:

Jerome Post – Deputy Director of Human Resources  
Kerry Arthurs - Administrative Supervisor and Board Clerk

#### Other Attendees:

Mimi Turin, Esquire – Board Counsel  
Patrick Zalman, Esquire – Outside Counsel for the City of Fort Lauderdale  
Denise J. Bleau, Esquire – Counsel for John Madden, Appellant  
John Madden – Appellant  
John Travers – Building Official, Department of Sustainable Development  
Valerie Arthur - Sr Technology Strategist, Department of Sustainable Development  
Luis Hernandez - Assistant Building Official, Department of Sustainable Development

#### Attachment:

Transcript of Proceedings – Prototype Inc.

#### Meeting Adjournment:

the meeting was adjourned at 2:27 PM.

CITY OF FORT LAUDERDALE  
CIVIL SERVICE BOARD HEARING

**TRANSCRIPT OF PROCEEDINGS**

**APPEAL OF TERMINATION OF EMPLOYMENT - JOHN MADDEN**

DATE HELD: FRIDAY, MARCH 6, 2020  
TIME: 10:03 a.m. - 2:27 p.m.  
PLACE: City Hall  
1<sup>st</sup> Floor Commission Chambers  
100 East Andrews Avenue  
Fort Lauderdale, FL 33301

APPEARANCES BY

**BOARD MEMBERS:**

LORI ADELSON  
SHELLEY GIALLUCA  
ROBERT BALDWIN

**STAFF:**

JEREMY POST, Deputy Director of Human Resources  
KERRY ARTHURS, Administrative Administrator

**COUNSEL:**

PATRICK W. ZALMAN, ESQUIRE  
Haliczzer, Pettis & Schwamm  
*Outside Counsel for the City of Fort Lauderdale*  
One Financial Plaza, Seventh Floor  
Fort Lauderdale, FL 33394-0015

DENISE J. BLEAU, ESQUIRE  
Ward, Damon, Posner, Pheterson and Bleau  
*Counsel for John Madden, Former Employee*  
4420 Beacon Circle  
West Palm Beach, FL 33407

MIMI TURIN, ESQUIRE  
Turin Center for Dispute Resolution  
*Board Counsel*  
11352 West State Road 84, Suite 58  
Davie, FL 33325-4007

## HEARING

March 6, 2020

[COMMENCING AT 10:03 a.m.]

CHAIR ADELSON: Good morning everyone. Thank you for being here on this Friday, March 6, 2020. We are here for the continuation of the appeal, the termination of the plaintiff John Madden.

We're going to go through our agenda first. Then we're going to do a call to order and a roll call. So, I'll start on the far left. Mr. Post?

MR. POST: Jerome Post, Deputy Director, [audio difficulties]

CHAIR ADELSON: Okay, is mine working now?

MR. BALDWIN: Now is it working?

MS. GIALLUCA: Mine works.

MR. BALDWIN: Can you hear me now?

[Discussion off the record to get microphones to work]

CHAIR ADELSON: Call to order. Roll call on our far left.

MR. POST: Jerome Post, Deputy Director, Human Resources.

MS. TURIN: Mimi Turin, Board Counsel.

MR. BALDWIN: Robert Baldwin, Board member.

CHAIR ADELSON: Lori Adelson, Board Chair.

1 MS. GIALLUCA: Shelley Gialluca, Board member.

2 CHAIR ADELSON: So we have to review and approve  
3 the Minutes from the previous two meetings ago -- three  
4 meetings ago, pardon me. The date was the 12<sup>th</sup> of December  
5 and I am going to ask if there are any corrections?

6 MS. GIALLUCA: Ms. Chair, I have some  
7 corrections. I apologize, I'll go through this as quickly  
8 as possible.

9 For the December 12<sup>th</sup> meeting minutes, the  
10 amendments that I discovered should be: Page 9, line 5,  
11 change the word "form" to "from;" Page 11, line 10, change  
12 "tended" to "intended;" Page 46, line 23, Ralph Rowse,  
13 phonetic spelling, should be changed to Ralph Riles, R-I-L-  
14 E-S throughout the document; Page 49, line 24, the second  
15 "he" should be "the;" and Page 62, line 16, Victor Bronco,  
16 should be Blanco; Page 63, line 20, and page 64, line 7,  
17 Errigoni for Frank should be Arrigoni; Page 77, line 1,  
18 Greg Bruton, B-R-U-T-O-N, should be changed to B-R-E-W-T-O-  
19 N throughout the document; Page 116, line 9, the word  
20 "your" should be "you;" Page 123, line 9, Abril, A-B-R-I-L,  
21 should be changed to A-V-E-R-I-L-L throughout the document;  
22 Page 173, line 2, the word "now" should be "no;" and last,  
23 but not least, and I'm not sure about this, Page 122, line  
24 8, and line 22 and 23 where it has comments by me, I'm not  
25 sure that those comments were made by me.

1 CHAIR ADELSON: Does someone actually have a copy  
2 of that page and then we can maybe see who to attribute  
3 those comments to. Could be me.

4 MS. BLEAU: One second, I have them.

5 MR. ZALMAN: What date is that?

6 MS. GIALLUCA: December 12<sup>th</sup>.

7 Line 22, where it says Ms. Gialluca, I quote it  
8 as stating, "So it's a procedural rather than in terms of  
9 his interaction with the City Manager." This is where Mr.  
10 Baldwin made the statement that he was appointed by the  
11 City Manager, I believe it was, and there was objection  
12 that concerned --

13 MS. BLEAU: I think that the comments were made  
14 by Ms. Turin.

15 MS. TURIN: I think so.

16 MS. GIALLUCA: I do too. So that correction is  
17 needed too.

18 CHAIR ADELSON: To clarify --

19 MS. GIALLUCA: To clarify, at Page 122, line 8,  
20 line 22, 23, those comments made by me were actually --

21 MS. TURIN: By Board Counsel, Mimi Turin.

22 MS. GIALLUCA: Yes, thank you.

23 CHAIR ADELSON: Perfect. Any other corrections?

24 MS. GIALLUCA: That's it for December 12<sup>th</sup>.

25 CHAIR ADELSON: Okay, so I'm going to move to

1 | approve the meeting -- the minutes -- subject to those  
2 | corrections being made, and obviously we'll have to review  
3 | them and make sure that they have been correctly made.

4 | MR. BALDWIN: Second.

5 | CHAIR ADELSON: All in favor?

6 | MR. BALDWIN: Aye.

7 | MS. GIALLUCA: Aye.

8 | CHAIR ADELSON: All right, so now we have another  
9 | set of minutes that we need to review and approve and that  
10 | would be for Monday, February 17, 2020.

11 | MS. GIALLUCA: December 13 --

12 | MS. TURIN: Remember we --

13 | CHAIR ADELSON: Sorry, my apologies, I do now.  
14 | December 13, 2020, we need to review and approve those  
15 | meeting minutes.

16 | MS. GIALLUCA: Madam Chair, I just have a couple  
17 | corrections. Page 24, lines 11, 17 and 18, again Ralph  
18 | Rowles throughout the document, his last name should be R-  
19 | I-L-E-S; Page 87, lines 14 and 16, the reference to the  
20 | word "she" should be "he;" Page 102, line 24, the word  
21 | "where" should be "were;" and Page 110, line 5, Sheryl with  
22 | an "S" should be Cheryl with a "C." And that's all I have.

23 | CHAIR ADELSON: Okay, so I'm going to move to  
24 | approve those minutes subject to those corrections.

25 | MR. BALDWIN: Second.

1 CHAIR ADELSON: All in favor?

2 MR. BALDWIN: Aye.

3 MS. GIALLUCA: Aye.

4 CHAIR ADELSON: And now, I believe we are on the  
5 minutes for February 17, 2020, and we need to review and  
6 approve those meeting minutes. Now, I'm not sure if  
7 everyone has had an opportunity to receive them just  
8 recently to review them, so I'm going to postpone the  
9 approval of those minutes until the next hearing which I  
10 believe is already scheduled. So, if that is acceptable,  
11 please confirm.

12 Motion to --

13 MR. BALDWIN: Second.

14 CHAIR ADELSON: -- defer the review and approval  
15 of the February 17, 2020, minutes.

16 MR. BALDWIN: Second.

17 CHAIR ADELSON: All in favor?

18 MR. BALDWIN: Aye.

19 MS. GIALLUCA: Aye.

20 CHAIR ADELSON: A little bit of housekeeping from  
21 my end. I need to call a hard stop at 3:00 p.m. today.  
22 So, just be mindful of that in terms of your scheduling the  
23 witnesses. Anyone who's outside that you know may not be  
24 called now because of the -- I think it's a differential of  
25 an hour, but I have a commitment that I have to meet. Any

1 other housekeeping, other than scheduling?

2 MS. GIALLUCA: Yes, Madam Chair, I have a  
3 question. I went through most of the documents this week  
4 and I realized that I had a question and also for  
5 clarification and also perhaps a document request, but I  
6 wasn't sure if we should wait until all the materials are  
7 presented by Counsels or --

8 CHAIR ADELSON: So, what I'll do is ask and see  
9 if there's any other materials that they intend to be  
10 presented, and then if they're not, then, I think, yes, we  
11 should wait.

12 MS. GIALLUCA: Okay.

13 MS. BLEAU: What was the question? I'm sorry.

14 CHAIR ADELSON: So apparently, there is a request  
15 from one of the Members for additional documents that may  
16 have been referenced.

17 MS. GIALLUCA: Yes, throughout the proceedings.

18 CHAIR ADELSON: Throughout the proceedings to the  
19 extent that there are no more documents that are going to  
20 be presented, then I'm going to allow her to request them  
21 now. If there are going to be more documents that are  
22 going to be presented, then we are going to wait until all  
23 the documents are presented in the event those documents  
24 show up.

25 MS. BLEAU: So, there are more documents.

1 CHAIR ADELSON: [inaudible]

2 MS. BLEAU: Yes, and what I'm going to do -- and  
3 I hope this makes it easy for you and not more difficult --  
4 but the entire body of our documents is two large notebooks  
5 with 130 documents total. And so, instead of binding you  
6 with those heavy documents during Mr. Travers' deposition  
7 and going back and forth with the limited space that you  
8 all have, I just took out the documents that we are going  
9 to use for Mr. Travers' cross-examination, and gave those  
10 to you in smaller notebooks.

11 But, during these proceedings, I'm going to give  
12 you the bigger notebooks. You're going to have all of my  
13 documents and you can just discard the Travers notebook,  
14 because everything that's in the Travers notebook is also  
15 going to be in the big notebook.

16 I started not to do it that way, but -- and let  
17 me address, before he objects to the documents -- we did  
18 locate the email communications that I had with the City of  
19 Fort Lauderdale back in August. You will recall that one  
20 of Mr. Zalman's main arguments here is anything that we  
21 present here should have been presented to the City  
22 beforehand.

23 And you'll hear today, I believe, if they get  
24 through all their witnesses, that Mr. Madden was sent a  
25 letter notifying him of an informational meeting in

1 December of 2016 and December 22<sup>nd</sup>. It was signed by Mr.  
2 Travers to Mr. Madden.

3           In August of 2016, Mr. Madden submitted -- or  
4 actually prior to August -- we submitted a public records  
5 request for certain documents, and what I have here, I  
6 printed it out. I have one copy, I'll make it part of the  
7 record, and I don't know -- do you all need a copy? But  
8 basically, this is part of a communication that I had with  
9 Rhonda Hasan, who's the attorney for the City, regarding my  
10 complaint about the fact that when we requested public  
11 records from the City of Fort Lauderdale, we were told that  
12 we had to pay a total of \$19,993.55 for those documents.  
13 And, needless to say, Mr. Madden, whose job was on the cusp  
14 of being terminated, didn't have \$19,993.55 to pay for  
15 public records. And, so, during the course of time, he has  
16 gathered this document and that document and culled these  
17 together, 130 documents. We would have had more than that  
18 to show the City and we would have had them in plenty of  
19 time to prepare to show the City at the informational  
20 meeting with Mr. Battle -- or, actually, that wasn't the  
21 informational meeting -- at the later meeting with Mr.  
22 Battle, had we had these documents. And, Ms. Turin, if I  
23 can just provide this to you and if you want to share it  
24 with the Board.

25           So, the answer to Board Member Gialluca's

1 question is, yes, we have more documents.

2 CHAIR ADELSON: So, do you have a specific or  
3 specific documents that you are seeking, because at this  
4 juncture --

5 MS. BLEAU: Yes.

6 CHAIR ADELSON: -- maybe if you could identify  
7 them, this way you don't have to stay in suspense, and we  
8 might know if they will be presenting them.

9 MS. GIALLUCA: Okay, so the document that I would  
10 like to see, and it may be from the City and I know that  
11 Janeen Richard would probably have been the appropriate  
12 person to ask this question, but she's gone. I would like  
13 a copy of the Progressive Disciplinary Policy, which I  
14 believe comes from the PSM, not the Personnel Rules, and I  
15 would still like to see the previous version of the Private  
16 Provider document prior to the 7/14 revision. And then my  
17 other question for clarification purposes, in reviewing the  
18 documents, it appears at one time that Mr. Madden was a  
19 member of the bargaining unit, the Teamsters, and then when  
20 he got promoted to Building Official, he became part of  
21 management that's covered by the Civil Service Board rules.  
22 And then my question is, when he got demoted and then  
23 Anthony Fajardo's letter regarding the request for his  
24 investigation, in the first paragraph, Anthony states that  
25 his bargaining unit is the management union. And that's my

1 question, to confirm, was he actually covered by the  
2 bargaining unit, the management contract as opposed to  
3 personnel rules?

4 MS. BLEAU: [consults Mr. Madden] So, Mr. Madden  
5 was -- when you talked about being demoted, you remember at  
6 one point they had him acting as the Building Official.

7 MS. GIALLUCA: Correct, which would take him out  
8 of the management bargaining unit.

9 MS. BLEAU: Correct, and then when he went back  
10 to Chief, I believe, he was part of the management  
11 bargaining unit.

12 MS. GIALLUCA: So, at that point, he would have  
13 been covered by the contract for that union, no longer the  
14 Personnel Rules. So that was --

15 MS. BLEAU: You didn't have any union  
16 representation, did you? [Mr. Madden inaudible.]

17 MS. GIALLUCA: That's the thing, and I'm sorry,  
18 but a lot of people in the City don't understand that.  
19 Even if you didn't pay union dues, you're still covered by  
20 that union.

21 MS. BLEAU: I'm not sure if he was covered. I  
22 answered that and I shouldn't have answered that. I don't  
23 know.

24 MS. TURIN: That question may be more properly  
25 directed -- this is Mimi Turin for the benefit of the court

1 reporter -- to City Administration.

2 MS. GIALLUCA: HR, I think.

3 MS. BLEAU: Because I don't know the answer.

4 MS. TURIN: If there are follow up questions, I'm  
5 sure the Board can administratively accommodate that. And  
6 perhaps -- is there clarification?

7 MR. POST: Yes, it's my understanding that at the  
8 time of his termination, Mr. Madden was not a member of any  
9 bargaining unit, and his position was not covered by a  
10 bargaining unit. If it had been, his proceedings would not  
11 be subject to this Board.

12 MS. GIALLUCA: Thank you.

13 MR. BALDWIN: The actions that he took that led  
14 to this, was he covered by the bargaining unit at that  
15 point?

16 MS. BLEAU: No. It was all in same position.

17 MR. BALDWIN: So whatever the chart of events, or  
18 whatever, he was not under the bargaining unit?

19 MS. BLEAU: All during his position as Chief,  
20 yes.

21 MS. TURIN: I believe there's -- When you're  
22 done, I believe there was a question or a comment.

23 MS. ZALMAN: Good morning. Patrick Zalman, for  
24 the City of Fort Lauderdale. Just a note for the record,  
25 on the email that was just submitted and there was some

1 argument that went along with it about the records request,  
2 when this document is introduced -- and I'm sure it will be  
3 on their case in chief -- we could expand on the objection,  
4 but right now I want to put an objection on the record that  
5 a records request and what would appear to be -- is  
6 characterized as a large fee for those records, is not an  
7 end result to requesting records. I'm sure there are --  
8 and we could look into it -- a mechanism for challenging  
9 the fees as unreasonable, just like there would be in a  
10 civil court proceeding. So, I just want to put that  
11 objection now that just a large fee own its own is not a  
12 detriment to getting records.

13 CHAIR ADELSON: Your objection is noted.

14 MS. TURIN: Okay, then if I could for one second,  
15 for the record, let me just provide that I provided to the  
16 Board Chair the copy of the email regarding the bill for  
17 public records -- I believe she has that -- and a second  
18 note and perhaps City Staff could address this, following  
19 up on Ms. Gialluca's question as to the employee status at  
20 the time the action was taken if he was management, is  
21 there a provision in the rules regarding roll back as  
22 opposed to discipline in the unclassified or managerial  
23 capacity?

24 MR. POST: I'm afraid I wouldn't have an answer  
25 for you to that at this point. I'd have to look into the

1 matter for you.

2 MS. TURIN: Okay. Fair enough. Thank you.

3 CHAIR ADELSON: Any further housekeeping issues?  
4 Okay, so then we're going to proceed. City, call your next  
5 witness.

6 MR. ZALMAN: The City calls Miss Valerie Arthur  
7 and I will go get her from the lobby.

8 CHAIR ADELSON: Good morning, Ms. Arthur. I am  
9 going to swear you in. Can you raise your right hand? Do  
10 you swear or affirm to tell the truth, the whole truth, and  
11 nothing but the truth during these proceedings?

12 MS. ARTHUR: I do.

13 CHAIR ADELSON: You may go ahead, City.

14 MR. ZALMAN: Miss Arthur, could you state your  
15 full name for the record, please.

16 MS. ARTHUR: Valerie Jean Arthur.

17 MR. ZALMAN: And are you currently employed?

18 MS. ARTHUR: Yes.

19 CHAIR: Excuse me, you need to speak into the  
20 microphone. Is it on? That might be the issue. Just say  
21 hello.

22 MS. ARTHUR: It's on.

23 MR. ZALMAN: And where are you employed?

24 MS. ARTHUR: City of Fort Lauderdale.

25 MR. ZALMAN: And what is your current position

1 with the City of Fort Lauderdale?

2 MS. ARTHUR: Senior Technology Strategist.

3 MR. ZALMAN: And how long have you been employed  
4 by the City?

5 MS. ARTHUR: Fifteen years.

6 MR. ZALMAN: Have you worked with Mr. Madden?

7 MS. ARTHUR: Yes.

8 MR. ZALMAN: Could you explain your employment  
9 relationship between your position and Mr. Madden's former  
10 position.

11 MS. ARTHUR: Typically, my users are the  
12 employees, so John being an employee with the Department I  
13 supported, DSD, I would work with them to find solutions or  
14 to try to fix things -- anything related to technology.

15 MR. ZALMAN: Was Mr. Madden your supervisor?

16 MS. ARTHUR: No.

17 MR. ZALMAN: Was he in your chain of command at  
18 all with the City?

19 MS. ARTHUR: No.

20 MR. ZALMAN: Could you describe your relationship  
21 you had with Mr. Madden -- your working relationship.

22 MS. ARTHUR: My working relationship with Mr.  
23 Madden was to attempt to find solutions for either new  
24 processes or problems regarding their work in the  
25 technology field.

1 MR. ZALMAN: Did you ever feel harassed by Mr.  
2 Madden?

3 MS. ARTHUR: At times.

4 MR. ZALMAN: Could you describe those times?

5 MS. ARTHUR: One particular time had to do with  
6 this process they were trying to implement in the software.  
7 The software is dated. In fact, we just finally went live  
8 with a different software because it was aged out. And I  
9 was trying to find a solution for Private Providers. They  
10 were giving me a secretary, I think, because no one else  
11 could work with me, and we were just trying to find a way  
12 to be able to process those applications in the system.

13 Of course, it's an old system. You can't make it  
14 do whatever you want it to do. You have to work within the  
15 confines of that software, so we were going through that  
16 process of attempting to come up with a solution for  
17 tracking them in the software, and one of the problems was  
18 the training database would go down frequently and, at that  
19 time, it was a time sensitive project. I couldn't do it in  
20 the training database because the training database was  
21 down. I had to wait until it got fixed.

22 So, we had to do it in the production environment  
23 and the girl I was working with says, "Well, we can use  
24 this one. I don't think anybody's using this particular  
25 record -- one record -- for anything." And, I said,

1 "Okay," to see what we needed to see. Can you perform  
2 inspections the way they want; reviews the way they want;  
3 collect fines and fees -- not fines, fees -- the way they  
4 want? And that's what we did. The problem is when we did  
5 it, I created the master -- was the Private Provider  
6 permit, I think -- and the sub was the City's permit, but  
7 that's just verbiage. Because all I have to do is change  
8 where the number is stored, is switch the sub number permit  
9 number into the master number field and then that master  
10 becomes -- so I could have switched it. It's very easy to  
11 switch, it's one field. So, you take the one field, the  
12 number you associated it to, and switch it, and so then  
13 just by switching the number, now the master would have  
14 been the City's permit, and the sub would have been the  
15 Private Provider permit.

16 But he was confronting me because we had done it  
17 in production and my name was on things because of the  
18 testing we were doing on that one record. And I tried to  
19 explain that the training database was down and that it was  
20 the only location we had to do it in order to try to get it  
21 done. They needed it done -- well, we were given the  
22 deadline it was like Friday, and I think this was like a  
23 Wednesday night or a Thursday night. It was late, 9:00 at  
24 night, and we were still working at the City trying to  
25 figure this out.

1                   And he was very, very upset and confrontational  
2 and saying that I knew the law. I don't interpret the law.  
3 I work in IT. I just, from the feedback I get, try to find  
4 a solution that everybody can work with. And he was very  
5 confrontational, screaming, pointing his finger at me. I  
6 walked away. And at the time, people were pulling me in  
7 their office who heard -- there were others all around --  
8 and asked me, "Are you okay?" "Come in here and sit down.  
9 Are you okay?" And I said, "Yeah, I'll be fine. Don't  
10 worry. You know, I'll be okay." So that was the main  
11 confrontation.

12                   MR. ZALMAN: Did you feel, when he was  
13 confronting you -- about the technical operations you were  
14 performing -- did you feel degraded?

15                   MS. ARTHUR: Yes.

16                   MR. ZALMAN: Did you feel -- it was in public you  
17 said?

18                   MS. ARTHUR: Yes.

19                   MR. ZALMAN: Did you feel humiliated?

20                   MS. BLEAU: Objection to leading. And let me  
21 address the leading issue, if I might, for a minute. I was  
22 looking through one of the transcripts and in the  
23 transcript there's an exchange where Mr. Zalman said to Ms.  
24 Richard, "It was brought up by counsel that Mr. Cross and  
25 Mr. Hernandez had made comments about Mr. Madden.

1 | Something to do with spraying of bullets, and he's off his  
2 | meds. Those were made in the course of a private  
3 | investigation, correct?" Leading question. Her answer,  
4 | "Yes. Those statements were made while they were in HR and  
5 | they were giving their statements to me, yes." Mr. Zalman  
6 | said, "And to your knowledge those statements, other than  
7 | this public forum, weren't spread throughout the department  
8 | about Mr. Madden, were they?" Again, leading. And Ms.  
9 | Richard said, "No."

10 |           And the truth is, Mr. Zalman may have thought  
11 | what he was leading her to say was truthful, but if you  
12 | read the statements, it was absolutely incorrect. I know  
13 | that Ms. Richard did not mean to give untruthful testimony,  
14 | but that's the danger that we run when a friendly witness  
15 | is being led by a friendly attorney and, if you read the  
16 | record, it's very clear that Mr. Cross was reporting that  
17 | other people were making these statements in the department  
18 | to him and then he reported them to Ms. Richard. That's  
19 | just one example. There, I'm sure, are many others, but  
20 | that was sort of a black and white example of where Mr.  
21 | Zalman on two leading questions led Ms. Richard to testify  
22 | inaccurately. So I would again ask that Mr. Zalman, for  
23 | his friendly witnesses, be directed to ask only direct  
24 | questions, and not put words in the mouth of these  
25 | witnesses improperly.

1           MR. ZALMAN: It's already been touched upon at  
2 all of the hearings that, again, there are no formal rules  
3 and I don't believe there's been any evidence put forward  
4 to contradict the testimony by Ms. Richard, perhaps in the  
5 case in chief, but then that's what their evidence and  
6 their witnesses are for. And, there's certainly been  
7 leading-type questions from both sides of the room. Now,  
8 as to my questioning right now, all I'm doing is reading  
9 from the Bullying Policy and seeing if Ms. Arthur felt in  
10 these ways, but I could rephrase my question, if necessary.  
11 But, still there's no formal discovery rule for this and  
12 we've already addressed this.

13           CHAIR ADELSON: Your objection is noted and  
14 Counsel, I appreciate your considering rephrasing your  
15 questions, so why don't we just move forward on both sides  
16 trying to frame their questions in a way that don't appear  
17 or seem to be leading.

18           MR. ZALMAN: Ms. Arthur, could you describe the  
19 emotions you felt when Mr. Madden confronted you in a  
20 public workplace setting, specifically, if you were feeling  
21 degraded, humiliated or intimidated.

22           MS. ARTHUR: Yes, not just that. I also felt  
23 frightened, which made me want to leave. Which, that's why  
24 I turned around and walked away.

25           MR. ZALMAN: There's a binder in front of you,

1 Ms. Arthur. Could you look through the binder and turn to  
2 Tab 9, please. Did you report this confrontation to anybody  
3 in the City?

4 MS. ARTHUR: Yes, via email.

5 MR. ZALMAN: Is the email in Tab 9, the email  
6 you're referring to?

7 MS. ARTHUR: Correct.

8 MR. ZALMAN: What is your report in this email?

9 MS. ARTHUR: The incident that I just described.  
10 It was regarding the Private Provider, which they were  
11 trying to find a solution, the software to find the  
12 solution. There are, of course, limitations when you have  
13 an aged out, old software. You can't just do everything  
14 you want it to do, and you can't ask the vendor to make  
15 modifications to the software because it's no longer really  
16 developed. It's aged out. They don't do that anymore.  
17 So, we had to work within the confines of the software to  
18 find a solution.

19 I was working with Francyne. She was the person  
20 I was working with. I had requested my manager to fix the  
21 training database in order to be able to do all the work in  
22 there and he was unavailable. And he was the only person  
23 that could do it. So, I was stuck with having to do it in  
24 the production environment only because we were told they  
25 needed it like right away. At least that's the impression

1 I got. I was told, "We need this now. We should have had  
2 it last week. We still don't have it. I need it now."  
3 So, that's the only reason why we went through on  
4 production.

5 And then, I was confronted with whether or not I  
6 should know the law. I'm in IT, I don't interpret law.  
7 That's not part of my responsibilities.

8 MR. ZALMAN: And I just want to direct you to the  
9 line that says, "He was pointing his finger at me."

10 MS. ARTHUR: Yes. He was very heated and  
11 volatile, red, very close, and pointing and yelling --  
12 pointing his finger and yelling.

13 MR. ZALMAN: And again, this is in front of co-  
14 workers and colleagues?

15 MS. ARTHUR: Yes. The review area tends to be  
16 very quiet because they're doing reviews, so they're all  
17 there and they all heard it.

18 MR. ZALMAN: When Mr. Madden was employed with  
19 the City of Fort Lauderdale, did you ever feel threatened  
20 by Mr. Madden?

21 MS. ARTHUR: Well, that incident, for sure, and  
22 another incident, that one I felt quite uncomfortable was  
23 in a meeting looking for a software solution where he was  
24 quite irate about the solution and difficult, too.

25 MR. ZALMAN: Did you ever feel concerned for your

1 safety?

2 MS. ARTHUR: I would say at that time when he was  
3 confronting me about this Private Provider thing, I did.  
4 That's why I walked away. And then I avoided that area as  
5 best I could. Sometimes you can't because you have to see  
6 someone that's near those offices. But if I could avoid  
7 it, I did.

8 MR. ZALMAN: Describe for us, what area are you  
9 avoiding?

10 MS. ARTHUR: The Plan Review section. But, also  
11 if I saw him walking in a certain way into the building,  
12 maybe I'd use the other door. Or if I saw him in the  
13 parking lot and he was in the center, maybe my car was in  
14 the center, I went over to the outer side and walked a  
15 different -- I would just walk different ways to avoid it.

16 MR. ZALMAN: You expressed some concern to me  
17 over an apprehension about testifying. Why did you feel  
18 apprehension?

19 MS. ARTHUR: Because it's scary. I'm afraid of  
20 retaliation.

21 MR. ZALMAN: Retaliation by who?

22 MS. ARTHUR: It would be John.

23 MR. ZALMAN: John Madden? Is that John, you mean  
24 John Madden?

25 MS. ARTHUR: John Madden.

1 MR. ZALMAN: How would you feel if Mr. Madden was  
2 allowed to return to the workplace?

3 MS. ARTHUR: Very uncomfortable.

4 MR. ZALMAN: Why is that?

5 MS. ARTHUR: Because you don't know what's going  
6 to upset him. He can be calm one second and very volatile  
7 and confrontational the next. So you don't know how to  
8 read that.

9 MR. ZALMAN: I don't have any further questions.

10 MS. BLEAU: Ms. Arthur, you testified to things  
11 today that were not in the City's records, correct? You  
12 testified and described things today that you didn't write  
13 previously to Mr. Madden termination. Is that correct?

14 MS. ARTHUR: I'd have to go through this.

15 MS. BLEAU: And do you remember whether or not  
16 you put everything that you said in writing before today?

17 MS. ARTHUR: This definitely has to do with the  
18 Private Provider section. I mentioned if there was any --  
19 he asked if there was any other.

20 MS. BLEAU: I just wanted to Board to know that  
21 Mr. Zalman is always trying to limit us, saying the City is  
22 sticking with what's in the papers and they're not. And  
23 that's okay. That's what this hearing is for, but I just  
24 wanted to point that out. She did bring up other things.

25 MR. ZALMAN: If that was an objection, this isn't

1 --

2 MS. BLEAU: It wasn't.

3 MR. ZALMAN: -- documents outside of -- we're  
4 not trying to -- if there's any documents that were outside  
5 the scope of the City's investigation, we're not  
6 introducing any documents prior to 2016, which is the year  
7 of the investigation of Mr. Madden's behavior. Ms. Arthur  
8 was looking over an email that she reported to the City  
9 that isn't in the City's documents reviewed in this  
10 investigation. She was expanding upon the emotions she  
11 felt, which certainly couldn't be conveyed accurately in a  
12 written email.

13 MS. BLEAU: Actually, she brought up a whole  
14 'nother matter, and while I'm going to explore that other  
15 matter with her -- and also your conversations with her,  
16 about how she felt about him coming back. All of that is  
17 new, but I just wanted to point that out. I don't want to  
18 belabor the point. I'm going to pass out my notebooks now,  
19 if I can, to you all. Hopefully, we've moved beyond that  
20 as an issue.

21 CHAIR ADELSON: So, I'm just going to stop  
22 because there was a statement and you stated that it wasn't  
23 an objection, but I believe we need to at least address it  
24 in terms of your response.

25 MS. BLEAU: Sure.

1 CHAIR ADELSON: So, I think, obviously, we do  
2 have a discussion about the rules being a little bit  
3 different -- but if it's an objection, that's fine. But if  
4 it's colloquy, commentary, let's try to keep that to a  
5 minimum. So, I'm going to take it as an objection, and I'm  
6 going to overrule it. And we'll move forward from there.  
7 Big books.

8 MS. BLEAU: Yes, I know. Yeah, there's two for  
9 each of you now. And I'm going to ask Ms. Arthur about  
10 something at Tab 120, to begin with, if you would go to the  
11 second notebook.

12 She's going to need one and then he needs them.

13 MR. BALDWIN: This incident, did it occur when  
14 Mr. Madden was the acting Building Official?

15 CHAIR ADELSON: Ms. Arthur, that was directed to  
16 you. Just let me, for a little bit of protocol, sometimes  
17 we may ask the questions as well, so if one of the Board  
18 Members asks a question, unless it is specifically directed  
19 to the attorneys, they are requesting that [inaudible].

20 MR. BALDWIN: Was Mr. Madden the acting Director  
21 at the time -- acting Building Official at the time?

22 MS. ARTHUR: I don't believe so, but I don't  
23 recall. I don't believe so.

24 MR. ZALMAN: I could clarify. Mr. Travers became  
25 the Building Official in 2014, and this was around her --

1 the event she is describing is in 2016, so Mr. Travers  
2 would have been the Building Official.

3 MR. BALDWIN: So what was Mr. Madden's position?

4 MR. ZALMAN: Chief --

5 MS. BLEAU: Chief Building Inspector is the  
6 title.

7 MR. ZALMAN: Structural.

8 MS. BLEAU: I'm looking at the title, is Chief  
9 Building Inspector.

10 MR. BALDWIN: Thank you.

11 MS. BLEAU: Ms. Arthur, you testified today that  
12 you were afraid when Mr. Madden pointed his finger at you,  
13 raised his voice, and said, "You know the law." Is that  
14 right?

15 MS. ARTHUR: Yes.

16 MS. BLEAU: And your response, your reaction to  
17 being afraid was to turn your back on Mr. Madden and walk  
18 away?

19 MS. ARTHUR: Well, I said, "I'm in IT. I don't  
20 interpret the law," and he just kept yelling and so I just  
21 turned, yes, and separated myself.

22 MS. BLEAU: So, you were afraid for your physical  
23 safety, but you turned your back on this same individual --

24 MS. ARTHUR: To walk away.

25 MS. BLEAU: -- that you're testifying you were

1 | afraid of --

2 | MS. ARTHUR: To separate myself.

3 | MS. BLEAU: -- to walk away.

4 | MS. ARTHUR: To walk away.

5 | MS. BLEAU: Did you go and seek help? Did you  
6 | ask, you know, say, "Would somebody come help me" or --

7 | MS. ARTHUR: I was called in, as I was starting  
8 | to walk away, a co-worker called me in his office, and shut  
9 | the door and said, "Are you okay?"

10 | MS. BLEAU: And who was that?

11 | MS. ARTHUR: That was Richard Benton.

12 | MS. BLEAU: And who were the other witnesses that  
13 | you say witnessed this event?

14 | MS. ARTHUR: I don't recall. There was like four  
15 | people there.

16 | MS. BLEAU: Can you recall any of them today?  
17 | You recall this incident clearly, do you not?

18 | MS. ARTHUR: Yeah, but I wasn't concerned about  
19 | who else was there. It was happening to me.

20 | MS. BLEAU: You recall that there were four  
21 | people there, but you don't recall who it was.

22 | MS. ARTHUR: There were three or four people  
23 | standing around the desk.

24 | MS. BLEAU: But you can't tell us who any of  
25 | those, who they were?

1 MS. ARTHUR: No.

2 CHAIR ADELSON: Counselor and the witness. If I  
3 can just let each of you ask the question and then you can  
4 then answer. And then ask the question.

5 MS. BLEAU: Was I interrupting her?

6 CHAIR ADELSON: Yeah, a little challenging for  
7 the court reporter.

8 MS. BLEAU: Absolutely. I apologize. Do you  
9 know who Robin Randall is?

10 MS. ARTHUR: Yes.

11 MS. BLEAU: And was Robin Randall there?

12 MS. ARTHUR: She sits there, so, yes.

13 MS. BLEAU: Right. Okay. Now, when this  
14 incident occurred and you spoke with Mr. Benton, did you  
15 then go immediately to Mr. Travers to complain about the  
16 incident?

17 MS. ARTHUR: I never did go to Travers. It was  
18 Anthony Fajardo.

19 MS. BLEAU: Could you speak into your microphone.

20 MS. ARTHUR: I'm sorry. It was Anthony Fajardo.

21 MS. BLEAU: You went that day to speak with Mr.  
22 Fajardo?

23 MS. ARTHUR: I can't recall if it was that day.

24 MS. BLEAU: You wrote this email that Mr. Zalman  
25 asked you about to Mr. Fajardo. Did you write that the

1 same day that you met with Mr. Fajardo?

2 MS. ARTHUR: This one?

3 MS. BLEAU: No.

4 MS. ARTHUR: Which one?

5 MS. BLEAU: The one that --

6 MS. ARTHUR: In this other book?

7 MS. BLEAU: Yes.

8 MS. ARTHUR: Repeat your question, so I can  
9 understand.

10 MS. BLEAU: Sure, that memo -- that email that  
11 you wrote to Mr. Fajardo at his request, did you write that  
12 the same day that you met with him?

13 MS. ARTHUR: No.

14 MS. BLEAU: Did you write that the day after you  
15 met with him?

16 MS. ARTHUR: I don't recall when I wrote it.

17 MS. BLEAU: So, if I understand your testimony,  
18 so far, you had an interaction with Mr. Madden, you turned  
19 your back on him, you walked away, you didn't go to Mr.  
20 Travers, you some point went to Mr. Fajardo, but you don't  
21 recall when, and then sometime after that meeting with Mr.  
22 Fajardo, but not the same day, and you don't think the next  
23 day after that, you wrote an email describing the incident.  
24 Do I have that accurate?

25 MS. ARTHUR: Correct. Basically the reason that

1 | occurred was, I don't feel comfortable getting involved in  
2 | situations like this. I don't like them. I don't like  
3 | being here. So, I avoid reporting anything. The problem  
4 | is, other people in the office hear it and they report it.  
5 | So, it was reported to Anthony what occurred. Anthony  
6 | called me in his office. I can't tell you what day it was  
7 | or when it was, and said, "Did this occur?" And I said,  
8 | "Yes, it did."

9 | MS. BLEAU: Okay, I appreciate that.

10 | MS. ARTHUR: And he says, "Document it for me."  
11 | And I said, "Okay."

12 | MS. BLEAU: So you did not go to Mr. Fajardo  
13 | either to complain about Mr. Madden.

14 | MS. ARTHUR: Uh, uh [negative].

15 | MS. BLEAU: Note for the record in the mic,  
16 | please. Ma'am.

17 | MS. ARTHUR: No.

18 | MS. BLEAU: Sorry. Thank you. All right, I  
19 | asked you to go to 120. Take a look at the email exchange  
20 | there. Do you recognize these? You can turn the pages.  
21 | It's a few page document.

22 | MS. ARTHUR: So, yes. This is what led up to the  
23 | confrontation.

24 | MS. BLEAU: Okay.

25 | MS. ARTHUR: Because this particular record was

1 the record that Francyne said, "Let's work, let's use this  
2 record." And what we did with this record is we put it  
3 through the process --

4 MS. BLEAU: All I asked you is, did you recognize  
5 this?

6 MS. ARTHUR: Yes.

7 MR. ZALMAN: She's answering the question.

8 MS. BLEAU: I don't need her to describe the  
9 incident again. We're on limited time here and she's  
10 described it. I have questions to ask and that wasn't one  
11 of them.

12 CHAIR ADELSON: I am going to ask that you let  
13 the witness finish her answer and if there's a subsequent  
14 or follow up question, obviously, go ahead and ask it.

15 MS. ARTHUR: So what it is, is I'm going through  
16 the process, trying to find a solution, and what this  
17 pertains to is John was not happy with the way the solution  
18 was created. There was testing done. Yes, my name was on  
19 it because I was the one going through the process, so my  
20 log-in name shows up on it and unfortunately, it was on the  
21 one record in production only because training was down.  
22 So, all of this could have been fixed. All of this can be  
23 fixed, but he looked at it -- my opinion and interpretation  
24 was he looked at it like I was trying to do something bad,  
25 when all I was trying to do was find a way to work this

1 | stuff in the system.

2 |           Now, the system also, when he's talking about  
3 | deletions, this was deleted and that was deleted. The  
4 | system automatically records everything you do, so if you  
5 | add something, it adds it. If you delete it, it deletes  
6 | it, so if you add it back in -- could be it was added right  
7 | back in as we were testing over and over.

8 |           MS. BLEAU: So, my question was, do you recognize  
9 | this email exchange and I would take it the answer is yes?

10 |           MS. ARTHUR: Mm hmm [affirmative].

11 |           MS. BLEAU: Yes, for the record? Ma'am.

12 |           MS. ARTHUR: Yes.

13 |           MS. BLEAU: Thank you. And you received this  
14 | email from John Madden on September 9 asking why the plan  
15 | review stops for 1415 Northwest 62<sup>nd</sup> Street had been  
16 | removed, correct?

17 |           MS. ARTHUR: Yes.

18 |           MS. BLEAU: A few days before a stop work order  
19 | had been entered on this project because none of the plans  
20 | had been reviewed and the work was substantially complete  
21 | and no permit had been issued for that work. Did you know  
22 | that?

23 |           MS. ARTHUR: No, as far as that type of process,  
24 | I don't know that. I requested a record from Francyne,  
25 | she's a clerk and was given the responsibility to work with

1 me. So, she says, "Let's use this record." Whether that  
2 record had issues or problems or shouldn't have been used,  
3 I wouldn't have been aware of that. I requested that the  
4 record -- give me something I can test.

5 MS. BLEAU: Who did Francyne Webber report to?

6 MS. ARTHUR: At the time, I don't recall.

7 MS. BLEAU: You don't recall that it was John  
8 Travers?

9 MS. ARTHUR: I don't know if it was John Travers  
10 or Luis. I don't recall.

11 MS. BLEAU: Okay, one of the two -- John Travers  
12 or Luis Hernandez?

13 MS. ARTHUR: I think so, but I don't know that  
14 for a fact.

15 MS. BLEAU: And this was Mr. Goldstein's project  
16 where the day before Mr. Madden sent you this email, he had  
17 gone back out to the project and found, even though a stop  
18 work order had been entered, they were continuing to do  
19 work. Were you aware of that?

20 MS. ARTHUR: No, like I said, I'm not aware of  
21 any of the operational stuff. I'm the IT person. If I  
22 shouldn't have been doing it on this record, then they  
23 should have given me a different one to work with.

24 MS. BLEAU: Would Francyne Webber have been aware  
25 of the circumstances?

1 MS. ARTHUR: I don't know if she would have been  
2 aware of that either.

3 MS. BLEAU: Would John Travers or Luis Hernandez  
4 be aware if a stop work order was entered on this project,  
5 and they were continuing to do work after that?

6 MS. ARTHUR: I don't know.

7 MS. BLEAU: And you're not aware that on this  
8 project, when Mr. Madden showed up after the stop work  
9 order was entered, that the owner told Mr. Madden that Mr.  
10 Travers and Mr. Hernandez were aware of what they were  
11 doing on the site? You don't know that either?

12 MS. ARTHUR: No.

13 MS. BLEAU: Isn't it true that the DSD address of  
14 700 Northwest 19<sup>th</sup> Avenue is used as a sort of dummy account  
15 for testing?

16 MS. ARTHUR: Yes, at times it is.

17 MS. BLEAU: And is there a good reason why 1415  
18 Northwest 62<sup>nd</sup> Street, a project that was being constructed  
19 without a permit and in violation of a stop work order, was  
20 the one selected instead of 700 Northwest 19<sup>th</sup> Avenue.

21 MS. ARTHUR: I can't answer that since I wasn't  
22 the one that determined which record to use.

23 MS. BLEAU: Is there a reason that you wanted to  
24 use a real record as opposed to the dummy account that is  
25 historically used for testing purposes?

1 MS. ARTHUR: I didn't ask for a real record. I  
2 asked just for a record.

3 MS. BLEAU: Okay, so this was all Francyne Webber  
4 sort of directing you to this particular project. Is that  
5 right?

6 MS. ARTHUR: She was the one that was assigned to  
7 me to help me figure out how to fit the process into the  
8 software.

9 MS. BLEAU: And Francyne Webber was the one that  
10 told you to use 1415? Is that right?

11 MS. ARTHUR: Yes, she gave me the record. I  
12 wouldn't have known what record to use.

13 MS. BLEAU: And explain what it was you were  
14 trying to accomplish that resulted in review stops being  
15 removed?

16 MS. ARTHUR: Okay, so, we ran numerous tests,  
17 right? So, there's processes when you're -- we wanted to  
18 make sure -- there are certain things the system doesn't  
19 let you do. So, sometimes it doesn't let you add an  
20 inspection in certain scenarios; in others it doesn't let  
21 you delete them; and some scenarios with the software, it  
22 doesn't allow you to add a review or delete a review. But  
23 it's all within certain periods or stages or phases of that  
24 record, where you are at it. So, what we were doing is  
25 making sure, well, can you delete a review if it needs to

1 | be deleted; can you add a review if it needs to be added.

2 | And we did the same for inspections. Can you delete a  
3 | review or can you add a review.

4 | MS. BLEAU: And you weren't aware at the time  
5 | that this was an open --

6 | MS. ARTHUR: No.

7 | MS. BLEAU: You thought this was closed?

8 | MS. ARTHUR: No, I just thought it was a test  
9 | record.

10 | MS. BLEAU: Test record. Okay. You said you  
11 | felt all this pressure to get this done. Where did that  
12 | pressure come from?

13 | MS. ARTHUR: Luis.

14 | MS. BLEAU: Luis Hernandez. So, Luis Hernandez  
15 | was pressuring you to do this. Francyne Webber, who  
16 | reported to Mr. Hernandez or Mr. Travers was the one who  
17 | told you to use this particular one. Is that right?

18 | MS. ARTHUR: Yes.

19 | MS. BLEAU: And I know it's hard, but if you  
20 | could please remember to speak into the mic. Okay?

21 | MS. ARTHUR: Okay.

22 | MS. BLEAU: Okay, thanks.

23 | CHAIR ADELSON: We can't -- if you don't, it  
24 | doesn't come on to the actual record.

25 | MS. ARTHUR: Okay.

1 CHAIR ADELSON: That's the purpose of it. Thank  
2 you.

3 MS. BLEAU: Yeah, thank you. It's not that we  
4 can't hear you, it's more than that.

5 In your email you advised Mr. Madden that he  
6 should speak with Luis Hernandez if he needed any further  
7 information -- your email at Tab 120 of the Madden  
8 documents. Was Mr. Hernandez aware that the removal of  
9 these plan review stops?

10 MS. ARTHUR: I don't know.

11 MS. BLEAU: Why did you tell him to speak with  
12 Mr. Hernandez?

13 MS. ARTHUR: Probably because I couldn't find a  
14 perfect solution. It wasn't going to be a perfect solution  
15 and plus at that point, like I said, when I did the initial  
16 test, I created the Fort Lauderdale permit and then I used  
17 the existing Private Provider permit and added it as a sub.  
18 And like I said, that could be reversed. At the time, I  
19 didn't know that that was going to be an issue. But it's  
20 an easy thing to fix. But I need someone that can  
21 interpret the code or sit and tell me how do they want it  
22 to look.

23 MS. BLEAU: Is it true that John Madden many  
24 times helped you work through problems just as you're  
25 describing, because he was very familiar with the system

1 and helped you resolve issues?

2 MS. ARTHUR: Not regarding this issue. But, in  
3 the past some inspection or certain things, yes, he has  
4 when he's assigned. Typically they give me the person that  
5 I'm to work with.

6 MS. BLEAU: So he's never offered to help you  
7 when he wasn't assigned to help you? Is that what you're  
8 testifying?

9 MS. ARTHUR: I can't recall. I know he's worked  
10 with me. I can't recall if he just offered.

11 MS. BLEAU: So, my question was why did you tell  
12 Mr. Madden to go to Mr. Hernandez, and your answer was,  
13 because you weren't able to find a solution to this  
14 problem?

15 MS. ARTHUR: No, regarding this?

16 MS. BLEAU: Yes.

17 MS. ARTHUR: If I remember correctly, this was  
18 when he was yelling at me. This all had to do with the  
19 fact that he was upset that, what I recall, he was  
20 screaming about the Private Provider being the master and  
21 the City permit being set as the sub, but all you've got to  
22 do is swap the number. That's it. It's a swap of which  
23 permit number. That's all it is, and I don't understand  
24 every detail of the process I was trying to find a solution  
25 for, and that's why it's imperative that you always work

1 with someone -- someone that knows it.

2 MS. BLEAU: Can you look at page 2 of this  
3 document at Tab 120 and at the top, this is part of Mr.  
4 Madden's email, "Can anyone explain why the following plan  
5 review stops were removed from this permit. I believe  
6 electrical, mechanical and plumbing must review this.  
7 There has been work performed that included each of these  
8 trades." And you received a copy of this email, correct?

9 MS. ARTHUR: If my name's on there, yes.

10 MS. BLEAU: The way emails work if you look on  
11 the page -- yeah, right.

12 MS. ARTHUR: Yes.

13 MS. BLEAU: Page 1. You received the email and  
14 you responded to the email, correct?

15 MS. ARTHUR: Back here I did.

16 MS. BLEAU: And your response -- Mr. Madden's  
17 email was sent at 7:56 a.m., and your response to Mr.  
18 Madden was at 5:35 p.m., that same day. Did this exchange  
19 -- this face-to-face exchange that you've described --  
20 occur before or after you sent this email?

21 MS. ARTHUR: Yes, this was the confrontation. He  
22 was very confrontational. I believe it was regarding this  
23 process. I don't know if the full confrontation was at  
24 that time, but he was very irate and upset with the way  
25 things were going. He wanted them a certain way. I was

1 | being directed and given a document by Luis, so --

2 |           MS. BLEAU: I'm sorry. You were directed and  
3 | given a document by Luis?

4 |           MS. ARTHUR: Yeah, Luis gave me a document to try  
5 | -- that details the process -- to try to apply that somehow  
6 | in this system. But obviously you can't apply everything.  
7 | I have to use the system the way it works and just do it as  
8 | best I can.

9 |           MS. BLEAU: So, going back to my question, which  
10 | I don't believe you answered. Did you send this email to  
11 | Mr. Madden responding to his question about the removal of  
12 | the Plan Review stops before or after this face-to-face  
13 | discussion that you said.

14 |           MS. ARTHUR: I don't recall.

15 |           MS. BLEAU: Do you know why you would have sent  
16 | this email?

17 |           MS. ARTHUR: It would be as an explanation  
18 | because I know at the time he was unhappy with what was  
19 | going on. Whether it was with me, or whether it was with  
20 | Luis, or with Francyne, he was just basically unhappy.

21 |           MS. BLEAU: So you say in your email to Mr.  
22 | Madden, first sentence, "I tried to meet with you a couple  
23 | of times today." Do you see that?

24 |           MS. ARTHUR: Yeah.

25 |           MS. BLEAU: So, did you try to meet with him a

1 couple of times today, after the face-to-face discussion  
2 that you described?

3 MS. ARTHUR: That I don't recall -- if it was  
4 before or after. I can only tell you that I knew that he  
5 was unhappy with the way it was being -- what he was  
6 seeing. So, the chron -- what the chron does, every time  
7 you touch the record, and it does it all over the place, so  
8 if you add a permit, right, it puts all these entries in  
9 the chron and then you realize, "Oh, let me take that out  
10 and see how it works." You remove it, it now deletes it.  
11 You add it back in, it now adds it all back in. So, the  
12 chron isn't necessarily always deleting everything. I'd  
13 have to do further research to give you that detail if you  
14 needed it.

15 MS. BLEAU: So, you've testified to this Board  
16 today, a few times, that the thing that Mr. Madden was  
17 upset about was the switching of the master and sub permit  
18 numbers. Right?

19 MS. ARTHUR: At the time when was he was actually  
20 yelling at me, all I know is he was yelling at me, pointing  
21 his finger at me, yelling at me, telling me I know the law.  
22 It had to do with the Private Provider process. I don't  
23 know which one.

24 MS. BLEAU: My question was, have you or have you  
25 not sat here in this chair today in these proceedings and

1 described to the Board that the thing that Mr. Madden was  
2 upset about was the switching of the master and the sub  
3 permit numbers. Yes or no?

4 MS. ARTHUR: That was part of it.

5 MS. BLEAU: That is what you testified to today,  
6 so far, correct?

7 MS. ARTHUR: That was part of it. That and this.

8 MS. BLEAU: Right. Because that's not exactly  
9 what these emails show, is it? Right? The emails show  
10 something else.

11 MS. ARTHUR: I don't understand your question.

12 MS. BLEAU: Well, if you look, we already read  
13 into the record and out loud Mr. Madden's question about  
14 the removal of Plan Review stops. Is there anything you  
15 didn't understand about Mr. Madden's question?

16 MS. ARTHUR: I understood his question. He  
17 didn't understand that I don't remove anything. The system  
18 does it. When you're performing certain tests, it will  
19 automatically change things in the chron. You put it back  
20 in, it's back in.

21 MS. BLEAU: So your response to Mr. Madden at the  
22 time, although at the end of the day, was "I tried to meet  
23 you a couple of times today. This permit was provided by  
24 Francyne to test the initial set-up. When I deleted those  
25 reviews, it was to show Francyne how it was done, as well

1 as for the one or two inspections." Did I read your email  
2 accurately?

3 MS. ARTHUR: Right. That particular process, she  
4 didn't know how to do it and she was going to have to  
5 maintain the records, and I was just showing her how it's  
6 done.

7 MS. BLEAU: So, putting aside everything that  
8 you've said up to this point, it looks like, based on your  
9 own email at the time, which, you would agree, you probably  
10 were clearer then about what the issue was than today,  
11 three years later, four years later, correct?

12 MS. ARTHUR: And plus I also thought it was a  
13 test record.

14 MS. BLEAU: So, back then what you said the issue  
15 was, was that you were showing Francyne how to remove  
16 inspections from the record, not this switching of the  
17 master and the sub. And you said, "I don't delete  
18 anything," but you actually in your testimony, but in your  
19 email you admitted you actually did delete something,  
20 right?

21 MS. ARTHUR: Yes, but what we were actually doing  
22 was adding the review. There wasn't -- I would add a  
23 review and delete the review I added. That's what I did.  
24 I added the review. There was stuff on the record, 'cause  
25 she said we could use this as a test record. I said,

1 "Okay." I had to show her how to add the review and then  
2 how she can delete the review. Any reviews that had any  
3 kind of status information on them, the system will not let  
4 you delete it.

5 MS. BLEAU: So, do you understand that the  
6 documents -- the screen shots that Mr. Madden provided in  
7 his email showed that there had been these reviews, stops,  
8 that were then, as a result of your work, they were  
9 removed.

10 MS. ARTHUR: Right, and what you're looking at is  
11 a chron record. Okay? It's not the actual -- you're not  
12 looking at the actual screen where the reviews [inaudible].  
13 So, what he's saying is that I removed -- I removed it, but  
14 what he doesn't realize, I also added it.

15 MS. BLEAU: So, you're saying there was no review  
16 scheduled on this project for electrical, mechanical and  
17 plumbing review?

18 MS. ARTHUR: No. What I'm saying is that I only  
19 affected what I added.

20 MS. BLEAU: All right.

21 MS. ARTHUR: So, I added to show her how to add,  
22 and I had her delete, so she would know how to delete.  
23 What I had her put in or out of the record had no values in  
24 it. Because it doesn't let you delete something with  
25 values.

1 MS. BLEAU: Is there a reason why you didn't  
2 describe to Mr. Madden in your email that what was deleted  
3 was also created by you? Because your email does not say  
4 that.

5 MS. ARTHUR: I just didn't think about doing  
6 that, but, I figured he would understand that. If you look  
7 at the chron -- I could probably go through the entire  
8 chron and show you how there's no data in it, other than  
9 what entries it makes when you're doing it. It's not valid  
10 data, because if it has a status date, or it has a status,  
11 it won't let you delete it.

12 MS. BLEAU: So, your understanding is, you only  
13 deleted what you created. When Mr. Madden asked why they  
14 were deleted, you didn't explain that to him, and said if  
15 he needed more information other than "when I deleted those  
16 reviews it was to show Francyne how," that he should speak  
17 with Luis Hernandez. And then he responded to you in an  
18 email, did he not?

19 MS. ARTHUR: I don't recall.

20 MS. BLEAU: At page one at the top -- you know  
21 how emails work backwards -- so the top email was a  
22 response to you Monday morning at 8:26, correct?

23 MS. ARTHUR: Right, but really that should've  
24 gone to Francyne. I don't do data entry.

25 MS. BLEAU: So, Mr. Madden's email to you was,

1 "Val, the fix is simple. Add the plan review stops to each  
2 of these permit types. This will allow the individual  
3 disciplines to determine the necessity for a review. This  
4 will be in compliance with Florida Statutes and the Florida  
5 Building Code." Did I read that accurately?

6 MS. ARTHUR: Yes, and I went to Francyne, because  
7 she has the necessary information of what should be on the  
8 record, and told her what needed to be done.

9 MS. BLEAU: And did this email from Mr. Madden,  
10 was this sent to you before or after your face-to-face  
11 discussion with him on this matter?

12 MS. ARTHUR: I don't recall.

13 MS. BLEAU: So if you will look back now at the  
14 City's notebook. Sorry, I'm going back to the email at Tab  
15 9 of the City notebook. This email was written the  
16 following week from the Friday emails between you and Mr.  
17 Madden and this was to Mr. Fajardo. And in this email you  
18 state -- you said, "Francyne and I decided to proceed and  
19 use the production/live database application, not thinking  
20 it would be an issue." Did I read that accurately?

21 MS. ARTHUR: Yes.

22 MS. BLEAU: So, you made a conscious decision to  
23 use a live database, not the dummy?

24 MS. ARTHUR: Correct.

25 MS. BLEAU: And, you state in your memo to Mr.

1 Fajardo, as well as your testimony here today, that Mr.  
2 Madden was yelling. Yelling, as in a sharp loud cry or was  
3 he speaking with a raised voice? In other words, if I'm  
4 gonna yell at somebody across the football field, or, you  
5 know, was it yelling like Mr. Travers should have heard,  
6 and Mr. Hernandez should have heard?

7 MS. ARTHUR: If they were there, they would have  
8 heard.

9 MS. BLEAU: Okay.

10 MS. ARTHUR: And he was within this close to my  
11 face, and pointing his finger at me --

12 MS. BLEAU: Now, how could he --

13 MS. ARTHUR: -- in an aggressive manner.

14 MS. BLEAU: -- be pointing his finger at you and  
15 be that close to you at the same time?

16 MS. ARTHUR: He was very close to me, pointing  
17 his finger at me.

18 MS. BLEAU: Was his finger in your face?

19 MS. ARTHUR: I don't know if it was in my face or  
20 my chest. I don't know. This area.

21 MS. BLEAU: And your reaction was to turn around  
22 and walk away.

23 MS. ARTHUR: Absolutely. I don't want to  
24 escalate it. How do you de-escalate someone that's  
25 screaming and being aggressive and volatile.

1 MS. BLEAU: If other individuals that we're going  
2 to call to describe this incident, give a different  
3 account, can you explain that?

4 MS. ARTHUR: No. I can only --

5 MR. ZALMAN: I object for facts not yet in  
6 evidence.

7 MS. BLEAU: Fair enough.

8 MS. ARTHUR: I can only speak for what I  
9 experienced.

10 CHAIR ADELSON: Objection sustained.

11 MS. BLEAU: Did Mr. Madden grab you physically?  
12 Did he touch you in any way?

13 MS. ARTHUR: No.

14 MS. BLEAU: Has Mr. Madden ever physically harmed  
15 you in any way?

16 MS. ARTHUR: No.

17 MS. BLEAU: Or touched you or had any threatening  
18 way of interacting with you, other than what you've  
19 described on this particular day?

20 MS. ARTHUR: Yes, there have been times he is  
21 threatening and confrontational, very volatile.

22 MS. BLEAU: Confrontational I get. Not what I'm  
23 asking. Threatening in what way? Threatening, I'm talking  
24 about your physical safety being threatened.

25 MS. ARTHUR: That time I felt threatened.

1 MS. BLEAU: This particular time?

2 MS. ARTHUR: This particular time.

3 MS. BLEAU: My question was, have there ever been  
4 any other times?

5 MS. ARTHUR: No.

6 MS. BLEAU: And you worked for the City for  
7 fifteen years?

8 MS. ARTHUR: Correct.

9 MS. BLEAU: And you worked for Mr. Madden a lot?

10 MS. ARTHUR: Yes.

11 MS. BLEAU: Okay.

12 MS. ARTHUR: I wouldn't say a lot, but yes, I  
13 worked for that department so, of course, I supported him  
14 like I did all the others.

15 MS. BLEAU: And he was sort of a hands-on Chief,  
16 wasn't he?

17 MS. ARTHUR: Most of the time.

18 MS. BLEAU: All right. What's Sunguard?

19 MS. ARTHUR: Sunguard is a defunct now software  
20 company.

21 MS. BLEAU: And have you ever worked for  
22 Sunguard?

23 MS. ARTHUR: Years ago.

24 MS. BLEAU: And then just a few months before  
25 this September 2016 interaction with Mr. Madden that you

1 describe, there was another issue between you and Mr.  
2 Madden regarding Sunguard, wasn't there?

3 MS. ARTHUR: I don't recall.

4 MS. BLEAU: Do you recall that you were  
5 overseeing the installation of a software upgrade for more  
6 than four years?

7 MS. ARTHUR: Yes, if you're talking about One  
8 Solution, that is correct.

9 MS. BLEAU: And do you recall that the vendor  
10 providing the upgrade was Sunguard, a company that you  
11 previously worked for?

12 MS. ARTHUR: Yes.

13 MS. BLEAU: And on April 26, 2016, Mr. Madden  
14 wrote an email to the City Manager about the lack of  
15 progress with the upgrade and the fact that the City had  
16 spent \$300,000 without getting anything in return, correct?  
17 Do you remember that email?

18 MS. ARTHUR: I don't remember that email. I  
19 remember the instance and I can tell you, yes, we paid them  
20 \$300,000, but we also got it all returned.

21 MS. BLEAU: But at the time, just shortly before  
22 this email from you to Mr. Fajardo --. Just a few months  
23 before this email from you to Mr. Fajardo, Mr. Madden  
24 informed the City Manager, "Four years have passed and we  
25 have yet to make any improvements to our software.

1 | However, more than \$300,000 was spent on a system where the  
2 | City of Fort Lauderdale received nothing in return. This  
3 | does not include the hundreds, if not thousands of staff  
4 | hours spent with the folks at Sunguard." Do you recall  
5 | seeing that email?

6 |           MS. ARTHUR: I don't recall the email. I recall  
7 | the instance.

8 |           MS. BLEAU: You recall the instance. And were  
9 | you upset about the fact that Mr. Madden was reporting to  
10 | the City Manager -

11 |           MS. ARTHUR: No.

12 |           MS. BLEAU: -- about the project that you were in  
13 | charge of for four years?

14 |           MS. ARTHUR: No. No, because what I was hoping  
15 | for, because I knew we were having problems with the  
16 | software, and that the design wasn't going to support the  
17 | data conversion. But, at the time, we weren't able to back  
18 | out of it, and thank God, within eight months after that,  
19 | Sunguard told us they would no longer be implementing that  
20 | version and we were able to completely get out and recoup  
21 | all the money.

22 |           MS. BLEAU: So, after Mr. Madden was terminated  
23 | that happened?

24 |           MS. ARTHUR: That's it. You have to go through  
25 | the process. That's how government works.

1 MS. BLEAU: But at the time Mr. Madden was there  
2 he was pretty passionate about the fact that the City had  
3 spent \$300,000 on this project and got nothing in return,  
4 right?

5 MS. ARTHUR: Absolutely. We all felt the same  
6 way. The issue is, though, is government runs very, very  
7 slow. So, they made the decision to go with that upgrade  
8 in like 2010 and it took three years to get it through the  
9 contracts and three years -- and then you start  
10 implementing it and, of course, they promise you the world,  
11 which they can't deliver. But that all worked out really  
12 well. In the end it all worked out well. We were returned  
13 our money.

14 MS. BLEAU: Okay. I'm glad, but none of that's  
15 really the point because that all happened before Mr.  
16 Madden -- after Mr. Madden was terminated. My question to  
17 you is, Mr. Madden was pretty upset and pretty passionate  
18 about the fact that \$300,000 had been spent with the City  
19 getting nothing in return, correct?

20 MS. ARTHUR: Yes, well, yes.

21 MS. BLEAU: And did you feel threatened at all?

22 MS. ARTHUR: Well, I felt like he was trying to  
23 remove me from my position, but what he probably didn't  
24 understand is that I'm a worker bee. And someone else  
25 makes the decision about what software is implemented and

1 | that decision was made first by Valerie Bolander, who  
2 | retired, and then by Mike Maier, the IT Director. So,  
3 | whether I felt we should continue with the software, didn't  
4 | matter. I have to do what the assignments I'm given.

5 | MS. BLEAU: So you were overseeing this project  
6 | for four years, but it wasn't your fault that the City  
7 | wasn't getting any benefit from it?

8 | MS. ARTHUR: Correct.

9 | MS. BLEAU: And you didn't feel threatened by Mr.  
10 | Madden's passionate objection to that process?

11 | MS. ARTHUR: I felt like he was trying to remove  
12 | me from the department or the project. That's what I felt.  
13 | And that is somewhat threatening.

14 | MS. BLEAU: And so a few months later you submit  
15 | a report/memo to Mr. Fajardo. Mr. Madden is terminated and  
16 | now you're here today and you testified that you're afraid  
17 | of Mr. Madden's retaliation. Is that right?

18 | MS. ARTHUR: Yes.

19 | MS. BLEAU: And how do you think Mr. Madden is  
20 | going to retaliate, based on your years of interacting with  
21 | him -- your fifteen years with the City?

22 | MS. ARTHUR: He's pretty unpredictable, so I  
23 | wouldn't -- I wouldn't know.

24 | MS. BLEAU: Has Mr. Madden ever hit anybody, to  
25 | your knowledge?

1 MS. ARTHUR: Not to my knowledge.

2 MS. BLEAU: Has Mr. Madden ever harmed anybody in  
3 a more serious way than hitting somebody, to your  
4 knowledge?

5 MS. ARTHUR: Not to my knowledge.

6 MS. BLEAU: Has Mr. Madden physically laid his  
7 hand on anybody, to your knowledge?

8 MS. ARTHUR: Not to my knowledge.

9 MS. BLEAU: But your testimony here today, under  
10 oath is that you are threatened or feel threatened by your  
11 physical safety by Mr. Madden.

12 MS. ARTHUR: Yes, I'm uncomfortable. That's true.

13 MS. BLEAU: Well uncomfortable and feeling  
14 threatened is different.

15 MS. ARTHUR: I feel threatened.

16 MS. BLEAU: Based on what, ma'am?

17 MS. ARTHUR: On his volatility and his mood  
18 swings and his anger.

19 MS. BLEAU: The one time that you described that  
20 he expressed anger to you and pointed his finger at you,  
21 that's what you're basing this on?

22 MS. ARTHUR: Well, there was others, and there  
23 was times where I saw how he was behaving with other co-  
24 workers.

25 MS. BLEAU: Did he ever hit or threaten any other

1 co-workers?

2 MS. ARTHUR: I didn't see him hit -- I didn't see  
3 him hit anyone, no.

4 MS. BLEAU: I don't have any other questions of  
5 this witness. Thank you.

6 CHAIR ADELSON: Counsel, any redirect from the  
7 City?

8 MR. ZALMAN: Just a few questions.

9 Ms. Arthur, in your employment experience just as  
10 a worker in our society, if an employee makes a mistake,  
11 how would you expect the co-worker to treat them?

12 MS. ARTHUR: Well, to come and ask what happened,  
13 what were you doing, what caused this, and how can we  
14 rectify it? You know, just to come and ask, "What  
15 happened? What was the reason for this? What can we do to  
16 fix it?" You know, more about -- in IT you always have  
17 issues, but it's all about finding a solution, so you've  
18 got to have someone that's willing to work with you to find  
19 that solution.

20 MR. ZALMAN: Are you describing a professional  
21 conversation?

22 MS. ARTHUR: Yes.

23 MR. ZALMAN: One that doesn't involve yelling?

24 MS. ARTHUR: Yes.

25 MR. ZALMAN: Well now, let's assume -- I just

1 going to refer back to the email on Tab 120. You don't  
2 need to look at it. There was a process going on --

3 MS. ARTHUR: Right.

4 MR. ZALMAN: -- it was discussed at length.

5 Now, let's assume that that process of changing codes and  
6 working on your IT system, let's assume you made a mistake.  
7 How should Mr. Madden have treated you if you made a  
8 mistake?

9 MS. ARTHUR: Well, I think he should have asked  
10 what am I doing? You know, explain to me, "We notice  
11 there's some problem with this record, explain to me what  
12 occurred and why you were using this particular record."  
13 And then, I could have said, "Well, that was the record  
14 that was given to me for testing. I don't know what record  
15 you want me to use. That's up to the user to tell me what  
16 would you like me to use, and what do you need me to do?"  
17 And then, I'd take care of it for you. "If it's the wrong  
18 record, I apologize and we can do everything we can to  
19 restore it back to its original state, if that's the  
20 issue."

21 MR. ZALMAN: So you would expect Mr. Madden, a  
22 co-worker, to come to you as a professional.

23 MS. ARTHUR: Yes.

24 MR. ZALMAN: How did he treat you?

25 MS. ARTHUR: In a threatening manner. It was

1 yelling and screaming at me with his finger pointing, his  
2 face was all red.

3 MR. ZALMAN: And you testified that you would be  
4 afraid or threatened if Mr. Madden returned to the  
5 workplace. Would you be afraid that he would treat you the  
6 way he treated you in the event you just described?

7 MS. ARTHUR: Yes.

8 MR. ZALMAN: And that would be an uncomfortable  
9 situation at work?

10 MS. ARTHUR: Yes.

11 MR. ZALMAN: It could be a threatening situation  
12 at work?

13 MS. ARTHUR: Yes.

14 MS. BLEAU: I thought we weren't going to lead.

15 CHAIR ADELSON: Ms. Bleau.

16 MS. BLEAU: Yes. Yelling and screaming at you.  
17 All you've testified to is he said, "You know the law."  
18 What else did he say?

19 MS. ARTHUR: I was very emotional at the time,  
20 like scared, and he's going, "You know the law. You know  
21 better. You should know what you were supposed to be  
22 doing."

23 MS. BLEAU: Anything else?

24 MS. ARTHUR: And I can't recall any -- what else.  
25 And I just got scared and walked away.

1 MS. BLEAU: "You know the law. You know better.  
2 You should know what you're doing."

3 MS. ARTHUR: Something to that -

4 MS. BLEAU: Something to that effect?

5 MS. ARTHUR: Correct.

6 MS. BLEAU: Okay. Thanks. Nothing further.

7 CHAIR ADELSON: So, with no further questions,  
8 Ms. Arthur, you are dismissed. Thank you.

9 MS. GIALLUCA: Oh, Madam Chair. I have a couple  
10 questions.

11 CHAIR ADELSON: Oh, sorry.

12 MS. GIALLUCA: Is that okay?

13 CHAIR ADELSON: Yes, ma'am.

14 MS. GIALLUCA: Okay, thank you. I just, for the  
15 record, just want to make it known that Valerie and I  
16 worked in the same department. I worked as strategist,  
17 also. So, I understand where she's coming from about  
18 working for a customer and what goes in an audit trail,  
19 etcetera. But I do have a couple questions. In the City's  
20 book behind Tag G, you report to Lillian Rosa --

21 MS. ARTHUR: Tab G?

22 MS. GIALLUCA: G, it's way in the back, the  
23 statements --

24 MS. ARTHUR: Oh, I -- I don't want it to fall.

25 MS. GIALLUCA: So, apparently this is the

1 | statement you gave to HR on October 17, 2016, and it states  
2 | on -- first of all, on page 2, that Luis came to you with a  
3 | 16-page document. Was that the Private Provider --

4 | MS. ARTHUR: Yes.

5 | MS. GIALLUCA: -- document that --

6 | MS. ARTHUR: Yes.

7 | MS. GIALLUCA: -- he created in July of 2016?

8 | MS. ARTHUR: Yes.

9 | MS. GIALLUCA: Okay, and he wanted you to work on  
10 | it ASAP, and that's the situation that you and Francyne --

11 | MS. ARTHUR: Yes.

12 | MS. GIALLUCA: -- worked on in the email in Tab  
13 | 9?

14 | MS. ARTHUR: That is correct.

15 | MS. GIALLUCA: When did he come to you with that?  
16 | That was in September, before the confrontation with John,  
17 | or after?

18 | MS. ARTHUR: Yes, it was before.

19 | CHAIR ADELSON: If I may just again, if you would  
20 | let the question be asked and then before you actually  
21 | respond. This way we have a clean record, because --

22 | MS. ARTHUR: I apologize.

23 | CHAIR ADELSON: -- you're answering between.  
24 | We're not quite clear which part of it you're answering to.  
25 | Thank you.

1 MS. GIALLUCA: Okay, thank you, Chair.

2 Okay, so your email on Tab 9 to Anthony at his  
3 request for information about the thing was September 15<sup>th</sup>,  
4 so the confrontation took place with John before the 15<sup>th</sup>,  
5 about the time of these emails on Tab 120. That's a lot of  
6 tabs. Okay, so then when he came with you with this  
7 document that was created in July to hurry up and try to  
8 put something in the system, you state that this property  
9 happened to be one that was started without a construction  
10 permit. Did you know that at the time, or you found that  
11 out after the fact when you gave this testimony to HR?

12 MS. ARTHUR: I don't recall when I found that  
13 out. I wasn't aware of the record and what state the  
14 record was in. I requested a record. "What can we work  
15 on? We can't work in training. What would you like me to  
16 do?" And they said, "Well we're supposed to get it done  
17 right away, so let's go ahead and work in production, and I  
18 have a record you could use."

19 So, the state of that record, I had no idea.

20 MS. GIALLUCA: But you had no idea?

21 MS. ARTHUR: I just assumed it was a record that  
22 would be fine to test on.

23 MS. GIALLUCA: And I just have to ask this. When  
24 John got upset with you, was he upset with you because you  
25 didn't know the processes, or he didn't think you -- he

1 | thought you knew you shouldn't be working in a production  
2 | system?

3 |           MS. ARTHUR: I'm not sure what he was thinking.  
4 | You'd have to ask John.

5 |           MS. GIALLUCA: All right. Thank you. That's  
6 | all. Thank you.

7 |           CHAIR ADELSON: Are there any further questions  
8 | from the Board? No? Okay. Thank you. Ms. Arthur, you  
9 | are dismissed.

10 |           MR. ZALMAN: Our next witness is Luis Hernandez,  
11 | but can I request a really quick bathroom break?

12 |           CHAIR ADELSON: I was going to suggest that. I  
13 | also wanted to ask kind of administratively, if we take a  
14 | bathroom break, do we all just want to grab lunch or  
15 | something to eat, so then we can take your next witness and  
16 | not interrupt him?

17 |           MR. ZALMAN: Like a half hour break or so? Oh,  
18 | I'm okay with that.

19 |           CHAIR ADELSON: So why don't we come back at  
20 | 12:00 -- try for 12:00, I suspect it will be more like  
21 | 12:05.

22 |           [Meeting was recessed at 11:34 p.m.]

23 |           [Meeting was resumed at 12:02 p.m.]

24 |           CHAIR ADELSON: So we are back on the record.  
25 | The City has a new witness. Counselor, who is your

1 witness?

2 MR. ZALMAN: Our witness is Mr. Luis Hernandez.

3 CHAIR ADELSON: Mr. Hernandez, I'm going to swear  
4 you in, if you would raise your right hand. Swear to tell  
5 the truth, the whole truth and nothing but the truth?

6 MR. HERNANDEZ: I swear to tell truth and nothing  
7 but the truth.

8 CHAIR ADELSON: Would you speak into the  
9 microphone?

10 MR. HERNANDEZ: I swear to tell the truth, and  
11 nothing but the truth.

12 CHAIR ADELSON: Thank you. You may begin. And  
13 just so that you know, Mr. Hernandez, the purpose of the  
14 microphone is not to make you uncomfortable. We are  
15 recording it. So, if you don't speak into it, we don't get  
16 what you're saying. Unless the court reporter is really  
17 perfect. So, thank you.

18 MR. HERNANDEZ: No problem.

19 MR. ZALMAN: Mr. Hernandez, could you state your  
20 name for the record.

21 MR. HERNANDEZ: Luis Hernandez.

22 MR. ZALMAN: Are you currently employed?

23 MR. HERNANDEZ: Yes, I am.

24 MR. ZALMAN: Where are you employed?

25 MR. HERNANDEZ: The City of Fort Lauderdale.

1 MR. ZALMAN: And what is your position with the  
2 City of Fort Lauderdale?

3 MR. HERNANDEZ: I'm the Assistant Building  
4 Official.

5 MR. ZALMAN: How long have you been employed by  
6 the City?

7 MR. HERNANDEZ: Nearly four years.

8 MR. ZALMAN: Have you worked with Mr. John  
9 Madden?

10 MR. HERNANDEZ: Yes, I have.

11 MR. ZALMAN: Explain the employment relationship  
12 that you had while Mr. Madden was employed with the City.

13 MR. HERNANDEZ: While he was employed, while I  
14 was there with him?

15 MR. ZALMAN: Yes.

16 MR. HERNANDEZ: Yeah, we barely spoke.

17 MR. ZALMAN: Were you his supervisor?

18 MR. HERNANDEZ: Yes, I was.

19 MR. ZALMAN: Do you recall giving a statement to  
20 Human Resources regarding an investigation of Mr. Madden?

21 MR. HERNANDEZ: Yes, I do.

22 MR. ZALMAN: In that statement, did you describe  
23 a confrontation with Mr. Madden?

24 MR. HERNANDEZ: Yes, I did.

25 MR. ZALMAN: Could you describe the

1 | confrontation?

2 |           MR. HERNANDEZ: This was with an issue that I had  
3 | in the lobby with one of our neighbors that had a -- he had  
4 | an enforcement case about a building that he had, it was a  
5 | two-story building. The person's name was Merced and there  
6 | was a discussion in our, what we called a fishbowl. In  
7 | that discussion, we talked about what enforcement needed  
8 | for this particular person to do to alleviate what, let's  
9 | say, holds that enforcement had placed on his building.  
10 | And we gave that fella, Mr. Merced, two weeks to come up  
11 | with some documents and then we had a meeting here in this  
12 | building with the Assistant City Manager back then.

13 |           We basically said to Mr. Merced -- this was, by  
14 | the way, I had not planned either one of those meetings.  
15 | The one that was in the fishbowl, happened to be that John  
16 | was out -- John Travers was out that day -- so they asked  
17 | me to go in and fill in for him. And when I explained to  
18 | Mr. Merced that basically all that we wanted to do was that  
19 | he was moving forward on the requirements that enforcement  
20 | had asked him to alleviate the case that they had against  
21 | him.

22 |           The next time that we had a meeting was here in  
23 | this City Hall with the Assistant City Manager and in that  
24 | meeting, again, we repeated what we had said and Mr. Merced  
25 | had already had in that meeting showed me the documents

1 that we had been talking about; that he, in fact, had  
2 already had, he had just not submitted them.

3           But later on that day, after that meeting that we  
4 had here, he showed up at the Building Department and Andre  
5 Cross, which works for the City as well, went to get me to  
6 let me know that Merced was at the front, at the lobby with  
7 some things that he wanted to submit. So, I went to go see  
8 him and I was seeing Mr. Merced, he was showing me what he  
9 wanted to submit to us, which was some shoring plans that  
10 he had, some engineered drawings that were signed and  
11 sealed, and a letter for the shoring and re-shoring of the  
12 project.

13           While I was there speaking to him about it, Mr.  
14 John Madden came out and he seemed like surprised that he  
15 was there. "Hi. How you doing? What are you doing here?"  
16 That type of thing. And he commenced to explain to John  
17 Madden that he was here to submit what was requested of  
18 him, which was the drawings and the letters for shoring and  
19 re-shoring.

20           And John Madden just -- he went like ballistic,  
21 out of nowhere. "Who told you to do that? I never heard  
22 of such a thing." And I was standing right next to him  
23 saying, "John, this is something that we just talked about  
24 at the City Manager's office. He's only coming in with the  
25 documentation that was requested of him." He was just,

1 "I've never heard of such a thing," and, "Who told him to  
2 bring those things in?" And he just went off and off. I  
3 felt threatened at that point because I was standing next  
4 to this fella, Merced, and John Madden took a crouching  
5 position in front of me and I thought he was going to try  
6 to strike me. I backed up a little bit and I asked Mr.  
7 Merced to continue with what he was doing and I said to Mr.  
8 John Madden, "I'm going to go back to my office," which I  
9 did.

10           A little bit after that, he came to my office  
11 door, Mr. John Madden did, and he started to again rant  
12 about this, that and the other thing, and he was going to  
13 go to BORA and he was this close. And I says -- I tried to  
14 calm him down and let him know that, you know, "If you want  
15 clarification, I can give you clarification on what just  
16 happened," because he was off the handle. To me it was all  
17 he wanted to do was make a show of this. He did so in our  
18 lobby and he tried to do it again when I asked him, "Just  
19 come inside and close the door and I'll explain to you what  
20 just happened, or why Mr. Merced was out there." He says,  
21 "I don't need to do anything behind your closed door. I  
22 didn't --" And he was at the doorway, like holding my door  
23 open and just letting everybody know in the back of the  
24 building, which is where we do the Plan Reviews and  
25 everything, both at the lobby and back near my office, it

1 was at a very loud voice. He was basically yelling all this  
2 stuff.

3           And I said, "Look, if you want clarification, I  
4 can give it to you." And he says, "I don't need  
5 clarification." I go, "Well then, you're going to have to  
6 take this up with the Building Official." And that was one  
7 of the instances that I can tell you which led me to --. I  
8 don't really talk to him, but up to that point, he never  
9 really included me in any of his emails, when he would talk  
10 to people about anything that was going on. I felt the  
11 whole time that I was there while he was with us, was  
12 basically everything that I did, everything I tried to do,  
13 he was trying to harpoon it.

14           I was there to try to do nothing more than my job  
15 and it seemed like every time I would say something to  
16 somebody, he would be trying to pretty much make it sound  
17 like I was going to try to change the Building Department  
18 and privatize it, and I was making it more difficult, as  
19 far as the interactions that we would have to have between  
20 the Plan Reviewers, and the Reviewers were going to become  
21 more difficult to accomplish because --.

22           I don't know what he was getting at, because I  
23 was just there to do my job and when I was hired, I would  
24 just ask to let's do this thing with the Private Providers  
25 because we were so far behind on the Plan Reviews. It had

1 | been, I think at one point, Mr. Travers had told me we were  
2 | like three months behind on Plan Reviews, if not longer  
3 | than that, which the Building Code allows us to go thirty  
4 | days.

5 |           This was just -- we were trying to do this thing  
6 | with the Private Providers, which is a program that I gave  
7 | the process and procedures on and how to work with and it  
8 | just seemed from the minute that I walked through the door,  
9 | we were so far behind on Plan Reviews and everything else  
10 | that they asked me to implement, you know, policies and  
11 | procedures on that. And I guess John Madden and some of  
12 | the people in the Building Department thought that I was  
13 | there to privatize the Building Department, which was  
14 | nowhere near the truth. That's not what I was there to do.

15 |           MR. ZALMAN: So, you described at least -- well  
16 | really two main incidents and then an overall atmosphere.  
17 | But I want to go back to the lobby. Which lobby was the  
18 | confrontation where Mr. Madden was yelling at you?

19 |           MR. HERNANDEZ: This was the Greg Brewton Lobby  
20 | which is at the Department of Sustainable Development.

21 |           MR. ZALMAN: Isn't that a public lobby?

22 |           MR. HERNANDEZ: Yes, it is.

23 |           MR. ZALMAN: Were there people in the lobby at  
24 | that time?

25 |           MR. HERNANDEZ: Yes, there were.

1 MR. ZALMAN: Do you know were there City  
2 employees in the lobby?

3 MR. HERNANDEZ: Yes, there were.

4 MR. ZALMAN: Were there people of the public in  
5 the lobby?

6 MR. HERNANDEZ: Yes.

7 MR. ZALMAN: Could you describe the volume of Mr.  
8 Madden's voice when he was yelling at you in the lobby?

9 MR. HERNANDEZ: It was twice as loud as anybody  
10 else, any conversation that was around us, at least that.

11 MR. ZALMAN: Could you describe his temperament?

12 MR. HERNANDEZ: He was, like I said, he took a  
13 crouching stance in front of me and he was beet red and I  
14 really thought he was going to take a swing at me. At some  
15 point I think I saw him ball his fists while he was  
16 crouching. So, I don't know if he was just clenching his  
17 hand, but to me, you know, I didn't like anything that I  
18 saw. I was feeling threatened at that point.

19 MR. ZALMAN: And you mentioned later the same day  
20 he confronted you back near your office?

21 MR. HERNANDEZ: Yes, this was practically right  
22 after the confrontation at the lobby.

23 MR. ZALMAN: Near your office, are there City  
24 employees?

25 MR. HERNANDEZ: Yes.

1 MR. ZALMAN: Is it open to the employees?

2 MR. HERNANDEZ: Yes.

3 MR. ZALMAN: So is your office in a private area,  
4 or, I don't know how DSD looks. Is it employees walking  
5 through?

6 MR. HERNANDEZ: What you would refer to back of  
7 office, or back of house, because that's only the employees  
8 are basically working around or milling around back there.  
9 I do have some cubicles that are directly outside of my  
10 door and by this, I mean no more than five feet across from  
11 me.

12 MR. ZALMAN: And describe the volume of his voice  
13 during that confrontation.

14 MR. HERNANDEZ: It was like at the lobby. Same  
15 thing. He was just trying to make everybody hear what he  
16 was saying from my doorway instead of like I had asked him  
17 to do which was come into the office and please close the  
18 door so we can have a private conversation about what had  
19 just happened.

20 MR. ZALMAN: And could you describe his  
21 temperament during that confrontation.

22 MR. HERNANDEZ: He was extremely frustrated. He  
23 was saying, "I'm the only Chief Building Inspector is  
24 myself and it's not George Oliva," and he was waiving his  
25 hands and doing stuff like this. I didn't know whether --

1 | because this was early in my employ, I had just, I want to  
2 | say within the week or two when I was there was when this  
3 | happened, maybe, at least not within a month. It was  
4 | somewhere within the month is what I'm trying to say that  
5 | this all happened. And I didn't know if this individual  
6 | was like this or if this was, you know, an instance where  
7 | maybe just this one day he wasn't himself. I didn't know  
8 | what to think about it. So, I just kind of like tried to  
9 | get through that day and through week so that I can, you  
10 | know, focus on what I had to do, which I had a lot of tasks  
11 | that were in front of me at that point.

12 |           MR. ZALMAN: There's a binder -- a few binders --  
13 | the binder with the sticker on it, could you open that and  
14 | please turn to Tab 5.

15 |           MR. HERNANDEZ: Sure. Okay.

16 |           MR. ZALMAN: What is Tab 5? What is the document  
17 | at Tab 5?

18 |           MR. HERNANDEZ: It's an email that I had sent to  
19 | Anthony, to Al, to Jeremy, and to John Travers.

20 |           MR. ZALMAN: What is the content of the email?  
21 | You could take a second.

22 |           MR. HERNANDEZ: All right, so this is, yeah, I  
23 | had basically had a come-to-Jesus talk, if you will, with  
24 | John Travers about, you know, I really felt strongly that  
25 | Mr. Madden should not be where he was and about the things

1 that had already happened to me, because this thing is  
2 dated back in September. I had started my employ with the  
3 City back in May of -- I think it was the 9<sup>th</sup> of 2016. This  
4 thing, this email was dated September of 2016, which means  
5 by that point I had had a few months worth of already  
6 witnessing a lot of the issues, rumor mills, basically  
7 observing people's unhappiness and frustrations with John  
8 Madden, and I was letting him know.

9           At this point, I think we also had had a meeting  
10 prior, where we had discussed some things as well. And  
11 another meeting with the Director and some other Inspectors  
12 and stuff, and I decided to put this together to let them  
13 know that I too had some frustrations or some run-ins, if  
14 you will, with John Madden.

15           MR. ZALMAN: And I want to refer you to the last  
16 sentence of the first paragraph. Oh wait, yes, it starts  
17 with Mr. Travers.

18           MR. HERNANDEZ: Right.

19           MR. ZALMAN: And at the end of that sentence it  
20 says, "you will not allow for a person in my charge to  
21 berate, belittle, or besmirch me." Who are you describing?

22           MR. HERNANDEZ: John Madden.

23           MR. ZALMAN: And was there an attachment to this  
24 email?

25           MR. HERNANDEZ: Yes, I believe there was.

1 MR. ZALMAN: Could you turn to Tab 6, please.

2 MR. HERNANDEZ: Yes.

3 MR. ZALMAN: Do you recognize that document?

4 MR. HERNANDEZ: Yes.

5 MR. ZALMAN: Is that the attachment to the email  
6 in Tab 5?

7 MR. HERNANDEZ: I believe so, yes. Yes.

8 MR. ZALMAN: When did you draft this document?

9 MR. HERNANDEZ: I think I did this when I was at  
10 home feeling frustrated about what had happened and I just,  
11 I intended not to tell anybody about this, because this was  
12 within my first, I want to say, week of employ, or  
13 something like that, and I just -- I didn't know how to  
14 take this. I had left a good job to come work with the  
15 City. I think highly of Mr. Travers and I thought it would  
16 be a good move for me to come with the City and under Mr.  
17 Travers. And I just didn't know at this point what to do  
18 with this situation.

19 MR. ZALMAN: Does the attachment describe the  
20 incident in the lobby? You can read it over to make sure.

21 MR. HERNANDEZ: Yeah. Yeah, it does.

22 MR. ZALMAN: And who did you send the email with  
23 this attachment to?

24 MR. HERNANDEZ: Well, in Tab 5 I talk about this  
25 email, so it was sent to Anthony Fajardo, Al Battle, Jeremy

1 Earle, and John Travers.

2 MR. ZALMAN: And by sending this email, was it  
3 your intent to report the confrontational nature of Mr.  
4 Madden?

5 MR. HERNANDEZ: Yes.

6 MR. ZALMAN: So, we're here, this is an appeal to  
7 allow Mr. Madden to return to the workplace. How would you  
8 feel if Mr. Madden returned to the workplace?

9 MR. HERNANDEZ: Well, if he were to return to the  
10 workplace, I would definitely not allow him to do what he  
11 had been doing while I was there early on. I would  
12 definitely let him know that, you know, things have changed  
13 and the things that he was doing prior to me getting in  
14 there, I was not going to be able to tolerate if he were to  
15 return, but I would really rather he not return.

16 MR. ZALMAN: And you mentioned in the  
17 confrontation in the lobby, you felt threatened. If Mr.  
18 Madden returned to the workplace, would you feel  
19 threatened?

20 MR. HERNANDEZ: Yeah, because I really didn't  
21 know where this came from in the first place. I don't know  
22 if he's capable of doing that again.

23 MR. ZALMAN: And you said you were Mr. Madden's  
24 supervisor, or one of his supervisors?

25 MR. HERNANDEZ: I would say, yeah, I was his

1 | direct supervisor.

2 |           MR. ZALMAN: If someone that you were supervising  
3 | -- if an employee that you were supervising had a problem  
4 | with something that -- a work related problem, how would  
5 | you expect them to approach you about it?

6 |           MR. HERNANDEZ: I would basically ask, you know,  
7 | I always have my open door. They can always bring whatever  
8 | issues they have to me. To this day, I still have an open  
9 | door policy where they can bring anything that, not only  
10 | with Private Providers, but anything with the Building  
11 | Department's workings, they can always come to see me  
12 | before it becomes a big event.

13 |           MR. ZALMAN: So, it sounds like you're  
14 | describing a professional conversation. Are you?

15 |           MR. HERNANDEZ: Yes.

16 |           MR. ZALMAN: And did you feel that Mr. Madden  
17 | treated you as a professional?

18 |           MR. HERNANDEZ: No, absolutely not.

19 |           MR. ZALMAN: Did he act like a professional?

20 |           MR. HERNANDEZ: He did not.

21 |           MR. ZALMAN: How did he act? How did he treat  
22 | you?

23 |           MR. HERNANDEZ: He actually act like somebody  
24 | that I would have thought was either under-medicated or  
25 | needed medication. It was just bizarre. It was

1 completely bizarre.

2 MR. ZALMAN: I don't have any further  
3 questions.

4 MS. BLEAU: Good afternoon, Mr. Hernandez. How  
5 are you?

6 MR. HERNANDEZ: Good. How do you do?

7 MS. BLEAU: Good, thanks. Your date of hire  
8 was May 9, 2016, that's what you said?

9 MR. HERNANDEZ: Yes, I believe so.

10 MS. BLEAU: Because you also testified that  
11 this interaction between you and Mr. Madden in the  
12 lobby regarding Richard Mercedes occurred in the first  
13 week that you were employed. Can you look at your  
14 letter and does it tell you when that interaction  
15 occurred?

16 Actually, if you stay on Tab 6, which is --  
17 that was the more contemporaneous writing of the two  
18 documents, correct?

19 MR. HERNANDEZ: Yes, I met with -- when I was  
20 asked to meet Mr. Merced for the first time it was on  
21 June 28<sup>th</sup>, and that was in what we call the "fishbowl"  
22 near the lobby. It's actually the first door to your  
23 left when you walk into our lobby.

24 MS. BLEAU: But when was the interaction with  
25 Mr. Madden?

1           MR. HERNANDEZ: That would have been the -- I  
2 think it was the 12th, where is it on here?

3           MS. BLEAU: Because at the bottom you have --

4           MR. HERNANDEZ: We gave Mr. Merced two weeks to  
5 -- okay, so, I have here that the outcome of our  
6 meeting today, July the 12th, was the following. So it  
7 would have been July the 12th.

8           MS. BLEAU: July 12<sup>th</sup>, which would not have been  
9 the first week that you were employed at the City,  
10 right?

11          MR. HERNANDEZ: Right.

12          MS. BLEAU: You were employed at the City most  
13 of the month of May, all of the month of June, half the  
14 month of July, correct?

15          MR. HERNANDEZ: Correct.

16          MS. BLEAU: Okay. So, in your testimony is  
17 that you were Mr. Madden's direct supervisor, but you  
18 took no action at the time, having been employed with  
19 the City now for two and a half months, to correct his,  
20 what you believed to be, inappropriate behavior,  
21 correct?

22          MR. HERNANDEZ: I would say that I had had  
23 conversations with John about different things that had  
24 happened with Madden, but they were not as egregious as  
25 this one.

1 MS. BLEAU: Wasn't my question. This  
2 interaction in the lobby regarding Richard Mercedes,  
3 you said was inappropriate behavior of Mr. Madden.  
4 Correct?

5 MR. HERNANDEZ: Correct.

6 MS. BLEAU: You said that you were Mr. Madden's  
7 direct supervisor.

8 MR. HERNANDEZ: Yes.

9 MS. BLEAU: But you didn't do anything to  
10 discipline Mr. Madden or correct his behavior in any  
11 way, at the time. Right?

12 MR. HERNANDEZ: Yes.

13 MS. BLEAU: Okay. And you say that you were  
14 Mr. Madden's direct supervisor, but it was John Travers  
15 who did Mr. Madden's 2016 performance review. Do you  
16 know why that was?

17 MR. HERNANDEZ: Well, as far as the  
18 organizational chart goes, I was placed directly  
19 underneath Mr. Travers as the Assistant Building  
20 Official, and I was there, in that position, to  
21 overlook the -- basically, the building, the  
22 mechanical, the electrical, and the plumbing divisions  
23 of the Building Department. And there was also a call  
24 center and there was Records and the Clerk and  
25 Enforcement staff.

1 MS. BLEAU: Mr. Madden also held a  
2 certification of Assistant Building Official, correct?  
3 As did other individuals in the Building Department?

4 MR. HERNANDEZ: I wasn't aware of it.

5 MS. BLEAU: But you weren't actually certified  
6 as an Assistant Building Official when you were hired,  
7 were you?

8 MR. HERNANDEZ: No, I was actually hired with  
9 the stipulation that I would be able to get my Building  
10 Official certifications within three years of my hire  
11 date.

12 MS. BLEAU: In fact, at the time that you were  
13 interviewed by the Human Resource Investigator in the  
14 investigation leading to Mr. Madden's termination, by  
15 that point you still had not been certified by BORA,  
16 correct?

17 MR. HERNANDEZ: That's, I believe, correct.

18 MS. BLEAU: At that time you said you had only  
19 passed two of the required three exams and still needed  
20 to "study and sit for the third exam."

21 MR. HERNANDEZ: Yes.

22 MS. BLEAU: Does that sound right? BORA never  
23 provided you with a provisional license either, did  
24 they?

25 MR. HERNANDEZ: No, they had not.

1 MS. BLEAU: BORA doesn't issue provisional  
2 licenses for that, do they?

3 MR. HERNANDEZ: I'm not aware if they do or  
4 they don't, but --

5 MS. BLEAU: Do you know why Mr. Travers  
6 testified here under oath that you were provided a  
7 provisional license?

8 MR. HERNANDEZ: I wouldn't know.

9 MS. BLEAU: Specifically, Mr. Travers testified  
10 "He entered into a provisional status for Building  
11 Official, incumbent upon his passing a series of exams  
12 with the State of Florida." That is not a true  
13 statement, is that right?

14 MR. HERNANDEZ: Well, I had given, when I came  
15 through the door, my documentation to BORA to become an  
16 Assistant Building Official, but it took some time for  
17 them to process that and they came back with that I  
18 needed to get that licensure before they could give me  
19 the provisional.

20 MS. BLEAU: Right. The request, actually, to  
21 BORA was to give you a provisional license and it was  
22 denied because they don't do that, right?

23 MR. HERNANDEZ: I don't know that they don't do  
24 that, I just think that they wanted me --

25 MS. BLEAU: Well, they didn't give it to you --

1 MR. HERNANDEZ: -- to have my licensure.

2 MS. BLEAU: Okay, just to be clear for the  
3 record, because I did sort of talk over you, and I  
4 apologize, contrary to Mr. Travers' testimony, BORA did  
5 not approve a provisional license for you as an ABO,  
6 right?

7 MR. HERNANDEZ: Totally correct because I did  
8 not have one.

9 MS. BLEAU: Okay. Do you know why Mr. Travers  
10 hired you in this position when there were other  
11 qualified Assistant Building Officials in the  
12 Department?

13 MR. HERNANDEZ: Well, he knew of me from a  
14 previous employ that I had where he also employed  
15 himself -- he was the Vice President of one company and  
16 I had met him in 2006, I think it was, only a couple of  
17 times when I worked in Hialeah through this private  
18 provider that I used to work for.

19 MS. BLEAU: I'm sorry, Mr. Travers was a Vice  
20 President of what company?

21 MR. HERNANDEZ: It was MTCI.

22 MS. BLEAU: And when was that? When was Mr.  
23 Travers Vice President of MTCI?

24 MR. ZALMAN: I'm going to object, because this  
25 is outside the scope of our direct examination.

1 CHAIR ADELSON: Ms. Bleau, could you give some  
2 context to the questions?

3 MS. BLEAU: Sure. Well, these all go to what  
4 was happening at the time that might have contributed  
5 to Mr. Madden's reaction. He said, "I don't know what  
6 was going on with Mr. Madden or why he reacted in that  
7 way," and all of this leads to what might have been  
8 going on and what might have led to the reason Mr.  
9 Madden responded the way he did. And it will get  
10 there.

11 CHAIR ADELSON: I'm going to overrule the  
12 objection but, of course, I will make sure it goes to  
13 something related to the scope of his direct.

14 MS. BLEAU: Sure. And, on to the scope issue,  
15 if it's not related to the scope, you would prefer me  
16 to call Mr. Hernandez back?

17 CHAIR ADELSON: If you want to --

18 MS. BLEAU: Yes.

19 CHAIR ADELSON: -- tie it to the issues related  
20 to his testimony, then it's your option to call him on  
21 his direct.

22 MS. BLEAU: Because I do have certain questions  
23 for him. If you prefer me to call him back another  
24 time, I can do that as well. If I think it doesn't go  
25 to that issue, I'll try to save them for later.

1           MR. ZALMAN: I won't know until you ask the  
2 question.

3           MS. BLEAU: You know whether or not you want me  
4 to inconvenience him twice or just ask him today while  
5 he's here, that's what I was asking.

6           MR. ZALMAN: We'll take it step by step.

7           MS. BLEAU: Okay. So, the question, I believe,  
8 that has not been answered is, when was John Travers  
9 Vice President of MTCI?

10          MR. HERNANDEZ: I can't say for sure, I can  
11 only estimate. I think it was sometime between 2009  
12 and 2013, it was somewhere in there. But I don't think  
13 he was there for a year. It was somewhere in there,  
14 but I don't think he was for maybe even -- I think it  
15 was less than a year.

16          MS. BLEAU: Okay, so, just to make sure I  
17 understand, somewhere around 2009 to 2013 Mr. Travers  
18 was a Vice President of MTCI. And then you think  
19 somewhere less than a year, he wasn't there before he  
20 went to the City?

21          MR. HERNANDEZ: What I'm trying to say is that  
22 he was there for, I think, less than a year, somewhere  
23 between that timespan of --

24          MS. BLEAU: Oh, I see. He was Vice President  
25 for less than a year, somewhere in that two year time

1 period, three year time --

2 MR. HERNANDEZ: Three years, yes.

3 MS. BLEAU: -- four year time period. It's a  
4 good thing I'm not a mathematician. So, when you  
5 started working, John Travers asked you to develop a  
6 Private Provider Program, correct?

7 MR. HERNANDEZ: Yes.

8 MS. BLEAU: And you looked at Miami-Dade County  
9 and Doral, I believe is what you had in your statement.  
10 Is that correct?

11 MR. HERNANDEZ: I looked at many things that  
12 were on the Internet, basically, yeah, Dade County and  
13 because I came from Dade County as an inspector there,  
14 so I kind of knew how to navigate their website. Dade  
15 County and the City of Miami where I was also working  
16 under this MTCI Private Provider company -- did a lot  
17 of work there as well. So, I used them as my, I want  
18 to say, a platform to start developing my own process  
19 and procedures.

20 MS. BLEAU: With respect to the Private  
21 Provider Program, are you aware of whether Broward  
22 County is unique from Dade County?

23 MR. HERNANDEZ: Yes.

24 MS. BLEAU: In what way?

25 MR. HERNANDEZ: In the Florida Building Code,

1 the amended Chapter 1, it's in reserve.

2 MS. BLEAU: Right. Section 105.14 of the  
3 Florida Building Code, which is at our Tab 89, the  
4 section for Private Providers says, "reserved," right?

5 MR. HERNANDEZ: Yes.

6 MS. BLEAU: And that's not the case in Miami-  
7 Dade County?

8 MR. HERNANDEZ: Correct.

9 MS. BLEAU: Okay. In your attached, written  
10 statement that was at Tab 6, it's in front of you, it  
11 starts out, "Please read this before our meeting  
12 tomorrow." Did I read that accurately?

13 MR. HERNANDEZ: I'm sorry, say that again?

14 Where was --

15 MS. BLEAU: At the very top, the heading.

16 MR. HERNANDEZ: Yes.

17 MS. BLEAU: When did you put that on the  
18 document?

19 MR. HERNANDEZ: I think we were supposed to  
20 have a meeting, that's why I wrote this. But I don't  
21 think it happened the next day. I think it actually  
22 happened further down, I think it was like the 20<sup>th</sup> of  
23 September, or something like that.

24 MS. BLEAU: So your email at Tab 5 is September  
25 12<sup>th</sup>, and you think you actually had a meeting later

1 | than that? Is that what you're saying, about September  
2 | 20th?

3 | MR. HERNANDEZ: Yes.

4 | MS. BLEAU: And so you wrote what was at Tab 6  
5 | in anticipation of that meeting that you thought you  
6 | were going to have somewhere around September 12th?

7 | MR. HERNANDEZ: I would say yes.

8 | MS. BLEAU: Okay, so you didn't write this  
9 | contemporaneously to the time of the incident in July?

10 | MR. HERNANDEZ: No, I wrote this particular  
11 | letter, I believe it was the night of this incident.

12 | MS. BLEAU: Well, both of those things can't be  
13 | true. So let's try to clear up the confusion. You  
14 | said to "Please read this before our meeting tomorrow,"  
15 | was in reference to a meeting in September of 2016, and  
16 | that you wrote this in anticipation of that meeting,  
17 | but you've also said you wrote it --

18 | MR. HERNANDEZ: Well, I think that -- sorry.

19 | MS. BLEAU: That's okay, thank you. But let me  
20 | just finish the record. You've also said you wrote it  
21 | the night of the incident, which would have been in  
22 | July, months prior. Can you clarify?

23 | MR. HERNANDEZ: Yeah, there was parts of this  
24 | email where, I want to say, from what I had written at  
25 | home that I put into this email. There was actually a

1 section in here that was in blue that I remember -- I  
2 can't see now because this is all black and white --  
3 but there was a section that was the original thing  
4 that I had written that I had put into the rest of this  
5 stuff to compose that email that I was writing.

6 MS. BLEAU: So only part of Tab 6 was actually  
7 contemporaneously written in July and the rest was  
8 written in September in anticipation of a meeting that  
9 you were going to have, right?

10 MR. HERNANDEZ: I believe so.

11 MS. BLEAU: And do you recall the nature of  
12 that meeting? What was that meeting going to be about?

13 MR. HERNANDEZ: I think that was the one about  
14 rumors, rumors that were going on. Again, this was --  
15 I had referred to this in the beginning of this, that  
16 John Madden had expressed to a lot of the people in the  
17 Building Department that I had been brought on board to  
18 privatize the Building Department.

19 MS. BLEAU: So you're testifying under oath  
20 here today, did you hear Mr. Madden tell people that  
21 you were brought on board to privatize?

22 MR. HERNANDEZ: Not directly, no.

23 MS. BLEAU: So you were told by somebody else  
24 that Mr. Madden was saying this, is that right?

25 MR. HERNANDEZ: Correct.

1 MS. BLEAU: Okay. Do you recall who told you  
2 that?

3 MR. HERNANDEZ: I want to say there was a few  
4 people. I think George Oliva was one of them.

5 MS. BLEAU: I would have put money on it.  
6 Anybody else?

7 MR. HERNANDEZ: And Andre Cross would have been  
8 another person.

9 MS. BLEAU: And because of the -

10 MR. HERNANDEZ: There could have been others.  
11 I just don't remember off the top of my head now.

12 MS. BLEAU: Sure. George Oliva, Andre Cross.  
13 Either of them work for Mr. Madden?

14 MR. HERNANDEZ: Well, in the org chart they're  
15 actually separated from Mr. Madden. Andre Cross is  
16 directly reporting to John Travers and I believe that  
17 so is, well, the Enforcement, which is with George  
18 Oliva's people. At that point in time, they were  
19 directly under me when I started. The org chart has  
20 morphed since my employ.

21 MS. BLEAU: Uh-huh [affirmative].

22 MR. HERNANDEZ: And they now actually have a  
23 few more Assistant Building Officials and the org chart  
24 has been divvied up.

25 MS. BLEAU: So my question was, George Oliva,

1 Andre Cross did not report directly to Mr. Madden,  
2 correct?

3 MR. HERNANDEZ: Right.

4 MS. BLEAU: Okay. In your September 12th email  
5 at Tab 5, you say, it starts out "To All, in light of  
6 our discussion today" -- what was the discussion you  
7 had on September 12th?

8 MR. HERNANDEZ: I don't recall.

9 MS. BLEAU: In the written statement, going  
10 back to Tab 6 now, you had said that there was a  
11 meeting with you and Richard Mercedes, and you say,  
12 Richard Mercedes and Jose Abin, and George Oliva from  
13 Code Enforcement were present as well, as well as Andre  
14 Cross. Is that correct?

15 MR. HERNANDEZ: Yes.

16 MS. BLEAU: Okay, who is Jose Abin?

17 MR. HERNANDEZ: Back then he was an Inspector  
18 with the Enforcement Unit.

19 MS. BLEAU: Okay, and George Oliva was the head  
20 of the Enforcement Division?

21 MR. HERNANDEZ: Yes.

22 MS. BLEAU: And who was Andre Cross? You said  
23 he reported directly to John Travers?

24 MR. HERNANDEZ: Yes, he's the Business  
25 Assistance Coordinator.

1 MS. BLEAU: And what involvement would Andre  
2 Cross have with meeting with the owner of a project?

3 MR. HERNANDEZ: Well, Andre's job is to  
4 basically navigate plans through the Building  
5 Department and since this one was an Enforcement case,  
6 and I believe that Andre Cross knew about this case  
7 before I came in, this was something that had been  
8 going on, the case with Mr. Merced had been going on  
9 for, I want to say, months before I got there. I'm not  
10 clear on how many months, but I know it was months  
11 before I came in.

12 It was an abandoned building that Mr. Merced  
13 was trying to rehabilitate it. It had a lot of  
14 structural failures that were obvious from even the  
15 street side that they wanted to demo the building and I  
16 think Mr. Merced wanted to rescue the building, and it  
17 just stemmed from, you know, being an eyesore with an  
18 open area where I think that the homeless were  
19 habitating [sic] underneath it and it was an unsafe  
20 structure at that point. So, that's why Enforcement  
21 was involved.

22 MS. BLEAU: You and Mr. Oliva and Mr. Cross  
23 decided that Mr. Mercedes needed to do a shoring  
24 permit, pull a shoring permit, is that right?

25 MR. HERNANDEZ: When I came into the meeting at

1 that fishbowl on the 28<sup>th</sup>, I believe it was, I was just  
2 asked -- that was the first time I had heard about this  
3 case -- I was asked to sit in. And basically, from  
4 what my previous experience was when I was working in  
5 Dade County -- because I also did the unsafe structures  
6 in Dade County -- but basically, what we wanted to do  
7 was have the owner of the property come into compliance  
8 or show us in good faith they are trying to reach  
9 compliance with whatever it is the deficiencies were  
10 pointed out to be. And what I was led to believe was  
11 that he, Mr. Mercedes, needed to get a shoring permit.

12 That's what was being batted around with Mr. Oliva and  
13 Andre Cross. So when I came into this meeting, I was  
14 basically letting him know, "Mr. Mercedes, all that you  
15 need to do is show that in good faith you're trying to  
16 comply with what's being requested." Which is, you  
17 need to get a shoring permit so that this can at least  
18 start being -- the holds be removed, and you can start  
19 working towards what he wanted to do, was rehab the  
20 building. I really could care less whether it got torn  
21 down or not, except that to me it looked like you were  
22 going to be spending a lot of money on that building to  
23 keep it up. But I was just letting him know that all  
24 he needed to do was show us in good faith that he was  
25 moving forward to try to correct the issues that caused

1 him to have an Enforcement case.

2 MS. BLEAU: Did Mr. Mercedes explain to you the  
3 historical significance of this building and the reason  
4 he wanted to save it?

5 MR. HERNANDEZ: He would say it all the time,  
6 that this is a building with historical significance,  
7 that Ella Fitzgerald and all these famous jazz  
8 musicians played in that venue, but that was just a  
9 person talking. And I really have nothing more to say  
10 about that. I couldn't tell you whether that's true or  
11 not. But whether historical or not, that's not what I  
12 was there to do. I just wanted to explain to him, to  
13 educate him on what would help him get this case away  
14 from the Enforcement people.

15 MS. BLEAU: Well, George Oliva did not have the  
16 qualifications, the BORA certifications, to tell Mr.  
17 Mercedes that a shoring permit was required on that  
18 job. Correct?

19 MR. HERNANDEZ: Again, I started working in the  
20 City of Fort Lauderdale on the 9<sup>th</sup> of May, and this  
21 thing was the 28<sup>th</sup> of June. I really did not know  
22 everybody's role in that Building Department. I was  
23 merely trying to, with my -- as far as my background  
24 and what I can do to help or assist. Because they just  
25 asked me to come out and assist while John Travers was

1 not there.

2 MS. BLEAU: Not my question. You've worked  
3 with Mr. Oliva for a long time and I think back at the  
4 end of '19 he finally got his certification from BORA  
5 and in July of '19 he finally got his certification  
6 from the State of Florida. So, my question to you,  
7 sir, as Mr. Oliva's immediate supervisor, did Mr. Oliva  
8 have the certifications that he needed to have in order  
9 to require a shoring permit on this property?

10 MR. HERNANDEZ: Can you ask that question  
11 again, I'm not sure that I understand it.

12 MS. BLEAU: Sure. When you met with Mr. Oliva  
13 and Mr. Cross and Mr. Abin in July and Mr. Mercedes was  
14 told that he had to get a shoring permit, did Mr. Oliva  
15 have the qualifications to require a shoring permit?

16 MR. HERNANDEZ: I don't think I can answer that  
17 one, I'm not sure.

18 MS. BLEAU: Sure. Let me ask a different way.  
19 John Madden is the Chief Building Inspector for the  
20 City at the time, correct?

21 MR. HERNANDEZ: Yes.

22 MS. BLEAU: And according to the Board of Rules  
23 and Appeals, John Madden, not you, not John Travers,  
24 not George Oliva or Andre Cross had the right to  
25 interpret the Florida Building Code, correct?

1           MR. HERNANDEZ: Well, according to the Florida  
2 Building Code, it's the Chief Building Inspector that  
3 has the ability to interpret.

4           MS. BLEAU: Right. And only, solely -- it says  
5 solely in the Code, doesn't it?

6           MR. HERNANDEZ: I'd have to check that.

7           MS. BLEAU: Okay.

8           MR. HERNANDEZ: But it's possible.

9           MS. BLEAU: It does. And we can certainly  
10 agree that Chief Building Inspector, that was John.  
11 John's the one that had the ability to interpret the  
12 Code and decide whether or not, in this case, a shoring  
13 permit was necessary or not. Correct?

14           MR. HERNANDEZ: Yeah, but he was directly under  
15 me, and yes, he could have asked or not asked for that.

16           But knowing that I'm his supervisor and knowing what  
17 this was about -- and I did see the pictures of the  
18 building -- I could say that I could ask for him to  
19 have that, as well. I could have asked Mr. Merced to  
20 provide me a shoring plan and a shoring and re-shoring  
21 letter.

22           MS. BLEAU: Based on what qualifications? You  
23 weren't certified by BORA at that point either, were  
24 you?

25           MR. HERNANDEZ: Well, I was given the title,

1 plus when I had spoken to Mr. Travers about this as  
2 well, I did let him know that this is what I had  
3 conversed with Mr. Mercedes when this first meeting was  
4 done back on June 28.

5 MS. BLEAU: I thought we just agreed that  
6 according to the Florida Building Code, the law that  
7 you're required to enforce, right? You were subject to  
8 the Florida Building Code, are you not?

9 MR. HERNANDEZ: Yes.

10 MS. BLEAU: And the law that you are required  
11 to enforce says that the Chief Building Inspector is  
12 the one that can interpret the Code, right?

13 MR. HERNANDEZ: Yes.

14 MS. BLEAU: John Travers and not Luis  
15 Hernandez, correct?

16 MR. HERNANDEZ: But it also states that the  
17 Building Official can request any documentation if he  
18 sees fit.

19 MS. BLEAU: Okay, but if a shoring permit is  
20 not required and the Chief Building Inspector says it's  
21 not, then no documentation of the shoring permit would  
22 be required, right?

23 MR. HERNANDEZ: Well, maybe not for a permit,  
24 but if I needed to see documentation from an engineer,  
25 I could request that.

1 MS. BLEAU: Sure you could, but that's not what  
2 you asked for. You required that Mr. Mercedes obtain a  
3 shorting permit, which actually doesn't even exist,  
4 correct?

5 MR. HERNANDEZ: Apparently, in the City of Fort  
6 Lauderdale, it does not.

7 MS. BLEAU: That's right. So this meeting with  
8 Mr. Mercedes, with three uncertified, BORA-certified,  
9 individuals, required this individual to do something  
10 that the City of Fort Lauderdale doesn't do, which is  
11 he required him to get a shoring permit that the City  
12 of Fort Lauderdale doesn't issue because it doesn't  
13 exist. Do I have that right?

14 MR. HERNANDEZ: Yes.

15 MS. BLEAU: Okay. And can you explain why you  
16 had three meetings with Mr. Mercedes and John Travers,  
17 the Chief Building Inspector, dealing with Mr. Mercedes  
18 on this project, was not involved in any of these three  
19 meetings that you described?

20 MR. HERNANDEZ: I had the meeting on the 28<sup>th</sup>,  
21 and I had the meeting, I believe it was the 14<sup>th</sup> I put  
22 on here, with the Assistant City Manager. I don't know  
23 if I had any other meetings after that with Mr.  
24 Mercedes, I can't recall.

25 MS. BLEAU: Okay. Well, hmm, your recollection

1 is you only had two meetings?

2 MR. HERNANDEZ: I would say -- well, after a  
3 few years went by, I went back to the job site for  
4 another issue that was brought to my attention. I meet  
5 Mr. Mercedes on the job site.

6 MS. BLEAU: Sure, that's not what I'm asking  
7 about, though. In your first meeting, according to  
8 your written statement, in your first meeting there was  
9 Mr. Mercedes, Mr. Abin, Mr. Oliva, and Andre Cross and  
10 you. And then according to your statement you had  
11 another meeting with Richard Mercedes without Mr.  
12 Madden being present. The prior month -- I guess that  
13 was the second meeting that I just described -- and  
14 there was an earlier meeting, and you say in your  
15 statement that "Mr. Mercedes, the building owner, came  
16 in to meet with John Travers, Andre Cross, and George  
17 Oliva. John Travers and George Oliva was not there, so  
18 Andre Cross came to me to ask if I could meet with Mr.  
19 Mercedes." Was that a third meeting that happened? Or  
20 when was that?

21 MR. HERNANDEZ: I don't recall.

22 MS. BLEAU: Did you answer my question of why  
23 Mr. Madden was not at any of the meetings that you had  
24 with Mr. Mercedes? Whether that be three that appear  
25 to be described, or two?

1           MR. HERNANDEZ: I was only pulled out of my  
2 office, it was not like I set up the meetings, the one  
3 that the City Managers -- again, the one on the 28<sup>th</sup> in  
4 our fishbowl. I wasn't even aware of this whole case  
5 until they asked me to come see him.

6           MS. BLEAU: But you're the Assistant Building  
7 Official, as you've reminded us here, and you were the  
8 man in charge other than John Travers, right?

9           MR. HERNANDEZ: That's correct. When he's not  
10 in the office, I should be able to do what he does.

11          MS. BLEAU: And you were the Chief Building  
12 Inspector Supervisor, correct?

13          MR. HERNANDEZ: Yes.

14          MS. BLEAU: So, can you tell me why John Madden  
15 was not included in any of these meetings?

16          MR. HERNANDEZ: I thought I just did. I was  
17 basically called from my office to do this meeting that  
18 was already scheduled by somebody else.

19          MS. BLEAU: You didn't take charge or say,  
20 "Hey, you know the Chief Building Inspector should be  
21 included in these meetings"?

22          MR. HERNANDEZ: I didn't even know if he was in  
23 the building.

24          MS. BLEAU: You didn't know if he was in the --

25          MR. HERNANDEZ: He does spend a lot of time

1 outside of the building, so I just assumed that he  
2 wasn't even in the building.

3 MS. BLEAU: What do you mean he spent a lot of  
4 time outside of the building?

5 MR. HERNANDEZ: Well, John Madden would have a  
6 City vehicle where he would go visit job sites during  
7 the course of the day.

8 MS. BLEAU: Okay. So, that was primarily how  
9 he spent his time.

10 MR. HERNANDEZ: I would say he did that a lot,  
11 yes.

12 MS. BLEAU: Yeah? Okay. And so you didn't  
13 know if he was in the building, you didn't know if he  
14 wasn't in the building, you didn't ask, and didn't  
15 raise the issue why he wasn't included. Right?

16 MR. HERNANDEZ: Like I said, I basically  
17 stepped in when John Travers is not in the office.

18 MS. BLEAU: Okay, but that didn't answer my  
19 question, sir.

20 MR. HERNANDEZ: Please ask again.

21 MS. BLEAU: You did not know whether or not Mr.  
22 Madden was in the building or outside of the building,  
23 you didn't ask why he wasn't included in the meeting,  
24 and you don't know why he wasn't included in the  
25 meeting, right?

1 MR. HERNANDEZ: Right.

2 MS. BLEAU: Okay. According to numbered  
3 paragraph 7 of your statement at Tab 6, you said, "I  
4 also mentioned that since the shoring had been done  
5 without a permit (I was told this by Andre and George,  
6 so I assumed one was required)." Did you see that?

7 MR. HERNANDEZ: Can you say where that is  
8 again?

9 MS. BLEAU: Numbered paragraph 7, so you want  
10 to turn the page, I think. First sentence in paragraph  
11 7, do you see that?

12 MR. HERNANDEZ: I'm reading it. [pause] Okay.  
13 So, I made that assumption, as I said, because of what  
14 was being told to me.

15 MS. BLEAU: By Andre and George Oliva, both of  
16 whom were not certified by BORA. Do you -- were you  
17 aware at the time that BORA was in the process during  
18 this time, during this month, was prosecuting Mr.  
19 Madden for not overruling the prior Building Official?

20 MR. HERNANDEZ: I had no idea.

21 MS. BLEAU: Did you know that Mr. Madden was in  
22 the process of defending himself against charges being  
23 brought by BORA for not imposing his views over the  
24 Building Officials?

25 MR. HERNANDEZ: I had no idea.

1 MS. BLEAU: Subsequent to Mr. Madden's  
2 termination, the BORA ultimately had the hearing and  
3 the Board upheld the Staff's ruling that Mr. Madden was  
4 the sole authority in interpreting the Code and  
5 responsible for imposing his view over that of the  
6 Building Official. Were you aware of that?

7 MR. HERNANDEZ: I would say no.

8 MS. BLEAU: So, as you sit here today, you  
9 don't know that.

10 MR. HERNANDEZ: I didn't know that he was  
11 involved with any of this until much later on.

12 MS. BLEAU: Right. But the hearing was in  
13 2019, 2017 -- 2018. October of 2018 was the hearing of  
14 the BORA ruling. As you sit here today, are you aware  
15 that that was BORA's ruling?

16 MR. HERNANDEZ: I knew that he had a hearing  
17 with BORA, and I don't recall exactly what it was that  
18 it was about. I think there was too much complication  
19 for me to understand what had transpired for that  
20 hearing to be had. And as far as I know, he wasn't in  
21 the office any longer, so I --

22 MS. BLEAU: So, you're the Assistant Building  
23 Official today for the City of Fort Lauderdale?

24 MR. HERNANDEZ: Correct, I'm one of the three,  
25 yes.

1 MS. BLEAU: You're one of three.

2 MR. HERNANDEZ: One of three, yes.

3 MS. BLEAU: You have Chiefs that report to you?

4 MR. HERNANDEZ: Yes, I do.

5 MS. BLEAU: And those Chiefs -- you're not  
6 aware, as you sit here today, that according to BORA  
7 those Chiefs' interpretations of the Code usurp yours  
8 or Mr. Travers' interpretations? You don't know that?

9 MR. HERNANDEZ: I know that they have the power  
10 to interpret the Code if that's what you're asking.

11 MS. BLEAU: Yeah. And if you disagree with  
12 them, what they say goes. Do you understand that?

13 MR. HERNANDEZ: Um, I would have to say I would  
14 question BORA for an opinion if I felt like whatever it  
15 is that they were saying was not what I thought was  
16 possibly going to be the correct outcome of something  
17 to happen.

18 MS. BLEAU: Right. That's exactly what would  
19 have to be done. You couldn't just overrule them, you  
20 would have to go to a higher authority, which is BORA,  
21 and have BORA review the situation and make that  
22 decision, right?

23 MR. HERNANDEZ: Sure.

24 MS. BLEAU: Okay.

25 MR. HERNANDEZ: And I have done that before

1 with other issues.

2 MS. BLEAU: Okay, and if you don't do that, you  
3 have to do whatever the Chief says, because what the  
4 Chief says goes unless BORA says differently. Right?

5 MR. HERNANDEZ: I would say if BORA says  
6 something differently, I'd go with whatever BORA says.

7 MS. BLEAU: Of course. What I said was, what  
8 the Chief says goes unless BORA says something  
9 differently.

10 MR. HERNANDEZ: Correct.

11 MS. BLEAU: Regardless of what you or Mr.  
12 Travers say?

13 MR. HERNANDEZ: Yes. [pause] But I also want  
14 to add that I believe this has something to do with a  
15 City Official, a Building Official, or an Assistant  
16 Building Official. I might not be completely aware of  
17 all the different Code requirements for a certain trade  
18 because Dade County and Broward only will give you,  
19 let's say, one trade to practice. You're either going  
20 to be a Building Inspector or a Building Reviewer or,  
21 in other words, I couldn't really know everything that  
22 there is to know about mechanical, because I'm not  
23 certified by BORA to do mechanical plan reviews or  
24 mechanical inspections. In that case, if something  
25 came up that was more geared towards mechanical,

1       whether it was a plan review or inspection, I would  
2       have to say, without a doubt, I'd go to the Chief  
3       Mechanical and say, like I have done in the past by the  
4       way, whatever he says, "I'm here to back up my Chief."  
5       I have done that before. But when it comes to  
6       building and structural, which I am certified for, and  
7       I was at that point, BORA did give me certifications  
8       for structural plan reviews and structural inspections.

9               MS. BLEAU: When?

10              MR. HERNANDEZ: When I walked through the door,  
11              pretty much. That I did have.

12              MS. BLEAU: Right, but Mr. Travers admitted in  
13              his testimony that just because you were certified in  
14              structural plans review and structural inspections,  
15              that you were below the Chief Building Inspector,  
16              right? I mean, that's what he said. Do you agree or  
17              disagree with his testimony?

18              MR. HERNANDEZ: That I was below them?

19              MS. BLEAU: Yes, sir.

20              MR. HERNANDEZ: Because BORA had not given me  
21              certification?

22              MS. BLEAU: Because your certification for --

23              MR. HERNANDEZ: I was told by other people in  
24              the Building Department that I am the Assistant  
25              Building Official at that point and that what I said

1 goes. That was told to me by the Directors of the  
2 Department.

3 MS. BLEAU: Okay, so are you saying -- so this  
4 sounds like that was a lot of different concepts. I  
5 want to unpack them. Specifically, with respect to  
6 interpretation of the Building Code, you believe that  
7 because you were Certified as a Plans Examiner and  
8 Inspector and were given a position of Assistant  
9 Building Official with the City, that you could  
10 overrule Mr. Madden?

11 MR. ZALMAN: We're just going to object. While  
12 I'm fine with going outside the scope of our direct for  
13 the convenience of Mr. Hernandez, I don't see how any  
14 of this line of questioning is relevant to the  
15 termination of Mr. Madden with his employment with the  
16 City of Fort Lauderdale.

17 MS. BLEAU: Well, the last question was only  
18 because he answered the question, I thought, right.  
19 And then he went on for five minutes that he wanted to  
20 clarify it. Now I'm not sure what he said. So, I'm  
21 trying to clarify what he is saying.

22 MR. ZALMAN: I mean the line of questioning  
23 about Mr. Hernandez' licensing has nothing to do with  
24 Mr. Madden's termination, and is irrelevant.

25 MS. BLEAU: It's not -- Mr. Hernandez is

1 brought here to testify about an incident that happened  
2 between him and Mr. Madden where Mr. Madden was  
3 overruled, and in order for the Board to understand why  
4 Mr. Madden might have been upset, it's important to  
5 understand who has the authority, who is vested with  
6 the responsibility of making sure that the Code is  
7 enforced correctly. And I thought Mr. Hernandez and I  
8 both agreed about five minutes ago that Mr. Madden had  
9 the final authority regardless of what Mr. Travers and  
10 Mr. Hernandez did, and then Mr. Hernandez has seemed to  
11 back off on that. So I have to explore that again.

12 CHAIR ADELSON: Counsel, maybe you can ask the  
13 question just to clarify what he was -- the prior  
14 question --

15 MS. BLEAU: Sure.

16 CHAIR ADELSON: -- and just confirm the answer  
17 and then we can move on from that topic.

18 MS. BLEAU: Mr. Hernandez, you agree with me,  
19 do you not, that as the Chief Building Inspector under  
20 the Florida Building Code, only Mr. Madden has the  
21 authority to interpret what is required for building  
22 issues under the Florida Building Code; and whether or  
23 not you are certified as a Plans Examiner and a  
24 Building Inspector or not; and whether you are an  
25 Assistant Building Official or not, you do not have the

1 authority under the Florida Building Code and under the  
2 rules of the Board of Rules and Appeals to overrule Mr.  
3 Madden. Do you agree?

4 MR. HERNANDEZ: Under the amended Chapter 1 of  
5 the Code, yes.

6 MS. BLEAU: Thank you. And didn't Mr. Madden  
7 explain to you when you and he spoke about Mr.  
8 Mercedes' issue, that very thing, didn't he explain to  
9 you that according to BORA he was the ultimate  
10 authority and you didn't have the authority to overrule  
11 him?

12 MR. HERNANDEZ: What I had asked for was for  
13 him to come into my office and if we had had a  
14 professional conversation, maybe that would have  
15 transpired. But that's not what he chose to do.

16 MS. BLEAU: Okay. Now can you answer my  
17 question, please?

18 MR. HERNANDEZ: Ask it again, please.

19 MS. BLEAU: Didn't Mr. Madden tell you when he  
20 found out about the overruling of his interpretation  
21 regarding Richard Mercedes, that he is responsible for  
22 enforcing the Code, according to BORA, and you did not  
23 have the authority to overrule him?

24 MR. HERNANDEZ: The only thing that he said is  
25 what I put on this letter, this thing that I put

1 together here, was that he said he was the Chief and he  
2 is only the Chief and not George Oliva. I didn't even  
3 know what he meant by that, at that point.

4 MS. BLEAU: George Oliva has a designation of a  
5 Chief in the City, right?

6 MR. HERNANDEZ: He's the Enforcement Building  
7 Chief.

8 MS. BLEAU: But he's not a Chief certified -- a  
9 certified Chief by BORA, is he?

10 MR. HERNANDEZ: I don't believe so.

11 MS. BLEAU: Okay. What is Mr. Oliva's title  
12 today?

13 MR. HERNANDEZ: He's the Chief Building  
14 Enforcement Inspector.

15 MS. BLEAU: Chief Building Enforcement  
16 Inspector. Okay, thanks.

17 When you described the interaction to the HR  
18 Investigator, that you had with Mr. Madden over your  
19 overruling his decision regarding Richard Mercedes, you  
20 said that he was "angry, red in the face, and started  
21 yelling." Correct?

22 MR. HERNANDEZ: Yes.

23 MS. BLEAU: What was he yelling?

24 MR. HERNANDEZ: Well, I put it on here that,  
25 like I just mentioned, when we were in the lobby he

1 was, "What did you say? WHAT DID YOU SAY? I never  
2 heard of such a thing!" That type of thing was what he  
3 was saying in the lobby. And then later on, at the  
4 doorway of my office, he was saying, "Let me tell you!  
5 I'm the only one here that's a Chief Building  
6 Inspector and only --" That type of thing is what he  
7 was saying at that point.

8 MS. BLEAU: Okay.

9 MR. HERNANDEZ: But it was louder than that.

10 MS. BLEAU: Louder than that?

11 MR. HERNANDEZ: Yeah.

12 MS. BLEAU: Okay. You said about twice as  
13 loud.

14 MR. HERNANDEZ: Yeah.

15 MS. BLEAU: And you described the yelling, you  
16 didn't say anything in your letter about feeling  
17 threatened or him threatening you or questioning his  
18 mental stability, correct? That was all embellishments  
19 that you added later when you were talking to the  
20 Investigator, right? It's not in your letter, is it?

21 MR. HERNANDEZ: I would read it again, but  
22 maybe it's not in there.

23 MS. BLEAU: When you were talking to the  
24 Investigator, you said, "I thought he was not right,  
25 mentally, and I felt like John Madden was threatening

1 me or maybe off his medication." Is that right?

2 MR. HERNANDEZ: I'm sorry, where did I write  
3 that?

4 MS. BLEAU: You didn't write that. It's not in  
5 your contemporaneously written statement. It's in what  
6 you told the Investigator.

7 MR. HERNANDEZ: Okay.

8 MS. BLEAU: Do you remember that? Do you  
9 remember telling the Investigator that?

10 MR. HERNANDEZ: Yes. Yes.

11 MS. BLEAU: You think those are appropriate  
12 remarks for someone in a position of authority to be  
13 making about an employee that reports to them?

14 MR. HERNANDEZ: I was only stating what I  
15 thought.

16 MS. BLEAU: That he was off his meds?

17 MR. HERNANDEZ: I thought that the kind of  
18 attitude that he was showing me was not -- it came out  
19 of nowhere. And that's only stuff that I would imagine  
20 somebody that's going to be needing medication would  
21 need. I'm not a doctor, but that was bizarre. It was  
22 very bizarre to me.

23 MS. BLEAU: It was certainly --

24 MR. HERNANDEZ: Out of the blue.

25 MS. BLEAU: -- reacted like somebody that was

1 under an extreme amount of stress, would you say?

2 MR. HERNANDEZ: I've been under an extreme  
3 amount of stress, but I don't do that to somebody  
4 that's my supervisor.

5 MS. BLEAU: Okay. So, really wasn't my  
6 question. Did he seem like he was very emotional, like  
7 he was under a lot of stress? Yes or no.

8 MR. HERNANDEZ: I don't know what stress would  
9 cause him to do, but what he exhibited to me was --  
10 like I say again -- it was very bizarre and I just  
11 didn't understand why he acted that way.

12 MS. BLEAU: Explain that to me. Because I  
13 really don't understand what you're saying. Why was it  
14 bizarre that he was upset about being overruled? Why  
15 was it bizarre that he was -- this person was being  
16 told to do a shoring permit when there was no such  
17 thing in the City of Fort Lauderdale, and three people  
18 who had no idea what they were doing were the ones  
19 making the decision, and he was upset about that. Why  
20 is that bizarre?

21 MR. HERNANDEZ: The stance that he took when he  
22 was talking to me, if you were under a lot of stress,  
23 you might be raising your voice a little bit. But he  
24 was yelling. And the stance that he took in front of  
25 me, it's like he was going to take a swing at me. I

1 don't know about a lot of stress, but individuals have  
2 stress all day long in their individual lives. I have  
3 stresses all day long. But I would never act the way  
4 that he did in the workplace and especially not to my  
5 supervisor.

6 MS. BLEAU: So you had an employee who was red-  
7 faced and angry and very upset and your reaction, as a  
8 supervisor almost three months with the City, was to do  
9 nothing. You didn't send him to Employee Assistance  
10 Program, you didn't report him, you didn't discipline  
11 him, you didn't counsel him. Right?

12 MR. HERNANDEZ: In those three months, I was  
13 missing from my office quite a few days because since  
14 BORA did not license me at that point, I was actually  
15 out getting training myself so that I can pass my  
16 exams. And I was very busy trying to formulate this  
17 thing with the Private Provider as far as the process  
18 and procedures. So, I didn't have enough time in my  
19 office to, let's say, attack that problem as well.

20 MS. BLEAU: Okay. Now, can you answer my  
21 question which is, you had been working with the City  
22 for three months, you had an employee who was very  
23 angry, red-faced, and upset with you about actions that  
24 had been taken that you described as bizarre, and you  
25 didn't send him to Employee Assistance, you didn't

1 write him up, you did counsel him, you didn't report  
2 him, you didn't do anything. Correct?

3 MR. HERNANDEZ: I went straight to my  
4 supervisor, which was John Travers, and let him know  
5 about what had happened.

6 MS. BLEAU: So this letter that you wrote to  
7 Mr. Travers -- because it starts out, "Hello, John" --  
8 right? This Tab 6 that was written by you to Mr.  
9 Travers?

10 MR. HERNANDEZ: Uh-huh [affirmative]. Yes.

11 MS. BLEAU: So let's go back. So you reported  
12 it to Mr. Travers the day it happened? Is that your  
13 testimony?

14 MR. HERNANDEZ: No, I went to John Travers and  
15 let him know that John Madden was a very difficult  
16 individual for me to be supervising, that I didn't  
17 understand the way that he acts, the things that he  
18 did, and John Madden had told me that - I'm sorry, John  
19 Travers had told me that John Madden basically runs hot  
20 or cold and most of the times it's hot. So, I kind of  
21 thought at that point that that's just the way that  
22 this individual is. And maybe at that point it was,  
23 "Let me see how much further this goes, because I  
24 really don't know what to make of this at this point."

25 MS. BLEAU: And Mr. Travers, to your knowledge,

1 | didn't take any action with respect to Mr. Madden,  
2 | right?

3 | MR. HERNANDEZ: Right.

4 | MS. BLEAU: Months later when you were  
5 | interviewed by a Human Resource Investigator regarding  
6 | Mr. Madden, you did not describe any other incidents or  
7 | interactions with Mr. Madden other than this one time,  
8 | right?

9 | MR. HERNANDEZ: Well, I described that there  
10 | were emails where I was basically omitted from that I  
11 | should have been, at least be aware of. If there was  
12 | things that were being disseminated to the rest of the  
13 | crew, whether it was the Plan Reviewers or Inspectors,  
14 | I was not privy to anything that he was telling them.  
15 | He was not keeping me involved.

16 | MS. BLEAU: I'm not -- were you -- it's another  
17 | thing that you didn't -- Mr. Madden wasn't counseled  
18 | about or disciplined for. I'm talking about the  
19 | alleged bullying and inappropriate workplace behavior.  
20 | The only incident that you described to the  
21 | Investigator was this one incident with respect to Mr.  
22 | Mercedes, right? You didn't have any other --

23 | MR. HERNANDEZ: Well, there was another bizarre  
24 | issue which was, I think it was in the first week that  
25 | I was employed with the City where he had requested

1 that a brand new Inspector do something in the lobby  
2 calculating egress or something to that effect. And  
3 the Inspector came to me and said, "By the way, John  
4 Madden wants me to do this thing in the lobby, and he  
5 says I should get you to come with me." So, that was  
6 kind of strange.

7 MS. BLEAU: You actually did report that and  
8 said that he wanted you to work with someone on a  
9 project and you felt the need to state, "John Madden  
10 reports to Luis Hernandez, not the other way around."  
11 Is that right?

12 MR. HERNANDEZ: Yes.

13 MS. BLEAU: And that's before you -- even  
14 though Mr. Travers agreed that on the organizational  
15 chart, Mr. Madden, as the Chief Structural Inspector,  
16 would have a position that is higher than Mr.  
17 Hernandez?

18 MR. HERNANDEZ: On the org chart I am above Mr.  
19 John Madden.

20 MS. BLEAU: Well, not according to Mr. Travers'  
21 testimony on page 366-67 of the transcript. But you  
22 were put off by Mr. Madden's lack of knee-bending to  
23 you, weren't you?

24 MR. HERNANDEZ: Could you express that a  
25 different way? I'm not sure --

1 MS. BLEAU: Well, Mr. Madden was trying to get  
2 the work and he had a project and needed it to be done,  
3 and you were there and he suggested that this employee  
4 work with you because he thought you could help  
5 accomplish something. And your response was, "I don't  
6 work for Mr. Madden, he works for me." Right?

7 MR. HERNANDEZ: No, I don't believe I ever said  
8 -- I don't think I said, "I don't work for Mr. Madden,  
9 he works for me." But it wasn't really a project that  
10 he needed to get accomplished, it was a test that he  
11 was trying to put me and the other brand new, newly  
12 hired Inspector to so that he can feel, I guess,  
13 superior. Something like that.

14 MS. BLEAU: For somebody that doesn't have a  
15 mental health degree, you testify a lot about what you  
16 think Mr. Madden was thinking and what he knows and  
17 what his motivations were. Yet, you told Mr. Zalman  
18 that you hardly ever spoke to Mr. Madden. Can you  
19 explain that inconsistency?

20 MR. HERNANDEZ: The inconsistency is that I've  
21 only had a few interactions with Mr. Madden and every  
22 time I went to have that interaction with Mr. Madden,  
23 it was not favorable. It was something that was -- I  
24 didn't understand his way of seeing things or the way  
25 that he treated me or the other people that were around

1 him.

2 MS. BLEAU: You told the Investigator -- first  
3 of all, the Investigator wrote that you said, "John  
4 Madden reports to Luis Hernandez, not the other way  
5 around." You're not sure that you actually told her  
6 that, in her notes?

7 MR. HERNANDEZ: He reports to me, not that he  
8 works for me.

9 MS. BLEAU: I see. Okay. Moving on to the  
10 Private Provider audits, you told the Investigator,  
11 "During Private Provider audits the Inspectors are not  
12 supposed to do new inspections." Was that an accurate  
13 statement?

14 MR. HERNANDEZ: Yes.

15 MS. BLEAU: And prior to your arrival at the  
16 City, the Inspectors were allowed to do audit  
17 inspections on Private Provider jobs, were they not?

18 MR. HERNANDEZ: I'm not aware of what they were  
19 doing before I worked with the City other than I had a  
20 project many, many years prior to, when I was working  
21 with MTCI, where I had one of the Inspectors, which is  
22 still working with the City, come to my project site  
23 where I was the Project Manager for, and he was unaware  
24 of what a Private Provider project was about and I had  
25 to explain to him the statutes. And I actually printed

1 it out for him.

2 MS. BLEAU: Okay, you know you testified  
3 earlier about what Mr. Oliva and Mr. Cross told you Mr.  
4 Madden was saying. Are you saying that when you became  
5 the Assistant Building Official for the City of Fort  
6 Lauderdale and you came to work for the City, you  
7 didn't take the time to learn what the process was for  
8 Private Provider projects?

9 MR. HERNANDEZ: I was writing it when I came  
10 through the door.

11 MS. BLEAU: That's not my question. You were  
12 writing it when you came in the door? Is that what you  
13 said?

14 MR. HERNANDEZ: Yeah, almost as soon as I was  
15 able to start having time in my office, I was requested  
16 to put together a process and procedures for it.

17 MS. BLEAU: Would you say that was the first  
18 thing John Travers asked you to do when you started  
19 working for the City?

20 MR. HERNANDEZ: Besides the training that he  
21 would send me to, there was a few things, and that was  
22 one of the first things, yes.

23 MS. BLEAU: Okay. So my question was, in your  
24 job, as the Assistant Building Official, and apparently  
25 one of your first tasks was to develop this new Private

1 Provider policy, did you learn what the policy was in  
2 the City before you came?

3 MR. HERNANDEZ: I was told they didn't have  
4 one.

5 MS. BLEAU: Well, they didn't have a written  
6 one, but I'm talking about, did you learn how they  
7 handled Private Provider jobs or is it your testimony  
8 that they didn't have any Private Provider jobs until  
9 you started working there?

10 MR. HERNANDEZ: No, they had Private Provider  
11 jobs. There was not written process or procedures.

12 MS. BLEAU: Right. But that's not what I'm  
13 asking. Did you learn what the policy process was, how  
14 they were handling it? How they were doing the audit  
15 inspections? Did you learn that or did you not bother  
16 to learn that?

17 MR. HERNANDEZ: I didn't know that there was  
18 anything to learn. It didn't exist.

19 MS. BLEAU: It didn't exist. Okay, well,  
20 that's not the testimony of other people, but that's  
21 fine. So you think there was no Private Provider jobs  
22 before you came to work for the City?

23 MR. HERNANDEZ: There were. There were Private  
24 Provider jobs. I said the first one that I believe I  
25 did while I was working with MTCI is probably the first

1 one that was done in the City of Fort Lauderdale. That  
2 was under a different Building Official.

3 MS. BLEAU: Yes, it was. Did you have an issue  
4 with Bobby Masula?

5 MR. HERNANDEZ: I explained -- yes. I had to  
6 explain to him the Florida Statutes and I actually used  
7 to keep a printer in my car and I would do my reports  
8 and everything from my printer so I would give him -- I  
9 was looking it up in my computer, my laptop, and I  
10 printed out for Bobby Masula the Statutes. Let him  
11 know what the Private Provider -- that Bobby Masula  
12 thought that there hadn't been any inspections done and  
13 that we had concealed all this work, and I had to  
14 explain to him that the Private Provider had, in fact,  
15 been doing the inspections. I was told that there was  
16 -- the meeting was held before I got that job, and what  
17 the project manager for that job, that the president of  
18 MTCI and his staff, whoever they were, came to the City  
19 of Fort Lauderdale and had it explained to them so that  
20 we can have this Private Provider job done in the City  
21 of Fort Lauderdale. I don't know what that meeting was  
22 about.

23 MS. BLEAU: Mr. Hernandez, 553.791 says the  
24 builder is supposed to notify the City when they're  
25 doing inspections, correct?

1 MR. HERNANDEZ: Yes.

2 MR. ZALMAN: Objection. Again, this line of  
3 questioning, I don't see how it's relevant to Mr.  
4 Madden's termination.

5 MS. BLEAU: You were not listening to my  
6 opening statement if that is a true statement.

7 MR. ZALMAN: I mean, yeah, I was listening. I  
8 think the entire thing was irrelevant. You mentioned  
9 in that opening statement, I recall 15 minutes of it of  
10 over 90 minutes that had to do with the actual  
11 termination and events in 2016. I don't see any of  
12 this testimony about permits, Building Official  
13 positions, any of it is relevant to the reasons that  
14 are stated for why Mr. Madden was terminated with the  
15 City.

16 And the only thing that I can see is that this  
17 is one long filibuster to have this Board constantly be  
18 dismissed and reattend so that they forget about the  
19 prior testimony that was given by our witnesses and to  
20 extend what should be a few days proceeding, now, into  
21 a months long proceeding where I have witnesses  
22 constantly taking off of work and then I have to come  
23 in, can they come back? Because it appears that this  
24 testimony, which is largely irrelevant at this point,  
25 may last until 3:00.

1           So, I'd like to get to the point at hand, which  
2           is the appeal of Mr. Madden's termination for the  
3           reasons stated in his termination letter and the scope  
4           of the investigation that was in 2016.

5           MS. BLEAU: With all due respect, this is our  
6           defense and he knows it and I have the right. And if  
7           this witness would actually answer the questions that I  
8           ask, we would have been done by now.

9           But he keeps not answering the questions that  
10          I'm asking and going on and on and on about other  
11          things, and then I have to go back. So, you direct  
12          your witness to answer my questions and we'll get out  
13          of here.

14          MR. ZALMAN: Board, he's answering the  
15          questions. They may not be the answers Counsel wants,  
16          but he's answering the questions.

17          CHAIR ADELSON: So, I am going to ask that both  
18          Counsel, I understand that this is advocacy at its  
19          finest, but keep the commentary to the subject matter  
20          at hand. I am going to allow you a few more questions  
21          on this topic. There are five or six points in that  
22          termination letter as to the scope of his termination.

23          This has gone a little bit further afield from  
24          it, and [unintelligible] some leniency. So if you  
25          could just keep it to the scope of your defense as it

1 relates to those five or six items.

2 MS. BLEAU: I actually am. I truly am.

3 CHAIR ADELSON: But, I'm going to ask to  
4 overrule the objection, allow you a few more questions  
5 on -- and if it doesn't come back to center, to those  
6 five or six points, then at this point I will hear from  
7 City Counsel and we'll make a determination as to if  
8 the objection should be entertained.

9 MS. BLEAU: Yeah, all of these go to the point  
10 of the bullying. And they're directly related to our  
11 defense of why Mr. Madden might have been red-faced or  
12 upset and described his acting bizarrely. It's to  
13 describe his behavior and they're directly related.  
14 This is not -- and I take some offense -- this is not  
15 filibustering.

16 CHAIR ADELSON: I didn't say that.

17 MS. BLEAU: I know you didn't. You didn't. At  
18 any extent, I would love to have this hearing over.

19 CHAIR ADELSON: So let's move along, let's try  
20 to get the questions focused and see if we can finish  
21 with the witness so that we can get another witness on  
22 board so we can move on to Mr. Madden's case in chief  
23 at the next hearing.

24 MS. BLEAU: Mr. Hernandez, I believe the  
25 question pending was, is it true that 553.791 says the

1 builder is supposed to notify the City when they're  
2 doing inspections?

3 MR. HERNANDEZ: Yes.

4 MS. BLEAU: Okay. And you brought up Mr.  
5 Masula in your testimony and you educating him, but the  
6 truth is Mr. Masula had an issue because, as a Private  
7 Provider for MTCI, project's work was being hidden  
8 without the City being notified and without the City  
9 having an opportunity to do the inspections. Correct?

10 MR. HERNANDEZ: He was called out to do  
11 inspections, an audit inspection, if you will. And, I  
12 don't know, my office is the one that calls me out to  
13 the jobsite because the contractor calls my office, and  
14 all I do is do my inspection.

15 MS. BLEAU: So is the answer to my question  
16 correct, incorrect, or you don't know? Because I  
17 didn't get that from what you said. My question was,  
18 isn't what Mr. Masula was upset about was as the  
19 Private Provider of MTCI, was allowing work to be  
20 covered up before the City had an opportunity to do an  
21 audit inspection? Is that true -- and weren't notified  
22 -- is that true --

23 MR. HERNANDEZ: True.

24 MS. BLEAU: -- false, or you don't know?  
25 That's true.

1 MR. HERNANDEZ: Yes.

2 MS. BLEAU: Okay. 1415 NW 62<sup>nd</sup> Street is the  
3 project that we have discussed in these proceedings.  
4 This is Mr. Goldstein's project. Are you familiar with  
5 what I'm talking about?

6 MR. HERNANDEZ: Yes.

7 MS. BLEAU: And they had an early start permit,  
8 right?

9 MR. HERNANDEZ: This is all stuff that happened  
10 before I got on. I don't know. I think that they had  
11 an early start, but I don't even remember. There was  
12 three separate permits for that, and I don't know which  
13 one was an early start if there was one.

14 MS. BLEAU: Did Mr. Madden show photos around  
15 showing work beyond the early start permit, without  
16 approval?

17 MR. HERNANDEZ: I don't know about that.

18 MS. BLEAU: You don't recall that? When Mr.  
19 Madden audited the site and discovered violations, was  
20 he prohibited by Mr. Travers from enforcing the Code?  
21 Do you recall that?

22 MR. HERNANDEZ: No, I don't.

23 MS. BLEAU: Do you recall you and Mr. Travers  
24 visiting the job site that was being constructed  
25 without a permit?

1           MR. HERNANDEZ: I don't know about without a  
2 permit. I do know that Mr. Travers, probably the first  
3 day if not close to it, asked me to go to the job site  
4 with him and see if anything stood out to me. And I  
5 walked with him, the job site, but it was done. There  
6 was really nothing to see. I mean, they had basically,  
7 I think there was a couple of roofing or ceiling tiles  
8 that needed to be placed, but the place was finished.

9           MS. BLEAU: Anything stood out to you. What  
10 did you understand Mr. Travers was asking you?

11          MR. HERNANDEZ: I didn't know. I really didn't  
12 know. I just walked with him and I believe I told him,  
13 "Everything is done. What is there for me to see?"  
14 And that's about it.

15          MS. BLEAU: So the project was basically  
16 complete and you weren't aware, as the Assistant  
17 Building Official, that at that point of your visit  
18 that there had been no permit issued for the work that  
19 was done? You didn't know that?

20          MR. HERNANDEZ: I had no idea that there was  
21 any problems even with the place when I walked with Mr.  
22 Travers.

23          MS. BLEAU: When you walked there with Mr.  
24 Travers, did you ask to see the permit records and the  
25 logbooks for the project?

1 MR. HERNANDEZ: No. I think Mr. Travers did  
2 ask, but I think we walked to a table. I really can't  
3 recall. I can't recall.

4 MS. BLEAU: And this was an MTCI project,  
5 correct?

6 MR. HERNANDEZ: Yes.

7 MS. BLEAU: And did you verify that the  
8 contractor had permits for the work underway? I think  
9 you just said no, right?

10 MR. HERNANDEZ: I don't know if any of them.

11 MS. BLEAU: Mr. Madden visited the site with  
12 Burt Ford, Joe Pasquarello, Alberto Torres, and Felix  
13 Rodriguez, do you remember that?

14 MR. HERNANDEZ: I wasn't aware of that until  
15 later on, that they had gone to the job site and had  
16 recorded something from the contractor and stuff like  
17 that. But I wasn't aware that they had walked the job  
18 site after John Travers and I did, no, until much  
19 later.

20 MS. BLEAU: Until much later? How long?

21 MR. HERNANDEZ: It could have been towards the  
22 end of the year. I don't recall exactly, but it was  
23 much later.

24 MS. BLEAU: So, after Mr. Madden's termination?

25 MR. HERNANDEZ: Near the end of the year. If

1 he was done in September, it could have been close to  
2 that, if not right around there.

3 MS. BLEAU: Hm. Okay. And how did you finally  
4 learn that Mr. Pasquarello and those individuals had  
5 toured the jobsite after you and Mr. Travers had?

6 MR. HERNANDEZ: Well, it was because there was,  
7 like I said, there was three permits on this job and  
8 one of them was something called the infill, which I  
9 can only think that it was maybe an area of driveway or  
10 something that they had put in a wall with some  
11 windows; and that's what at least prompted me to  
12 understand that there was an issue on this project with  
13 John Madden and that there was something going on here.

14 But again, it was something to do with a window, from  
15 what I understand.

16 MS. BLEAU: Well, those gentlemen, when they  
17 went out, discovered that two exterior overhead doors  
18 had been removed and modifications to walls appeared to  
19 be complete without any permits for the work. Did you  
20 ever come to realize that?

21 MR. HERNANDEZ: I remember something about a  
22 garage door opening, but I don't recall too much about  
23 that job.

24 MS. BLEAU: And it would have been MT Causley's  
25 job to make sure that that didn't happen, right? That

1 construction didn't occur without a permit.

2 MR. HERNANDEZ: Well, we do still have an  
3 ability to go to a job site even with a permit. Was it  
4 just their sole responsibility? I think it's the  
5 City's as well, to go out to the jobsite, if there was  
6 a permit pulled for that jobsite. I'm not aware of  
7 whether there was a job permit or not. I don't know.  
8 Like I said, there was three. I don't know which ones  
9 we're talking about.

10 MS. BLEAU: Again, sir, I'm not sure I  
11 understand whether or not you answered my question. My  
12 question was --

13 MR. HERNANDEZ: I'm doing the best I can.

14 MS. BLEAU: -- if Mr. Ford and Pasquarello and  
15 Torres and Rodriguez and Madden discovered that two  
16 exterior overhead doors had been removed and  
17 modifications to those walls appeared to be complete  
18 without any permits for that work being issued, would  
19 that be MT Causley's job to make sure that work was not  
20 constructed without a permit?

21 MR. HERNANDEZ: I would say yes.

22 MS. BLEAU: And it would be your job to make  
23 sure MT Causley did its job, right?

24 MR. HERNANDEZ: Yes. It's a collaborate  
25 effort. It's not just the Assistant Building Official,

1 but the Inspectors as well.

2 MS. BLEAU: So what, if anything, did the City  
3 do with respect to MT Causley's failure to properly do  
4 their job on the 1415 62<sup>nd</sup> Street project?

5 MR. HERNANDEZ: Like I said, I'm not -- I don't  
6 remember this job very well. I'm sorry, but this  
7 started before I started working with the City of Fort  
8 Lauderdale. I'm not up to snuff on that particular  
9 project.

10 MS. BLEAU: To your knowledge, has the City of  
11 Fort Lauderdale done anything to counsel, discipline,  
12 correct, or maybe stop using MTCI on Private Provider  
13 jobs for their failure to properly enforce the Code?

14 MR. ZALMAN: Objection. Relevant.

15 CHAIR ADELSON: At this point, I am not quite  
16 clear myself what that has to do with the five issues  
17 or six issues in the report, what an outside provider  
18 did for the City.

19 MS. BLEAU: Because it's THE outside provider  
20 that Mr. Hernandez and Mr. Travers worked for and it  
21 was those jobs that Mr. Madden kept discovering were  
22 being done in violation of the Florida Building Code,  
23 without the required permits, without good quality  
24 inspections.

25 And when he would report those, Mr. Travers and

1 Mr. Hernandez were not doing anything about them and  
2 they were allowing their former employer -- who  
3 actually, I guess, apparently Mr. Travers was the Vice  
4 President of at one point -- to continue to work in the  
5 City and not enforce the Code. And it was raising  
6 serious questions about Mr. Madden's responsibility in  
7 light of BORA's proceedings against him at the same  
8 time.

9 I don't know how to be any clearer than that.  
10 I mean, there is a direct connection with -- everything  
11 in this book has to do with a period of about three  
12 months, and it is that time period when these projects  
13 were being allowed to go without permits, and work was  
14 being done substandard, and inspectors were being told  
15 to approve things when they had noted violations and  
16 they were told, "It's a Private Provider job, approve  
17 it anyway." And all of this was happening in this  
18 three-month period. And that's what I need you to  
19 understand. And that's what our evidence and defense  
20 is.

21 MR. ZALMAN: So far I haven't seen any  
22 questioning that could possibly justify Mr. Madden, by  
23 way of Mr. Hernandez, screaming at him in a lobby where  
24 he felt intimidated. So perhaps, if we want to have a  
25 justification of that, it should be done in Mr.

1       Madden's case in chief. Because he seems to be the  
2       only one that could explain how he could possibly  
3       justify screaming at somebody in a public lobby.

4               CHAIR ADELSON: So that goes back to Ms.  
5       Bleau's question, would you prefer that this line of  
6       questioning be addressed in their case in chief and  
7       potentially call back Mr. Hernandez.

8               MR. ZALMAN: He's not going to be able to  
9       answer why he could possibly know why another  
10      individual decided to scream at him in a lobby. He's  
11      expressed the facts, he's expressed his feelings, which  
12      are documented in his statement and his testimony  
13      today.

14              Only Mr. Madden could possibly explain why he  
15      felt it was justified. There will be never an answer  
16      for why another individual that was a victim of  
17      somebody's screaming could explain the justification  
18      for that screaming.

19              MS. BLEAU: I'm not asking for Mr. Hernandez to  
20      explain why Mr. Madden behaved as he did. I'm asking  
21      Mr. Hernandez questions regarding what Mr. Madden  
22      believed was happening at the time that led to him  
23      being unusually out of sorts.

24              MR. ZALMAN: And it's only my suggestion that  
25      Counsel seems to be saying that he's not answering the

1 questions correctly, not answering the question. It's  
2 probably because there's not going to be an answer that  
3 will establish justification for what the City has  
4 determined as bullying or violation of the bullying  
5 policy.

6 And only Mr. Madden could express his mental  
7 and -- yeah, Mr. Madden could express his mental  
8 impression from that event. So, maybe he's the primary  
9 witness to ask those types of questions. Because it  
10 seems like we're getting confused and, I think, maybe  
11 the witness is getting confused, and that that's why  
12 things are dragging on with this line of questioning.

13 CHAIR ADELSON: I do acknowledge, and I can  
14 only speak for myself, that the Board understands the  
15 nature of the defense and the underlying issues that  
16 you believe prompted some of the behaviors. I do tend  
17 to agree with the City in regard to the ability for  
18 this witness to help establish that.

19 So, I think at this point, if you want to focus  
20 your questions more on facts that this witness could  
21 assist in terms of specific behaviors, we should move  
22 in that direction. Otherwise, I'm going to suggest  
23 that you call back Mr. Hernandez, if necessary, on your  
24 case in chief, and move on from your line of  
25 questioning in this portion of it. I'm not telling you

1 you can't call him back, just that here might not be  
2 the appropriate place for this line.

3 There's an open question, by the way. Was  
4 there an open question on the record?

5 MR. ZALMAN: Yeah, I think I would only object  
6 after a question --

7 CHAIR ADELSON: Yeah, I know, that's why I want  
8 to make sure that --

9 COURT REPORTER: [inaudible]

10 CHAIR ADELSON: Okay, so I'm going to sustain  
11 the objection and ask that you move on. And if you  
12 have any other questions for Mr. Hernandez in this  
13 line, and you feel it necessary, then of course we'll  
14 hear it on your direct.

15 MS. BLEAU: Yeah, I have multiple questions  
16 about Mr. Goldstein's project, but I will wait and I  
17 will ask him on my case in chief, if that's what you  
18 prefer. So I will move on to -- let me ask you  
19 something else.

20 A week after Mr. Madden's initial visit to the  
21 Goldstein project, which we will talk about at another  
22 time, Mr. Madden discovered that Plan Review stops were  
23 removed from the Goldstein permit. Do you remember  
24 that?

25 MR. HERNANDEZ: I don't know.

1 MS. BLEAU: You don't know? You don't recall  
2 that he addressed it with Valerie Arthur as to why Plan  
3 Review stops were missing?

4 MR. HERNANDEZ: I don't know.

5 MS. BLEAU: If you will turn to -- one of those  
6 books in front of you is going to have a Tab 120, and  
7 it's not the one immediately in front of you.

8 MR. ZALMAN: Is it okay to know if this going  
9 to take another hour and fifteen minutes?

10 MS. BLEAU: No, you've cut out a bunch. I've  
11 got a few more questions and then I'll finish. This is  
12 a man's livelihood, with all due respect. I'm not  
13 going to rush through it. I have questions and issues  
14 that go directly to this defense, I'm not intentionally  
15 wasting anybody's time here, and I've not asked one  
16 question that I did not think was relevant. And I  
17 appreciate -- I don't appreciate the effort to move me  
18 along here so we can just get through with it.

19 MR. ZALMAN: No, that's not the reason at all.  
20 There's people that have been sitting in the lobby  
21 since 10:00 in the morning that can't do their jobs.

22 The point of my prior objection, it wasn't to  
23 limit Counsel in asking whatever questions she wants  
24 and maybe you should proceed with your line of  
25 questioning, it's just if the relevancy of this has to

1 do with his statements that he felt that he was being  
2 threatened and bullied in the lobby on a day in 2016,  
3 then I think we need to get to the background that  
4 you're trying to establish without all the -- I don't  
5 think it's even possible for him to, other than the  
6 background questions, which I'm find with. If you're  
7 asking background questions, that's fine. But if  
8 you're going to ask -- the only person that could  
9 possibly answer any questions about the justification  
10 for why Mr. Madden screamed at Mr. Hernandez, that  
11 person could only be Mr. Madden.

12 MS. BLEAU: I agree. And as a matter of fact,  
13 I said that, like 30 minutes ago, that I'm not asking  
14 this witness about why Mr. Madden's motivation, and I'm  
15 not asking him to testify about that. I am asking him  
16 questions about facts that occurred that led up to this  
17 event.

18 MR. ZALMAN: Okay, so then, on that basis, what  
19 could the background facts be building up to if this  
20 person can't answer the questions about why Mr. Madden  
21 decided to yell at him one day?

22 MS. BLEAU: I don't know.

23 MR. ZALMAN: There will be unlimited  
24 background. It will be building up for no purpose.

25 MS. BLEAU: It's only -- it's not unlimited

1 background.

2 MR. ZALMAN: That's the basis of my objection  
3 of why this entire line of questioning is irrelevant.  
4 Not that it could continue later, it's just the entire  
5 line of questioning, no matter what day in this  
6 proceeding it occurs, will always be irrelevant because  
7 the background information will be building up to  
8 nothing. Because Mr. Hernandez cannot provide the  
9 answer to why Mr. Madden decided to scream at him one  
10 day.

11 MS. BLEAU: I don't even understand. Honestly,  
12 I don't even understand that objection.

13 CHAIR ADELSON: I've sustained the objection,  
14 so let's go forward.

15 MS. BLEAU: Okay. So, Mr. Hernandez have you  
16 had an opportunity to review the email exchange at Tab  
17 120?

18 MR. HERNANDEZ: So, the first email on Tab 120,  
19 yeah, I understand what he's asking for.

20 MS. BLEAU: The first email, so you're looking  
21 at what would be, chronologically speaking, the last  
22 email, which is at the top of the page.

23 MR. HERNANDEZ: Yes.

24 MS. BLEAU: And the initial email begins at the  
25 bottom of the first page when Mr. Madden was asking,

1 "Can anyone explain why the following Plans Review  
2 stops were removed from the permit? I believe  
3 electrical, mechanical, and plumbing must review this.

4 There has been work performed that included each of  
5 these trades." And this email on September 9 at 7:56  
6 a.m., was sent to you, correct?

7 MR. HERNANDEZ: I'm sorry, I didn't follow  
8 that.

9 MS. BLEAU: Bottom of page 1, email from Mr.  
10 Madden.

11 MR. HERNANDEZ: Okay.

12 MS. BLEAU: On September 9 at 7:56 a.m., was  
13 sent to you and other people, correct?

14 MR. HERNANDEZ: It was -- I was copied on this.  
15 It was sent to Robert, which is the Mechanical Chief;  
16 Scott Dry, which is the electrical; the plumbing; and  
17 then Bobby Masula -- three Chiefs and Bobby Masula.  
18 And I was copied in with Valerie Arthur, which is IT,  
19 and Francyne Webber, which was my assistant at that  
20 time, I believe, and John Travers.

21 MS. BLEAU: So the answer to my question is  
22 yes, this email was sent to you.

23 MR. HERNANDEZ: I was copied on this email.

24 MS. BLEAU: Okay. Good. And then you received  
25 Ms. Arthur's response and you received Mr. Madden's

1 reply, correct? You were copied on both of those  
2 emails as well?

3 MR. HERNANDEZ: Yes.

4 MS. BLEAU: So I show you those emails to  
5 refresh your recollection about the fact that this was  
6 a week after Mr. Madden had visited the Goldstein  
7 project where a stop work order was issued because it  
8 had been constructed without a permit. And a week  
9 later, Mr. Madden discovered that various stops, Plans  
10 Review stops, had been removed from the project. Do  
11 you remember this now?

12 MR. HERNANDEZ: I was copied on this email, and  
13 usually I'll just briefly go or scan over an email, and  
14 if I wasn't the one that it was addressed to, I usually  
15 don't respond to it.

16 That doesn't mean it happens to all emails.  
17 But usually with my workload, whatever is in front of  
18 me, if it's not directly addressed to me, I just scan  
19 it and see what it's about and move on to my next  
20 email.

21 MS. BLEAU: Now can you answer my question  
22 which was --

23 MR. HERNANDEZ: I thought I did.

24 MS. BLEAU: -- do you recall this now?

25 MR. HERNANDEZ: I still don't recall it, but

1 it's in front of me.

2 MS. BLEAU: So the answer is no. Okay. You  
3 didn't exactly say that. When Ms. Arthur was  
4 questioned about it, she told Mr. Madden that he should  
5 speak with you or Francyne if further information was  
6 needed in her email. Do you recall why Francyne was  
7 involved in this project?

8 MR. HERNANDEZ: Francyne was my assistant and  
9 when I started to do the Private Provider process and  
10 procedures, she was tasked to do certain things such as  
11 identify what we had back then as an operating system,  
12 which was Community Plus, on being able to identify in  
13 our system that this is a Private Provider job so that  
14 the Plan Reviewers, the Inspectors, and the front  
15 intake staff could easily see that this is not the  
16 typical permit or the typical inspection that they  
17 would be performing if it was an inspector. So  
18 Francyne would have known about this project because  
19 she was directly involved with Private Provider things.

20 MS. BLEAU: And according to Valerie Arthur, it  
21 was Francyne who gave her this particular project, 1415  
22 NW 62<sup>nd</sup> Street, Mr. Goldstein's project, to use as a  
23 test for what they were working on. Do you know why --  
24 how that came about?

25 MR. HERNANDEZ: Only that it was probably

1 around this time in September when I wanted to be able  
2 to express to everybody that this is the process and  
3 procedures of what we're going to be doing, and because  
4 what I was writing at that point in time were - you  
5 know, this is what I wanted to present to the  
6 Inspectors and to the Reviewers and to the front office  
7 staff of what to do when we have a Private Provider  
8 project that comes through our door.

9 MS. BLEAU: My question was, do you know why  
10 Francyne Webber chose the 1415, Mr. Goldstein property,  
11 as the one to give to Valerie Arthur to mess with?

12 MR. HERNANDEZ: Like I said, it's only because  
13 that at this time I was trying to come up and formulate  
14 my process and procedures that I could disseminate to  
15 people. Actually, because I had done this before with  
16 the Chiefs, but I wanted to do something for the  
17 Reviewers, the Intake Staff, and the Inspectors so that  
18 they can see what we have to do, and possibly Francyne  
19 was talking to Val because I had also asked to come up  
20 with a PowerPoint so we can train the different areas  
21 on what to do with Private Providers. I don't know why  
22 she chose this one, exactly, other than this was  
23 probably something that was on her desk at that point  
24 in time, sometime in September.

25 MS. BLEAU: You didn't have anything to do with

1 her selecting that project?

2 MR. HERNANDEZ: No, I did not.

3 MS. BLEAU: I'm skipping what needs to be  
4 skipped here for next time. Let me ask you, I think  
5 maybe my last questions for today, Mr. Hernandez, you  
6 told the Investigator in the report, you said, "I had  
7 two inspectors, one building and one plumbing, write  
8 the same comments on the inspection reports: 'I did not  
9 do inspection or audit.' This suggested that they were  
10 working together on what to write on their reports."  
11 Can you explain what it is you found objectionable  
12 about that?

13 MR. HERNANDEZ: That what I had been asking for  
14 an Inspector to do when they went out to a job site  
15 that was Private Provider was to actually tell me who  
16 did the inspection and let me know who was the company  
17 they worked for, what was that individual's outcome of  
18 their inspection, what was their license number, and  
19 what is it that they inspected. And I wanted them to  
20 put that in the comments box that appears under their  
21 inspections.

22 They're not supposed to do an inspection.  
23 They're supposed to do an audit of an inspection that  
24 was performed by the Private Provider. They're not  
25 supposed to, under the State Statutes, redo an

1 inspection. They were supposed to just merely see that  
2 the inspection was performed.

3 But these individuals did not write any of that  
4 stuff that I had required to be done in the commentary.  
5 They just put that particular statement.

6 MS. BLEAU: You said they're not supposed to do  
7 the inspections, they're only supposed to make sure  
8 that the inspections were done, right?

9 MR. HERNANDEZ: Yes.

10 MS. BLEAU: So, can you explain why Florida  
11 Statute requires prior notice to the City that an  
12 inspection is about to be done? Why would the City  
13 ever need to know in advance if they're not supposed to  
14 do the inspection themselves?

15 MR. HERNANDEZ: Well, it's in the Statute that  
16 we're not supposed to replicate an inspection.

17 MS. BLEAU: I'm not talking about the Statute  
18 now, I'm talking about the Statute that was in effect  
19 during Mr. Madden's time.

20 MR. HERNANDEZ: That is the Statute that was in  
21 effect.

22 MS. BLEAU: Okay. Tell me what you think --  
23 tell me that again? It's says you're not what?

24 MR. HERNANDEZ: They're not supposed to  
25 replicate an inspection.

1 MS. BLEAU: What Florida Statute? Where does  
2 it say that in Florida Statute, do you know?

3 MR. HERNANDEZ: It's in .791 -- 533.791.

4 MS. BLEAU: Specifically it has that language,  
5 you're not supposed to replicate?

6 MR. HERNANDEZ: Not supposed to replicate,  
7 something to that effect, yes.

8 MS. BLEAU: And you believe that's the Statute  
9 that was in effect during Mr. Madden's employment in  
10 2016?

11 MR. HERNANDEZ: Yes.

12 MS. BLEAU: Okay, I'll leave it there for now.  
13 No questions of this witness at this time.

14 MR. ZALMAN: Just a suggestion. Because it  
15 seems like Counsel has a line of questioning that she  
16 still wants to ask. And my objection was to relevancy,  
17 not to the scope as it related to our direct. So, it's  
18 going -- and I bring this up, because it's going to  
19 take me a half hour to question my next witness and I  
20 doubt that his cross will be done in the proceeding  
21 half hour.

22 MS. BLEAU: It probably will if you just -  
23 let's just move on.

24 MR. ZALMAN: No, I'm suggesting if she would  
25 like to continue with her questioning of Mr. Hernandez,

1 I'm fine, as opposed to swearing in another witness  
2 where I can't talk to him until April.

3 CHAIR ADELSON: I understood Counsel just said  
4 that if you only have a short line of questioning for  
5 him, she intends to have a short line of questioning in  
6 response. And so I would suggest that we move on to  
7 the next witness. And now that, I think, some of the  
8 dates quite frankly while we're into April have to do  
9 with me going away, so I don't know if it's a  
10 possibility of trying --

11 MR. ZALMAN: It's not April, it's May, my  
12 mistake.

13 CHAIR ADELSON: So we might be able to find a  
14 sooner date if you don't finish. I'm also prepared, I  
15 know I said a 3:00 hard stop, I can go to like 3:15,  
16 but that's it. My meeting is at 3:30.

17 MS. BLEAU: These were my longest witnesses, so  
18 we should be able to move it along.

19 CHAIR ADELSON: You think you can get this next  
20 witness done in one hour, the two of you?

21 MS. BLEAU: Who are you calling?

22 MR. ZALMAN: George Oliva?

23 MS. BLEAU: Oh, no. No, no, sorry.

24 MR. ZALMAN: I would actually like to move,  
25 Counsel's aware of my remaining witnesses. I suggest

1 that in May -- well, right now we decide who would we  
2 like to question, because we've been averaging one and  
3 a half witnesses or less per preceding. So instead of  
4 having five individuals wait in the lobby and they  
5 can't perform their government function jobs, can we  
6 decide which two -- or I could name which two, and we  
7 just agree that those will be the two that are  
8 questioned in the next preceding?

9 CHAIR ADELSON: So, you're suggesting that we  
10 adjourn now and do the last two -- the next two, next  
11 time?

12 MR. ZALMAN: I have four more witnesses.

13 CHAIR ADELSON: Okay.

14 MR. ZALMAN: And we've been averaging at most,  
15 one and a half. The last two we actually only did a  
16 half a witness.

17 CHAIR ADELSON: Right.

18 MR. ZALMAN: So based on the repeated pattern,  
19 instead of having all four wait in the lobby all day in  
20 May, can we either proceed with Mr. Hernandez now, or  
21 tell us which two we want to have in May so that only  
22 those two are here and the other two can return to  
23 work.

24 MS. BLEAU: I'm happy to work with Mr. Zalman  
25 before the next hearing and we can discuss how long he

1 | thinks he's going to need, how long I think I'm going  
2 | to need. That's fine. We'll work that out.

3 | MR. ZALMAN: Okay.

4 | CHAIR ADELSON: And is the next hearing in May?

5 | MS. GIALLUCA: I think it's the 24<sup>th</sup>, April 24<sup>th</sup>  
6 | is what I have.

7 | MS. ADELSON: Me too. That's why I'm confused.  
8 | That's why I'm looking at [unintelligible] funny.

9 | MR. ZALMAN: The 24<sup>th</sup>.

10 | MS. GIALLUCA: April 24<sup>th</sup> and there's another  
11 | hearing for another employee.

12 | MR. ZALMAN: I think it's April 24<sup>th</sup> and then  
13 | June 15<sup>th</sup>.

14 | MS. GIALLUCA: Yeah, April 24<sup>th</sup> and June 15<sup>th</sup> for  
15 | this case.

16 | MR. POST: Kerry is nodding that April 24<sup>th</sup> is  
17 | the next date for this hearing, this subject, and then  
18 | June 14<sup>th</sup>.

19 | MS. TURIN: Right, the Chair was also saying  
20 | that her trip out of town -

21 | CHAIR ADELSON: Has been cancelled due to the  
22 | coronavirus. No, I'm serious. So that might open up a  
23 | couple of dates. It was the 14<sup>th</sup> through the 22<sup>nd</sup>, and  
24 | the 13<sup>th</sup> and then the 23<sup>rd</sup> were also blocked off because  
25 | of travel time, so it gives us another two weeks in the

1 coming month, if you want to look at that.

2 MS. BLEAU: And Mr. Madden was available during  
3 some of that time, but that didn't work for you.

4 MS. TURIN: All my cases got cancelled  
5 [inaudible].

6 CHAIR ADELSON: Due to the same reason.

7 MS. BLEAU: So what dates exactly?

8 CHAIR ADELSON: Do you have any redirect?  
9 Because I don't want to keep Mr. Hernandez here.

10 MR. ZALMAN: If you want to --

11 MS. BLEAU: I'm going to call him back.

12 MR. ZALMAN: If you're going to call him back  
13 or if you think you could finish in the next hour and  
14 fifteen minutes?

15 MS. BLEAU: I'm going to call him back.

16 MR. ZALMAN: All right.

17 CHAIR ADELSON: So do you have any redirect?  
18 If so, let's do that so he can go, and then we'll deal  
19 with the scheduling thereafter.

20 MS. BLEAU: And the Board may have questions of  
21 him too, because technically he'll be finished today.  
22 So it's not that you won't be able to talk to him,  
23 he'll be finished, and then when I call him back, he'll  
24 be my witness.

25 MR. ZALMAN: I meant [inaudible].

1 CHAIR ADELSON: He meant the next witness. You  
2 don't want to call another witness and not be able to  
3 speak with him again for another month or whatever it  
4 might be.

5 MR. POST: If I may then, is it the direction  
6 that we can release the other witnesses that are out in  
7 the lobby at this point?

8 CHAIR ADELSON: Yes.

9 MR. POST: We can?

10 CHAIR ADELSON: Today, and then what we'll do  
11 is once we release Mr. Hernandez, we'll go over  
12 scheduling and figure out who the next two witnesses  
13 are so we only have them made available and sitting.

14 MR. POST: I'll go let them know.

15 MS. BLEAU: Could we take a five minute break?

16

17 CHAIR ADELSON: Yes, of course.

18 MS. BLEAU: And then you can ask and we'll  
19 finish and release him.

20 [A break from the proceedings was taken at 2:08  
21 p.m.]

22 [The proceedings resumed at 2:12 p.m.]

23 CHAIR ADELSON: Okay, we're back on the record.  
24 Mr. Zalman, is the City going to redirect?

25 MR. ZALMAN: Very briefly.

1 CHAIR ADELSON: Okay.

2 MR. ZALMAN: Mr. Hernandez, during Counsel's  
3 cross examination, there was discussion on Building  
4 Department Officials, the different Chiefs, and  
5 permitting and compliance with Building Code and  
6 Building Ordinance. I want you to imagine a worst case  
7 scenario with a permitting issue or a Chief reviewing  
8 compliance with a Building Code. Do you have it in  
9 your head? Can you picture it? Would it justify any  
10 employee yelling at you the way Mr. Madden yelled at  
11 you in the lobby in 2016?

12 MR. HERNANDEZ: No.

13 MR. ZALMAN: I don't have any other questions.

14 CHAIR ADELSON: Ms. Bleau?

15 MS. BLEAU: The only thing is, I was thinking  
16 about it on the break, I keep, just for short purposes,  
17 keep saying this is his justification. I understand  
18 we're not agreeing that he behaved in the way that  
19 they're saying, and we're going to have testimony about  
20 that from Mr. Madden and others. But with that caveat,  
21 I have no further questions of this witness at this  
22 time. Thank you.

23 CHAIR ADELSON: Thank you, Mr. Hernandez, you  
24 are dismissed. Thank you.

25 MR. HERNANDEZ: Thank you.

1 CHAIR ADELSON: So, we do have 45 more minutes.  
2 The question is, and I'm going to be deferential to  
3 Counsel, do you want to --

4 MR. ZALMAN: They're gone.

5 CHAIR ADELSON: Okay, they're gone. All right.  
6 So we're going to wrap up, but let's do the  
7 administrative stuff. So, all of our conflicts appear  
8 to have been resolved for our dates, so I don't know if  
9 Counsel are available sooner than April 24<sup>th</sup>? I do  
10 still have a work schedule to be mindful of. So, I  
11 guess if we could find what the City's availabilities  
12 are for here or conference rooms between now and April  
13 24<sup>th</sup> and see if we can fit our schedules into it.

14 Just note, despite the silence, we are still on  
15 the record. Kerry is just looking up dates for us.

16 KERRY ARTHURS: Madam Chair. So, we're looking  
17 in the month of April? Where should I start?

18 CHAIR ADELSON: The remainder of March.

19 MS. ARTHURS: The remainder of March, okay.

20 CHAIR ADELSON: Through April 24<sup>th</sup>.

21 MR. ZALMAN: In March because Mr. Miller and I  
22 have a trial beginning the 16<sup>th</sup>, but we were free the  
23 week of the 23<sup>rd</sup>, just so you don't start looking any  
24 earlier.

25 CHAIR ADELSON: So we looking at either next

1 week, the week of the 23<sup>rd</sup> and then thereafter.

2 Correct?

3 MS. ARTHURS: Umm hmm.

4 MS. BLEAU: I'm sorry, so what date would you  
5 like us to look at?

6 CHAIR ADELSON: So we're looking at, from the  
7 City's perspective for now, next week, then starting  
8 the week of the 23<sup>rd</sup> of March and then the 24<sup>th</sup> of  
9 April.

10 MS. BLEAU: Wow. Really?

11 [Discussions were had about scheduling away  
12 from the microphones, which discussions were mostly  
13 inaudible.]

14 MS. ARTHURS: Okay, so March the 27<sup>th</sup> is a  
15 Friday. The room is available.

16 CHAIR ADELSON: I'm available.

17 MS. TURIN: I'm available.

18 MS. BLEAU: I'm in New York that day. I'm  
19 sorry.

20 MS. ARTHURS: March 27<sup>th</sup>?

21 MS. BLEAU: Yes. Going to New York for Spring  
22 Break.

23 MS. ARTHURS: Well, I know it's Broward County's  
24 Spring Break. Okay, so the week the 30<sup>th</sup>, Friday,  
25 April the 3<sup>rd</sup>.

1 MS. BLEAU: Works for me.

2 CHAIR ADELSON: I'm available until 3:30.

3 MS. BLEAU: Works for us.

4 MS. TURIN: Friday, April 3<sup>rd</sup>.

5 CHAIR ADELSON: Why don't we schedule that,  
6 this way we're sooner than later. Leave the April 24<sup>th</sup>  
7 date and then maybe add another date if we can find it,  
8 and this could potentially conclude [unintelligible].

9 MS. TURIN: So, April 3<sup>rd</sup>, was everybody good?

10 CHAIR ADELSON: Why don't we do 9:30 to 3:30,  
11 if possible.

12 MS. ARTHURS: Okay.

13 CHAIR ADELSON: That way we get the half hour  
14 before.

15 MS. ARTHURS: How does April 10<sup>th</sup> look for  
16 everyone? There's a possibility - what I could do is  
17 speak with the City Clerk, because he did give me that  
18 opening.

19 MR. ZALMAN: It's Good Friday, I can't.

20 MR. BALDWIN: Just noting that is Good Friday.

21 MS. ARTHURS: Okay, okay. Let's skip that.

22 Thanks. Okay, the week of April 13?

23 MR. ZALMAN: We're not available that week.

24 CHAIR ADELSON: And then we're back to the 24<sup>th</sup>.

25 MS. ARTHURS: So, once again I will confirm

1 with Ms. Smith and then I will notify you via email  
2 and/or telephone.

3 CHAIR ADELSON: And our parking spaces.

4 MS. ARTHURS: And your parking spaces.

5 MS. TURIN: Question, then, for staff. I  
6 believe at the last hearing we were also confirming  
7 that other case we have if their counsels were  
8 available or dates for them. Did we ever hear back  
9 from those attorneys?

10 MS. ARTHURS: We're waiting to hear back from  
11 the City's outside counsel.

12 MS. TURIN: Okay.

13 MS. ARTHURS: I heard from the Appellant's  
14 counsel, but I'm waiting to hear back from the City's  
15 outside counsel.

16 MS. TURIN: Okay. Well, maybe on April 3<sup>rd</sup> we  
17 can move on that one, too. But April 3<sup>rd</sup>, 9:30.

18 CHAIR ADELSON: Any other [inaudible]?

19 MS. BLEAU: Yes. I have two subpoenas that I  
20 need you to sign, please. And I would think these are  
21 going to be for the -- I'll put the date of the 24<sup>th</sup> on  
22 them, since we probably won't get to them before then.

23

24 CHAIR ADELSON: You have four more witnesses?

25 MR. ZALMAN: Yes.

1 MS. BLEAU: We should be able to get through  
2 them all next week, I think.

3 MR. ZALMAN: Okay.

4 MS. BLEAU: Oliva is probably the only one  
5 that's long.

6 CHAIR ADELSON: Cautiously optimistic.

7 MS. BLEAU: Yes, you know, you should never  
8 believe such things from lawyers.

9 MS. TURIN: Is the Board adjourned for today?

10 CHAIR ADELSON: No. I have some subpoenas to  
11 sign. She asked me to sign some subpoenas.

12 MS. TURIN: Okay, I'm sorry, Chair.

13 MR. ZALMAN: If we could just get a copy of the  
14 subpoenas when they're signed.

15 MS. ARTHURS: Yes, I have to make a copy for  
16 our records.

17 MS. TURIN: Also, then, before we do close out  
18 if we could follow-up for one minute. I had raised an  
19 issue earlier, I believe, that was responsive to Ms.  
20 Gialluca's question on possible roll-back. I did ask  
21 the City during one of the breaks and it's in Section -  
22 - Rule 10 Section 18, Return of Classified Service.  
23 Because that rule was amended a little bit about a year  
24 and a half to two years ago, and I had asked the staff  
25 about that, and Mr. Post could advise on that.

1 MS. BLEAU: Okay. I'm sorry, so you said --

2 MS. TURIN: Rule 10, Section 18, and whether or  
3 not it would be applicable in this case to respond to  
4 the Board Members' requests.

5 MS. BLEAU: And I believe I had a copy in my  
6 papers of what I think is the City's progressive  
7 discipline. Do you want to look at it and see if this  
8 what you --

9 MS. GIALLUCA: I would really like to see the  
10 current final version of the City's [inaudible].

11 MS. TURIN: And actually, that should come into  
12 all the Board Members at one time.

13 MS. BLEAU: Okay. The one I have is dated  
14 February 25, 2016. If there's something different, I'd  
15 like to make sure that I have a copy as well, because I  
16 don't have anything.

17 MR. POST: Recognizing that there was an  
18 amended version of this dated -- it looks like the  
19 latest revision date is 01/04/2019, I am not convinced  
20 that this is the very same language that was in effect  
21 at the time of Mr. Madden's termination. So, perhaps  
22 my answer now would be premature after looking at that.

23 I thought this was the one that was in place at that  
24 time, and I would have an answer for you. Let me  
25 double-check that one to make sure that that version is

1 the same.

2 CHAIR ADELSON: Okay, then we'll address that  
3 on April 3<sup>rd</sup>.

4 MS. BLEAU: And also, quickly, you had asked  
5 for a copy of the policy that was in effect, the  
6 Private Provider? I will bring the email  
7 communications and what I received from the City  
8 pursuant to my public records request next time.

9 MS. GIALLUCA: Okay, thank you.

10 MS. BLEAU: Yes, you'll have that, and the  
11 whole Board.

12 CHAIR ADELSON: And I think with that -- oh,  
13 we're not adjourned.

14 MR. ZALMAN: If you're referring to the anti-  
15 bullying or workplace bullying policy, it's in our  
16 binder for the one that is in effect.

17 MS. BLEAU: No, we're not.

18 MR. ZALMAN: Sorry.

19 MS. GIALLUCA: No. That's okay.

20 MS. TURIN: It's Civil Service Rule 10, Section  
21 18, that I was trying to get the clarification on for  
22 the Board Member. But the City will respond on that  
23 and give greater information on April 3<sup>rd</sup> when we  
24 return as to the rule in effect at that time.

25 MR. ZALMAN: It's okay, it went right over my

1 head.

2 MS. BLEAU: One other thing, the only other  
3 thing I have to provide the Board is this collection of  
4 commendation letters regarding Mr. Madden's employment.

5 If I could give these to you all now then I wouldn't  
6 have to keep carrying them back and forth and you can  
7 look at them at your leisure. Is that okay?

8 MS. GIALLUCA: My briefcase is about to burst.

9 CHAIR ADELSON: Is that it?

10 MS. BLEAU: This is just it.

11 MS. TURIN: Do you want to show it first?

12 CHAIR ADELSON: Show it to Counsel, and then  
13 we'll take them. I know I'm going to get an objection.

14 MS. BLEAU: Mr. Madden is not going to have to  
15 come to my office and lug the boxes from West Palm next  
16 hearing. He thanks you.

17 CHAIR ADELSON: So with that being said, we are  
18 adjourned for the day. See you all next time. Thank  
19 you.

20 [Meeting was adjourned at 2:27 p.m.]

21 [END RECORDING]

22

23

24

25

CERTIFICATE

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF BROWARD )

I hereby certify that I was authorized to and did transcribe the foregoing and the transcript is a true record of the proceedings to the best of my ability.

I further certify that I am not of counsel, I am not related to or employed by any party to this matter, and I am not interested in the outcome thereof.

Dated this 23rd day of March, 2020.

*Lisa G. Tayar*  
\_\_\_\_\_  
LISA G. TAYAR

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF BROWARD )

SWORN TO and SUBSCRIBED before me the day and year above written by Lisa G. Tayar, who is personally known to me.

*Brigitte Chiappetta*  
BRIGITTE CHIAPPETTA, Notary Public  
State of Florida

Notarial Seal:

