

APPROVED MINUTES

CITY OF FORT LAUDERDALE VIRTUAL CIVIL SERVICE BOARD MEETING

Friday, January 22, 2021 – 9:00 AM

MEETING CAN BE ACCESSED AT THE LINK BELOW:

<https://www.fortlauderdale.gov/government/CIVIL>

<u>Board Member</u>	<u>Attendance</u>	<u>Cumulative Attendance</u> 01/01/2021 – 01/22/2021	
		<u>Present</u>	<u>Absent</u>
Lori Adelson, Chair	P	1	0
Shelley Gialluca	P	1	0
Robert Baldwin	P	0	1

Call to Order

Ms. Adelson called the meeting to order at 9:00 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
Kenneth Miller, 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
Paul LaRoche – Former Employee

Attachment

Transcript of Proceedings – Prototype Inc.

Meeting Adjournment

the meeting was adjourned at 6:02 PM.

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CITY OF FORT LAUDERDALE
CIVIL SERVICE BOARD HEARING

TRANSCRIPT OF PROCEEDINGS

APPEAL OF TERMINATION OF EMPLOYMENT - JOHN MADDEN

DATE HELD: FRIDAY, JANUARY 22, 2021

TIME: 9:00 a.m. - 5:04 p.m.

PLACE: Via Zoom

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APPEARANCES BY

BOARD MEMBERS:

LORI ADELSON

SHELLEY GIALLUCA

STAFF:

JEROME POST, Acting Board Secretary and Deputy Director
of Human Resources

KERRY ARTHURS, Administrative Supervisor and Board
Clerk

JERRY JEAN-PHILLIPPE, City Moderator, IT Representative

JOHN TRAVERS, Representative, City of Fort Lauderdale

JAMIE OPPERLEE, Prototype, Inc., Recording Secretary

COUNSEL:

KENNETH MILLER, ESQUIRE

Haliczer, Pettis & Schwamm

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One Financial Plaza, Seventh Floor

1 100 SE Third Avenue
2 Fort Lauderdale, FL 33394-0015

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5 DENISE J. BLEAU, ESQUIRE

6 Ward, Damon, Posner, Pheterson and Bleau

7 *Counsel for John Madden, Former Employee*

8 4420 Beacon Circle

9 West Palm Beach, FL 33407

10

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12 MIMI TURIN, ESQUIRE

13 Turin Center for Dispute Resolution

14 *Board Counsel*

15 11352 West State Road 84, Suite 58

16 Davie, FL 33325-4007

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HEARING

January 22, 2021

[COMMENCING AT 9:00 A.M.]

CHAIR ADELSON: It is 9:00 and we're going to get the day started. I'm going to turn it over to Mr. Post to make his initial announcement.

JEROME POST: Okay, good morning. To start this meeting, I have an introduction as I normally do for the Zoom format. Thank you for joining in the City of Fort Lauderdale for the Civil Service Board Meeting. This meeting is being conducted using Zoom Video Conferencing in order to maintain proper social distancing during Covid-19.

If any member of the public would like to participate in today's meeting, please visit the Board's website at www.fortlauderdale.gov/government/civil -- I'll repeat that, it's www.fortlauderdale.gov/government/civil -- and complete the brief speaker form. Once completed, you will be granted access to the meeting and you will be called upon at the appropriate time. If you're having trouble signing up, please email virtualmeetingsadmin@fortlauderdale.gov.

To help ensure we follow the same protocols that we do during in-person meetings and to ensure online security, we ask that you please abide by the

1 following guidelines: This meeting is to conduct
2 official business for the City of Fort Lauderdale. Any
3 behavior that is disruptive, distractive, profane,
4 and/or inhibits the meeting in any way is prohibited.

5 While you are the phone waiting for your
6 opportunity to speak, please mute any other
7 broadcasting devices to avoid a known delay with our
8 broadcast. The City of Fort Lauderdale will be
9 controlling your ability to speak during the virtual
10 meeting. If you have automatically been added to a
11 listen-only mode, you will be granted access to speak
12 when recognized.

13 I would like to remind Board Members,
14 presenters, and participating members of the public to
15 please remember to mute yourself if you are not
16 speaking and to silence all electronic devices to limit
17 the amount of interference.

18 Regarding the process for today's meeting, the
19 Board Chair has a copy of the agenda and will proceed
20 through each item allowing for public comment in the
21 Item entitled "For the Good of the Order." I will now
22 turn it over to the Board Chair to start the meeting.
23 Chair Adelson?

24 CHAIR ADELSON: Good morning everyone. Lori
25 Adelson. I'm going to start the virtual Civil Service

1 Board Meeting for today, Friday, January 22, 2021. I'd
2 like to go through the roll call, and I just find it's
3 easier if I actually make the presentation of the names
4 and you just tell me if you're present or not, rather
5 than trying to get everyone to know when to go. So,
6 I'm going to start with Mimi Turin.

7 MIMI TURIN: I'm here.

8 CHAIR ADELSON: And could you also give me your
9 role today?

10 MS. TURIN: Board Counsel.

11 CHAIR ADELSON: Thank you. Shelley Gialluca?

12 SHELLEY GIALLUCA: Present. Civil Service
13 Member.

14 CHAIR ADELSON: Mr. John Travers?

15 JOHN TRAVERS: Present, Representative for City
16 of Fort Lauderdale.

17 CHAIR ADELSON: Kerry Arthurs?

18 KERRY ARTHURS: Present, HR Staff.

19 CHAIR ADELSON: I believe we have a new
20 moderator today, Jerry Jean-Phillippe?

21 JERRY JEAN-PHILLIPPE: Good morning, Jerry
22 Jean-Phillippe, IT Representative.

23 CHAIR ADELSON: Thank you. Jerome Post?

24 MR. POST: Good morning, present. Jerome Post,
25 Deputy Director, Human Resources.

1 CHAIR ADELSON: Kenneth Miller?

2 MR. MILLER: Good morning. Attorney for the
3 City of Fort Lauderdale.

4 CHAIR ADELSON: Denise Bleau?

5 MS. BLEAU: Good morning. Attorney for John
6 Madden.

7 CHAIR ADELSON: John Madden?

8 JOHN MADDEN: John Madden.

9 CHAIR ADELSON: And your role?

10 MR. MADDEN: I want to tell my story.

11 CHAIR ADELSON: And I see Jamie recording, so
12 I'll just acknowledge that you're present.

13 JAMIE OPPERLEE: Yes, I am. Thank you.

14 CHAIR ADELSON: Perfect. All right, so before
15 I get started, we'll do "For the good of the Order."
16 If there's anyone in the public that would like to
17 speak? I don't see anyone here, so we will move on to
18 the Appeal of Termination of Employment -- John Madden
19 (Day 8). Is there any administrative issues that we
20 need to address? Miss Bleau, I heard something about a
21 witness.

22 MS. BLEAU: Yes, Madam Chair, thank you.
23 Yesterday afternoon I spoke with Paul LaRoche who was
24 mentioned by Robyn Randall last week. Mr. LaRoche has
25 agreed to testify today. He is an IT person and has a

1 job and he basically said he couldn't commit to a
2 particular time because he didn't know when he had to
3 work.

4 And so I asked him, with you all's indulgence,
5 if he would call in or Zoom in when he thought it was a
6 good time for him to testify and that whenever that was
7 we would take a break in Mr. Madden's testimony, take
8 his quick testimony, let him go, and then resume with
9 Mr. Madden.

10 CHAIR ADELSON: Okay, so this is not being done
11 pursuant to subpoena?

12 MS. BLEAU: No, correct. Yeah, I just reached
13 out to him yesterday and he's voluntarily showing up.

14 CHAIR ADELSON: Mr. Miller?

15 MR. MILLER: Yeah, so, you know, with all due
16 respect, the fact that I'm learning that a witness is
17 going to testify at the hearing, I object. I mean,
18 this hearing has been going on for over a year. Mr.
19 Madden's counsel had the identity of the City's
20 witnesses weeks and months before they testified.

21 To expect me to now be prepared to cross-
22 examine somebody I didn't know was coming, we had
23 conversations during the week about the witnesses.
24 There was no mention that this man was being looked
25 for, even. So, to suggest that the fairness of this

1 proceeding allows people to surprise witnesses on
2 people, I object. I think it's inappropriate and the
3 witness should not be allowed.

4 MS. BLEAU: So, the testimony is extremely
5 limited. Al Battle, according to Mr. LaRoche, actually
6 reached out and spoke to him about this very subject,
7 which is that Miss Randall mistakenly thought John
8 Madden was the one who yelled at Mr. LaRoche when it
9 was, in fact, Joe DeMaio, not Mr. Madden.

10 And that's all we're having him come to testify
11 as to the truth of that very limited issue. If Mr.
12 Miller thinks that he needs time to prepare for that
13 witness to testify regarding that very limited issue --
14 which I don't see how -- we can push him off until the
15 next hearing. But my goal or intent was not to
16 surprise, it was just the timing -- that's how it
17 happened.

18 I didn't really think that Mr. Miller needed to
19 prepare for me to say to Mr. LaRoche, "Did John Madden
20 yell at you as Miss Randall had testified?" "No, he
21 did not, I never had an issue with Mr. Madden. It was
22 Joe DeMaio that I got into it, I complained about it.
23 They talked to him, he apologized, and it was over."
24 That's going to be his testimony.

25 CHAIR ADELSON: Mr. Miller?

1 MR. MILLER: Yeah, in addition to that, none of
2 this is relevant. They brought this issue up last week
3 through their witness. The City didn't bring up this
4 gentleman. The City didn't rely on his testimony in
5 firing John Madden. It wasn't part of the
6 investigation. It's a sub-issue that Mr. Madden
7 himself, through his own witness, brought up. Why are
8 we wasting time doing this? It's completely irrelevant
9 to the issue that's before this Board.

10 MS. BLEAU: If the City stipulates and the
11 panel agrees that Miss Randall's testimony regarding
12 Mr. Madden yelling at another employee is nothing to be
13 considered in the context of these charges, then
14 perhaps we don't need Mr. LaRoche. But it seems that,
15 based on Mr. Miller's cross-examination of other
16 witnesses, certainly going outside the context of what
17 the City -- charges that the City's brought -- every
18 single witness, "Would you like Mr. Madden to come
19 back? Have you had any issues with him?" Miss
20 Randall's testimony regarding Mr. LaRoche was a
21 surprise to us and, you know, unfortunately she was
22 mistaken. And I think it painted Mr. Madden in a way
23 that was not true, and we certainly have the right to
24 put evidence on to clear that up. I can't imagine the
25 strength of this objection on such an important issue.

1 CHAIR ADELSON: Well, I have a question. Would
2 you feel less inclined to object, Mr. Miller, if it was
3 Miss LaRoche that corrected her own testimony?

4 MR. MILLER: You mean Miss Randall?

5 CHAIR ADELSON: Miss Randall, my apologies,
6 yes.

7 MR. MILLER: I don't know the answer to that.
8 I mean, I didn't elicit this from her. This came out
9 on direct examination from Miss Bleau last week. I
10 didn't create this issue. I simply cross examined her
11 about it once they raised this. So, I don't
12 understand. They put on a witness, they don't like
13 what their own witness said, and now they want to undo
14 what their witness said. Fine.

15 Honestly, if that's all they're going to say,
16 they're going to come in and say, "Did Mr. Madden yell
17 at you?" I don't know why we're even considering it.
18 But let's put him on. Because I don't really want to
19 spend the rest of the day arguing about this. I want
20 to get this over with. For the record [inaudible,
21 talking over one another] objection. But let's go,
22 let's put the witness on and we'll go.

23 CHAIR ADELSON: Noting Mr. Miller's objection,
24 we will allow Mr. LaRoche to come in for the limited
25 issue of whether or not Miss Randall's testimony is

1 accurate with regard to his interaction in this regard.
2 Okay?

3 MS. BLEAU: Yep.

4 CHAIR ADELSON: If it goes outside the scope of
5 that, then, you know, Mr. Miller, obviously you can
6 note your objection and we'll address it at that time.

7 MR. MILLER: Sure.

8 CHAIR ADELSON: All right, so let's proceed. I
9 believe we were --

10 MR. MILLER: Before we start.

11 CHAIR ADELSON: Yes, Mr. Miller.

12 MR. MILLER: Before we start, I just want to
13 acknowledge for the record that the way that we're
14 proceeding today -- so it's reflected on the record --
15 which is Mr. Baldwin is not here today and the
16 agreement is that this is being recorded, and he's
17 going to watch this proceeding on video, but he is not
18 physically present during the testimony today. I just
19 wanted that stated on the record so we have a record of
20 that.

21 CHAIR ADELSON: Thank you.

22 CHAIR ADELSON: You know, I appreciate that.
23 That actually is a good reminder. So that is accurate.
24 And in any event, just so we're clear, we do have
25 quorum in his absence, regardless. However, he will be

1 listening to this via video and will be able to chime
2 in terms of the ability to deliberate. So, thank you
3 for reminding me to put that on the record. I
4 appreciate it.

5 All right, so we're going to move forward, Miss
6 Bleau. You are in the process of talking to Mr.
7 Madden, so you may continue.

8 MS. BLEAU: Mr. Madden, just a little bit about
9 your employment background. What certifications do you
10 hold?

11 MR. MADDEN: Building Official, Plans Examiner,
12 Building Plans Examiner, and a Building Inspector
13 Certification. Those are all State certifications. A
14 General Contractor's License, State of Florida. And a
15 couple others I can't think of right now.

16 MS. BLEAU: Okay. And what jobs have you held
17 related to the building industry?

18 MR. MADDEN: Well, I was hired in Pembroke
19 Pines as a Building Inspector in late '85, early '86, I
20 think late '85, and as a Building Inspector. And then
21 I was promoted as a Building Plans Examiner, Building
22 Inspector, and then I filled in as the Building
23 Official sometimes with Pembroke Pines. And, you want
24 me to go after that?

25 MS. BLEAU: Yes.

1 MR. MADDEN: Okay. Then after leaving Pembroke
2 Pines, I went to work for a contractor in Fort
3 Lauderdale and then I was hired by the City of Fort
4 Lauderdale as a Building Inspector.

5 MS. BLEAU: Okay. At Pembroke Pines, Mr.
6 Miller was questioning Ron Gardner -- again about
7 things that apparently his position now has no
8 relevance to this proceeding, but Mr. Miller questioned
9 Ron Gardner in stating that you had been demoted when
10 you worked for Pembroke Pines. Was Mr. Miller's
11 statement accurate?

12 MR. MADDEN: No. I was never demoted in
13 Pembroke Pines.

14 MS. BLEAU: Mr. Gardner agreed with Mr.
15 Miller's statement that you had been demoted. So, he
16 was mistaken?

17 MR. MADDEN: Uh-huh [affirmative]. What Ron
18 thought is not the truth. I was never demoted in
19 Pembroke Pines.

20 MS. BLEAU: Okay. Mr. Gardner told Mr. Miller
21 that based on his readings of the newspapers before
22 coming to the City that he believed your issues with
23 the City of Pembroke Pines arose because you were
24 insisting that they were following the Building Code.
25 Was Mr. Gardner's understanding correct in that regard?

1 MR. MADDEN: Yes.

2 MS. BLEAU: Did you come under fire in the City
3 of Pembroke Pines because you were insisting that they
4 enforce the building codes?

5 MR. MADDEN: Yes.

6 MS. BLEAU: So, Mr. Miller was right in one
7 respect, at least, which is when he insinuated rather
8 sarcastically that the issues you had in Pembroke Pines
9 were similar to the events surrounding your termination
10 at Fort Lauderdale. There is a connection in your mind
11 regarding those two events, correct?

12 MR. MADDEN: Yes.

13 MR. MILLER: Let me just object to this. I
14 mean, counsel is now testifying. I mean, it's her own
15 client and she's leading him, asking leading questions.
16 Let's ask questions, not make statements.

17 MS. BLEAU: I think when the leading of Mr.
18 Travers was objected to, the City took the position
19 that the rules don't apply and that there's no problem
20 with it. But, you know, I will be cognizant of that.

21 MR. MILLER: Yeah, I don't think we said, "Miss
22 Bleau said this, Miss Bleau said that."

23 CHAIR ADELSON: Right. So, for clarity's sake
24 here, obviously we know that there is a leniency with
25 regard to asking questions, but I do ask that you keep

1 the colloquy and just ask the questions as opposed to
2 adding in those comments. So, if you would continue on
3 the course, just be mindful. Okay?

4 MS. BLEAU: Well, if the objection is to my
5 rather sarcastically insinuating what Mr. Miller said,
6 "As it wasn't his fault either, right, because
7 everybody is just out playing defense against him."
8 It's in the record, and that's what I was asking Mr.
9 Madden about.

10 But more importantly, Mr. Madden, do you
11 believe that your issues with the City of Fort
12 Lauderdale is related to your efforts to make sure the
13 City enforce the Building Code in the City of Fort
14 Lauderdale?

15 MR. MADDEN: Yes.

16 MS. BLEAU: Do you feel like you -- well, let
17 me ask, how long had you worked for the City of
18 Pembroke Pines before you got in trouble for trying to
19 enforce the Code?

20 MR. MADDEN: Several years.

21 MS. BLEAU: And what happened?

22 MR. MADDEN: One of the inspectors there, I
23 think he was my boss at the time, he signed my name to
24 an inspection that I never made. And when I discovered
25 it, I went to him directly and I said, "I know what you

1 did." And I told him how I felt. And I made it clear,
2 never to do it again and if he did, I would act. You
3 know, I would do something about it.

4 MS. BLEAU: Did it happen again?

5 MR. MADDEN: Yes. A couple years later, I
6 don't know the actual timeframe, but he did it again,
7 and this time it was not my name he used, he signed the
8 name of another inspector and this guy was terminally
9 ill. And well, when I found out, I thought about it,
10 what I was going to do, and I eventually went to the
11 State Attorney's Office and I filed a complaint.

12 MS. BLEAU: Now, when you're saying he's
13 signing these names of other people, you and the other
14 person, you mean he wasn't actually doing the
15 inspections? The inspections were not being done? Or
16 they were being done, but by him and he was signing for
17 somebody else?

18 MR. MADDEN: Well, in the particular case where
19 he signed that I found out that he signed this
20 inspector's name -- because at that time, we didn't
21 have a computer system or it was a primitive system --
22 the inspection that he signed was wrong. And it was --
23 it had some serious problems with it and so it wasn't
24 just like he just signed his name. He signed the other
25 inspector's name and the inspection, and the work was

1 wrong on this roof.

2 MS. BLEAU: And he had approved the work,
3 you're saying, when he signed the inspection -- by
4 signing the inspection, he was approving the work, but
5 it was wrong?

6 MR. MADDEN: Yeah. He approved the inspection
7 and he approved the inspection that should not have
8 been approved and he signed or initialed the other
9 inspector's name to the inspection.

10 MS. BLEAU: Gotcha. So, was there any blowback
11 for you going to the State Attorney and complaining
12 about your boss?

13 MR. MADDEN: Probably almost immediately. They
14 took me out of the Building Department and they put me
15 into the Planning Department. I still held the same
16 title as a Plans Examiner, and they basically gave me
17 the responsibilities of looking at signs to make sure
18 they were the right color and the right size. They
19 wouldn't even let me look at the structural aspect of
20 the sign.

21 I didn't do any of the plan reviews regarding
22 the structural aspect of the sign. They just said make
23 sure it complies with the sign ordinance for the City.
24 So, same pay, same title, but they wouldn't even let me
25 work in the Building Department. They physically

1 relocated me out of the Building Department.

2 MS. BLEAU: And so, did you have any further
3 contact with the State Attorney's Office after that?

4 MR. MADDEN: Yep. I got a phone call and they
5 asked me if I would meet with the FBI, and I did. And
6 somehow something got back to the City and the
7 Assistant City Manager met with me, in an office, and
8 he asked me a lot of stuff, and he wanted to know who I
9 was working with and what I was working on. And I told
10 him I couldn't tell him. And he got upset with me. He
11 said -- you know, he was mad that I wouldn't tell him.
12 And I told him I couldn't tell him; I wasn't allowed to
13 tell him. So he said, "I want you to tell us," no, "I
14 want you to write what you perceive to be wrong when it
15 comes to the Building Code, and we want to know about
16 every project in the City that you're aware of that
17 there's a problem with complying with the Building
18 Code." And I think they gave me a written letter
19 following that, that that was my sole responsibility to
20 come up with a list and present the City with that
21 list.

22 MS. BLEAU: Did you do that?

23 MR. MADDEN: Yes.

24 MS. BLEAU: And what was on the list that
25 eventually became an issue?

1 MR. MADDEN: In the list that I put together,
2 there was a bunch of projects, but one of the projects
3 that struck a chord was I cited City Hall and I said
4 that the City Hall needed a sprinkler system in the
5 Building Department, and I felt that when it was
6 constructed, it didn't meet Code. That was my
7 understanding of the Code. So, when I put that on the
8 list and I said that the Building Department needs a
9 sprinkler system, and that didn't go well.

10 MS. BLEAU: What do you mean it didn't go well?
11 How did the City respond?

12 MR. MADDEN: They took my list and they put
13 together a report and they addressed each of the items.
14 Some of the items they did agree with, and some of
15 those items they said were corrected, and the things
16 were made. But that list, they sent that list to the
17 State Attorney's Office, because I think they thought I
18 was working with the State Attorney's Office.

19 So, they sent the list to the State Attorney's
20 Office. And then the State Attorney, one of their
21 investigators, called me up or reached out to me, I
22 don't know he got ahold of me, and asked me about the
23 list. And at that time, when he called me, I didn't
24 know that the City had taken the amount of time in
25 putting together this list.

1 So, when I got ahold of the list from the State
2 Attorney's Office, I'm looking at it, and I agree with
3 -- like I said, I agree with some of the things that
4 were in the list. But I said, "No, I still believe
5 that the City Hall needs a fire sprinkler system in the
6 Building Department." The old Pembroke Pines building
7 was two buildings. You had, I think, a six- or a
8 seven- or an eight-story building, and then there was a
9 three-story building. And the Building Department was
10 on the first floor of that three-story building.

11 And so my understanding of the Code when the
12 building was originally constructed, it required that
13 it was to be sprinkled. And I was just a Plans
14 Examiner, Building Inspector at the time, so my
15 understanding of the Code didn't have any weight. So,
16 BORA didn't agree with me, the Building Official didn't
17 agree with me -- a few of us, a few people did agree
18 with me.

19 But it seemed like after the State Attorney's
20 Office got involved and, I guess, they started to
21 investigate it to see whether or not my claim was
22 valid, the City ended up having to put a sprinkler
23 system in the Building Department. So, here a building
24 that we were in for several years they had to put in a
25 fire sprinkler system.

1 MS. BLEAU: Because eventually BORA changed its
2 position and said it was required?

3 MR. MADDEN: Yeah, BORA -- initially BORA
4 didn't agree that it needed a sprinkler system, but
5 they only changed their mind and changed their opinion,
6 and it was eventually consistent with my opinion from
7 way back. But like I said, I was just a Plan Examiner,
8 Building Inspector. I didn't have any authority or
9 responsibility. But they only did it after the State
10 Attorneys got involved. Yeah, they weren't happy,
11 that's for sure.

12 MS. BLEAU: Did you eventually sue the City for
13 retaliating against you because of your involvement
14 with these claims?

15 MR. MADDEN: Yeah. Yes.

16 MS. BLEAU: And what was the outcome?

17 MR. MADDEN: They paid me three hundred-and-
18 something Thousand Dollars to leave. I didn't have to
19 leave. They didn't fire me. They didn't demote me.
20 They didn't do anything. But boy, they made my life a
21 living hell. They did everything to try to drive me
22 out and to get me to quit; and people that were friends
23 of mine, they stopped talking to me. So as part of the
24 agreement, I left.

25 MS. BLEAU: Okay. And so what did you do after

1 Pembroke Pines?

2 MR. MADDEN: Well, I felt that I wasn't going
3 to get a job as an inspector ever again. So, I went to
4 work for a contractor in Fort Lauderdale and so I was
5 building this house in Fort Lauderdale and this
6 contractor was the third contractor and the house was
7 under construction for several years. And while I was
8 there running the job, you know, I was scheduling
9 inspections, had people coming out and I'd work with
10 the inspector and so forth, and during those times a
11 couple of the Inspectors said, "Hey, come and work for
12 the City of Fort Lauderdale. Come work as an
13 Inspector." And I didn't think the City was going to
14 hire me. You know, I was nervous about getting back
15 into that side. But I eventually applied with the City
16 and they hired me almost on the spot.

17 MS. BLEAU: So, when did you start working for
18 the City of Fort Lauderdale?

19 MR. MADDEN: Well, they hired me in sometime --
20 I think it was December of 2006, and then I started in
21 January of 2007.

22 MS. BLEAU: And what was your position? I'm
23 just going to grab a water, but go ahead.

24 MR. MADDEN: Okay. I'm going to get a sip. I
25 don't know if you can hear me?

1 MS. BLEAU: Yeah.

2 MR. MADDEN: They hired me as a Building
3 Inspector I, because that was the position that was
4 open. So, I had all the qualifications then that I
5 have today, the certifications, I should say, the State
6 certifications. But the position that they had, I
7 think it was just an Inspector I, so they couldn't hire
8 me as an Inspector II.

9 So they hired me as an Inspector I and then I
10 guess the way the union contracts were, that if you had
11 certain certifications or whatever that you were bumped
12 up to an Inspector II and then eventually I was hired
13 or promoted to Inspector III, and then Chief Building
14 Inspector -- promoted to Chief Building Inspector.

15 MS. BLEAU: After Lee Feldman was hired as the
16 City Manager, were you asked to participate in various
17 committees and working groups with the City?

18 MR. MADDEN: Yeah.

19 MS. BLEAU: Like what?

20 MR. MADDEN: When he came on board, I was an
21 Inspector III. I wasn't a Chief, I wasn't Building
22 Official, I wasn't even management, I was just -- and I
23 don't know how he got ahold of my name or his
24 assistants, but I ended up getting on a bunch of
25 committees, working groups. One of the committees was

1 -- when he came on board, he had this whole vision for
2 the City. It was like the 2035 and then he had 2021.
3 So, these visions really changed the whole dynamics of
4 this City and how it was operated. So, it was like
5 cross departments, other departments worked with other
6 departments to help create this system.

7 And so I got on -- one of the things they did
8 was they, in the Building Department, we had this
9 working group -- it was like a week-long session. And
10 we sat in this room and this guy had a big sheet of
11 paper and we took it all the way from conception of a
12 project -- so you have this piece of land, what do you
13 want to do with that piece of land? How does that
14 process go all the way through to planning, approvals,
15 building permits, and then closing out and issuing the
16 CO.

17 MS. BLEAU: What is that? The Process
18 Improvement Committee?

19 MR. MADDEN: Process Improvement. The Lean
20 Permitting Process, I think it was titled that.

21 MS. BLEAU: Okay. What other committees were
22 you on?

23 MR. MADDEN: We had a Green Committee, we had a
24 Sustainability Committee, we had an Environmental
25 Group. So, this Environmental Group, I was flying up

1 to Roanoke, Virginia, to help formulate an
2 environmental policy for the City's motor pool. And
3 oh, I did grants, I helped with the Energy Efficiency
4 Community Block Grant, I think was the name of it. I
5 ran one of those programs. I was in charge of it, I
6 ran the whole thing. And these were all outside the
7 Building Department. Well, some of them were
8 intertwined with the Building Department, but not all
9 of them were. They were going great. I mean, it was
10 awesome.

11 MS. BLEAU: So, from the time of you being
12 hired in 2006 until you were terminated ten years later
13 in 2016, have you ever been disciplined by the City?

14 MR. MADDEN: No.

15 MS. BLEAU: From the time of being hired in
16 2006 until your termination in 2016, have you ever
17 received a written reprimand?

18 MR. MADDEN: No.

19 MS. BLEAU: During that time period had you
20 ever received a poor performance evaluation?

21 MR. MADDEN: No.

22 MS. BLEAU: Were you ever placed on a
23 performance improvement plan?

24 MR. MADDEN: No.

25 MS. BLEAU: In 2012, there was a new edition of

1 the Florida Building Code that went into effect,
2 correct?

3 MR. MADDEN: Yes.

4 MS. BLEAU: What was your position with the
5 City at the time?

6 MR. MADDEN: I was an Inspector III.

7 MS. BLEAU: There were Flood Prevention
8 Provisions that had been added to the Florida Building
9 Code, is that right?

10 MR. MADDEN: Yeah. It was actually the 2010
11 edition of the Code, but it only went into effect in
12 the first part of 2012. The Flood Provisions of the
13 Code -- and by the way, Chris and I were on the CRS
14 working group. Chris and I were on it together, Chris
15 Augustin. He was the Building Official at the time.
16 And that had to do with floods and flooding, well,
17 prevention of it, I'm sorry.

18 But so this new standard, prior to that, the
19 Building Code left the responsibility of requirements
20 of enforcing Flood Codes and Flood Provisions to
21 somebody else. It wasn't specifically in the Building
22 Code. So, when the Building Code -- before it goes
23 into effect, they send it out and everybody can read it
24 and get an idea of what's coming under the next Code.

25 So I, when I found out about this, I think it

1 was either John Heller or myself, we ordered the new
2 reference standard, ASCE 24. It was a brand new
3 standard that we didn't even have in the office, so
4 that whole new standard gave the City, as a part of the
5 permitting process, now the responsibility of making
6 sure that every permit, if it's in a flood hazard area,
7 must comply with ASCE 24, with the exception of a few
8 things, some residential structures and things like
9 that. But commercial buildings, condominiums, things
10 like that, other than one- or two-family dwelling
11 that's covered in the Residential Code. So, it was a
12 whole new standard. We weren't tasked with that before
13 this Code edition was adopted.

14 MS. BLEAU: At some point, did the City fail to
15 enforce these Flood Provisions that ultimately led to
16 the Office of Inspector General investigation, charges
17 of malfeasance against two employees, and ultimately
18 charges of BORA against you?

19 MR. MADDEN: Yes.

20 MS. BLEAU: In your role as an Inspector III,
21 you mentioned John Heller. He was the Chief Building
22 Inspector at the time, right?

23 MR. MADDEN: He was the Chief Building
24 Inspector, yeah. And he left right around that time.
25 He retired and went to another city.

1 MS. BLEAU: Okay. And then were you promoted
2 to Chief Building Inspector?

3 MR. MADDEN: Yes.

4 MS. BLEAU: I'm going to share my screen with
5 you. Okay, you see that?

6 MR. MADDEN: Yes.

7 MS. BLEAU: So these -- it says in February of
8 2012, the Code was going into effect in March, right,
9 of 2012?

10 MR. MADDEN: I don't know the exact date, but
11 yeah, I know it was coming up. Unless I wrote it that
12 way, I don't see that --

13 MS. BLEAU: So, you provided an email to Mr.
14 Heller that we only have a portion of here. And he
15 said, "So, as I understand it, the 2010 Code Commercial
16 Property," blah blah blah, "will need to meet the
17 requirements of the ASCE 24." And you said, "That is
18 my understanding." And that was your interpretation or
19 understanding of the Code, right?

20 MR. MADDEN: Yes, both John and I -- John
21 Heller and I -- had the same understanding and
22 interpretation of the Code. I mean, I could have, but
23 he was the one -- you know, we both agreed that, yeah,
24 you've got to comply with the ASCE 24.

25 MS. BLEAU: And Chris Augustin is copied on

1 this email chain? He was the Building Official at the
2 time?

3 MR. MADDEN: Yeah. Terry Burgess, he was the
4 Director of the Department and Chris Augustin and
5 Mohammed -- yep.

6 MS. BLEAU: Here's another email you sent the
7 same day explaining your interpretation of the Code.
8 Again, you sent it to Chris Augustin and John Heller
9 and Terry Burgess. And Mohammed Malik was who?

10 MR. MADDEN: He was the Zoning Chief.

11 MS. BLEAU: This email was also sent on the
12 same day from you, February 17th, this one to Ralph
13 Riles, Harry Colton, and Glen Osborne. Again,
14 explaining your understanding of the new Code
15 provisions.

16 MR. MADDEN: Yeah, the other emails when we
17 were exchanging was just Chris, John, Mohammed, and I,
18 going back and forth. But I wanted those guys to know
19 what I knew because I wasn't the Chief at the time, so
20 I sent it to Ralph, Harry, and Glen. They were Plans
21 Examiners.

22 MS. BLEAU: Okay. And your interpretation was
23 that basically the one-foot freeboard -- can you just
24 briefly explain what that is -- was required in certain
25 residential areas?

1 MR. MADDEN: Well, FEMA -- you know, because I
2 was on that CRS program -- and both Chris and I were on
3 the CRS group at the City -- so we had already been
4 dealing with flood stuff. And FEMA requirements, the
5 NFIP, say that a building must comply with this
6 elevation and everything would be fine at that
7 elevation, you met FEMA regulations.

8 However, ASCE 24 is more stringent. It's a
9 higher regulatory standard. So, my understanding of
10 the code was that because it was adopted basically in
11 its entirety, that meant that that as an Official
12 Building Permit process, that we had to make sure that
13 buildings were constructed to meet ASCE 24, even it was
14 more stringent than the NFIP.

15 MS. BLEAU: Okay.

16 MR. MADDEN: Oh. You asked me about that
17 freeboard.

18 MS. BLEAU: I did.

19 MR. MADDEN: Okay, the difference between the
20 NFIP and ASCE 24 is -- like I said, NFIP, the National
21 Flood Insurance Program, is here. ASCE says that that
22 finished floor must be here or here. It's either one
23 foot, two foot, or possibly three foot, depending on
24 the class of the building or the risk of that building.
25 But you have to put the finished floor, the lowest

1 finished floor, higher than the NFIP. But the City of
2 Fort Lauderdale was a CRS program, so.

3 MS. BLEAU: Which I guess maybe contributed to
4 the confusion. Here's an email from Mr. Augustin,
5 again, the same date, 02/17 -- after he received your
6 interpretation that the freeboard was required. Four
7 o'clock in the afternoon he sent it to Mr. Malik,
8 Richard Riles, you, Harry Bolton, Glen Osborne, Richard
9 Thompson, and here Mr. Augustin says, "The most
10 significant change of the new Code is dealing with wind
11 design." Did you agree with that comment? Was that
12 the most significant change to the Building Code?

13 MR. MADDEN: No, it was not. There was [sic]
14 some changes in the wind provisions -- and it was more
15 on the Engineering side -- how they got those pressures
16 or wind speeds. But getting back to ASCE 24, this was
17 completely new. This was new to everybody. So, Chris
18 and I knew about it, but not everybody else did.

19 So that's why I was getting these emails out
20 and giving everybody heads-up, and "Hey, you're a Plans
21 Examiner, you're going to be responsible for that."
22 But Chris didn't agree with my interpretation of the
23 Code, and --

24 MS. BLEAU: And here, is this how you know he
25 didn't agree with your interpretation of the Code?

1 MR. MADDEN: Exactly. That, in the Code,
2 basically said to the community that, yeah, every three
3 years we're going to change the cycle, we're going to
4 change things in the Code. But if you're a CRS
5 Community, as long as you're a CRS Community and you're
6 enforcing those provisions, it was Chris'
7 interpretation that we only had to enforce CRS. And
8 because of the change, it was his interpretation that
9 we had to meet the CRS requirements and not ASCE. That
10 was not my interpretation and I didn't agree with him.

11 MS. BLEAU: But you were both certified Flood
12 Plain Managers, right?

13 MR. MADDEN: Yep.

14 MS. BLEAU: Eventually you became the Chief, he
15 was the Building Official, and you had one
16 interpretation, he had another. Is that right?

17 MR. MADDEN: Yes.

18 MS. BLEAU: Did you believe, at that point,
19 that you had the right to overrule Chris Augustin and
20 impose your own interpretation of the Flood Provisions?

21 MR. MADDEN: No, and here's the reason; and
22 this is what really is the difference between John
23 Travers and I, is Chris and I were both Licensed
24 General Contractors, both Building Code Administrators,
25 both Building Plans Examiners, both Building

1 Inspectors, we're both Certified Flood Plain Managers,
2 we were both lead APs. Chris and I basically held the
3 same certifications.

4 So, when you look at Chapter 1 and you look for
5 the Building Official in Chapter 1, it says, "The
6 Building Official is tasked with the sole
7 responsibility of enforcing the Building Code." But if
8 you read further down in there, it says that, "The
9 Building Official, with the exception," or something
10 like that, with the exception that -- like, for
11 example, between John and I, John is Electric -- that
12 section of the Code says that, "He must defer the
13 responsibilities for interpreting the Code," and so
14 forth. And that was my understanding of the Code. So,
15 I didn't interfere with Chris, I didn't agree with him,
16 but I didn't interfere with him. And I didn't go
17 behind him. I didn't do the things that I'm currently
18 being accused of now, or in 2016, of undermining his
19 authority, because I felt that both Chris and I,
20 because we were both certified in the same categories
21 and we were identical with all of the requirements for
22 Structural and Building, that I had to listen to him.
23 Like I said, I didn't agree with him, but I had to
24 listen to him, so I did.

25 MS. BLEAU: So, I'm looking -- I'm showing you

1 104.1.2. Do you see that?

2 MR. MADDEN: Yes.

3 MS. BLEAU: Powers and Duties of the Building
4 Official, and it says, "The Building Official shall
5 delegate," shall delegate, "powers, duties, and
6 assignments to certified Chief Inspectors to render
7 interpretations of this Code and to adopt policies in
8 categories in which the Building Official is not
9 certified." How did you interpret that language?

10 MR. MADDEN: The way I interpreted that was,
11 Chris is Building, I'm Building, he remains responsible
12 for interpreting the Code and everything. So, I said,
13 "Okay," and I agree with that. I agree with what is
14 written there.

15 And the difference between John and I are the
16 categories. So, John is not certified in Building, he
17 doesn't have a General Contractor's license that I know
18 of, he doesn't have a certification as a Structural or
19 Building Plans Examiner, doesn't have a certification
20 as a Structural Inspector. I think that's pretty
21 clear. It says, "You shall." Those responsibilities
22 are for that Chief in that discipline.

23 So, exiting Structural, Building, Building-type
24 Construction, all those things that I have to deal with
25 every day and that I teach, the Structural Building

1 Code, that's what separates Chapter 1 in Broward County
2 from virtually everywhere in the State of Florida.

3 I don't even think Miami has a -- the last I
4 checked; I don't think it's in there. Palm Beach
5 doesn't have this. So, Broward is unique in this
6 structure. If you go to Palm Beach County, you go to
7 Martin County, the Building Official, that's it. And I
8 teach that. They make the call. They're the ones that
9 interpret the Code. I don't care if you're Electrical,
10 Plumbing, Mechanical, Building, that Building Official
11 makes the call. But in Broward County, no. The Board
12 BORA doesn't see it that way.

13 MS. BLEAU: Well, we're going to talk about
14 that. But when you were working for Chris -- reporting
15 to Chris Augustin, because he had the same
16 certifications, his interpretation prevailed. Did you
17 do anything to educate your staff about the Flood Code
18 Provisions?

19 MR. MADDEN: Oh, I still kept teaching them. I
20 still kept sending them to classes, I sent them to
21 seminars, I did a lot of stuff.

22 MS. BLEAU: I'm showing you an email that's Tab
23 15. This is an email regarding course announcement.
24 Going down to the bottom here, you sent an email to
25 Glen Osborne -- which will become important in a little

1 bit -- and a number of other people. "Thank you for
2 your commitment. I attended this course, highly
3 recommend it." Right?

4 MR. MADDEN: That was an awesome course.

5 MS. BLEAU: And this was a course specifically
6 on Flood Provisions of the 2010 Florida Building Code.

7 MR. MADDEN: Yeah.

8 MS. BLEAU: And this is a list of people that
9 you -- Glen Osborne sent out, of people who had signed
10 up and were approved to attend the course? Is that
11 right?

12 MR. MADDEN: Yeah, after I sent that email out
13 and I sent it to Terry and Chris, and sent it to
14 everybody, and I said, "I'd like to have as many people
15 go to this course as possible." It was a long course,
16 it was all day, but you know, I felt it was that
17 important.

18 MS. BLEAU: Okay, so you asked that all these
19 people get scheduled off so that they could attend the
20 course, right?

21 MR. MADDEN: Yeah, the list that you had below.

22 MS. BLEAU: Tab 17 in the Exhibits that we
23 provided, this is 186 pages on the Flood Provision.
24 This is the workbook for that course than Glen Osborne
25 attended, is that right?

1 MR. MADDEN: Yes.

2 MS. BLEAU: Glen is the one of the ones who
3 approved buildings without requiring the one-foot
4 freeboard that ended up leading to the OIG
5 investigation?

6 MR. MADDEN: Yes, Glen was the Plans Examiner
7 on most of these structures, if not all of them, and
8 when he was doing his Plan Review -- and after I sat in
9 the classes and so forth, like I said, I wasn't going
10 to interject what I thought the Code had to be. It was
11 my feeling that it was Chris' interpretation so I --
12 but I still sent them to the courses, and they went. I
13 had classes.

14 MS. BLEAU: This quick guide here, 66 pages on
15 the flood changes, did you provide these to your Plans
16 Examiners?

17 MR. MADDEN: Yeah, I got 'em from the State of
18 Florida. I ordered them. And then sent them to me and
19 I distributed them to the guys.

20 MS. BLEAU: This Code Master, did you also
21 provide this to your --

22 MR. MADDEN: Yep, we had those in the Plan
23 Review, yep.

24 MS. BLEAU: Did Chris Augustin ever change his
25 interpretation of the Flood Provisions?

1 MR. MADDEN: Yes.

2 MS. BLEAU: When?

3 MR. MADDEN: It was in 2013, late 2013. He put
4 it in writing, he sent out the email and yeah, he
5 changed his interpretation. And what he wrote is what
6 I said back in 2012. He agreed with how I interpreted
7 the Code. But like I said, he was the Building
8 Official and I followed his responsibilities [sic]. I
9 mean, I felt he was the one I couldn't overrule.

10 MS. BLEAU: So now that he has interpreted the
11 Code differently, the Building Official's official
12 position is that the ASCE 24 freeboard needed to be
13 enforced. What happened in the City with respect to
14 that?

15 MR. MADDEN: Well, we distributed it. We sent
16 it out. And obviously there was some buildings that
17 were under construction and, you know, I didn't agree
18 with some of the things, but what I did do was I
19 contacted Mr. Feldman, I contacted Susy Torriente, she
20 was the Assistant City Manager. I sent them an email
21 and I asked to meet with them.

22 And I did meet with them. I met with Susy in
23 her office. Mr. Feldman was out of the country. But
24 he responded to my email and then I met with Susy, I
25 think, the next day, or that day. But we met in her

1 office.

2 So, I told her what was up and I was just
3 trying to make sure that, you know, what are we going
4 to do to solve this? Because now the Building
5 Official's interpretation is out there and we've got
6 some buildings that are under construction and nearly
7 completed. So, she told me, she said, "John, I'll take
8 care of it, and don't say anything, I'll take care of
9 it." So, I didn't say anything and I left.

10 MS. BLEAU: So shortly thereafter, did Mr.
11 Augustin retire from the City and go to work for
12 another City?

13 MR. MADDEN: He did. He left a couple months
14 later; I think it was. I don't know. But he left
15 after that and he retired.

16 MS. BLEAU: And were you promoted, made the
17 Interim Building Official?

18 MR. MADDEN: Yeah. I was made Interim Building
19 Official, given those responsibilities of Building
20 Official. They sent out congratulatory things. They
21 said, "Congratulations," Susy's congratulations, Diana
22 Alarcon congratulations. I mean, everybody was like
23 happy for me because I was given that position. And
24 they told me I was going to have that position until it
25 was filled. In fact, yeah, they said, "You're gonna be

1 it until we fill the position.”

2 MS. BLEAU: But then something happened with
3 respect to the Flood Provisions. What happened?

4 MR. MADDEN: Well, when I became Building
5 Official, then now that responsibility came on me. And
6 so, I felt that, as the Building Official, Glen
7 Osborne, everybody else that was Structurally [sic],
8 they had to follow my interpretation now. And I
9 couldn't pass that responsibility off to Glen and say,
10 “Glen, you're the Chief.” Because that would be not
11 the same what I felt the Code said and me --

12 MS. BLEAU: Let me just clarify. You and Glen
13 Osborne also had the same certifications, right?

14 MR. MADDEN: Yeah, Glen Osborne, actually I
15 think, was a Building Official in another city, and he
16 was not the Chief Building Inspector but he was a
17 Structural Plans Examiner, he had a General
18 Contractor's license, certainly a Building Official
19 certification. In fact, he was Chris Augustin's
20 Assistant Building Official. His name was listed as
21 the Assistant Building Official. And I was his boss!

22 MS. BLEAU: So, you were Interim Building
23 Official. It was now your responsibility -- as you
24 understood that 104.1.2. that we talked about --

25 MR. MADDEN: Yes.

1 MS. BLEAU: -- to enforce your interpretation
2 of the Code. But there was an issue that arose
3 regarding Certificate of Occupancy. Right?

4 MR. MADDEN: Yeah. Well, I mean, I think it
5 happened within days of me being a Building Official
6 that I got a request for Certificate of Occupancy for a
7 building that didn't meet Code. I knew it didn't meet
8 Code, and I refused to sign it. And I wouldn't sign
9 it.

10 And so they took me to the Director's office,
11 or Assistant Director, and we met and they asked me
12 would I allow Glen to sign the Certificate of
13 Occupancy. And I said, "No." And I said, "I'm not
14 going to let anyone sign the Certificate of Occupancy.
15 I'm not doing that." And I wouldn't do it. And I
16 didn't do it. And that didn't go well at all.

17 So, I got an email late that day, and they said
18 we have an emergency meeting tomorrow morning. And I
19 thought I was going to be fired, that they were going
20 to place the blame on me, and I thought I was going to
21 be walked out of that office and that meeting. Because
22 the meeting was in the City Manager's office, not in
23 his office but he has a conference room there. So, we
24 met first thing in the morning at the City Manager's
25 conference room, and yeah, there was -- it wasn't good.

1 MS. BLEAU: After that meeting, were you still
2 the Interim Building Official?

3 MR. MADDEN: No. I left the meeting and then
4 sometime after that meeting, I don't know when it was,
5 they removed me as the Interim Building Official and
6 they put Glen Osborne in as the Interim Building
7 Official, and I went back to my normal
8 responsibilities. They didn't demote me. I was still
9 the Chief Building Inspector.

10 But now Glen was the Building Official. So,
11 Glen is in the same situation that Chris and I were in,
12 that I couldn't overrule Glen, I didn't overrule Glen,
13 and Glen continued signing those Certificates of
14 Occupancy on buildings that didn't comply with the
15 Code. And Glen knew it, because he got Chris' email
16 with Chris' interpretation. But I think Glen went back
17 to the old interpretation of the Code.

18 MS. BLEAU: So was - were talking like
19 February, 2014, somewhere around that, right?

20 MR. MADDEN: It was in the first part of 2014,
21 first three or four months or whatever, total.

22 MS. BLEAU: And then did you also have your
23 heart attack in 2014?

24 MR. MADDEN: I did. I had a heart attack in
25 May of 2014.

1 MS. BLEAU: And how long were you out from the
2 City?

3 MR. MADDEN: Three or four months.

4 MS. BLEAU: You were out on FMLA. When you
5 returned, was there a difference in attitude towards
6 you since you had been taken out of Interim Building
7 Official?

8 MR. MADDEN: Yeah, it was -- yeah. People
9 began to distance themselves from me. And I'm like,
10 I'm back in the same situation as Pembroke Pines, you
11 know. People, they like ya, they know ya, but they
12 don't want to be around ya. So, I found myself pretty
13 much in the same situation.

14 Oh, I was removed from all those committees.
15 When I refused to sign that and refused to sign the CO,
16 not only did they take the Interim responsibilities
17 away from me, but they removed me from the Green Team.
18 I had tickets, or flights, to go to Roanoke, Virginia.
19 That was cancelled. I was taken off that working
20 group.

21 I was taken off the group that was helping to
22 write the new City Ordinance. I was like the main
23 person putting that together. I was working with
24 Rebecca Quinn in writing the City Ordinance, they took
25 me off that. You're the Chief, here are the Chief's

1 responsibilities. So, all the other stuff they took
2 that away from me. I mean, that wasn't a demotion.
3 But they just said, "Now you're too busy," or whatever
4 it was, but I was taken off those committees, those
5 working groups, and everything.

6 MS. BLEAU: I'm going to share with you another
7 document here. This is the Office of Inspector
8 General's report that came out in March of 2015. See
9 that?

10 MR. MADDEN: Yes.

11 MS. BLEAU: This investigation surrounds solely
12 the issue of the City not enforcing the Flood Code
13 Regulations properly, is that right?

14 MR. MADDEN: Yes.

15 MS. BLEAU: Specifically, not having a Flood
16 Elevation Regulations not enforced and the freeboard
17 not enforced, right?

18 MR. MADDEN: Basically, not enforcing the
19 Building Code. And the specific portion of that was
20 the Flood Provisions within the Building Code and ASCE
21 24.

22 MS. BLEAU: This says, "Misconduct by Employees
23 of the City of Fort Lauderdale Building Services
24 Division."

25 MR. MADDEN: Yeah.

1 MS. BLEAU: Did the OIG find that you were one
2 of the employees that was guilty of misconduct?

3 MR. MADDEN: No.

4 MS. BLEAU: You look at page 2 of 30 of their
5 report, at the top. Can you read the first sentence?

6 MR. MADDEN: "The OIG investigation established
7 probable cause to believe that Mr. Augustin and Mr.
8 Osborne engaged in misconduct."

9 MS. BLEAU: Then there's a footnote down here
10 that defines misconduct "to include any violation of
11 law involving corruption or abuse." Right?

12 MR. MADDEN: Yes.

13 MS. BLEAU: Let's go to page 29. Can you read
14 the first paragraph in the conclusion section?

15 MR. MADDEN: In the Conclusions?

16 MS. BLEAU: Yes.

17 MR. MADDEN: "The OIG investigation
18 substantiated the allegation that employees of the BSD
19 approved the permitting of buildings for two housing
20 developments that were not in accordance with Florida
21 law. Specifically, Mr. Osborne approved plans that did
22 not comply with the Building Code and admitted knowing
23 signing the Certificate of Occupancy that violated the
24 Building Code. What's more, the certificates for the
25 buildings that he failed to identify when originally

1 asked to do so. In addition, Mr. Augustin did not meet
2 his responsibility as mandated by Florida Statutes to
3 ensure that the Certificates of Occupancy signed by Mr.
4 Osborne complied with the Building Code.

5 We also determined the foot elevation
6 regulations incorporated into the revised Building Code
7 in March of 2012 were overlooked or ignored by the BSD
8 and this oversight was not identified until several
9 major construction projects were nearly completed over
10 a year and a half after the regulations were affected.

11 Finally, we determine that the BSD had no
12 formal policies and procedures in place relating to the
13 Review of Plans and Elevation Certificates, and the
14 approval process for Building Permit Applications and
15 Certificates of Occupancy.”

16 MS. BLEAU: Was Mr. Augustin and Mr. Osborne
17 prosecuted by the State of Florida for their
18 misconduct?

19 MR. MADDEN: Both of them were, yes.

20 MS. BLEAU: So, the date of this report is
21 March of 2015, right? Sorry. It's not sharing
22 anymore, excuse me.

23 MR. MADDEN: March 25 of 2015.

24 MS. BLEAU: A few months later, did you find
25 out that BORA was going to be doing its own

1 investigation?

2 MR. MADDEN: I did find out.

3 MS. BLEAU: And were you interviewed as part of
4 that investigation?

5 MR. MADDEN: Yes.

6 MS. BLEAU: I'm showing you Tab 5, which is an
7 email from Bill Dunbaugh to you. "You were the last
8 person we need interview in regard to the flood plain
9 issues of the City of Fort Lauderdale." Right?

10 MR. MADDEN: Yes.

11 MS. BLEAU: Did somebody just join us?

12 CHAIR ADELSON: Did somebody join us?

13 MS. GIALLUCA: Paul LaRoche.

14 MR. JEAN-PHILLIPPE: Paul LaRoche just joined
15 us.

16 CHAIR ADELSON: Can we ask him to wait in the
17 waiting room, please?

18 MS. BLEAU: Actually, Madam Chair, can we just
19 take a break from Mr. Madden and go to Mr. LaRoche now
20 and get that done, and then he can go? That's what we
21 talked about this morning.

22 CHAIR ADELSON: Yeah, I know, I understand
23 that. I just didn't want him in the middle of us --
24 you were asking a question that's not closed. So, yes,
25 we can take him, but put him in the waiting room for a

1 second so you can finish up what you were asking, the
2 open question --

3 MS. BLEAU: Okay, sure.

4 CHAIR ADELSON: -- of Mr. Madden.

5 MS. BLEAU: Understood.

6 CHAIR ADELSON: Thank you.

7 MR. JEAN-PHILLIPPE: Mr. LaRoche is now in the
8 waiting room.

9 CHAIR ADELSON: Excellent, we'll call him in a
10 moment, but let's finish up with what you were asking
11 Mr. Madden.

12 MS. BLEAU: I thought the question was -- let
13 me just share this again. This is an email from Bill
14 Dunbaugh with BORA asking you to be interviewed,
15 basically. Saying you were the last person they needed
16 to talk to about the flood plain issues, right?

17 MJ: Yes.

18 MS. BLEAU: That was my --

19 CHAIR ADELSON: Okay, great. So let us -- Mr.
20 Miller, with the understanding, noting your objection,
21 we're going to let Mr. LaRoche in. Ms. Bleau, may I
22 ask that maintain our stipulation that it's going to be
23 a limited issue.

24 MS. BLEAU: Of course.

25 CHAIR ADELSON: And we will let him in. So,

1 you can let him back in, that would be great.

2 Sorry, Mr. LaRoche, we just needed to finish up
3 with some testimony that was going on at the moment.
4 I'm Lori Adelson, I'm the Chair of the Board, and I'm
5 going to swear you in, okay?

6 MR. LAROCHE: Okay.

7 CHAIR ADELSON: Raise your right hand. Do you
8 swear to tell the truth, the whole truth, and nothing
9 but the truth?

10 MR. LAROCHE: Yes, I do.

11 CHAIR ADELSON: You may begin, Ms. Bleau.

12 MS. BLEAU: Mr. LaRoche, my name is Denise
13 Bleau. You and I spoke briefly yesterday and I
14 appreciate you coming in today. The questions that we
15 want to ask you are about your interaction with Mr.
16 Madden. There was some testimony about a dispute that
17 you and Mr. Madden had where he yelled at you and got
18 in your face. Did that ever happen?

19 MR. LAROCHE: No, from my recollection of what
20 happened, it was a different person there at the City
21 when I worked at the building that I had an argument
22 with, not Mr. Madden.

23 MS. BLEAU: Okay, and who was the person that
24 you had the argument with?

25 MR. LAROCHE: Joe DeMaio.

1 MS. BLEAU: And what happened as a result of
2 that?

3 MR. LAROCHE: I went to Mr. Hernandez, at the
4 time he was the acting person there, and I mentioned
5 what had happened, and a few hours later, Mr. DeMaio
6 came by and apologized for losing his temper. And
7 since then we have been -- I mean, while I was still
8 working there, it was a perfect relationship. I didn't
9 have any issues. I think he was just -- something
10 happened that morning and he just went off -- so. It
11 wasn't anything major that I had problems later on or
12 nothing like that with him.

13 MS. BLEAU: Did you ever speak with Al Battle
14 about this?

15 MR. LAROCHE: Yes, I did speak to Al and I had
16 told Al that I don't remember having any bad things
17 with Mr. Madden. I had always been in his office, many
18 times, and never had any issues with him at all. In my
19 line of work, there's -- you know, he might have been
20 busy sometimes and he might have said, "You can't do
21 this today," or whatever. But I've never had an
22 argument with Mr. Madden. I don't recall anything like
23 that with Mr. Madden.

24 MS. BLEAU: All right, thank you.

25 MR. LAROCHE: When I spoke to Mr. Battle, I

1 told him it was -- I couldn't remember the name at the
2 time, of the other gentleman, and I told Mr. Battle
3 that it was the tall guy, and referring to Mr. DeMaio
4 and not Mr. Madden.

5 MS. BLEAU: Okay. I have nothing further. Mr.
6 Miller might, who's the lawyer for the City, might have
7 a couple questions, I'm not sure.

8 CHAIR ADELSON: Mr. Miller?

9 MR. MILLER: Mr. LaRoche, good morning. Can
10 you hear me okay, sir?

11 MR. LAROCHE: Yes, sir.

12 MR. MILLER: When did you actually work for the
13 City of Fort Lauderdale?

14 MR. LAROCHE: Between 2003 and 2015, I believe
15 it was.

16 MR. MILLER: Okay. And what did you do after
17 you left the City?

18 MR. LAROCHE: I went on to Corbin Financial as
19 an IT analyst. I'm with a different company since
20 then.

21 MR. MILLER: Okay, so you're working for
22 private companies, now, you're no longer in City
23 government?

24 MR. LAROCHE: Correct.

25 MR. MILLER: Do you know how it was anybody

1 tracked you down to get you to appear here today, how
2 anybody found you?

3 MR. LAROCHE: Well, I was contacted by Mr.
4 Madden a couple days ago. He found my information on
5 LinkedIn, which my information is public. And I
6 explained about what happened and I told him then, it
7 always remained the same, we haven't had an issue
8 before.

9 I used to go and sit in his office after the
10 incident with Mr. DeMaio, many times with Mr. DeMaio in
11 Mr. Madden's office at the same time, and we've had
12 conversations in there about -- because I'm originally
13 from Trinidad and Tobago, and we'd talk about stuff
14 there, about things that we do there and whatnot. It's
15 never been a bad situation there at all.

16 MR. MILLER: And when you worked for the City
17 in 2015, what was your position there?

18 MR. LAROCHE: IT Coordinator.

19 MR. MILLER: Thank you, sir. I don't have any
20 other questions.

21 CHAIR ADELSON: Ms. Bleau?

22 MS. BLEAU: Nothing further from me, Mr.
23 LaRoche. I really appreciate you calling in.

24 CHAIR ADELSON: Thank you so much, you are
25 dismissed.

1 MR. LAROCHE: Have a good day.

2 MS. BLEAU: Thank you, you too.

3 CHAIR ADELSON: I'm going to ask that we take a
4 five-minute break.

5 MS. BLEAU: It's a good time.

6 CHAIR ADELSON: And I think this would be a
7 good place to do it. So, come back at 10:20, okay?

8 MR. MILLER: All right, thank you.

9 [BREAK]

10 CHAIR ADELSON: Okay, everyone is back on.
11 Jamie is actually getting us back on recording and we
12 were continuing testimony of Mr. Madden.

13 MS. BLEAU: Okay, thank you. I'm going to go
14 back to screen sharing.

15 So, Mr. Madden, we were looking before we
16 interrupted the testimony with Mr. LaRoche, looking at
17 this email from Bill Dunbaugh. Who was Mr. Dunbaugh in
18 BORA?

19 MR. MADDEN: He was the Chief Structural
20 Representative of the Board. He's one of their staff
21 members.

22 MS. BLEAU: Okay. And he asked you about
23 appearing, you know, to interview for this
24 investigation that they were having and Mr. Dunbaugh
25 tells you that you have the option of bringing in an

1 attorney should you feel one is necessary, right?

2 MR. MADDEN: Yes.

3 MS. BLEAU: So, you wanted to know, you asked
4 him the nature and purpose of this interview --

5 MR. MADDEN: Yes. I wanted to know why he
6 wanted to talk to me.

7 MS. BLEAU: -- and then what did Mr. Dunbaugh
8 tell you?

9 MR. MADDEN: He basically, the way he wrote
10 this, he said, "We're just going to look at it, we're
11 going to talk to you, and then we're just going to
12 close our report out," or whatever. To me it didn't
13 look like it was any big deal -- just wanted to go
14 through the motions, I guess.

15 MS. BLEAU: So he said, "Once we interview you,
16 we can complete the report and be done with it. I only
17 mention the attorney because I was surprised how the
18 IG's office ambushed us. I do not want to do that to
19 anyone. I don't think there's a need for attorneys,
20 but I felt that the option should be there just in case
21 you wanted it." Right?

22 MR. MADDEN: Right. Yes.

23 MS. BLEAU: Did you learn at any time later
24 that you were in fact the object of BORA's
25 investigation?

1 MR. MADDEN: Yeah. Yes, I did.

2 MS. BLEAU: Pull up another -- this is an
3 excerpt from deposition taken of Mr. Dunbaugh in the
4 BORA matter. You see that?

5 MR. MADDEN: Yes.

6 MS. BLEAU: Page 15, which is the second page
7 of this exhibit, which is Exhibit 3. There's some
8 highlighted language here, I had said, "It wasn't to
9 find out that what the reason for the problem was, it
10 was specifically focused on John Madden and his
11 culpability and responsibility in the mess. Is that
12 right?" And he said, "Yes." And the attorney objected
13 saying I mischaracterized.

14 So, I said, "Well, you answered yes, but your
15 lawyer says I mischaracterized. So, what is the
16 function -- was the focus of the BORA investigation on
17 finding out whether or not John Madden shared
18 responsibility for the mess that happened at the City?"
19 And you said, "That's a better way of putting it.
20 Yes." So, you were in fact the focus of BORA's
21 investigation, notwithstanding what Mr. Dunbaugh led
22 you to believe prior to your being interviewed,
23 correct?

24 MR. MADDEN: Yeah. The way he put it in that
25 email was, "I just want to talk to you and close it

1 out." And then when we got into the facts of the
2 matter, then I realized that I was in fact the whole
3 purpose of why they were investigating. I was the one
4 that they were investigating.

5 MS. BLEAU: This is the Code Enforcement
6 Officer's Bill of Rights --

7 MR. MADDEN: Yep.

8 MS. BLEAU: -- pursuant to Florida Statute that
9 says, "Whatever Code Official is subject to
10 investigative interview for possible disciplinary
11 action, such interview shall be conducted pursuant to
12 the terms in this Section," and there's all sorts of
13 rights that are associated with that. Does this
14 Statute apply to you?

15 MR. MADDEN: It does. And I'm very familiar
16 with it.

17 MS. BLEAU: Okay. Did you feel that BORA
18 violated your rights and -- by Mr. Dunbaugh's interview
19 of you without affording you those rights?

20 MR. MADDEN: Absolutely, yes.

21 MS. BLEAU: Showing you now Tab 6, this is a
22 letter from a law office, Charles Kramer, at Rogers,
23 Morris and Ziegler. Did you receive this letter from
24 Mr. Kramer in March of 2016?

25 MR. MADDEN: I went to the post office and

1 picked that up and signed for it.

2 MS. BLEAU: And according to Mr. Kramer, the
3 Probable Cause Committee for BORA found that you had
4 "knowingly, willfully, and intentionally took action
5 inconsistent with 104.4." Correct?

6 MR. MADDEN: That's correct.

7 MS. BLEAU: Had you been notified about the
8 Probable Cause Hearing at BORA?

9 MR. MADDEN: I didn't know -- I, for one,
10 didn't know I was a target. I didn't know that they
11 were actually conducting an investigation. I didn't
12 know that they were holding a Probable Cause Hearing.
13 I didn't know any of that until I received that letter
14 and read it.

15 MS. BLEAU: Is that consistent with the way
16 BORA handles these matters?

17 MR. MADDEN: No. No, it is not. In fact --

18 MS. BLEAU: How do you know?

19 MR. MADDEN: -- well, in the 90s, it was pretty
20 much the same situation in the 90s as it, you know,
21 today. When that happened, there was a complaint about
22 me, and I was notified by BORA of what the complaint
23 was and that they were going to conduct a Probable
24 Cause Hearing, and that pretty much the same thing, you
25 can come with an attorney. And then I think they said

1 you can bring supporting documents or any of that, that
2 you feel pertains to this hearing.

3 So, I gathered the documents, did everything,
4 and I went there by myself, and I stood before that
5 Probable Cause Board and showed them my side of the
6 story. And the Probable Cause Committee didn't move
7 forward and they found in my favor and dropped it.

8 MS. BLEAU: Actually, Mr. Dunbaugh admitted
9 that this process that BORA proceeded with you was
10 highly unusual and that they had never done that in the
11 14 years he had been with BORA. Is that right?

12 MR. MADDEN: Yep. Yes.

13 MS. BLEAU: Tab 8, I'm showing you now. These
14 are the Probable Cause Findings that were issued in
15 February of 2016, correct?

16 MR. MADDEN: Yes.

17 MS. BLEAU: From BORA. The subjects of the
18 investigation, here they say it was Chris, Glen, and
19 you, but the attorney said because Chris and Glen had
20 already pled guilty -- worked out a deal, I guess, a
21 plea deal -- with the State that BORA couldn't
22 prosecute them. They were only coming after you,
23 right?

24 MR. MADDEN: That's correct.

25 MS. BLEAU: And here, on the screen in orange,

1 is the section that specifically deals with what they
2 said you did wrong and why you were being brought
3 before BORA, and the Board can read all of this, they
4 have to see the key language here. Can you read that?

5 MR. MADDEN: Sure, in the orange?

6 MS. BLEAU: Yes.

7 MR. MADDEN: "Mr. Glen Osborne, Assistant
8 Building Official, Structural Plans Examiner, admitted
9 that he reviewed plans and signed off on them in
10 violation of the 2010 Code, and that he signed the COs
11 on a property which were in violation of the Flood
12 Plain Elevation Requirements. He indicated that he was
13 under orders to sign the CO by Mr. Augustin, while in
14 the OIG report it appears that Mr. Osborne, in his
15 statement, said to Mr. Augustin, 'Step up to the plate'
16 and sign the Certificates of Occupancy." And then it
17 says, "See page 7, Exhibit 1, OIG Report." "And Mr.
18 Augustin refused and Mr. Osborne stated that he would
19 do them himself."

20 MS. BLEAU: Okay, thank you. And I'm sorry,
21 that actually has to do with Augustin and Chris. The
22 next paragraph is what they said you did. Can you read
23 the yellow?

24 MR. MADDEN: Yellow?

25 MS. BLEAU: Uh-hum [affirmative].

1 MR. MADDEN: "Mr. Osborne (see page 7, Exhibit
2 8, Witness Statement Under Oath of Glen Osborne)
3 indicates that Chief Structural Inspector John Madden
4 was his supervisor. Mr. Osborne (see page 8 of the
5 Witness Statement Under Oath of Glen Osborne) stated
6 that Mr. Augustin and Mr. Madden knew about the changes
7 in the Florida Building Code, but did not share that
8 information with him. Mr. Madden knew about the
9 changes and advised Mr. Augustin about the Code changes
10 in his email on August 3, 2012 (see attached). Mr.
11 Osborne stated that he did not believe that any of the
12 three other Plans Examiners knew about the changes."

13 MS. BLEAU: Okay, was that testimony that Glen
14 Osborne gave under oath, that he didn't know anything
15 about the flood changes in the 2010 Building Code,
16 truthful testimony?

17 MR. MADDEN: As my dad would say, that was
18 horse hockey. It was untruthful.

19 MS. BLEAU: And that's the basis of the
20 complaint, the charges that BORA brought against you,
21 correct?

22 MR. MADDEN: That's correct.

23 MS. BLEAU: And this is the same Glen Osborne
24 that you sent to that full seven-hour seminar on the
25 flood changes?

1 MR. MADDEN: Not only did I send him to the
2 class, he sent me the email with all of the people that
3 were going to go to the class. And in addition to
4 that, he sent -- it was, I think, it was a cycle year
5 when you send in for your continuing education credits
6 -- he sent those continuing education credits into BORA
7 and BORA reviewed those continuing education credits
8 that Glen received for attending those flood plain
9 classes, or Flood Plain Regulation classes.

10 MS. BLEAU: Is this the certification that
11 you're talking about that was signed off by BORA for
12 Glen Osborne?

13 MR. MADDEN: Yes. And it was in November of
14 2013.

15 MS. BLEAU: And if you look down here --

16 MR. MADDEN: I'm looking to the right, the
17 names of the classes.

18 MS. BLEAU: Here it is.

19 MR. MADDEN: Flood Provisions -- yeah, right
20 there -- that was seven hours. You can see where he
21 got seven hours of general credit. That's from the
22 Department of Business and Professional Regulation.

23 MS. BLEAU: This printout.

24 MR. MADDEN: Yeah. And there's more in there
25 as well. He took additional flood classes.

1 MS. BLEAU: Right.

2 MR. MADDEN: Maybe on the next page?

3 Retrofitting Flood-prone Residential.

4 MS. BLEAU: Right.

5 MR. MADDEN: And Advanced Flood Plain

6 Requirement. So, yeah.

7 MS. BLEAU: So, BORA had all of that in their
8 possession at the time that Mr. Osborne is telling them
9 that he didn't know nothing -- anything -- "nuthin'
10 about birthin' no babies," as I say.

11 MR. MADDEN: I think if you bring that up, I
12 think Bill Dunbaugh actually signed that.

13 MS. BLEAU: Right there.

14 MR. MADDEN: Right there! That's his
15 signature, he approved it.

16 MS. BLEAU: Okay. So, let's go back to the
17 excerpts from Mr. Dunbaugh. He was specifically asked,
18 "So other than knowing about the Code and, in your
19 opinion, not making sure Mr. Osborne knew about the
20 Code, did your investigation find that John did
21 anything wrong?" What did he say?

22 MR. MADDEN: "We didn't investigate anything
23 else -- No, we didn't investigate anything else. That
24 was the purpose of the investigation."

25 MS. BLEAU: And so I asked him, "So John knew

1 about the Code, even though you and a lot of
2 professionals didn't, that maybe you should have, and
3 if John made sure that his people knew about the Code,
4 he wouldn't be being brought before the Board today."
5 And what did he say?

6 MR. MADDEN: "That is correct." Yep. In fact,
7 BORA had the emails, had the same information I did,
8 probably even before I had it, and they didn't send out
9 emails and, "Hey, this is a heads-up. This is big.
10 Make sure everybody enforces it." So that was another
11 thing. I was thinking to myself, "Am I the only one
12 that knows about this and I'm the only one that reads
13 this this way?"

14 And in fact, Dunbaugh didn't even get his Flood
15 Plain Certification until after all this. And I've got
16 the email trail that they knew about it. They found
17 out about it from someone in Dade County. Jim DiPietro
18 sent out emails and said, "Hey, this is something you
19 guys gotta look into." Jim DiPietro knew about it and
20 he let Bill Dunbaugh, and I think Rusty was there at
21 the time. Rusty Carroll.

22 MS. BLEAU: Okay.

23 MR. MADDEN: Yes, I've got those emails. Or I
24 had them at one time.

25 MS. BLEAU: So, this is more of Mr. Dunbaugh's

1 testimony in his deposition, I said "I don't want the
2 responsibilities John had as Acting Chief Structural
3 Inspector you think was to make sure that everyone was
4 aware of the Code changes." And you said, "Yes." And
5 I said, "Based on your investigation, what steps did
6 you take to do that?" "None." I said, "None? Based
7 on your investigation?" And he said, "I can't say none
8 in regard to all Code changes." I said, "No, the Flood
9 Plain." And he said, "I'm talking about the specific
10 freeboard flood code changes." And I said, "Uh-huh."
11 And he said, "He did nothing." I said, "Nothing? So,
12 when Mr. Osborne testified in his statement -- not
13 deposition -- that you conducted that he had no idea
14 that these flood plain changes were coming, and
15 neither, he didn't think any of the other Plans
16 Examiners did either, you believe that testimony." And
17 he said, "Yes." You see that?

18 MR. MADDEN: I do.

19 MS. BLEAU: And there's more on page 11, same
20 thing, that the three Plans Examiners didn't know,
21 Osborne didn't know. I said, "You didn't follow up as
22 to whether or not that statement was true?" And he
23 said, "No." And I said, "Why not?" And he said, "I
24 didn't feel the need to do that." Do you see that? Is
25 that accurate?

1 MR. MADDEN: Yes.

2 MS. BLEAU: And then one more. On this page,
3 according to Mr. Dunbaugh, you would not have been
4 charged just because the plans were approved in error,
5 even though you were the Chief, it was the fact that
6 you didn't tell anybody about the Code changes, right?

7 MR. MADDEN: That's what they kept saying,
8 until we showed up at that hearing -- and yeah, they
9 kept saying that. "You didn't tell anybody." "They
10 didn't know." "And if you had told them," and I think
11 it was when I first talked to Bill in 2015 about that.
12 In 2015 I mentioned that to them. And that was Chris'
13 interpretation. I said it in the hearing.

14 MS. BLEAU: In the hearing you showed up, and
15 you've proven with these exhibits that we've looked at
16 and other exhibits, that you had, in fact, told Mr.
17 Osborne and he had lied. Right?

18 MR. MADDEN: Like this, I think BORA had two or
19 three three-ring binders of emails and documents that
20 showed -- that was just completely contrary to Glen
21 Osborne's testimony under oath, what he said to the
22 OIG, so when BORA was presented with that -- presented
23 with written documents, the emails, the classes -- they
24 still held me accountable. They still said I didn't do
25 my job.

1 MS. BLEAU: And the reason they held you
2 accountable is they said that you, as the Chief, should
3 have overruled Chris Augustin. Is that right?

4 MR. MILLER: Let me object. Excuse me, let me
5 object. Because now the question is asking Mr. Madden
6 to explain what BORA held. Put the documents in, bring
7 the people from BORA. We're getting so far afield now,
8 we're relitigating this BORA hearing.

9 MS. BLEAU: No. This is -- out of all the
10 questions I have asked today, the most relevant
11 question is the one I just asked, which may be why you
12 objected. But --

13 MR. MILLER: I'm objecting because we just
14 listened to this for an hour and we could have done
15 this in three minutes. I mean, this has been this
16 whole hearing. We keep doing this. We're never going
17 to finish doing this.

18 MS. BLEAU: I don't know what to tell you.

19 MR. MILLER: I object. It's calling for him to
20 render a conclusion from another person.

21 MS. BLEAU: It's not. I disagree.

22 CHAIR ADELSON: [inaudible]

23 MS. BLEAU: Mr. Madden was convicted and he's
24 being asked why he was convicted, what he was convicted
25 of. He certainly has the right to testify about that.

1 CHAIR ADELSON: Ms. Bleau, can you rephrase the
2 question and direct it specifically as to Mr. Madden's
3 understanding of the conclusions from BORA?

4 MS. BLEAU: Sure. Mr. Madden, during your day
5 and a half hearing before the BORA, was it argued that
6 -- and did the Board in their deliberations agree --
7 the majority of the Board, not all of them -- agree
8 that as Chief of the Structural Building, Structural
9 Chief, you were the ultimate, sole authority with
10 respect to enforcing the Building Code, even though
11 Chris Augustin shared the same certification?

12 MR. MADDEN: BORA said to me that, "You are the
13 sole authority, you are the sole responsible person, as
14 the Chief Building Inspector, to interpret the Code.
15 You failed to do that. You failed to supervise and
16 it's all because you didn't overrule Chris Augustin.
17 And you, as the Chief, were the sole responsible person
18 for interpreting the Building Code."

19 In fact, in my 2015 interview, when I was being
20 interviewed by Bill Dunbaugh in their offices in 2015,
21 Bill and I had a little discussion about that, and I
22 told him, "That's not the way I interpret the Code,
23 Bill." And he goes, "No, it says right there you're
24 responsible." I says [sic], "I don't agree with you."
25 And he said, "No, you are." And then I think he said,

1 "Let's just agree to disagree." And that was in 2015.
2 So, you know --

3 MS. BLEAU: And you were found guilty by BORA
4 for not overruling the Building Official. And do you
5 know when you were convicted of those charges?

6 MR. MADDEN: It was a couple years ago. I
7 don't know the exact date, but it was a couple years
8 ago. But the whole thing was like a three-year
9 process, just to get through the BORA.

10 MS. BLEAU: So it started -- and we looked at
11 2015, but it actually didn't finish until after your
12 termination from the City, right?

13 MR. MADDEN: Yes.

14 MS. BLEAU: But while you were at the City is
15 when they were taking a position that you were the sole
16 authority. Is that right?

17 MR. MADDEN: Oh, when I received the Probable
18 Cause from BORA and it says, "You're guilty of these
19 things," and then they said, "Oh, well, just give up
20 \$500 and this thing will go away." And I'm like,
21 "There's no way." I said, I think I can call -- I did
22 call Kramer. I says [sic], "I don't care if it was a
23 dollar, I'm not admitting guilt to something I didn't
24 do." I don't care. No different than why we're here
25 today. I'm not accepting it.

1 MS. BLEAU: Okay.

2 MR. MADDEN: Because I know it's not true.

3 MS. BLEAU: All right. So, I'm going to switch
4 topics now. In October 2014, John Travers was hired
5 with the City, correct?

6 MR. MADDEN: John Travers retired or hired?

7 MS. BLEAU: Was hired.

8 MR. MADDEN: Yes.

9 MS. BLEAU: Okay. This is an excerpt of Mr.
10 Travers' testimony in these proceedings. And
11 basically, I was asking him about the City's Supplement
12 Services and Expedited Plan Review Program. And he
13 talked about how there were three companies that were
14 under contract when he came to the City. Correct?

15 MR. MADDEN: Well, there was two separate
16 programs. There was one --

17 CHAIR ADELSON: Mr. Madden, can you hold on one
18 second. We had somebody enter, that shouldn't be here
19 -- I saw a doorbell.

20 MR. JEAN-PHILLIPPE: That was Mimi. She's
21 having technical issues [Ms. Turin disconnected and
22 reconnected].

23 CHAIR ADELSON: All right, I'm sorry to
24 interrupt you, go ahead, Ms. Bleau.

25 MS. BLEAU: Yes, okay. Thank you. So, talk

1 about just a little bit of the Expedited Plan Review
2 Program that was in affect before Mr. Travers came to
3 the City.

4 MR. MADDEN: Okay. In Fort Lauderdale, it was
5 in place before I got there, and the Expedited Plan
6 Review was a great program. It worked great. And it
7 was a program that if you were doing fences -- you
8 could do anything with the Expedited Program.

9 But you first went to the Expedited Permit
10 Counter where a staff intake would take those set of
11 plans in, and then that set of plans was picked up
12 every morning or every other morning by the Private
13 Provider, they would review those plans. And what was
14 good about it was, was they would review Zoning, I
15 think they even did Engineering.

16 So, they were doing all of that to avoid
17 delays. And it was working really good. Turned
18 around, and then what we would do is once it was signed
19 by that company -- CAP, I think it was CAP, C-A-P --
20 and the service was great. And in fact, the people
21 that were doing the Plan Reviews were former City of
22 Fort Lauderdale Plans Examiners. So, they knew the
23 Zoning, they knew our processes. And we weren't
24 getting any complaints. People didn't want to wait for
25 their plans, they submitted it to there. And then we

1 did auditing of those plans.

2 MS. BLEAU: Was MTCI one of the three companies
3 that had a contract with the City when Mr. Travers
4 started?

5 MR. MADDEN: No. In fact, I was asked to be on
6 the -- that was another committee I sat on -- RFP,
7 Request for Proposal. And so, I was put on that
8 committee and then once I reviewed who the companies
9 were that were bidding, I said that I couldn't be on it
10 because there was some conflicts of interest and I
11 didn't want to be on it. So, they took me off of it.

12 And then the RFP went through the process, and
13 CAP was rehired to do the Expedited Permit Program.
14 There wasn't anyone else that I was aware of that was
15 doing that. We had Supplemental Services that were
16 done by a number of companies, where we would call them
17 up and say, "Hey, I need three Plans Examiners," or "I
18 need Inspectors for the next three weeks."

19 So, we would get those inspectors for the next
20 three weeks, and that was another thing that worked
21 out. But the two -- the Expedited Program and the
22 Supplemental Service Program -- were completely two
23 different programs.

24 MS. BLEAU: I see. And was MTCI a Supplemental
25 Service Contract or Expedited Plan Review?

1 MR. MADDEN: They weren't -- MTCI or MT Causley
2 or I don't know which company, because they had a bunch
3 of them -- I don't know if they were part of the
4 Supplemental Services. I don't remember having any of
5 their employees in the Supplemental Services.

6 But the Expedited Plan Review or Expedited
7 Permitting Program, there was one company doing that
8 and that was CAP. CAP was the one that won the bid.
9 And like I said, they had been doing it for years in
10 the City. In fact, a couple of folks in the Building
11 Department worked for CAP. I don't know if they still
12 do, but were doing that on the side.

13 MS. BLEAU: All right, I'm showing you another
14 document, Tab 157. What is this document?

15 MR. MADDEN: Can you scroll down?

16 MS. BLEAU: Sure.

17 MR. MADDEN: It's the Building Department's
18 request, or like the DSD's request of figuring out next
19 year's budget. So, they say, "This is what we're going
20 to need for this or this is what we're going to need
21 for that, and this is what we want to do for the next
22 year's budget."

23 MS. BLEAU: And what does this show as far as
24 the Expedited Services?

25 MR. MADDEN: The description, the basis of the

1 projected expense, it says, "The program is no longer
2 needed and will be discontinued."

3 MS. BLEAU: And that was Mr. Travers' actions.

4 MR. MADDEN: I think that was submitted to the
5 Commission or City Manager in 2015.

6 MS. BLEAU: Okay.

7 MR. MADDEN: So, at the end of the budget year
8 in 2015, going into the 2016-year budget, yeah, that
9 was in our Building Department, so he put that request
10 in.

11 MS. BLEAU: And how did the Building Department
12 handle the workload after the cancellation of the
13 Expedited Permit Program?

14 MR. MADDEN: It wasn't working. We were bogged
15 down in the Building Department with these plans that
16 would have otherwise been processed by CAP. And it may
17 or may not have been a lot, I don't know. But it
18 certainly -- if you wanted to circumvent the typical
19 delays to Plan Review, they would go into the Expedited
20 Program, and it had been working good for a number of
21 years before I even started with the City in 2007, I
22 think.

23 MS. BLEAU: So, were there issues with the way
24 the Building Department was able to process these
25 applications now?

1 MR. MADDEN: Yeah, those applications were put
2 into the normal process of doing plans. So, they may
3 be in the mix of other plans that are more complicated
4 and delay it. We tried to separate like the larger
5 buildings with the daily plan review and then maybe
6 mid-level plan review and tried to move them all at the
7 same time. But it wasn't working. There was [sic]
8 delays. And I couldn't understand why that program
9 would be eliminated and no longer needed.

10 MS. BLEAU: I'm going to show -- in the City's
11 Notebook, I think -- well, first of all, when did Luis
12 Hernandez start working with the City?

13 MR. MADDEN: In the spring of 2016, April? May?

14 MS. BLEAU: And then in July of 2016, a Permit
15 by Affidavit Policy was implemented, is that right?

16 MR. MADDEN: Yes.

17 MS. BLEAU: A few months after Mr. Hernandez
18 started with the City?

19 MR. MADDEN: Yes.

20 MS. BLEAU: Did you have an issue with the
21 Permit by Affidavit policy or the use of Private
22 Providers?

23 MR. MADDEN: The issue with the policy itself?

24 MS. BLEAU: Yes.

25 MR. MADDEN: There were some things I don't

1 think were consistent with the Florida Statutes, and
2 there were things in there that were different than
3 what we had been doing prior to that implementation of
4 that policy. But in a general sense of the issues that
5 I had with it, you know, we talked about this, the
6 Private Provider -- it's actually Alternative Plan
7 Review and Inspections, I think is the Statute, the way
8 it's written. And it's good. It's needed.

9 That statute, I was in favor of it, I helped
10 during the discussion process of putting it together.
11 I don't know which State Legislator I was dealing with,
12 it was somewhere in, I think, the central part of
13 Florida. But it was needed because prior to that
14 statute, Building Officials -- you weren't going
15 against them. They were the sheriff and they were, "my
16 way or the highway."

17 And so, it was frustrating contractors,
18 frustrating developers, frustrating owners, and they
19 simply said, "We're going to put this together." And
20 so, the Florida Statute created that and even in
21 today's world, I agree with it. Not everything. But
22 there was [sic] some drastic changes in the last -- I
23 think two years ago.

24 MS. BLEAU: All right, Mr. Madden, I'm showing
25 you now -- I'm just going chronologically. You had the

1 July '16 Private Provider Policy, or Permit by
2 Affidavit Policy. And then here is the June '16,
3 signed off by you July 13, 2016 -- this is your
4 Performance Review for 2016, correct?

5 MR. MADDEN: Yes.

6 MS. BLEAU: 2015-16. Who is the writer for
7 this review? Can you see it? Right here.

8 MR. MADDEN: Yeah. John Travers, I thought it
9 said there.

10 MS. BLEAU: And who was the reviewer?

11 MR. MADDEN: That's Al Battle.

12 MS. BLEAU: And like I said, you signed this
13 July 13, 2016.

14 MR. MADDEN: I did.

15 MS. BLEAU: Did Mr. Travers rate you
16 Outstanding or Above Satisfactory in every category
17 except for one?

18 MR. MADDEN: Yes. He gave me 1s or 2s in every
19 category except for one -- 1s and 2s is Above
20 Satisfactory or Outstanding.

21 MS. BLEAU: And what was the one that you were
22 rated Satisfactory?

23 MR. MADDEN: Interpersonal Relations.

24 MS. BLEAU: Showing you now a memo from Mr.
25 Travers -- this is Tab 84, it's a memorandum from John

1 Travers. And this accompanies your performance review,
2 correct?

3 MR. MADDEN: Yeah, I've done plenty of these.
4 When you give somebody, I think, either Unsatisfactory
5 or something low, you have to explain or justify it.
6 And then if you rate somebody Outstanding, you have to
7 write something as to why you gave them an Outstanding.

8 MS. BLEAU: Can you read the first paragraph of
9 this letter?

10 MR. MADDEN: Sure. "After having a full year
11 to carefully observe John Madden's performance in
12 carrying out his duties as Chief Building Inspector, I
13 am happy to report an overall improvement from the last
14 Performance Report in many categories. This general
15 improvement reflects the efforts of Mr. Madden to
16 participate in the efficiency and effectiveness of our
17 Building Service Division."

18 MS. BLEAU: In the second paragraph, Mr.
19 Travers specifically addresses your Satisfactory rating
20 for Interpersonal Skills. Correct?

21 MR. MADDEN: Yes.

22 MS. BLEAU: Can you read what he says there, at
23 the very beginning of the paragraph?

24 MR. MADDEN: "Although performing at
25 Satisfactory level in the area of Interpersonal

1 Relations, I would like Mr. Madden to continue to
2 improve his efforts to project a positive image of the
3 City through his manner toward our contractors."

4 MS. BLEAU: And the next sentence?

5 MR. MADDEN: "The other elements of this
6 category are being performed at an Above Satisfactory
7 level. Because of John's extensive knowledge of the
8 Building Codes and construction methodologies, his
9 expectations from Contractors are very high. I would
10 like to see him adapt a more benevolent teaching
11 methodology for achieving the necessary improvements
12 for them when he identifies areas needing correction."

13 MS. BLEAU: So according to Mr. Travers, in
14 June of 2016, you were Above Satisfactory with respect
15 to your interpersonal relations with everybody except
16 contractors and you were satisfactory with contractors,
17 right?

18 MR. MADDEN: Yes.

19 MS. BLEAU: And a few months later you were put
20 on Administrative Leave and ultimately terminated,
21 correct?

22 MR. MADDEN: That was -- I think I signed that
23 on July 13 and then October 13 is when I was walked out
24 of the Building Department.

25 MS. BLEAU: Okay. The rest of this memo, I

1 believe, is just Mr. Travers justifying why you
2 received an Outstanding rating in a number of
3 categories, correct?

4 MR. MADDEN: Yeah. We were required to do
5 this. If you gave an Outstanding, you had to write
6 why. And then if you gave an Unsatisfactory or
7 something like that, you had to write why you gave that
8 as well.

9 MS. BLEAU: One of the Outstanding ratings you
10 received was self-expression.

11 MR. MADDEN: Yep. Go ahead and read?

12 MS. BLEAU: Uh-hum [affirmative].

13 MR. MADDEN: "John's written and oral
14 instructions or explanations are clear and concise. He
15 is very effective as an instructor on Codes and
16 Procedures to his staff members."

17 MS. BLEAU: "Very effective instructor to your
18 staff members." That's what Mr. Travers thought in
19 June of 2016, right?

20 MR. MADDEN: Yes.

21 MS. BLEAU: Going back to [Tab] 78, what are
22 the categories you received an Above Satisfactory
23 rating from Mr. Travers?

24 MR. MADDEN: Attitude, Quantity of Work,
25 Quality of Work, Work Habits, Planning and

1 Organization, Employee Development, Directing and
2 Controlling, Supervisory Relations, Judgment,
3 Creativity, Adaptability, Dependability and Ability to
4 Learn.

5 MS. BLEAU: Showing you now Tab 156, this is an
6 email that you sent to Mr. Travers on July 18, 2016,
7 correct?

8 MR. MADDEN: Yes.

9 MS. BLEAU: So, it would have been a week after
10 you signed your Performance Review?

11 MR. MADDEN: Yes.

12 MS. BLEAU: And the subject matter is "Board
13 Rules and Appeals Hearing." What did you tell Mr.
14 Travers?

15 MR. MADDEN: When BORA gave me the Probable
16 Cause -- they said that to me, Probable Cause -- their
17 meeting was set -- it says right there: "My hearing is
18 scheduled for 8/11. This has placed a big burden on me
19 and my ability to effectively defend myself. Over the
20 next few weeks, as I prepare for this hearing, it may
21 entail hearings offsite. Because of this [sic] work-
22 related, may I do this during working hours?"

23 MS. BLEAU: "Because this is work-related, may I
24 do this during --"

25 MR. MADDEN: Yeah, I was trying to put

1 everything together to defend myself. You know,
2 documents, emails, just like what I'm doing here today.

3 MS. BLEAU: So, Mr. Travers said, "I'll have an
4 answer soon." And then you write a follow-up request
5 on July 19, which is --

6 MR. MADDEN: Was the next day.

7 MS. BLEAU: -- next day. In this follow-up
8 email, in the first paragraph, you reference a cost-
9 estimate of \$20,000. Can you explain what that was
10 about?

11 MR. MADDEN: Yeah. I asked -- first of all,
12 the City said that they signed an agreement that they
13 would pay for me to defend my case against BORA, and
14 then I sent an email or I sent a letter or something,
15 and I said, "Look, I need to have these documents,
16 these emails, these notes," or the things that I used
17 to help defend myself in that BORA hearing. And I got
18 an estimate of almost \$20,000. It was over \$19,000 to
19 get these documents on a Public Records Request. I'm
20 like, you got to be kidding me. \$19,000? I'm an
21 employee here and you're saying I have to pay you to
22 get documents?

23 MS. BLEAU: What did you tell Mr. Travers in
24 the second paragraph?

25 MR. MADDEN: It was -- you might say, "Well,

1 this is only a \$500 fine." It's my reputation. It's
2 questioning my character, questioning my honesty, and I
3 needed to defend myself. And I needed that. It was
4 bothering me. And then I had -- they put me on a time
5 limitation. And they said, "No, you've got to have it
6 -- this, with the hearing set, you've got to have your
7 ducks in a row. We've given you plenty of time to put
8 all this together."

9 So, I'm trying to do that, I'm trying to get
10 this, and then I'm just asking, "Look, I just want some
11 time off so I can work on this." And I couldn't even
12 get the City to say, "Yeah, you can work on your case
13 during working hours." I couldn't even get an answer
14 to get that.

15 MS. BLEAU: So, you say, "This is an extremely
16 stressful time." Was that an accurate statement
17 describing what was going on with you in July of 2016?

18 MR. MADDEN: It was very stressful, extremely.
19 It was bothering me. I protect my reputation and yeah,
20 it was very stressful to do that. I mean, I felt like
21 I was all alone.

22 MS. BLEAU: So, you followed up with Mr.
23 Travers the day after that, on the 20th, the day after
24 that, the 21st. Mr. Travers said, "No word yet. Still
25 waiting." Right?

1 MR. MADDEN: Yeah. It's a very simple
2 question, "Can I have some time off to work on my
3 case?"

4 MS. BLEAU: So, during 2016, was there anything
5 else other than the BORA thing that was going on that
6 caused stress or angst?

7 MR. MADDEN: Earlier in the year, in the
8 earlier of 2016, Greg Hamilton came to my desk, er, my
9 office.

10 MS. BLEAU: Who's Greg Hamilton?

11 MR. MADDEN: Greg Hamilton is a City Inspector,
12 he worked for me. Worked for the City, he reported to
13 me. He was a Plans Examiner/Inspector, I think he was
14 an Inspector III. He came to me and he said, "Am I
15 under investigation?" And I looked at him like, "Greg,
16 I don't know what you're talking about. I don't know
17 what you're talking about."

18 So, it was shortly thereafter or sometime
19 around that time or whatever, after that conversation
20 Greg and I had that John and Detective Maura, I don't
21 know first reached out to me, we ended up meeting in
22 John Travers' office and the purpose of that meeting
23 was Greg Hamilton. And I didn't know what they were
24 looking at, I didn't know what they were working on, I
25 didn't know what it was about.

1 And when I left that meeting, it was my
2 understanding that I was to look into Greg Hamilton's
3 activities in the Building Department, to see whether
4 or not he was passing things, approving things that
5 shouldn't have been done. And as I started to get into
6 it -- because I like Greg, he's a nice guy, he's very,
7 he's charismatic -- but as I started to get into this
8 and realize the severity, realize things that he's
9 signed off, things that he approved, I was hurt. It
10 bothered me. He was one of my guys. Prior to all
11 that, I would have gone to bat for him.

12 But, as I realized what was going on and what
13 he had done, the things he had signed and approved. --
14 some of these things were Life Safety and could have
15 been deadly. In fact, in cases in other situations,
16 they were deadly. So that really was bothering me, and
17 that was probably about a six-month thing or more that
18 I was dealing with on that.

19 And then right around in the summertime, it was
20 like in July or August, I have a big family, I have
21 seven brothers and sisters and two of them were
22 diagnosed with cancer. That bothered me.

23 MS. BLEAU: How are they doing today?

24 MR. MADDEN: They're here, they're here. They
25 haven't got that five-year mark, but they're both

1 alive. My brother had a relapse. My sister did as
2 well.

3 MS. BLEAU: Okay, so you had a lot going on at
4 the end of 2016.

5 MR. MADDEN: Yes.

6 MS. BLEAU: I'm going to switch gears a little
7 bit and show you, you doing okay?

8 MR. MADDEN: Yes.

9 MS. BLEAU: So, on screen now, this is from the
10 City's Notebook, for anybody using the electronic
11 version, it's page 113-14, is what we're looking at.
12 For the hard copy viewers, it is the City's Red Tab 1.
13 And going to the bottom here, there's an email from you
14 -- sorry, the email from you is here, in the middle of
15 this exhibit, on May 20, 2016, you sent this email to
16 your Plans Examiners and Inspectors. Is that right?

17 MR. MADDEN: Yes.

18 MS. BLEAU: Okay.

19 MR. MADDEN: And I said that -- I sent it to
20 Mohammed, Victor, Burt, Alex Mankus, George Oliva,
21 Bobby Masula, Frank Arrigoni, Alejandro DelRio, Jose
22 Abin, Barry Fein, Dan Rinkus, George Gonyea, Greg
23 Hamilton, Harry Colton, Jerry Keohane, Joe
24 Pasquariello, John Dougherty, Johnnie Riles, Leroy
25 Jones, Michael Rinkus, Ralph Riles, Richard Thompson,

1 Ron Gardner, Shalanda Nelson, and Terry Harkins.

2 MS. BLEAU: So, these were Plans Examiners,
3 Building Inspectors, and some others, right?

4 MR. MADDEN: Yes.

5 MS. BLEAU: And the subject of this email was
6 talked about in the City's case, this is where you
7 instructed your Inspectors to enter C into the C+
8 system and to add notes. Right?

9 MR. MADDEN: Yes.

10 MS. BLEAU: Can you explain to the Board what
11 led to this email, why you did this instruction?

12 MR. MADDEN: I sent this out and this is
13 directly related to the JetSmarter job. So that
14 document is dealing with the JetSmarter job, it says
15 right there.

16 MS. BLEAU: Okay, so the first email in this
17 City Red Tab 1, this first email in this chain, was
18 from John Travers on May 13, and it was regarding
19 JetSmarter, right?

20 MR. MADDEN: JetSmarter, yeah, 500 Broward, 19th
21 Floor, yep.

22 MS. BLEAU: And what happened on the JetSmarter
23 job?

24 MR. MADDEN: Oh, what happened was that the
25 JetSmarter job was a Private Provider, MT Causley or

1 MTCI, like I said, I'm not sure which one had the
2 contract. But MTCI and MT Causley was the Private
3 Provider for the job. And they had scheduled
4 inspections on the job.

5 And typically, when you schedule your
6 inspection order, it's the MEPs before Building --
7 Mechanical, Electrical, Plumbing -- because those go
8 inside walls, inside the ceiling and so forth. So the
9 scheduled inspection was a Plumbing inspection, and at
10 that time the Plumbing inspectors were about a week
11 behind, or seven days or whatever, but they were
12 behind, so they had scheduled the inspection, they did
13 it as required under 553, they requested the
14 inspection, they were doing everything that they were
15 supposed to do. MTCI was fulfilling their obligations.

16 So, when the Plumbing inspection was scheduled,
17 the Inspector didn't show up when the scheduled
18 inspection had been identified by MTCI, which says,
19 "Hey, tomorrow at 2:00 we're going to do an
20 inspection." If you're there, you're there. If you're
21 not there, whatever. But the Statute says that I
22 schedule it, I fulfill my obligations, we as the City
23 have to fulfill our obligations. And that is, if you
24 schedule it and you're there at the same time, okay.
25 No big deal. But you can't come the next day or three

1 days later and fail the inspection just because you
2 showed up late.

3 And so that's what happened. The Plumbing
4 Inspector failed their inspection and then the
5 Structural Inspector went out there, and they were
6 scheduled, the normal process, the Private Provider did
7 exactly what they were supposed to do. The Building
8 Inspector goes out there and he won't pass the drywall
9 inspection or the framing inspection, whichever one it
10 was, because the Plumber didn't pass. So, the Building
11 Inspector failed his inspection.

12 So that's how I got involved. So, I go out to
13 the job site, just like I do, and do the same thing:
14 Permit card, set of plans, logbook, and everything was
15 in order. The logbook that you would have on the
16 jobsite, the permit card, the plans, and so I'm trying
17 to figure out what happened.

18 So that's when I realized that the Plumbing
19 Inspector put this thing into the chain of events that
20 we in the City, we weren't fulfilling our obligations
21 and we were penalizing them for not following the
22 Statute requirements. So that's really what happened,
23 in a nutshell.

24 MS. BLEAU: So that's how you got involved in
25 JetSmarter. What did you do?

1 MR. MADDEN: Well, I sent some emails. John
2 and I -- I think John sent me an email, something was
3 sent to him, or I might have even sent the email -- I
4 think it's on the City's document. And it says, "the
5 letter from MTCI." It says, "The Plumbing Inspector --
6 "

7 MS. BLEAU: This is the -- sorry, I misspoke
8 earlier, this is the original, the initial email on
9 this chain.

10 MR. MADDEN: Right.

11 MS. BLEAU: Juan Ferriol, MTCI Inspector, I
12 guess.

13 MR. MADDEN: So he wrote me the email, and he
14 sent it to John and I think Leo [inaudible] Wally, we
15 call him, I think -- Wally was the Inspector or if he
16 was a Plans Examiner, but he wrote it to Wally and John
17 Travers and CC'd me and some other people. Because I
18 met with the guys out there. And I didn't have a
19 problem with what they were doing. But the City, the
20 guy that reports to me, wouldn't sign it because the
21 Plumbing didn't sign it. So, John and I exchanged some
22 emails. We talked about it; how do we get beyond this?
23 The thing is --

24 MS. BLEAU: Let me stop you for one second. In
25 this email from Mr. Ferriol, he says that he met you

1 during a drywall screw inspection; at that time, you
2 told him that there were two failed Plumbing
3 inspections due to the work being concealed at the time
4 of the inspection.

5 MR. MADDEN: Right.

6 MS. BLEAU: So, you were explaining to him why
7 the inspections were being failed, is that right?

8 MR. MADDEN: Yeah. The Plumbing Inspector
9 failed because the work was concealed when he went out
10 there to make the inspection. And this was a couple
11 days or maybe a week after MTCI said, "Hey, we need you
12 guys to come out here and audit," or whatever.

13 But the issue that came about -- that is, we
14 had a lot of new Inspectors. We had new Structural,
15 Plumbing, across the board. So, these folks weren't
16 familiar with that process of how it really works. And
17 so you couldn't penalize them and certainly couldn't
18 penalize the contractor or the Private Provider. So,
19 we worked towards a solution and we figured out, what
20 we needed to do that day.

21 MS. BLEAU: So, you sent this email to the
22 Plans Examiners and Inspectors on May 20, but you
23 didn't copy Mr. Travers. Which I think was a point
24 made by the City that there was something nefarious in
25 that, that you were overruling Mr. Travers.

1 MR. MADDEN: Right.

2 MS. BLEAU: Why didn't you copy Mr. Travers on
3 this email?

4 MR. MADDEN: Well, John and I solved the
5 problem. We solved it days earlier and the reason why
6 I sent that letter or email to those guys is because
7 when John and I solved the problem that day -- we
8 figured it out that day -- so once again, I schedule a
9 meeting or impromptu or whatever you want to call it --
10 "Hey, we got to talk about this, this is not fair what
11 we're doing."

12 So had the guys in there and we're talking
13 about what had happened and what occurred. So, because
14 I was familiar with the statute, I was telling them
15 what they needed to do. Okay, "You need to do this,
16 you need to do that." So, it's inevitable you get that
17 pushback. "I'm not signing it off unless I look at
18 it." "I'm not approving it unless I look at it." And
19 I'm like, wait a minute, so we talked about it and we -
20 - I was trying to tell him, and he says, "You can't
21 make me sign anything I'm not looking at. And I'm not
22 putting a P in there." I'm like, "Okay, I'll put it in
23 writing."

24 MS. BLEAU: What is the P?

25 MR. MADDEN: A P for Pass. When you go out,

1 there's a couple of options, you approve it, a P -- I
2 don't know if it's an A or a P -- you fail it, you do
3 an Incomplete or you roll it over. So, in this case,
4 when they didn't do anything wrong, they fulfilled
5 their obligations, we showed up late, you can't
6 penalize them.

7 But the Plumbing Inspector says, "I'm not
8 putting a Pass on there, I'm not doing it. I'm not
9 passing that inspection. I didn't look at it and you
10 can't make me do it." So, I thought about it, I said,
11 "What is the option? You can't fail it. You can't put
12 an I. You won't put a P. So, cancel the inspection
13 and then write in there that this inspection was
14 performed by MT Causley or the Private Provider. I did
15 not look at anything."

16 So, I told the guys I would put it in writing.
17 I'll put this in writing and you can keep it until
18 whenever, and then so if someone accuses you of passing
19 something that was wrong, your notes are in there,
20 you've got the email from me telling you how to let
21 that job continue when you show up late, so the work
22 doesn't stop and it doesn't -- anything. So, I didn't
23 send that to John because John and I already solved the
24 problem a couple days before that. I think, like I
25 said, that same day.

1 MS. BLEAU: So, let's look at that. This is an
2 email from Mr. Ferriol, right, to John Travers, that we
3 just looked at.

4 MR. MADDEN: Yep. That's the email.

5 MS. BLEAU: This is a different email chain.
6 Mr. Travers sent the email that we looked at, and then
7 you and Mr. Travers --

8 MR. MADDEN: It was just the Chiefs and I and
9 John Travers. Because the email, the one that preceded
10 this --

11 MS. BLEAU: From John.

12 MR. MADDEN: -- the one that's in Red Tab 1.
13 And so, when you look at this, you know, you say this
14 is what we're gonna do, we're gonna -- we can go out
15 there, we're not obligated, you know, John's saying
16 that we're not obligated. But that doesn't solve the
17 problems. How do you get an Inspector to approve that
18 when they're telling you, "You can't make me put a P in
19 there. I'm not approving an inspection with my name on
20 it if I didn't see it." So, they wouldn't.

21 And so we -- I, after John and I solved it, I
22 came up with that. And I said, "This is what we're
23 going to do, keep the email and do what you gotta do."
24 "If you looked at it and you showed up late, you can't
25 fail that inspection."

1 MS. BLEAU: So, you and John solved it by these
2 emails that happened that the City didn't include in
3 their Notebook, right?

4 MR. MADDEN: Well, this email right here, I was
5 responding to John's earlier email. I said, "John, I
6 want to be clear because down below you're saying we
7 can look at it, we don't have to look at it, the
8 liability is on them."

9 And I said, "John," so I said in there, "Under
10 the State Statute, the contractor has to notify us and
11 then we, as the City, are obligated to fulfill the
12 obligations that we have. And that is, you either show
13 up on time, you can show up before, or you can show up
14 after. It doesn't matter. But if you go to that job
15 site after the inspection was made by the Private
16 Provider and it's covered up, you can't see it anymore,
17 you're not allowed to fail that inspection."

18 And that's what had happened at the JetSmarter
19 job. So, this was a solution -- that email that I sent
20 out about entering C -- was the solution because they
21 didn't want to put a Pass on there.

22 MS. BLEAU: So, Mr. Travers responded to your
23 email and specifically says that, "The Provider has an
24 obligation to let us know when an inspection has been
25 requested for them to conduct it." Did you agree with

1 Mr. Travers' statement here?

2 MR. MADDEN: Yeah, absolutely.

3 MS. BLEAU: So then after you received this,
4 all these communications were on the 13th, then we
5 looked at -- I don't have it up anymore, but we looked
6 at this.

7 MR. MADDEN: I want to point something out on
8 that.

9 MS. BLEAU: Sure.

10 MR. MADDEN: In addition to their obligation.

11 MS. BLEAU: Okay.

12 MR. MADDEN: So, in this, you know, John's
13 spelling out exactly -- what John wrote in this email,
14 right there?

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

16 MR. MADDEN: I don't know about the "getting
17 cranky after dark" -- but what he wrote in there, I
18 agree with. I agreed with a hundred percent. So that
19 email, when I got that email, and I met with the
20 Inspectors and Plans Examiners, "Hey, this is what
21 we're going to do," that's when they're like, "You
22 can't force me to sign something I didn't look at."

23 So, John says they have to notify us, and then
24 he says in here -- it says that, "If we would like to
25 accompany them and time permits, that's okay. But if

1 our schedule's full, then that's okay." And I agree
2 with that. And then it says, "The Statute allows for
3 us --" But what he points out is, that the Private
4 Provider has an obligation to notify us.

5 So, when we get the scheduled Inspection, that
6 is showing the timeline that they did schedule the
7 inspection, that they fulfilled their obligation, and
8 then if we looked at it and everything was okay, we
9 approve it. If it's not, we fail it. But if we show
10 up late and it's covered, we can't fail that job.
11 That's not fair to anybody to do that. And that's not
12 what the Statute says.

13 MS. BLEAU: Okay, so going back then, to the
14 City's email that the City did produce, this email from
15 you to your Providers -- I mean, to the Plans and
16 Inspectors telling them to enter C into the system --
17 did you do that to stop -- to interfere with the
18 process or to help the process?

19 MR. MADDEN: Well, that's the difference
20 between our documents and their documents. Our
21 documents show the whole timeline, what happened on the
22 13th, May 13th. And so, it jumps from this, from Juan's
23 email, but when I instructed those Inspectors to enter
24 the C and include those notes, that is what we agreed
25 upon to solve the problem. And it is just exactly what

1 John and I talked about and the emails we exchanged
2 before that -- that day or whenever it was. But the
3 emails that were after this one or something, I don't
4 know.

5 MS. BLEAU: So, after you had instructed your
6 staff to enter C into the system, did JetSmarter
7 schedule subsequent inspections?

8 MR. MADDEN: Yes.

9 MS. BLEAU: Did entering C in the C+ system
10 allow subsequent inspections to be requested?

11 MR. MADDEN: If they were in there, yes. A C
12 does not stop the job. A C doesn't do anything other
13 than cancel the inspection. The Inspectors had that
14 email and had they done that or if they were there on
15 time or not on time, but entering a C doesn't delay the
16 job and that job went fine after that. Well, not
17 exactly, but -- yeah.

18 MS. BLEAU: So on day two of these proceedings,
19 on page 7 of the transcript, Miss Richards says that
20 Mr. Travers led her to believe that this email
21 instructing your staff to enter C into the system was
22 you going behind his back and telling the Instructors
23 not to do what Mr. Travers had asked them to do. Was
24 that a true statement?

25 MR. MADDEN: That's not a true statement. That

1 is not a true statement.

2 MS. BLEAU: In fact, the email sent on May 20th
3 to enter C into the system would have been sent well
4 before the City's policy in July, talking about
5 entering different letters into the C+ system, right?

6 MR. MADDEN: Yes. And that was the solution to
7 the problem at JetSmarter. But that C was two or three
8 months before the policy came out.

9 MS. BLEAU: So, the next email included in the
10 City's Red Tab 1 is this email that you sent on
11 September 30th. So, here's the email regarding entering
12 C sent on May 20th.

13 Now there's an email on September 23rd that you
14 sent and you tell the Instructor -- so the first one
15 was you were fixing the problem where the Private
16 Providers call for an inspection but the Inspectors
17 didn't show up and the project was failed and that was
18 wrong. Here you're addressing the opposite problem,
19 right? Where the Private Provider does not call for
20 the inspection or schedule an inspection. And what are
21 you telling your staff to do?

22 MR. MADDEN: Well, just like the City has an
23 obligation, the Private Provider has an obligation.
24 And your obligation is to notify us of when an
25 inspection is scheduled. You notify us, we'll take

1 care of it from there. And apparently -- well, not
2 apparently -- what they were doing or what had happened
3 was they were not scheduling the inspections, they
4 weren't in the system, they were just continuing work
5 without scheduling the inspection.

6 And so, if you don't schedule an inspection,
7 you don't fulfill your obligation, then we're -- I
8 believe that we're obligated to fail that inspection or
9 fail anything associated with it because they failed to
10 notify us when an inspection was going to occur. And I
11 believe that is still in the Statute today, even after
12 the latest revision.

13 MS. BLEAU: Was your September 23, 2016, 2:00
14 p.m. --sorry, 2016 email -- consistent or inconsistent
15 with what your understanding of the City's Private
16 Provider Policy in effect at the time?

17 MR. MADDEN: That is consistent with the
18 Private Provider Policy.

19 MS. BLEAU: And consistent with Mr. Travers'
20 email exchange with you on May 13th as well, right?

21 MR. MADDEN: Yes. And it's consistent with --
22 as I wrote in there -- it's consistent with 553.791 and
23 Florida Building Code 110.

24 MS. BLEAU: Okay. So, here's an email that's
25 in the City's at 103 going on to page 104 of the

1 Electronic Notebook -- there's an email from Mr.
2 Travers instructing staff to enter N or R for
3 inspections, right?

4 MR. MADDEN: "The results of the visits to the
5 Permit by Affidavit [reading to himself] and normal and
6 accepted or our quality assurance."

7 MS. BLEAU: And the date of this email is what?

8 MR. MADDEN: 9/29/16, September the 29th, 2016.

9 MS. BLEAU: So just to be clear, your email of
10 May 2016 was well prior to -- where you were saying,
11 "Enter C" -- that's well prior to now Mr. Travers'
12 decision to tell staff to enter an R or N into the
13 system, right?

14 MR. MADDEN: Yes.

15 MS. BLEAU: Okay. On page 103 you responded to
16 Mr. Travers' email. Did you instruct your staff to
17 comply with Mr. Travers' instructions or to not comply
18 with Mr. Travers' instructions?

19 MR. MADDEN: If Mr. Travers gave me an
20 instruction and that was consistent with the law,
21 statute, building code, I followed it. As long as it
22 didn't go against it, I didn't want to be back in front
23 of BORA or I didn't want to have to deal with the same
24 thing. If it was something legal and something that
25 was consistent with the statutes, I would have to

1 agree.

2 MS. BLEAU: So, specifically, the highlighted
3 area here says, "During this time of clarification,
4 please follow the directive from the AAJ, John Travers.
5 Be sure to capture all the information and note any and
6 all findings in the Notes." Is there anything
7 insubordinate about this email or inconsistent with
8 what you believed your duties were as the Chief in the
9 City of Fort Lauderdale?

10 MR. MADDEN: Did I send that out?

11 MS. BLEAU: Yeah, this is from you.

12 MR. MADDEN: Yep. "There has been questions --
13 during this time of clarification, please follow the
14 directive --" Yeah. I told them. Because the R and N
15 -- I don't care what R and N equals. If R says it's
16 okay and N says it's not, or vice versa, if it's okay,
17 it's okay, and if it's not, it doesn't matter to me
18 what letter you want. I mean, it's going to cause some
19 confusion down the road, but there's nothing against
20 the law with that, so -- I'm okay with it.

21 MS. BLEAU: Did your instruction to "Be sure to
22 capture all pertinent information and note the findings
23 in the system," did that cause any issues with
24 processing the jobs?

25 MR. MADDEN: Not at all because, you know,

1 during this whole policy process and improvements and
2 so forth, it was confusing for some, confusing for
3 certain people, whatever it was -- so I wanted to make
4 sure that in your notes, whatever action you took,
5 whatever plan review, inspections, approve, fail, pass,
6 accept, whatever it is, that your notes reflected the
7 decision you made.

8 To approve a set of plans or to fail an
9 inspection, whatever it was, just put it in the notes.
10 In doing that, it doesn't delay the job, it doesn't
11 delay the inspections, it doesn't delay the permitting.
12 It's just capturing what you've done and what you'll
13 do.

14 MS. BLEAU: So, you originally told your staff
15 to enter the C and to put the notes in for a Private
16 Provider job, that was in May. In July, Mr. Travers
17 and Mr. Hernandez developed this policy that said to
18 enter a QAAA or a QAACN, right? into the system.

19 MR. MADDEN: Right.

20 MS. BLEAU: And then in September, we just
21 looked at that other letter, email, in September Mr.
22 Travers said to enter an R or an N. Seems like there
23 was an awful lot of fluidity and changes going on with
24 respect to how to enter -- what to enter into the C+
25 system. But after you sent your email to your staff in

1 September saying, "Follow Mr. Travers' directives until
2 we get some clarification on R and N," did Mr. Travers
3 come to you after that September 29th email and tell you
4 he had an issue with anything you had said in an email?

5 MR. MADDEN: No.

6 MS. BLEAU: In the City's Red Tab 1, again, we
7 see that Barry Fein, on October 4, sent to Jeremy
8 Earle, Alfred Battle, and Anthony Fajardo, this
9 September 23rd email that you had sent that we looked at
10 earlier. Who are those people?

11 MR. MADDEN: Anthony Fajardo is the Director of
12 the BSD, Al Battle was the Assistant Director of DSD,
13 and Jeremy Earle was the Assistant Director to DSD.

14 MS. BLEAU: Was Mr. Travers copied on this
15 email?

16 MR. MADDEN: No.

17 MS. BLEAU: Do you know if Mr. Travers had this
18 email or got this email?

19 MR. MADDEN: He got that email.

20 MS. BLEAU: How do you know that?

21 MR. MADDEN: It was in the City's Red Tab -- it
22 was in the City's documents under Red Tab 1.

23 MS. BLEAU: After Barry Fein sent this email on
24 October 4 to Mr. Fajardo, did he come and speak with
25 you about your email or anything in this, anything

1 about this?

2 MR. MADDEN: Did who come to speak to me?

3 MS. BLEAU: Anthony Fajardo.

4 MR. MADDEN: No.

5 MS. BLEAU: Did Al Battle come to talk to you?

6 MR. MADDEN: Nope.

7 MS. BLEAU: Did Jeremy Earle come and speak
8 with you?

9 MR. MADDEN: Nope.

10 MS. BLEAU: Did John Travers come to speak with
11 you?

12 MR. MADDEN: Nope.

13 MS. BLEAU: Did Luis Hernandez come and speak
14 with you?

15 MR. MADDEN: No.

16 MS. BLEAU: Did anybody at any time talk to you
17 about this email and have any issues or question why
18 you sent this email?

19 MR. MADDEN: I can't speak for everybody and
20 anybody, but those gentlemen who you just named? None
21 of them came to talk to me after that email was sent to
22 Anthony, Al, and Jeremy.

23 MS. BLEAU: The date of Mr. Fein's email is
24 10:15 a.m. on October 4th, right?

25 MR. MADDEN: Yes.

1 MS. BLEAU: And we also see this Tab 32 on ours
2 and it's also part of the City's Notebook, an October
3 4th memo from George Oliva, starting out, "Good morning,
4 all." Do you understand that this is what Mr. Oliva
5 presented when he gathered a group of people together
6 to gather information against you on October 4th?

7 MR. MADDEN: In uncovering all these documents,
8 then yes, now I understood what was happening, when it
9 was happening.

10 MS. BLEAU: Okay. So, Mr. Fein's email, also
11 sent that morning, was likely sent as a result of Mr.
12 Oliva's call to arms to find anything against you. Is
13 that right?

14 MR. MADDEN: It seems awfully coincidental. I
15 don't know what time the meeting was, but 10:50, when
16 Barry sent that and he sent it to Al, Anthony, and
17 Jeremy, and he sent it on the same day as George
18 Oliva's meeting with everybody, um, I did the math.

19 MS. BLEAU: Okay. And how many days after this
20 October 4th where you placed on administrative leave?

21 MR. MADDEN: I was put on administrative leave
22 October 13th, in the morning, first thing in the
23 morning.

24 MS. BLEAU: For the nine days between the
25 October 4th email and meeting that George Oliva held and

1 the email from Mr. Fein, did anybody in Administration
2 speak to you about Mr. Oliva's complaints or Mr. Fein's
3 email?

4 MR. MADDEN: No.

5 MS. BLEAU: Were you placed on administrative
6 leave -- when you were placed on leave, were you
7 required to be available to Mr. Travers?

8 MR. MADDEN: Yes.

9 MS. BLEAU: Were you available during your
10 leave to Mr. Travers?

11 MR. MADDEN: Yes.

12 MS. BLEAU: Did Mr. Travers contact you during
13 that time period?

14 MR. MADDEN: He did.

15 MS. BLEAU: Did he ever contact you regarding
16 Mr. Fein's email?

17 MR. MADDEN: No.

18 MS. BLEAU: Did he ever talk to you about Mr.
19 Oliva's complaints?

20 MR. MADDEN: No.

21 MS. BLEAU: Between October 13 through December
22 22nd, when you were terminated, did Mr. Travers ask you
23 about Tab 1 at all? Anything in the City's Red Tab 1?

24 MR. MADDEN: What was the question again? I'm
25 sorry.

1 MS. BLEAU: Did Mr. Travers ever talk to you
2 about what was in the City's Red Tab 1, these email
3 communications in this document?

4 MR. MADDEN: Between the time when I was walked
5 out and the time that I received the informational
6 meeting?

7 MS. BLEAU: Informational meeting, yes, I'm
8 sorry.

9 MR. MADDEN: No. He did not.

10 MS. BLEAU: Did Mr. Travers use Tab 1 as
11 evidence in his December 22nd email to you against you
12 [inaudible] termination?

13 MR. MADDEN: Yes.

14 MS. BLEAU: Madam Chair, I have a whole other
15 area that I'm about to go into. I know that you wanted
16 a break at noon. Do you want to break a little early?
17 You're on mute.

18 CHAIR ADELSON: I actually need to break at
19 11:59, because of this Covid it's another Zoom.

20 MS. BLEAU: Why don't we just break now?

21 CHAIR ADELSON: Yeah, this would be a good
22 place for a break, and I'm staying on this one, and I'm
23 going to go on another device. So, we could just mute
24 and stop video and come back at 1:35, say 1:30, 1:30's
25 fine.

1 MS. BLEAU: Okay. All right, we'll be back.

2 CHAIR ADELSON: Thank you for paying attention
3 to that, Ms. Bleau, I appreciate it.

4 MS. BLEAU: Absolutely, I understand.

5 [BREAK FROM 11:47 A.M. - 1:30 P.M.]

6 CHAIR ADELSON: Now that everyone's back here,
7 we were continuing with the testimony of Mr. Madden.
8 So, Ms. Bleau if you would like to continue.

9 MS. BLEAU: Thank you, ma'am. I'm going to
10 share my screen. Mr. Madden this is a composite
11 Exhibit 160. Do you recognize this document?

12 MR. MADDEN: I do, yes.

13 MS. BLEAU: This is what you were provided.
14 Mr. Travers', dated December 22, 2016.

15 MR. MADDEN: Yes.

16 MS. BLEAU: Do you know when you received this
17 document?

18 MR. MADDEN: I received it after Christmas.

19 MS. BLEAU: After.

20 MR. MADDEN: Yeah, 26th, 27th. It was after
21 Christmas when I got it.

22 MS. BLEAU: How did you receive this document?

23 MR. MADDEN: Mail. US Mail.

24 MS. BLEAU: Mr. Travers didn't also email it to
25 you?

1 MR. MADDEN: I don't think he did. I'm not
2 absolutely certain of that. But it was mailed to me.

3 MS. BLEAU: And in here there is a January 10,
4 here you were told that there's going to be a
5 conference on January 10, 2017. Correct?

6 MR. MADDEN: Yeah, the informational meeting,
7 yes, on January 10, 2017.

8 MS. BLEAU: So, it looks like -- according to
9 some emails with the City, the meeting was scheduled
10 for the 10th --

11 CHAIR ADELSON: Folks, sorry, real quick. I'm
12 sorry to interrupt you. I got kicked off for about a
13 minute.

14 MS. BLEAU: Oh, okay.

15 CHAIR ADELSON: But I think you were looking at
16 this document and hadn't quite asked any questions yet.

17 MS. BLEAU: Okay. What you missed was Mr.
18 Madden's testimony that this memorandum from Mr.
19 Travers dated the 22nd, was not received until sometime
20 after Christmas because it was received by mail, not
21 email.

22 CHAIR ADELSON: Okay. Perfect. Thank you.

23 MS. BLEAU: Sure. And the second document in
24 this composite exhibit begins with an email from me
25 explaining to the City Attorney that I was not

1 available on the 10th and asking if we could reschedule.
2 The Board can see the email for itself. But the
3 ultimate answer from -- who's Linda Crase?

4 MR. MADDEN: At the time, I think she was
5 Anthony Fajardo's assistant. At the time.

6 MS. BLEAU: Okay. And so from the times
7 proposed by Ms. Hasan, Mr. Fajardo was available two of
8 those dates and one of those two dates worked for me,
9 which was January 17th. You see that?

10 MR. MADDEN: I see the 17th.

11 MS. BLEAU: Now, I then, on January 10th,
12 emailed Mr. Travers -- sorry, on January 5th, excuse me,
13 I emailed Mr. Travers and Ms. Hasan requesting pursuant
14 to the City Policies & Procedures an explanation of all
15 the City's evidence and basically asked them to send
16 everything that they had, including all written
17 statements, investigative notes, and other documentary
18 evidence. Correct?

19 MR. MADDEN: Yes.

20 MS. BLEAU: Because all you received with Mr.
21 Travers' notice was his letter and the attached
22 policies. Is that right?

23 MR. MADDEN: Yes.

24 MS. BLEAU: None of the detailed witness
25 statements that were ultimately provided. Right?

1 MR. MADDEN: No.

2 MS. BLEAU: All right. So, we asked for it on
3 January 5th, do you recall when you received the
4 information from the City?

5 MR. MADDEN: It was towards the end of January?
6 I don't have the exact date, but it was time -- uh,
7 mid- late-January.

8 MS. BLEAU: This is Mr. Travers' initial
9 response about rescheduling on the 17th. "As to your
10 questions for additional information, the informational
11 meeting request letter was pretty specific. This is an
12 informational meeting at this point. Request for
13 additional information should be made to the City
14 Attorney's Office or the Human Resources." Did I read
15 that accurately?

16 MR. MADDEN: Yes.

17 MS. BLEAU: Did you get an understanding from
18 Mr. Travers' email that this informational meeting was
19 not looking for a point-by-point dispute regarding each
20 statement that the witnesses had made? You hadn't seen
21 that?

22 MR. MADDEN: No. I thought it was my
23 opportunity to talk about it, to deal with it, to just
24 do whatever. But how am I going to talk about it if I
25 don't have everything that they -- we eventually got?

1 MS. BLEAU: Moving on. On January 13, we had
2 still not received the information and my last two
3 emails to Mr. Travers had gone unanswered, and so we
4 asked Ms. Hasan again, with the City Attorney's Office,
5 who the attorney that's going to be handling it is so
6 that we can get the information. Right?

7 MR. MADDEN: Yes.

8 MS. BLEAU: Ms. Hasan responds to my email that
9 Janeen Richard would be coordinating the rescheduling
10 as well as addressing concerns raised in previous
11 emails. Right?

12 MR. MADDEN: Yes.

13 MS. BLEAU: And then Ms. Richard responds --
14 then I emailed her and said, "It's my understanding
15 from Ms. Hasan that you'll be providing the evidence I
16 have requested. Anticipate providing the information
17 as follows:" And Janeen said, "Yes, Rhonda and I will
18 work together to provide the information for the
19 meeting January 27th." So, you had a meeting scheduled
20 for January 27, this email is January 13, and the
21 information that you requested when you first got Mr.
22 Travers' memo still had not been received, right?

23 MR. MADDEN: Correct, yep.

24 MS. BLEAU: And do you understand why the City
25 didn't provide this information to you since presumably

1 Ms. Richard had all the information in her possession
2 in order for her to do her investigation?

3 MR. MADDEN: I don't know.

4 MS. BLEAU: So, Ms. Richard says she'll get
5 back to us after the MLK Holiday, is that right?

6 MR. MADDEN: Yes.

7 MS. BLEAU: Let's go to the next communication
8 on the 23rd. This is when we received from Rebecca
9 McClam three documents. Correct?

10 MR. MADDEN: Yes.

11 MS. BLEAU: So, January 23rd is when we received
12 the documents. We received the employee interviews, a
13 packet of information labeled "John Travers
14 Information," and other documents. Knowing what you
15 know today, was there anything in Ms. Richard's report
16 that was not provided to you on January 23rd?

17 MR. MADDEN: Yes.

18 MS. BLEAU: And what were those?

19 MR. MADDEN: After listening to her statement,
20 her testimony, and looking at the City's documents,
21 there was John's -- John Travers', the stuff that he
22 was providing for Janeen, the stuff that he was
23 providing for Anthony or whoever, because he was
24 telling them -- according to them -- that they don't
25 know the Building Code, they're not familiar with

1 Community Plus, and C+, and so she relied upon that
2 information and that information -- John's statement or
3 John's information that she was relying upon wasn't in
4 those documents.

5 MS. BLEAU: Okay. So, you couldn't very well
6 respond to what Mr. Travers had said, right?

7 MR. MADDEN: No.

8 MS. BLEAU: Because you didn't know what he had
9 said. Anything else missing from the documents that
10 were provided to you before the informational meeting?

11 MR. MADDEN: I think there was some emails or
12 some communication between Anthony and Human Resources
13 or the City Manager.

14 MS. BLEAU: Right.

15 MR. MADDEN: Pardon me?

16 MS. BLEAU: In the City's Notebook there's --
17 page 17, this memo from Mr. Fajardo, you didn't receive
18 that document as part of the information provided to
19 you on January 23rd, correct?

20 MR. MADDEN: No.

21 MS. BLEAU: Any idea why, that October 12,
22 2016, document was provided to you on January 23rd,
23 2017?

24 MR. MADDEN: I don't know.

25 MS. BLEAU: Has the City relied on this

1 document as part of their case against you in this
2 Civil Service Proceeding?

3 MR. MADDEN: They have.

4 MS. BLEAU: Sorry, I think I interrupted you.
5 You were going to talk about another document you
6 thought the City is relying on that you hadn't
7 received?

8 MR. MADDEN: It was the -- Greg Brewton's
9 letter to me.

10 MS. BLEAU: This November 8, 2013, document,
11 right?

12 MR. MADDEN: That's it.

13 MS. BLEAU: That was not produced to you as
14 well?

15 MR. MADDEN: No.

16 MS. BLEAU: If you look at Ms. Richard's
17 report, she actually includes these two documents here,
18 Mr. Fajardo's letter and Mr. Brewton's letter in her
19 report dated February 16, 2017, right?

20 MR. MADDEN: Yes.

21 MS. BLEAU: So, it's not just that the City
22 relied on it in a Civil Service Proceedings, but Ms.
23 Richard relied on it to reach her conclusions. But you
24 weren't provided these memos to respond to prior to Ms.
25 Richard's report.

1 MR. MADDEN: No. I was not given those as a
2 part of the package they sent.

3 MS. BLEAU: So, the City has made the
4 representation in these proceedings numerous times that
5 everything in the City's Notebook was provided to you
6 before you were required to respond. But that is not a
7 true statement.

8 MR. MADDEN: That's not a true statement, nope.

9 MS. BLEAU: On January 26, the day before the
10 rescheduled hearing, we advised the City that because
11 of the significant delay in providing the information -
12 - even though the City had everything over a month --
13 the volume of issues raised in the documents and the
14 volume of issues, either we needed to reschedule the
15 meeting, and if they were unwilling to do so, we would
16 need to respond in writing. Right?

17 MR. MADDEN: That's correct.

18 MS. BLEAU: And Ms. Richard responded to that
19 email saying that the City is ready to go forward on
20 the 27th as scheduled, otherwise you could submit a
21 written response before close of business, Monday,
22 January 31st, 2017. Correct?

23 MR. MADDEN: Yes.

24 MS. BLEAU: So when Ms. Richard says in her
25 report, on page 8 of 10, that you were presented with

1 informational meeting notice on the 22nd of December
2 2016, and the notice identified the factual allegations
3 for meeting on January 10th, that you did not appear at
4 the meeting choosing instead to submit a written
5 response. Is that a fair statement? Did you choose to
6 submit a written response or did you not have much
7 choice given their insistence?

8 MR. MADDEN: Not at all, because we didn't even
9 get those documents that we requested for almost a
10 month after that December 22nd meeting, and we didn't
11 have what we needed. And looking at the documents
12 today, and looking at the documents that were given to
13 us by them on Day 1 of the hearing, they didn't even
14 provide all of the documents after we requested them,
15 let alone this.

16 There was no way I could respond. There was no
17 way I could address each thing that Ms. Richard says I
18 didn't respond exactly to or didn't do this or didn't
19 do that. Let alone not being able to get that
20 information. Just a number of things.

21 MS. BLEAU: Now, Ms. Richard's report is dated
22 February 16, 2017. And that's the deadline for your
23 submission was January 31st. So basically, a couple
24 weeks later was when she issued her report, correct?

25 MR. MADDEN: Yes.

1 MS. BLEAU: You had a meeting with Al Battle,
2 which was supposed to be Anthony Fajardo, after you
3 were terminated. Is that right?

4 MR. MADDEN: Yes, that was the option once I
5 received the Letter of Termination. And I've got to
6 talk about that Letter of Termination.

7 MS. BLEAU: The one from Mr. Battle?

8 MR. MADDEN: The one that was signed by Al
9 Battle.

10 MS. BLEAU: Okay.

11 MR. MADDEN: I have the email exchange and that
12 letter was delivered by a courier. And the courier
13 delivered it to my neighbor's house. Didn't even
14 deliver it to my house. It said, "You're put on
15 suspension, you're terminated." And I don't know if he
16 sent me an email, but we went back and forth with a
17 couple of emails, and he said, "It's your neighbor.
18 They should have it." And I just -- imagine getting a
19 letter delivered to your neighbor you're terminated, by
20 a courier.

21 MS. BLEAU: I understand. Your reputation is
22 important to you, isn't it?

23 MR. MADDEN: Yes.

24 MS. BLEAU: When you met with Mr. Battle, did
25 you try to address some of the issues that specifically

1 weren't addressed in your written response?

2 MR. MADDEN: I wanted to talk to him. I wanted
3 to find out how you go from nothing, no disciplinary
4 action, no suspensions, no demotions, absolutely
5 nothing to saying that we're not even going to give you
6 a chance. That you have just completely ruined -- and
7 there's no chance of you changing. There's no chance
8 of -- we just don't believe in you. They outright just
9 went from "here" to saying, "You know what? We don't
10 even think you're worth the effort to make any changes
11 whatsoever." And so, when you and I got to that
12 meeting -- and it wasn't even in a conference room, it
13 wasn't even in a decent setting. It was in the
14 computer storage room in the IT Department. It wasn't
15 in the HR Office. Avrill Dorsett wasn't there. No one
16 from Human Resources was there. And we're sitting
17 there with computer records and cords and you and I are
18 trying to just talk. And I don't know if it was you or
19 me, and we asked -- I want to record this meeting. I
20 want to capture it. I want something to capture what
21 we're talking about. And Al goes, "I don't want to be
22 recorded." I'm like, "All public meetings are allowed
23 to be recorded." If you're having a meeting and it's
24 in a public forum, you should be able to record that.
25 It's not a private conversation. This is a public

1 forum. But I didn't press the issue, I didn't say
2 anything. And talking to him, we're just trying to
3 say, "Hey," -- like I wrote in my response, "I just
4 want to talk." Just sit there and just talk. When
5 you're reading the documents and you're saying, "Wait a
6 minute, the same day that George Oliva writes a letter,
7 Barry sends the stuff to Al Battle and Jeremy and
8 Anthony." And I'm like, "You guys didn't even afford
9 me the courtesy to say, "Anthony, as much as I --" I
10 saw him almost every day. "John, what's going on
11 here?" Anthony would come to my office from time to
12 time. He never said, "Hey, John, what's going on here,
13 man? What's happening here?" Nothing. John Travers
14 knew this stuff. He had this stuff. Somebody was
15 gathering it. And you pull all that together and you
16 say, "Hey, look, what's going on here?" I want to
17 know. They're just like, "No, he's dangerous, he's
18 this and that." And all of a sudden, when I read those
19 letters, they hurt.

20 MS. BLEAU: Did Mr. Battle take notes or
21 indicate in any way when you met with him that he was
22 interested in what you had to say?

23 MR. MADDEN: Not at all. They didn't say
24 anything. They weren't taking notes. They just sat
25 there and -- "Uh-huh. Uh-huh."

1 MS. BLEAU: I want to show you now, in the
2 City's Notebook, which is Tab 11 in the City's
3 Notebook, page 50. This is the response that you
4 submitted to the City in response to the documents you
5 had received, I think, the week before, right?

6 MR. MADDEN: Yes.

7 MS. BLEAU: Not counting my cover page here,
8 this starts on page 51 and goes to page 62, without
9 attachments. So, it's 12 pages long. How much of Ms.
10 Janeen Richard's investigative report is devoted to
11 your response? Do you recall?

12 MR. MADDEN: That entire document that I put
13 together, my letter they wrote?

14 MS. BLEAU: Yeah.

15 MR. MADDEN: Maybe a paragraph or a sentence.
16 I don't know, I'd have to take a look at it right now.

17 MS. BLEAU: This is -- the bottom of this page,
18 which has to do with your choice of submitting a
19 written response, says, substantively, one paragraph,
20 right here, is how Ms. Richard responded to your 12
21 pages of written response. Right?

22 MR. MADDEN: That's it. Yes.

23 MS. BLEAU: We'll come back to Ms. Richard's
24 report in a little bit. Let me switch and ask you
25 about the -- one of the charges against you, Mr.

1 Madden, is I think "Incompetency or General
2 Inefficiency in The Performance of Your Duties." John
3 Travers, I believe, testified it wasn't really
4 incompetency, it's just the comparison of number of
5 plans you reviewed versus your counterparts in the
6 Building Department. And that's what Janeen Richard
7 hung her hat on as well in the report. Right?

8 MR. MADDEN: Yes.

9 MS. BLEAU: Your numbers are lower than your
10 counterparts. Why?

11 MR. MADDEN: A number of things. First of all,
12 that doesn't capture all of the information and all of
13 the work that I did every day. And I most likely, I
14 would say four out of five days, I was, out of the
15 Chief Inspectors, I was the first one in, I was the
16 last one out, most days.

17 MS. BLEAU: Would John Travers know that?

18 MR. MADDEN: He never asked the question, I
19 don't think.

20 MS. BLEAU: Wouldn't he see it, though?

21 MR. MADDEN: He's received emails from me late.
22 He's received emails from me early. And the other
23 thing that was in there is, virtually, if you look at
24 downtown and you look at the beach and you see all of
25 those high-rise buildings, all of the construction that

1 you're seeing today and the structures that are
2 complete, I did a number of Plan Reviews on each of
3 those buildings. And that report doesn't capture DRC.
4 And all of the work that's involved in the DRC process.

5 Now I represented the Building Department for a
6 number of years as a DRC member. And what I tried to
7 do when I was doing those reviews is to reduce the
8 amount of going back and forth when they came in for a
9 building permit. So, you would talk to the developers,
10 you would talk to the architect, you would talk to the
11 owners, you would give them bits of information
12 regarding the Code, what they can anticipate.

13 And this was all to prevent delays when they
14 came in for a Building Permit, because some of those
15 buildings that are up in downtown that went up after I
16 left downtown, I was involved in their DRC. So, you're
17 dealing with that.

18 The other thing is, in the Building Plan
19 Review, when you're looking at large buildings and
20 complex stuff, Harry was limited in his abilities, but
21 we were training him. Ralph was well-versed in the
22 Code but not all aspects of it. But he was good. And
23 then we had a couple of people that we were training:
24 John Dougherty and then Ron Gardner. Ron, I didn't
25 have to deal much with Ron, you know, he's been around

1 for a long time and he dealt with those big buildings.

2 But when you look at a big building, if it
3 shows that Ralph did the Plan Review or Harry did the
4 Plan Review or any of the others, that doesn't mean
5 they did the entire Plan Review.

6 I'll give you an example: New River 3 -- it's
7 on the water, it's on the south side of the river,
8 close to the courthouse. There was some sort of legal
9 issues behind that building and the agreement in the
10 outcome of that litigation was that we had to do a
11 complete Plan Review in a real short amount of time.
12 So Glen, his name's on the Plan Review, but a couple of
13 us, including me -- I took a portion of that building
14 and looked at the -- let's say I looked at this portion
15 of it, give those notes to Glen, but it appears that
16 Glen did the Plan Review.

17 So, throughout the day, every day, most every
18 day, the Plans Examiners would come to me. And so, I
19 would go to the Building Code or I would look at the
20 plans myself. And look at certain aspects of those
21 plans and say, "This doesn't comply with the Code; this
22 needs to be clarified." Things like that. So, it may
23 not appear that my name's on there, and quite often
24 it's not on there.

25 But that doesn't mean that I wasn't doing Plan

1 Review. But most of my day, I was out in the field. I
2 was looking at the job sites, looking at the plans. We
3 had a lot of new Inspectors. I mean, most of those
4 people I hired and they were new and we were going full
5 bore with these big buildings and structures.

6 So, I would meet with them on the job, I would
7 go out there, I'd go out there on my own. I would find
8 things and I would tell the Inspectors what they
9 missed, what they needed to correct. So, say -- when I
10 read that, that I was unproductive and I wasn't doing
11 what all of the other Chiefs were doing, that's not a
12 true statement. That is not accurate. It's not close.
13 And to say that I was lazy or I simply wasn't doing my
14 job -- I don't agree with that at all. That's not
15 true.

16 MS. BLEAU: And not only do you not agree with
17 it, but in fact when you got your review a few months
18 before hand, you were ranked Above Satisfactory or
19 better on Work Productivity and Quantity. Right?

20 MR. MADDEN: Yeah. I couldn't understand that.
21 How do you go from that, getting high remarks and
22 getting high numbers -- and I think if you look at all
23 of my years that I worked there, there was never an
24 issue with my productivity or commitment to my
25 responsibilities, that I was lazy or I was

1 unproductive. Look at all the reviews. There isn't
2 anything in there. And then you go from signing that
3 Review in July and then two or three months later they
4 say that you didn't do the work and you were not even
5 close to other Plans Reviews by the other people.
6 That's just not an accurate statement. That's not an
7 accurate document and that's contrary to the facts.

8 MS. BLEAU: Let's talk about something else
9 that might be contrary to the facts. Richard Mercede.

10 MR. MADDEN: Yep.

11 MS. BLEAU: According to Ms. Richard's report
12 in July of 2016, Mr. Hernandez met with Richard Mercede
13 to discuss the project he was building, right?

14 MR. MADDEN: Yes.

15 MS. BLEAU: Had you been involved in Richard
16 Mercede' project?

17 MR. MADDEN: I was involved in that several
18 months before that. Something happened. It was maybe
19 a Code Case, maybe Frank, maybe George Oliva, something
20 required me to go out there and evaluate the structure.
21 So, I went out there, I met with them, and I think
22 Andre was with me. And we went to the job site and its
23 right downtown.

24 And I'm looking at the structure, looking at
25 the permit history, looking at the lack of progress --

1 which there was. There was a number of things that
2 concerned me. The primary concern for that structure
3 was could they really rehab the structure? Could they
4 save that structure?

5 So my directive to Mr. Mercede was -- because
6 they had shoring in there, they had steel beams and
7 they had some steel columns that were in there -- but
8 my concern was the age of the building and there
9 weren't any windows and doors and very limited framing
10 and walls on the inside. But the type of construction,
11 it was -- I think it's like a clay block that they
12 used. And that deteriorates over time. And mortar
13 deteriorates.

14 You didn't have the same oversight when that
15 structure was built. So when I felt the only way to go
16 forward was -- first and foremost -- was to get an
17 evaluation from an engineer to say the structure is
18 stable and that in order to go forward that these items
19 or things that may not be safe, the items need to be
20 corrected.

21 And I said, "You can't move forward on doing
22 anything until I get that report from --" I don't know
23 if I gave them an option of even an architect. I think
24 I may have said it had to come from an engineer. That
25 was first and foremost.

1 MS. BLEAU: I'm going to share -- on the screen
2 now is Tab 60, this is a letter from Mr. Mercede. I
3 think this letter was also attached to your written
4 response to the City. Is this an email from Mr.
5 Mercede to you and others in the Building Department
6 regarding a meeting he had with Luis Hernandez and
7 George Oliva?

8 MR. MADDEN: Yes.

9 MS. BLEAU: Did Mr. Mercede explain that he had
10 been informed in writing back in April that the
11 violations were a non-issue, but then he found out
12 later the violations still existed?

13 MR. MADDEN: Now what was that?

14 MS. BLEAU: He says, "In fact, I asked for a
15 meeting because I was informed in writing back in April
16 that all the violations were a non-issue only to find
17 out that the violations still exist." Do you see that?

18 MR. MADDEN: Yeah. Well, that's the thing. I
19 gave him a clear directive of what he needed to do.
20 And then you see Jose told him to pull a shoring
21 permit. In all of my years of enforcing the Code, a
22 shoring permit in Fort Lauderdale is -- I didn't
23 understand what a shoring permit was. A shoring is a
24 part of the work. We don't even issue -- well, I don't
25 know about today, before when they were having problems

1 with tower cranes collapsing and things like that -- we
2 didn't even a crane permit for the building site.

3 And when I saw that, that he was being told to
4 have a shoring permit, I didn't understand it. And he
5 was getting -- Look. Mr. Mercede is -- he's one of
6 those guys, he's eccentric but he's not stupid. He's a
7 pretty sharp guy. But he wants to comply. "Just tell
8 me what the rules are, and I'll do that." I mean, it
9 may not be in the timeframe that we would like for it
10 to be done. But all of my dealings with him, I haven't
11 had a problem with that.

12 So, when someone is telling him, "You need to
13 do this," and someone is telling him, "You need to do
14 that," I felt that he got upset because he was in
15 between a rock and a hard spot and he was getting
16 conflicting directives.

17 MS. BLEAU: Well, and initially, according to
18 him, Jose in fact told him that he needed to knock his
19 building down. That was the first directive.

20 MR. MADDEN: Jose, in fact, told me that, "He
21 wrote me up a violation informing me that I need to
22 knock my building down." That is not what I said. And
23 that's not what I felt. I couldn't say that until I
24 got an evaluation from the engineer. If the engineer
25 says that structure's not salvageable, then it's not

1 salvageable. I had not received that.

2 MS. BLEAU: So, Mr. Mercede asked for a meeting
3 with Christ Lagerbloom. Who was he?

4 MR. MADDEN: Assistant City Manager.

5 MS. BLEAU: Okay, and he said the same day as
6 his email he had been told he needing a shoring permit.
7 That's what you're talking about. And that's why he
8 came back that afternoon with all his paperwork, to get
9 a shoring permit. But you're saying there's no such
10 thing as a shoring permit.

11 MR. MADDEN: There is none. I mean --

12 MS. BLEAU: And so, it would be fair to say you
13 don't interpret the Code -- as the Chief Building
14 Inspector -- you don't interpret the Code as requiring
15 a shoring permit.

16 MR. MADDEN: No, I don't.

17 MS. BLEAU: And you didn't interpret the Code
18 as requiring Mr. Mercede demolish his building.

19 MR. MADDEN: I didn't feel that. I didn't have
20 all the information. I wanted him to secure it. And I
21 wanted him to tell me whether that building could be
22 salvaged.

23 MS. BLEAU: Toward the end of -- right here,
24 starting basically in the highlighted -- Mr. Mercede
25 says, "I don't understand why Jose is asking that I

1 apply for a demo permit to tear the building down when
2 I have a permit to repair the exact same building he's
3 asking me to tear down. This does not make any sense
4 to me whatsoever. Again, this is why I am nervous
5 going forward!" In speaking with Mr. Mercede, was he
6 upset about different people in the City giving him
7 different directions?

8 MR. MADDEN: Yeah, he was upset. And I felt
9 bad for the guy. I felt like, you know, look, if
10 someone comes in and tells him, "Tear that building
11 down," and forces him to do that -- and that's not what
12 I felt needed to be done, I was waiting for the
13 information -- Boy, I tell you, that could really be
14 costly for the City, it was wrong, and I would testify
15 to that in fact. Just like I am today.

16 MS. BLEAU: What grade would you give the
17 service of this neighbor, Mr. Mercede, the City was
18 giving him at that point?

19 MR. MADDEN: It was horrible. It was horrible.
20 And he's a wealthy man, so he's got the means to defend
21 himself. I just think of those other people that get
22 the same treatment. But I thought that was a
23 representation of what we, the City, should be doing.
24 And giving conflicting directions to a building owner
25 and it's not fair, and it wasn't right. And I did what

1 I tried to do for him to be treated right and I
2 wouldn't be a part of that.

3 MS. BLEAU: Did George Oliva have the authority
4 to overrule you?

5 MR. MADDEN: At that time, George Oliva didn't
6 even have his Plans Examiner certification. And he
7 couldn't even review a set of plans let alone interpret
8 the Code.

9 MS. BLEAU: Did Luis Hernandez have the
10 authority to overrule you?

11 MR. MADDEN: No.

12 MS. BLEAU: Even though he was technically your
13 superior?

14 MR. MADDEN: Right. He did not have that
15 authority as a part of Chapter 1 in the Florida
16 Building Code. He did not have that authority.

17 MS. BLEAU: Did you let Mr. Mercede know that
18 this directive did not come from you and that you would
19 be setting up a meeting with the Building Official to
20 clarify what is required of him?

21 MR. MADDEN: Oh, I did. Yeah.

22 MS. BLEAU: And that email, also, is attached
23 to what you provided to the City. Now when you saw Mr.
24 Hernandez at the City, did you -- were you upset with
25 him and Mr. Oliva and what they had done to Mr.

1 Mercede?

2 MR. MADDEN: I wasn't necessarily upset at that
3 point. I wasn't upset with them. I was upset that
4 this -- Mr. Mercede was being given different
5 directions because I ran into him in the lobby and
6 that's when that discussion took place, of "What's
7 going on here?" And that's when he told me that
8 they're trying to get the building knocked down, that
9 the shoring permit, and all these things. And I'm
10 like, that's not it.

11 Now I understand -- Mr. Hernandez, I don't
12 think, was there. My letter below, original letter,
13 when I went out to the job site in March, was that
14 March?

15 MS. BLEAU: March? Yeah.

16 MR. MADDEN: Yeah, in March. Mr. Hernandez
17 didn't work at the City at the time. And so, he may
18 not be fully aware of this, he may not be -- of what
19 was going on in that building. So, Mr. Hernandez may
20 have been misled. But you know, if you had a meeting
21 scheduled, something like that -- and I think there may
22 be notes -- I'm sure there's notes in there, that I put
23 in there for that building. And if you did permit
24 history or permit search on that, it would show those
25 notes in there. And there may have been a hold in

1 place pending the review of that engineer's letter.
2 There's a number of things. I mean, you're talking
3 almost five years now. But if someone didn't delete
4 those notes and someone didn't delete maybe some
5 attachments in there, I'm pretty sure I put them in
6 there.

7 MS. BLEAU: All right. So, moving away from
8 how Mr. Mercede was treated, I want to talk about the
9 interaction between you and Mr. Hernandez. Was there a
10 discussion in the open and in front of Mr. Mercede?

11 MR. MADDEN: I don't know if Mr. Mercede was
12 there at that point. I think he was, but it was right
13 there at Karen's workstation.

14 MS. BLEAU: Karen Essayan?

15 MR. MADDEN: So that's when they had the
16 testimony and they wrote that I balled up my fists and
17 I was going to do that? No problem. Let's get Karen
18 in here. Let's get her to testify.

19 MS. BLEAU: Because why? Did that happen?

20 MR. MADDEN: She was a witness. I wanted her
21 there.

22 MS. BLEAU: And did she confirm Mr. Hernandez's
23 version of the events?

24 MR. MADDEN: No, she did not.

25 MS. BLEAU: Was Karen at her desk when you had

1 the conversation with Mr. Hernandez?

2 MR. MADDEN: She was there. That's why I
3 called her. I wanted her there. No different that
4 today with Paul and with Richard Benton.

5 MS. BLEAU: Hang on one second. Sharing my
6 screen again. Okay, this is Mr. Hernandez's statement
7 that was provided to you shortly before your deadline
8 to respond to the City, right?

9 MR. MADDEN: Yes.

10 MS. BLEAU: On page 207 is where he talks about
11 the Mercede issue. "Mr. Madden approached me and Mr.
12 Mercedes [sic] in the DSD lobby. Madden started
13 yelling and his body language was hostile. I thought
14 he was not right, mentally. Greg Hamilton was outside
15 my office and said this was John's personality and
16 posture. I felt like John Madden was threatening me or
17 maybe off his medication. It was strange." Did I read
18 that right?

19 MR. MADDEN: You did.

20 MS. BLEAU: Did you, in fact, yell at Mr.
21 Hernandez at any time during that conversation?

22 MR. MADDEN: No, I did not. But he knew how I
23 felt. I was very direct with what I said.

24 MS. BLEAU: If you had started yelling at Mr.
25 Hernandez in the middle of the DSD lobby, would others

1 have heard it?

2 MR. MADDEN: Yeah. Karen was sitting right
3 there.

4 MS. BLEAU: Did the City call anybody to
5 testify that they heard you yelling at Mr. Hernandez?

6 MR. MADDEN: No. I think Karen works for
7 George Oliva right now. It may have, you know, just
8 like when Paul said that Al Battle called him.

9 MS. BLEAU: What about that? What do you mean?

10 MR. MADDEN: Well, when Al Battle called Paul
11 and asked him about any issues with me and when Paul
12 said that he called him, asking about that.

13 MS. BLEAU: Right.

14 MR. MADDEN: So, getting back to this here, did
15 anyone call Karen like I did? Did they talk to here
16 like we did?

17 MS. BLEAU: I see. All right. Let's turn to
18 page 210 of the City's Notebook. You're going to find
19 a document -- actually it starts at 209 -- see this
20 document that starts, "Please read this before our
21 meeting tomorrow."

22 MR. MADDEN: Yes.

23 MS. BLEAU: According to Mr. Hernandez's
24 testimony on Day 4 at page 88 of the transcript, he
25 says he wrote this document the night of his

1 conversation with you in the DSD lobby. Did you
2 remember him saying that?

3 MR. MADDEN: I don't remember his exact words,
4 but if that's what he said.

5 MS. BLEAU: Well, in his, what he says were
6 contemporaneous notes, in this description of what
7 happened -- did Mr. Hernandez say that you were yelling
8 at him?

9 MR. MADDEN: In this document here?

10 MS. BLEAU: Right.

11 MR. MADDEN: I can't read that --

12 MS. BLEAU: He said -- let's look at it. This
13 says where it took a turn -- "Mr. Madden approached us
14 in the lobby and said hello to Richard. And then asked
15 what are you doing here? Richard responded that he was
16 here to submit drawings for a shoring permit. Then he
17 said in a tone of voice for all to hear, 'I never heard
18 of a shoring permit. Who made you do that?'" Now, is
19 that the same as saying that you yelled at Mr. Mercede?

20 MR. MADDEN: I think whatever the document was
21 that we were looking at before, it said, "He approached
22 me yelling," or "Yelling at me when he approached."

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

24 MR. MADDEN: How could I be yelling at him? I
25 didn't know what was going on. I just saw Richard

1 because he usually wears a fedora. "Richard, what are
2 you doing here?" And that's when he started to tell
3 me, and I'm like, "What?"

4 MS. BLEAU: Okay, so then Mr. Hernandez goes
5 on, he does have some caps that you said, "What?" I'm
6 emphasizing at least that you were being direct, as you
7 say.

8 MR. MADDEN: Oh, yeah.

9 MS. BLEAU: "And he broke in and said, 'What did
10 you say?' And I tried again to explain it. He was in
11 disbelief, he said he never heard it and showed him
12 where these requirements came from. I finished with
13 Richard and then proceeded to go back to my office
14 [inaudible]." So far, does Mr. Hernandez say that you
15 were aggressive, in what we read?

16 MR. MADDEN: [reading out loud to himself]
17 That's more accurate of what took place than what the
18 other document said.

19 MS. BLEAU: So here he doesn't say, when he
20 wrote these notes the night of the activity, the
21 interaction, he didn't say you were aggressive, right?

22 MR. MADDEN: Yeah.

23 MS. BLEAU: And he doesn't say you were
24 threatening or violent, right?

25 MR. MADDEN: Yeah.

1 MS. BLEAU: Does he said he thought you'd gone
2 off your meds and that you weren't right, mentally?

3 MR. MADDEN: That I think he said, "balling up
4 his fists" or "took a crouching stand."

5 MS. BLEAU: Yeah, well those weren't in his
6 written statements, those were in his testimony, what
7 was, again, different from what he describes here in
8 his contemporaneous notes, right?

9 MR. MADDEN: Yeah.

10 MS. BLEAU: Did you ball up your fists at Mr.
11 Hernandez?

12 MR. MADDEN: No.

13 MS. BLEAU: Did you crouch and act like you
14 were going to attack him?

15 MR. MADDEN: No.

16 MS. BLEAU: If you had, do you think the City
17 would have waited from -- when did this interaction
18 occur?

19 MR. MADDEN: Mid-July?

20 MS. BLEAU: Mid-July until walking you in
21 October?

22 MR. MADDEN: Heh. Wouldn't they would have
23 waited?

24 MS. BLEAU: Yeah. If you had actually done
25 that to Mr. Hernandez, do you think the City would have

1 done nothing for months?

2 MR. MADDEN: No, the City would not have
3 waited. In fact, if you look in the office, if you're
4 in the DSD, if you look in Karen's office -- I'm not
5 sure of the exact angle -- but they had George Maura's
6 office right there so he could see the lobby. He had a
7 visual presence of the lobby. And if it happened the
8 way they said and I was aggressive, for one, if George
9 was there, if it reached that level, he would have
10 heard it. And two, we've had situations in the
11 Building Department where individuals were investigated
12 by George Maura. So, like if somebody said, "Hey, he
13 was really threatening," or "He did this or he did
14 that," George Maura was there and George would get
15 involved in those situations.

16 MS. BLEAU: Is that Detective Maura?

17 MR. MADDEN: Detective Maura, yep. But if Luis
18 Hernandez and John Travers are interacting all the time
19 -- and I think there's something in there that, "Yeah,
20 that's John, he runs hot and cold," something like
21 that. Maybe I think John Travers answered Luis in
22 maybe the transcripts or something, but he said, "Yeah,
23 John's like that, he runs hot and cold." If they see
24 it that way, they see it that way.

25 MS. BLEAU: Let's talk about Valerie Arthur,

1 another witness that the City has called that testified
2 that you ran more than just "hot under the collar," as
3 it were. That you screamed at her, that you pointed
4 your finger in her face -- you heard her testimony.
5 Was that truthful, an accurate description of your
6 interaction with her?

7 MR. MADDEN: That's a lie. Those statements
8 are lies. They're not accurate, they're not truthful.

9 MS. BLEAU: Okay. Were you upset with Ms.
10 Arthur at all about what you were talking to her about
11 that day?

12 MR. MADDEN: Oh, yeah.

13 MS. BLEAU: And why were you upset with her?

14 MR. MADDEN: She's been around the building
15 industry; she's helped develop computer programs in the
16 building industry. I have had countless conversations
17 with her regarding the Building Code and the technical
18 operation of that computer system. In fact, shortly
19 after I started with the City, they -- I think it was
20 her, maybe Kevin Kynel [phonetic], and somebody else --
21 because I was so impressed with C+ and I navigated it
22 and I figured it out pretty quickly. And they asked me
23 if I would do a video for whoever -- I don't know, some
24 promotional thing or something like that -- so we were
25 out in the parking lot and they had a video camera and

1 they just let me talk. I mean, there was not script,
2 there wasn't anything, and I just kept rambling on like
3 I do. And we shot it.

4 But when you become the Chief in any of the
5 disciplines in the Building Department, you're tasked
6 with responsibilities of updating certain elements of
7 the computer system every Code cycle, different
8 Inspection types, different Plan Review types, a number
9 of things. I mean, I haven't been in that system in
10 over four years now, as a Chief, because you can look
11 at different screens. Now, from the outside, before
12 they went to Accela, from the outside you had access to
13 a lot of the information, but not all of it.

14 MS. BLEAU: We're getting off topic, I want to
15 bring you back in.

16 MR. MADDEN: Sorry about that.

17 MS. BLEAU: That's all right. As you said. I
18 mean I know you have a lot of knowledge in there, but I
19 want you to focus specifically on what we're talking
20 about right now, which is Valerie Arthur and the
21 concerns you had about changes that she made in the
22 system. What was the timing, what was the project that
23 she made the changes on, and why were you concerned?

24 MR. MADDEN: Well, for a number of things.
25 Okay, I'm going to go by what I remember. For one, the

1 permit -- it was a Private Provider job, it was the
2 1415 BSO, they were working without permits, it was
3 almost done, and then going back and forth with the
4 permitting and things like that. And then when I was
5 reviewing that, and reviewing those documents -- Can I
6 say how I got involved with the 1415, or no? Or stick
7 with the Valerie. I'll stick with the Valerie.

8 So how I got into the 1415 is one thing. But
9 when I sent that email out, "Who changes these? Who
10 removed these permit stops?" By removing those permit
11 stops, it did a number of things. One, it shows that
12 if that permit stop -- I shouldn't say permit stop --
13 Plan Review Stop. If you remove a Plan Review Stop,
14 then that permit could be issued without that approval.
15 So Building, Plumbing, Electrical, Mechanical -- all of
16 those stops on there -- a permit should not be reviewed
17 until each of those has been approved. You can't issue
18 that permit. That's just a common practice and front-
19 line staff knows that before they issue a permit.

20 So, when you remove that, then it takes away
21 the ability of that Plans Examiner to evaluate that
22 building. Now, it may not require a Plumbing Plan
23 Review Stop or a Building Plan Review Stop -- not all
24 permits are the same. But when you come into the
25 Building Department and you say, "I want to do this,"

1 the front-line staff enters the permit type and the
2 permit type automatically propagates which Plan
3 Reviewer needs to look at that set of plans.

4 So, when I saw the permit type and the Plan
5 Review Stops had been removed, and then you look at
6 that, you look at a 1415 BSO job, it's like, "Whoa!
7 Something's going on here." So then now, if you look
8 at the PX1 or PX2, I'm not sure which one it is, and
9 that policy says that you -- Building Plans Examiner,
10 Electrical Plans Examiner, Mechanical Plans Examiner --
11 each of you has a responsibility when that permit comes
12 in and before that permit is issued.

13 You don't necessarily have to look at the nut
14 and bolts. And I'm okay with that. If you say you
15 don't need to look at the nuts and bolts and that's
16 your policy? That's your policy. However, if you look
17 at that PX2 policy or the PX1, I'm not sure which one
18 it is that deals with the Plan Review, in there it says
19 that -- I'll speak for myself as Structural Plans
20 Examiner, you have a responsibility when you have this
21 permit. First -- in the Plan Review, I'm not looking
22 at it right now, but if we had it up on the screen, I
23 could go through and show you actually where that it --
24 that I have an obligation to make sure that the Plan
25 Examiner who said that they were going to review the

1 plans is the one that reviewed the plans, to make sure
2 that the two things match.

3 So, we were told to go to John Travers' office
4 or Luis Hernandez's office, get that book, open the
5 book, and that book would contain inspectors and plans
6 examiners from the Private Provider. You look at that
7 name, the license number, you look at the plans that
8 you have in front of you, if those two match? Boom.
9 You can check that box off.

10 The other component of that is, is we were
11 tasked -- and I'll speak for myself -- we were tasked
12 to make sure that Zoning approved it, Fire reviewed it
13 and approved it, Engineering reviewed, and Flood
14 reviewed it. So, we were tasked with that to make sure
15 that they did their job. So now, if Val removed those
16 Plan Review Stops and say, "Oh, you don't need to look
17 at it," then if something happens with that building or
18 that thing, then I'm on the hook again because I failed
19 to follow the PX policy.

20 So when she removed those stops -- and she
21 knows how important they are because I've had plenty of
22 conversations with her, and we even developed a number
23 of things in the computer system with the limited
24 capabilities that it had -- so when she said she wasn't
25 aware of it, she's not a Code person, oh, that's true.

1 But the whole process of permit issuance, Plan Review
2 requirements, Inspection requirements, she was well
3 aware of those things.

4 MS. BLEAU: So, she says that she removed the
5 stops because Francine Weber, who worked for Mr.
6 Travers at the time, picked that project to do testing,
7 and they removed the stops as part of the testing but
8 forgot to put them back in, right? That was what she
9 said.

10 MR. MADDEN: That's what she said.

11 MS. BLEAU: And so, you were upset with her
12 because you didn't really accept that explanation,
13 right?

14 MR. MADDEN: Oh, that it was just a random
15 address?

16 MS. BLEAU: Yes.

17 MR. MADDEN: Oh, I knew better than that. No.
18 That wasn't just a random address.

19 MS. BLEAU: All right. So, you were upset with
20 her. According to her you'd had a conversation or
21 interaction with her in front of Robyn Randall.
22 Valerie Arthur said that you yelled at her, pointed
23 your finger in her face, got into her face, and made
24 her afraid of her safety. Right?

25 MR. MADDEN: That's what she said.

1 MS. BLEAU: Did Robyn Randall, who was there
2 during that interaction according to Ms. Arthur,
3 corroborate any of that testimony?

4 MR. MILLER: Let me just object that this
5 point. If we're going to keep asking Mr. Madden to
6 comment on every witness that's testified in this
7 hearing, that's inappropriate. The Board has heard
8 what Ms. Randall said. We don't need to ask every
9 witness what every other witness has said.

10 MS. BLEAU: Okay. I think that the follow-up
11 question is, why do you think Ms. Arthur was not being
12 truthful?

13 CHAIR ADELSON: Let's continue with the line of
14 questions and see, as you said, what the follow-up
15 questions are and how you bring it together.

16 MS. BLEAU: Thank you. Mr. Madden?

17 MR. MADDEN: What was the question?

18 MS. BLEAU: Why do you think Ms. Arthur
19 testified under oath falsely about the interaction that
20 you had with her? Do you think that she misunderstood
21 what was happening or that she intentionally described
22 it inaccurately?

23 MR. MADDEN: You ask me what I think, why she
24 did that?

25 MR. MILLER: Let me object. I don't understand

1 how he can answer why someone else did or said
2 something. Calls for a conclusion.

3 MS. BLEAU: Okay, I was asking him what he
4 thought, not what she thought. What he thought. But I
5 can move on, that's fine. Regardless of why Ms. Arthur
6 did that, is your testimony that she was testifying
7 falsely. Correct?

8 MR. MADDEN: Correct.

9 MS. BLEAU: Andre Cross -- you heard Andre's
10 testimony about your interactions with him. Was his
11 testimony honest and truthful?

12 MR. MADDEN: No.

13 MS. BLEAU: Mr. Miller, for the record, is
14 laughing because apparently it can't be that someone
15 else is lying, out to get you. But I'm not allowed to
16 ask why he thinks they're lying? Right, Mr. Miller.

17 MR. MILLER: I apologize. I shouldn't have
18 done that.

19 MS. BLEAU: No. Thanks. Why would Andre Cross
20 lie about you, Mr. Madden?

21 MR. MADDEN: I was hurt by Andre's -- what his
22 statement was. And I was hurt by what he said.
23 Andre's a nice guy. And I had thought we had gotten
24 along. And that hurt, that hurt what he wrote, it hurt
25 what he said, and our interactions weren't perfect.

1 And when I was listening to him describe the way I was
2 interacting with him, or I was making fun of his
3 clothing, or -- I wasn't making fun of his clothing. I
4 think he dresses well, I mean, he's a very charismatic
5 guy. And he's a nice guy. Why he said what he said, I
6 don't know what was in his mind and why he thought that
7 way.

8 But if he said for one moment, "John, come on,
9 man. That's inappropriate." Or "John, I don't take
10 that the same way you think I do and if you would just,
11 you know, stop and don't say that." And we did have a
12 conversation one time, and I think it was in my office
13 -- you know, it's just like a group of people, whether
14 you're a group of Inspectors or a group of friends or
15 whatever, the closest of friends will make fun of one
16 another, you needle one another, it's just part of
17 life.

18 I mean we're not living in a monastery. We're
19 normal, we joke around, we fool around, and I told him,
20 I said, "Andre, if I didn't like you, if I didn't care
21 for you, if I didn't have any regards for you, you and
22 I wouldn't talk at all." It's just a normal thing.
23 But he didn't say, "John, you said something that
24 frightened me or said something that I was in fear of
25 retaliation or fear of you coming in and shooting the

1 place up," I've never said anything like that. I've
2 never threatened anybody. That hurt when he said that
3 and he wrote that. I'm like, look, man. As I sat here
4 in front of my computer and listened to that? And
5 listened to those words and listened to the way he said
6 it, that hurt. It hurt. It still hurts.

7 Now, would I sit down and talk to Andre
8 tomorrow and hang out with him? Yeah. Yep, he's a
9 nice guy. He's a likeable guy. He's good in that
10 position. Other people didn't think that he was the
11 right person, that he should not have been given that
12 position, and I didn't feel that way. I thought that
13 he was -- he's charismatic, he's a nice guy. He really
14 is. And he's funny. But why he said that and why he
15 wrote that? I don't know. If he said, "Hey, John,
16 look man, you're scaring me," or "I don't appreciate
17 it."

18 Why did he go -- if he went to John Travers --
19 if I really scared him that way, the way he felt and
20 the way he described that, that I scare him, that he
21 had to walk out of the building or into the parking lot
22 and he was scared like that? Heh. "Hey, Detective
23 Maura, I'm had a couple interactions with John, and
24 he's -- you know, I'm scared." Or John Travers.
25 "John, you know, hey, John, he's a scary guy, I really

1 think that he could do something." I mean, if you
2 really had those words like he had today, he would have
3 gone to John, or he would have gone to Anthony, or he
4 would have gone to Al, or he would have gone to
5 Detective Maura.

6 So, I think you asked him that -- "Who'd you
7 talk to? Who did you meet with? Who did you say
8 something?" You could do it in total confidence,
9 behind closed doors. And if he did, why didn't
10 Anthony, why didn't John come to me and say, "Hey,
11 look, John, calm down, man, calm down." You know?
12 "What's going on here?" Not that we had to be in the
13 same room to explain ourselves.

14 MS. BLEAU: So, after your heart attack, there
15 was testimony that your demeanor changed. Would you
16 agree with that?

17 MR. MADDEN: Yes.

18 MS. BLEAU: Until sometime in 2016 when the
19 BORA thing was going on and you heard about things
20 going on with your family and you were investigating
21 Greg Hamilton, between your return of the heart attack
22 and before those events in 2016, have you heard the
23 City provide any testimony to suggest that there's any
24 evidence of inappropriate behavior on your part?

25 MR. MADDEN: That's a long question.

1 MS. BLEAU: Sorry.

2 MR. MADDEN: What was that? I'm sorry, that
3 was a long one.

4 MS. BLEAU: You know what? Let me move on and
5 ask something else, a better question. I'm going to
6 share my screen with you, unless -- Madam Chair, I
7 don't know if you're looking for a break? It's been a
8 while. You're muted.

9 CHAIR ADELSON: I didn't know when you would
10 think was an appropriate place to stop your
11 questioning, so this is great. Why don't we take a
12 break until 3:00, a few minutes?

13 MS. BLEAU: Okay. Thanks.

14 [BREAK FROM 2:45 P.M. - 3:00 P.M.]

15 MR. MILLER: Luis, put your mic on.

16 LUIS HERNANDEZ: Yes, can you hear me?

17 MR. MILLER: Yeah. We were just discussing, it
18 looks like we're going to wind up being the rest of the
19 day still with Mr. Madden testifying, so rather than
20 make you sit on the line, hoping we're going to get to
21 you, we're going to tell you that you can leave for
22 today and we'll figure out what we're going to do after
23 this.

24 CHAIR ADELSON: Hold on one second. Someone
25 has some background noise. Is that you, Mr. Hernandez,

1 or is that the Moderator? The Moderator?

2 MR. MILLER: Yeah.

3 CHAIR ADELSON: Awesome. Thank you. Go ahead.

4 MR. MILLER: So, Luis, rather than make you sit
5 there in cyberspace doing nothing for two hours, I
6 think we're going to tell you to go ahead and go for
7 today, and I'll be in touch afterwards and we'll figure
8 out what we're going to do. But, there's no point in
9 us making you wait when we're not going to get to you.

10 MR. HERNANDEZ: Understood. Thank you.

11 MR. MILLER: Okay, thank you.

12 CHAIR ADELSON: Thanks, Luis -- Mr. Hernandez.
13 You are dismissed. So, I have a question. It is now
14 only the 22nd. I know we went through a whole litany of
15 dates previously last week. There is no opportunity
16 between now and February 15th to get another date in,
17 because I think we would like to get this wrapped up by
18 February 15th, if possible.

19 MS. BLEAU: Now, I thought we were going to
20 hear from Ms. Arthurs after the last hearing, but I
21 thought we were going to do another monkey thing --
22 monkey survey. Ms. Arthurs, weren't we looking for
23 another date, or do we have another date?

24 MS ARTHURS: Well, at the last meeting the
25 agreement was that instead of doing February the 2nd,

1 which was chopped in two pieces, it's to get all day on
2 the 15th. I reached out to persons individually and the
3 consensus -- except for I have not heard back from Mr.
4 Baldwin -- is that they are able to do the 15th.

5 CHAIR ADELSON: So, I'm suggesting possibly
6 trying to find a date between now and the 15th so that
7 we can close up Mr. Madden today -- hopefully, fingers
8 crossed -- do Mr. Hernandez; then the parties can do
9 closings and then we can have a date to deliberate.

10 If not, the 15th will be Mr. Hernandez,
11 closings, and then we'll find a date to deliberate.
12 That's fine too, but thinking if there's a possibility
13 between now and the 15th.

14 MS. BLEAU: We may be able to do all of that
15 the same date. You don't think so?

16 CHAIR ADELSON: You think we're going to be
17 able to deliberate, close, and do Mr. Hernandez?

18 MR. MILLER: Again, I don't know what you're
19 planning for Mr. Hernandez, Denise, how long do you
20 think you're going to be?

21 MS. BLEAU: Not long, and I'm going to try to -
22 - I've decided I'm going to try to just go over some of
23 the stuff with Mr. Madden today, so I may not call Mr.
24 Hernandez.

25 MR. MILLER: If that's the case, I don't

1 imagine I'm going to have a whole lot of cross for Mr.
2 Hernandez when she gets done, so I would think we could
3 do him, all the closings, and have all of that done by
4 mid-afternoon. I'm not suggesting you have only that
5 time to deliberate. If you need more, obviously you'll
6 take it. Now I think we can get all of that done in
7 one day.

8 CHAIR ADELSON: Okay. Let's just keep with the
9 15th and go from there.

10 MS. ARTHURS: Madam Chair, quick question.

11 CHAIR ADELSON: Yes, ma'am.

12 MS. ARTHURS: If Mr. Baldwin is unable to
13 attend, do you want to still proceed?

14 CHAIR ADELSON: I think that we need to. I
15 think that we'll give him the same opportunity to watch
16 it by video. I think the concern is about him not
17 deliberating. If that is the case, then we can hold
18 off on deliberating that afternoon and find a date that
19 he can do deliberations, as long as he's seen all of
20 the proceedings. That make sense to everybody?

21 MR. MILLER: I think Ms. Bleau and I are in
22 agreement that Mr. Baldwin has to be part of the
23 deliberations.

24 CHAIR ADELSON: If he can watch this and the
25 15th, in the event he can't make the 15th, then we'll

1 pick another date to do our deliberations with him
2 available.

3 MR. MILLER: Yes.

4 CHAIR ADELSON: Okay.

5 MS. ARTHURS: Okay.

6 CHAIR ADELSON: Works for me.

7 MS. BLEAU: Are we ready?

8 CHAIR ADELSON: For you? Yes, ma'am.

9 MS. BLEAU: Okay, back to me.

10 Mr. Madden, I want to talk to you next about
11 Mr. Goldstein. You've offered testimony that Mr.
12 Hernandez' testimony against you is not accurate and
13 that Ms. Arthurs' testimony against you is not
14 accurate. This is a letter from Mr. Goldstein, a
15 private developer, I guess, contractor. Is it
16 contractor or developer? What would you --

17 MR. MADDEN: He owns that building. That's
18 what he said to me when I first met him.

19 MS. BLEAU: And he's with Midguard Group
20 Company. Is what Mr. Goldstein tells the City here
21 accurate?

22 MR. MADDEN: No.

23 MS. BLEAU: You were at this site on two
24 occasions, correct?

25 MR. MADDEN: Yes.

1 MS. BLEAU: And I can pull it up, but we've
2 looked at your emails previously where you sent emails
3 about being at the site with Burt and Joe Pascarello
4 and, I think, a couple other individuals, and we asked
5 Mr. Ford about it last time. That was the first time
6 that you went out there, correct?

7 MR. MADDEN: Yes.

8 MS. BLEAU: And as a result of your visit, you
9 wrote an email that went to George Maura, who then sent
10 Bobby Masula out there, and Mr. Masula issued a stop
11 work order?

12 MR. MADDEN: Well, I don't think Detective
13 Maura sent Bobby out there.

14 MS. BLEAU: I didn't mean Maura, I mean Oliva.

15 MR. MADDEN: George Oliva, yeah.

16 MS. BLEAU: Sorry. So, you sent an email,
17 George Oliva said, "If this is true, Bobby go check it
18 out. If this is true, issue a stop work order, maybe
19 get Detective Maura involved." Right?

20 MR. MADDEN: Yes.

21 MS. BLEAU: At your first visit, did you ever
22 see Mr. Goldstein?

23 MR. MADDEN: No.

24 MS. BLEAU: And I think Mr. Ford also testified
25 that Mr. Goldstein wasn't there and that there was

1 nothing improper, or whatever -- unusual about the
2 event -- your visit that day, right?

3 MR. MADDEN: Well, I don't know exactly what
4 Burt said as far as -- with everything he said, but
5 there wasn't anything unusual other than we went there
6 and the contractor showed up and we talked to him and
7 took a lot of photos until he said what he said to us.

8 MS. BLEAU: Until who said what he said to you?

9 MR. MADDEN: That Luis Hernandez and John
10 Travers were out here like two weeks ago or a week ago,
11 or whatever he said.

12 MS. BLEAU: The contractor said that to you
13 your first visit?

14 MR. MADDEN: Yup, because we --

15 MS. BLEAU: You put that in your email that you
16 had sent, right?

17 MR. MADDEN: Right, because how we got out
18 there -- I would have never gone out there to date site
19 until someone told me about it and then I went out
20 there. But, when we talked to James Coleman -- I still
21 can't even get it right. I guess they're partners.
22 Because we were just doing what you typically do when
23 you go out there -- "Where's your permit card? Okay.
24 Where was your logbooks? Okay. Where's your plans?"
25 And they couldn't produce that. I think what they did

1 show us or have was there was a bunch of plans, bunch
2 of stuff on the table, and what I could figure out they
3 had permits for was an interior existing bathroom or
4 something like that, but it wasn't the new remodeled
5 portion, the BSO portion. I think the permit for those
6 restrooms was the common area. I don't think it was
7 the offices. Certainly not the exterior part of the
8 building.

9 MS. BLEAU: So, this job, the BSO building, was
10 it MTCI or MT Causley, whatever, Private Provider job
11 -- was this one of those where the Private Provider
12 were reviewing the plans and doing the inspections?

13 MR. MADDEN: I don't know if they did. I don't
14 know if it was the PX or PX1 or PX2 permit that they
15 had. They just didn't have that out at the job site.
16 So, at that time, you know, you're just asking, just
17 like I did on the JetSmarter. "What have you got?"
18 So, JetSmarter, they had everything in order. They had
19 the logbooks, they had MTCI or MT Causley, they had the
20 plans, and they had the permit card. They had
21 everything in order on that job.

22 MS. BLEAU: And what did they have on your
23 first visit to the BSO building?

24 MR. MADDEN: Well, they had your like working
25 table with a bunch of plans on it. They had books on

1 it. I think they had an MT Causley book there. I think
2 they had a permit card there and stuff like that. But
3 what you're looking at -- Okay, do these plans match
4 what they're doing and does the permit card reflect
5 that permit number for that set of plans? And that's
6 what they couldn't show us. They couldn't produce
7 that.

8 MS. BLEAU: So, the stop work order was issued.
9 You were told that they were still doing work and you
10 went back there a second time. At that time, did
11 anybody accompany you?

12 MR. MADDEN: Joe DiMaio did.

13 MS. BLEAU: You're seeing Mr. Goldstein's
14 letter on the screen, right?

15 MR. MADDEN: At that point I was trying --

16 MS. BLEAU: Do you need it bigger?

17 MR. MADDEN: No, not bigger, but what's at the
18 top of it? Yeah, that's it.

19 MS. BLEAU: This letter he just talks about how
20 important he is and getting Coleman James involved and
21 MTCI working with John Travers and being familiar. So,
22 they hired them and then this second paragraph is sort
23 of where he talks about you, right?

24 MR. MADDEN: "At this point, we had a very
25 upsetting, unprecedented experience with some of the

1 Building Department staff and mostly, particularly,
2 John Madden."

3 MS. BLEAU: So, he says, "During the month of
4 September, we found ourselves subject to behavior that
5 can only be described as intimidation, harassment, and
6 deliberate abuse. By September, the construction was
7 substantially complete." Now, that's a sentence you
8 agree with, right?

9 MR. MADDEN: That's an accurate statement.

10 MS. BLEAU: Okay. "On Friday afternoon,
11 September 2nd, Mr. Madden, the Chief Building Inspector,
12 and three other men from the City of Fort Lauderdale
13 came by the BSO job site unannounced saying someone
14 from their department sent them." Was that a true
15 statement?

16 MR. MADDEN: Well, I don't know if they sent
17 me, but I definitely found out about it from someone in
18 the Building Department, about that job.

19 MS. BLEAU: And you all did show up
20 unannounced?

21 MR. MADDEN: Yes.

22 MS. BLEAU: "They took the position we did not
23 have any permits or authorization to do the work." Is
24 that a true statement?

25 MR. MADDEN: Well, they took the position of

1 didn't have any permits, yes. Authorizations? I don't
2 know what he meant by that. He very well may have been
3 authorized to do what he's doing, but it's what he did
4 and what he was doing was certainly not in any confines
5 of what the Building Code says you can do.

6 MS. BLEAU: Okay, because you can't do
7 construction without a permit, period, right? I mean
8 this kind of construction?

9 MR. MADDEN: Well, that kind of construction,
10 no, you can't do that without a permit.

11 MS. BLEAU: "They began taking pictures
12 throughout the space." I think you already said that's
13 true.

14 MR. MADDEN: Yup.

15 MS. BLEAU: "The General Contractor introduced
16 himself and took them to the Early Start Permit and
17 logbook and told them that John Travers is aware of the
18 work." And this is all being described by Mr.
19 Goldstein, but he wasn't there that day, right? This
20 is just what somebody told him and he's telling the
21 City?

22 MR. MADDEN: I didn't meet Mr. Goldstein or
23 talk with him on that first initial visit.

24 MS. BLEAU: Okay. Is what he's describing here
25 -- that next sentence that I just read -- is that

1 accurate, that the contractor showed you the Early
2 Start Permit and the logbook?

3 MR. MADDEN: Yeah. I mean, I don't remember
4 all the documents that he showed me, but he definitely
5 had stuff on the table and we were going through it and
6 he was saying this and showing us that.

7 MS. BLEAU: And he did tell you that John
8 Travers was aware of the work that they were doing?

9 MR. MADDEN: Yeah.

10 MS. BLEAU: Okay. "At this point, I came on
11 the job site and saw them looking over the plans."
12 Now, that's not true, right?

13 MR. MADDEN: That's not true. He wasn't there
14 that day.

15 MS. BLEAU: "Mr. Madden was threatening to have
16 people arrested and/or license suspended. My
17 contractors were definitely intimidated. The tones and
18 words used were threatening. Madden began recording
19 from his phone and I told him on the record not to
20 threaten us."

21 So, did you have any interaction with Mr.
22 Goldstein where you recorded the interaction from your
23 phone?

24 MR. MADDEN: Oh, yeah. But there's something
25 about that statement. He says that he began recording

1 and what else? Let's see. "The tone and words were
2 threatening. Madden began recording from his phone and
3 I told him." You got to watch the video. We got to
4 show the video because I was already recording and he
5 walked in and I don't know who asked who first. I
6 haven't seen the video in a long time, but I'm like,
7 "I'm John Madden with the City of Fort Lauderdale."
8 And I think I even asked him, "Who are you?" And he
9 goes, "I'm Mr. Goldstein," or I don't know if he said
10 his first name. And then I don't know if I asked him
11 if he was the owner, or if he said, "I'm the owner of
12 this place," or "the owner of this building."

13 MS. BLEAU: We're going to watch it in a
14 minute. I'm just laying some foundation first.

15 So, this whole description here where Mr.
16 Goldstein says, "At that point I came in the job with
17 no plans." He's now actually skipped from the first
18 visit to your second visit without -- the way he
19 describes it makes it all sound like that was the first
20 visit.

21 MR. MADDEN: That's the way he wrote it --
22 that's the way he wrote it.

23 MS. BLEAU: Okay.

24 MR. MADDEN: That's what I get out of what he
25 wrote.

1 MS. BLEAU: And he says, "We discussed that his
2 boss was aware of the work and had been on site and we
3 were just following the rules. I told him we would be
4 glad to discuss any issues with him and John Travers,
5 but we did not want to be harassed and subjected to
6 purposeful intimidation. I told him we and the
7 contractor had a good reputation, good citizens, we
8 would not, however, accept harassment, intimidation,
9 and threats. If he had a problem with something, he
10 should take it up with the bosses." Did you tell the
11 City and did you tell Ms. Richard and tell the City in
12 your response -- your written response -- that you had
13 recorded Mr. Goldstein?

14 MR. MADDEN: I think I wrote that down whether
15 I had the recording, or there is a recording, that I
16 played the recording. There's a number of things about
17 that recording. Oh, there was no doubt that there was
18 a recording that exists.

19 MS. BLEAU: And was the recording in the City
20 records and accessible to the City?

21 MR. MADDEN: Yeah, I recorded it from my City
22 phone.

23 MS. BLEAU: And did you show the recording to
24 anybody at the City before you were terminated, or
25 before you were put on administrative leave?

1 MR. MADDEN: Yeah, we were in a big meeting in
2 the Planning room and I don't know how many people were
3 in there, but I played that recording, so they could
4 hear the interaction, they could hear what we talked
5 about. You could get the tone of the conversation.
6 No, I played it for them. I don't know, I might have
7 even played it for Detective Maura. I don't know if I
8 did play it for him specifically.

9 MS. BLEAU: Let me pull up your response.

10 MR. MADDEN: But they definitely knew there as
11 a recording and I haven't read that response in a
12 while.

13 MS. BLEAU: Hang on. I've got to pull it up.
14 Right after Mr. Goldstein's letter is your response in
15 the City's notebook. This is your response; Complaint
16 by Mr. Goldstein starts here. It's one paragraph, two
17 paragraphs, a very long paragraph, and in here you say,
18 "The second meeting was recorded as requested by the
19 contractor. The recording was played during a meeting
20 held by Anthony Fajardo, as mentioned in the
21 statements. I also played the recording for Detective
22 Maura."

23 MR. MADDEN: I did play it for Detective Maura.

24 MS. BLEAU: You did play it for Detective
25 Maura, you did play it for Mr. Fajardo, and you did

1 tell Ms. Richard in the written statement that you had
2 a recording, right?

3 MR. MADDEN: Yes.

4 MS. BLEAU: In Ms. Richard's report -- I know
5 it's actually the testimony, sorry. In Ms. Richard's
6 testimony, she said, "Is it your recollection that Mr.
7 Madden did not deny the interaction with Mr.
8 Goldstein?" She said, "Well, my recollection is, I
9 guess, what I read in his response, and I think it only
10 devoted maybe two sentences to the Goldstein letter.
11 And it didn't mention a video, and it didn't mention a
12 recording. It just says, 'I didn't threaten Mr.
13 Goldstein.'"

14 So, in response to Mr. Goldstein's two- to
15 three-page letter, I think Mr. Madden's response was
16 maybe one or two lines out of his written response.
17 And so, had I been aware of it, I certainly would have
18 considered it being the recording."

19 Looking at your written response regarding Mr.
20 Goldstein that starts here and ends here -- would you
21 say that that was more than one or two sentences?

22 MR. MADDEN: I would say that definitely. Yes.
23 Absolutely.

24 MS. BLEAU: And you did, in fact, tell Ms.
25 Richard about the recording which, she apparently

1 forgot and definitely didn't look at, but it's --

2 MR. MADDEN: I turned all the [unintelligible].

3 MS. BLEAU: I've got to get this over here.

4 RECORDING PLAYING: Joe DiMaio and I are here
5 at 1415 -

6 MR. MADDEN: Where's the video?

7 MS. BLEAU: Hang on. I got it.

8 CHAIR ADELSON: Were you playing something,
9 because it's very hard to hear.

10 MS. BLEAU: Yes, hold on one second.

11 MR. MADDEN: If you put in there, it says
12 "Share my Audio," or "Computer Audio," on --

13 MS. BLEAU: Now I'm going to go back to the
14 beginning. This is Tab 55.

15 RECORDING PLAYS:

16 MR. MADDEN: "Joe DeMaio and I are here at 1415
17 Northwest 62nd Street."

18 MS. BLEAU: Can you all hear it okay now?

19 MR. MADDEN: Yes, I can.

20 RECORDING PLAYS:

21 MR. MADDEN: "We're here with the contractor.
22 Are you Mr. Coleman?"

23 MR. COLEMAN: Yes.

24 MR. MADDEN: And you're Mr.?

25 MR. JAMES: James.

1 MR. MADDEN: Mr. James. So, I'm here -- Joe
2 DeMaio and I are here with Mr. Coleman and Mr. James.
3 There was a stop work order issued by Bobby Masula on
4 Wednesday, September the 7th, 2016. And your name?

5 MR. GOLDSTEIN: James Goldstein. Who are you?

6 MR. MADDEN: James Goldstein. I'm John Madden.
7 I'm the Chief Building Inspector for the City of Fort
8 Lauderdale.

9 MR. GOLDSTEIN: All right. Where's John
10 Travers?

11 MR. MADDEN: John Travers is not in the office
12 today. Have you been in touch -- I'm just letting you
13 know; I'm recording this conversation because I was
14 asked to by --

15 MR. GOLDSTEIN: He needs to be here, too.

16 MR. MADDEN: Okay.

17 MR. GOLDSTEIN: As well as Lee Feldman -

18 MR. MADDEN: Okay.

19 MR. GOLDSTEIN: -- and whoever else at the City
20 --

21 MR. MADDEN: Because those people -- I work for
22 those people.

23 MR. GOLDSTEIN: Okay, well they need to be
24 here, also.

25 MR. MADDEN: I'm just letting you know I'm

1 recording this because I just want to make sure because
2 --

3 MR. GOLDSTEIN: That's good. That's good.

4 MR. MADDEN: -- if you've already been in touch
5 with John Travers --

6 MR. GOLDSTEIN: Absolutely.

7 MR. MADDEN: And he's been out here to the job
8 site?

9 MR. GOLDSTEIN: Yes.

10 MR. MADDEN: So, he knows what's going on?

11 MR. GOLDSTEIN: Yes.

12 MR. MADDEN: He's fully aware of everything
13 that you're doing?

14 MR. GOLDSTEIN: I can't comment [inaudible].

15 MR. MADDEN: Well he was here and he said -- by
16 his own admission, he said he was here two weeks ago
17 and Gary and Gary --

18 [Unknown Male]: Who's Gary? George.

19 MR. MADDEN: George and David. David doesn't
20 want to talk. Okay, so George and David said that John
21 Travers and Luis Hernandez were here last week -- or
22 two weeks ago.

23 MR. GOLDSTEIN: Okay.

24 MR. MADDEN: They were at the job site.

25 MR. GOLDSTEIN: Okay.

1 MR. MADDEN: But John said to George Maura and
2 myself the other day in my office that he was here two
3 weeks ago and he was here checking the inspection logs.
4 Was he checking the inspection logs for the bathrooms
5 or was he in checking all the other work?

6 MR. GOLDSTEIN: I suggest you ask him.

7 MR. MADDEN: Okay. But, have you been in
8 touch with --

9 MR. GOLDSTEIN: Listen, what I have heard,
10 okay?

11 MR. MADDEN: Okay.

12 MR. GOLDSTEIN: Is -- I'm the owner here,
13 right?

14 MR. MADDEN: Okay. You're the owner of the
15 building?

16 MR. GOLDSTEIN: The owner of the building and
17 the owner of the property.

18 MR. MADDEN: Okay. Okay.

19 MR. GOLDSTEIN: What I have heard is you have
20 been here multiple times sending people over in
21 harassment/intimidation fashion, okay? I hope that's
22 recorded.

23 MR. MADDEN: Okay. It is. I'm recording this.

24 MR. GOLDSTEIN: I want to meet with you --

25 MR. MADDEN: Okay.

1 MR. GOLDSTEIN: Your bosses --

2 MR. MADDEN: Okay.

3 MR. GOLDSTEIN: Lee Feldman, and the City
4 Commission.

5 MR. MADDEN: Okay.

6 MR. GOLDSTEIN: Okay?

7 MR. MADDEN: All right.

8 MR. GOLDSTEIN: Because that's not right.

9 MR. MADDEN: No, that's fine. This is my only
10 second time here.

11 [Unknown male]: We told you the first time you
12 were here.

13 MR. GOLDSTEIN: You sent other people here. Am
14 I correct?

15 MR. MADDEN: You're right. Yeah, I did.

16 MR. GOLDSTEIN: To harass and close up the job.

17 MR. MADDEN: No, I sent them out here to take a
18 look at things and see what was going on because there
19 was misunderstandings within our office.

20 [UNKNOWN MALE]: [Unintelligible] so forth.

21 MR. MADDEN: Pardon me?

22 MR. GOLDSTEIN: And they were asked to fail the
23 job.

24 MR. MADDEN: I told Eric Kuhns to fail the job
25 because the inspections, the work was concealed. So,

1 in accordance with the Florida Building Code, the work
2 was concealed, and the Inspector can't approve the
3 inspection --

4 MR. GOLDSTEIN: You're not recognizing MTCI
5 that was brought in to do the inspections.

6 MR. MADDEN: No, I didn't say that. I didn't
7 say that. The reason why I'm here -- the reason why
8 Joe are here --

9 MR. GOLDSTEIN: Did you look at their
10 inspection logs?

11 MR. MADDEN: Pardon me?

12 MR. GOLDSTEIN: Did you look at their
13 inspections logs?

14 MR. MADDEN: Well, let's take a look at them
15 now. Where are they?

16 MR. GOLDSTEIN: What I want to do is I want to
17 do this with everyone.

18 MR. MADDEN: Okay.

19 MR. GOLDSTEIN: Because I'm not feeling
20 comfortable with you.

21 MR. MADDEN: I understand that.

22 MR. GOLDSTEIN: Okay? So, you have an agenda.

23 MR. MADDEN: No, I know.

24 MR. GOLDSTEIN: Now it needs to be open.

25 MR. MADDEN: Oh yeah, for sure.

1 MR. GOLDSTEIN: Okay?

2 MR. MADDEN: Yeah, yeah, for sure.

3 MR. GOLDSTEIN: So, let's set up a meeting
4 immediately.

5 MR. MADDEN: Okay.

6 MR. GOLDSTEIN: This afternoon, tomorrow,
7 whenever.

8 MR. MADDEN: Okay. That's fine. Do you have
9 John Travers' phone number? Because I know you guys
10 have his phone number.

11 MR. GOLDSTEIN: No. If you work for him, I'm
12 sure you do.

13 MR. MADDEN: Yeah.

14 MR. GOLDSTEIN: You can set it all up. Good.

15 MR. MADDEN: Okay. It's one o'clock -- or,
16 it's quarter to one on Friday, September the 8th.

17 MR. GOLDSTEIN: It's Thursday.

18 MR. MADDEN: Is it Thursday?

19 [UNKNOWN MALE]: Yeah.

20 MR. MADDEN: It's Thursday, September 8th, one
21 o'clock, we're here on site and I'm gonna -- what I'll
22 do is I'll send an email to John Travers so we can set
23 up an on-site meeting or maybe a meeting in our office.

24 MR. GOLDSTEIN: It doesn't matter.

25 MR. MADDEN: Whatever it is, would you like to

1 be in attendance?

2 MR. GOLDSTEIN: I would like to be in
3 attendance.

4 MR. MADDEN: So, your name again, so this way I
5 get it?

6 MR. GOLDSTEIN: My name is James Goldstein.
7 I'd also like to have my lawyer there.

8 MR. MADDEN: Yeah, that's fine.

9 MR. GOLDSTEIN: And if we can have City
10 Commissioner --

11 MR. MADDEN: Yeah. Sure. Absolutely. Whose
12 district is this?

13 MR. GOLDSTEIN: I know this is Bruce Roberts'
14 district.

15 MR. MADDEN: Okay. Yeah, he's former police
16 chief. I'll give you my card. Do you have a card?

17 MR. GOLDSTEIN: Not with me.

18 MR. MADDEN: Okay. All right. Good. All
19 right, do you mind, I'll end the conversation and we'll
20 go from there. That's fine.

21 MR. GOLDSTEIN: End the conversation. That's
22 sounds fine.

23 MR. MADDEN: So, at 12:48 on Thursday,
24 September 8th, 2016, Joe and I will leave and we'll go
25 back and we'll contact John Travers and at the request

1 of yourself, we'll get maybe some other representatives
2 here to help facilitate and resolve this. Does that
3 sound good?

4 MR. GOLDSTEIN: Wherever.

5 MR. MADDEN: Meet at the job site or here?

6 MR. GOLDSTEIN: I'll meet anywhere.

7 MR. MADDEN: Okay. Got you. Okay, Mr.
8 Goldstein. Thank you.

9 [END OF RECORDING]

10 MS. BLEAU: Mr. Madden, I just want to ask you
11 -- I just want to go back in this video a little bit.
12 While you were talking, you were looking through the
13 plans, and there were a lot of pages that had this MTCI
14 stamp on it --

15 MR. MADDEN: Right there.

16 MS. BLEAU: -- with nothing filled out. What
17 does that tell you?

18 MR. MADDEN: That MTCI has not approved that
19 page. It's not signed. And that's what I was trying
20 to capture when I was shooting the video. That and the
21 stop work order. But, you know, John --

22 MS. BLEAU: At the beginning of this proceeding
23 in my opening statement, I had shown in a power point,
24 and it had a picture like this of a page that it didn't
25 have anything in it. And Mr. Travers explained that

1 sometimes the back page, the very last page, doesn't
2 get stamped or filled out, or maybe a back of a plan,
3 but throughout this video you're showing that the plans
4 themselves actually were not signed off on and not
5 approved. Is that right?

6 MR. MADDEN: Some of those ink spots were
7 probably when they were wet, but that one right there,
8 it's face forward, it's on a page that has designs on
9 it. Yeah, like that. See how the MTCI is reversed?

10 MS. BLEAU: Uh huh [affirmative], so that's a
11 back page.

12 MR. MADDEN: It's not the back page. It was
13 probably the plans had closed when the ink was wet.
14 So, it bled onto the back page. But the one front
15 page, that was a part of the set that they had there
16 and it was not a blank page. It was a signed and
17 sealed plan and it had MTC -- it had their signature
18 block on there, and those plans had not been approved.

19 But when I asked them, "Hey we can solve this
20 right here. Where's the logbooks? Where's the
21 permits? I'll give you the go-ahead right now." But
22 he wouldn't show it to me and he quickly changed the
23 topic of discussion when I said, "Well, where's the
24 plans? We'll look at the logbooks right now." And
25 that was -- he couldn't do it because they were in the

1 Building Department.

2 MS. BLEAU: So, when Mr. Goldstein said that
3 you were intimidating and harassing -- purposely
4 intimidating and harassing, abusing your position,
5 intimidating, harassing -- was Mr. Goldstein being
6 truthful?

7 MR. MADDEN: No.

8 MS. BLEAU: Were you trying to make sure that
9 the Building Code was being enforced?

10 MR. MADDEN: Yes.

11 MS. BLEAU: Were you concerned that the
12 Building Official and the Assistant Building Official
13 seemed to be aware that significant construction had
14 been going on without a permit being issued or the
15 plans being approved by MTCI?

16 MR. MADDEN: You know, sometimes folks out in
17 the field will say things that are not truthful just to
18 either, you know, kind of scare you off or to put John
19 and Luis on the job site. And maybe they didn't go
20 there. Maybe they weren't there. Maybe they weren't
21 on site. Maybe they didn't go in the back office.
22 That's what I was trying to figure out when I asked
23 him, "Did they look at the bathrooms? Did they look at
24 things like that?"

25 So, I was trying to figure out whether they

1 were truthful or not. So, when I asked John, "Hey,
2 they said you were out there. Before that video was
3 shot, they said you were out there," and Detective
4 Maura, I think, was in my office when we asked that
5 question. Then John said, "Yeah." He and Luis were
6 out there. But he couldn't give -- or he didn't give
7 an exact when he was out there.

8 MS. BLEAU: Mr. Goldstein says in his letter,
9 "At that point I was trying to diffuse the situation
10 and he and I took a walk through the space and then out
11 the west doors to the parking lot." Did that happen?

12 MR. MADDEN: We went out, we talked, we went
13 out and he followed us, I think, out to the car. And I
14 told him, because he seems like a nice guy, and he's
15 caught in the middle. Once again, like the Mercedes, if
16 you're getting mixed messages, that's not fair to Mr.
17 Goldstein. If John and Luis are telling you, "Hey, go
18 ahead. We're the Building Official and Assistant
19 Building Official. Go ahead and proceed and we'll just
20 keep an eye on things." If he's being told that and
21 then you got someone coming out there and telling you,
22 "Wait, where's your permits?" -- this and that. I'd be
23 upset. I'd be really upset. And I can see where he
24 was upset because he was given mixed messages and they
25 weren't consistent. And that's not fair to him.

1 MS. BLEAU: I'm going to skip down a little bit
2 to this last paragraph on this page that's showing
3 here. And we're going to go back and talk about this
4 other stuff. But here Mr. Goldstein says, "We left the
5 conversation there. A few days later on September 7th
6 we received a stop work order from Bobby Masula under
7 the direction of John Madden." That again is not an
8 accurate description?

9 MR. MADDEN: It's not an accurate statement.
10 We were there after that.

11 MS. BLEAU: And the video shows that?

12 MR. MADDEN: It shows the stop work order in
13 Bobby's handwriting and they even said the date when we
14 were there on the video.

15 MS. BLEAU: And Mr. Goldstein says that you
16 came to the job site on the 8th and told the MTCI
17 representative that the stop work order was placed
18 because we do not have a permit. Was there an MTCI
19 representative there that day?

20 MR. MADDEN: I don't think there was. It was
21 just the two contractors and Mr. Goldstein and, you
22 know, some workers around and myself and Joe DiMaio.

23 MS. BLEAU: Mr. Goldstein says he "was again
24 told that John Travers had walked the site and said
25 everything was okay as long as we had a fire

1 inspection. Even though we had a meeting in the
2 Building Department on the 9th, we were all informed of
3 the program and procedures, we continued to be harassed
4 by rogue actions."

5 I'm not sure -- did you have any other
6 interaction regarding the BSO building?

7 MR. MADDEN: I don't think I went out to the
8 site after that. I don't think I did and I don't think
9 I had interactions with Mr. Goldstein. I may have with
10 the contractor or MTCI. I don't recall, but I wasn't
11 out there and after that video, I don't recall going
12 out there, I don't think I was out there. I mean, I'm
13 almost certain that I wasn't out there.

14 MS. BLEAU: Were you involved in the meeting on
15 September 9th that's referenced here, which would have
16 been the day after you were there with the recording?

17 MR. MADDEN: If there was a meeting, there may
18 have been a meeting with myself and Ralph, but I don't
19 remember anyone else from the Goldstein -- Mr.
20 Goldstein or the contractor. If there was a September
21 9th meeting in with John and -- did he say John?

22 MS. BLEAU: Well, he says, "We had a meeting at
23 the Building Department," so I'm --

24 MR. MADDEN: Yeah, no, that was the first and
25 last time that I met Mr. Goldstein.

1 MS. BLEAU: If there was a meeting with the
2 Building Official, as the Chief Structural Inspector,
3 you were not involved in it?

4 MR. MADDEN: I wasn't in that meeting.

5 MS. BLEAU: And this is the same time period
6 that BORA is prosecuting you for not overruling Chris
7 Augustin, correct?

8 MR. MADDEN: Absolutely, yep.

9 MS. BLEAU: "Multiple other building department
10 personnel continued to come to the site, some with pre-
11 written failures under the instruction of John Madden."
12 Is that true statement?

13 MR. MADDEN: That is not true. That is not an
14 accurate statement and that is not true. You only need
15 one stop work order.

16 MS. BLEAU: "The job was scrutinized to an
17 excessive degree. The water fountain was failed
18 because it was three and eight inches off in height."
19 [sic]

20 MR. MADDEN: That's not something I'd look at.
21 And I don't know who would do something like that. I
22 mean, there might be some inspectors that do something
23 like that. I wouldn't do that. In the Accessibility
24 Code there's actually construction tolerances in there.
25 If you're given an absolute number, there's

1 construction tolerances within accessibility. If
2 you're given a range, it has to be within the range.
3 Trust me, there are inspectors that do that kind of
4 stuff. But I've taught classes on that, that you don't
5 need to do that.

6 MS. BLEAU: So, Mr. Goldstein's overarching
7 point that you were intentionally harassing the
8 contractors, MTCI, and him is true or not true?

9 MR. MADDEN: That's not true. I was not doing
10 that, and I was not -- what's to gain out of that?
11 That was not true. Absolutely not true that I was
12 sending people out there to harass him or harass the
13 people on the job site.

14 MS. BLEAU: Mr. Goldstein said that you told him
15 that you felt you were passed up for the top job and
16 that you were more capable than John Travers.

17 MR. MADDEN: I never even applied for the
18 Building Official's job in the City of Fort Lauderdale.
19 After what happened to me in 2014, I didn't even want
20 to even have the Assistant Building Official's
21 certification. I even asked for that, to take me off
22 the list. I don't want the car. Nope. I just don't
23 do well with politics.

24 MS. BLEAU: "He also told me that Lee Feldman
25 had caused the loss of personnel to other

1 municipalities because he wouldn't pay their employees
2 fair compensation and even though he had millions
3 sitting in the Department account or escrow account, he
4 asserted that he was bringing this out and would get
5 rid of both men. He had been there a long time and
6 could run it better." Is any of that true?

7 MR. MADDEN: No, it is not true. Not true at
8 all. Nope. Now, the Building Department was having
9 problems in 2016, but that was not true.

10 MS. BLEAU: What were the problems that the
11 Building Department was having in 2016?

12 MR. MADDEN: Well, it started out when the
13 Permit Expedited program was cancelled by John when he
14 said it was no longer needed. And then within six
15 months, it definitely showed what had happened.
16 Permits were being delayed; permits were held up. The
17 Mayor, the City Commission -- yeah, they talked about
18 it and we were in the newspapers. We were in the
19 newspapers again.

20 It was circulated in morning press. They sent
21 a City-wide email, I don't know if it was every
22 morning, but it would capture highlights within the
23 news. So, it was around town, it was on TV, it was in
24 Sun-Sentinel about the City's issues with delays in
25 permitting. And they talked about it. I remember that

1 Commission Meeting. In fact, there's a video on the
2 Commission Meeting about that -- where the Mayor talked
3 about it, the City Manager and a couple of the other
4 Commissioners talked about it.

5 MS. BLEAU: I'm going to switch. Anything else
6 that you think the Board ought to know about 1415 and
7 the BSO building and your interaction out there?

8 MR. MADDEN: Last week when I said, "shall be
9 deemed and presumed unsafe" -- whenever you have a
10 construction site, an active construction site, there's
11 a number of things that could occur.

12 And the NFPA puts out a report from time to
13 time, and one of the reports that they put out has to
14 deal with fires that occur on construction sites, and
15 sometimes they're accidentally set. Notre Dame in
16 Paris is a good example. There's other examples -- you
17 can google it or just find it on the Internet -- but
18 the American Airlines Arena in Miami, when that was
19 being constructed.

20 So, whenever you have something like that where
21 torches are used for plumbing or electrical work is
22 underway, things like that, the NFPA -- the National
23 Fire Protection Agency -- puts out a report. I don't
24 know how often they do it. And it will give you
25 statistical data on like how many fires occur, the

1 deaths associated with those fires, a number of things.

2 So, from my perspective, as a Chief Building
3 Inspector, I got to a construction site, and it's not
4 immediate that the building's going to fall down or
5 something like that. In some cases, they do. But, in
6 this particular case, if they were doing stuff like
7 that and that building were to catch fire or something
8 were to happen as a result of that and I was on site,
9 and I didn't do anything about it, I don't know if I
10 could live with myself after that.

11 I have a responsibility. People are counting
12 on me. They're expecting City officials to look out
13 for them, because we are the experts, we are the voice,
14 and we are the eyes and ears for the general public who
15 don't necessarily understand all of the things
16 associated with construction.

17 So, when these fires occur and these things,
18 and you read this data -- and I've read it, I've seen
19 it -- and it says "X" amount of people died this year
20 or in these past ten years, or whatever the report
21 says, and it might have been an accident, might have
22 been intentional, but the NFPA puts out specific
23 reports for construction-related fires.

24 And I take my job very serious and I think if I
25 didn't do that, it would be wrong. So, I don't care if

1 it was Mr. Goldstein's job or anyone else's job. I
2 think the people are expecting me to do my job.

3 MS. BLEAU: Does it happen sometimes that in
4 trying to enforce the Code, people who think they have
5 money or think they have power, political connections,
6 try to threaten or intimidate the Inspectors to not
7 enforce the Code.

8 MR. MADDEN: I think that video shows a clear
9 example of that.

10 MS. BLEAU: And this is the same project that
11 Leroy Jones testified about, where he was told --

12 MR. MADDEN: That is the job. Yeah, that is
13 the job. I don't know who told Leroy that. I don't
14 know if he testified to who told him that, but I think
15 it was pretty clear. That was after this video was
16 taken. It was after the first job site visit, so there
17 was a lot of influence there.

18 I mean, he knew Mr. Feldman by name, he knew
19 Commissioner Roberts by name, and what would
20 Commissioner Roberts have to do with that job site?
21 What would Mr. Feldman have to do with that job site?
22 Why would he say, "We need to have Mr. Feldman here?"
23 "We're just trying to see if you've got a permit and
24 it's obvious that you don't because you can't produce
25 it." And if something were to happen, once again, and

1 something would've happened -- I'm glad it didn't. It
2 could have.

3 MS. BLEAU: Let me move on to another project
4 and maybe our last topic for today. The 2900 Riomar,
5 also known as Tiffany House and Gale Hotel, right?

6 MR. MADDEN: Gale, Tiffany, I think there's a
7 couple other names in there.

8 MS. BLEAU: In these proceedings, I think we've
9 been talking about it as 2900 Riomar, right? For the
10 most part?

11 MR. MADDEN: For the most part, that's how I
12 refer to that construction site, yes.

13 MS. BLEAU: This is an email from August 31,
14 2016 -- happens to be the day after my birthday, if
15 anybody cares -- and it's an email from John Travers to
16 you and George Maura. Again, this George Maura is
17 Detective Maura.

18 MR. MADDEN: Correct.

19 MS. BLEAU: With a copy to George Oliva,
20 Richard Benton, Mr. Fajardo, Mr. Lagerbloom, regarding
21 this 2900 Riomar, Tiffany House, right?

22 MR. MADDEN: Correct.

23 MS. BLEAU: In the email, Mr. Travers
24 references a meeting that concluded and the issues that
25 were discussed. "The meeting with MTCI was concluded.

1 The following issues were discussed." Correct?

2 MR. MADDEN: Yes.

3 MS. BLEAU: Did Mr. Travers identify in NV5 as
4 the Special Inspector for the threshold building known
5 as Tiffany Gale Hotel?

6 MR. MADDEN: Yes, he did.

7 MS. BLEAU: And that's here on the second line.

8 MR. MADDEN: Second bullet.

9 MS. BLEAU: Second bullet, right. And very
10 briefly, we talked about this, I think, before, the
11 threshold building is a certain size, a certain height,
12 and requires that the Private Providers can't -- that's
13 not something that can be delegated to the Private
14 Providers. A Threshold Inspector has to inspect the
15 building, right?

16 MR. MADDEN: Well, it cannot be delegated to
17 them, and the Florida Statute 553.791 does not make
18 reference to the responsibilities of how the threshold
19 building is dealt with -- and John Travers is PX1 and
20 PX2 -- does not address how threshold buildings are to
21 be handled for a Private Provider. But, the Florida
22 Building Code, especially in Broward County, is very
23 specific when it comes to threshold buildings. And it
24 specifically tasks the Chief Building Inspector to
25 verify the qualifications of the Threshold Engineer.

1 The Special Inspector, under Special Inspector -- which
2 is the category, the Special Inspector -- the
3 qualifications and some other things that are
4 specifically tasked to me, the Chief Building
5 Inspector.

6 MS. BLEAU: And where is that? That's in
7 Florida Statutes?

8 MR. MADDEN: That's in the Florida Building
9 Code in 110.10.3, I think it is. It's under Special
10 Inspector.

11 MS. BLEAU: And you mentioned the Private
12 Provider policy and I just want to go back to that real
13 quick here, regarding Plans Reviews. This is page 5 of
14 16 of the Private Provider Policy.

15 MR. MADDEN: Yeah, this is the PXA1 or A2, the
16 one that they do the Plan Review. So, the PXA2, the
17 Private Provider will do plan reviews and inspections.
18 So that one under the 2 is they're doing both.

19 MS. BLEAU: Okay. And down at the bottom here,
20 there is some discussion about the Plans Reviews
21 portion.

22 MR. MADDEN: Correct. Under that policy there,
23 if you read it, it says on number one, "Once trades for
24 Building, Structural, Mechanical, Electrical and
25 Plumbing have completed their review by the Private

1 Provider, and signed them for approval for compliance
2 with then the City of Fort Lauderdale DSD," it says,
3 "the DSD plan reviewers will check in the submittal log
4 that's kept by the Building Official or the Assistant
5 Building Official to make sure those individuals that
6 were designated by the Private Provider and whose
7 credentials were earlier verified by the Building
8 Official and the ABO."

9 That's the exact statement that would have
10 prevented us from doing our job when those Plan Review
11 stops were removed on 1415. So, by removing those
12 stops, I couldn't perform those responsibilities. They
13 wouldn't know about them.

14 So, in this particular case with the 2900, I'm
15 checking for the qualifications of the Private Provider
16 plan review and -- can you bring that up again?

17 MS. BLEAU: The Private Provider? Sure.

18 MR. MADDEN: Yeah, the Private Provider,
19 there's something else in number 2. So, then the
20 City's Plans Reviewers will verify that the other
21 departments -- Fire, Plans, Processing, Zoning,
22 Licensing, Planning, Development Management Division,
23 Environmental, Public Works, DRC, Flood, and
24 Engineering. So, once again, the Plans Examiners, me
25 as one of the BMP's, I'm tasked with verifying that

1 those other groups have reviewed those set of plans.

2 But, is there another one below the one and
3 two, or is it just one and two? "The plans were
4 reviewed by DSD. The reviewers will update the
5 Community Plus and make plans review and quality
6 assurance," and so forth.

7 So, in that Plan Review stage, I had sent out
8 an email about a year before this, or two years, or
9 something like that, and I was basically giving
10 everybody a heads-up on how to verify the
11 qualifications of the Special Inspector for threshold
12 buildings and so forth. I gave them either the list, I
13 gave them links to the website, I probably had a class
14 on it.

15 So, me as the Chief -- but I can't see every
16 job site, I can't see every set of plans -- so the
17 Plans Examiners, when they do a threshold building, and
18 you need to have what is known as a Threshold
19 Inspection Plan. And the threshold inspection plan
20 spells out the over and above inspections that need to
21 be performed on a particular building, the threshold
22 building.

23 And not all of them are the same. Not all have
24 post-tension cables or pre-stressed or cast-in-place.
25 Every building is different. So that engineer, who

1 designed the building says, "We need to have these
2 inspections occur at these times." And that is what is
3 known as a Threshold Inspection Plan.

4 And Chapter 1 says that whoever is assigned to
5 that task on a threshold building, it's my
6 responsibility to verify their qualifications and a
7 Threshold Inspection Plan and a bunch of things on this
8 threshold building, and that policy, the PX policy,
9 there's no mention of it, and there's no mention of it
10 in the Florida Statutes. Because I probably would have
11 compared them -- or I would have compared them to see
12 if there was any discrepancies.

13 So, especially on a threshold building, you
14 have a number of things that can go bad real quick on a
15 threshold building. You can have collapses. You can
16 have a number of things on a threshold building. So,
17 it's really important that that Special Inspector --.

18 Oh, I want to talk about the Special Inspector.
19 When you have a Special Inspector on a threshold
20 building, it's not just a regular engineer, it's not
21 just a regular architect. They could be a licensed
22 holder engineer with a seal and known as a P.E., a
23 Professional Engineer. And you could be an architect
24 as a special inspector.

25 But, in order to have those qualifications, you

1 have to have -- demonstrate a level of proficiency,
2 previous experience, and then you apply to the Florida
3 Board of Professional Engineers and they give you a
4 special designation so when you look up their name and
5 their license number on DBPR, it will list in there
6 Special Inspector, or this type. But the Special
7 Inspector tells me that they have that qualifications
8 and they meet those qualifications to do inspections on
9 a threshold building. Really important.

10 MS. BLEAU: Why do we care here? How is that
11 relevant to the issues that we've been discussing or
12 are discussing?

13 MR. MADDEN: Well, the 2900 Building, it was a
14 threshold building.

15 MS. BLEAU: So, let's go back to that. This NV
16 5, is that the Special Inspector that has to have
17 certain qualifications, right?

18 MR. MADDEN: So, John is saying the NV5 has
19 been contracted as the Threshold Consultant and
20 Inspection Agency for the project who verified the
21 qualifications.

22 MS. BLEAU: Who should have verified the
23 qualifications?

24 MR. MADDEN: Me. I'm responsible for it. I
25 don't do it all the time, but I'm responsible for it.

1 So that's why I trained the Building Plans Examiner, is
2 how they get that information.

3 MS. BLEAU: At any point did you look up NV5's
4 qualifications to see if they were qualified?

5 MR. MADDEN: I did.

6 MS. BLEAU: And what did you find?

7 MR. MADDEN: The engineers who signed the
8 installation of the piling for that building, the
9 engineer that signed that report, does not have a
10 license as a Special Inspector issued by the Florida
11 Board of Professional Engineers. And that NV5 is that
12 company that did and was identified by John as the
13 inspector for the piling of that building.

14 MS. BLEAU: Do we see the pilings in any of
15 these?

16 MR. MADDEN: That, right there that, you may if
17 you zoomed in, but I can tell you where the pilings
18 are. If you go back to that email with John and -- the
19 groundbreaking ceremony?

20 MS. BLEAU: Mm-hmm [affirmative].

21 MR. MADDEN: If you go back, if you go to that
22 picture or go to that email, then I'll point it out.

23 MS. BLEAU: All right, I'm looking. But in the
24 meantime, so John Travers was at a project -- 2900 --
25 where pilings had already been put in? Is that right?

1 MR. MADDEN: He was there the day they were
2 putting the pilings in. I have the actual piling log,
3 the locations, the piling numbers, and the actual
4 piling log of when each of those piles was installed,
5 and that installation inspection that was done by NV5,
6 I've got that report. I got that last year through a
7 public records request.

8 MS. BLEAU: And is that concerning to you that
9 Mr. Travers was out there while they were putting
10 pilings in without a qualified threshold inspector and
11 without the proper permits?

12 MR. MADDEN: Yeah, there was a line of
13 questions that you had from Mr. Travers and it was
14 regarding that email and the pictures and I think Mr.
15 Travers said that you can move dirt around, you can do
16 certain things, you can do this, and a permit's not
17 required, but I'm not sure exactly what was going on,
18 and something to that effect. And then you asked him
19 the question, "Do you know what a pile looks like?"
20 And I think he answered, "Yes, ma'am."

21 And I said to myself, "Okay." As you asked him
22 that question, I was sitting there, I knew the answer
23 to the question. I knew that he would say yes, he does
24 and I knew in that picture that in the background you
25 see a concrete truck, you see a piling rig, and those

1 pilings are going in on the day that they were there.

2 In fact, if you look at the picture in there
3 and the picture from my email -- not the City's
4 documents, the City's documents, it's so grainy you
5 can't even determine what's going on, on the job site.
6 But the email that we have in our documents, there's no
7 doubt you can see. They're almost standing on a
8 piling. It's an email from September the 7th, I think
9 it was -- September 5th, 6th, or 7th.

10 Victor Blanco was on the email and a bunch of
11 people were in the email that I sent out. We were
12 talking about plan reviews and auditing the plans and
13 Victor said something like, "I think we have 30 days to
14 do an audit review."

15 MS. BLEAU: So, this was the email that you
16 sent with some of the pictures that Mr. Travers said --
17 well, he testified contrary -- but he said to Ms.
18 Richard that, according to her, that he thought you
19 sent those emails to embarrass him.

20 MR. MADDEN: Not at all.

21 MS. BLEAU: What was the reason you sent the
22 email?

23 MR. MADDEN: Because John -- you know I don't
24 exact conversations that we had, but he certainly -- it
25 was very similar to his testimony in the hearing when

1 it was kind of "Well, that was a long time ago. I
2 don't recall. You can start a construction site." And
3 I'm sitting there in this hearing and I'm just
4 listening to him say that "you can move dirt and you
5 can put a fence up; you can put a trailer; you can do
6 those things." And I'm like, "Yeah, you're right, you
7 can do that without a permit. You can do that as part
8 of the Early Start Certificate." But you can't put in
9 piling. So, I think you may have asked him directly
10 where there any pilings. I don't know if you actually
11 asked him that, but at the time, going back four years
12 --

13 MS. BLEAU: John, I put the picture up. I
14 don't know if you see it?

15 MR. MADDEN: No. Hold on. Yeah, right there.
16 Yup. You want me to tell you?

17 MS. BLEAU: Sure.

18 MR. MADDEN: Okay, so if you take a look at the
19 two gentlemen all the way to the right, and then going
20 to the left you see the light-suit gentlemen, and then
21 a woman next to him. In between those two -- in
22 between going from the right to left --

23 MS. BLEAU: Right.

24 MR. MADDEN: -- in between two and three,
25 you'll see some orange caps on top of the steel.

1 That's an auger cast pile.

2 MS. BLEAU: There?

3 MR. MADDEN: That's a piling. Yep. Now if you
4 look to the left and above the gentleman all the way to
5 the left, that's an auger cast pile rig. It's a huge
6 drill and an auger cast pile you set the cage where the
7 pile location is, you drill into the ground and as
8 you're drilling, you're extracting the earth out of
9 there, and it creates a cavity.

10 And then on the top of that rig, you'll see
11 some hoses that are kind of looped, in the mid-point of
12 the boom on the rig, those are concrete hoses, all the
13 way to the left. Those hoses are connected to a
14 concrete pump and as the drill is extracted out of that
15 void in the dirt, they've pumped concrete in there so
16 that the void doesn't collapse.

17 And then once that's done, they grab the steel
18 cage, they pick the steel cage up and then they drop it
19 and then that goes into the ground. All of that, the
20 observation of that, is (1) it's a required inspection.
21 We don't perform it -- the City inspectors don't -- but
22 the Special Inspector is there and that right there is
23 the report that I got last year from the public records
24 request.

25 MS. BLEAU: And this shows what?

1 MR. MADDEN: Okay, if you go up and you see --
2 right there. That gentleman, Steven Eugene Black --

3 MS. BLEAU: Mm-hmm [affirmative].

4 MR. MADDEN: -- right, he's a PE. When I look
5 at that seal, I can't necessarily determine whether
6 he's a Special Inspector. You'd have to go to the
7 Florida Board of Professional Engineers' website, look
8 up that license number or his name, and there will be a
9 designator in there.

10 So, when John said the NV5 was the Special
11 Inspector, that was the one that was contracted to do
12 those threshold inspections, and then after getting
13 that report and looking at it, I'm like, I wouldn't
14 have approved that guy. I wouldn't have -- not to say
15 that he wasn't, that he didn't know what he was doing.
16 I'm not saying that. I'm saying that he wasn't issued
17 that certificate or license by the Florida Board of
18 Professional Engineers to do inspections on a threshold
19 building.

20 MS. BLEAU: Does this document certify that NV5
21 provided inspection services during the production pile
22 installation for the Tiffany House Permit No. 16060868?

23 MR. MADDEN: That's the permit number. I need
24 to amend what I just said.

25 MS. BLEAU: Okay.

1 MR. MADDEN: What I said was, he can't make
2 those inspections. That's not an accurate statement.
3 He can make the inspections, but the person that
4 actually signs that report, that's an official document
5 that they're signing for the installation of those
6 piles, that must be signed and sealed by a Special
7 Inspector who has a license from the Florida Board of
8 Professional Engineers.

9 MS. BLEAU: And, they certified that it was
10 done in accordance with the 2010 Building Code?

11 MR. MADDEN: That's another thing that I
12 discovered. When I went through those plans, I spent a
13 day at the City looking at their plans and all the
14 documents. I asked them for all the documents for the
15 2900. So, I was going through the documents and I
16 noticed that the foundation, the cap, even some of the
17 piling groups had been modified.

18 Either piles were installed differently -- I
19 don't know. But that more importantly says that they
20 inspected those pilings in accordance with the 2010
21 Florida Building Code. That permit number, the
22 16060868, the first two numbers is the year, 16; the
23 next two numbers is the month, so it would be June of
24 2016; and then the other four numbers are sequential
25 numbers within the month.

1 But the fact that it was in June of 2016, we
2 were under a completely different Building Code. We
3 were under a new edition of the Building Code, which
4 was the 2014 Code, not the 2010. So, that report would
5 have been rejected; it would not have been accepted;
6 the report would not have been accepted by that
7 engineer who signed and sealed it. They may have done
8 the inspections. I'm okay with that. But the one that
9 is responsible for signing that report is the Special
10 Inspector who's licensed by the Florida Board of
11 Professional Engineers.

12 I want to talk about one more thing in that
13 report, if you could bring that up.

14 MS. BLEAU: There you go.

15 MR. MADDEN: Now, if you scroll down, you can
16 stop right there. So, what that is -- I think back in
17 the report it will say that the pile installation began
18 on a certain date and it ended on a certain date. So,
19 if you're reading this -- then it may be at the bottom
20 of this log.

21 So, when we look at this -- if you stop there.
22 So, if I look at the very top, that's June 20th of 2016
23 and June 20th of 2016 tells me a number of things. All
24 the way to the left is the pile number, the date, the
25 installation, the elevation of that pile. I think it's

1 the depth of the pile. If you scroll down a little
2 bit, it will tell you what those columns mean.

3 So, it gives you the tip, the elevation, the
4 ground surface, and a Bunch of other technical stuff.
5 And I wouldn't necessarily look at that. But the most
6 important thing that I can think of right now about
7 this report is -- go down to what was the date of the
8 groundbreaking ceremony? August 17th?

9 MS. BLEAU: August 5th was your email.

10 MR. MADDEN: No September 5th was the email.

11 MS. BLEAU: Sorry.

12 MR. MADDEN: I think of this email, I think I
13 even have the ceremony. Oh, stop right there. That
14 picture right there?

15 MS. BLEAU: Yeah.

16 MR. MADDEN: Stop. All the way to the left,
17 you see those orange caps in the ground?

18 MS. BLEAU: Right here

19 MR. MADDEN: That's the top of the steel from
20 that piling, in between the gentleman with the white
21 pants and the light-colored suit that are to Mr.
22 Travers's right, you'll see a piling just behind that
23 gravel. You'll see some steel in there in their legs.

24 MS. BLEAU: Right here?

25 MR. MADDEN: Right there. That's a piling.

1 So, they were practically standing on the pilings, but
2 there's your concrete truck. There? You still have
3 your rig there and -- is this email the one that has
4 the groundbreaking ceremony, like the invitation?

5 MS. BLEAU: Yeah, that's what I was looking
6 for. I'm not sure it does.

7 MR. MADDEN: I think it was mid-August. Just
8 pick any of those days, but I think the actual date may
9 have been August 17th? So now, if you go down on that
10 log right there and go down to August 17th. Right
11 there. So, it begins on this page and then it goes to
12 the next page. So what I did was I looked at -- and I
13 believe I have them at home here, copies of them
14 because I photographed a lot of the pages -- if you
15 look at those pile numbers, like the top is pile number
16 704 then it goes down to 509 or 508. I think the last
17 one is 741 and then you go to the other page, on the
18 set of plans for the inspection log, it will give you
19 the piling number and the location of the jobsite. So,
20 that picture, when that was taken and you correspond
21 the piling number on that day and it puts that pile rig
22 in that general location of where those pile numbers
23 were installed on August 17th. And that holds true for
24 the other ones as well.

25 MS. BLEAU: This is the groundbreaking email,

1 just to show.

2 MR. MADDEN: Okay. Yeah that's the email with
3 Charlie and John Travers.

4 MS. BLEAU: So, it was August 17th?

5 MR. MADDEN: Yeah.

6 MS. BLEAU: But why do you need this report to
7 show that all these pilings were in the ground when you
8 can see some evidence of the pilings in the
9 photographs?

10 MR. MADDEN: But that's the thing. If you look
11 at the photograph, the one on the City's documents,
12 that email looks like it's been copied a lot, and
13 copied and recopied and copies of copies. So, when you
14 look at that photograph, if I were looking at the
15 photograph, not knowing what I know, I could say, "I
16 can't tell what's going on here. I see a lot of stuff
17 going on, or some moving of dirt. And just like John
18 was testifying, yeah there was probably some dirt and
19 there's nothing illegal about that. And that's why it
20 was really important for me on that email to have that
21 picture nice and clear to show the piling, where they
22 were, how close they were standing to them.

23 MS. BLEAU: If each one of these is a piling,
24 it shows 38 pilings total that were installed that day.

25 MR. MADDEN: Yeah, so on that particular day,

1 and then you pick any of the days, so the engineer is
2 observing it, the person's observing. There don't need
3 to be an engineering necessarily observing it. But,
4 like I said, the person that signs that report, signs
5 and seals that report on a threshold building, they
6 have to be the Special Inspector.

7 MS. BLEAU: Do you know why Mr. Travers -- why
8 he would be comfortable, why he would be on a site
9 where pilings are being installed and had been
10 installed in violation of the Early Start Certificate,
11 and not take any action?

12 MR. MADDEN: See, that's the issue. If you go
13 back to the email where it lists the NV5, I want to
14 point some other stuff out in that one.

15 MS. BLEAU: Oh, hang on a second.

16 MR. MADDEN: Because I think it was Frank
17 Arrigoni and myself, John, were out at the site I think
18 maybe on that date or right around that day or
19 something, and -- yeah, stop right there. And then if
20 -- we were going back and forth and John was getting
21 conflicting answers.

22 They did have an Early Start, they had a
23 permit, they didn't have a permit, and so forth, so
24 when he wrote this on the 31st and he said, "There are
25 no Early Start releases or phase permits for the

1 project, only a process number." And that's what I
2 found to be accurate. That's an accurate statement,
3 that only a process number -- which is at that point
4 16060868 and there may be some others -- but that was a
5 primary one.

6 So, John is writing to us, he's telling us,
7 including Mr. Lagerbloom, he's telling Anthony Fajardo,
8 he's telling George Maura and myself, they don't have
9 an Early Start, they don't have any releases. So, I
10 would have thought when he sent this out, and John did
11 this research and then the email that shows all this,
12 and it's like, "John, it puts you on that spot when
13 those piles were in, when they were there and the
14 concrete was there, and then you're telling me to make
15 me comfortable that, 'Hey, NV5 is the engineer of
16 record or the threshold consultant inspection agency.'"

17 Not to say that anyone did anything wrong or
18 the building is going to fall down, but there were
19 certainly a lot of engineers that said, "That bridge in
20 Miami next to the college wasn't going to fall down,"
21 and they were there the day that it did fall down and
22 killed all those people in Miami.

23 MS. BLEAU: So, after you sent this email on
24 the 5th, eventually on the 31st Mr. Travers acknowledged
25 that there were no permits on the project, and he

1 acknowledged that a stop work order should be issued,
2 right?

3 MR. MADDEN: That's what he says.

4 MS. BLEAU: But in the email from Mr. Nickert,
5 Mr. Nickert told Mr. Travers that day of the
6 groundbreaking ceremony what permits had been issued
7 and there were none that would have approved that kind
8 of work being out there, right?

9 MR. MADDEN: Right. Charlie sent that
10 screenshot as a part of his email. If you go down, I
11 can tell you what that says, right there. So, the
12 parcel ID is the location of the property, because not
13 all properties have the same address. They may have
14 different addresses and so forth. So, the parcel ID
15 belongs to the site and then when you look at this,
16 going from the top, the number 866, 868, 230, those are
17 in an applied status, so at some point they came into
18 the Building Department and they were in the process of
19 getting a permit, but the permit had not been issued.

20 The ones below, like the 1501 or 595, 11595,
21 that's printed. When it says printed, that means the
22 permit's been issued. So, the ones I see in there, the
23 bottom three, the 1495, 1748, 1746, and those, when
24 they say printed, they're issued. So, now, that's what
25 the status is.

1 So, the next column over from the bottom, that
2 means they've been given a permit to remove trees. The
3 next line up is engineering, some sort of an
4 engineering permit. The next line up is a building
5 demolition and then the next line up is a barrier, and
6 I would imagine that that is the fence around the job
7 site. So, those are the ones that are issued.

8 Then you go up further and it says, "electrical
9 temporary" and then a sewer cap. So, the sewer cap,
10 whenever you demolish a building, you need to cap the
11 sewer, and that has to happen first and you have to
12 have your electrical disconnect, and then the ones up
13 above. So, from the top down, it's BNUCLM. I don't
14 remember what that means, but I can tell you it says
15 building, new, the CLM I'd have to try to remember. I
16 don't remember right now what that means. But the 868,
17 so the second one from the top is permit number
18 16060868. Charlie printed this on the 17th. Then you
19 go back to the permit log or the pile log by the
20 engineer and it says they were installing those piles
21 in June, all the way up through whatever the last date
22 is.

23 And he uses the permit number 868, so the
24 permit hasn't been issued, he did the inspections, he
25 submitted that report to the Building Department at

1 some point after I was out of there and it gives the
2 dates and who looked at it. So, when you look at the
3 historic of when 868 was issued, I know we've got that,
4 and that's a computer print-out when that was issued.

5 MS. BLEAU: Did you want that?

6 MR. MADDEN: If you want, I can go through
7 that.

8 MS. BLEAU: I mean, I think, and Mr. Travers
9 admitted at some point that they didn't have the proper
10 permit, right?

11 MR. MADDEN: Yeah, he was accurate in that
12 email that he sent on the 31st.

13 MS. BLEAU: This one?

14 MR. MADDEN: Yeah.

15 MS. BLEAU: So, I don't think that's in
16 dispute.

17 MR. MADDEN: But they continued working. After
18 I left, they continued working. After that month of
19 June, I think they were continuing to work on that
20 building.

21 MS. BLEAU: Even though Mr. Travers said a stop
22 work order needed to be issued?

23 MR. MADDEN: That's correct.

24 MS. BLEAU: Do you know why they were allowed
25 to continue to work?

1 MR. MADDEN: I've got my suspicions.

2 MS. BLEAU: Which is what?

3 MR. MADDEN: They were allowed to work on maybe
4 a different permit number and they were issued a permit
5 card and a permit number and that permit number and
6 that permit card, there were no plan reviews, with the
7 exception of, I think, landscaping and maybe in
8 mechanical, both of which failed.

9 But when I looked at who the operator was who
10 issued the permit, who took the permit in and who
11 printed the permit, it was all done by Charlie Nickert
12 and it was all done in the same day. And I've got
13 those documents as well, and other people have those
14 documents showing that there was no plan review
15 performed by the City of Fort Lauderdale, no auditing,
16 under any PX policies because if they followed the PX
17 policy they would have audited those plans, before that
18 permit was issued, and it was issued without plan
19 reviews.

20 MS. BLEAU: We're here today, Mr. Madden,
21 appealing your termination from the City of Fort
22 Lauderdale. What is the connection between your
23 actions with respect to 2900 Riomar and your actions
24 with respect to 1415 62nd Street, the BSO building? How
25 are those connected to your appeal of termination

1 today? How do you think they relate to the reason you
2 were terminated?

3 MR. MADDEN: I was trying to do my job and
4 perform my responsibilities with the way BORA said that
5 I need to, which way the Florida Building Code says I
6 need to in Chapter 1, which the basic premise of the
7 whole necessity of having a permit and BORA at the same
8 time is prosecuting me because I didn't overrule the
9 Building Official, they said I didn't supervise my
10 Plans Examiners.

11 They accused me of a number of things that I
12 knew was not accurate because I did not overrule Chris
13 Augustin and I didn't think the Building Code
14 authorized me to overrule Chris Augustin, so I didn't.
15 I didn't interfere with him. If he gave an
16 interpretation of the Code that was contrary to mine, I
17 didn't agree with it, but I felt that he was the
18 Building Official and that I had to listen to him and I
19 did. And after doing so, then BORA said that I acted
20 inappropriately and --

21 You know, getting back to BORA, when they said
22 it was only a \$500 fine, and they kind of like gave me
23 a heads up. Because I talked to Jim DiPietro, I met
24 Jim in his office, and I told him what I felt, you
25 know, all of these things. He said, "John, you have

1 been charged and it's out of my hands. It has to go
2 before the Board."

3 And I talked to Jim. I've known Jim for 20
4 years, or more. And he said, "No." He said, "It's got
5 to go before the Board." And he said to me, he says,
6 "You're being offered a \$500 fine, we'll give you six
7 months' probation, and it will be over with. You know,
8 the \$500, it's an easy thing to fix and you just do
9 that." And he said to me, "If you follow through with
10 this appeal, and you appeal this hearing and you take
11 it to the Board, then all offers and recommendations
12 are off the table. The Board can do whatever they want
13 when that happens."

14 So, I was willing to risk everything -- my
15 certifications, my fines, suspension, all those things,
16 because I knew that I didn't do anything wrong and I
17 knew that I interpreted the Code one way and the Board,
18 BORA, BORA'S attorney, Bill Dunbaugh, they all said
19 that I was wrong, that it was my sole responsibility to
20 enforce the Code; that the Building Official couldn't
21 overrule me.

22 In fact, at the hearing, during the Board's
23 discussion, some of the Board members were saying, "You
24 know Building Officials, they play it like an
25 administrative role, budgeting, administrative role.

1 So, this whole Chief thing was created to remove them
2 from the technical aspects of the building code and put
3 that responsibility on the Chief. So, that's why it's
4 important that this gentleman," or however they said
5 it. So, I'm listening to the Board members say this
6 and discuss this and I still didn't even, as we sit
7 here today, or as I sit here today, I don't agree with
8 their interpretation that when both of us are certified
9 in the same thing.

10 So, here I am trying to defend myself, trying
11 to stop the Board proceeding, and at the same time,
12 1415, 2900, couple other projects that I haven't
13 mentioned today, and these things were all -- and John
14 said, "I'm the sole authority," and he wrote that "I'm
15 not to be interfered with by anybody, that I am the
16 authority given the responsibility of the Building
17 Code." And there are certain aspects of that statement
18 that are true. And the permit intake, the permit
19 issuance, and the issuance of a Certificate of
20 Occupancy are the responsibility of the Building
21 Official.

22 But when it comes to the technical aspect of
23 that, I believe a Building Official should never issue
24 a permit until each of those trades has made sure that
25 the proposed work complies with the Code. So, if

1 there's Structural work or building work involved, that
2 rests upon me. Electrical rests upon the Electrical
3 Chief, and the Plumbing rests upon the Plumbing and
4 Mechanical. So, when you say how does all the tie into
5 the 1415 or any other -- and there's other jobs that
6 are outside of the Private Provider job that I had
7 issues with. I wasn't just picking on them.

8 MS. BLEAU: Other jobs where you were overruled
9 regarding Building and Structural issues by Mr.
10 Travers, who is certified in Electrical?

11 MR. MADDEN: Yes.

12 MS. BLEAU: The Courthouse is one. We talked
13 about that a little bit I think with Mr. Travers.

14 So, do you think that if this Board puts you
15 back to work that you can work with Mr. Travers?

16 MR. MADDEN: I could work with anybody. I
17 think whenever you're given the opportunity to sit at
18 the table and talk like we are now, I think level-
19 headed people who have a common goal, and that is (1)
20 to provide good service; fair, but yet at the same time
21 make sure that it's safe and that it's built properly.

22 I look at buildings and I say, "I want to be
23 able to drive by that building, like the Courthouse."
24 When it comes to the Courthouse, I did that plan
25 review. I personally did that plan review back in 2010

1 or 2011. And I knew the issues with exiting, I knew
2 the issues with means of egress, with assemblies, and
3 even when I did the review on that building, ten years
4 ago, that 17th Floor was to be left vacant, or at the
5 time it was proposed to be vacant, so we didn't know
6 the capacity of it, we didn't know the layout, we
7 didn't know all the things associated with the means of
8 egress of that.

9 So that was important and I think in my plan
10 review notes, we had those discussions. And then
11 during the course of building that Courthouse, I
12 couldn't play the direct role of making sure that the
13 plans and so forth, so I turned it over to Ralph Riles,
14 so Ralph Riles and I kept in constant contact. So, we
15 meet at the job site. We had meetings with a bunch of
16 people in the room. John was there, the fire folks
17 were there, and the builder, the architect, the owner,
18 Krepp from Broward County, we were all there and we
19 were discussing things that had occurred throughout the
20 construction process because Judges were getting
21 involved.

22 So, they wanted this far, this closer. They
23 changed the means of egress out of the courtrooms. If
24 everybody remembers, there was an escape from the
25 Broward County Courthouse where the guy was able to run

1 downstairs, run out the exit, get into a waiting car,
2 and he got out of that building. So, that changed some
3 of the security measures in the building. In fact, I
4 don't know who it was that came to our Building
5 Department in Public Records, and they said they wanted
6 to see what had happened, so that is one of the things
7 that changed in the Courthouse.

8 But getting back to your question whether John,
9 myself, any of the other people that have been a part
10 of this proceeding could work together, from my
11 perspective, I'll work with anybody. I'll work with
12 anybody. I think it begins with conversation and
13 that's why at the end of my reply in January of 2017,
14 when I replied, "I think we'll have some healing, got
15 to fix a few things, but I can't hold animosity or
16 hatred," you know. I'd work with John. I've talked to
17 him. I talked to him at the BORA hearing and I talked
18 to Greg at the BORA hearing. I talked to John in
19 between sessions in this hearing.

20 MS. BLEAU: John Travers was at the BORA
21 hearing, right?

22 MR. MADDEN: He was.

23 MS. BLEAU: And heard the deliberations of the
24 Board where they were saying that you were the ultimate
25 sole authority, right?

1 MR. MADDEN: I met that second day, that's when
2 they deliberated, that's when you and Mr. Kramer final
3 arguments in your closing, and it was perfectly clear
4 that, "John, the reason why you were held accountable
5 that you didn't supervise, and a part of that is your
6 supervision responsibilities is interpreting the Code,
7 and you are solely responsible for those failures."

8 And I knew it wasn't true. And I'm sorry that
9 it happened, but that's the way that it ruled and so
10 they held me accountable for not overruling the
11 Building Official because had I overruled the Building
12 Official, those buildings would not have been
13 constructed in non-conformance of the Building Code --
14 not knowingly. And, that's not to say every building's
15 perfect. You fix things. But when you find out
16 something's wrong, you correct it, and you ask for it
17 to be corrected. But I'd work with anybody there.

18 MS. BLEAU: I don't have any other questions.

19 CHAIR ADELSON: So, Mr. Miller, I know,
20 obviously you do. It's 4:40. How long do you think
21 your cross-examination is going to be? I'm not holding
22 you to the time, I'm just asking.

23 MR. MILLER: You know, there's so many things
24 to talk about. If I told you less than an hour, I
25 don't think I would be accurate. I don't know if it's

1 going to be much longer than that. It depends on his
2 answers.

3 CHAIR ADELSON: So, it could be from one hour
4 to an hour and a half to two hours?

5 MR. MILLER: Yes.

6 CHAIR ADELSON: Let's take a ten-minute break.
7 I know I need a personal break, and we'll come back at
8 ten to five, okay?

9 MR. MILLER: Okay.

10 [BREAK FROM 4:40 P.M. - 5:00 P.M.)

11 CHAIR ADELSON: Here she is. All right,
12 Shelley, are you all good?

13 MS. GIALLUCA: As soon as it removed, it wasn't
14 being plugged in, it jumped up to 14 percentage, so I'm
15 not sure what was causing my battery to drain.

16 CHAIR ADELSON: All right, we'll do our best
17 and we'll see where Ken gets in the time, but we do
18 need you. Okay, Mr. Miller.

19 MS. GIALLUCA: My phone is all I have, so.

20 ~~CHAIR ADELSON: Kenneth Miller.~~

21 ~~MR. MILLER: Good morning, attorney for the~~
22 ~~City of Fort Lauderdale.~~

23 ~~CHAIR ADELSON: Denise Bleau.~~

24 ~~MS. BLEAU: Good morning. Attorney for John~~
25 ~~Madden.~~

1 CHAIR ADELSON: ~~John Madden.~~

2 MR. MADDEN: ~~John Madden.~~

3 CHAIR ADELSON: ~~And your role?~~

4 MR. MADDEN: ~~I want to tell my story.~~

5 CHAIR ADELSON: ~~And I see Jamie recording, so~~
6 ~~I'll just acknowledge that you're present.~~

7 MS. OPPERLEE: ~~Yes, I am. Thank you.~~

8 CHAIR ADELSON: ~~Perfect. All right, so before~~
9 ~~I get started, we'll do for the good of the order, if~~
10 ~~there is anyone in the public that would like to speak.~~
11 ~~I don't see anyone here, so we'll move onto the appeal~~
12 ~~of termination of employment, John Madden, day eight.~~

13 ~~Is there any administrative issues that we need~~
14 ~~to address? Ms. Bleau, I heard something about a~~
15 ~~witness.~~

16 MS. BLEAU: ~~Yes, Madam Chair, thank you.~~
17 ~~Yesterday afternoon I spoke with Paul LaRoche who was~~
18 ~~mentioned by Robin Randall last week. MR. LaRoche has~~
19 ~~agreed to testify today. He is IT person and has a job~~
20 ~~and he basically said he couldn't commit to a~~
21 ~~particular time because he didn't know~~

22 MR. MILLER: ~~All right, so are we ready to~~
23 ~~proceed?~~

24 CHAIR ADELSON: ~~Yes, sir.~~

25 MR. MILLER: ~~Mr. Madden, good afternoon.~~

1 MR. MADDEN: Good afternoon.

2 MR. MILLER: Having listened to you testify
3 now for the better of almost a day and a half, is
4 it a fair statement to say that generally speaking
5 you're someone who knows how to get your point
6 across to people.

7 MR. MADDEN: Yes.

8 MR. MILLER: In other words, you've told us a
9 lot of things here today and you've made it pretty
10 clear that throughout your career, when you've seen
11 issues, when you've thought there was problems,
12 when you thought things needed to be brought to
13 people's attention, you do that. That's who you
14 are, correct?

15 MR. MADDEN: Yes.

16 MR. MILLER: Yet, I believe, today, January
17 22, 2021, is the first time I've heard in this
18 entire proceeding that you claim that you were
19 never provided all the materials to review by the
20 City during the -- after the investigation. How is
21 that that you've never raised that before today?

22 MR. MADDEN: I didn't start testifying and
23 questioned about that subject until today.

24 MR. MILLER: Ms. Bleau showed us, during your
25 testimony, at least one email that I recall where

1 she wrote to, I believe it's Janeen Richard, and
2 said, "You know, we haven't had enough time, we're
3 not going to be ready for the meeting. Can we do
4 something else?"

5 And there was one response, "Well, if you
6 can't do the meeting, we'll take a written
7 response." Was that the only communication that
8 you or anybody on your behalf ever had with the
9 City to say, "Hey, I need more time to review this
10 stuff?"

11 MR. MADDEN: I don't know of all of the
12 communications that Denise had with the City. I
13 can't speak of what Denise asked for entirely or
14 whether she didn't get or what kind of
15 communications she had with the City, so I can't
16 speak. You know, if she raised those issues before
17 they came out today, I can't speak on that.

18 MR. MILLER: You don't recall her raising
19 that in her opening statement to this Board, do
20 you?

21 MR. MADDEN: I don't recall everything she
22 said in the opening statement. I think --

23 MS. BLEAU: Let me just object. How am I
24 supposed to raise an opening statement that the
25 exhibits that you introduced after opening

1 statements included things that Mr. Madden didn't
2 get?

3 MR. MILLER: First of all, Counsel, we gave
4 you all our exhibits before the hearing began, but
5 that's not the point.

6 MS. BLEAU: You told me it was everything
7 John got. I, at some point, realized that wasn't
8 the case.

9 MR. MILLER: Okay.

10 MS. BLEAU: But I accepted it at the time.

11 MR. MILLER: All right. Ms. Richard, when
12 she testified in this case back in December of
13 2019, when we started this thing, testified as
14 follows: "I believe Mr. Madden's attorney made a
15 public records request for all the information that
16 we generated or had as part of the investigation.
17 I sent all of the witness statements that had been
18 reduced to writing, I think I sent emails and
19 documents. I think everything I had in my
20 possession at the time was sent to Mr. Madden for
21 his review." Was she lying?

22 MR. MADDEN: I can't speak for her of what
23 she sent to me, the communications she had with the
24 City. That's why I pay Denise for what she does.
25 There's certain things that she does because she's

1 an attorney and, you know, I can't speak -- I can't
2 answer that question, Mr. Miller. I don't know how
3 to answer that for you. Other than what I know.

4 MR. MILLER: So, is it your position today
5 that the response that you wrote back in January of
6 2017 is incomplete?

7 MR. MADDEN: That response to the City is
8 incomplete based on the documents that we know of
9 that were in the City's book. So, when I wrote
10 that response to the City, that response was based
11 on the documents that were given to Denise and I.

12 MR. MILLER: You've said on at least one
13 occasion during your testimony that you were
14 "walked out of the building." Do you remember
15 saying that?

16 MR. MADDEN: I do.

17 MR. MILLER: Tell me about that. What
18 happened, who came to you, what did they say, and
19 how did that unfold?

20 MR. MADDEN: Early in the morning, Anthony
21 Fajardo was in the DSD earlier than I have ever
22 seen him in DSD. And he called me into his office
23 with Detective Maura, gave me the letter, told me -
24 - we talked, but Detective Maura was sitting there,
25 myself, and Anthony -- and made it clear that I was

1 to leave today and the stuff that he wrote in that
2 letter or that memorandum or whatever you call it.

3 And I didn't have all my stuff with me. They
4 asked for my computer, my cell phone, my City
5 equipment, and I told them that some of it was at
6 home and I went home and I got it and I brought it
7 back to the Building Department.

8 Before all that, though, I asked if Anthony
9 would allow me to speak to speak to the Inspectors
10 and Plans Examiners, and he did. And he sat in the
11 room with me. And I didn't know what was the
12 extent of this. I didn't know to what degree where
13 I was going to end up. And I told the folks, I
14 said, "Always do the right thing."

15 And then I walked out. Went and got my
16 equipment and whatever I had at home that they
17 asked me to bring back. And I drove back to the
18 Building Department and I walked in the front door
19 -- not in the back door, the employee door -- I
20 walked into the lobby and Detective Maura met me
21 there at the door. We walked back to his office; I
22 gave him my stuff. And then --

23 MR. MILLER: What I'm interested in is what
24 specifically did Mr. Fajardo say to you that day as
25 to why this was taking place.

1 MR. MADDEN: I didn't understand why it was
2 taking place. I didn't understand what was going
3 on. This is the first time I'd ever been treated
4 like that where, you know, I felt like crap. I
5 was, you know, when he said, "Turn all of your
6 equipment in," and whatever he wrote on the
7 document. But I didn't know what was going on.

8 MR. MILLER: Did he tell you this was because
9 you were being investigated for violating City
10 policies?

11 MR. MADDEN: I don't believe he did. I was
12 upset. I mean, I was -- I felt bad. I mean, it
13 was embarrassing. I was embarrassed. You know
14 when sometimes you're there physically, in a room,
15 but you don't know what just occurred because
16 you're -- mentally, you're not there. You can be
17 looking and somebody and you're not even looking at
18 them. You're thinking of whatever -- it was --
19 yeah. Because I like Anthony. He's a nice guy.

20 MR. MILLER: I think you said, though, that
21 as part of what occurred that day is, he gave you a
22 copy of the October 12 memo outlining what was
23 going on. Correct?

24 MR. MADDEN: No, he gave me -- he gave me
25 what I needed to do. Whatever that letter that he

1 gave to me that said to turn in all your equipment
2 -- he told me I couldn't come on the grounds, I
3 couldn't go in DSD, I couldn't go in the City
4 property. Not even in the front lobby.

5 He said I was to -- I can't think exactly
6 what else, but yeah, turn in the equipment, don't
7 come on the property, make yourself available to
8 John Travers, and I'm thinking, okay, I'll be back
9 in a week, they'll look at everything, they'll
10 evaluate it, Anthony will take a look at it and,
11 you know, call me in and say, "Hey, John, this --
12 this -- this. What do you have to say for
13 yourself?"

14 But I didn't talk to Anthony. Maybe if I did
15 -- I don't know if I talked to him afterwards -- I
16 don't recall. But John, I did. John, I think we
17 exchanged some texts, and maybe some telephone
18 calls? But I didn't understand. I didn't know
19 what was going on. Because it was -- it was a lot
20 that I didn't understand.

21 MR. MILLER: So, you testified under direct
22 examination that it was sometime after Christmas
23 that you got the memo from Ms. Richard. Is it your
24 testimony that December is the first time that you
25 learned what they were investigating you for?

1 MR. MADDEN: I didn't get that memo from Ms.
2 Richard. It was a letter from John Travers. And
3 John Travers said, "This is the charges, this is
4 the allegations, this is what's happening. This is
5 what you're being charged with and you need to
6 respond." When I read that, I'm like, this is
7 serious what they're charging me with. And I took
8 it as serious when they did that.

9 I took it serious when they said don't even
10 come onto the City's property. I didn't. I didn't
11 go on the City's property, I didn't go into -- in
12 fact, I have not been inside that DSD's lobby in
13 over four years. I've been in the public, the
14 permit records, you know, it's off to the left.
15 I've been in there, I think, once. But, no, it's
16 embarrassing, you know?

17 MR. MILLER: Well, here's what I'm trying to
18 find out. You were, according to you, escorted out
19 on October 13, 2016.

20 MR. MADDEN: Yeah.

21 MR. MILLER: You got the memo from John
22 Travers in late December, after Christmas.

23 MR. MADDEN: Yes.

24 MR. MILLER: Is it your testimony that
25 between those two dates you had no clue whatsoever

1 what they were investigating you for?

2 MR. MADDEN: I suspected that it was serious
3 to be put on leave, but I didn't -- when I read
4 that and I read those allegations and I wanted to
5 know why they wrote all this. Because John and I
6 were in constant contact. Anthony and I were in
7 constant contact. Al Battle and I were in constant
8 contact. We interacted. There's all sorts on
9 interaction between that entire Department.

10 And John Travers wasn't there that day. He
11 wasn't there that morning when this happened. And
12 like I said, when Anthony called me into his
13 office, Detective Maura was sitting there and he
14 handed me the letter that said turn in this, don't
15 come on the property, make yourself available, and
16 I followed those orders and I just thought it was
17 going to be like a couple of days and then come
18 back.

19 And you know, no, when I got that letter from
20 John after Christmas -- yeah, I looked at that and
21 I said, "They're charging me with stuff I didn't
22 do, they're charging me for this," and I didn't
23 understand why. How did it get to that point when
24 John didn't talk to me, Anthony didn't talk to me,
25 Al Battle didn't talk to me about those things that

1 I -- I put it to together that this day and this
2 day, and then -- I suspected something was up. But
3 not like that, man. That was serious.

4 MR. MILLER: Just so we're clear -- and I
5 want to make sure of this -- between October 13 and
6 after Christmas when you got the memo from John
7 Travers, you had no information as to what the
8 specific allegations against you were. Is that
9 your position?

10 MR. MADDEN: When you say specific --

11 MR. MILLER: Yeah.

12 MR. MADDEN: -- what I felt was going on and
13 what I thought might be going on was nowhere near
14 what John wrote in that memorandum. Not even close
15 to what I thought was why I had been walked out of
16 that Building Department or DSD's building.

17 MR. MILLER: What did you think you were
18 being walked out for?

19 MR. MADDEN: I didn't fully understand. I
20 mean, I can't give a specific of what I was
21 thinking. But that letter, when I got that from
22 Anthony and here, it was like when Anthony gave it
23 to me, it's like he and I had never talked or I was
24 saying, "Where's John? Where's Al? Why wouldn't
25 they be in this and talking about this and talking

1 to me and asking me questions?"

2 They went straight from everyday life to be
3 being walked out of that Department. And I can't
4 give any specific -- what I was thinking. It was
5 embarrassing and, yeah, to tell the people that
6 report to you, to have to tell them you're leaving
7 today and I don't know -- I don't remember all of
8 what I said to them.

9 MR. MILLER: Between October 13 and the end
10 of December, did you do anything to try to discover
11 what the claims were against you, what they were
12 looking at?

13 MR. MADDEN: I probably had, you know, some
14 reflection. Probably questioning why. And trying
15 to figure it out. But what I was being suspected
16 of -- well, no, not suspect of, but what was in
17 John's letter? I was blown away. I just said,
18 there's no way? Where is this coming from?

19 Where -- non-productive work? I mean John,
20 you and I worked together on these projects. You
21 gave me specific tasks to do things and we talked
22 almost daily. And you didn't even talk to me about
23 any of these things that you're writing about. You
24 didn't say, "John, you've really got to tone it
25 down. Luis has come to me, or this has come to

1 me."

2 You know, he didn't come to me, he didn't
3 say, "Hey, John, you really unleashed on Luis in
4 front of all of these people, why did you do this?
5 What happened?" Nothing. But when I got the
6 letter from John and it said, you did this, you did
7 this, you did that. And I'm like, where is this
8 coming from? From who? [sic] From what? You know?

9 Anthony didn't come to me. Al Battle didn't
10 come to me. "John, hey, there's some people that
11 are saying you're doing this, you're doing that."
12 And I'm like, Anthony, you and I have talked.
13 We've talked out in the parking lot and we've
14 talked in my office, we've talked in your office.

15 Anthony has an open-door policy. I mean,
16 Anthony, he's calm. He's a nice guy. And I didn't
17 know where this was coming from, especially when I
18 read John's memorandum. I'm like, where is this
19 coming from? This is -- I was shocked when I read
20 that.

21 MR. MILLER: All right. So, you're escorted
22 out in October. In late December you get a memo
23 telling you for the first time all the things
24 you're accused of doing. You're in the process of
25 trying to determine how to respond and eventually

1 you write a written response that's incomplete
2 because, as you know now, you don't have all the
3 information. Have I accurately described what
4 happened between October and January?

5 MR. MADDEN: Could you say that again?

6 MR. MILLER: Sure.

7 MR. MADDEN: Please?

8 MR. MILLER: You get walked out of the
9 building in October. You're not really sure why.
10 The first time you learn of what it is you're
11 accused of doing is in late December. You're told
12 that there's going to be a meeting in January. You
13 try to get all the documents. It takes until the
14 third week in January to get whatever they provided
15 you. And you wind up writing a written response
16 through all of this that you now believe is
17 incomplete because you don't believe you had all
18 the documents. That's what happened, right?

19 MR. MADDEN: When I wrote that reply to the
20 informational meeting, when I wrote that, that was
21 based on the documents that were provided to me by
22 the City that was dealing with the accusations of -
23 - that there was statements, there was some other
24 documents, and there was some other documents --
25 but in there, I still didn't have everything that

1 we have today.

2 And so that, when you read Ms. Richard's
3 report, and when I sat there and I was listening to
4 her testify that the -- she and Anthony both, I
5 think, said, "We don't know much about the Building
6 Code." And I think Ms. Richard said that "I don't
7 really understand C+."

8 And then in her report or her statement when
9 she said she didn't even look at the video, she
10 didn't know there was a video? That I was -- I was
11 like, you guys didn't even afford me the
12 opportunity to explain my story because you didn't
13 even taken the time to understand what I had
14 written and the way that's written is, "This, look
15 at this, look at the video," and she said, I think
16 it was in her statement that she said, "Had we
17 known about the video or we had the video, that I
18 would have considered it."

19 And I'm like, the emails that you're looking
20 at, that were written in those time periods when I
21 was there working at the City, those are in my
22 computer. Those were sent to people. The City had
23 those documents, the City had my cell phone, they
24 had those videos. Anthony knew that video existed.
25 They talked to those people.

1 And as I sit here today, after reading this
2 and reading and reading and reading, I can't even
3 keep track of all of the documents that are in my
4 own binder. I mean, there are certain things,
5 obviously, that I focused on, but between the
6 City's documents and my documents, there's a lot in
7 there.

8 MR. MILLER: You seem to place great
9 importance on the video that we just watched of
10 your interaction out at the building on September
11 the 8th. That video lasts what, about seven
12 minutes, I think it was?

13 MR. MADDEN: You'd have to take a look at it.

14 MR. MILLER: All right. There's nothing in
15 that video, is there, that refutes the allegation
16 that you were out at the site prior to that day
17 harassing the contractor, is there?

18 MR. MADDEN: I'm sorry, what was that?

19 MR. MILLER: There is nothing in that video
20 that is evidence that refutes the allegation that
21 you had been on the jobsite previously harassing
22 the contractor, right?

23 MR. MADDEN: I don't agree with that
24 statement, Mr. Miller.

25 MR. MILLER: Okay. Did you not hear Mr.

1 Goldstein on that video say to you, "You were here
2 previously harassing my people"? That's in the
3 video, isn't it?

4 MR. MADDEN: No, what Mr. Goldstein says, "I
5 have been told that you've been out here. I have
6 been told that you've harassed. I've been told
7 that you did this." And I said, "No," -- I believe
8 in that video -- I said, "No, that didn't happen.
9 This is my second time here."

10 MR. MILLER: All right. My point is, that
11 video shows the interaction that took place on the
12 8th. That video has nothing to do with what
13 transpired previously, does it?

14 MR. MADDEN: That video is -- when you listen
15 to the video and watch it, and then when you look
16 at Mr. Goldstein's letter, his letter is
17 inconsistent with the video. He puts different
18 dates, different times, different events, even
19 within the video that are not consistent with the
20 actual video. So, when you compare Mr. Goldstein's
21 letter with the actual video itself is where you
22 find those inconsistencies that Mr. Goldstein
23 wrote.

24 MR. MILLER: See if we can agree on this:
25 The video was shot on September 8th, correct?

1 MR. MADDEN: If that's what it says and if
2 that's what I say in the video, then I would have
3 to agree.

4 MR. MILLER: The video does not depict your
5 interaction with anybody on that jobsite other than
6 on September the 8th, correct?

7 MR. MADDEN: I don't agree with that
8 statement, Mr. Miller.

9 MR. MILLER: How does the video show you
10 doing something on a different day?

11 MR. MADDEN: In the video where -- I think it
12 was both -- I'm still getting it wrong -- if it's
13 Mr. James or Mr. Coleman, if it's James Coleman --
14 when Mr. Goldstein was saying I was out here and I
15 was out here or what exactly he said, and I said
16 something about Mr. Travers -- something -- and
17 then the both of them said, "We told you the first
18 time when you were here." If that's the question
19 you're asking.

20 MR. MILLER: No, sir, it's not. My question
21 is, does the video show your interaction with
22 anybody on the jobsite other on September the 8th?
23 That's all my question is.

24 MR. MADDEN: Oh, so you're asking if that
25 video, what's captured in that video, is captured

1 on that day, and the video is not captured on the
2 first site visit on the 2nd. Is that what you're
3 asking?

4 MR. MILLER: Okay, yeah.

5 MR. MADDEN: No, it doesn't show that. I
6 didn't shoot a video on the 2nd.

7 MR. MILLER: You've now seen, have you not,
8 the document that was issued by Mr. Fajardo on
9 October the 12th, 2016, that initiated the
10 investigation, you've seen it as part of this
11 proceeding, right?

12 MR. MADDEN: I don't think Denise brought
13 that up today. If she did, I don't recall that.

14 MR. MILLER: So, you've not reviewed all of
15 the documents that were submitted by the City in
16 response to this?

17 MR. MADDEN: There are so many documents, Mr.
18 Miller, I can't remember everything that I saw and
19 what I haven't seen. With respect to the documents
20 that I have or the City has, there's just too much
21 to remember.

22 MR. MILLER: Just so we're clear, City's
23 Exhibit Number 3, that's in the binder, you've not
24 looked at.

25 MR. MADDEN: Can you show that to me, Mr.

1 Miller?

2 MR. MILLER: I don't have it saved on my
3 screen. It's the October 12, 2016, memo from
4 Anthony Fajardo requesting the investigation of
5 you. It's Tab 3 in the notebook that everybody
6 got.

7 MR. MADDEN: Tab 3 from you?

8 MR. MILLER: Yeah.

9 MR. MADDEN: From the City's documents?

10 MR. MILLER: Yes, sir.

11 MR. MADDEN: I don't recall if I saw that and
12 when I saw it, or if I even looked at it. Like I
13 said, Mr. Miller, there's so much, there's only so
14 much I can fit inside my mind.

15 MR. MILLER: All right. You are aware, are
16 you not, from Ms. Richard's report, that the letter
17 received from Mr. Goldstein came in two months
18 after this whole process started, right?

19 MR. MADDEN: I think that was part of the
20 questions and answers that either yourself or
21 Denise had for some of the witnesses about Mr.
22 Goldstein's letter of -- the date of the letter,
23 I'm sure, was brought up. But I'd have to take a
24 look at it and I'd have to take a look at the
25 transcripts to give you an accurate answer to your

1 question.

2 MR. MILLER: So, if I ask you to assume that
3 the date of Mr. Goldstein's letter was December 13,
4 2016, can we agree that's two months after you were
5 escorted out of the building?

6 MR. MADDEN: If it's December 13, the date,
7 that was on the email or the letter --

8 MR. MILLER: Yes, sir.

9 MR. MADDEN: -- then yes, sir, that's two
10 months after October 13, yes, sir.

11 MR. MILLER: So, would you agree with me then
12 that the content of that letter was not the impetus
13 for the investigation into you?

14 MR. MADDEN: The content of the letter was
15 what?

16 MR. MILLER: Not the cause of the
17 investigation of you that began two months earlier.

18 MR. MADDEN: That letter itself?

19 MR. MILLER: Yes, sir.

20 MR. MADDEN: Did it prompt the October 13th,
21 when I was walked out of there?

22 MR. MILLER: Yes, sir.

23 MR. MADDEN: No, that letter, it's dated two
24 months afterwards, so that letter was given to the
25 City, I would imagine, on the 13th of December or at

1 some point, yes, sir.

2 MR. MILLER: All I'm trying to establish is
3 that Mr. Goldstein's letter had nothing to do with
4 you being walked out of the building on the 13th of
5 October. Correct?

6 MR. MADDEN: I can't speak for that, Mr.
7 Miller. I don't know. I don't know. I wasn't
8 there when the letter was given to anyone, I don't
9 know if there was conversations prior to the
10 letter. I don't know, Mr. Miller. I don't have
11 that answer.

12 MR. MILLER: All right. So, you don't know
13 and you haven't read the memo initiating the
14 investigation to know there's no mention of it
15 there. Right? You don't know that.

16 MR. MADDEN: Mr. Miller, I can speak on what
17 I remember. I can speak on what I see. But I
18 can't give you an answer if I don't remember it or
19 if I'm not looking at it. I mean, if I were to
20 look at it, maybe that would shake it. But I mean
21 --

22 MR. MILLER: Okay. How did you decide what
23 you were going to respond to in the letter than you
24 wrote in January of 2017?

25 MR. MADDEN: I read Mr. Travers' memorandum.

1 I analyzed those documents that -- I think Denise
2 is the one that got them and then she sent them to
3 me, and there was a lot of them -- and I did as
4 best as I could in the timeframe that we had to
5 analyze those documents, to try to figure out what
6 Mr. Travers wrote, and then to try to give a
7 response that I was able to give in the short
8 timeframe.

9 I mean, I think there was a week to read
10 those documents and to understand them and try to
11 match that with what Mr. Travers wrote. And I did
12 the best I could with the information that I had in
13 the time that I was given to respond.

14 MR. MILLER: I am not nearly as proficient at
15 this as Ms. Bleau is, I am attempting to put your
16 response up on the screen. Is it up there?

17 MR. MADDEN: I can see it, yeah, I can see
18 the front page. I see 1 of 13.

19 MR. MILLER: So, you all can see it, is my
20 question.

21 MR. MADDEN: I can see it.

22 MR. MILLER: Okay, fine. I want to ask you
23 about some of the things that you wrote in this
24 response, okay?

25 MR. MADDEN: Okay.

1 MR. MILLER: On page 2, I believe it is on
2 the letter, you wrote in this paragraph that starts
3 with the word "many" -- it says, "Many of the
4 statements are obviously based on supposition and
5 an irrational fear, without any basis in reality."
6 What were you referring to when you said that?

7 MR. MADDEN: The one that sticks out in my
8 mind is what Andre wrote --

9 MR. MILLER: Okay.

10 MR. MADDEN: -- when he wrote that -- now I'm
11 going by memory, Mr. Miller -- that he's a former
12 Marine and a veteran -- that hurt. Still hurts
13 now. The other was, I think, Greg Hamilton. Greg
14 mentioned a gun. That was not accurate and it
15 portrays me as a violent person. That hurt me bad.

16 MR. MILLER: Okay, so based on your best
17 recollection from what you wrote four years ago,
18 the reference to an "irrational fear without any
19 basis in reality," you're likely thinking of Mr.
20 Cross and Mr. Hamilton.

21 MR. MADDEN: That's what comes to mind at the
22 moment. I mean, I wrote that four years ago. But
23 to say that, you know, just because I'm a Marine
24 that to imply that Marines go postal or shoot up
25 the place or whatever Andre said or wrote or things

1 like that, that hurt. It hurts now.

2 MR. MILLER: I'm sorry, I didn't mean to talk
3 over you if you're not done.

4 MR. MADDEN: I said it hurts now.

5 MR. MILLER: One of the things that Mr. Cross
6 said is that you specifically made a statement to
7 him to the effect of, "You know, you're a big guy.
8 I have something that can stop you." You recall
9 him saying that, right?

10 MR. MADDEN: I do.

11 MR. MILLER: Was that a lie on his part?

12 MR. MADDEN: That's not an accurate statement
13 and I probably made reference to Mr. Cross being a
14 big guy. But to say that "I got something that'll
15 stop you," what comes to mind is the law. I
16 believe, I don't care if you're rich, I don't care
17 if you're poor, I don't care if you're big, you're
18 small, if you're anything, I think the law -- if
19 it's followed -- is what stops people from doing
20 things that they should not be doing.

21 And to say that I threatened Andre, that I
22 meant harm to Andre, or I said that -- I implied
23 that I had something that will stop you and that
24 you're a big guy, that is not true. That is not
25 true, Mr. Miller.

1 MR. MILLER: Would you agree with me that if
2 an employee were to make a threat like that to
3 another employee, that's subject to getting fired,
4 aren't they?

5 MR. MADDEN: I'll tell you this, if an
6 employee threatened somebody with physical
7 violence, that should have been reported to the
8 supervisor and it should have been reported to
9 Detective Maura, certainly Detective Maura, and
10 Detective Maura would have followed up on that and
11 written a report and probably called that person
12 in.

13 But getting back to what Paul said earlier
14 today, when he was threatened by Joe DeMaio he went
15 to Alex and then he said that Joe came back and
16 apologized to him. But threats in any situation,
17 threats of physical harm, to hurt somebody, I've
18 never done that. To physically threaten somebody
19 at the City or to do that, Mr. Miller, no, I can't
20 say never, never in my entire life.

21 But when you ask me about Mr. Cross, no.
22 When I read Mr. Cross' statement, when I read
23 Andre's statement, that hurt. He's a nice guy. He
24 really is. And I think it was Denise or maybe even
25 you ask me why would he make that statement? As I

1 sit here today and talk to you, I don't know why he
2 made that statement.

3 MR. MILLER: Sir, with all due respect, my
4 question to you was, would you agree if any
5 employee made a physical threat like that, they
6 would be subject to being fired. I didn't even
7 mention Mr. Cross' name in the question.

8 MR. MADDEN: Oh, I thought this whole line of
9 questions was about Mr. Cross.

10 MR. MILLER: No. Let's listen to my question
11 again.

12 MR. MADDEN: Okay.

13 MR. MILLER: Any employee, in a public place,
14 working for the City --

15 MS. BLEAU: Let me just interrupt, real
16 quick, and interject an objection. Ms. Richard
17 testified and I believe Mr. Travers confirmed that
18 they did not find that the violation of the anti-
19 bullying policy was a violation of the anti-
20 violence policy and that Mr. Madden was not found
21 to be violent or dangerous in that way. Ms.
22 Richard testified about that many, many times over.

23 Also, the City, other than Mr. Cross, like
24 Mr. Hamilton and other people the City chose not to
25 bring to testify to support their statements so

1 they can't be considered by the Board, which is why
2 we didn't respond to them. So, I would just object
3 to the whole line of questioning because it seems
4 to be contrary to the City's case and what the City
5 said their case is about.

6 MR. MILLER: Mr. Madden has been very, very
7 clear that this witness has -- that all the
8 witnesses lied to everybody about all this stuff.
9 So, I'm exploring to him what his understanding is,
10 whether or not he thinks it's appropriate, and
11 whether or not he's willing to agree that if he did
12 do these things it's inappropriate. I don't think
13 that's outside the realm of reasonableness here.

14 MS. BLEAU: I mean you'd ask him if anything
15 is appropriate: If you steal, should you be fired?
16 But it's not relevant to these proceedings because
17 in these proceedings the City has said that there's
18 no claim whatsoever that Mr. Madden was terminated
19 because he was dangerous or violent or violated the
20 anti-violence policy. That's what the City
21 testified to in their case. Plain and simple.

22 CHAIR ADELSON: The objection's overruled.
23 We allowed a lot of leeway on both sides throughout
24 the hearing. And let's continue to let Mr. Miller
25 ask questions and we'll consider what we think is

1 appropriate for purposes of our deliberations.

2 MS. BLEAU: Understood.

3 MR. MILLER: Let me re-ask the question, Mr.
4 Madden.

5 MR. MADDEN: Okay.

6 MR. MILLER: If, hypothetically, an employee
7 that worked for a government agency like the City
8 were to say something to another employee --
9 similar to what Mr. Cross has alleged occurred here
10 -- do you agree that that's inappropriate?

11 MR. MADDEN: If the statement is true and the
12 words behind that were meant to actually cause
13 somebody harm or to actually hurt somebody or do
14 something like that -- I mean, to want to hurt
15 somebody and to say that you're going to hurt
16 somebody physically, that's not appropriate, Mr.
17 Miller.

18 MR. MILLER: As we read through your
19 statement, the only place you actually mention Mr.
20 Cross at all is on page 12 -- the second to the
21 last page, which I think I have on the screen here
22 -- where you say, "I will say, though, that Mr.
23 Cross' statement is particularly unreliable and
24 inaccurate." You didn't say anything else at all
25 in here about whether Mr. Cross was telling the

1 truth or not, did you?

2 MR. MADDEN: I think I did when it says,
3 "unreliable and inaccurate," Mr. Miller.

4 MR. MILLER: Okay.

5 MR. MADDEN: I think that -- when you say
6 that -- because we all say -- when you say somebody
7 is unreliable and inaccurate, it's a polite way to
8 say that they're a liar or they're lying.

9 MR. MILLER: Okay, let's go back up to page 2
10 -- and I apologize if I'm making anybody dizzy by
11 doing this, that's not my intention -- I asked you
12 about this statement already, about the irrational
13 fear. The sentence below it that you wrote says,
14 "A supervisor yelling at an employee over a serious
15 Life Safety issue, does not mean the supervisor
16 will 'go postal' or otherwise escalate things to
17 the physical level." Your statement suggests that
18 you're acknowledging that you yelled at people,
19 correct?

20 MR. MADDEN: Mr. Miller, in the context of
21 the profession that we're in and the Building
22 Department that we work in, we're general
23 contractors, we're working out in the field, we're
24 familiar with construction sites.

25 If you're a Code Officer you're familiar with

1 an irate customer or an irate neighbor. Let's say
2 you give them a ticket, and just because you give
3 somebody a ticket and they're yelling at you,
4 doesn't mean they're going to hurt you. Doesn't
5 mean they're going to physically harm you.

6 I think, as all of us are adults, I think
7 we've either witnessed someone yelling at another
8 person, someone get yelled at by another person,
9 and yell ourselves or be yelled at. But just
10 because somebody yells at somebody, it doesn't mean
11 you're going to hurt them. It doesn't mean you're
12 going to hit them.

13 I mean, you could have a dog or a two-year-
14 old child or another person and they could be up in
15 a building or they could, "Hey! Stop that! What
16 were you thinking?" You know, something like that.

17 So, if you take it out of context, it doesn't
18 have the same meaning. You have to understand the
19 timeframe, you have to understand the person, you
20 have to understand in some cases geographical
21 areas. We've all been raised in different
22 households and families. If you talk to somebody
23 that may be from New York City and if you -- we
24 drive, we talk, we interact. And then we deal with
25 someone from Des Moines, Iowa, they're different

1 people, they see things differently, they hear
2 things differently. They may take it a different
3 way than other than what was meant.

4 So if Mr. Cross had that concern, like he
5 wrote and he said and he made those statements and
6 stuff like that, "Andre, why didn't you say, 'Hey,
7 John, man, I really don't like what you said or I
8 don't like what you --" this. And I think in the
9 statement he said that he talked to somebody, maybe
10 John Travers or Anthony -- Anthony, John, talk to
11 me. Tell me where I was wrong with Andre and if
12 Andre perceives me as being too blunt or too
13 straightforward, then I'll adjust accordingly.

14 But I'm not perfect. None of us are perfect.
15 And I was never afforded that opportunity by Mr.
16 Cross. And when he wrote those things the way he
17 wrote them and said those things what he said, some
18 people wouldn't get as upset as I do. Some people
19 would say, "Eh! No big deal, just another day in
20 the park." But when Mr. Cross, when I read those
21 and I listened to him testify, it hurt. And like I
22 said, when I'm sitting here thinking about that,
23 still hurts.

24 MR. MILLER: [inaudible] I move to strike the
25 response. My question was, when you wrote a

1 supervisor yelling at an employee, were you
2 acknowledging that you've yelled at employees.
3 That was the only question that was asked.

4 MR. MADDEN: No, I think you asked me
5 something different, Mr. Miller, I heard it
6 differently.

7 MR. MILLER: I did not.

8 MR. MADDEN: Maybe I'm mistaken. So, if I
9 didn't answer your question exactly the way you
10 phrased it or maybe I misunderstood, I'm sorry.
11 I'll do the best I can to answer your question.

12 MR. MILLER: You wrote, "A supervisor yelling
13 at an employee over a serious Life Safety issue
14 does not mean the supervisor will 'go postal' or
15 otherwise escalate things to the physical level."
16 My question is, when you wrote that, were you
17 acknowledging that you yelled at people?

18 MR. MADDEN: No, I'm not acknowledging that.

19 MR. MILLER: Well, why would you write it,
20 then?

21 MR. MADDEN: Because I was responding to what
22 was said to me. I'm not acknowledging I yelled at
23 somebody. I'm just saying that if you're accusing
24 me of doing that, if someone were to yell at
25 another person for something that was Life Safety

1 or something that was dangerous or something that
2 was -- you know, you get to a point where you
3 become frustrated.

4 And to yell at somebody doesn't mean you're
5 going to hurt somebody. Yelling at somebody
6 doesn't mean you don't like them. I mean, we yell
7 at our dogs from time to time. We yell at our own
8 family members from time to time. We've witness
9 people fight who love one another and they argue
10 and they say some things sometimes they don't mean,
11 but in the moment they say it. But they don't mean
12 to harm somebody, they don't mean to hurt somebody.

13 And if Andre were to say, "John, you hurt me
14 with your words, I didn't like that," and then I
15 would say, "Andre for bringing that to my
16 attention. I won't do that again or I will try not
17 to do that again." But he didn't do that. John
18 Travers didn't do that. Anthony didn't do that.
19 So, when I wrote that, I meant that. And I mean it
20 today.

21 MR. MILLER: Why would you write a sentence
22 giving an explanation as to why yelling is okay if
23 you didn't yell? What would be the point?

24 MR. MADDEN: Mr. Miller, I wrote that four
25 years ago. I can't tell you the frame of mind that

1 I was in when I was writing that. I was still in
2 shock. I was still in shock when I received Al
3 Battle's letter. I really was in shock.

4 I was doing the best I could to respond in
5 the time that they gave me. And trying to just
6 absorb these things that were said about me, that
7 were written about me, that were -- I was doing the
8 best I could to respond with the information that
9 was given to me.

10 And the timeframe -- when I think about that
11 today, you gave me that much time to respond and so
12 I -- you know, when Ms. Richard says, "his
13 statements were broad," and things like that -- if
14 I had the time and the documents and the
15 information then that I have today, I wouldn't be
16 here today. Because I would have been able to
17 explain, just as I am through this hearing process,
18 of the events that unfolded during that time
19 period.

20 MR. MILLER: But instead of writing, "I
21 didn't say this, I didn't do this, I didn't say
22 this," you gave a justification for doing it. Why
23 would you do that if you had not done the things
24 people were saying?

25 MR. MADDEN: Mr. Miller, I don't believe I

1 gave a justification that said that I yelled at him
2 for this reason. I wrote -- you have that up?

3 MR. MILLER: I can put it back up if you need
4 to see it.

5 MR. MADDEN: Yes, sir.

6 MR. MILLER: Let me find it, sorry. Can you
7 see it?

8 MR. MADDEN: "I recognize that I've been a
9 thorn in the side"? Oh, above it.

10 MR. MILLER: It says, "A supervisor yelling -
11 -"

12 MR. MADDEN: "A supervisor yelling at an
13 employee over a serious Life Safety issue does not
14 mean a supervisor will 'go postal' or otherwise
15 escalate things to a physical level." I agree with
16 that statement. I agree with what I wrote there.

17 MR. MILLER: Okay. You said a minute ago
18 that when you got the memo from Mr. Travers, you
19 were "shocked and surprised" by the things that
20 were in it or words to that effect, right?

21 MR. MADDEN: The memorandum that Mr. Travers
22 mailed to me, the formality, this violation, that
23 violation, this violation -- I read that and I took
24 that to be that it was real serious and it was --
25 and I took it as very serious, and I said, "How did

1 we get to this point?"

2 How did we get to two months ago, I'm talking
3 to you, John? I'm talking to you, Al. I'm talking
4 to you, Anthony. I mean, yeah, there was a lot of
5 things going on in the office, but we were working
6 through these processes, we were working through
7 Private Provider processes. I was dealing with
8 apprehension of the Inspectors and Plans Examiners
9 that were saying, "You can't make me sign this."
10 "You can't make me approve this." "I'm not putting
11 my name on that."

12 But at the same time, we -- you know, as we
13 were going through these discussions, emails, and
14 going back and forth, and then -- you know, going
15 through the documents and preparing for this
16 hearing -- you're seeing these events unfold and
17 you're saying, "Well, wait a minute. This happened
18 on this day. This happened on this day. This was
19 the significance of that email." And it shows
20 that.

21 And how do we go from going back and forth
22 with the emails to John writing that memo that said
23 I was unproductive, I did this, I did this, I did
24 that. And I'm saying, "How did we get to this
25 point?" Where was John? "John, I need to see you

1 in my office. We need to talk about some things."
2 John didn't do that.

3 Anthony: "John, you and Mr. Travers, we're
4 going to have a meeting tomorrow and we're going to
5 discuss some things here. And we need to talk
6 about this." Anthony didn't do that. Al Battle:
7 "John, you and Mr. Travers and I and Andre or
8 George or Val or any of those people, we need to
9 talk about this." Now how did this come about?

10 How did -- why did Val say, "You yelled at
11 her and you did this and you did -- and she felt
12 threatened like you were going to physically harm
13 her." And then Luis Hernandez, on the very same
14 day that -- it was the same day or like the day
15 before or something with Mr. Hernandez and Mr.
16 Mercede.

17 And I did my annual evaluation, and then
18 reading transcripts or letters or this and that,
19 and apparently Luis did talk to John and John
20 responded, "Well, John runs a little hot and cold."
21 Okay. If those events actually occurred like Mr.
22 Hernandez said -- which they did not -- and if Mr.
23 Hernandez explained that to John during this
24 conversation, why didn't he? If he really felt
25 threatened like he did -- that was in July -- why

1 didn't he say something to Mr. Travers?

2 Did he say something to Mr. Travers? I don't
3 know. But if he did, John certainly would have
4 called me into his office and said, "John, Luis is
5 the Assistant Building Official, did you do this?
6 Did you do that?" "No, I didn't do that, that's
7 not the way it happened."

8 But that's four and a half years ago, Mr.
9 Miller. And how do I go from that, and nobody
10 talking to me, no one calling me into their office,
11 and then I get the memo from Mr. Travers in
12 December and it says, this, this, this, and I'm
13 like, "How did we get to this point?" I still
14 can't figure it out.

15 How did we get to this point? Why are we
16 here today? I don't know how we got to where we
17 are here today. It's certainly not based on the
18 facts of the matter. Well, it is. The facts of
19 what I'm being alleged of doing. And I think the
20 evidence that Denise and I have been able to put
21 together, I think shows my case. And I have no
22 doubt in my mind.

23 And when you say, "Why did you write -- how
24 come you didn't write something more, Mr. Madden,
25 how come you didn't put something very specific in

1 there?" I was working with the information that I
2 had, the timeframe that I was given to respond to
3 that, it was just overwhelming and still shocking
4 of those allegations.

5 MR. MILLER: Madam Chair, it is six o'clock.
6 Considering that every question seems to provoke a
7 five to ten-minute answer, I'm estimating I've
8 probably got two to three hours more to go now.
9 Because I don't know how we're going to get through
10 this in this fashion any quicker. I do not really
11 want to be here until ten o'clock at night doing
12 this on a Friday.

13 CHAIR ADELSON: No, I understand.

14 MR. MILLER: I think six o'clock is a fair
15 stopping point and if we have to resume another day
16 and get through this, we will. But based on the
17 way the questioning has gone thus far, I'm
18 comfortable we've got at least another two, two-
19 and-a-half hours here.

20 CHAIR ADELSON: Okay. So, I guess that
21 brings me back to my earlier conversation about
22 finding another date between now and the 15th. If
23 we can't, then on the 15th we will conclude with Mr.
24 Madden. And then -- who was the other witness?

25 MS. BLEAU: Mr. Hernandez.

1 MR. MILLER: Mr. Hernandez.

2 CHAIR ADELSON: Mr. Hernandez and then
3 closings and then we'll deal with deliberations as
4 we can.

5 MR. MILLER: Okay, I agree.

6 MS. BLEAU: Agreed. [inaudible, talking over
7 one another] further today.

8 CHAIR ADELSON: Yeah, I agree. Shelley?

9 MS. GIALLUCA: Yeah, I agree, too.

10 CHAIR ADELSON: I just needed my Board Member
11 to concur. Okay, so we're all in concurrence,
12 we're going to conclude today's hearing at six
13 o'clock. And we will resume at -- I'm okay
14 starting at 9:00 again, on the 15th. I prefer it,
15 actually.

16 MR. MILLER: That's fine with me.

17 MS. GIALLUCA: Me too.

18 MS. BLEAU: You sort of broke up there, but I
19 think we're set for the 15th, but Ms. Arthurs was
20 going to look for an earlier date, if possible,
21 right?

22 CHAIR ADELSON: And if not, then the 15th
23 will take care of all testimony and closings?

24 MS. BLEAU: Yep.

25 CHAIR ADELSON: Then we'll deal with

1 deliberations as we can.

2 MS. BLEAU: Very good.

3 CHAIR ADELSON: Okay?

4 MR. MILLER: Yes.

5 CHAIR ADELSON: Okay, everyone. Thank you
6 all, and have a wonderful weekend and see you on
7 the 15th if not sooner.

8 MS. BLEAU: Thank you for your time.

9 MS. GIALLUCA: Thank you.

10 MR. MILLER: Thank you.

11 [ADJOURN AT 6:02 P.M.]

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