

COMMISSION ON COMMON OWNERSHIP COMMUNITIES
FOR MONTGOMERY COUNTY

-----X
: POTOWMACK PRESERVE, : Case No. 72-13
: : OZAH No. C14-01
: Complainant :
: v. :
: :
: MICHAEL AND PETER BALL, :
: :
: Respondents :
: :
-----X

A hearing in the above-entitled matter was held on September 15, 2014, commencing at 9:50 a.m., at the County Office Building, Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Room 200, Rockville, Maryland 20850 before:

Lynn Robeson, Hearing Examiner

A P P E A R A N C E S

On Behalf of the Complainant:

Corrine Rosen, Esquire

On Behalf of the Respondents:

Farrokh Mohammadi, Esquire

Also Present

P R O C E E D I N G S

1 MS. ROBESON: Calling the case of CCOC Case No.
2 72-13, OZAH Case No. C-14-01, Potowmack Preserve, Inc. v.
3 Michael and Peter Ball. Are there any preliminary matters?
4 MS. ROSEN: I think just the one, and I'm just
5 trying to find the exhibit here. I believe it was Exhibit
6 -- maybe Mr. Mohammadi could tell me -- Exhibit 88, is that
7 the permit that I believe that's --
8 MR. MOHAMMADI: Yeah. That was --
9 MS. ROSEN: Okay.
10 MR. MOHAMMADI: -- I think this set right here.
11 MS. ROSEN: And Mr. Mohammadi had tried to
12 introduce Exhibit 88, which was the permit 77, and so I --
13 MS. ROBESON: That's right. And we reserved.
14 MS. ROSEN: Yeah.
15 MS. ROBESON: Yes.
16 MS. ROSEN: Anyhow, at this point, you know I'm
17 just -- I'm going to withdraw the objection. I think in
18 terms of presentation it actually will be helpful overall to
19 just allow it in.
20 MS. ROBESON: Okay. All right.
21 MS. ROSEN: My expert will address it.
22 MS. ROBESON: It's admitted.
23 (Respondent's Exhibit 88 is
24 admitted into evidence.)
25

C O N T E N T S

WITNESSES	Direct	Cross	Recross
Peter Ball	102	5	116

E X H I B I T S

COMPLAINANT'S EXHIBITS

88 Permit	5
159 (2) elevations with notes	31
160 Elevation submitted for deck only	34

1 MS. ROBESON: All right. I believe Ms. Rosen is
2 up.
3 MS. ROSEN: Okay. All right. I will continue
4 with the cross-examination of Mr. Ball.
5 WHEREUPON
6 PETER BALL,
7 having been previously called for examination by counsel for
8 complainant and having been previously sworn, was examined
9 and testified as follows:
10 CROSS-EXAMINATION BY COUNSEL FOR COMPLAINANT
11 BY MS. ROSEN:
12 Q Okay, Mr. Ball, at the last hearing you testified
13 that you -- I think you used the word assumed that the plans
14 and drawings in Exhibit 148, which you introduced, were the
15 drawings that you referenced in the letter to Mr. Barr
16 dated August 15th of 2011, is that correct?
17 A I'm sorry. I don't -- I didn't understand the
18 question.
19 Q Okay. You testified at the last hearing that you
20 assumed that the plans and drawings in Exhibit 148 were the
21 drawings that you referenced in your letter to Mr. Barr that
22 was dated August 15th of 2011. That was Exhibit 76. Is
23 that correct?
24 A I need to see the documents and the drawings.
25 Q Okay. That's fine. I can probably flip through

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1 it. This Exhibit 76 is the April 15th letter, and Exhibit
2 148 that you have.
3 MR. MOHAMMADI: That's the letter.
4 THE WITNESS: Mmm-hmm.
5 MS. ROSEN: Okay.
6 THE WITNESS: There has been several plans that's
7 been introduced, all right? I don't -- I don't know which
8 one, all right, is the one that letter is referring to. But
9 I -- but, you know, it looks like the set of plans that we
10 have.
11
12 MS. ROBESON: What does that mean we have?
13 THE WITNESS: Well it looks like my plans that we
14 submitted to the County.
15 MS. ROBESON: Oh, Exhibit 88.
16 THE WITNESS: Right. Right. Exactly.
17 MS. ROBESON: Okay.
18 BY MS. ROSEN:
19 Q Okay. You don't know for a fact that those plans,
20 148, were the plans that were referenced in this April 15th,
21 2011 letter?
22 A Well I --
23 Q Correct? You don't know? You don't know that
24 those plans were the ones that you referenced in this letter
25 of 2011, correct?

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1 A Those plans -- I guess my answer is, is that there
2 are so many plans that you have introduced, but they are
3 very similar in terms of the -- in terms of the overall
4 look, all right?
5 Q I don't know if these plans that you are showing
6 --
7 MS. ROBESON: When you say these plans?
8 THE WITNESS: Well Exhibit --
9 MS. ROBESON: 88?
10 MS. ROSEN: 148.
11 MS. ROBESON: Oh, 148. I'm sorry.
12 THE WITNESS: 148. The -- my plan -- but I think
13 they are. I mean, you know, from a quick glance, the two of
14 them look the same.
15 MS. ROBESON: I'm not sure that was responsive.
16 Ms. Rosen? I think the question is do you know for certain
17 which plans were enclosed with Exhibit 76?
18 THE WITNESS: I would say 100 percent, but I think
19 -- I would say that I'm reasonably certain that they are the
20 same.
21 MS. ROBESON: Okay.
22 BY MS. ROSEN:
23 Q So are you saying that you are reasonably certain
24 that the plans that are Exhibit 148 were the plans that were
25 attached into this letter?

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1 A Reasonably.
2 Q Okay. Now can you tell me the specific facts upon
3 which you base your contention that you are reasonably
4 certain that 148 is the drawings that you are referencing in
5 the letter to Mr. Barr dated August 15th of 2011?
6 A From looking at those plans briefly in court and
7 knowing what the plans are that were submitted, which were
8 -- which were the same plans that -- that we -- the plans
9 that were submitted to the county were the same plans that
10 we submitted to the HOA. From looking at them today in
11 Court, they look the same.
12 Q Can you tell us -- now I'm looking at the letter
13 of -- I think it's April -- the April 15th 2011 letter again
14 -- and that's Exhibit 76. On the third page of that you
15 have a cc.
16 MS. ROSEN: You may want to show him the letter.
17 I'm sorry. Exhibit 76.
18 BY MS. ROSEN:
19 Q Now, on the third page of that, you have it -- it
20 says cc by email to all Board members without attachments.
21 Can you tell us why you did not attach copies of the
22 referenced drawings to the Board members on this letter?
23 A Probably because it was just too big. I mean why
24 -- you know my email server, you know I have -- I don't have
25 that great of a capacity in terms of sending documents.

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1 Q And why did you feel the need to put the letter
2 with the -- the cc saying without attachments?
3 A I wanted the other members of the Board to know
4 what we were doing. It's always been my intention that
5 most of the decision was just, you know, made by Raj Barr
6 himself.
7 Q Okay. Well if that's always been belief, that Raj
8 Barr makes all the decisions, then why did you not, in some
9 manner, whether by email or otherwise, deliver these plans
10 to every other Board member?
11 A I just -- I just said to you that my emails -- the
12 company that I use for my email doesn't allow me to have --
13 the capacity is not that great. I could not have sent all
14 those documents to them.
15 Q Well my question to you is you have testified at
16 various points in time that you feel that Raj Barr has been
17 making all the decisions in that he has basically dominated
18 this Board. You have testified to that previously.
19 My question to you is why didn't you provide
20 copies of these plans to the other Board members other than
21 by email, if you felt that Mr. Barr is against you?
22 A I think the content of the letter was more
23 important than the plans themselves.
24 Q Okay. Now you testified that the larger scale
25 plans, which are Exhibit 126, which the Association contends

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1 to be approved plans, you testify that they are missing some
2 of the dimensions shown on Exhibit 148, because, in your
3 words, somebody left it out on purpose. Who is the somebody
4 you are referring to?
5 A I have no clue.
6 Q Okay. So you have no idea whatsoever? You are
7 just making -- you are just speculating that somebody
8 purposefully left it out?
9 A That's right.
10 Q Okay. You know during the time period -- I think
11 it was like around April/May 2011 time period -- Tania Bruno
12 was authorized by you to communicate with the Board with
13 regard to the construction application. Is that accurate?
14 A I'm sorry. Say that again.
15 Q During the time period around April/May, year of
16 2011, was Tania Bruno authorized by you to communicate with
17 the Board on this construction application?
18 A No.
19 Q No?
20 A No. She was hired to deal with the Board to come
21 with a set of plans, all right, that would be acceptable to
22 the Board.
23 Q Okay. But she was authorized to communicate with
24 the Board about those plans, isn't that correct?
25 A Right, but you said the construction plans. She

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1 was dealing with the Board -- she was not involved with the
2 plan submittal process to the County.
3 Q I'm not talking about the County. I'm talking ab
4 out -- all right, let me clarify. During this time period,
5 April/May 2011, isn't it correct to say that Tania Bruno was
6 authorized by you to communicate with the Board of Directors
7 on your construction application, your drawings, your plans?
8 A I only want to make the distinction. You used the
9 word construction -- all right -- plans.
10 Q Okay.
11 A She was dealing with the Board with regards to
12 developing a set of plans that was acceptable to the Board.
13 Q Okay. So she was authorized to communicate with
14 the Board with regard to the development of the plans, which
15 would ultimately be voted on by the Board. Is that
16 accurate?
17 A Yes.
18 Q Okay. All right. I'm going to show you -- all
19 right -- I'd like you to look at the document, which is
20 previously marked as Exhibit 77. You've seen that document
21 before, isn't that right?
22 A Yes.
23 Q Okay. All right, I'm going to bring your
24 attention to the email from Ms. Dietz. It's the email dated
25 April 21, 2011, which is the first page of this. And I'd

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1 like you to see what -- I'd like you to tell the -- I'd like
2 you to look at the recipients on the email listing and tell
3 me if Tania Bruno is one the recipients of this email?
4 A Yes.
5 Q Okay. All right. Now, with regard to the email
6 itself, starting with the paragraph I'd like you to read
7 into the record would be the -- starting the third sentence.
8 It starts, Tania. Would you just read that into the record?
9 MR. MOHAMMADI: Objection. It speaks for itself.
10 MS. ROBESON: I agree. It says what it says.
11 BY MS. ROSEN:
12 Q All right. These drawings in Exhibit 77, which
13 are also part of 126, Exhibit 126, unlike Exhibit 148 they
14 don't show any dimensions, isn't that correct?
15 A That's correct.
16 Q Okay. Now do you have any documentation that
17 would show that Tania Bruno, who was acting on your behalf,
18 ever responded to this email and informed Ms. Dietz that the
19 attached drawings were not the correct drawings?
20 A Do I have any emails to that?
21 Q Do you have any documentation of any sort that
22 would indicate that Tania Bruno, who received this email and
23 these drawings, ever communicated with Jamie Dietz that
24 these were not the correct drawings?
25 A No, I don't have any.

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1 Q If the wrong -- now, if the wrong set of documents
2 was attached -- and it's my understanding that you are
3 claiming that Exhibit 148 would have been the correct
4 documents --
5 MS. ROBESON: Was attached to what?
6 MS. ROSEN: To Exhibit 77.
7 BY MS. ROSEN:
8 Q If the wrong set of documents was attached to
9 Jamie's email, do you know why Tania Bruno didn't say
10 anything to either Jamie or to the Board of Directors that
11 that this was not the correct set of documents?
12 MS. ROBESON: Well, I thought he testified he
13 didn't know whether she had -- he doesn't have any
14 documentation.
15 MS. ROSEN: My understanding he said he didn't
16 have any documentation, but I don't know, for example, did
17 he have a conversation with her? I mean that's --
18 MS. ROBESON: Okay.
19 MS. ROSEN: There are other ways of -- if it's
20 based on this, I mean basically this --
21 MS. ROBESON: No, don't --
22 MS. ROSEN: Okay.
23 MS. ROBESON: I guess the --
24 MS. ROSEN: All right. Maybe I'm going to ask it
25 --

1 BY MS. ROSEN:

2 Q Do you know whether Tania Bruno, verbally or
3 otherwise, told the Board of Directors or Jamie Dietz that
4 the set of documents attached to this exhibit were not the
5 correct set of documents?

6 A Do I have any knowledge of that? No.

7 Q Okay. All right. Based upon this email and the
8 exhibit attached to it, wouldn't you agree that Ms. Bruno,
9 your architect, should have noticed that the wrong set of
10 drawings was attached?

11 MR. MOHAMMADI: Objection.

12 MS. ROBESON: Sustained.

13 BY MS. ROSEN:

14 Q And do you have any knowledge as to whether Ms.
15 Bruno, or anybody -- I'll say Ms. Bruno -- before the May --
16 before the meeting in May of 2011, where the application was
17 voted upon, do you have any knowledge as to whether Ms.
18 Bruno provided what you are terming to be the correct
19 documents, Exhibit 148, to the Board of Directors?

20 A I don't understand the question.

21 Q Okay. What I'm asking you is that do you have any
22 knowledge as to whether Ms. Bruno, between April 21st of
23 2011 and May of 2011, when your application was voted upon,
24 do you have any knowledge as to whether Ms. Bruno presented
25 the drawings of Exhibit 148 to the Board of Directors?

1 A I don't know, but I can only comment in the
2 following. This has been a long-going process. The Board
3 has never given me -- or Raj Barr has never given me a break
4 in terms of plan submittal. There have been so many plans
5 that were submitted; changes made because he didn't like
6 this or that, all right? The original plan submittal
7 required scaled plans with dimensions. How in the world
8 could I have possibly submitted plans to the Board that were
9 missing these numbers?

10 Q Well -- okay.

11 A I'm just -- no, this --

12 MS. ROBESON: No, don't.

13 THE WITNESS: Yeah.

14 MS. ROBESON: She's asking you questions. So if --
15 your attorney can follow through if you have anything
16 further to say. You get a chance to testify after Ms.
17 Rosen's cross-exam. So now it would be helpful if you'd
18 just limit your testimony to answering the questions, to the
19 extent you know the answers. All right. Go ahead, Ms.
20 Rosen.

21 MS. ROSEN: Okay.

22 BY MS. ROSEN:

23 Q All right, Mr. Ball, you did not provide the
24 drawings that are Exhibit 148 to the Board of Directors at
25 any point in time between April 21st, 2011 and the May

1 meeting -- May 2011 meeting, at which your application was
2 voted on, did you?

3 A No, I don't think so.

4 Q Okay. And you were present at that meeting May of
5 2011 when your application was considered and approved, is
6 that correct?

7 A No. There was no meeting on May 11th, 2011.

8 Q Maybe -- it might have been May -- I mean --

9 A The letter was dated May 11, 2011.

10 Q What date was the meeting, sir?

11 A All right.

12 Q Do you recall?

13 A The meeting I can't remember. It was either --

14 Q May 5th, does that sound more correct to you --
15 around May 5th?

16 A Maybe. Maybe. It was either early May or late
17 April.

18 Q Okay. And you were present at that meeting,
19 whichever time it was, is that correct?

20 A That's correct.

21 Q okay. And you were present actually with your
22 attorney, Mr. Deavers (phonetic sp.), is that correct?

23 A That's correct.

24 Q And --

25 A But no votes on that -- no vote was taken that

1 night while we were there.

2 Q Now, at any point in time during that meeting, did
3 either you or your attorney indicate that the wrong set of
4 plans were being -- had been given to the Board?

5 A No.

6 Q Okay.

7 A But I'm not sure that that's -- I --

8 MS. ROBESON: Okay. Just --

9 THE WITNESS: I -- I don't know.

10 BY MS. ROSEN:

11 Q Did Ms. Bruno ever tell you at some point in time
12 between -- or I want to say at any point in time did Ms.
13 Bruno ever tell you that the wrong set of drawings had been
14 given to the Board of Directors?

15 A No.

16 Q Okay. Okay. You previously I think had testified
17 that the omission of the drawings in 148 was purposeful by
18 somebody. Do you believe that Ms. Bruno's failure to alert
19 the Board -- apparent failure to alert the Board that the
20 drawings attached to Dietz's email were not correct was a
21 purposeful act by Ms. Bruno?

22 A Is the question that Tania was the one that
23 omitted those? Is that what you are saying?

24 Q Well, you indicated you -- in your testimony your
25 basis --

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1 MS. ROBESON: Well, just a second.
2 MS. ROSEN: Maybe I'm not wording it --
3 MS. ROBESON: You said you are concluding that she
4 -- in your question, you are saying her apparent failure.
5 MS. ROSEN: Mmm-hmm.
6 MS. ROBESON: So I guess -- I just want to be
7 fair.
8 MS. ROSEN: Mmm-hmm.
9 MS. ROBESON: That's your conclusion that she never
10 did? He's saying he didn't know. So I'm just -- can you --
11 what are you getting at with that question?
12 MS. ROSEN: Well, he has testified that he seems
13 to believe that this was some -- that somebody committed a
14 -- on purpose, decided not to do -- decided to omit the
15 drawings. And since his -- Tania Bruno was acting on his
16 behalf, and Tania Bruno was copied on the email that has the
17 non-dimension drawings; so I guess I'm trying to see whether
18 he feels that Ms. Bruno somehow purposefully did not provide
19 the drawings.
20 MS. ROBESON: Well you can just ask if he feels
21 that she purposefully did, but you know --
22 MS. ROSEN: Okay. Well that -- maybe I was not as
23 --
24 MS. ROBESON: You may not want to say her apparent
25 --

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1 MS. ROSEN: That's just my -- all right.
2 BY MS. ROSEN:
3 Q Mr. Ball, do you believe that Ms. Bruno
4 purposefully did not notify the Association that Exhibit 148
5 would have been the proper drawings and not the ones that
6 are attached to Exhibit 77?
7 A If you are asking if Ms. Bruno purposefully gave
8 plans to the Board without dimensions, the answer is
9 absolutely not. She absolutely would not have done that.
10 There would be no -- absolutely no reason.
11 MS. ROBESON: Okay. Wait. All right.
12 BY MS. ROSEN:
13 Q Okay. But did -- all right. So then do you feel
14 that she -- given the fact that she was copied on this
15 email, it would be fair to say that maybe that she
16 accidentally did not let the Board know that the plans on
17 this email were not the correct plans?
18 A I don't know the exact wording --
19 MR. MOHAMMADI: Objection.
20 MS. ROBESON: Basis?
21 MR. MOHAMMADI: Speculating about whether she did
22 something on purpose or accidentally. I think he's already
23 said he --
24 MS. ROBESON: He doesn't know.
25 MR. MOHAMMADI: -- he doesn't know.

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1 MS. ROSEN: Okay. Okay.
2 BY MS. ROSEN:
3 Q now, Mr. Ball, this Exhibit 77, this exhibit was
4 actually introduced into evidence in the other case, Case
5 Number 7312 in the -- probably in the shed and deck case
6 more than a year ago, isn't that correct?
7 A I don't know.
8 Q Okay. Well, you can see -- I want to bring your
9 attention to the top right-hand corner of this document
10 where it says Exhibit -- Complainant's Exhibit 2.
11 MR. MOHAMMADI: I think we've already stipulated
12 that this was from that complaint, so I don't think we need
13 to --
14 MS. ROBESON: All right.
15 MS. ROSEN: Okay. But I'm thinking -- so this
16 wasn't -- you know I'm trying to remember the --
17 BY MS. ROSEN:
18 Q It has been at least a year, I think, since that
19 hearing, and I don't recall now off the top of my head, but
20 this was an exhibit that was introduced at a previous
21 hearing, isn't that correct?
22 A If you tell me that it was, I'll take your word
23 for it.
24 Q Okay. But at no time in that case did you ever
25 produce or enter into evidence Exhibit 48 here --

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1 MS. ROBESON: 148.
2 BY MS. ROSEN:
3 Q -- this Exhibit 148 and claim that those drawings
4 were the correct drawings, isn't that correct?
5 A I think -- I think my attorney in that case
6 failed to produce anything, all right?
7 Q Would it be your testimony that you gave your
8 attorney in that case Exhibit 148?
9 MR. MOHAMMADI: Objection.
10 MS. ROBESON: Basis?
11 MR. MOHAMMADI: Attorney-client privilege; whether
12 he gave something to the attorney and conversations he had.
13 MS. ROBESON: It's sustained.
14 MS. ROSEN: I would just like to note though that,
15 in this particular case, they have brought this exhibit in
16 this case and made us aware of it at the end of July, and
17 for the first time we saw it on August the 4th. So I think
18 there is certain relevance, if he is claiming that that has
19 been around and they have had this Exhibit 148, then I think
20 there is an issue as to why it has been sprung upon us in
21 this case.
22 MS. ROBESON: That may be a relevant issue --
23 MS. ROSEN: Mmm-hmm.
24 MS. ROBESON: -- but there should be another way
25 to get to it besides attorney-client privilege, privileged

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1 communication.
2 MS. ROSEN: Okay. Well, I'm saying -- he raised
3 -- he's claiming --
4 BY MS. ROSEN:
5 Q So I want to ask you, Mr. Ball, did you have
6 Exhibit 148 in your hands at the time of that hearing?
7 MS. ROBESON: The CCOC 73-12 hearing.
8 BY MS. ROSEN:
9 Q At the 73-12, did you have Exhibit 148?
10 A If 148 is the same as my approved plan from DPS,
11 then the answer is yes?
12 Q Okay. Then I would like to know if you had that
13 -- if you had Exhibit 148 back at that time, which is now
14 more than a year, I would like to know why it was not
15 produced to us in this case until -- I think the date was
16 somewhere around July -- I think I got an email somewhere
17 around July of -- maybe July 28 of 2014 and wasn't brought
18 before this hearing until August the 4th.
19 A The plans -- the DPS plans -- approved DPS plans
20 were given to Peter Gibson in early June of 2013. And Raj
21 Barr had reviewed them before the meeting of July 17th,
22 2013.
23 Q I would like you to look at Exhibit --
24 A So it's before the case.
25 Q I would like you to look at Exhibit 148, okay?

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1 Tell me where the stamps are that show that that is -- the
2 DPS plans have various stamps on them, do they not?
3 A Yes.
4 Q Are there any stamps on those drawings, the DPS?
5 A No.
6 Q So they are not the same -- it is not the same
7 exhibit, now is it?
8 A Well, if these were the plans that were approved,
9 I would not have -- I would not have taken these plans and
10 had them approved by DPS prior to having them approved by
11 the HOA. The plans were approved and then I had them -- I
12 had the plans approved by the DPS. So why would I have
13 these -- why would I have stamps before the HOA approved
14 them?
15 Q You have just testified the DPS plans are -- the
16 DPS plans were only submitted to DPS after the approval,
17 isn't that correct?
18 A That's correct.
19 Q Okay. But this is exhibit is a different -- this
20 exhibit is not the same exhibit as Exhibit 88. They are two
21 separate -- they are not identical documents, isn't that
22 correct?
23 A I think this --
24 MS. ROBESON: Documents or plans?
25 MS. ROSEN: I'm going to say because they are --

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1 MS. ROBESON: Because they can be identical plans
2 and just don't have the DPS stamps on them.
3 MS. ROSEN: Well I think for purposes of this
4 proceeding -- he is trying to claim -- they are trying to
5 claim that 148 is what was approved by the Association, and
6 that surprise came to us at the August 4th hearing.
7 He has also indicated that he has had those in his
8 hands for -- that he has had these plans since the other
9 hearing, which is almost a year; so my question is why,
10 given that we have been this proceeding and we have
11 discovery, why they are suddenly -- why they suddenly appear
12 on August the 4th?
13 MS. ROBESON: Umm --
14 MS. ROSEN: You know because we are -- because
15 there were things that should have been available, let's say
16 in discovery of this case also, which is I was, you know,
17 rather agitated last time when this came sailing in. So I
18 think --
19 MR. ROBESON: Okay. Mr. -- okay --
20 MS. ROSEN: -- Mr. Ball needs to answer these
21 questions.
22 MR. MOHAMMADI: A very response to that, but he
23 wouldn't know that. I can tell you, if you'd like?
24 MS. ROBESON: No.
25 MS. ROSEN: Oh, no. I don't --

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1 MR. MOHAMMADI: But it's -- Mr. Ball wouldn't
2 know.
3 MS. ROSEN: Well Mr. Ball -- they are in Mr.
4 Ball's hand, so you know -- supposedly.
5 MS. ROBESON: Well, I think you -- if you can
6 rephrase it in some way, but I think we've kind of gone
7 around this several times.
8 MS. ROSEN: Okay. I just --
9 BY MS. ROSEN:
10 Q You attended the hearing in the case, in Case 73-
11 12, is that correct?
12 A What?
13 Q You were at the hearing in Case 73-12?
14 A Is 73-12 the deck case?
15 Q Yes, the deck/shed case.
16 A All right. What is your question about the shed
17 case?
18 Q Okay. You were in attendance at that hearing and
19 involved in that case, 73-12, isn't that correct?
20 A Yes.
21 Q Okay. But, in that case, at no time did you
22 produce or enter into evidence Exhibit 148 hear and claim
23 that those were the drawings submitted for approval to the
24 Board, correct?
25 A Well I think I answered the question by telling

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1 you that my attorney in that case didn't produce anything,
2 all right, in that case, I don't believe. I'm not certain,
3 okay, but I mean I think one of the problems was that we
4 just didn't follow-up with discovery.
5 Q Okay.
6 A I don't know what was produced, all right? I
7 can't tell you what was produced.
8 Q Okay. I'm going to ask you, can you tell us why
9 -- why you did not have a copy of the drawings, which you
10 have now produced -- which were produced on August 4th, as
11 Exhibit 148, which you are now claiming the HOA approved
12 ones? Can you tell us why you didn't have that -- no,
13 that's -- I'm not going to ask that question. I'm sorry.
14 I'll go to the next one.
15 Give me one second. I'm just trying to
16 contemplate a little bit here. It's always something new.
17 Can you tell me why you waited until August 4th of
18 2014 to provide the dimension drawings that are in this
19 Exhibit 148 to us?
20 A Why did I wait until August 4th, 2014?
21 Q Yes, to provide these dimension drawings that are
22 Exhibit 148.
23 MR. MOHAMMADI: Objection.
24 MS. ROBESON: Basis?
25 MR. MOHAMMADI: That's sort of a

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1 mischaracterization to say that they waited -- that he
2 waited until then. These plans were made available from the
3 get-go, which are the dimension drawings.
4 MS. ROSEN: No. I think -- well we are not
5 talking about the plans. The permit plans are a separate
6 document. They are Exhibit 88. They have introduced a
7 document, which is Exhibit 148, into evidence. That one,
8 Exhibit 148, was not produced until August 4th. And I think
9 it is a perfectly legitimate question to ask Mr. Ball why
10 they were not produced.
11 MS. ROBESON: I -- I'm going to let it in.
12 THE WITNESS: I can only answer the question in
13 the following manner. I assume that the Board always had
14 148, all right, along with the other plans that were
15 submitted during the process. This is not a set of plans
16 that we produced at the 11th hour, or on the 4th the first
17 time. Everything, you know, that we produced to the Board
18 was always -- had been given to them by April 2011, or
19 before, all right? I mean there was nothing that we
20 produced after the fact.
21 MS. ROSEN: My recollection is that at the hearing
22 of -- I guess it would have been the one before August 4th
23 -- that Mr. Mohammadi, if I'm remembering correctly,
24 indicated that he had just gotten these sets of drawings
25 from Tania Bruno, and they were emailed to me. And I

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1 believe that's in the email. So I'm getting a little bit
2 confused here, because if they were just produced, then what
3 Mr. Ball is saying completely contradicts that, because he
4 is saying, oh well then we have had them all the time; they
5 were produced a long time ago.
6 MS. ROBESON: That who has had them all the time.
7 MS. ROSEN: Well --
8 MS. ROBESON: Well that's -- what you are getting
9 at now is argument.
10 MS. ROSEN: Okay.
11 MS. ROBESON: You know I think he's answered to
12 the extent -- I don't want Mr. Mohammadi to have to testify
13 in the case. I think you've made your point.
14 MS. ROSEN: Okay. I will move on.
15 MS. ROBESON: I do understand where you are going.
16 MS. ROSEN: Okay. The new exhibit -- and I don't
17 know which one we are up to -- let me just take a quick
18 look. We are up to, I think it looks like Exhibit 159. We
19 are moving along here.
20 MS. ROBESON: Yes.
21 MS. ROSEN: Okay. I want to go ahead and move
22 this -- that one.
23 MS. ROBESON: How would you describe this?
24 MS. ROSEN: I will describe this as a -- let's
25 just say drawings.

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1 MS. ROBESON: Two front -- two --
2 MS. ROSEN: Two drawings with --
3 MS. ROBESON: Two elevations and --
4 MS. ROSEN: Two elevations.
5 MS. ROBESON: I guess it would be sheet 8(4) and
6 8(5).
7 MS. ROSEN: Well, you could say -- you know, two
8 elevations handwriting in right corner.
9 MS. ROBESON: Two elevations with notes.
10 BY MS. ROSEN:
11 Q All right, Mr. Ball, I'm going to ask you to look
12 at this document, which has been marked as Exhibit 159. And
13 I'm going to draw your attention to some handwritten notes
14 in the corner that says --
15 MS. ROBESON: Well, before you ask, Mr. Mohammadi,
16 do you have any objections to this?
17 MR. MOHAMMADI: Well, sort of. I would like it to
18 be authenticated properly, because I am not too sure where
19 exactly it came from. I mean I've seen them, but --
20 MS. ROBESON: All right. Mr. Ball, do you
21 recognize this document?
22 THE WITNESS: Yes.
23 MS. ROSEN: Okay. And what is it?
24 THE WITNESS: These are the plans that were
25 approved May 11th, 2011.

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1 MS. ROSEN: Let me ask you a question about that,
2 because you --
3 MS. ROBESON: Approved by whom?
4 THE WITNESS: I apologize. These are copies of
5 the DPS plans -- approved DPS plans.
6 MS. ROBESON: Okay.
7 MS. ROSEN: Okay. So --
8 MR. MOHAMMADI: No objection.
9 MS. ROBESON: All right.
10 BY MS. ROSEN:
11 Q I'm going to bring your attention to the
12 handwritten note on the bottom where it says approved
13 Exhibit 2 plans, 5/11/11. Is that your handwriting, sir?
14 A Yes.
15 Q Okay. But the plans that were submitted that were
16 approved 5/11/11 actually pre-date plans that were submitted
17 to the County, isn't that correct, because the County didn't
18 -- couldn't have approved plans --
19 A That's correct.
20 Q Okay. So this is basically -- in your view this
21 didn't -- these plans are -- this is the permit -- aside
22 from the handwriting that's on the corner, if you remove
23 that so to speak, then these two copies are part of the
24 permit set, isn't that correct? Is that correct?
25 A You said part of the permit set. Yes.

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1 Q Okay. But they are not part of Exhibit -- but
2 they are not Exhibit 126? They are not -- these -- there
3 are things on this drawing that are not in Exhibit 126,
4 which is what the Association contends are the approved
5 plans, is that correct?
6 A They are different from 126, yes.
7 Q Okay. All right.
8 MS. ROSEN: Okay. I'll move to admit Exhibit 159
9 into evidence.
10 MR. MOHAMMADI: Objection.
11 MS. ROBESON: Did you say objection.
12 MR. MOHAMMADI: I'm sorry. No objection.
13 MS. ROBESON: Okay. It's admitted.
14 (Complainant's Exhibit 159 is
15 admitted into evidence.)
16 MS. ROSEN: All right. One more here. I'm going
17 to call this one 160.
18 MS. ROBESON: Okay. Can you identify this?
19 MS. ROSEN: This is 160, the other one I gave you.
20 MS. ROBESON: Yeah. How would you describe this?
21 MS. ROSEN: Okay. Well just call this one
22 submission for deck only, we'll just call it, because it's
23 referenced up there.
24 MS. ROBESON: Okay. I'm going to call it
25 elevation submitted for deck only.

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1 BY MS. ROSEN:
2 Q Okay, Mr. Ball, could you -- have you seen this
3 document before?
4 A Yes.
5 Q Okay. Can you tell us what it is?
6 A These were the plans -- elevation that was
7 submitted for the deck and shed, pursuant to the Order of
8 the CCOC to resubmit those plans.
9 Q Okay. Now I see on the right-hand corner of the
10 first page that -- in handwriting it says Exhibit 4 approved
11 5/12/14. Is that your handwriting?
12 A Yes.
13 Q Okay. Now these --
14 MR. ROBESON: Mr. Mohammadi, do you have any
15 objections?
16 MR. MOHAMMADI: I guess the concern is this. I
17 think I know where these came from. They came from the
18 other CCOC case. But this is my first time seeing them as
19 such.
20 MS. ROBESON: Do you want some time to review
21 them?
22 MR. MOHAMMADI: No. I mean I know what they are.
23 I've seen them previously in terms of the deck, but --
24 MS. ROBESON: Oh, I see.
25 MR. MOHAMMADI: -- but the fact it's Exhibit 4 of

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1 5/12/14, that's -- that was --
2 MS. ROBESON: That's new to you?
3 MR. MOHAMMADI: -- in the deck/shed case, so I have
4 not seen what exhibits were in that and how they were marked
5 or anything like that. So have I seen these? Yes. Have I
6 seen them in this form? No. I'm not going to object to it,
7 but I'd note that for the record.
8 MS. ROBESON: All right.
9 BY MS. ROSEN:
10 Q All right, Mr. Ball, these are elevation drawings,
11 and they show not just your deck, but they basically show
12 the front and rear elevation and the left and right
13 elevation of your property, is that correct?
14 A I'm sorry. Say that again.
15 Q Okay. This drawing also -- this drawing shows --
16 these are drawings of your construction -- of your property,
17 of your home, is that correct?
18 A Outside of the deck and shed --
19 Q Yeah.
20 A -- these are the elevations that we submitted to
21 the HOA back in December of 2013 incorporating all the
22 various changes, okay, that were -- that deviated from the
23 original 2011 plans.
24 Q Okay. So would it be fair to say then that what
25 is shown here on these elevation drawings is basically what

1 you've actually constructed -- would show what your house is
2 like now, is that fair?

3 A No. It's not finished, okay? But, if it was
4 finished it would look like this, yes.

5 Q Okay. But to the extent that you have done -- you
6 know, you have done some construction that you are going to
7 be finishing up, but that's basically -- to the extent that
8 you've done construction, is it fair that this accurately
9 reflects what you've done to the extent you've done it?

10 A To the extent of what has been done, these plans
11 would reflect that, yes.

12 Q All right. Thank you. I'll move on.

13 A But with the exception -- it's not -- it's not
14 complete, but the answer is, yes, the roof line and such,
15 it's --

16 MS. ROSEN: Okay. I'll move 160 into evidence.

17 MS. ROBESON: All right. It's admitted.

18 MS. ROSEN: Thank you.

19 (Complainant's Exhibit 1609 is
20 admitted into evidence.)

21 MS. ROBESON: Why weren't these provided in
22 discovery?

23 MS. ROSEN: Well this is something that was just -
24 - because this was a situation -- in the other CCOC case, he
25 had to provide a new -- he had to provide -- and that

1 application based upon that Order. And so we have had --
2 now we had to file a motion with regard to it. I mean
3 basically what's happened with the CCOC case now, in that
4 case they are basically wanting the parties to go back.

5 The CCOC wants to see photographs and this and
6 that, but these are things that were provided -- that came
7 from him. These are their drawings. I mean normally I
8 wouldn't be required to produce drawings that came from him,
9 but this is something that came after, because these are --
10 these were produced -- these were -- came to us in the
11 context of a motion I filed and his response to that motion,
12 which is all recent.

13 MS. ROBESON: I see.

14 MS. ROSEN: Yeah. I'm saying this is -- but these
15 are basically his -- you know, and also, like I said, he
16 even indicates the December -- the last one, the one that's
17 the actual -- the deck submission one -- as he stated, these
18 are the December drawings that he has claimed previously
19 that were dropped off to Mr. Gibson in December. The only
20 difference is basically this handwriting of his.

21 MS. ROBESON: Well now you are testifying.

22 MS. ROSEN: Okay. That's basically why that --

23 MS. ROBESON: If there is no objection I'll take
24 it in.

25 MS. ROSEN: Okay.

1 MR. MOHAMMADI: The same -- I mean the objection
2 is what I made before, but --

3 MS. ROBESON: Right.

4 MS. ROSEN:

5 Q All right, Mr. Ball, when was the last time
6 somebody performed any work on your roof?

7 A About a week ago.

8 Q Okay. And can you tell us what they are doing;
9 what construction is being done on your roof now?

10 A We had just felt paper on the roof, all right,
11 that we put up I guess on the 14th -- before the 14th of
12 September, 2013. But since it's been over the year, that
13 paper has deteriorated and has caused a lot of leaks inside
14 my house. So what I did was I had that paper removed and
15 new felt paper put on.

16 Q Okay. Didn't you also -- you said that you hadn't
17 done anything -- I think you said that you hadn't done
18 anything on the roof for a year, which would be September of
19 2013. Isn't it true that you actually caused additional
20 construction work to be done on your roof in or about March
21 of 2014?

22 A Yes, but I had told my attorney, and I think my
23 attorney informed you, all right, that I was going to try to
24 make the house water-tight by putting some flashing and
25 stuff on the house, on the roof. So the only thing I've

1 done since September 14th, 2013 to now is try to get the
2 roof over the garage weather-tight.

3 Q Did you make a statement to anybody around -- I
4 want to say around the September 6th date when work was
5 being done on your roof -- do you recall making any kind of
6 a statement to anybody that you did not want to wait six
7 months to do --

8 A When did -- when?

9 Q Around September 6th, 2014, do you recall saying
10 something to anybody in reference to the roof work that you
11 didn't want to wait six months?

12 A Six months for what?

13 Q I don't know. I'm just asking if you made --
14 recall making any kind of statement to somebody that you
15 didn't want to wait six months in reference to this roof?

16 A The only thing I did was replaced the paper that
17 was already on there.

18 Q Okay. So you do or you do not recall making any
19 kind of a statement?

20 A No, I don't recall.

21 Q Okay, Mr. Ball, can you tell us who -- you know in
22 terms of the preparation of the as-built drawings, can you
23 tell us who measured the house as it existed in order to
24 prepare those as-built drawings in the application?

25 A Probably Tania. Tania, I assume. But, at the

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1 same time, Tania lives in the same house as I do, same model
2 house.
3 Q Okay. Do you know -- because you have indicated
4 that you are assuming it was Tania that did these
5 measurements -- do you know whether anybody did
6 measurements, Tania or anyone else, did measurements to
7 prepare the as-built drawings?
8 A Did anyone else besides Tania?
9 Q No, no. What I'm asking you is -- okay -- I asked
10 you who measured the existing house and you said assume it
11 was Tania. Do you know for a fact whether Tania or any other
12 person actually took measurements of the existing house to
13 prepare the as-built drawings?
14 A I mean are you -- if you are asking me did I --
15 was I there when Tania or someone else actually put a tape
16 on it, all right, and measured; no, I was not there.
17 Q Okay. But what I'm asking you is do you know if
18 anybody actually took measurements to prepare the as-built
19 drawings?
20 A I thought I just answered your question by saying
21 I assume it was Tania.
22 Q Did Tania ever share those measurements with you?
23 A No. I mean, to the extent of what was on the
24 plans.
25 Q Do you know what the floor-to-ceiling height is in

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1 your house?
2 A Floor-to-ceiling height is eight feet.
3 Q Eight feet. Okay. And I'm going to take your
4 attention to Complainant's Exhibit 126. Can you tell us who
5 prepared the drawings that are dated 2/22/2011 in Exhibit --
6 A Tania.
7 Q Tania. Okay. Okay, now I want to take your
8 attention to Respondent's Exhibit 148, and can you tell us
9 who prepared the drawings in Exhibit 148?
10 A Tania.
11 Q Okay.
12 MS. ROSEN: Just give me one second.
13 BY MS. ROSEN:
14 Q Okay. I'm going to turn your attention to the
15 drawings that are in Exhibit 148, A-6 and A-7.
16 A Mmm-hmm. Yes.
17 Q Okay. When were these drawings prepared?
18 A I don't know. I assume the same time as -- the
19 same time as these plans, which are dated 4/6 of 2011.
20 Q Okay. Are these the same drawings that were used
21 in the permit set?
22 A Yes.
23 Q Okay. And these drawings were prepared by Tania?
24 A Yes.
25 Q Okay. Okay. Were the elevations in this Exhibit

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1 148, the elevations drawings -- I think it would be A-4 and
2 A-5, were they designed by an architect?
3 A What's the question?
4 Q Were they designed by an architect? Were these
5 elevations designed by an architect?
6 MR. MOHAMMADI: Objection as to form.
7 MS. ROBESON: I guess I'm confused. Yeah. I mean
8 she's -- I don't understand your question. Do you mean did
9 an architect -- was an architect consulted?
10 MS. ROSEN: Right. Yeah. Was an architect -- all
11 right.
12 BY MS. ROSEN:
13 Q Was an architect consulted in connection with
14 these elevation drawings?
15 A Who? Did I consult an architect --
16 Q Yeah. Did --
17 A -- or did Tania consult an architect?
18 Q Did you consult with an architect in connection
19 with these elevations?
20 A Well, Tania.
21 Q Okay. Now who prepared the drawing -- no, the
22 building permit -- let me go back. I'm going to go back to
23 Exhibit 159. These are the -- these are two drawings, the
24 elevation drawings that were part of the permit set that
25 happen to have the handwriting -- your handwriting on them.

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1 Who prepared these drawings that were used for the building
2 permit?
3 A Tania.
4 Q Okay. And who prepared -- now we'll go back to
5 Exhibit 160 --
6 MS. ROBESON: 160?
7 MS. ROSEN: Yeah, 160, which is the other one I
8 just put in.
9 THE WITNESS: Justo Gasprey.
10 MS. ROSEN: I didn't ask a question yet.
11 THE WITNESS: Oh.
12 MS. ROBESON: This is Exhibit 160, correct?
13 THE WITNESS: Yes.
14 BY MS. ROSEN:
15 Q Okay. I was going to ask you who prepared the
16 question that are in Exhibit 160.
17 A Justo Gasprey.
18 Q Okay. Is he an architect? What is he? What is
19 his occupation?
20 A I don't -- I'm don't much -- I don't think he's an
21 architect. I hired him, you know, to draw the plans. That's
22 all.
23 Q Okay. But what is he? What is his occupation?
24 What is his profession?
25 A I think he's a -- I think he's a draftsman.

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1 Q Okay. Okay.
2 MS. ROSEN: Give me one second.
3 BY MS. ROSEN: Can I take a five-minute break so I
4 can consult with my expert a little bit as I'm going through
5 the questions?
6 MS. ROBESON: Yes.
7 MS. ROSEN: Thank you. I don't construct
8 anything. I only tried to construct one thing in my life
9 and it collapsed on me.
10 MS. ROBESON: We are going to come back at quarter
11 to 11:00.
12 MS. ROSEN: Thank you.
13 (Brief recess.)
14 (OFF THE RECORD)
15 (ON THE RECORD)
16 MS. ROBESON: Okay. We're back on the record.
17 BY MS. ROSEN:
18 Q With regards to the handwritten entry that you
19 made on what has been marked as Exhibits 159 and 160, where
20 you referred to the approved plans, can you tell us why you
21 marked these drawings as approved plans?
22 A These were the -- I'm sorry. Say that again.
23 Q Okay. Look at 159. Let's go to Exhibit 159.
24 A All right.
25 Q You, in your handwriting, as you testified, wrote

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1 approved plans 5/11/11. I'd like to know why you wrote that
2 on these drawings?
3 A Because those were the plans that were approved on
4 5/11/2011. This was -- forgetting the stamp, BPS stamp, all
5 right.
6 Q Now with regard to Exhibit 160 where you also made
7 a handwritten entry, and you put approved 5/12/14, why did
8 you mark that drawing as approved? Why do you feel that you
9 needed to do that?
10 A These two exhibits were exhibits that we filed
11 with the CCOC in response to your motion to -- for us to
12 take the shed down, which took place after the 12th of May,
13 2014. I think it was sometime in June that you filed that
14 action, all right? So these dates were what I put down, all
15 right, as part of our exhibits to the CCOC.
16 Q Okay. So that's why you wrote it down? That's
17 why you wrote on these two exhibits?
18 A That's correct.
19 Q Okay. All right. Let's see -- okay -- I'd like
20 to -- we are going to look at -- let's go to the drawings on
21 Exhibit 159. Can you tell us -- and that -- with the
22 exception of the handwriting, which involved knowledge which
23 was not on the permit plans -- can you tell us what the roof
24 pitch is, as shown on that drawing, which I will just call
25 the permit drawing?

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1 MS. ROBESON: Is this 159?
2 MS. ROSEN: 159.
3 BY MS. ROSEN:
4 Q On -- this will be on the front -- let's start
5 with the front elevation. Can you tell us what the roof
6 pitches are?
7 A 26-8 3/4.
8 Q Can you repeat that? I'm sorry.
9 A I think it says 26-6 or 26-8.
10 Q I'm talking about the roof pitch.
11 A 412.
12 Q Okay. Now is that for the entire roof or only a
13 portion of the roof.
14 A The existing pitch I think is 412.
15 Q Okay. So is it your testimony then that on what
16 I'm going to call the permit drawing of 159 that the roof
17 pitch as shown is 412?
18 A Yes.
19 Q Is there any other roof pitch shown on that
20 drawing?
21 A The rear elevation says 412.
22 MS. ROBESON: Isn't there a pitch change?
23 THE WITNESS: Right, at that dotted line --
24 MS. ROBESON: Mmm-hmm.
25 THE WITNESS: -- I mean on that solid line.

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1 MS. ROBESON: Right.
2 BY MS. ROSEN:
3 Q Okay. Now I'm going to ask you to look at the
4 drawings -- the elevation drawings in the Exhibit 148. And
5 that would be also be the same, the front, which is I think
6 A-4, the front and rear elevation.
7 A The rear elevation?
8 Q I want you to start with the front elevation, and
9 can you tell us if that roof shows the roof pitches?
10 A 412 in the front.
11 Q Okay. Now is that the same -- why don't we just
12 go from right to left, the first -- I want to call it the
13 first section. It shows 412, is that correct?
14 A That's correct.
15 Q And the second section, what does that show?
16 A 412.
17 Q And what about the third section?
18 A It says existing roof pitch.
19 Q And what about the -- I'm going to call it the
20 fourth section?
21 A Existing roof pitch.
22 Q Okay. Is that -- is that the existing?
23 A No. Well, okay --
24 MS. ROBESON: Wait, I -- okay. Go ahead.
25 THE WITNESS: It says existing roof pitch, but

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1 it's 412.
2 BY MS. ROSEN:
3 Q Okay. Now with regard to the far -- I'm going to
4 say the far left-hand section, so to speak, where you have
5 -- where it says -- where that chimney is, the longer
6 chimney, all the way to the left, on the front elevation.
7 Okay. Isn't that a new structure?
8 MS. ROBESON: Which --
9 MS. ROSEN: Yeah.
10 MS. ROBESON: Which sheet are you on in 148?
11 MS. ROSEN: Okay. I'm on A-4, and I'm looking at
12 the -- it's the front elevation.
13 MS. ROBESON: All right.
14 MS. ROSEN: Okay. And then if you look at the
15 front elevation, I'm all the way at the left-hand --
16 MS. ROBESON: Correct.
17 MS. ROSEN: -- I'm all the way at the left of the
18 house. And what I'm asking Mr. Ball is -- you know, because
19 that -- it says that is a -- there is a structure at the
20 end, and I'm going to call it, you know -- let's divide this
21 -- we can look at this as being like in four different
22 sections so to speak. And I'm looking at the section all
23 the way to the left. I'm asking Mr. Ball is that a new
24 section, new structure? It didn't exist previously?
25 THE WITNESS: That's correct.

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1 BY MS. ROSEN:
2 Q Okay. Why does it then say existing roof pitch if
3 it's a new structure?
4 A Mislabeled.
5 Q Okay. And we are going to go back to Exhibit 159
6 on the same -- the A-4, where it has the same front
7 elevation and rear elevation. I'm going to call it permit
8 plan. On your front elevation, that same left-hand section
9 -- you know, structure all the way to the left, that also
10 says existing roof pitch. So is that also an error.
11 A That's correct.
12 Q Okay. Now, let's go down to the rear elevation on
13 -- let's just look at both of them at the same time. You
14 know on the rear elevation -- what don't we go through --
15 what is -- on Exhibit 159, let's go through the roof pitches
16 on the rear elevation. Why don't we go from right to left?
17 A What do you want me to say?
18 Q I want you to tell us what the roof pitch is on
19 drawing 159, on the roof, on the rear elevation going from
20 right to left.
21 A What it says or what it is?
22 Q What do you mean? That's what -- we are based on
23 -- we are going on the drawing right now.
24 A On the drawing it says existing roof pitch.
25 Q Okay. And then going to the left of that -- the

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1 first one says existing roof pitch. The next one?
2 A Existing roof pitch.
3 Q Okay. And then after that?
4 A Existing roof pitch, and then there's a pitch
5 change underneath that, and 412 under it.
6 Q Okay. Now let's go to Exhibit 148. Is it the
7 same on Exhibit 148 as on Exhibit 159?
8 A Yes.
9 Q Okay. All right. Now, let's go to Exhibit 126.
10 MS ROSEN: One second.
11 BY MS. ROSEN:
12 Q All right. Let's go to Exhibit 126, and let's go
13 to A-4, which is the front and the rear elevation.
14 MR. MOHAMMADI: I'm sorry. I think there's 126
15 and 126-A. I just want to --
16 MS. ROSEN: I'm looking at 126, the big one. 126-
17 A is the little one.
18 MR. MOHAMMADI: Okay.
19 MS. ROSEN: It has as-built. Okay. Now --
20 MR. MOHAMMADI: We're on the right one.
21 BY MS. ROSEN:
22 Q Let's go to the front elevation. What does 126-A,
23 on page A-4, front elevation, what does this drawing show as
24 being roof pitch?
25 A There is no -- there are no numbers.

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1 Q Okay. And the same thing on the rear elevation,
2 correct?
3 A That's correct.
4 Q Okay. Thank you. All right.
5 MS. ROSEN: Give me a second.
6 BY MS. ROSEN:
7 Q All right. Now on -- let's go to Exhibit 160.
8 A Can I put these away or the rest?
9 Q Yeah. You can just put those aside right now.
10 Okay. I want to turn your attention to Exhibit 160. Let's
11 start -- let's go to the front elevation. Can you tell us
12 what is the pitch shown on the garage portion of the front
13 roof shown on this drawing?
14 A 312.
15 Q Okay. And what is the pitch shown on the foyer --
16 on the section that's shown as foyer?
17 A 312.
18 Q Okay. And how about living room?
19 A 412.
20 Q And the section called new addition?
21 A 312.
22 Q Okay. And let's also just do the same thing --
23 what are the roof p itches shown by looking at the rear
24 elevation.
25 A That's correct. The change is 612.

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1 Q Okay. And then -- now the new addition is?
2 A 312.
3 Q And the living room is?
4 A 312.
5 Q Okay. All right. Is that the same?
6 A Pardon me?
7 MS. ROBESON: Same as what?
8 MS. ROSEN: I'm sorry.
9 BY MS. ROSEN:
10 Q Is that the same as on Exhibit 148?
11 A No.
12 Q Okay. All right. Can you tell us what is the
13 size of the -- what the size of the overhang is on the new
14 trusses that you have installed over your present roofs?
15 A Approximately two feet.
16 Q Okay. Do you have any documentation, for example,
17 like the orders for the trusses that are now installed on
18 your house?
19 A I'm sorry. Say that again.
20 Q Do you have any documents, for example, like when
21 you ordered the trusses that are now installed on your
22 house, do you happen to have copies of those documents from
23 when you ordered the trusses?
24 A Do I have them here?
25 Q Do you have them generally? I mean I assume you

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1 don't have them with you.
2 A Well, yes. The answer is yes.
3 Q Okay.
4 A When you order trusses, the truss manufacturer
5 provides you with their specification and engineering.
6 Q Okay. I assume you don't have them here with you,
7 correct?
8 A That's correct.
9 Q Okay. Is that something that you could give to us
10 -- that you can have to your attorney give to us in the next
11 couple days?
12 MR. MOHAMMADI: Objection. Based on what?
13 MS. ROBESON: Yeah. That's a conversation between
14 you and his attorney, I guess. I don't know what the roof
15 trusses have to -- are you -- do you want to check the
16 roof's actual specifications
17 MS. ROSEN: Well -- yeah, we'd like
18 MS. ROBESON: -- to see what pitch he's building
19 at? Is that what you're looking for?
20 MS. ROSEN: Yes.
21 MS. ROBESON: Well, I don't think it's an
22 appropriate question on cross-exam because he should discuss
23 it with his counsel first.
24 MS. ROSEN: Okay. That's fine. You know he's
25 indicated that he has them, so -- well, I guess I can ask

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1 the Hearing Examiner, can you -- can the Hearing Examiner
2 request that counsel produce them to us in the next couple
3 days?
4 MR. MOHAMMADI: Yeah, I would object to that
5 request. I don't know, one, where that's coming from in
6 terms of discovery; two, day six of the trial, it's -- I
7 don't know what --
8 MS. ROBESON: Yeah. I have an issue. We are well
9 through discovery in this case, and it's not something --
10 unless you can prove it any other way, it's not something
11 that I'm going to ask him to do.
12 BY MS. ROSEN:
13 Q Okay. Can you tell us what roof pitches were
14 actually used on the trusses?
15 A 312.
16 Q Okay. Okay. Are these the same pitches, roof
17 pitches, as the drawings that are on the permit set, which
18 is Exhibit 159, are they the same?
19 A No.
20 BY MS. ROSEN:
21 Q Okay. And they are not the same as what was on
22 Exhibit 126, is that correct?
23 A Yes.
24 Q Yes, that's correct?
25 A The pitches are 312, not 412.

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1 Q Okay. So they are not the same as what was shown
2 on the drawings, official pictures, as being 412?
3 A That's correct.
4 Q Okay. I'm going to have you look again at Exhibit
5 126 --
6 BY MS. ROSEN:
7 Q -- looking at the elevation drawings in Exhibit
8 126. Do those drawings show a change in the planes of the
9 roof and the ridge line between the living room and the
10 foyer sections of the house?
11 MS. ROBESON: Which sheet are you on?
12 MS. ROSEN: A-4, the elevation drawings, front and
13 rear. Want me to repeat the question?
14 MS. ROBESON: What do you mean a change in the
15 planes of the roof?
16 MS. ROSEN: The same surface.
17 MS. ROBESON: Now, I don't understand your
18 question.
19 MS. ROSEN: Just a little assistance here. Okay.
20 I see. Okay.
21
22 BY MS. ROSEN:
23 Q All right. I'm going to have you look at Exhibit
24 160 at the same time. I think that's the best way to
25 explain the question.

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1 MR. MOHAMMADI: 160?
2 MS. ROSEN: Yes, you can look at 160. All right.
3 If you look at the front elevation drawing, let's say
4 between -- looking at the roof which has the living room and
5 the foyer, and you see -- you see like a line in between the
6 living room and the foyer because one of the roof pitches is
7 412 and one of them is 312, but if you look at the drawing
8 in A-4 of Exhibit 126, you don't see that split, so to
9 speak, because it's -- it looks like it's the same surface.
10 That's what I mean.
11 MR. MOHAMMADI: Objection. I don't know if
12 there's a question.
13 MS. ROSEN: Well, I'm trying to explain. She
14 didn't -- you didn't understand the question. That's why I
15 was explaining that.
16 MS. ROBESON: I know. And so your question is?
17 MS. ROSEN: I'm asking if the drawings -- for
18 example, I'm going to use right now Exhibit 126, A-4 -- I'm
19 asking basically if that drawing shows a change, as I've
20 just explained what a change is, in the planes of the roof
21 and the ridgeline between the living room and the foyer
22 sections of the house, like it is shown in Exhibit 160?
23 (No audible response.)
24 MS. ROSEN: That's a question.
25 THE WITNESS: I think -- I just need to understand

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1 the question. Exhibit 160 shows the roof line stepping
2 down, coming right -- I mean right to left, all right. On
3 Exhibit 128, the roof line --
4 MS. ROSEN: 126.
5 THE WITNESS: -- 126, it shows the roof line
6 almost straight. It looks like it slights almost --
7 MS. ROSEN: Well it's straight, isn't it not
8 almost -- it is?
9 THE WITNESS: No, the front it looks -- it's
10 different from the rear.
11 MS. ROSEN: Okay. Well looking at the front
12 elevation --
13 THE WITNESS: But it's very -- but's it's very
14 close to being straight.
15 BY MS. ROSEN:
16 Q Okay. Well looking at the front elevation, okay,
17 is it --
18 MS. ROBESON: Okay. Let me just step back for a
19 moment, because the Commission's -- or the HOA's Complaint
20 in this case has to do with the height. Now you didn't --
21 as I understand it, you didn't receive 160 or 159 until
22 when?
23 MS. ROSEN: Well 159 came with the -- well not --
24 well 159 with -- 159 is the permit drawing. The only
25 difference is that --

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1 MS. ROBESON: No, 160. Because 160 is the one
2 that shows the difference in height -- in roof heights.
3 MS. ROSEN: All right. 160 has already been, I
4 believe -- 160 are the drawings that were drawn by Mr.
5 Gasprey, which were delivered to -- which were dropped off
6 on the -- to Peter Gibson in December of 2013. The only
7 difference between those drawings and this one is that this
8 one -- this one, as it's showing here, where it says
9 submission for deck only, this one with these words
10 submission for deck only and his handwriting was dropped off
11 to us as part of the -- you know, the deck submission.
12 MS. ROBESON: I understand that. What I'm saying
13 is the scope of your complaint, with a very, very detailed
14 supplemental complaint, is the height of the roof.
15 MS. ROSEN: Well in a broader sense the scope of
16 the complaint is also that he didn't follow the plans, roof
17 and otherwise. So this is the first --
18 MS. ROBESON: Well, you know when you put 50,000
19 things in there -- I don't want to turn this case, on day
20 six of the hearing, because you received these plans into
21 every discrepancy about the roof. He's entitled -- and this
22 is basically -- you got -- you have had these plans since
23 December 16th. Maybe not this version.
24 MS. ROSEN: I don't --
25 MS. ROBESON: You could have looked at these plans

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1 and gone through every discrepancy.
2 MS. ROSEN: Well he --
3 MS. ROBESON: And I don't want to take two more
4 days of trial to find out, you know, whether or not -- he's
5 admitted already that it's different. You refused to
6 process it as an amendment. Your complaint says height; so
7 why are we now going into the roof pitches and the roof -- I
8 mean I can see all the questions coming about, you know, the
9 different heights of the different roofs. They are clearly
10 different than what's on 126. It's clearly different.
11 MS. ROSEN: Okay. And -- but this complaint -- I
12 mean this complaint is basically --
13 MS. ROBESON: And you've had these plans since
14 December.
15 MS. ROSEN: I'm cross-examining him based upon --
16 he testified in this case, in his direct about, among other
17 things, the roof and the roof pitches. It's perfectly
18 legitimate for me to cross-examine him about it when I --
19 this comes out of his own testimony. He testified about
20 roof pitches in his own testimony, and his expert testified
21 about them.
22 MR. MOHAMMADI: If I may respond?
23 MS. ROBESON: Yes.
24 MR. MOHAMMADI: The roof pitches and the roof line
25 were pertinent for determining whether the roof would be

1 raised above the original as-built drawings, not whether --
2 in other words, the complaint says -- and I went through
3 this in my motion for judgment -- the complaint specifically
4 says that the height was raised, not that it was higher than
5 the approved plans, but that it was raised, and that it was
6 never supposed to be raised.

7 MS. ROBESON: That's right.

8 MR. MOHAMMADI: The focus with the roof pitch and
9 the roof height was not to show what the height is, although
10 you can very easily determine that. But, it's to show that
11 the plans clearly show that the height of the roof would be
12 changed in the built drawings -- in the new construction.
13 That was the purpose of those.

14 I don't have a problem with cross-examining on
15 part of it. She can ask, but I would agree with you --

16 MS. ROBESON: Well, I just want to clarify the
17 scope of this hearing. I mean clearly what he submitted --
18 and I don't need an architect to tell me that what he
19 submitted is different than 148.

20 MS. ROSEN: Yeah, but the complaint is basically
21 that he didn't -- the direct problem in the complaint
22 generally is that he didn't construct according to approved
23 plans.

24 MS. ROBESON: Yes, but you have -- well generally
25 you can say -- that's like the Association's hearing, saying

1 this is a free-rolling roller coaster that includes
2 everything that is not in compliance. And I am not going
3 to turn this into a hearing when he has not specifically --
4 when I get a detailed complaint with 17 items about the
5 window trim, and now it's becoming, oh, and now we are like,
6 at this 6th day of trial, he's put on an expert witness
7 about roof height, which he told you he was going to do --
8 I'm not going to turn this hearing into every discrepancy in
9 the plan. You gave them 17 discrepancies.

10 MS. ROSEN: Well, right now we are dealing with
11 the roof, which is the crux of this complaint.

12 MS. ROBESON: Well, we are dealing with the roof
13 height. If he testified to roof pitches -- he did testify
14 to roof pitches as to what he meant -- because this is cross
15 -- he testified as to roof pitches, as to what he meant in
16 that paragraph in Exhibit 76, okay, that says I can't meet
17 the existing roof if I -- I can't remember exactly. He
18 testified to that. And it also relates to the height.

19 MS. ROSEN: I know, but we are dealing with -- you
20 know the roof pitches has to do also with the raising of the
21 height of the roof. I mean this the roof. That's what I'm
22 dealing with. I mean I'm having a little hard time --

23 MS. ROBESON: Well, if you can then limit it -- I
24 can see -- I can clearly see the two things are different.
25 But in the interest of not turning this into five more days

1 of trial, if you can point to how it relates to the roof
2 height -- and I'll be honest with you. I'm not sure that
3 the -- I know that Mr. Ball didn't submit the form with the
4 December 16th drawing, but I disagree with Dr. Barr that
5 just because his attorney told him not to talk to -- I'm --
6 I think procedurally I'm not sure how strong your case for
7 not accepting the December 16th 2013 submission was. And
8 I'm just giving you a heads up. You know at some point
9 you've got to fish or cut bait.

10 You know he's got to do -- Mr. Ball, you have to,
11 at some point, pick a plan and stick to it. But, at the
12 same time this is about process too. So if you have
13 anything that relates to roof height and that paragraph on
14 76 -- unless you want to cross-examine as to credibility,
15 and say he said the roof pitch was 412, but it's really 312.

16 Because if this bothered the Association, they
17 could have put it in their supplemental complaint, and we
18 could have had discovery on it.

19 MS. ROSEN: Can we take a five minute break,
20 please?

21 MS. ROBESON: Yes. Let's make it 10. And, if you
22 need to eat a little snack or something -- or, let's do
23 this. Let's make it 15 minutes, because we're going to get
24 out of her by 2:00. And if anyone needs to eat a snack or
25 something to keep going, this would be a good time to do it.

1 MR. MOHAMMADI: Thank you, Your Honor.
2 (Brief recess.)
3 (OFF THE RECORD)
4 (ON THE RECORD)

5 MS. ROBESON: Okay, we're back.

6 MS. ROSEN: Before I start -- continue with the
7 cross-examination, I'd like to go back to the complaint
8 because I disagree with certain things that you said in
9 reference to the complaint. So I'm going to go back into
10 the text of the complaint with regards to the roof.

11 What this complaint does -- I'm going to go into
12 paragraph 7 of the complaint:

13 The plans and the drawings
14 submitted by Peter Ball, as part of
15 his construction application, which
16 was approved by the Association,
17 showed that all new roofs over the
18 house as in line with the existing
19 roof height, and were approved as
20 such by the association. Instead
21 of complying with the plan

22 submitted to and approved by the
23 Association for the new roofs, the
24 respondents have built the roof
25 line at a higher height than the
existing roof line.

26 New roof trusses have been laid
27 over the existing roof to enclose
28 the extension to the entry foyer,
29 raising the roof line higher than
30 the existing roof.

31 The roof of the addition over the

existing roof line, and both new Page 62

1 roofs extend higher than the height
2 of the existing chimney.

3 This is not just a question of the height of the
4 roof. I mean he -- they are -- this is about raising the
5 roof, and that goes beyond just mere height, which I'm
6 getting the impression you seem to be focusing on just the
7 actual height of the roof. Because pitch and roof line, you
8 know, depending on how you -- you know, the pitch and the
9 roof line, this is all connected together. So I'm having a
10 little bit of a problem understanding why it seems like your
11 focus is solely on the height when this complaint, if you
12 read through the complaint, it clearly makes reference to
13 the response of knocking off the roof of the building back
14 into conformity of the approved plans; that they deviate
15 substantially from the approved plans.

16 And I'm also just going to note here -- I mean,
17 I'm getting the impression with reference to this December
18 16, which you seem to be now saying well, hey, that's an
19 application and a plan -- I mean you guys -- you know you
20 guys are going to have to take it. I'm just going to
21 indicate here I haven't seen -- and there has been no
22 evidence presented that given the fact that you've basically
23 stated that he has revised -- that he has not done what is
24 in accordance with the plans, and you know, if his new plan
25 -- his December 16th drawing -- there has been any -- there

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1 is no indication that there has ever been a building permit
2 -- a revised building permit before he went ahead and did
3 what he wanted to do and said -- and as he has testified,
4 this is basically -- he said that 160 is basically pretty
5 much what he's done and is in the process of doing. There
6 have been no revised building permits.

7 MS. ROBESON: Well I don't know what he said about
8 it.

9 MS. ROSEN: He just testified -- when I asked him
10 he said that 160 is basically what his building looks like,
11 and when it's completed will look like. And it is certainly
12 not the same thing as the approved plans. We all know that.
13 And there have been no revised building permit. So I'm
14 having a little problem kind of getting a handle of what's
15 going on here.

16 MS. ROBESON: Well, that's my problem. Mr.
17 Mohammadi?

18 MR. MOHAMMADI: Well, I guess, to respond to some
19 of those things, I don't think we have necessarily disputed
20 that there are deviations from the original plan. I think
21 the expert agreed there are some deviations. I think Mr.
22 Ball has agreed there are some deviations. The question is
23 what the deviations as compared to the complaint that was
24 filed.

25 I think what Ms. Rosen just read is absolutely

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1 clear that the complaint is not talking about -- the height
2 is different than the height you indicated I the plan;
3 rather, the complaint says the height is higher than the
4 original height. And that's -- again, there is no dispute
5 that it is because, as Ms. Rosen correctly pointed out, roof
6 trusses have been placed on top of the existing height. We
7 are not disputing that the roof height has been raised.
8 What we are disputing is that the original submitting,
9 according to her, said it wasn't going to be raised, and we
10 are disputing that. It's clear it was going to be raised.

11 With respect to the December submission --
12 December 2013 submission, our position from the get-go has
13 been that was an application by in-action and it was
14 approved. Now, have there been new building permits issued
15 for this? No. But the problem is this is not finished.
16 This is an on-going project that's in the middle of
17 construction. He has to pass inspections for it to get
18 approved. If there is a problem with that, that's the part
19 -- that's with the Department, the permitting department,
20 not with the HOA. It's really sort of outside of the scope
21 of what the HOA has to do. There has been a lot of focus on
22 how did you -- have you gotten the permit, have you gotten
23 approval? It doesn't matter. That's not their purview.
24 That's not what they are supposed to do. If the County has
25 a problem with the plans, the County will tell him we have a

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1 problem; resubmit it. If the County says you don't pass
2 inspection, that's between him and the County. It has
3 nothing to do with the HOA.

4 So I think it's sort of irrelevant for our
5 purposes whether he submitted new plans to the County or
6 not; whether he got new permits or not; whether he passed
7 inspections or not. The only focus for us is did the HOA
8 approved plans, and has he built a roof that's -- well, is
9 the roof in higher? Yes, it is, but it's indicated as such
10 in the plans, and that's all that matters.

11 And again, with the December submission, our
12 position still is that inaction calls that by the HOA own
13 rules to be approved.

14 MS. ROBESON: And, Ms. Rosen?

15 MS. ROSEN: As I said in the complaint, this is
16 about the -- what we referred to as the roof line. It is
17 clear that the roof line -- this is the roof line. We have
18 discussed the roof line. You've got a whole different roof
19 line in here than you have in here. And the question is --

20 MS. ROBESON: But the complaint -- okay.

21 MS. ROSEN: That's what the complaint refers to is
22 roof line.

23 MS. ROBESON: The complaint doesn't say a
24 different roof line. It says a roof line that is higher --

25 MS. ROSEN: Than the existing roof line.

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1 MS. ROBESON: -- than the existing roof line. And
2 you are --
3 MS. ROSEN: And the -- but --
4 MS. ROBESON: Just a second. You are on -- or you
5 will be on rebuttal. So you could have raised all these
6 things in your case-in-chief, or in the complaint so that --
7 as I read it it's -- I think a fair reading of the complaint
8 is the roof line is higher. Now, pitch was relevant --
9 pitch is relevant to Mr. Schwartz's testimony, but that's
10 not where you were going. So pitch is relevant to Mr.
11 Schwartz's testimony because that was it has to be higher if
12 I'm adding eight feet and keeping the same pitch. All
13 right? That is what pitch relates to, as far as his
14 testimony and his case-in-chief.
15 So if you want to address that on cross-
16 examination, that's fine.
17 MS. ROSEN: On rebuttal, you mean, or -- I'm
18 getting a little confused here.
19 MS. ROBESON: Well cross-examination or rebuttal.
20 But he did not bring up anything about the different planes
21 of the different roofs. Now if you want to say a 312 pitch
22 might make it lower or higher, you could do that.
23 And I have not made a decision as far as the plan
24 submitted on 2013, I am trying to get some heads up so that
25 you can address this if we ever get to closing arguments

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1 that, you know, I'm concerned that the Association should
2 not have treated that as a request to amend the plan.
3 Whether they amended or not, you know, is a different
4 question.
5 MS. ROSEN: I don't know of any association that,
6 when somebody has already built -- people don't get to build
7 -- you have to -- before you build something, you have to
8 get permission to do it. It's not just build it and then do
9 it.
10 MS. ROBESON: Well, we have had -- that may be
11 your perspective, but you are not under oath here, and we
12 have had testimony -- in fact, some of the exhibits that
13 came in are after-the-fact amendments or after-the-fact
14 applications after construction. So I mean some of the
15 stuff in this case is after-the-fact construction. So I
16 guess that may be your perspective but, you know, you are
17 not a witness.
18 So if you want to cross-examine him on roof pitch,
19 you may; just if we can keep it to his testimony. Actually
20 right now I'm blanking out on whether he even testified to
21 roof pitch.
22 MS. ROSEN: believe he did testify to it, but now
23 I'm trying to find it.
24 MR. MOHAMMADI: Only in reference to the letter.
25 MS. ROBESON: Right.

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1 MS. ROSEN: Let me see if I can find it.
2 MS. ROBESON: Exhibit 76, in that one paragraph.
3 MR. MOHAMMADI: Correct.
4 MS. ROBESON: He testified at length about what he
5 meant by Exhibit 76 in that paragraph.
6 MS. ROSEN: Okay. Why don't we -- then we'll go
7 to -- let's look at Exhibit 76, second paragraph.
8 BY MS. ROSEN:
9 Q I'm going to ask you to look at the second
10 paragraph in Exhibit marked 76. And, in that paragraph, you
11 state that your request is to only change the roof from
12 block to slope, and because we are using an asphalt shingle,
13 to be consistent with the rest of the roofs the code
14 requires a 312 pitch.
15 In this paragraph, paragraph two, where if at all
16 does it say that you are going to raise the roof higher than
17 -- roof or the roof line higher than the existing ridge?
18 A I don't understand your question.
19 Q Now where you state -- all right, let me read it.
20 In paragraph two at the last sentence you state where, if
21 adjoined at the correct roof ridge, would be much more
22 flowing design; it would be much more attractive. What did
23 you mean by that?
24 A As previously testified, this paragraph refers to
25 the rear of the house, the rear roof, and it was -- we were

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1 trying to explain that the roof pitch on the rear of the
2 house would intersect with the existing roof. In fact it
3 wouldn't even intersect at the ridge of the existing roof,
4 all right? However, by changing the roof pitch and making
5 it meet the new ridge -- the new ridge of the house due to
6 the front, it would look more attractive.
7 Q Okay. But there's nothing here that talks about
8 raising the roof, isn't that correct? It just says it's
9 joining the current roof ridge. It doesn't say that it's
10 going to raise above the current roof ridge, isn't that
11 correct?
12 A I think I just answered your question. The rear
13 of the house did not -- we did not have to raise the rear of
14 the house roof. All right? Using our plan, the rear of the
15 house, that roof line, would have been below the existing
16 ridge line of the house.
17 Q Okay. But this letter -- this paragraph two
18 doesn't state that it's only referring to the rear. It does
19 not state that, does it?
20 A Sure it does.
21 Q It just says --
22 A The request is only to change the roof from flat
23 to slope.
24 Q Okay.
25 A But the only flat roof we have on the house is the

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1 rear of the house.
2 Q Well is there any place else in this letter that
3 indicates that you intended to raise the roof anywhere --
4 raise the roof or the ridge line anyplace else on this
5 house?
6 A I don't think that was a question that he had
7 asked. The context of this particular paragraph has to do
8 only with the rear of the house.
9 Q Well where in the approved plans does it show that
10 -- in Exhibit 126, that you are going to raise the roof? If
11 you look at Exhibit 126, how can we look at that and show
12 that there is going to be a raising of the roof in general?
13 MS. ROBESON: Well, he didn't testify on that, and
14 that was Mr. Schwartz's testimony. He did not go into that.
15 MS. ROSEN: It would seem to me that even if he
16 didn't specifically go into that, you know, that I should be
17 able to cross-examine him in general about issues relating
18 to the roof and the ridge lines, because he didn't testify
19 -- I mean once he opened up the door and tried to testify
20 about the roof in general, I shouldn't be so narrowly
21 construed in the cross-examination to be able to ask him
22 about this letter. He testified about the letter.
23 MS. ROBESON: Mr. Mohammadi?
24 MR. MOHAMMADI: I guess, for the sake of moving
25 this along, I'm guess if I don't -- if she doesn't cross-

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1 examine now, she's just going to call Mr. Ball on her
2 rebuttal and ask the questions; so, fine -- that's --
3 MS. ROBESON: All right. Go ahead.
4 MR. MOHAMMADI: -- you know, that's fine.
5 MS. ROBESON: I'm just trying to keep the scope of
6 this hearing -- it's not broad rights of cross-examination.
7 This is not a fishing expedition, which some --
8 MS. ROSEN: I'm not trying to make it a fishing
9 expedition.
10 MS. ROBESON: -- at sometimes I have felt that it
11 is. It's not a broad right of cross-examination. It's a
12 right to cross-examine that based on the scope of the
13 testimony, the direct testimony. So I'll let you do it and
14 in the interest of moving along, but I guess I don't see
15 why, since we have Mr. Schwartz's testimony already, why we
16 need to go into it. But I'll let you do it.
17 BY MS. ROSEN:
18 Q Where is it written on communication between -- to
19 you -- to the Homeowner's Association that any roof is to be
20 raised?
21 A Are you asking me is there any communication that
22 says the roof would not be raised?
23 Q No, no. What I'm asking you, is there any written
24 communication between you or anyone acting on your behalf to
25 the Board of Directors that any roof on your property was to

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1 be raised?
2 A Well I think there were several. I mean I recall
3 an email that we sent to Raj saying that the roof height
4 would not be raised -- would not be more than 30 feet.
5 Also, you just look at the as is plan and you look at the
6 proposed plans; there is no way that the roof would not have
7 been raised.
8 Q Which proposed plans are you now referring to?
9 Did you find Exhibit 126?
10 A Uh-huh. Yes.
11 Q Okay.
12 MR. MOHAMMADI: This is 126.
13 BY MS. ROSEN:
14 Q Is there any communication that you are aware of
15 that specifically state that the roof would not be raised?
16 A Is there anything that says --
17 Q That the roof would not be raised.
18 A That we would not raise the roof?
19 Q That's correct.
20 A I don't -- no.
21 Q Well, I'm going to ask you to look at what was
22 previously admitted as Exhibit 85.
23 BY MS. ROSEN:
24 Q Okay. I'd like you to look at the second page of
25 that, where it says, Peter is willing to abandon the transom

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1 detail so the roof will not appear so high. It would be
2 agreeable if the new roof only spans from the lower top --
3 lower floor top of the wall to the upper floor top of the
4 wall, not to the top of the main house ridge. Doesn't that
5 mean basically that that's saying that the roof is not going
6 to be raised?
7 A No. This is dated July 20th, 2010.
8 Q Above the existing ridge. Above the existing
9 ridge. Doesn't that basically mean that it's saying that
10 the roof is not going to be raised above the existing ridge?
11 A No, absolutely not. This was dated July 20th,
12 2010, as one of the plans that was submitted to the Board
13 early on for their -- for their consideration was to raise
14 -- we had to raise the front of the house. There's no way
15 we can't. But the rear of the house what we were proposing
16 to do was to create a row of like transom windows, all
17 right, where the rear roof would be below the front roof,
18 like a lot of the houses in the community. All right? That
19 was one of the proposals in the plan, and that was one of
20 the things that was shot down by Raj.
21 Q Isn't it true that it was shot down by the
22 Homeowners Association as opposed to Raj?
23 A I think you are just splitting hairs when you say
24 that.
25 Q So you basically think that every decision made

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1 here in reference to your application has been made by Raj
2 alone and not by the Homeowners Association?
3 A When -- absolutely. When -- on these details,
4 architectural details, Raj had the final say on all of
5 these.
6 Q So what, for example, when your application was
7 approved, is that basically a decision made by -- you are
8 saying that Raj made that decision only; that the Board of
9 -- Homeowners Association did not approve your application?
10 A My plan would not have been -- if Raj did not like
11 something, those -- those things could not have been
12 approved. Yes.
13 Q Isn't it true that it was Raj who cast the
14 deciding vote to actually approve your plan?
15 A Well, first of all, the night that Jim Deavers and
16 I were -- that attended -- for the meeting that would have
17 -- that should have -- that was meant to approve or
18 disapprove the plans, no vote was taken. All right? And,
19 as I recall, it was four to four, three to four, okay, of
20 people that were willing to pass my plan. I think Tania
21 Bruno, Joseph Lee, Ms. Ling, Jamie Dietz and Peter Gibson.
22 So, no. I mean when he characterized that he was the
23 deciding vote, that's not true. He just switched the vote
24 when it appeared to him that everybody else -- that the
25 majority would have approved it.

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1 MS. ROBESON: Ms. Rosen, do you have a witness to
2 testify whether that vote was made in open session or not?
3 MS. ROSEN: The approval of the plan?
4 MS. ROBESON: On the May 2011 plan.
5 MS. ROSEN: Well the meeting itself I know was an
6 open session.
7 MS. ROBESON: Well he is saying they didn't make a
8 vote.
9 MS. ROSEN: I don't know off the top of my head.
10 MS. ROBESON: You don't know? Okay.
11 MS. ROSEN: But I meant --
12 MS. ROBESON: Go ahead.
13 MS. ROSEN: -- I believe that before they made a
14 vote -- I mean whether they voted afterwards or whether they
15 voted in his presence or not, that, I don't know.
16 MS. ROBESON: Okay. Go ahead.
17 BY MS. ROSEN:
18 Q Is any portion -- I want you to go to the roof.
19 The roof that's over the foyer, is it your -- the foyer of
20 the home -- is it your position that the roof that's built
21 on the foyer -- over the foyer -- is built according to
22 plan?
23 MR. MOHAMMADI: Objection.
24 MS. ROBESON: Basis.
25 MR. MOHAMMADI: I mean it's really not within the

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1 scope, and also it's not really the basis of this complaint.
2 But --
3 MS. ROBESON: Well, I guess -- you mean in the
4 height of the roof, or --
5 MS. ROSEN: Yes.
6 MS. ROBESON: Wait. According to -- I'm sorry --
7 according to which plan, 126?
8 MS. ROSEN: Okay. Well what -- yes, 126.
9 MS. ROBESON: So as to the height?
10 THE WITNESS: It's actually lower than 126.
11 MS. ROBESON: Is that because it's got the 312
12 pitch instead of the -- or, no, that one had a 412.
13 THE WITNESS: If you look at 126, the roof over
14 the foyer is the same height as the roof over the garage.
15 The roof over the foyer today is actually lower than the
16 roof over the garage.
17 MS. ROBESON: All right. Continue, Ms. Rosen.
18
19 BY MS. ROSEN:
20 Q Is that because the garage roof is higher?
21 A No.
22 Q No? Then what -- okay.
23 A There is no way for the garage roof not to be
24 where it is.
25 Q Is the roof over the foyer, is that -- is that the

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1 roof that's -- is that the roof that you would like, as it
2 is now, is that what you want to have approved by this
3 Hearing Commissioner? Do you want that roof to be
4 considered approved?
5 A Well, we submitted the changes in our December
6 application -- December 2013 application.
7 Q But you had already built that roof at that time,
8 hadn't you?
9 A That's correct.
10 Q Okay. So you built it before you had any kind of
11 an approval, right?
12 A That's correct.
13 Q Okay. And was that roof intended to be temporary
14 or permanent?
15 A Pardon?
16 Q Was that roof intended to be temporary or
17 permanent?
18 A We'd like to have -- we would like to -- we would
19 like that roof to be permanent.
20 Q Did you ever represent to the Homeowners
21 Association that it was -- that you built this as a
22 temporary roof?
23 A I didn't say it was temporary.
24 Q Okay. Well I'd like you to look at your --
25 MS. ROSEN: I think we had introduced I believe

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1 previously his Answers to Interrogatories into evidence, but
2 I don't recall what number the exhibit is.
3 THE WITNESS: I recall what this is.
4 MS. ROSEN: Well I'm going to have you look at
5 your Answers to Interrogatories.
6 MS. ROBESON: Well --
7 MR. MOHAMMADI: Do you have them? I don't -- I
8 mean mine are packed away somewhere.
9 MS. ROSEN: I have a copy.
10 BY MS. ROSEN:
11 Q All right. In response to interrogatory number
12 one, you state the roof over the foyer is not built
13 according to the plan. Which plan are you referring to when
14 you say the roof over the foyer is not built according to
15 the plan?
16 A It's not built to the original plans approved in
17 2011, May 11, 2011.
18 Q Okay. And then you state, however, it is only a
19 temporary roof that was erected so that the HOA could
20 consider an alternative to the original roof.
21 A That's correct.
22 Q Now at any point when you had -- I mean when you
23 met with Raj Barr or Peter Gibson -- I believe it might have
24 been Lee -- at your property to look at that roof, did you
25 ever represent to them that that was a "temporary" roof.

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1 Yes or no?
2 A That comment was not made on the 14th of September
3 2013. It was made earlier.
4 Q Your testimony -- when did you allegedly tell
5 anyone from the Homeowners Association that you had erected
6 a temporary roof over the foyer to your home?
7 A It was prior to the meeting on 2000 -- September
8 14 -- I think maybe the 11th of September when Peter Gibson
9 came out and looked. And I told him that I had changed the
10 roof pitch over the foyer, or changed the roof height over
11 the foyer, and I said to him the reason was if I kept it as
12 the same height as the garage, it would have made -- it
13 would have made the thing look out of balance, much higher.
14 And I thought lowering it would be -- or it would have a
15 nicer appearance.
16 Q Okay. But you never stated to anybody that this
17 was a temporary roof, did you?
18 A It's temporary in the sense that at this stage
19 it's very easy to be removed.
20 Q Okay. So it would cause no real -- great hardship
21 to remove that roof over the foyer if the Hearing Examiner
22 decided that had to be done, correct?
23 A Just time and money.
24 Q It wouldn't be any big problem because it's
25 temporary, right?

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1 A It's time and money.
2 Q That's not responsive to the question.
3 MS. ROBESON: Well, you asked him if it wouldn't
4 be a big deal; I mean he said it would be time and money.
5 Can you characterize how big a problem it would be, Mr.
6 Ball?
7 THE WITNESS: Well, it would take, you know -- you
8 know, half a day to disassemble it, all right, and then
9 order new trusses, and then another half a day to a day to
10 put it up. We'll have to have a crane out there to erect it.
11 It's time and money.
12 BY MS. ROSEN:
13 Q Well, why didn't you ask for approval by the
14 Association to do -- to create -- to construct this roof
15 that you constructed before you actually constructed it?
16 MR. MOHAMMADI: I'm just going to object at this
17 point. Again, I don't -- I don't know where this is going.
18 It's outside of the scope of the complaint, as well as
19 outside of the scope of direct examination. We are not
20 talking about whether there is deviation from the approved
21 plans. We are talking about whether the approved plans show
22 roof height that's higher than the original as built.
23 That's the whole, Ms. Robeson, the crux of this case as we
24 see it. So there was no testimony or anything about the
25 foyer's height being different or anything like that. This

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1 is all coming out sort of on cross. I don't see what the
2 relevance is essentially.
3 MS. ROBESON: Ms. Rosen?
4 MS. ROSEN: Well, it goes -- I mean the -- like I
5 said, I feel that he's testified about the roof itself and
6 he's testified that it's built -- you know, that he don't
7 even know which plan he says it's been built according to.
8 He's basically indicated -- he's indicated previously that
9 this is the roof and he's never indicated prior --
10 previously that this is only a temporary roof, and I think
11 that it is relevant that he has categorized it in his own
12 Answers to Interrogatories as being a temporary roof.
13 I mean it goes to the question -- on thing in our
14 case that we have tried to make very clear that Mr. Ball has
15 had a long, long history of building before getting
16 approval, and basically now he has built something that he
17 has called a temporary roof over his foyer.
18 MS. ROBESON: Well, I'll let him answer this one,
19 but I don't want to get -- because -- because I do think
20 it's relevant -- I'm trying to remember his cross -- I mean
21 his direct testimony. There was testimony on past
22 violations and what he had done. So I'm going to let it in.
23 Can you ask him the question again?
24 MS. ROSEN: I'll have to remember what I asked

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1 him.

2 MS. ROBESON: I think you asked him why he didn't

3 built it according to the plans?

4 MR. MOHAMMAD: I think the question was why --

5 MS. ROSEN: No. I think the question was --

6 MR. MOHAMMAD: -- why didn't you get approval for

7 --

8 MS. ROSEN: Why didn't he get the approval before

9 he built this temporary roof?

10 MS. ROBESON: Oh, okay.

11 THE WITNESS: I guess in hindsight I probably -- I

12 should have. I just thought that -- I made a judgment -- a

13 decision that having -- I made the judgment, decision, all

14 right, to do that because these plans actually call for a

15 new roof completely across the whole house, not over the

16 garage, but over the existing living room, all right, the

17 foyer and everything, all right. All right. I thought

18 there was -- that we didn't need to raise the height of the

19 roof over the living room, all right, just so that it would

20 be the same height as the garage. So that's why I took the

21 decision on my own, all right, to lower to that foyer height

22 allowing me to keep the same height as the -- the existing

23 height of the living room. These plans, if you look at it,

24 call for the whole roof to be raised, not just the garage.

25 MS. ROBESON: Ms. Rosen?

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1 MS. ROSEN: One second.

2 BY MS. ROSEN:

3 Q And I believe you also testified -- in your

4 testimony I believe that you also indicated that you had had

5 some issues with the Association and your architectural

6 applications somewhere around year 2003 or so. Is that

7 correct? Do you recall that with regard to your shed and

8 deck applications at that time?

9 A Did I have problems with the shed?

10 Q With the Association -- you know, in terms of, you

11 know, a dispute with the Association concerning a yard shed

12 -- an application, I believe, for a shed and a deck at that

13 time?

14 A No. I thought they were -- I thought they were

15 being just --

16 Q Okay. Now prior to that time, did you ever have -

17 - did you ever have any disputes with the Association prior

18 to that time concerning any architectural applications of

19 yours?

20 A Nothing that wasn't worked out.

21 Q Okay. But you did have -- but you did have a

22 dispute with the Association, isn't that correct, with

23 regards to a -- you had a -- let's go back -- isn't it true

24 that you applied to the HOA in around 1996 for a fence and a

25 shed workshop? Do you recall that?

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1 A Yes.

2 Q Okay. And do you recall what the outcome of that

3 was?

4 A They approved installing the fence.

5 Q Okay. But isn't it true that they did not approve

6 installing the shed or the work -- the shed/workshop, isn't

7 that correct? That was denied?

8 A The shed/workshop, I don't believe I requested

9 until 2003 or so.

10 Q You don't recall -- isn't it true that you built

11 some type of a deck or workshop around the year 1996 also?

12 A No.

13 Q Okay. Now at that time when you submitted that

14 application, isn't it true that you were not even the owner

15 of that property?

16 A When?

17 Q During the 1990s when you submitted this -- an

18 application?

19 A That's correct.

20 Q Okay. So you weren't the owner of the property?

21 A That's correct.

22 Q And you didn't tell anybody at that -- anyone from

23 the Homeowners Association at that time that you were not

24 the property owner when you were making that application,

25 did you?

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1 A That's correct.

2 Q Okay. Now also in -- with regards to the

3 application that's an issue in this case, at some point in

4 time between the time you originally applied, I think in

5 January 2008 and the time this application was approved in

6 May 2011, you ceased to be the owner of the property, isn't

7 that correct?

8 A Yes.

9 Q Okay. And when you were no longer the owner of

10 the property, isn't it true that you never informed the

11 Homeowners Association that in fact you were not the owner

12 of the property anymore, isn't that correct?

13 A That's correct.

14 Q Okay. And so you continued to seek approval on

15 this application -- on an application on a house that you

16 didn't even -- that you don't even own, isn't that correct?

17 MR. MOHAMMAD: Objection. I just don't know what

18 the relevance of all this is.

19 MS. ROBESON: Yeah. I don't either.

20 MS. ROSEN: Well, I think it's relevant. It goes

21 to the issues --

22 MS. ROBESON: I mean he has standing under Chapter

23 10(b) of the Code to bring a suit --

24 MS. ROSEN: Well I don't think that's the issue.

25 I mean from our perspective -- you know the Homeowners

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1 Association Bylaws obviously give lot owners -- members can
2 make applications. If you don't -- I mean I cannot go to
3 the Potowmack Preserve and make an application to construct
4 something at Raj Barr's house, because I have no standing to
5 do that.
6 MS. ROBESON: Yeah, but he's already -- I guess
7 I'm just trying to cut to the chase.
8 MS. ROSEN: Mmm-hmm.
9 MS. ROBESON: He's already testified that he had
10 authorization to do it. No, he didn't own the property. So
11 --
12 MS. ROSEN: Well when that authorization -- I mean
13 I guess the question I'd like to get to is he testified that
14 at some point that he had authorization, but I have not
15 heard him testify -- what I want to is -- the key question
16 is not whether he had authorization from Michael; it's
17 whether or not that authorization was made known to the
18 Homeowners Association. Because the Homeowners Association
19 -- he's acting as though -- I think it's very clear that he
20 was acting as though it was his application. For many years
21 nobody knew anything about Michael, something that we would
22 be testifying on at rebuttal. And I think it goes to his
23 bad faith, because he can't apply --
24 MS. ROBESON: I guess I still don't see the
25 relevance, if he had the authority to do it. Why -- I mean

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1 --
2 MS. ROSEN: Well, but the question is not --
3 MS. ROBESON: Would it have made a difference if
4 it was Michael's application?
5 MS. ROSEN: Well, I think the point we're trying
6 to make in terms of, you know, when we refer to his bad
7 faith and his ongoing -- you know, his ongoing dealings with
8 the Association, if he no longer owns the property, he
9 shouldn't be representing himself, coming to Homeowners
10 Association meetings acting as though he is the owner of the
11 property, because I think the testimony -- the previous
12 testimony that -- that the Homeowners Association didn't
13 have any -- or the years after --
14 MS. ROBESON: Well, I thought we --
15 MS. ROSEN: -- I mean May 2011/2012, we didn't
16 even know.
17 MS. ROBESON: I thought we'd already established
18 -- I'll let you ask it. To me, if he has the right to
19 prosecute the application, you know, we can go there.
20 MR. MOHAMMADI: Well, just if I may, for the
21 record? First of all, the complaint says nothing about he
22 did not have approval -- he did not have authorization or
23 anything like that. But it's completely irrelevant. If
24 there is a dispute, it would be between Michael Ball and
25 Peter Ball; meaning, if Peter Ball had applied, gotten

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1 approval and built something that Michael Ball had not
2 approved, the claim would be by Michael Ball against Peter
3 Ball, why did you do this? It's irrelevant to the
4 Association whether it is because, as already testified --
5 and Michael Ball also testified he has had authorization for
6 everything that has happened, everything that was built. So
7 it's sort of irrelevant whether the HOA was notified or not,
8 or that --
9 MS. ROSEN: That's not exactly right.
10 MR. MOHAMMADI: -- or whether it's even required.
11 MS. ROSEN: It's not irrelevant because I mean
12 Mike Peter Ball originally was the applicant/named property
13 owner. When he was no longer the property owner, if he was
14 still going -- if he was going to act on behalf of the
15 property owner, then you know, he or the property owner
16 would -- I think would have a duty to tell the Association,
17 hey, I'm not longer the owner.
18 MS. ROBESON: Would you point to me the law that
19 says that, because I don't see any duty? And I've been in
20 Common Ownership -- I live in Columbia, which is the world's
21 huge --
22 MS. ROSEN: Well, if you look at -- I mean --
23 MS. ROBESON: But I don't see the -- I don't see
24 the relevance. I really don't. If you want to point me to
25 a case that says -- we have tenants prosecute applications

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1 with the owner's consent all the time. So what --
2 MS. ROSEN: Well I understand that, but the tenant
3 -- this is a situation -- this is not a question of if the
4 -- I think the point I'm trying to make here is that Mr.
5 Ball, Peter Ball, did not -- nobody informed the
6 Association. The Association believed that they were
7 dealing with the property owner, Peter Ball. When Peter Ball
8 was no longer the property owner, it was incumbent upon --
9 MS. ROBESON: Would they have treated it any
10 differently?
11 MS. ROSEN: I don't know. I can't answer -- it's
12 kind of a speculation question. But the point --
13 MS. ROBESON: Well, then you can answer it.
14 MS. ROSEN: But I think the point here is, is that
15 -- I mean he was basically -- somebody is pretending to be
16 the property owner when they are not, which is what Peter
17 Ball I think is doing when -- because they never informed
18 the Association that Michael was actually the owner and he
19 is prosecuting the application as if it was his own.
20 MS. ROBESON: I know. I understand. I understand
21 your point. I'm just missing your perception. If there is
22 some case you want to direct me to that says it's bad faith
23 to not be the owner --
24 MS. ROSEN: I'm not saying that somebody -- if the
25 owner -- if I see --

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1 MS. ROBESON: No. I don't want to argue more
2 here. You can make the point in closing arguments, but I am
3 missing that duty to inform the HOA. You know it's his
4 burden if he didn't get mailed notice and he moved; that
5 would be his bad. But I just -- I guess I just don't see
6 why we have to continually harp on the fact that he didn't
7 own the property. People transfer property for a lot of
8 reasons.

9 MS. ROSEN: I guess the point I'm trying to make
10 is if I transfer my property to somebody else, then that
11 person isn't going to be -- then I am not going to prosecute
12 an application if I'm no longer the owner of the property.

13 MS. ROBESON: Well you tell me what -- then you
14 give me some kind of inking. You keep saying if I did
15 this, if I did that. You know, give me a reasonable
16 standard.

17

18 MS. ROSEN: Well, the Homeowners Association --
19 well, I'm referring -- if you look at Homeowners Association
20 documents, as a member of the Association -- when you own
21 the property you're a member.

22 MS. ROBESON: Well he was acting on behalf of
23 Michael.

24 MS. ROSEN: When, I guess is the question.

25 MS. ROBESON: Well --

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1 MS. ROSEN: When was the authorization given, and
2 when was the Association notified of that?

3 MS. ROBESON: You know what, I'm not going to
4 argue this anymore. I -- Mr. Ball, can you answer when you
5 got authorization from Michael to prosecute the application?

6 THE WITNESS: 2010.

7 MS. ROBESON: You may not believe him, but if you
8 have --

9 MS. ROSEN: I guess question is when, if ever, did
10 you inform the Association of that?

11 MS. ROBESON: You can answer.

12 THE WITNESS: I would say sometime in 2012, all
13 right, because Raj had wrote me and said who's Michael Ball.

14 BY MS. ROSEN:

15 Q Now then why did you not inform the Association
16 that Michael Ball was the owner and you were acting on his
17 behalf during that period; it was approximately two years?

18 A I was acting on his behalf. I didn't think there
19 was any reason. That was it. What difference would it have
20 made?

21 Q As a property owner, you are familiar with the
22 process of applying to the HOA to do something, isn't that
23 correct, to make an architectural change?

24 A Yes.

25 Q But you saw no reason to let the Property Owners

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1 Association know that you were not the owner and that you
2 were now acting as the owner's agent?

3 A If I have the owner's express approval to act on
4 his behalf, what further duty do I have to you?

5 Q How would the Homeowners Association know that it
6 is no longer your application if you don't tell them?

7 A What difference does it make?

8 Q It's not my job to answer your question. It's
9 about the application.

10 MS. ROBESON: Well, it's my job to move -- to tell
11 you to move on.

12 BY MS. ROSEN:

13 Q In any of your discussions with any Board members,
14 whether at a meeting or -- at a regular Board meeting or at
15 any meeting at your property, did you ever tell the Board
16 that you were going to raise the roof higher than the
17 existing ridge?

18 A Did I ever tell them that I was going to raise the
19 roof --

20 Q Raise the --

21 A -- higher than the approved plans?

22 Q In the existing ridge on your house.

23 A Did I ever tell --

24 Q Yeah.

25 A -- have a conversation with any Board member that

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1 I was going to raise the roof higher than the existing
2 ridge?

3 Q Yes, that's the question.

4 A No, never had that conversation.

5 Q Okay.

6 A On the front of the house. On the rear of the
7 house, I think that letter explains itself.

8 Q Well I didn't ask about the letter. I asked if
9 you ever had any conversations or did you ever say to the
10 Board that you were going to raise the roof higher than the
11 existing ridge, whether or the front or the rear of the
12 house.

13 A There was no verbal conversation about raising the
14 roof. Okay. There was that letter about the rear of the
15 house.

16 Q Okay. Did you ever say anything to the Board
17 about raising the chimney of the house?

18 A No.

19 Q You have in your Answers to Interrogatories you
20 stated that you were instructed to halt the project on or
21 about September 14th of 2013. Do you recall that?

22 A Yes.

23 Q Okay. Do you recall receiving a letter dated
24 September 15 of 2013 from the Association?

25 A Yes.

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1 Q Okay. And isn't it true that that letter
2 basically said that you needed to take corrective action and
3 proceed to completion rather than stop your construction?
4 A It was a typical letter from Raj that was a
5 mission impossible. How can I do what he says when the roof
6 is at the right height, all right? You are saying make the
7 roof lower and then continue construction. I can't make the
8 roof any lower. How can I continue?
9 Q Now isn't it true that you resumed work on the
10 roof project again around March of 2013?
11 MR. MOHAMMADI: Objection. Asked and answered
12 several times.
13 MS. ROBESON: Sustained.
14 BY MS. ROSEN:
15 Q Now with regard to the permit drawings, did you
16 draw any of the drawings for the permits?
17 A Yes.
18 Q Okay. Which drawings did you draw for the permits?
19 A A-7, wind bracing; A-8, upper level wind bracing;
20 A-9, foundation plan; A-10, framing plan; A-11, roofing
21 plan.
22 Q And you are referring to Exhibit 88; is that what
23 you are referring to?
24 A Yes, ma'am.
25 Q Do you have any type of training in architecture

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1 or CAD drawings to have drawn those plans?
2 A Do I have any CAD training?
3 Q Yeah. Do you have any type of training, CAD or
4 otherwise, for drawing those kinds of plans?
5 A Zero. None.
6 Q Okay. Did you use any CAD file or other file that
7 was prepared by Ms. Bruno to draw those plans that you did?
8 A Are you asking me about what I just said --
9 Q Yeah. The ones that you drew?
10 A -- A-7 through A-11?
11 Q Yeah. Did you have any assistance from Ms. Bruno?
12 Did you use any of her --
13 A All I did was to take a copy of one of the
14 existing plan examples. A-7 would have been a copy of A-12
15 -- I'm sorry -- A2 -- A-7 would have been a copy of A-2, and
16 all it was was highlighted with magic marker the areas
17 that's bold, all right, for wind bracing purposes. A-8 is
18 just a copy of A-3. A-9 is just a copy of A-1. A-10 is a
19 copy of A-2. And A-11 is a copy of A-3.
20 Q Can you just look at those drawings for a second,
21 the ones you just pointed out?
22 A These?
23 Q Yeah. Did Tania Bruno know and approve of you
24 using her drawings?
25 MR. MOHAMMADI: Objection. And I don't know what

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1 the relevance of that is.
2 MS. ROBESON: Ms. Rosen?
3 MS. ROSEN: Well, I think that is with regard --
4 as far as I know that's with regard of -- I don't see her --
5 we didn't see her name. Let me just take a quick look at
6 this, but her name doesn't appear to be on certain things
7 so.
8 MR. MOHAMMADI: Completely irrelevant to what the
9 --
10 MS. ROBESON: Well, I --
11 MR. MOHAMMADI: -- submittals to the County were,
12 in terms of who made those.
13 MS. ROBESON: Well, let her --
14 MS. ROSEN: Do you want to take a look at them.
15 MS. ROBESON: Are you saying it wasn't proper to
16 use her stamp or her -- I don't even know if these are
17 stamped.
18 MS. ROSEN: Well, they are not -- I think the
19 situation would be that it may not be proper to use her
20 drawings without her stamp and what they call a title block,
21 I think it is. Without her permission anyway.
22 MS. ROBESON: I don't know if that's the case here
23 or not. I'll let you ask the question. What's your
24 question?
25 By MS. ROSEN:

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1 Q Did Tania Bruno give her permission to use the
2 drawings in the way that they were used in this permit set?
3 A They are my -- I paid for the drawings. I mean
4 I'm not sure what the question is.
5 Q Okay. Well the drawings -- they don't appear to
6 have a stamp of Tania Bruno on them, and they don't have her
7 title block on them.
8 A She was not the architect of record.
9 Q I'm sorry?
10 A She was not the architect of record.
11 Q Okay. But --
12 A She did not want to be the architect of record.
13 Q Why not? Did she tell you?
14 A Pardon?
15 Q Did she tell you why she didn't want to be the
16 architect of record?
17 A This wasn't my concern. It didn't matter to me.
18 Q Okay. Now on Exhibit 126, for example, if you look
19 at the corner up on the -- kind of up on the top there is a
20 certification where it says professional certification: I
21 certify that these documents were prepared or approved by me
22 and that I am a duly licensed architect under the laws of
23 the State of Maryland, the license number and expiration
24 date number.
25 A Yes, I see that.

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1 Q Okay. All right. So basically did she -- is
2 there a reason why then that that's not on these permit
3 drawings or certification?
4 A She wasn't the architect of record. She didn't
5 want to, you know, pull the permits. That wasn't part of
6 her job.
7 Q Okay. Do you know whether, for example, that you
8 know, using her drawings would give her any type -- well
9 that's probably not a good question to ask -- did she know
10 that you were using her drawings for the permit set?
11 A Of course.
12 Q She gave you permission to use those drawings in
13 the way that they were used in this permit set?
14 MR. MOHAMMADI: Can I -- the same objection; I
15 don't know what the relevance is. When it comes to submittal
16 to --
17 MS. ROBESON: DPS?
18 MS. MOHAMMADI: DPS, correct.
19 MS. ROBESON: Can you point us to the relevance,
20 Ms. Rosen? Wait. Okay.
21 MS. ROSEN: All right. The relevance has to do
22 with the wind bracing, which is something that he
23 technically Mr. Ball had testified to, and our opposition is
24 that she could have -- if she knew about these drawings that
25 she could have designed -- she, as an architect, would have

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1 been able to design something appropriate that would have
2 met the approved drawings.
3 MS. ROBESON: Well that is far from the question.
4 Your question is did you have permission?
5 MS. ROSEN: But I'm saying but she would have say
6 -- you know I'm saying that if she --
7 MS. ROBESON: Let me say this. I think that it
8 may be a better question for your expert on rebuttal --
9 MS. ROSEN: Okay.
10 MS. ROBESON: -- to say this could have been
11 accommodated --
12 MS. ROSEN: Okay. That's fine.
13 MS. ROBESON: -- and not trying to go through him.
14 MS. ROSEN: Okay. That's fine.
15 BY MS. ROSEN:
16 Q Do you believe that you have enough knowledge to
17 draw construction documents for permits that which was --
18 what you apparently done with regard to some of the
19 drawings?
20 A I'm sorry. What was the question?
21 Q Do you have enough knowledge and training to draw
22 construction documents for a permit set?
23 MS. ROBESON: What's the relevance of this?
24 MS. ROSEN: Well, he's indicated that he -- that
25 some of the drawings were his drawings. I just wanted to

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1 see whether he -- you know he feels that he has the
2 knowledge or the training to have -- to do these drawings.
3 MS. ROBESON: But this is cross --
4 MS. ROSEN: All right. Forget it. I'll withdraw
5 the question.
6 MS. ROBESON: I've got to rein this in at some
7 point.
8 BY MS. ROSEN:
9 Q Now when you caused certain drawings to be
10 deposited at Peter Gibson's home in December of 2013, can
11 you explain why you didn't follow the process of using a
12 proper application form when you did that?
13 A Didn't have a copy.
14 Q Well you could have obtained a copy, couldn't you
15 have?
16 A I didn't have a copy.
17 Q Okay, but why didn't you obtain a copy of an
18 application form since you have used them many times before?
19 A The form that I had was an outdated form.
20 Q But you didn't use a form when you submitted --
21 left those documents at Peter Gibson's door, did you?
22 A No. That's correct.
23 Q Okay. My question to you is if you wanted to
24 submit an amended application, since you were familiar with
25 the Association's procedures on applications, why didn't you

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1 obtain a form and submit a proper amended application?
2 A The form that I had was an old form, all right?
3 And I submitted it to -- I dropped it off at Peter Gibson's
4 house, all right, because I was certain that it would be --
5 it would at least be received properly.
6 Q But you didn't submit any application form when
7 you dropped those drawings off at Peter Gibson's house,
8 isn't that correct?
9 MR. MOHAMMADI: Objection. Asked and answered.
10 MS. ROBESON: Yes. Sustained.
11 BY MS. ROSEN:
12 Q Isn't it true, Mr. Ball, that you have had a
13 continuous pattern over the years of requesting one thing
14 and building another?
15 MS. ROBESON: I thought we already went through
16 that the last time. You've had extensive cross-examination
17 on that issue. And you've pointed out all the prior cases.
18 MS. ROSEN: Can I just take like five -- take
19 another five-minute break? I just want to see if the
20 clients want me to question anything else.
21 MS. ROBESON: Sure. And we have about an hour and
22 15 minutes to go until 2:00 o'clock, okay?
23 MR. MOHAMMADI: Appreciate it. Thank you.
24 (Brief recess.)
25 (OFF THE RECORD)

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1 (ON THE RECORD)
2 MS. ROBESON: We are back on the record. Ms.
3 Rosen?
4 MS. ROSEN: I have no further questions for Peter
5 Ball on cross-exam.
6 MS. ROBESON: Okay. All right. Redirect.
7 MS. MOHAMMADI: Thank you.
8 RE-DIRECT EXAMINATION BY COUNSEL FOR RESPONDENT
9 BY MR. MOHAMMADI:
10 Q All right. I'm going to show you what's been
11 marked as Exhibit 79.
12 MS. ROSEN: Okay.
13 MR. MOHAMMADI: Okay.
14 BY MR. MOHAMMADI:
15 Q Can you tell me who that letter is addressed to?
16 A Michael Peter Ball.
17 Q And what is the date of this letter?
18 A December 15 month of 2013.
19 Q I'm sorry, December --
20 A I mean September 15th 2013.
21 Q Okay. So at least on September 15th, 2013 the HOA
22 knew that at least things should be addressed to you and
23 both Michael Ball?
24 A Yes.
25 Q Okay. I'm showing you what's been marked

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1 previously as Exhibit 87. Who is that letter addressed to?
2 A Michael Peter Ball.
3 Q Okay. And what's the date of that letter?
4 A February 2nd, 2010.
5 Q Okay. And that's from who?
6 A Raj Barr and Jeffrey Williams.
7 Q All right. So again, as early as February 2nd,
8 2010, Potowmack Preserve knew to address letters to both you
9 and Michael Ball?
10 A Yes.
11 Q There was some testimony that this December 16,
12 2013 submittal, the plans that were dropped off at Peter
13 Gibson's house, they did not have a form application,
14 correct?
15 A Yes.
16 Q Did you ever prior to that submit any plans
17 without the form application?
18 A Yes.
19 Q Okay. And how were those treated?
20 A Accepted.
21 Q Okay. But they went through the process and you
22 would -- did the Board essentially or the HOA notify you
23 that they received it, that they are processing it, that
24 it's deficient?
25 A Right.

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1 Q They did all of that?
2 A Right.
3 Q Now, with respect to -- just briefly these DPS
4 drawings, were they ever approved?
5 A Yes.
6 Q Okay.
7 MS. ROBESON: And that is Exhibit 148?
8 MR. MOHAMMADI: I'm sorry. Exhibit 88. Yes.
9 MS. ROBESON: 88. Okay.
10 BY MR. MOHAMMADI:
11 Q Those were approved?
12 A Yes.
13 Q And those are the ones that said there is no stamp
14 from Tania Bruno, correct?
15 A That's correct.
16 MS. ROSEN: Just to clarify, approved by who?
17 BY MR. MOHAMMADI:
18 Q Approved by who?
19 A They were approved by DPS.
20 Q Okay. Now I want to clarify something here. With
21 respect to the roof height, the December 16, 2013 submittal
22 shows that some of the areas have a lower pitch for the
23 roof, correct?
24 A That's correct.
25 Q What does that do to the roof heights?

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1 A Lower pitch means the roof -- the overall height
2 of the roof is lower.
3 Q Okay. Because the angle at which the roof is --
4 A Is not as steep.
5 Q Is not as steep. Okay. And is there a reason that
6 you did that; that you lowered those or reduced the pitch?
7 A Yes.
8 Q And what is that?
9 A Because Beth, my neighbor across the street, was
10 getting such a hard time from the HOA about her roof height,
11 all right, I kind of just made a decision that I was not
12 going to exceed 30 feet, and that if I could lower the
13 height, I was going to do it.
14 Q All right. And despite doing that, you are still
15 getting a lot of -- well we are here today because of the
16 roof height, is that correct?
17 A That's correct.
18 Q Now, if you wanted to, you could put roof trusses
19 on the remaining portion of the house to bring it within the
20 new ridge line that's on the May 2011 plans, correct?
21 A You can stack trusses on top of trusses.
22 Q So it wouldn't be a problem to raise the roof, to
23 go back to the May 2011 plans, is that correct?
24 A That's correct.
25 Q I'm showing you Exhibit 85. There were some

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1 questions about this email that was sent on July 20, 2010.
2 Isn't it fair to say that the first set of drawings that you
3 submitted to the HOA had a gable roof over the garage?
4 A The first set -- when Tania got involved dealing
5 with the HOA, of getting the plans approved, the first set
6 of plans had a gable roof over the garage, which would have
7 kept the roof height at the existing ridge line.
8 Q And I think there was previous testimony about
9 that, but this July 20, 2010 email was not regarding the
10 final approval, is that fair?
11 A Well, no. This is July 20th, 2010. There were at
12 least --
13
14 MS. ROBESON: Which exhibit are you looking at?
15 THE WITNESS: 85.
16 MS. ROBESON: 85.
17 THE WITNESS: There were at least two additional
18 changes to this.
19 BY MR. MOHAMMADI:
20 Q Okay. So after this there were at least two
21 additional changes?
22 A That's correct.
23 Q And what spurred these additional changes?
24 A Various elements that were presented to Raj that
25 he didn't like.

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1 Q Okay. I'm showing you what's been marked as
2 Exhibit 126. On 126, A-4, there is nothing on this page
3 that indicates any kind of roofing, is that fair to say?
4 A That's correct.
5 Q Now, if you turn to A-5, which is the side view of
6 the house, is there anything that indicates roof pitch?
7 A Yes.
8 Q Okay. And where is that?
9 A It's on the left side elevation. It says 4/12.
10 Q Now, A-4 and A-5 are the same construction; just
11 different viewpoints essentially?
12 A Right. They are different elevations.
13 Q And this whole set of drawings are supposed to be
14 looked at together and --
15 A No.
16 Q -- as one application or one set of drawings?
17 A That's correct.
18 Q I'm showing you what's been marked as Exhibit 160.
19 A Yes.
20 Q Okay. Now, this is essentially a copy of the
21 December 16, 2013 submittal?
22 A With the exception of the deck.
23 Q Correct. So that's -- the only difference is --
24 besides the handwritten part -- is the -- the left-hand
25 bottom corner, that's different?

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1 A That's correct.
2 Q And this was prepared for the deck CCOC case?
3 A That's correct.
4 Q Is it fair to say that this December 16, 2013
5 application that you submitted, to set-up plan, you
6 considered them to be approved?
7 A Well, according to the HOA covenants, yes.
8 Q Okay. Is that why you put on here exhibit for
9 approval 5/12/2014?
10 A No.
11 Q Okay. Why did you put that on there?
12 A 5/12 -- 5/12/2014 was the approval date for the
13 deck, all right, for the new deck. All right. These --
14 this approval date has -- only addresses the deck.
15 Q So you put approved because you are saying the
16 deck was approved?
17 A That's correct.
18 Q Now I want you to do me a favor. I know we have
19 looked at a lot of different plans, but I'm showing you
20 what's been marked as Exhibit 148, and I want you to also
21 take a look at these plans, Exhibit 88. A-1 on Exhibit 88,
22 if you compare that to A-1 on Exhibit 148, the dimensions
23 and essentially the drawing itself, but the dimensions and
24 everything are identical; is that fair to say?
25 A Yes.

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1 Q Okay. If you go to A-2 on both, the dimensions
2 are again identical; is that fair to say?
3 A Yes.
4 Q Now, I do want to be clear about this. If you
5 look at A-2, on Exhibit 88 it says existing deck, correct?
6 A That's correct.
7 Q And on A-2 on Exhibit 148 it says new deck, right?
8 A That's correct.
9 Q But the dimensions are the same?
10 A Right. The reason it says existing deck versus
11 new deck --
12 MS. ROSEN: I wonder -- this is going beyond the
13 scope of my cross-examination now. What are we talking
14 about the deck for?
15 MR. MOHAMMADI: I guess pre-empting possible
16 questions here where --
17 MS. ROSEN: I mean he's objecting to my --
18 MS. ROBESON: Just a second.
19 MS. ROSEN: I'm saying this is going beyond what I
20 was cross-examining about. This is going about the deck.
21 MS. ROBESON: Well, does it relate to the case?
22 MR. MOHAMMADI: It's not focused on the deck.
23 It's just to explain why some things are different --
24 written a little differently or shown a little differently
25 in terms of the drawings.

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1 MS. ROBESON: On the two plans?
2 MR. MOHAMMADI: Correct. Our contention is these
3 are the same plans; they are the exact same thing, because
4 the dimensions and everything is the same.
5 MS. ROBESON: Okay.
6 MR. MOHAMMADI: I'm pre-empting a cross or a re-
7 cross when they say isn't it true that the new deck -- it
8 says new deck on one and it says something else on the
9 other.
10 MS. ROBESON: Oh, okay. All right.
11 MR. MOHAMMADI: That's the purpose. It's not --
12 MS. ROBESON: All right. I'll let it in.
13 THE WITNESS: Exhibit 148, if you notice, is
14 stated a revision, April 6, 2011. The initial is 2/22/2011.
15 That 2011 refers back to I believe Exhibit 126, all right?
16 So Exhibit 148 is just a follow-up of Exhibit 126, all
17 right? The difference between the approved DPS plan,
18 Exhibit 88 and Exhibit 148, example, new deck versus
19 existing deck, the reason is that these DPS plans were not
20 submitted until 2012. It was approved 9/17. And the
21 importance of that day was the new code took place, I
22 believe, on September 1, 2012. These plans were submitted
23 about two weeks before that, so it would be grandfathered
24 under the old code prior to September 1, 2012.
25 MS. ROBESON: Right.

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1 THE WITNESS: So when the plans were submitted in
2 August of 2012, the deck had already been built. So that's
3 why I changed the word from new to existing, all right?
4 MS. ROBESON: Okay.
5 THE WITNESS: So the deck had already been built.
6 That's why that difference in terms of between 88 and 148.
7 MS. ROBESON: Okay. I understand.
8 BY MR. MOHAMMADI:
9 Q And I just want to be clear, there is almost a
10 year-and-a-half difference between the plans were approved
11 by the HOA and the time the plans were approved by DPS?
12 A That's correct. It wasn't submitted -- the plans
13 were -- we got the approval letter in May 11th of 2011, and
14 we didn't submit our DPS plans until probably August of
15 2012.
16 MS. ROBESON: Okay.
17 BY MR. MOHAMMADI:
18 Q And again, just for clarity sake, looking at 148
19 and 126, just I want to compare the dates again, okay? On
20 126, what's the date?
21 A 2/22/11. And then on 148, the original date is
22 2/22/11, the same as this, and then revised on 4/6/11.
23 Q So these are revised a couple of months later, and
24 then --
25 A That's correct. And then --

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1 MS. ROBESON: Which ones?
2 THE WITNESS: 148.
3 MS. ROBESON: 148. Okay.
4 BY MR. MOHAMMADI:
5 Q And then 148 was then submitted to the HOA?
6 A Right. These were the plans that were submitted
7 to the HOA for the final approval, all right, and these were
8 the plans -- 148 is the genesis for the DPS plan, Exhibit
9 88.
10 MS. ROBESON: Okay.
11 BY MR. MOHAMMADI:
12 Q Mr. Ball, are you aware of the reason why Exhibit
13 148 was not produced earlier in the discovery process? Are
14 you aware of that reason in this case?
15 A I think Exhibit 148 that you produced came from
16 Tania Bruno.
17 Q Okay. So -- do you know when you received those
18 from Tania Bruno?
19 A No.
20 MR. MOHAMMADI: I'm sorry. The Court's indulgence
21 for just one moment.
22 BY MR. MOHAMMADI:
23 Q Okay. I'm showing you what's been marked as
24 Exhibit 153.
25 MR. MOHAMMADI: I actually don't have a copy of

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1 that.
2 MS. ROBESON: Do you want to use my copy?
3 MR. MOHAMMADI: Do you mind for a moment?
4 MS ROBESON: No.
5 MR. MOHAMMADI: Thank you.
6 BY MR. MOHAMMADI:
7 Q Okay. I'm showing you what's been marked as
8 Exhibit 153. Now, this letter was from Mr. Jeff Williams --
9 A To Mr. Jeff Williams.
10 Q Okay. -- to Mr. Jeff Williams.
11 A And Raj Barr.
12 Q And Mr. Jeff Williams, as you previously
13 testified, I guess was the president at the time of the HOA?
14
15 A Yes.
16 Q Okay.
17 A Well, he and Raj Barr were co-presidents.
18 Q Okay. I just want to clarify -- and I don't
19 know if you recall this.
20 A You started to testify about -- and you said
21 something like Williams is convicted and disbarred, and you
22 got cut off on that. Can you elaborate on what you were
23 saying with that?
24 MS. ROSEN: Well I'm going to object that he's
25 already testified, you know, in response to a question that

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1 I had, and he basically said something to the effect of not
2 wanting to deal with somebody who was convicted and
3 disbarred, but I don't see what that has any relevance.
4 MR. MOHAMMADI: It's within the scope of -- I mean
5 I'm sticking with what the cross was. She opened the door.
6 MS. ROBESON: I think I did let that statement
7 come in.
8 MS. ROSEN: Right. You did let the statement come
9 in.
10 MS. ROBESON: So I am going to let him redirect on
11 it.
12 MR. MOHAMMADI: Okay.
13
14 BY MR. MOHAMMADI:
15 Q When you made that statement, what did you mean?
16 A Well Mr. Williams, okay, was the president of HOA
17 and also had served on the CCOC, all right, and was at one
18 time the president of the CCOC. During all of this time,
19 all right, he never informed me once, okay, of his
20 association with the CCOC, all right? We tried to work
21 things out, all right, and then -- we just constantly was
22 just thwarted in our attempt, all right? And my -- my
23 contention was, is that, you know, he was -- we had dealings
24 with Williams and Barr, Raj Barr, all right, where we
25 thought we had some sort of understanding and then, you

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1 know, it was backed out at the last -- at the last minute.
2 My point was that I was so frustrated, all right,
3 dealing with people that, you know, couldn't keep their
4 word, all right. Now Williams eventually was found guilty
5 of two felony counts in the U.S. Federal Courts, all right,
6 and then subsequently was disbarred in D.C.
7 Q Are you aware of any ties between Mr. Williams and
8 Dr. Barr?
9 A I think, you know, that Williams has served in
10 some legal capacity for Raj Barr.
11 MS. ROSEN: I'm going to object unless he has --
12 and I'm sorry, I don't think it's relevant.
13 MS. ROBESON: Yeah. That's getting beyond the --
14 yeah, I'm going to sustain that.
15 MR. MOHAMMADI: No problem.
16 BY MR. MOHAMMADI:
17 Q There was some testimony about previous cases
18 between you and the HOA. One was a June 2008 CCOC case. Do
19 you recall that?
20 A Yes.
21 Q What was the basis of that case? Do you recall?
22 A It was this shed on the side of the house.
23 Q Okay. And it is my understanding that you
24 testified that the CCOC ruled against you in that case?
25 A That's correct.

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1 Q When you say ruled against you, what do you mean?
2 A I had enclosed a deck without their permission,
3 all right, and I was ordered by the CCOC to resubmit the
4 plans, all right, and that the HOA would review those plans,
5 all right, and if they, which we did. We submitted the
6 application and there was a -- there was a meeting on those
7 plans, and when the time came for a vote, which we asked
8 for, Jeff Williams, who chaired a meeting of that meeting,
9 decided to table the meeting, all right. And I asked him at
10 that point, I said, you know what authority do you have to
11 table a meeting? He said under the Roberts rule of
12 parliamentary procedure. All right. 60 days, 90 days went
13 by, okay. Again it was one of these things where I -- it
14 was deemed to be approved, but I -- I wrote a letter asking
15 the CCOC, and I was told to remove the deck.
16 MR. MOHAMMADI: Nothing further.
17 MS. ROBESON: Re-cross, Ms. Rosen?
18 MS. ROSEN: Okay.
19 MR. MOHAMMADI: I'm just going to hand you that.
20 MS. ROBESON: Yeah. Thank you.
21 MR. MOHAMMADI: Thank you.
22 RE-CROSS EXAMINATION BY COUNSEL FOR RESPONDENT
23 BY MS. ROSEN:
24 Q Okay. You know I didn't get -- with regard to the
25 case that you were just testifying about, the CCOC case,

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1 that would have been 72 -- 720(g) where you are required --
2 is that the one you -- that would have been the one -- not
3 the most recent one, but the one before that; is that what
4 you are referring to?
5 A Yes.
6 Q Okay. Now in that case, isn't it true that CCOC
7 -- the CCOC issued an Order for you to remove -- to remove
8 the non-compliant structures?
9 A Yes.
10 Q Okay. And you had an opportunity to respond to
11 any filings that were made by the Association, isn't that
12 correct with regard to that Order?
13 A I don't understand your question.
14 Q Okay. There was an Order in that case, and I
15 don't have the number -- there was an order in that case,
16 and then per that initial Order required you to resubmit an
17 application within a certain time period, isn't that
18 correct?
19 A That's correct.
20 Q Okay. And then part of that Order, I believe also
21 that the Association was to review it and make a decision on
22 it, isn't that correct?
23 A That's correct.
24 Q And the Association had decided that it wasn't
25 going to allow you to keep certain things that you wanted to

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1 keep, isn't that correct?
2 A No. They tabled the meeting.
3 Q Ultimately the CCOC required you to remove the
4 structure, isn't that correct?
5 A That's correct.
6 Q And you did remove that structure, isn't that
7 correct?
8 A That's correct.
9 Q Okay. So this was all done in accordance with the
10 CCOC Order, isn't that correct.
11 A That's correct.
12 Q Okay. Now with regard to -- you referred to Jeff
13 Williams. You said that -- at some point -- I'm assuming
14 that was also that case on 720 -- it was 720(g). When did
15 you become aware that Jeff Williams was part of the CC --
16 was I guess at that time Chairman of the CCOC? You were
17 aware of that during the case, were you not?
18 A I forgot what date that case was, but I remember
19 finding out that he was the President of the CCOC, all
20 right, two weeks before that case. That's why you had asked
21 me previously about a Circuit Court case. That's what it
22 was. We felt that it was -- I mean it was just kind of --
23 it was wrong to be going before the CCOC when the president
24 of the CCOC is my opponent. That's when we did file a case
25 in the Circuit Court to try to move that case to the Circuit

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1 Court.
2 Q Now you never filed anything in the CCOC case
3 raising any type of objection or a question or concern prior
4 to that hearing with regard to Jeff Williams, did you?
5 A I think I just answered your question. We
6 discovered that he was -- he was with the CCOC about a month
7 before that case took place.
8 Q Okay. But you didn't -- when you became aware of
9 that, you did not file any type of objection or anything
10 with the CCOC concerning that pending case prior to that
11 hearing even taking place, did you?
12 A I can only answer that question by saying --
13 Q Well, yes or no; either you raised -- my question
14 to you --
15 A My attorney did not raise any objection.
16 Q Okay. So no objection was raised and that case
17 was addressed by the CCOC, correct?
18 A My attorney did not raise any objection. It was
19 his very first case of any sort, all right, in his career.
20 Q So basically it was your attorney's fault that no
21 objection was raised?
22 A No. That's not --
23 MR. MOHAMMADI: No objection.
24 MS. ROBESON: Sustained.
25 BY MS. ROSEN:

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1 Q Okay. Now with regards to Exhibit 148, when did
2 you ask Tania Bruno to provide that document to you?
3 A I never asked Tania for it. I assumed that was
4 the day she already had those plans from the very beginning.
5 Q Did you ask Tania -- did you have any
6 communications with Tania Bruno to get any type of documents
7 from her in connection with this case?
8 A I -- that request, all right, was made by my
9 attorney at the time, all right. I never asked Tania for
10 anything.
11 MS. ROSEN: I'm trying to think how I want to word
12 this.
13 BY MS. ROSEN:
14 Q At what point in time did you realize that perhaps
15 you didn't have all of the documents; that you were missing
16 this Exhibit 148?
17 MR. MOHAMMADI: Objection. I don't think the
18 testimony is even there that he realized the documents were
19 missing.
20 MS. ROBESON: That's true, but he can answer --
21 MR. MOHAMMADI: Some of it is conclusive --
22 MS. ROBESON: -- at what point --
23 MS. ROSEN: At what point in time --
24 MR. MOHAMMADI: It's a conclusory sort of
25 statement or question. She's got the conclusion before even

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1 testimony that that's actually his conclusion, if that makes
2 sense.
3 MS. ROSEN: At what --
4 MS. ROBESON: I don't understand your objection.
5 MR. MOHAMMADI: My objection is she said at what
6 point did you realize that you were missing documents? I
7 think the proper -- the first question to ask is did you
8 ever realize documents were missing, because there's a
9 conclusion already in the question without that ever being
10 brought out in testimony.
11 MS. ROBESON: Okay. I thought he had testified the
12 documents were missing last time, but I will --
13 MR. MOHAMMADI: I don't recall; so if that's the
14 case, I would withdraw, but I don't recall.
15 MS. ROBESON: Well, out of an abundance of
16 caution, Ms. Rosen, can you ask him first whether documents
17 were missing, and then you can follow-up with your second
18 question?
19 BY MS. ROSEN:
20 Q Mr. Ball, were you missing any documents related
21 to this -- to the -- were you missing any drawings or plans
22 related to this case?
23 A I -- I -- the answer is I don't know. I've got to
24 review all the documents.
25 Q Okay.

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1 MS. ROBESON: Do you have specific documents you
2 want to ask about?
3 BY MS. ROSEN:
4 Q All right. Well, when did you realize that you
5 did not have a copy of what is -- what you have now
6 introduced as Exhibit 148?
7 A I would say the first time I realized that was
8 when you introduced whatever exhibit that you claim was
9 approved, all right? Because those -- well I didn't know
10 whether you had 148 or not. It's just that I knew that when
11 you produced the first set of plans and said that those were
12 the plans that were approved; I knew those were not the
13 plans that were approved.
14 Q Okay. So when we introduced exhibit -- I guess it
15 would be what, 126 or 77?
16 A Well 126 certainly looked more like the plans that
17 were --
18 Q All right. Well let me go back a little. When we
19 introduced Exhibit 77, which was the Jamie Dietz email that
20 had the drawings that the Association initially said were
21 the improved plans, at that point in time did you realize in
22 your mind that, no, those weren't the right plans?
23 A I didn't --
24 Q Because mine had dimensions on them.
25 A I wasn't privy to how you were presenting your

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1 case.
2 Q Now, Mr. Ball, I want to go back again. Exhibit 77
3 in this case was introduced in the prior case and was
4 accepted by the Panel in that case as being the approved
5 plans.
6 A I don't even -- I don't remember what was
7 produced, what wasn't produced, all right, in that previous
8 case before the CCOC.
9 Q Well at that --
10 A And that -- it had to deal with the deck and the
11 shed, all right? These -- all of these plans, I believe,
12 shows the deck and the shed.
13 Q In Exhibit 77 it has on the top right-hand corner
14 a marking that says Complainant's Exhibit 2. Now that
15 exhibit was introduced into evidence in the prior case, 73-
16 12, as being the approved HOA plans that were voted upon at
17 the May meeting in 2011.
18 A With a quick look the answer is yes, but again it
19 had to do with the shed and the deck, all right? The other
20 issues on the plans were not -- were not important.
21 Q Okay. Now in this case we introduce this exhibit
22 -- and I don't remember now what day. It was pretty early
23 on in the proceedings.
24 MS. ROBESON: Which exhibit?
25 MS. ROSEN: Exhibit 77, which was pretty early in

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1 the beginning. It may have been the first or the second
2 hearing date. My guess is it was probably the first one.
3 MS. ROBESON: Just a second. It was the hearing
4 June 12th.
5 MS. ROSEN: Okay.
6 BY MS. ROSEN:
7 Q So as of June 12th, when this document was
8 introduced into evidence by our side, did you look at it and
9 realize that -- or, in your mind at least, say that, hey, I
10 don't think those are the -- that's not the approved plans?
11 A I don't think that process first of all ever
12 crossed my mind because we are only dealing with the deck
13 and the shed, all right. And again, if you look at these
14 plans, all right, they look like 148, except there are only
15 dimensions in key places. There's the dimension on the deck
16 and the new office, but it's missing dimensions everywhere
17 else, all right.
18 Now, as far as I was concerned, on that particular
19 case the other issues -- this -- you know, whether they had
20 dimensions or not, it wasn't that important. It was just
21 the deck we were dealing with and the shed.
22 Q Okay. Now, Mr. Ball, you are not listening to me
23 because what I asked you is -- what the question is -- I
24 said in this case I introduced this Exhibit 77 in this case
25 on June 12th, okay, in this case. And I asked you did you

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1 realize at that point -- did you look at this document at
2 that point and say, you know, I don't think these are the
3 right drawings? Did you become aware of that, in your mind?
4 A No. The answer is --
5 Q In this case?
6 A In June 12th of 2012 or 2013?
7 Q No, that one. 2014, in this case, sir. Exhibit
8 77 in this case was introduced into evidence in this case on
9 June 12th of 2014. And the testimony was that these were
10 the plans that were approved by the HOA at the May 2011
11 meeting. So my question to you is did you become aware at
12 that point in time, in your mind at least, that these were
13 not the right plans according to you because they didn't
14 have the dimensions?
15 A Yeah, I knew that. When I saw that these plans
16 didn't have dimensions and I had dimensions, all right, I
17 knew that these were -- something was not -- something was
18 missing on these plans.
19 Q Okay. And so what did you do in terms of trying to
20 obtain the plans that you thought were the correct ones,
21 which you have now -- which you testified on August 4th of
22 2014 was Exhibit 148. Now between June 12th of 2014 and
23 August 4th of 2014, when did you realize that you missed --
24 when did you put your hands on Exhibit 148?
25 A You need to ask my attorney that, all right. I

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1 always knew that you know the plans that were submitted to
2 the HOA always had numbers.
3 Q Did you have a copy of Exhibit 148 in your
4 possession as of June 12th of 2014?
5 A I had my set of plans that I got approved from
6 DPS, which were blown up from -- that -- it was blown up
7 from that 148.
8 Q So you actually had 148 in your possession then as
9 of June 12th of 2014?
10 A I have 88 in my possession. If you are saying
11 148, being the sheet that's on an 11x17, I don't know
12 whether I had that or not in my file. I mean once I had
13 these plans, why would I need additional 11x17 plans?
14 Q Well you had introduced them into evidence on
15 August 4th of 2014 as being the approved plans. So I would
16 think -- I mean I would think you would have had them in
17 your possession, and if so, then I want to know why they
18 weren't made available to me at that time.
19 MR. MOHAMMADI: Objection. That's been answered
20 several times, as to how -- the basis of how he got those.
21 MS. ROBESON: I -- I agree.
22 MS. ROSEN: Let me ask this one question.
23 BY MS. ROSEN:
24 Q In order to draw, in order to do the plans that
25 are Exhibit 88, the DPS plans, wouldn't you have had a copy

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1 of 148 to do that?
2 A Yeah.
3 Q Okay. So you've had a copy of 148 for quite some
4 time because the DPS plans, which are Exhibit 88, have been
5 in existence the time -- at least the time they were given
6 to the County?
7 A Well why would I keep 148 when I have 88? I'm
8 asking -- I mean, in other words, you are asking me do I
9 have -- kept 148, and I'm saying to you I don't know.
10 Probably not, because once I produced, you know, a larger
11 set of plans, why would I -- I would not need the smaller
12 set of plans.
13 MS. ROBESON: That's your answer.
14 MS. ROSEN: That's my answer. Okay.
15 BY MS. ROSEN:
16 Q All right. Now, if I understood your testimony
17 correctly, you are basically saying that 148 and the permit
18 plans, which are 88, you are basically saying they are
19 identical? Is that what --
20 A They are very close.
21 Q Okay. All right. I'm going to look at -- I want
22 you to look at A-1.
23 MS. ROBESON: Of which exhibit?
24 MS. ROSEN: I'm sorry. A-1 of 148, and it would
25 be I guess the page after the cover page on -- where it says

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1 basement plan on your -- on the DPS plan, which is 148.
2 THE WITNESS: Mmm-hmm.
3 BY MS. ROSEN:
4 Q Okay. Now, I see on the DPS plan something on the
5 top called a pergola.
6 A That's correct.
7 Q Okay. But I don't see that pergola on 148, which
8 you claimed to be the approved plans.
9 A That's correct.
10 Q Okay. So why is it that you have submitted a plan
11 to DPS with a pergola on it, which clearly, according to
12 your own testimony of what you are claiming to be the
13 approved plans, that pergola is not on A-1?
14 A That's correct.
15 Q So tell me why you have gone ahead and -- why you
16 went and submitted a plan to the DPS that has an addition on
17 it that was not on your HOA approved plans, when you knew --
18 when you know that you have to get approval to build -- you
19 would have to get approval to build the pergola or any other
20 structure that is not on approved plans?
21 A That's correct. The answer is 148 was approved
22 May 11, 2011. The DPS plans were not submitted until
23 sometime in August of 2012. In late January or early
24 February of 2012, Raj Barr, Tania Bruno and Peter Gibson
25 came to my house to look at the deck that was being

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1 constructed. The deck had not been completed at that point,
2 all right. They came by and looked at it, all right.
3 And after the discussion about the deck and the
4 shed, we were in the back yard and we were -- I was -- we
5 were talking about the siding, all right. And I asked
6 again, Raj, why couldn't I use vinyl siding on the house?
7 Q Look, I'm going to just interrupt for a second. I
8 understand --
9 MS. ROBESON: Well --
10 MS. ROSEN: I'm asking about the pergola. I don't
11 know why he's talking about the siding.
12 THE WITNESS: There's an answer to it.
13 MS. ROBESON: Okay. I'll give you some leeway.
14 THE WITNESS: And the reason and the discussion
15 went, well, you have a big flat plane, okay, and having
16 horizontal vinyl siding would make the back of the house
17 look bigger, all right. And because your back yard faces
18 the street, all right, it would look too massive, all right.
19 I said, well, there must be something that can be done to
20 allow me to use vinyl siding. And I pointed it out to my
21 neighbor, Lynn Gowan, and a neighbor across the street both
22 had vertical siding.
23 And then Raj was saying, well, yeah, if you break
24 up the elements, okay, you know we may be able to, all
25 right. And we talked about -- we talked about many things,

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1 all right. Putting up a fake brick chimney, all right,
2 bumping out a window, this and that. And one of the things
3 that I brought up was what about a pergola? He says, yeah,
4 something to break it up.
5 So when I heard that I said, okay, fine. Well
6 maybe, you know this is -- you know I can finally get my
7 siding. So I had the pergola drawn to the rear of that.
8 That was it. All right? I submitted it to Raj and Raj said
9 no. And that's it.
10
11 These plans, okay, were submitted, all right, with
12 a pergola on it, but the pergola is not being built.
13 MS. ROSEN: Okay, but you didn't answer my question
14 though. You submitted plans to a set of plans to DPS that
15 show a pergola. If you intended at least at that time,
16 because when -- and you submitted the plans with the
17 pergola, so I think we can assume that at that point in time
18 you intended to build a pergola, because otherwise why would
19 you submit plans to the DPS with a pergola. So my question
20 to you is why didn't you at that point in time submit an
21 application to the HOA to build the pergola?
22 THE WITNESS: I did.
23 MS. ROSEN: Or alternatively -- really? Where did
24 --
25 THE WITNESS: The pergola came --

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1 MS. ROSEN: I don't --
2 THE WITNESS: -- came as a result.
3 BY MS. ROSEN:
4 Q Did you submit an application on an application
5 form, such as you did with the original application in this
6 case, and the brick siding application, which are both in
7 evidence? Is there another application that I'm not aware
8 of that asks for this pergola?
9 A No.
10 Q Fine. Thank you. Is it fair that the -- you
11 know, in terms of your interactions with the HOA that you've
12 gotten plenty of feedback from the HOA with regard to your
13 project?
14 A I'm sorry. Repeat that again.
15 Q Is it fair to say with regard to this project that
16 when you wanted to know something or had a question about
17 something, that you have received a fair amount of feedback
18 from the HOA as to what they wanted or didn't want from you?
19 A Did I get a fair amount of feedback?
20 Q Yes, feedback, when you had a question about
21 something or wanted to do something, and you would -- like
22 for example when you had a meeting at the property with,
23 let's say Raj Barr, and I think Peter Gibson and maybe Ms.
24 Alfor (phonetic sp.) to discuss your project, you asked --
25 you would ask them questions at that meeting, is that

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1 accurate?
2 A The only time that meeting -- those three people
3 were at my property was on the 14th of September. The only
4 issue that was discussed was the roof height over the
5 garage.
6 Q Now generally in this -- in connection with this
7 ongoing project is it fair to say that you have had -- when
8 you have wanted information from the HOA about, let's say
9 what you -- what would or would not be acceptable, that they
10 would give you that information when you had a question?
11 A I don't understand the question.
12 Q Okay. You just said that you met with them
13 regarding vinyl siding, for example, right?
14 A Yes.
15 Q Okay. So they would -- they would give you --
16 they gave you feedback as to whether or not, for example,
17 they would accept vinyl siding, or what type of siding they
18 would accept and things of that nature, isn't that correct?
19 A Yes.
20 Q Okay. And that type of feedback was not just with
21 regard to vinyl siding, but at various points in time in
22 this process when you wanted -- when you needed information
23 about something or weren't sure about something, you could
24 ask -- you would ask somebody, a Board member, maybe Raj,
25 perhaps Peter Gibson, about it and they would try to -- and

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1 they would respond to you in some way, isn't that fair to
2 say?
3 A The responses were not helpful. It's just like I
4 said to you about the siding. He says, you know, I could
5 use vinyl siding, okay, if I broke up the mass in the back.
6 When we did -- when we presented the suggestion that he had
7 proposed, the pergola, he said no. So, I mean, how was that
8 helpful?
9 Q And is it basically, is it fair to say you just
10 didn't like the -- you didn't like the answer that you were
11 getting sometimes, isn't that fair to say?
12 A No. You asked me a question, were they helpful in
13 giving me answers, and I'm telling you the answer is no,
14 because they were not helpful, all right, because they were
15 never truthful.
16 Q You also testified that one of the reasons that
17 you didn't use an application form when you gave -- left
18 those drawings at Peter Gibson's house was because you -- I
19 believe you said that you had a dated application form, so
20 you didn't use it. You know where to obtain application
21 forms, don't you?
22 MR. MOHAMMADI: Objection. It's not within the
23 scope of redirect.
24 MS. ROBESON: That is true.
25 MS. ROSEN: Oh, okay. Did he go -- okay. I was

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1 thinking it was --
2 MS. ROBESON: He didn't go into --
3 MS. ROSEN: Okay. Yeah, I know. It was before.
4 I'm sorry. Okay.
5 MS. ROBESON: He went into submitting the
6 application, but he focused on not receiving any follow-up
7 as far as the form.
8 BY MS. ROSEN:
9 Q Now with regards to this document -- with regards
10 to the project at issue here, in the application -- I'm not
11 talking about the shed and the deck, but I'm talking about,
12 you know, the other aspects of the project -- there were
13 various correspondences between yourself and the Board of
14 Directors, is that correct?
15 A Correspondence between the Board of Directors and
16 myself with regards to what?
17 Q With regards to this, the roof project, the roof
18 and other aspects of this construction project which
19 occurred -- which developed in the next phase of the project
20 after the, I guess, the deck/shed. You had communications
21 -- you had plenty of -- you had a lot of communications with
22 either Raj, with Peter Gibson, with other members of the
23 Board concerning the roof, isn't that correct?
24 A No.
25 Q No? You never had any -- you had meetings with

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1 them, didn't you?
2 A The reason we didn't submit this thing, this
3 application to DPS until September -- I mean August of 2012
4 was because -- all right, we were -- I was trying to get a
5 response as to why I could not use horizontal vinyl siding
6 on the project. It had nothing to do with the roof, all
7 right. We weren't even -- we had not even started on that,
8 all right. And the only reason we finally submitted the
9 plan when we did was because the code change that was going
10 to take place on September 1, 2012. If it wasn't going to
11 take place, we probably would have delayed it until we'd
12 gotten some sort of resolution on the vinyl siding.
13 Q And prior to your application being approved in
14 May 2011, weren't there numerous correspondences between
15 yourself and the Board of Directors about your application
16 leading up to the approval?
17 A There were certainly email correspondence between
18 --
19 Q Well weren't there also numerous letters that were
20 actually introduced into evidence in the previous case?
21 A Yes. There was certainly correspondence between
22 myself and the Board, Tania and the Board.
23 MS. ROBESON: You mean 73-12 hearing?
24 MS. ROSEN: Yeah. I mean -- I guess we know there
25 was -- there was numerous -- before the application is

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1 approved, and I would ask the, you know, the Hearing
2 Examiner to take notice of -- it's all on the record.
3 MS. ROBESON: We have taken that, as well as --
4 MS. ROSEN: Okay. Of all those in the record --
5 MS. ROBESON: -- 720(g).
6 MS. ROSEN: -- as well as what's -- as well as the
7 -- obviously the various documents.
8 MR. MOHAMMADI: Have we? 720(g)?
9 MS. ROBESON: 720(g).
10 MS. ROSEN: No, 720(g) is the first one.
11 MS. ROBESON: -- is a prior -- is --
12 MS. ROSEN: 720(g) is the first one, which was in
13 2008 or so.
14 MR. MOHAMMADI: I understand, but I didn't think
15 you took judicial notice of that one and all of the exhibits
16 that were submitted. I --
17 MS. ROBESON: I did take judicial notice of that
18 one. Well, I'll have to go back and read transcript.
19 MS. ROSEN: I mean -- although I'm not --
20 MR. MOHAMMADI: I think it was just 73-12. I
21 could be wrong, but I think it was --
22 MS. ROSEN: Well, I think I did ask for both, but
23 the one -- what I'm referring to now -- the correspondences
24 I'm referring to now are the ones in 73-12, because there
25 was a -- as was shown in that case and as all those

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1 documents introduced show a clear -- a constant back and
2 forth of communication between --
3 MS. ROBESON: Well that's -- okay -- that's your
4 characterization.
5 MS. ROSEN: I'm just asking --
6 MS. ROBESON: I proposed -- we have to give notice
7 if we are going to take judicial notice or official notice
8 of the file. So I would give you all notice that that's
9 what I propose to do for 720(g). I believe I've already
10 taken official notice of 30(12) --
11 MS. ROSEN: You have. Yeah. No. It's 70 -- 73
12 --
13 MS. ROBESON: -- which was the case by Mr. Bruno.
14 MS. ROSEN: Well --
15 MR. MOHAMMADI: Yes. You have -- that and 73-12
16 were the two I thought.
17 MS. ROBESON: Okay.
18 MS. MOHAMMADI: 720(g), I thought it was
19 requested, but I think we objected, and I'm not sure if you
20 made a decision. You might have. I could -- it's been too
21 many months.
22 MS. ROBESON: Okay. Well let me do this then.
23 Before I do anything I will by Friday, which is the next
24 hearing, I will double-check the record and see if I can
25 find out what happened.

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1 MS. ROSEN: Okay. All right. I don't have any
2 other questions.
3 MS. ROBESON: Okay. I had a question, Mr. Ball.
4 On the pergola -- and I'll let you have follow-up questions
5 -- on the pergola thing, when did you submit your plans to
6 DPS?
7 THE WITNESS: Sometime, you know, either --
8 sometime I would say August -- it had to be before the code
9 change, so probably early --
10 MS. ROBESON: So at that time -- okay -- so at
11 that time you included the pergola because the code was
12 going to change and you wanted the ability to approve -- you
13 thought it would help with the vinyl siding?
14 A No. Well, we thought that Raj Barr had said, you
15 know, having the pergola, all right, would break up the mass
16 and therefore we could have our vinyl siding, all right.
17 And I included that almost really by mistake. It was never
18 our intention to build it because we did not submit an
19 application for it, all right, to have it built. It was --
20 they were the newest set of plans, all right, that was
21 drawn, okay. That's all. Off of that CAD Program.
22 MS. ROBESON: All right. Well without belaboring
23 this too much, you are welcome to have any follow-up
24 questions.
25 MS. ROSEN: I don't have any follow-up.

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1 MR. MOHAMMADI: None.
2 MS. ROBESON: All right. Now it is like 14 til
3 2:00. So I assume -- Mr. Mohammadi, is Mr. Ball your last
4 witness?
5 MR. MOHAMMADI: He is. We would reserve on the
6 attorney's fees. I usually -- if that is the case at the
7 end, I'll put on evidence with respect to attorney's fees at
8 the end, if that's okay.
9 MS. ROBESON: That's fine.
10 MS. ROSEN: Yeah. That's basically what I'm doing
11 also, so if we could just wait until the end on the
12 attorneys' fees?
13 MS. ROBESON: Yes. That's what I anticipated.
14 MR. MOHAMMADI: If that's the case then --
15 MS. ROBESON: And, Ms. Rosen, how many witnesses
16 do you have on rebuttal?
17 MS. ROSEN: Okay. Well I'm obviously putting Ms.
18 Washburn, our expert, and there's probably -- I'll probably
19 have to put Dr. Barr back on. There may be two or three
20 others, but they're going to be short, you know. Some of
21 them are going to be in reference to, for example, the issue
22 about notices of meetings. Those will be very short
23 witnesses, you know, and people who attended Board meetings.
24 MS. ROBESON: Okay. All right.
25 MS. ROSEN: Yeah. I mean it's hard for me to say,

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1 you know, exactly -- you know, exactly, but they happen to
2 be -- I think the lengthiest witness will be our expert and
3 then the others are going to be relatively -- relatively
4 short, because it's going to be rebuttal.
5 MS. ROBESON: Okay. Well I will hold off for now
6 setting another date. So, for the time being, this case is
7 continued to January -- or --
8 MS. ROSEN: You wish.
9 MS. ROBESON: -- September 19th, at 9:30 in this
10 room. All right?
11 MR. MOHAMMADI: Thank you, Your Honor.
12 MS. ROSEN: Thank you, Your Honor.
13 MS. ROBESON: Good luck.
14 THE WITNESS: Thank you.
15 (Whereupon, at 1:47 p.m., the hearing was
16 concluded.)
17
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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Office of Common Ownership Communities for Montgomery County
in the matter of:

Ball v. Potowmack Preserve
Case No. 72-13
OZAH No. C14-01

By:

Patricia L. Destajo, Transcriber

A				
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