

Exhibit "20"

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF WESTCHESTER

-----X

CITY OF NEW ROCHELLE,

Plaintiff,

Index No.: 54190

-vs-

FLAVIO LA ROCCA, MARIA LA ROCCA, FLAVIO LA ROCCA  
& SONS, INC., a/k/a. F. LA ROCCA & SONS, INC. and  
FMLR REALTY MANAGEMENT LLC,

Defendants.

-----X

Tuesday

February 25, 2020

11:00 a.m.

EXAMINATION BEFORE TRIAL of PAUL VACCA, the  
Witness, held at the offices of WILSON ELSER  
MOSKOWITZ EDELMAN, 1133 Westchester Avenue, White  
Plains, New York, before Robyn Harrell, RPR, a  
Shorthand Reporter and Notary Public of the State  
of New York.

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1 APPEARANCES:  
 2  
 3 WILSON ELSEER MOSKOWITZ EDELMAN  
 4 Attorneys for Plaintiff  
 5 1133 Westchester Avenue, Suite N-100  
 6 West Harrison, NY 10604  
 7 BY: SCOTT I. MENDELSON, ESQ.  
 8 PETER A. MEISELS, ESQ.  
 9  
 10  
 11 SILVERBERG ZALANTIS LLC  
 12 Attorneys for Defendant  
 13 120 White Plains Road, Suite, 305  
 14 Tarrytown, NY 10591  
 15 BY: KATHERINE ZALANTIS, ESQ.  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 PAUL VACCA,  
 2 having been first duly sworn by  
 3 the Notary Public, was examined  
 4 and testified as follows:  
 5 EXAMINATION BY  
 6 MS. ZALANTIS:  
 7 Q. State your name for the record, please.  
 8 A. Paul Vacca.  
 9 Q. State your address for the record,  
 10 please.  
 11 A. 515 North Avenue, New Rochelle, New York  
 12 10801.  
 13 MR. MENDELSON: Usual stips and we  
 14 reserve the right to amend the transcript  
 15 as well.  
 16 BY MS. ZALANTIS:  
 17 Q. Good morning. My name is Kathy Zalantis.  
 18 I represent the defendants in this action who are  
 19 Flavio La Rocca, Maria La Rocca, Flavio La Rocca  
 20 & Sons, Inc. a/k/a F. La Rocca & Sons, Inc., and  
 21 FMLR Reality Management LLC.  
 22 I'm going to be asking you some questions  
 23 today and your answers are made under oath just  
 24 like as if you were in court. Do you understand?  
 25 A. I do.

Page 3

1 STIPULATIONS  
 2  
 3  
 4 IT IS HEREBY STIPULATED AND AGREED  
 5 by and between the attorneys for the respective  
 6 parties herein, that filing and sealing be and  
 7 the same are hereby waived  
 8 IT IS FURTHER STIPULATED AND AGREED that  
 9 all objections, except as to the form of the  
 10 question, shall be reserved to the time of the  
 11 trial.  
 12 IT IS FURTHER STIPULATED AND AGREED that  
 13 the within deposition may be sworn to and signed  
 14 before any officer authorized to administer an  
 15 oath, with the same force and effect as if signed  
 16 and sworn to before the Court.  
 17 \*\*\*\*\*  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 5

1 Q. Have you ever been deposed before?  
 2 A. I have.  
 3 Q. How many times?  
 4 A. More than a few.  
 5 Q. All right. I'm just going to go over  
 6 quickly some ground rules you may be familiar  
 7 with. I ask that you keep your answers audible  
 8 and that you answer not with nods or grunts  
 9 because the court reporter can't take it down. I  
 10 also ask that even if you know where I'm going  
 11 with the question, that you wait until I finish  
 12 asking the question before you respond. This way  
 13 we're not both speaking over each other.  
 14 And I also ask that if you want to take a  
 15 break, that's completely fine, that if there's a  
 16 question pending, that you answer the question  
 17 and then you can go and take a break. And I will  
 18 assume that if you answer a question, that you  
 19 understood the question. Is that clear?  
 20 A. Yes.  
 21 Q. And I don't mean to ask any offense by  
 22 this next question, but I just have to ask. Have  
 23 you had any medication or substances or  
 24 medication that's would impair your ability to  
 25 testify here today?

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1 A. No.  
 2 Q. Can you briefly describe your education?  
 3 A. I have a bachelor of science  
 4 architectural technologies from New York  
 5 Institute of technology.  
 6 Q. Are you currently employed?  
 7 A. Yes.  
 8 Q. What is the nature of your employment?  
 9 A. I am the deputy commissioner of  
 10 development and building official to the City of  
 11 New Rochelle.  
 12 Q. And how long have you maintained that  
 13 position?  
 14 A. 2008.  
 15 Q. And prior to 2008, did you have a  
 16 position with the City of New Rochelle?  
 17 A. Yes.  
 18 Q. What was you the that position?  
 19 A. I was the plan examiner.  
 20 Q. How long were you plan examiner?  
 21 A. About six years.  
 22 Q. Prior to being a plan examiner, did you  
 23 have any other position with City of New  
 24 Rochelle?  
 25 A. Yes. I was senior building inspector.

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1 BY MS. ZALANTIS:  
 2 Q. Which one?  
 3 A. I attend planning and zoning hearings.  
 4 Q. How about in your capacity as a building  
 5 inspector or senior building inspector, did you  
 6 attend any land use board hearings?  
 7 A. No.  
 8 MR. MENDELSON: Objection as to  
 9 form.  
 10 BY MS. ZALANTIS:  
 11 Q. In your capacity in any position with the  
 12 City of New Rochelle, have you attended any land  
 13 use board meetings other than planning board  
 14 meetings?  
 15 MR. MENDELSON: Objection as to  
 16 form.  
 17 A. I attend zoning board hearings as well.  
 18 BY MS. ZALANTIS:  
 19 Q. In what capacity do you attend those  
 20 hearings?  
 21 A. I'm building board official.  
 22 Q. Do you regularly attend the zoning board  
 23 meetings?  
 24 A. I do.  
 25 Q. And do you regularly attend the planning

Page 7

1 Q. When was that?  
 2 A. 2002 to 2006 about.  
 3 Q. Okay.  
 4 A. And part of that I was building inspector  
 5 from 1995. Prior to that I was an assistant  
 6 construction engineer, Department of Public Works  
 7 for a few months and part of that I was engineer  
 8 assistant with the Department of Public Works.  
 9 So I began my career in 1990 and I'm still there.  
 10 Q. So you've been at New Rochelle the whole  
 11 time after completing your education?  
 12 A. I completed my education in 2002.  
 13 Q. Okay. So you actually were at the New  
 14 Rochelle before you got your degree, your BS  
 15 degree?  
 16 A. Correct.  
 17 Q. And so your current position as deputy  
 18 commissioner/building official, is that an  
 19 appointed position?  
 20 A. Yes.  
 21 Q. And in your capacity as building  
 22 inspector or deputy commissioner, do you attend  
 23 any land use board meetings?  
 24 MR. MENDELSON: Object to the form.  
 25 A. I do.

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1 board meetings.  
 2 A. Yes, ma'am.  
 3 Q. And do you meet with potential applicants  
 4 about new projects before the land use  
 5 application is filed?  
 6 A. Occasionally.  
 7 Q. And is there a formal process for that in  
 8 the City of New Rochelle?  
 9 A. You mean -- there is something written in  
 10 the code with respect to meeting with folks  
 11 before you submit an application.  
 12 Q. In your current capacity as a building  
 13 commissioner/building inspector, do you ever have  
 14 an opportunity to review plans?  
 15 A. Yes.  
 16 Q. How often would you say you review plans?  
 17 A. Regularly.  
 18 Q. What type of plans?  
 19 A. Site plans, floor plans, elevations, set  
 20 of drawings.  
 21 Q. How about construction plans?  
 22 A. Sure.  
 23 Q. As part of your employment, current  
 24 employment, are you ever called upon to review  
 25 surveys?

1 A. Yes.

2 Q. And are you familiar with how to read a

3 survey?

4 A. Yes.

5 Q. And as building commissioner or in your

6 capacity as building inspector, are you ever

7 called upon to review documents concerning

8 ownership of real estate property?

9 A. I don't really understand the question.

10 Can you --

11 Q. Do you ever have any opportunity to

12 review deeds?

13 A. I've read deeds, but they don't file

14 deeds with me with respect to ownership.

15 Q. When somebody seeks a building permit in

16 the City of New Rochelle, are they required to

17 establish proof of ownership in some way?

18 MR. MENDELSON: Objection as to

19 form.

20 A. They are required to fill out a building

21 permit application with an affidavit on it if

22 they are the owner of it or not. If the land has

23 recently changed hands and it is not updated in

24 the county system, then we will ask them for a

25 copy of the deed to ensure that they are, in

1 fact, the owner.

2 BY MS. ZALANTIS:

3 Q. So would it be correct that the building

4 department would confirm ownership through the

5 county system?

6 MR. MENDELSON: Objection as to

7 form.

8 A. We don't -- it's really automated through

9 the assessor's office so we don't really do that

10 confirmation when a deed is, to the best of my

11 knowledge, when a deed is filed. The County RPS

12 updates the assessor's records and the

13 assessor's records update our portal, if you

14 will.

15 BY MS. ZALANTIS:

16 Q. So when a building permit application is

17 filed and somebody alleges that they are the

18 owner of the property, is that information

19 confirmed in any way by the building department?

20 A. It's confirmed by the affidavit they sign

21 on the application.

22 Q. What, if anything, did you do to prepare

23 for this deposition today?

24 A. I met with my counsel a couple times.

25 Q. And was anyone else present during this

1 meeting?

2 A. No.

3 Q. Did you review any documents in

4 preparation for this deposition?

5 A. A few documents.

6 Q. Prior to today, when did you learn about

7 this dispute that's the basis of this litigation?

8 MR. MENDELSON: Objection as to

9 form.

10 A. I can't really say.

11 BY MS. ZALANTIS:

12 Q. Are you familiar with my client's

13 property located at 436 Fifth Avenue?

14 A. Yes.

15 (DEFENDANT'S EXHIBIT A, SUMMONS;

16 (DEFENDANT'S EXHIBIT 1A, DOCUMENT,

17 WAS MARKED FOR IDENTIFICATION, AS OF THIS

18 DATE.)

19 Q. I'm showing you what's been marked as

20 Defendant's A and Defendant's A1. If you could

21 just look at Defendant's A first.

22 A. Okay.

23 Q. Thank you. Do you know what this

24 document is?

25 A. It's a criminal summons, or a summons.

1 Q. Have you ever seen this document before

2 today?

3 A. I have.

4 Q. Okay.

5 MR. MENDELSON: Off the record.

6 (Discussion held off the record.)

7 MR. MENDELSON: We are looking at

8 what's been marked as Defendant's A,

9 there's some handwriting on 1 of 12, says

10 657 Potter Avenue, New Rochelle.

11 I understand from defense counsel

12 that we are stipulating that that is not

13 part of the exhibit, meaning that I don't

14 know where that handwriting came from and

15 certainly wasn't filed with NYSTAT that

16 way.

17 MS. ZALANTIS: Right. I believe

18 this was the version of the stipulation

19 that was potentially served on my client

20 so it might have been handwriting by the

21 process server. I'm not sure. Okay.

22 Anyway, we'll stipulate that is not part

23 of the documentation that was filed by

24 your counsel.

25 BY MS. ZALANTIS:

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1 Q. If you could turn to the verification  
2 page, page 12 of 12, and do you see a reference  
3 to an Eliza N. Shabell (phonetic)?  
4 A. Yes.  
5 Q. Do you know who that person is?  
6 A. No.  
7 Q. Prior to the City filing this complaint  
8 on April 1st of 2016, did you review the  
9 allegations in the complaint?  
10 A. No.  
11 Q. Do you know who in the City did?  
12 A. I don't know.  
13 Q. Okay. So if you could turn to Exhibit 3.  
14 MR. MENDELSON: What has been  
15 marked A and what is A1?  
16 MS. ZALANTIS: I'll get there.  
17 MR. MENDELSON: Okay A1 is not part  
18 of summons.  
19 MS. ZALANTIS: What I gave you -- no  
20 for the record A1 are color copies of  
21 Exhibit 1 which you have in black and  
22 white.  
23 BY MS. ZALANTIS:  
24 Q. Okay. Sorry. Turning to Exhibit 3 which  
25 is June 22, 2009 letter. Is that your signature

Page 16

1 BY MS. ZALANTIS:  
2 Q. After this letter was sent on June 22,  
3 2009, or thereafter, did you have an opportunity  
4 to discuss any of the issues raised in this  
5 letter with any of the defendants?  
6 A. I don't recall.  
7 Q. And after this letter was sent on June  
8 22, 2009, or thereafter, did you have an  
9 opportunity to visit my client's property at 436  
10 Fifth Avenue?  
11 A. You got -- you mean between 2009 and  
12 today?  
13 Q. Yes.  
14 A. I've been by the property, yes.  
15 Q. You mean driving by the property or --  
16 A. Uh-huh, yes, ma'am.  
17 Q. Did you have any meetings with any of the  
18 defendants at the property 436 Fifth Avenue  
19 between 6/22/2009 and today?  
20 A. I don't remember.  
21 Q. If you could take a look at Exhibit 4.  
22 It's a November 19, 2015 letter from Alexander  
23 Sturgess. Do you know who that person is?  
24 A. Al, Alexander Sturgess, was the  
25 Commissioner of Public Works?

Page 15

1 that appears on this letter?  
2 A. Yes.  
3 Q. And did you prepare this letter?  
4 A. I did.  
5 Q. And you cite to City code Section 281?  
6 MR. MENDELSON: Objection as to  
7 form.  
8 BY MS. ZALANTIS:  
9 Q. Well, can you read the second paragraph  
10 of your letter?  
11 A. "Consistent with the provisions of 281 of  
12 the code of the City of New Rochelle, you were  
13 ordered to remove the encroachment within 30  
14 days. You may be" --  
15 Q. That's fine. Are you referencing in your  
16 letter City Code Section 281?  
17 A. Yes.  
18 MR. MENDELSON: Objection to form.  
19 BY MS. ZALANTIS:  
20 Q. Can you explain the relevancy of this  
21 code provision referenced in your letter?  
22 MR. MENDELSON: Objection as to  
23 form.  
24 A. Not without reading the code section, so  
25 no.

Page 17

1 Q. Is he currently the Commissioner of  
2 Public Works?  
3 A. No.  
4 Q. When did he cease being the Commissioner  
5 of Public Works?  
6 A. I don't know.  
7 Q. Do you know when -- is he currently  
8 employed by the City of New Rochelle?  
9 A. No, ma'am.  
10 Q. Okay. If you could turn to paragraph 10  
11 of the complaint which is on page 4 of 12, and if  
12 you could just read that paragraph to yourself.  
13 A. Okay.  
14 Q. Are you personally familiar with the area  
15 referred to in the complaint and defined as  
16 quote, "The Parcel"?  
17 A. Yes.  
18 Q. And have you personally observed this  
19 area?  
20 A. Yes.  
21 Q. Okay. How many times approximately?  
22 A. It's hard to say.  
23 Q. Can you describe where it's located?  
24 A. It's located adjacent to East Place -- I  
25 want to get the direction right. I'm going to

Page 18

1 say if you're traveling down East Place going  
2 towards the north end of New Rochelle, it is just  
3 past the Skatepark. There's a little path that  
4 walks down into the park, and this area is right  
5 past there (indicating).  
6 (DEFENDANT'S EXHIBIT B, SURVEY, WAS  
7 MARKED FOR IDENTIFICATION, AS OF THIS  
8 DATE.)  
9 BY MS. ZALANTIS:  
10 Q. Showing you what's been marked as  
11 Defendant's Exhibit B.  
12 MR. MENDELSON: Thank you. Do you  
13 recognize this document?  
14 THE WITNESS: Yes.  
15 BY MS. ZALANTIS:  
16 Q. And what is it?  
17 A. It is a survey.  
18 Q. And does this survey include the area  
19 that's referenced in the complaint, paragraph 10,  
20 as the parcel?  
21 A. I believe it does.  
22 Q. Okay. Would you be able to highlight for  
23 me the approximate location of the parcel?  
24 MR. MENDELSON: How do you want him  
25 to highlight it?

Page 20

1 A. Did I approve any signs?  
2 Q. Yes.  
3 A. Not that I can recall.  
4 MR. MENDELSON: Are you referring  
5 to like deeds and things that were filed?  
6 MS. ZALANTIS: No. I'm asking about  
7 signs, signage.  
8 BY MS. ZALANTIS:  
9 Q. Did you observe anything that would  
10 indicate that the parcel was owned by the City of  
11 New Rochelle?  
12 A. I -- I -- it's hard to see, I know  
13 there's a sign here (indicating).  
14 MR. MENDELSON: I'm going object --  
15 BY MS. ZALANTIS:  
16 Q. What are you referring to?  
17 MR. MENDELSON: -- to any way  
18 anybody would know. I don't think it's  
19 clear. Are we referring to public  
20 records?  
21 MS. ZALANTIS: I'm not asking about  
22 public records and I note your objection.  
23 BY MS. ZALANTIS:  
24 Q. You can answer.  
25 A. The parcel as identified on this survey

Page 19

1 MS. ZALANTIS: Pink highlighter.  
2 MR. MENDELSON: Do you want him to  
3 draw around it or put an X approximately  
4 where it is?  
5 BY MS. ZALANTIS:  
6 Q. If you could just highlight the whole  
7 entire area where you believe it is. Color it  
8 in.  
9 A. Want me to color it?  
10 Q. That's fine.  
11 A. Okay.  
12 Q. So in May of 2015, did you have an  
13 opportunity to visit the parcel or observe the  
14 parcel in May of 2015?  
15 A. I did.  
16 Q. Okay. In or about May of 2015, was there  
17 any way that a person would know that this  
18 parcel, the parcel was owned by the City of New  
19 Rochelle?  
20 MR. MENDELSON: Objection as to  
21 form.  
22 A. I don't know.  
23 BY MS. ZALANTIS:  
24 Q. Did you observe any signs providing that  
25 this property was owned by New Rochelle?

Page 21

1 is this entire parcel here (indicating). That's  
2 one piece of property. And there's a sign right  
3 here (indicating) indicating that this is the  
4 Skatepark. And I believe somewhere on that sign  
5 it says "City of New Rochelle."  
6 Q. Okay. So going back to paragraph 10, if  
7 you can, of Defendant's A. You highlighted two  
8 areas in pink on the survey, correct?  
9 A. Correct.  
10 Q. What is the area that is being referred  
11 to in paragraph 10?  
12 A. "At all times pertinent hereto, the City  
13 has been presently -- has been and presently is  
14 the owner of a parcel of property located in the  
15 City of New Rochelle, County of Westchester  
16 considered an undeveloped land between East  
17 Street and Flowers Park." So to answer your  
18 question, it's a portion of this larger parcel  
19 that I highlighted (indicating).  
20 Q. So the outline in pink?  
21 A. Okay, yes.  
22 Q. Okay. Would it be fair to say that's  
23 representing Flowers Park or a portion of Flowers  
24 Park?  
25 A. It's adjacent to Flowers Park. I don't

Page 22

1 know if it was formerly merged with Flowers Park.  
2 Flowers Park is to the east.

3 Q. So that outline, however, does not  
4 represent what's being referred to in paragraph  
5 10; is that correct?

6 MR. MENDELSON: Objection as to  
7 form.

8 A. No. I think it does represent what's  
9 being referred to in paragraph 10.

10 BY MS. ZALANTIS:

11 Q. Okay. So you originally said what is  
12 being referred to in paragraph 10 was the circle.  
13 Can you explain now what you're saying is  
14 something different, that it's the outline in  
15 pink?

16 MR. MENDELSON: Objection as to  
17 form.

18 A. This is all one parcel (indicating), what  
19 I highlighted around the outline, and the  
20 underdeveloped land. This is developed  
21 {indicating). So the underdeveloped portion we  
22 are talking about is the smaller circle within  
23 the larger area that I highlighted.

24 BY MS. ZALANTIS:

25 Q. So the parcel, what's being defined in

Page 23

1 paragraph 10, is the smaller circle within the  
2 larger area that you highlighted; is that  
3 correct?

4 A. I'm not sure. I believe that the  
5 underdeveloped portion is here in this area  
6 (indicating).

7 Q. "Here," you are referring to the circle?

8 A. This circle or oval, whatever you want to  
9 refer to it as. And this larger polygon that I  
10 drew around the entire parcel, this is all one  
11 block owned by the City.

12 Q. Okay. Thank you for that, "polygon,"  
13 that word. I will try to remember.

14 A. It's not a square. It's not a circle.  
15 So that's what I'm going to call it, a polygon.

16 Q. So can you take a look for me at  
17 paragraph 15 and read that entire paragraph to  
18 yourself.

19 A. Okay (witness complied).

20 Q. Did you personally observe any of the  
21 activities or actions discussed in paragraph 15?

22 A. No.

23 Q. Do you know whether anyone from the City  
24 personally observed any of the activities or  
25 actions discussed in paragraph 15?

Page 24

1 A. I don't.

2 MR. MENDELSON: Objection as to  
3 form.

4 A. I don't.

5 BY MS. ZALANTIS:

6 Q. What, to your understanding, is the basis  
7 for the allegations in paragraph 15?

8 MR. MENDELSON: Objection. The  
9 witness has already testified that he  
10 didn't review his prior writing. I don't  
11 know how he can answer what the basis is  
12 based on his previous answer.

13 BY MS. ZALANTIS:

14 Q. You can answer.

15 A. Just ask the question one more time so I  
16 answer properly.

17 Q. What is your understanding, if you have  
18 an understanding, for the basis for the  
19 allegations in paragraph 15?

20 MR. MENDELSON: Objection.

21 A. I don't know.

22 BY MS. ZALANTIS:

23 Q. Do you see the reference to "potentially  
24 contaminated materials" in paragraph 15?

25 A. Yes.

Page 25

1 Q. Do you know what that refers to?

2 A. No.

3 Q. Can you turn to the pictures attached as  
4 Exhibit 1, and I provided you in A1 color  
5 photographs that might be easier for you to look  
6 at of the pictures.

7 Starting with the first picture that has  
8 the words "Flavio La Rocca" on it. Did you take  
9 this picture?

10 A. No.

11 Q. Do you know who did?

12 A. No.

13 Q. How about the second picture?

14 A. I did not take that picture.

15 Q. Turning back to the first picture, do you  
16 know what the first picture depicts?

17 A. Looks like a couple of gentlemen are  
18 standing in the East Place and there's a small  
19 dump truck right near them and on the right-hand  
20 part of the picture, there's a pickup truck with  
21 a small trailer being pulled behind it, and two  
22 laborers. Looks like they are spreading out some  
23 material.

24 Q. So the second picture you didn't take  
25 that picture either, correct?

1 A. No.  
 2 Q. And do you know what the materials and  
 3 piles in the background are?  
 4 A. They appear to be some kind of wood  
 5 chippings.  
 6 Q. And the third picture, if you can turn to  
 7 that, did you take that picture?  
 8 A. No, ma'am.  
 9 Q. And the forth picture, did you take that  
 10 picture?  
 11 A. No, ma'am.  
 12 Q. And the fifth picture --  
 13 A. No, ma'am.  
 14 Q. -- you didn't take that?  
 15 And the sixth picture, did you take that?  
 16 A. I did not.  
 17 Q. Okay. Were you present in or around the  
 18 parcel on May 15, 2015?  
 19 A. I was.  
 20 Q. I'm sorry, May 16, 2015?  
 21 A. I was in the park that weekend.  
 22 Q. Okay.  
 23 A. At soccer practice.  
 24 Q. When you say you were in the park at  
 25 soccer practice you are speaking about Flowers

1 Park?  
 2 A. Yes.  
 3 Q. So specifically on May 16, were you in  
 4 the oval near or in the oval-shaped area?  
 5 A. Yes, I was.  
 6 Q. And did you observe that specific  
 7 oval-shaped area?  
 8 A. Yes.  
 9 Q. And where were you standing when you  
 10 observed that area?  
 11 A. Well, I walked up this path (indicating)  
 12 from the park so I could observe it from any  
 13 particular angle.  
 14 MR. MENDELSON: Paul, do you know  
 15 whether it was May 15 or 16, because I  
 16 don't think it's clear on the record?  
 17 THE WITNESS: I'm pretty sure it was  
 18 a Saturday. If the 15th was a Saturday,  
 19 I was there on Saturday. If it was the  
 20 16th, I was there on that Saturday. I  
 21 was there twice that day.  
 22 BY MS. ZALANTIS:  
 23 Q. Okay. And can you describe what you  
 24 observed that day?  
 25 A. What I observed -- I observed an area

1 that appeared to have been prepped with some  
 2 subbase material.  
 3 Q. What do you mean by "prepped"?  
 4 A. It looked like somebody had put down some  
 5 subbase.  
 6 Q. What's subbase?  
 7 A. It's usually a granular material.  
 8 Sometimes it's gravel. Sometimes it's a mixture  
 9 of gravel, stone, sand. So it's like a subbase  
 10 material for our parking area.  
 11 MR. MENDELSON: Where specifically  
 12 are we talking about?  
 13 I'm referring to Kathy with the  
 14 question. You asked what you observed,  
 15 and I'm asking where specifically.  
 16 MS. ZALANTIS: I'm asking about the  
 17 oval area.  
 18 BY MS. ZALANTIS:  
 19 Q. You understood that you are responding  
 20 with respect to that?  
 21 A. To this area (indicating).  
 22 Q. The oval area?  
 23 A. Yes. Yes, ma'am.  
 24 Q. What else did you observe, if anything,  
 25 with respect to the oval area?

1 A. Just that it had been prepped.  
 2 (DEFENDANT'S EXHIBIT C, PHOTOGRAPHS,  
 3 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 4 DATE.)  
 5 Q. Showing you what has been marked as  
 6 Defendant's C which is a series of pictures, five  
 7 pages.  
 8 A. Okay.  
 9 Q. Do you recognize what's depicted in the  
 10 series of pictures that are marked as Defendant's  
 11 C?  
 12 A. Yes.  
 13 Q. And do you want to just go through it  
 14 page by page, if you can. So the first page, let  
 15 me ask, did you take these pictures?  
 16 A. No.  
 17 Q. So if you could --  
 18 MR. MENDELSON: What is the  
 19 question?  
 20 MS. ZALANTIS: We are going through  
 21 the pictures.  
 22 MR. MENDELSON: What exactly do you  
 23 want him to do with them?  
 24 MS. ZALANTIS: He testified he  
 25 recognized what's being depicted in the

1 picture.  
 2 A. So this is the area that was prepared.  
 3 Looked like some clearing took place, and this  
 4 area was prepared with a subbase in picture 1.  
 5 Is this just taken from a little bit further over  
 6 to the east, this picture, depicting the same  
 7 area.

8 MR. MENDELSON: For the record, he  
 9 is looking at picture 2 of Exhibit C and  
 10 he's pointing to the right side of the  
 11 exhibit.

12 A. Picture 3 depicts the same area just a  
 13 little bit south of -- sorry -- north of where  
 14 the car was parked in picture 2.

15 MR. MENDELSON: For the record,  
 16 again, circle on the right side of the  
 17 photo.

18 A. This is -- in the top of this picture is  
 19 the boundary of the Skatepark fence.

20 BY MS. ZALANTIS:

21 Q. You are referring to picture 4?

22 A. Yes, 4. Again there are some wood chip  
 23 material and some gravel subbase put down here  
 24 spread throughout the area and picture 5 pretty  
 25 much depicts the same thing.

1 Q. Turning back to picture 4, does this  
 2 depict subbase over the entire surface area?

3 A. No. There is wood chips and dirt and  
 4 subbase and some asphalt here (indicating).

5 Q. And how about in picture 3, is there also  
 6 dirt and wood chips and asphalt depicted in that  
 7 picture?

8 A. Hold on. I don't see much asphalt but  
 9 there is dirt and wood chips and subbase.

10 Q. How about in picture 2?

11 A. There's a little bit of broken asphalt a  
 12 little bit south of where the car is southeast or  
 13 just south of where the car is parked, and then  
 14 there is wood chips north of the car and there's  
 15 some wood chips spread out on the ground not a  
 16 lot but it's mixed in a small bit of asphalt with  
 17 some gravel, stone.

18 Q. Do you see dirt in that picture too?

19 A. Yes. There is some dirt in here.

20 Q. And if you could turn to picture 1, do  
 21 you see asphalt and dirt in that picture?

22 A. It looks to be a little bit of dirt here  
 23 and just a couple of broken pieces of asphalt  
 24 here (indicating).

25 MR. MENDELSON: For the record, he

1 is pointing to the middle of the photo.

2 BY MS. ZALANTIS:

3 Q. How do you know -- -- strike that. What  
 4 is the subbase material?

5 A. It could be broken asphalt. It could be  
 6 gravel. It's hard to say. It's very small  
 7 aggregate except for a couple of large chunks  
 8 that are here. So it could have been processed  
 9 asphalt or it could have just been a stone base.  
 10 It's hard to say just looking at the picture or  
 11 without doing a laboratory test.

12 Q. So you could tell from the picture that  
 13 there's a small aggregate of what you're calling  
 14 subbase; is that correct?

15 A. Well, I would call it a smaller  
 16 aggregate, a finer aggregate.

17 Q. And how do you know that the material is  
 18 not just gravel from the road?

19 A. I don't.

20 Q. I'm going to ask you if you can go back  
 21 to the Complaint which is marked as Defendant's  
 22 A.

23 A. Yes.

24 Q. And if you could turn to Exhibit 1, the  
 25 last picture of Exhibit 1. Yes, if you look,

1 it's better in the color version. Sorry?

2 A. The last picture?

3 Q. Yes.

4 A. Okay.

5 Q. It's depicting a series of vehicles in  
 6 that picture. Do you see that picture?

7 A. I do.

8 Q. Okay. Do you know whether the City took  
 9 any efforts to ascertain the owners of those  
 10 vehicles?

11 A. I do not.

12 Q. Do you know whether the City ever issued  
 13 violations for illegal parking to the owners of  
 14 those vehicles?

15 A. No, ma'am.

16 Q. Who in the City would be responsible for  
 17 issuing legal parking tickets or summonses?

18 A. The police department.

19 MS. ZALANTIS: I request, and I'll  
 20 follow this up with a written demand, any  
 21 parking tickets or summons issued in  
 22 connection with unlawful parking in the  
 23 area of East Street and the parcel, what  
 24 we refer to as "the parcel."

25 MR. MENDELSON: Just follow up in

1 writing.  
 2 MS. ZALANTIS: I will.  
 3 (COUNSEL REQUESTS INFORMATION TO BE  
 4 SUPPLIED.)  
 5 BY MS. ZALANTIS:  
 6 Q. So are you familiar with a street called  
 7 East Street? And you can take a look at the  
 8 survey if you want.  
 9 A. Yes.  
 10 Q. And I'm just going to ask you a series of  
 11 questions regarding East Street, so I don't have  
 12 to keep saying East Street again.  
 13 A. Okay.  
 14 Q. Does the City plow this street, East  
 15 Street?  
 16 A. The best of my knowledge, we don't really  
 17 do any maintenance there. I think we've plowed  
 18 it once for emergency purposes once or twice but  
 19 we really don't do any maintenance there.  
 20 Q. Do you know who asphalted the road  
 21 surface of East Street or --  
 22 A. Who paved the surface?  
 23 Q. Correct, yes.  
 24 A. I do not.  
 25 Q. Do you know whether the City ever paved

1 A. I don't know.  
 2 Q. You said it's your understanding that the  
 3 City does not maintain East Street. What is your  
 4 basis or understanding?  
 5 A. I had a conversation with the City  
 6 engineer and asked him that very question.  
 7 Q. And what were you told?  
 8 A. That we don't maintain anything there.  
 9 Q. Was there a reason why the City doesn't  
 10 maintain anything on East Street?  
 11 A. No, ma'am.  
 12 Q. How about East Place, do you know whether  
 13 the City maintains East Place?  
 14 A. I do not know.  
 15 Q. Can you describe what the City's  
 16 responsibilities are with respect to regular  
 17 public streets?  
 18 MR. MENDELSON: Objection. I don't  
 19 think this is the right witness for  
 20 that question.  
 21 A. Yeah, I don't believe --  
 22 BY MS. ZALANTIS:  
 23 Q. Who is responsible then for maintaining  
 24 public street?  
 25 A. Department of Public Works.

1 East Street?  
 2 A. I do not know.  
 3 Q. Who collects garbage in the City of New  
 4 Rochelle?  
 5 A. There are public -- we collect garbage  
 6 and commercial entities are responsible to  
 7 dispose of their own garbage.  
 8 Q. Do you know if the City ever collects  
 9 leaves from property owners on East Street.  
 10 A. I don't know.  
 11 Q. Do you know whether the City does any  
 12 garbage collection on East Street?  
 13 A. I don't know.  
 14 Q. Do you know whether the City ever removes  
 15 dead animals, car from East Street?  
 16 A. I do not know.  
 17 Q. How about removing rubbish, did the City  
 18 remove rubbish and other garbage materials from  
 19 East Street?  
 20 MR. MENDELSON: Objection. You can  
 21 answer.  
 22 A. I do not know.  
 23 BY MS. ZALANTIS:  
 24 Q. What about blacktop or pothole repairs on  
 25 East Street?

1 Q. You don't have knowledge of what the  
 2 Department of Public Works does in connection  
 3 with public streets?  
 4 MR. MENDELSON: Objection to form.  
 5 A. Typically the Department of Public Works  
 6 will go out and maintain public roads. I don't,  
 7 to the best of my knowledge, I don't believe that  
 8 the street -- this is a paper street and it was  
 9 never accepted by the City.  
 10 BY MS. ZALANTIS:  
 11 Q. Okay. When you say this is a paper  
 12 street, are you referring to East Street?  
 13 A. Yes.  
 14 Q. It's your understanding East Street was  
 15 never accepted by the City; is that correct?  
 16 A. Correct.  
 17 Q. Are there private streets, to your  
 18 knowledge, in New Rochelle?  
 19 A. Yes.  
 20 Q. And what are the City's responsibilities,  
 21 if any, to maintain private streets?  
 22 MR. MENDELSON: Objection. I don't  
 23 think this is the correct witness for  
 24 that question as he previously testified.  
 25 BY MS. ZALANTIS:

1 Q. You can answer.  
 2 A. Okay. I don't think we do any  
 3 maintenance on private streets.  
 4 Q. If you could turn to the letter that you  
 5 cited, Exhibit 3, in the Complaint. You refer  
 6 again to section 281.  
 7 MR. MENDELSON: Objection.  
 8 Q. You referred to section 281 of the code  
 9 of the City New Rochelle, correct?  
 10 MR. MENDELSON: Objection as to  
 11 form.  
 12 A. Yes.  
 13 (DEFENDANT'S EXHIBIT D, DOCUMENTS,  
 14 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 15 DATE.)  
 16 BY MS. ZALANTIS:  
 17 Q. Showing you what has been marked as  
 18 Exhibit D, which is a portion of Chapter 281  
 19 regarding the removal of snow and ice.  
 20 A. Okay.  
 21 Q. If you could take a look at Section B.  
 22 A. Yes.  
 23 Q. Prior to today, have you ever had an  
 24 opportunity to review this, Section 281-4B?  
 25 A. Yes, I did.

1 MR. MENDELSON: Same objection.  
 2 He's not going to answer questions that  
 3 call for a legal opinion.  
 4 BY MS. ZALANTIS:  
 5 Q. So you refer to East Street as a paper  
 6 street, correct?  
 7 A. I did.  
 8 Q. Is East Street a public street?  
 9 MR. MENDELSON: Objection. He's  
 10 not going to answer questions that call  
 11 for a legal opinion.  
 12 MS. ZALANTIS: It's not a legal  
 13 opinion. It's how it's categorized in  
 14 the City.  
 15 MR. MENDELSON: It calls for a  
 16 legal opinion based on legal documents  
 17 that had been filed with the City.  
 18 MS. ZALANTIS: He gave an opinion  
 19 that it was a paper street. You can't  
 20 have it both ways. He can't talk about  
 21 what something is and then refuse to  
 22 answer other questions.  
 23 MR. MENDELSON: He won't answer  
 24 questions that call for a legal opinion  
 25 as if something was a public street or

1 Q. Is it your understanding that this  
 2 section puts the burden on the property owner to  
 3 remove snow from private streets?  
 4 MR. MENDELSON: Objection. Don't  
 5 answer that question. Calls for a legal  
 6 conclusion.  
 7 BY MS. ZALANTIS:  
 8 Q. Is it your understanding, irrespective of  
 9 this section, that private property owners have  
 10 to remove snow and ice from private streets?  
 11 DEFENSE ATTORNEY: Objection. Do  
 12 not answer that question. Calls for a  
 13 legal opinion.  
 14 MS. ZALANTIS: I'm not asking on the  
 15 basis -- I'm asking what's his  
 16 understanding of the City -- I'm not  
 17 asking on the basis of 281 which he  
 18 specifically cited in his letter.  
 19 MR. MENDELSON: It still calls for a  
 20 legal opinion. He's not going to answer  
 21 any question that calls for a legal  
 22 opinion. You don't have to answer.  
 23 BY MS. ZALANTIS:  
 24 Q. Who is responsible for removing snow on  
 25 private streets, if you know?

1 not a public street or whether there's  
 2 required maintenance according to the  
 3 law.  
 4 BY MS. ZALANTIS:  
 5 Q. All right. Let me ask you this question.  
 6 Is there a list of private streets in the City of  
 7 New Rochelle?  
 8 A. I believe there is.  
 9 Q. Okay. I request a copy of that list of  
 10 private streets from 2001 to the present and I'll  
 11 put that in writing.  
 12 (COUNSEL REQUESTS INFORMATION TO BE  
 13 SUPPLIED.)  
 14 Q. Is there a list of public streets in the  
 15 City of New Rochelle?  
 16 A. I believe that there is.  
 17 Q. I request a copy of that list of private  
 18 streets from 2001 to the present and I'll put  
 19 that in writing.  
 20 (COUNSEL REQUESTS INFORMATION TO BE  
 21 SUPPLIED.)  
 22 Q. Is there a list of paper streets in the  
 23 City of New Rochelle?  
 24 A. I'm not sure.  
 25 Q. Is there a list of unaccepted streets in

1 the City of New Rochelle?  
 2 A. I'm not sure.  
 3 Q. Where is that list maintained in the City  
 4 of New Rochelle with respect to private streets?  
 5 MR. MENDELSON: Objection as to  
 6 form.  
 7 A. I would believw that Public Works would  
 8 have that list, if one exists.  
 9 BY MS. ZALANTIS:  
 10 Q. When you visited the parcel, and I'm  
 11 referring to the oval area you circled, on May  
 12 16, the Saturday, was anyone else with you?  
 13 A. Yes.  
 14 Q. Who was that?  
 15 A. Mr. Cox was there.  
 16 Q. Anyone else?  
 17 A. No.  
 18 Q. Have you personally observed any videos  
 19 of my client cutting down trees?  
 20 A. No.  
 21 Q. Have you personally observed any pictures  
 22 of my client cutting down trees?  
 23 A. No.  
 24 Q. Did Mr. Cox ever submit to the City that  
 25 they had evidence of my client cutting down

1 trees?  
 2 A. I don't know.  
 3 Q. Based upon your view of the property, the  
 4 parcel, on May 16, 2015, did you view any trees  
 5 cut down?  
 6 MR. MENDELSON: Objection as to  
 7 form.  
 8 A. I'm not sure, but I don't think so.  
 9 BY MS. ZALANTIS:  
 10 Q. Well, were there any tree stumps?  
 11 A. Not that I could see.  
 12 Q. Tree branches?  
 13 A. No.  
 14 Q. In any of the pictures that we viewed --  
 15 and we can go back to the Complaint and you can  
 16 look at the photo, the color photographs. You  
 17 can look at that color photograph which is A1.  
 18 Are there any machines that would chop up pieces  
 19 of trees into wood chips?  
 20 A. Not in these photos.  
 21 Q. In any of the videos, did you review any  
 22 videos related to the actions alleged in the  
 23 complaint?  
 24 A. If I did, I don't recall them.  
 25 Q. When you observed the parcel on May 16,

1 was anybody working at the parcel?  
 2 A. No, sir.  
 3 MR. MENDELSON: Do you mind if we  
 4 take a short break?  
 5 (Brief recess: 12:18 p.m to  
 6 12:22 p.m.)  
 7 BY MS. ZALANTIS:  
 8 Q. So you mentioned you were at the oval  
 9 area with Mr. Cox on May 16, 2015; is that  
 10 correct?  
 11 A. It was the Saturday of that weekend.  
 12 Q. Okay, Saturday of that weekend. Who is  
 13 Robert Cox?  
 14 A. He is an idiot journalist.  
 15 Q. Do you know whether he is an official of  
 16 the City?  
 17 A. No.  
 18 Q. You don't know or --  
 19 A. He's not an official of the City.  
 20 Q. Does he work for any city department or  
 21 agency?  
 22 MR. MENDELSON: Objection as to  
 23 form.  
 24 A. Not that I'm aware of.  
 25 BY MS. ZALANTIS:

1 Q. Does he have any connection at all to the  
 2 City?  
 3 MR. MENDELSON: Objection as to  
 4 form. What do you mean by "connection"?  
 5 BY MS. ZALANTIS:  
 6 Q. Do you understand what I mean?  
 7 A. Not really.  
 8 Q. Okay. Does he have any relationship, to  
 9 your knowledge, to the City?  
 10 MR. MENDELSON: Objection. Same  
 11 objection.  
 12 A. I don't understand the question.  
 13 BY MS. ZALANTIS:  
 14 Q. Does he report on issues directly to City  
 15 officials?  
 16 MR. MENDELSON: Objection as to  
 17 form.  
 18 A. Occasionally he had brought some issues  
 19 directly to City officials.  
 20 BY MS. ZALANTIS:  
 21 Q. And does the City at any point have an  
 22 opportunity to follow up on tips or leads  
 23 provided by Mr. Cox?  
 24 MR. MENDELSON: Objection as to  
 25 form.

1 A. I think we tried to follow up on any  
 2 complaints that we receive no matter who they are  
 3 from.  
 4 BY MS. ZALANTIS:  
 5 Q. Have you ever issued any building or  
 6 other violations to Mr. Cox?  
 7 MR. MENDELSON: Objection. I don't  
 8 see how that's relevant here. You don't  
 9 have to answer that.  
 10 MS. ZALANTIS: Relevancy is not a  
 11 proper objection and you know that.  
 12 A. I'm not sure.  
 13 MR. MENDELSON: It's not relevant.  
 14 MS. ZALANTIS: He's your main  
 15 witness, so it is relevant.  
 16 MR. MENDELSON: Whether he issued,  
 17 personally issued building citations  
 18 to --  
 19 MS. ZALANTIS: In his capacity as  
 20 building inspector.  
 21 MR. MENDELSON: -- to Robert Cox?  
 22 MS. ZALANTIS: Yes, or any  
 23 properties owned by him.  
 24 MR. MENDELSON: You don't have to  
 25 answer that.

1 MS. ZALANTIS: Okay. I'm going to  
 2 be requesting that documentation from the  
 3 City and you too.  
 4 MR. MENDELSON: You can put it in  
 5 writing.  
 6 MS. ZALANTIS: I will.  
 7 (COUNSEL REQUESTS INFORMATION TO BE  
 8 SUPPLIED.)  
 9 BY MS. ZALANTIS:  
 10 Q. Do you know if Mr. Cox has ever been  
 11 arrested by the City of New Rochelle Police  
 12 Department?  
 13 MR. MENDELSON: Objection as to  
 14 form.  
 15 A. I believe he has.  
 16 BY MS. ZALANTIS:  
 17 Q. What's the basis for your belief?  
 18 A. I think I read about it on his blog.  
 19 Q. Do you know whether he has ever filed a  
 20 lawsuit against the City of New Rochelle?  
 21 MR. MENDELSON: Objection. You  
 22 don't have to answer that question.  
 23 Don't answer that.  
 24 MS. ZALANTIS: Relevancy is not a  
 25 proper objection.

1 MR. MENDELSON: He doesn't have to  
 2 answer that question. If you want to put  
 3 a demand in writing for anything related  
 4 to Bob Cox personally that the City of  
 5 New Rochelle may have, you can certainly  
 6 do that in writing.  
 7 MS. ZALANTIS: He is testifying as a  
 8 representative --  
 9 THE WITNESS: One second. I have to  
 10 take this.  
 11 (Brief recess)  
 12 (DEFENDANT'S EXHIBIT E, PLAN, WAS  
 13 MARKED FOR IDENTIFICATION, AS OF THIS  
 14 DATE.)  
 15 BY MS. ZALANTIS:  
 16 Q. Showing you what has been marked as  
 17 Defendant's E. The first page is the full size  
 18 or 11 by 17 size plan. And then there's two  
 19 other pages that I just enlarged for ease of  
 20 reference.  
 21 A. Okay.  
 22 Q. Just looking at the first page which is a  
 23 plan, drawing number B-100 Design Concept, City  
 24 of New Rochelle New Operations Center. Do you  
 25 know what this plan is referring to or depicting?

1 A. This plan is titled Sub Surface  
 2 Exploration Plan. So looks like they did a bunch  
 3 of borings in a bunch of different locations as  
 4 marked on this map.  
 5 Q. And do you know what the Proposed New  
 6 Operations Center refers to?  
 7 A. I believe that was a potential location  
 8 for the City yard.  
 9 Q. What's the City yard?  
 10 A. The DPW Operations Center or what I refer  
 11 to as the City yard.  
 12 Q. Was there a concept to take private  
 13 property in connection with this proposed DPW  
 14 Operations Center?  
 15 MR. MENDELSON: Objection. Do you  
 16 know anything about that?  
 17 THE WITNESS: I -- I don't have a  
 18 lot of knowledge about this (indicating).  
 19 I believe this was a potential site or  
 20 location.  
 21 MS. ZALANTIS: You know, you can't  
 22 coach your client.  
 23 MR. MENDELSON: Can we have one  
 24 minute, five minutes?  
 25 (Brief recess: 12:29 p.m. to

1 12:32 p.m.)  
 2 BY MS. ZALANTIS:  
 3 Q. I think I said was there consideration by  
 4 the City to -- what it take to use a private  
 5 property in connection with the proposed DPW  
 6 Center?  
 7 MR. MENDELSON: I'm going to object  
 8 to the form. Continue to answer, if he  
 9 knows.  
 10 MS. ZALANTIS: "If he knows" is  
 11 patently improper, in this case on the  
 12 subject. Don't say "if he knows." Just  
 13 object to form and leave it at that.  
 14 BY MS. ZALANTIS:  
 15 Q. Okay.  
 16 A. To the best of my knowledge, there was  
 17 some potential plan to use East Place in an area  
 18 here for a potential city yard location. So I  
 19 don't know if that answers your question.  
 20 Q. Yes. Thank you.  
 21 (DEFENDANT'S EXHIBIT F, EMAIL, WAS  
 22 MARKED FOR IDENTIFICATION, AS OF THIS  
 23 DATE.)  
 24 BY MS. ZALANTIS:  
 25 Q. I'm showing you what was a marked as

1 MR. MENDELSON: Objection as to  
 2 form.  
 3 A. No.  
 4 BY MS. ZALANTIS:  
 5 Q. And I'm referring to after the date of  
 6 this e-mail on March 17, 2007. Is your answer  
 7 still "no"?  
 8 A. Yes.  
 9 (DEFENDANT'S EXHIBIT G, SERIES OF  
 10 EMAILS, WAS MARKED FOR IDENTIFICATION, AS  
 11 OF THIS DATE.)  
 12 Q. Showing you what has been marked as  
 13 Defendant's G which is a series of emails that  
 14 you can glance through first.  
 15 A. Okay. So go ahead.  
 16 Q. So those e-mails seem to be referring to  
 17 the issue with snow removal; is that correct?  
 18 A. That's what it appears to be to me.  
 19 Q. Do you know whether the City ever paid  
 20 these defendant's to plow East Street?  
 21 A. No.  
 22 Q. No, you don't know or they didn't?  
 23 A. No, I don't know.  
 24 Q. Do you know whether the City ever  
 25 contracts with any other companies to plow East

1 Defendant's F. If you can, can you just identify  
 2 who the "from" and the "to" is that's indicated  
 3 on this e-mail?  
 4 A. From Bill Zimmerman.  
 5 Q. And who is Mr. Zimmerman.  
 6 A. He is the -- he was the commissioner of  
 7 Parks and Recreation.  
 8 Q. Is he currently employed with the City?  
 9 A. You know, I think he is a consultant to  
 10 the City. I'm not quite sure of his title right  
 11 now so I don't want to speculate.  
 12 Q. Do you know who Janice Carrol is?  
 13 A. She's a clerk that works in the City  
 14 manager's office.  
 15 Q. And if you could, to yourself, just read  
 16 that e-mail from Mr. Zimmerman.  
 17 A. Okay.  
 18 Q. Do you know whether the Building  
 19 Department ever followed up on this e-mail?  
 20 MR. MENDELSON: Objection as to  
 21 form.  
 22 A. No.  
 23 BY MS. ZALANTIS:  
 24 Q. Do you know whether there was a visit to  
 25 the property by a building official?

1 Street?  
 2 MR. MENDELSON: Objection as to  
 3 form.  
 4 A. I don't know.  
 5 BY MS. ZALANTIS:  
 6 Q. Does the City of New Rochelle do its own  
 7 plowing or does it contract with other companies?  
 8 A. Both.  
 9 (DEFENDANT'S EXHIBIT H, PHOTOGRAPHS,  
 10 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 11 DATE.)  
 12 Q. I'm showing you what's been marked as  
 13 Defendant's H, two pictures.  
 14 A. Yes.  
 15 Q. Are you familiar with what's depicted in  
 16 these photographs?  
 17 A. Yes.  
 18 Q. And what is it?  
 19 A. It looks like a big pile of snow in front  
 20 of the Skatepark.  
 21 Q. Do you know who took this picture?  
 22 A. No.  
 23 Q. Do you know when this picture was taken?  
 24 A. No.  
 25 Q. Have you ever personally observed my

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1 client, any of my clients, the defendants in this  
 2 action, piling snow in any area depicted in these  
 3 photographs?  
 4 A. No.  
 5 Q. Do you know whether anyone from the City  
 6 has personally observed my client piling snow in  
 7 any of the areas depicted in the photographs  
 8 marked as Defendant's H?  
 9 A. I don't know.  
 10 (DEFENDANT'S EXHIBIT I, NOTICE OF  
 11 VIOLATION;  
 12 (DEFENDANT'S EXHIBIT J, RESPONSE  
 13 NOTICE;  
 14 (DEFENDANT'S EXHIBIT K, BUILDING  
 15 PERMIT;  
 16 (DEFENDANT'S EXHIBIT L, PLAN;  
 17 (DEFENDANT'S EXHIBIT M, SURVEY;  
 18 (DEFENDANT'S EXHIBIT N, AMENDED  
 19 PLAN;  
 20 (DEFENDANT'S EXHIBIT O, DOCUMENT;  
 21 (DEFENDANT'S EXHIBIT P, CERTIFICATE  
 22 OF OCCUPANCY;  
 23 (DEFENDANT'S EXHIBIT Q, DOCUMENT;  
 24 were MARKED FOR IDENTIFICATION, AS OF  
 25 THIS DATE.)

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1 Notice of Violation.  
 2 Q. So Exhibit J is in response to Exhibit I;  
 3 is that correct?  
 4 A. Yes.  
 5 Q. Okay. Showing you what has been marked  
 6 as Exhibit K, and I'll give you J at the same  
 7 time. Okay, this is L. Okay.  
 8 So with respect to the Exhibit K, do you  
 9 recognize that document?  
 10 A. Yes.  
 11 Q. What is it?  
 12 A. It's a building permit.  
 13 Q. And this building permit was issued to  
 14 the Muffi's and the job application was 436 Fifth  
 15 Avenue; is that correct?  
 16 A. Correct.  
 17 Q. Okay. If you can take a look at Exhibit  
 18 L?  
 19 A. Yes.  
 20 Q. There's two pages. Do you see on the  
 21 second page there's a stamp from the City of New  
 22 Rochelle?  
 23 A. Yes.  
 24 Q. What does that stamp indicate?  
 25 A. It's the building permit number in the

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1 Q. Showing you what has been marked as  
 2 Defendant's I. Do you recognize this document?  
 3 A. I do.  
 4 Q. What do you recognize it to be?  
 5 A. It's a Notice of Violation.  
 6 Q. And there's a reference, if you look at  
 7 the bottom of the paragraph, to please telephone  
 8 Mr. Vacca?  
 9 A. That's me.  
 10 Q. That's you?  
 11 A. Yes, ma'am.  
 12 Q. And this Notice of Violation was issued  
 13 on 12/2/1999 to a John Muffi (phonetic). Do you  
 14 know who that person is?  
 15 A. He was I believe the previous owner of  
 16 the property.  
 17 Q. Showing you what has been marked as  
 18 Exhibit J, which is a January 21, 2000 letter  
 19 from Mr. Muffi to you. Have you seen this letter  
 20 before today?  
 21 A. I have.  
 22 Q. And does this appear to respond -- do you  
 23 remember having a telephone conversation with  
 24 Mr. Muffi?  
 25 A. Yes. This letter is in response to the

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1 bottom left-hand portion of the stamp. In the  
 2 bottom right-hand portion of the stamp is the  
 3 date the drawings were stamped.  
 4 Q. And the building, it says -- see where it  
 5 says "plan number" in the stamp.  
 6 A. Yes.  
 7 Q. And it has a number B20000387?  
 8 A. Yes.  
 9 Q. Is that the same as the permit number set  
 10 forth on the building permit on Exhibit K?  
 11 A. It is.  
 12 Q. What would that indicate to you?  
 13 A. That this is the plan for this building  
 14 permit.  
 15 Q. Okay. So that indicates that the  
 16 building permit was issued in connection, Exhibit  
 17 K, the building permit was issued in connection  
 18 with the second page of the plan attached as  
 19 Exhibit L; is that correct?  
 20 A. With the plan, yes.  
 21 Q. And the stamp indicates on the second  
 22 page of Exhibit L, the City of New Rochelle  
 23 Building Department approved this plan, correct?  
 24 A. That the plan examiner reviewed and  
 25 approved that plan, correct.

1 Q. If you could turn back to the building  
 2 permit on page 2, there's a list of conditions.  
 3 A. Uh-huh.  
 4 Q. Can you explain what the conditions to a  
 5 building permit are just generally?  
 6 A. Just general conditions put in place to  
 7 coincide with the parameters of the project.  
 8 Q. Okay. And is it a requirement that this  
 9 particular applicant would have to submit an  
 10 as-built plan to get a Certificate of Occupancy  
 11 or a COC?  
 12 A. Well, it says, "Submit as-built survey  
 13 prepared by a surveyor to show compliance with  
 14 approved plans." So, yes.  
 15 Q. I'm showing you what's been marked as;  
 16 'Exhibit N, and I've attached various copies of  
 17 plans in various sizes that was produced by the  
 18 City. Unfortunately, it's cut off in the middle  
 19 of the plan, so I request that that be reproduced  
 20 correctly. But, in any event, you could see  
 21 through the various different copies of this that  
 22 the date of the plan is November 13, 2000. Do  
 23 you see that? You can look on the first page.  
 24 In the box.  
 25 A. Says 11 -- yeah, it's cut off, yes. Yes,

1 November 15, 2000.  
 2 Q. And this is a survey, correct?  
 3 A. It says "survey" on it, correct.  
 4 Q. And there's a reference to "field," do  
 5 you see that, and the date?  
 6 A. Yes.  
 7 Q. And is that an indication, to your  
 8 knowledge, that that's when field work was done?  
 9 A. I would say so, yes.  
 10 Q. Okay. And does this plan that was  
 11 produced by the City the as-built plan?  
 12 A. You mean, this survey was produced by a  
 13 private surveyor?  
 14 Q. Correct. I'm sorry --  
 15 A. But it was in our file?  
 16 Q. Yes.  
 17 A. Yes. That is a field date, which is  
 18 usually typically the date they went into the  
 19 field and the map date is the date they made the  
 20 revisions to the map.  
 21 Q. Okay, thank you.  
 22 A. You're welcome.  
 23 Q. Just to show the complete picture, I'm  
 24 showing you what's been Exhibit N.  
 25 A. Okay.

1 Q. And this appears to be an amended plan  
 2 that was approved; is that correct?  
 3 A. Correct.  
 4 Q. And this amended plan shows less proposed  
 5 riprap than the original plan; is that correct?  
 6 A. Yes.  
 7 Q. And that's consistent with what is  
 8 depicted on the survey. There is not riprap  
 9 stretching the whole line of property, correct?  
 10 A. Correct.  
 11 Q. I'm showing you what's been marked as  
 12 Exhibit L. Do you recognize this document?  
 13 A. It was the application for Certificate of  
 14 Occupancy/Compliance.  
 15 Q. Take a look at the permit number  
 16 reflected on the second line, Application for a  
 17 Certificate of Occupancy/Compliance. Do you see  
 18 the permit number?  
 19 A. I do.  
 20 Q. Is that the same permit number that's  
 21 reflected on the building permit and the original  
 22 and amended plan?  
 23 A. Yes.  
 24 Q. So is this about the Application to  
 25 obtain a Certificate of Occupancy/Compliance for

1 the work authorized under building permit number  
 2 B20000387?  
 3 A. Yes.  
 4 Q. Showing you what has been marked as  
 5 Exhibit P. Do you recognize this document?  
 6 A. That would be the Certificate of  
 7 Occupancy.  
 8 Q. And I know that Certificate of Occupancy  
 9 has a number of C20010011; is that correct?  
 10 A. That's what's denoted here, yes.  
 11 Q. What does that indicate to you?  
 12 A. That was just a number that was assigned  
 13 to that certificate.  
 14 Q. Okay. Was this Certificate of Occupancy  
 15 issued in connection with permit number  
 16 B20000387?  
 17 A. Yes.  
 18 Q. Okay. And what does a Certificate of  
 19 Occupancy signify?  
 20 MR. MENDELSON: Objection as to  
 21 form.  
 22 A. So, the Certificate of Occupancy  
 23 typically is a document that closes out the  
 24 building permit. Typically the Certificate of  
 25 Occupancy are only typically issued to buildings.

1 The building official at the time, Mr. Shaw has  
 2 issued this Certificate of Occupancy, Peter did  
 3 it for Mr. Shaw. If I was doing this, I would  
 4 have issued a Certificate of Compliance because  
 5 there is no building on this property.  
 6 Effectively, they're the same document.  
 7 BY MS. ZALANTIS:  
 8 Q. So if you can turn back to the survey  
 9 which you have in front of you which is Exhibit  
 10 M?  
 11 A. Thank you.  
 12 Q. Do you see where the survey depicts a  
 13 sliding gate?  
 14 A. Yes.  
 15 Q. And do you see where the survey depicts a  
 16 chain-link fence?  
 17 A. Yes.  
 18 Q. And is the sliding gate depicted on East  
 19 Street?  
 20 A. It looks like it is depicted on East  
 21 Street.  
 22 Q. And is the chain-link fence depicted on  
 23 East Street?  
 24 A. It appears to be, yes.  
 25 Q. Do you see shrubs indicated at the

1 property line that fronts on Fifth Avenue?  
 2 A. Yes.  
 3 Q. And are the shrubs depicted on East  
 4 Street, a portion of the shrubs depicted on East  
 5 Street?  
 6 A. They look like they encroach onto East  
 7 Street, yes.  
 8 Q. So the survey seems to indicate that  
 9 there's an encroachment of a sliding gate onto  
 10 East Street, correct?  
 11 A. Yes.  
 12 Q. The survey indicates there's an  
 13 encroachment of a chain-link fence onto East  
 14 Street; is that correct?  
 15 A. That's what it looks like, correct.  
 16 Q. The survey seems to indicate there's an  
 17 encroachment of shrubs onto East Street; is that  
 18 correct?  
 19 A. That's what it looked like, yes.  
 20 Q. Do you know whether the City took the  
 21 position in 2000 when the survey was done or 2001  
 22 when the Certificate of Occupancy was issued that  
 23 there was an encroachment on East Street?  
 24 A. I don't.  
 25 Q. Do you know whether the City took the

1 position with the Muffis, the prior owner, at any  
 2 time there was an encroachment onto East Street?  
 3 A. I am not sure.  
 4 (DEFENDANT'S EXHIBIT R, IMAGES, WAS  
 5 MARKED FOR IDENTIFICATION, AS OF THIS  
 6 DATE.)  
 7 Q. I'm showing you what been marked as  
 8 Exhibit R. The first page is an enlarged image  
 9 and the second page is an image, both from Google  
 10 Earth. One is just in large and one is not. And  
 11 if you could look at the second page, there is an  
 12 imagery date reflected?  
 13 A. 10/11/2014.  
 14 Q. Do you see the area depicted on the  
 15 second page that you previously indicated with an  
 16 oval on the survey marked as Exhibit --  
 17 A. B?  
 18 Q. -- B?  
 19 A. Yes.  
 20 Q. And do you see vehicles parked in that  
 21 area that you indicated with an oval shape on  
 22 Exhibit B?  
 23 A. I see, yes.  
 24 Q. Do you see a large tractor trailer parked  
 25 in that area that you indicated was the parcel?

1 A. I do not.  
 2 Q. What do you see?  
 3 A. I see two small dump trucks and it looks  
 4 like a tree box truck.  
 5 Q. And what's attached to that? Can you  
 6 indicate what the tree box truck is?  
 7 A. I think it's this white vehicle here  
 8 (indicating).  
 9 Q. Is there an attachment to that tree --  
 10 A. It's pulling something. Could be a stump  
 11 grinder. I'm not sure.  
 12 Q. And the other two vehicles you  
 13 referenced, can you just describe them?  
 14 A. They look like two small dump trucks.  
 15 Q. Okay. Does this area look like the same  
 16 area that you viewed on March 16, 2015?  
 17 MR. MENDELSON: Objection as to  
 18 form.  
 19 BY MS. ZALANTIS:  
 20 Q. Let me clarify.  
 21 A. I wasn't there on March 16, 2000. That  
 22 was not the right date and it looks similar.  
 23 Q. Sorry. May 16. I apologize, May 16.  
 24 A. It's similar but it's more wooded in this  
 25 picture (indicating).

1 Q. Well, in this picture you are looking  
 2 down, correct?  
 3 A. This is an aerial (indicating).  
 4 Q. Right.  
 5 A. This is log shots. Yes, ma'am.  
 6 Q. Has the City planted any trees in the  
 7 area of the parcel after May 15 -- sorry, May  
 8 2015?  
 9 A. I don't know.  
 10 Q. Let me go back -- let me give you a fresh  
 11 copy of the 2014 survey.  
 12 (EXHIBIT T, PHOTOGRAPH, WAS MARKED  
 13 FOR IDENTIFICATION AS OF THIS DATE.)  
 14 Q. Showing you what's been marked as  
 15 Exhibit T. Do you see the parcel marked now or  
 16 formerly FML management LLC?  
 17 A. Yes.  
 18 Q. Okay. Can you indicate the alleged  
 19 encroachment on East Main Street?  
 20 MR. MENDELSON: Objection as to  
 21 form.  
 22 A. So towards the northerly corner of the  
 23 property, the north, the northern corner,  
 24 northeastern corner, there's a wall, a concrete  
 25 wall, and a fence, and I can't -- sorry -- make

1 "encroachment," are you talking about --  
 2 MS. ZALANTIS: Sorry. On to  
 3 East Street.  
 4 A. "Now or formerly PAB Landscaping," their  
 5 gate appears to be on the front property line.  
 6 And "Now or formerly PAB Landscaping," the second  
 7 parcel to the north, what appears to bridge the  
 8 property line, looks like, and it says --  
 9 electric line, looks like, it comes out here  
 10 (indicating). It looks like this a slight trench  
 11 encroachment to the north, northern corner of the  
 12 property.  
 13 BY MS. ZALANTIS:  
 14 Q. Do you see in the middle of East Street  
 15 there seems to be some kind of curb --  
 16 A. Yes.  
 17 Q. -- under the word "East" of East Street?  
 18 A. Yes. It says "blacktop curb."  
 19 Q. Do you know who erected that blacktop  
 20 curb?  
 21 A. I don't.  
 22 Q. Did you ever have an opportunity to  
 23 personally view that blacktop curb?  
 24 A. To the best of my knowledge, no.  
 25 Q. And do you see there's a property on the

1 sense. It says "southern" something "shelf" --  
 2 I'm not quite sure what that says, Southern East  
 3 Southeastern corner there appears to be part of a  
 4 bin approaching onto East Place, another portion  
 5 of a concrete wall and the fence with the gate.  
 6 BY MS. ZALANTIS:  
 7 Q. Okay. Thank you.  
 8 Do you see the property next to it  
 9 entitled "Now or formerly Joy Allen"?  
 10 A. I do.  
 11 Q. Does the survey depict any kind of  
 12 encroachment related to that property?  
 13 A. Yes.  
 14 Q. Do you see the property next to "Now or  
 15 formerly Joy Allen," and the property now next to  
 16 that "Now or formerly entitled PAB Landscaping"?  
 17 A. Yes.  
 18 Q. Are there encroachments depicted from  
 19 those two properties?  
 20 MR. MENDELSON: Objection as to  
 21 form. Are we only talking about East  
 22 Street, Kathy?  
 23 MS. ZALANTIS: I'm talking about  
 24 these two properties.  
 25 MR. MENDELSON: When you say

1 corner of East Street and East Place entitled  
 2 "Now or formerly Lemler (phonetic) Group LLC?"  
 3 A. Yes.  
 4 Q. Do you see fronting on that property that  
 5 appears to be some indication of curbing or  
 6 concrete line? Do you see that, black -- maybe  
 7 blacktop curb --  
 8 A. Here (indicating)?  
 9 Q. -- concrete lines --  
 10 MR. MENDELSON: Talking about East  
 11 Street?  
 12 MS. ZALANTIS: Yes, East Street.  
 13 A. So in the north, I'll call it the same  
 14 northern corner, there looks like a guide wire  
 15 which is typically what supports utility poles --  
 16 not fully supports them but reinforces them -- in  
 17 that corner. And to the south corner looks like  
 18 there's a fence that meanders along the property  
 19 line, and it looks like there's a small  
 20 encroachment on to East Street.  
 21 BY MS. ZALANTIS:  
 22 Q. See where it says "blacktop curb" here  
 23 and concrete, this area here (indicating). It's  
 24 hard to read that little print.  
 25 A. I see a utility pole out in the road. I

1 see a fence. I don't know what that says,  
 2 "Approximate location of water main" -- curb,  
 3 blacktop curb, out here (indicating). In front  
 4 of the PAB, I'm going to say to the east of the  
 5 PAB property in East Street and to the East of  
 6 the Biliago (phonetic) property on East Street.  
 7 Q. Thank you. Do you know who erected that  
 8 blacktop curb?  
 9 A. I do not.  
 10 Q. Do you know if the City has contacted any  
 11 other property owners along East Street regarding  
 12 an alleged encroachments on to East Street?  
 13 A. I don't know.  
 14 MR. MENDELSON: Objection as to  
 15 form.  
 16 (DEFENDANT'S EXHIBIT U, PHOTOGRAPH,  
 17 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 18 DATE.)  
 19 BY MS. ZALANTIS:  
 20 Q. Showing you what has been marked as  
 21 Defendant's M, which was a photograph produced by  
 22 the City and it had that handwriting on the  
 23 bottom, 8/17/12.  
 24 A. Yes.  
 25 Q. Okay. Are you familiar with what's being

1 depicted in this picture?  
 2 A. Could be East Street.  
 3 Q. If it was East Street, do you also see  
 4 this area where you indicated was the parcel  
 5 area?  
 6 MR. MENDELSON: Objection as to  
 7 form.  
 8 A. Part of this area (indicating) as to the  
 9 upper right-hand part of the page?  
 10 BY MS. ZALANTIS:  
 11 Q. Yes.  
 12 A. Yes.  
 13 Q. Have you ever personally observed cars  
 14 parked in the parcel area?  
 15 A. I don't know. Besides the pictures?  
 16 Q. Besides the pictures.  
 17 A. Personally?  
 18 Q. Personally.  
 19 A. I'm not sure.  
 20 Q. Have you ever personally observed, not  
 21 just cars but any vehicles parked in the parcel  
 22 area?  
 23 A. I'm not sure.  
 24 (DEFENDANT'S EXHIBIT V, DOCUMENT,  
 25 WAS MARKED FOR IDENTIFICATION, AS OF THIS

1 DATE.)  
 2 Q. Do you know what this document is?  
 3 A. It's a letter from D & B Engineers to Ed  
 4 Duffy (phonetic).  
 5 Q. And have you had, prior to today, have  
 6 you had an opportunity review this report?  
 7 A. I don't remember. May I look it over?  
 8 Q. Sure.  
 9 A. It looks like a -- looks like somebody  
 10 hired the D&B Engineers to take some samples of  
 11 some materials. (Reading document)  
 12 Q. If you can look at Attachment A to this  
 13 report.  
 14 A. Yes.  
 15 Q. And there's a ledger that indicates soil  
 16 --  
 17 A. Locations.  
 18 Q. -- sample locations.  
 19 A. Okay. So we took sample SS01 and SS02.  
 20 Q. And were the soil samples taken from the  
 21 approximate location of where you indicated the  
 22 parcel was?  
 23 MR. MENDELSON: Objection as to  
 24 form.  
 25 A. Close to it.

1 (DEFENDANT'S EXHIBIT W, PHOTOGRAPH,  
 2 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 3 DATE.)  
 4 BY MS. ZALANTIS:  
 5 Q. Showing you what has been depicted as  
 6 Defendant's W, what has been marked as  
 7 Defendant's W. If you can take a look at the  
 8 first picture, do you know what is depicted in  
 9 that picture?  
 10 A. It's a pavement marking.  
 11 Q. Do you know where this picture --  
 12 A. No.  
 13 Q. How about the second page depicting a  
 14 manhole?  
 15 A. It doesn't depict a manhole.  
 16 Q. Do you know where this picture was taken?  
 17 A. No.  
 18 Q. What vantage point, what street?  
 19 A. No.  
 20 Q. How about the second -- the third page,  
 21 depicts some kind of marking in the street, do  
 22 you know what that marking is?  
 23 A. The marking says "S," so I'm pretty sure  
 24 that marking is sanitary sewer.  
 25 Q. And do you know where this picture was

1 taken?  
 2 A. No.  
 3 Q. What street?  
 4 A. No.  
 5 Q. What vantage point?  
 6 A. No.  
 7 Q. How about the forth picture?  
 8 A. The forth picture looks like kind going  
 9 towards the back of East Street going towards  
 10 East Place.  
 11 Q. So what vantage point was the picture  
 12 taken? Where would you be standing if you were  
 13 taking the picture?  
 14 A. Kind of hard to say. (Indicating). I'm  
 15 not sure.  
 16 Q. And what gave you some indication that  
 17 this could be a picture of East Street or some  
 18 portion of East Street?  
 19 A. This looks like the parcel near the rear  
 20 door. It's hard to say. Not sure.  
 21 Q. Do you know whether there's a sewer line  
 22 on East Street?  
 23 A. There is a sewer there.  
 24 Q. And does it run the length of the street?  
 25 A. I'm not sure, but it is indicated on that

1 manholes are indicated with what, an M or S?  
 2 A. No. There's an S, circle with an S  
 3 inside and there are markings -- hold on --  
 4 18-inch tile sanitary sewer. There's a rim and  
 5 an invert elevation. The rim is 29.88 and the  
 6 invert is 25.58. And there's an 18-inch sewer  
 7 that runs back toward Fifth Avenue that gives rim  
 8 in invert elevations and then there's a forth  
 9 manhole out closer to Fifth Avenue. So there's  
 10 one, two, three, four manholes and the sewer  
 11 turns and goes down East Dorsey.  
 12 Q. And does the City maintain those sewer  
 13 lines?  
 14 A. I'm not sure. I would imagine that we --  
 15 I don't know. I don't know.  
 16 (DEFENDANT'S EXHIBIT X, PHOTOGRAPH,  
 17 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 18 DATE.)  
 19 Q. I show you what's been marked as Exhibit  
 20 X.  
 21 A. Okay.  
 22 Q. Which appears to be a picture of a  
 23 manhole but there's another picture of a manhole  
 24 on the next page, if you want to take a look at  
 25 that.

1 survey though.  
 2 Q. Are there any other utilities? I know  
 3 you mentioned electric before. Those are  
 4 overhead lines, correct?  
 5 A. I believe it said overhead wires on that  
 6 document.  
 7 Q. And how about that first picture, do you  
 8 know what that marking indicates?  
 9 A. Looks like it says "60-inch SM." Sewer  
 10 manhole, I'm assuming. I don't know what that  
 11 mark means underneath, and this says three  
 12 feet wide. Not sure.  
 13 Q. And did you take any of these pictures  
 14 that we just went through?  
 15 A. No. The sewer manholes indicated on this  
 16 survey right at this location right here  
 17 (indicating). There's another sewer manhole  
 18 indicated right here (indicating). There's  
 19 another sewer manhole indicated right here  
 20 (indicating).  
 21 Q. So I just want to reflect this in the  
 22 transcript.  
 23 A. There's a forth sewer manhole indicated  
 24 on back here (indicating).  
 25 Q. Okay. So you're explaining that the

1 A. Okay.  
 2 Q. From these pictures, can you tell where  
 3 that manhole is?  
 4 A. I believe that this manhole is the same  
 5 manhole in picture 1, in Exhibit C, located right  
 6 here (indicating) three cones, three cones. I  
 7 think that's the same manhole.  
 8 Q. Okay. Can you indicate back on Exhibit  
 9 B. Do we have another highlighter color?  
 10 A. But this is going the direction towards  
 11 Fifth Avenue and this is the direction going  
 12 towards East Place (indicating).  
 13 MS. ZALANTIS: Off the record.  
 14 (DISCUSSION HELD OFF THE RECORD.)  
 15 BY MS. ZALANTIS:  
 16 Q. Back on the record. Can you indicate on  
 17 the survey like with an arrow pointing to it  
 18 where the manhole is depicted that you were  
 19 testifying about?  
 20 A. In this picture?  
 21 Q. Yes. You indicated it was the same  
 22 manhole as depicted in Exhibit C, the first page,  
 23 correct?  
 24 A. Yes, so give me a second.  
 25 Q. Okay.

1 A. I'm pretty sure that this, Exhibit X  
 2 (indicating). And I'm just going to write on  
 3 here, okay?  
 4 Q. Yes.  
 5 A. So Exhibit X, page 2, facing that  
 6 direction (indicating). And then --  
 7 MR. MENDELSON: Paul, wait for her  
 8 to ask you a question.  
 9 BY MS. ZALANTIS:  
 10 Q. So you're going to mark it with the other  
 11 picture, right?  
 12 A. Yes.  
 13 Q. All right. Go ahead.  
 14 A. This is Exhibit C facing that direction  
 15 (indicating).  
 16 Q. Okay. And can you just indicate Exhibit  
 17 C, page 1, or you can look through the other  
 18 pages if you want?  
 19 A. It's on page 1 and on page 3 and -- page  
 20 1 and 3.  
 21 Q. And when you said "this direction," you  
 22 indicated this direction by the direction of your  
 23 arrow, correct?  
 24 A. Yes.  
 25 Q. If you could just turn to Exhibit X, the

1 second page with the manhole.  
 2 A. Yes.  
 3 Q. Do you see a picture of a house or on  
 4 that page, the second picture under the manhole?  
 5 A. Yes.  
 6 Q. Do you know what that is depicting?  
 7 A. That looks like the corner of East Place  
 8 and Ashland Street.  
 9 Q. Okay.  
 10 A. That's what the street sign says in that  
 11 picture.  
 12 Q. Thank you. This doesn't depict any  
 13 properties owned by my client; is that correct?  
 14 A. To the best of my knowledge, no.  
 15 (DEFENDANT'S EXHIBIT Y, PHOTOGRAPHS,  
 16 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 17 DATE.)  
 18 Q. I'm showing you what's been marked as  
 19 Defendant's Y. It has a series of pictures. Go  
 20 through them if you like.  
 21 Do you know what is being depicted in any  
 22 of those pictures?  
 23 A. Flavio's house, my client's house.  
 24 Q. How do you know that?  
 25 A. I've been to his house.

1 Q. In connection with what?  
 2 A. Some building permit he took at some  
 3 point in time.  
 4 Q. And do you know why these pictures taken?  
 5 A. No.  
 6 Q. And were they taken in connection, if you  
 7 know, with proposed projects at my client's  
 8 house?  
 9 A. I have no idea.  
 10 MR. MENDELSON: Off the record.  
 11 (Lunch recess: 1:26 p.m. to  
 12 2:04 p.m.)  
 13 BY MS. ZALANTIS:  
 14 Q. You previously talked about how you had  
 15 an opportunity to look at East Street or drew  
 16 East Street; is that correct?  
 17 A. Yes.  
 18 MR. MENDELSON: Objection as to  
 19 form.  
 20 BY MS. ZALANTIS:  
 21 Q. Can you describe the condition of the  
 22 road surface of East Street?  
 23 MR. MENDELSON: Objection as to  
 24 form. When are we talking about?  
 25 BY MS. ZALANTIS:

1 Q. When have you viewed East Street?  
 2 A. I haven't been there recently.  
 3 Q. How about when you were there in 2015,  
 4 what was the condition of the road surface?  
 5 A. I would say it was in fair condition.  
 6 Not great condition, fair condition.  
 7 Q. And you had an opportunity after that  
 8 time you were there in 2015 to view East Street?  
 9 A. You mean have I returned?  
 10 Q. Yes.  
 11 A. No.  
 12 Q. How about prior to 2015, have you had an  
 13 opportunity before that meeting in May of 2015 to  
 14 view East Street?  
 15 A. I know I was there in the past. It's  
 16 just hard to say when.  
 17 (DEFENDANT'S EXHIBIT Z, LETTER, WAS  
 18 MARKED FOR IDENTIFICATION, AS OF THIS  
 19 DATE.)  
 20 Q. I'm showing you a March 17, 2003 letter  
 21 to my client Flavio La Rocca from Charles B.  
 22 Strum, the city manager, and it refers to an area  
 23 currently used by Persico Construction as a  
 24 staging area. You can read the letter to  
 25 yourself.

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1 A. I just did.  
 2 Q. All right. Are you familiar with the  
 3 location of the area that was used by Persico  
 4 Construction as a staging area?  
 5 A. No.  
 6 Q. Is Mr. Strum still the City manager?  
 7 A. Yes.  
 8 MS. ZALANTIS: Double A.  
 9 (DEFENDANT'S EXHIBIT AA, UNSIGNED  
 10 LETTER, WAS MARKED FOR IDENTIFICATION, AS  
 11 OF THIS DATE.)  
 12 Q. Showing you an unsigned letter to my  
 13 client dated November 25, 2015, referring to the  
 14 City offering free parking at the Flowers Park  
 15 parking lot. Do you know what area this is  
 16 referring to at the Flowers Park parking lot?  
 17 A. That's the City Park's parking lot.  
 18 Q. Is that a paved surface?  
 19 A. Yes.  
 20 (DEFENDANT'S EXHIBIT BB, LETTERS,  
 21 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 22 DATE.)  
 23 Q. Showing you what has been marked as  
 24 Defendant's BB, and there's two letters. One IS  
 25 from June 11, 2003, and one November 17, 2003

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1 MS. ZALANTIS: I would request any  
 2 information regarding violations issued  
 3 in connection with this complaint or any  
 4 investigations done.  
 5 MR. MENDELSON: You can certainly  
 6 put it in writing.  
 7 MS. ZALANTIS: I will.  
 8 (COUNSEL REQUESTS INFORMATION TO BE  
 9 SUPPLIED.)  
 10 (DEFENDANT'S EXHIBIT DD,  
 11 12/23/02 SEARCH, WAS MARKED FOR  
 12 IDENTIFICATION, AS OF THIS DATE.)  
 13 BY MS. ZALANTIS:  
 14 Q. Showing you what has been marked as  
 15 Exhibit DD which was a search performed on or  
 16 about 12/23/02 that revealed no pending  
 17 violations in either the Department of Buildings,  
 18 Department of Fire Prevention, and Department of  
 19 Buildings.  
 20 A. Okay.  
 21 Q. Are you familiar with how property owners  
 22 inquire whether there's any pending violations  
 23 issued by the City for property they're intending  
 24 on purchasing?  
 25 A. Yes.

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1 from Flavio and Maria La Rocca to the City of  
 2 New Rochelle, Mr. Williams.  
 3 A. Okay.  
 4 Q. Do you have any knowledge of the City  
 5 using or removing jersey barriers from my  
 6 client's property?  
 7 A. No.  
 8 (DEFENDANT'S EXHIBIT CC, COMPLAINT,  
 9 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 10 DATE.)  
 11 Q. Showing you what's been marked as  
 12 Defendant's CC. Do you recognize this document?  
 13 A. This is a complaint form.  
 14 Q. And the date of complaint was 5/8/2002?  
 15 A. Correct.  
 16 Q. What's the distinction between a  
 17 complaint and a violation?  
 18 A. A complaint can be received by any  
 19 department for anything and then the violation is  
 20 issued if there's a violation after an  
 21 investigation occurs.  
 22 Q. Okay. And do you know, with respect to  
 23 this complaint, whether a violation was issued by  
 24 the Building Department?  
 25 A. I am not sure.

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1 Q. Can you explain that process?  
 2 A. They ask for a search of records. The  
 3 title company typically asks for a search of  
 4 records. They pay a title company to come in.  
 5 One of the clerks performs the search of records  
 6 and then generates the information and then sends  
 7 it back to them.  
 8 Q. So if you turn back Exhibit M.  
 9 A. Okay.  
 10 Q. So previously you testified how the  
 11 survey depicted encroachments onto East Avenue;  
 12 is that correct?  
 13 A. I did.  
 14 Q. And the survey was done in 2000, correct?  
 15 A. Yes.  
 16 Q. But as of 12/23/02, according to Exhibit  
 17 DD, there had been no violation issued for that  
 18 alleged encroachment on East Street; is that  
 19 correct?  
 20 MR. MENDELSON: Objection as to  
 21 form.  
 22 A. I believe that is correct.  
 23 BY MS. ZALANTIS:  
 24 Q. Do you know whether the City changed any  
 25 position with respect to East Street and alleged

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1 encroachments on East Street from 2000 until  
2 today?  
3 MR. MENDELSON: Objection as to  
4 form.  
5 A. No.  
6 BY MS. ZALANTIS:  
7 Q. At some point did the City believe that  
8 East Street was a private street?  
9 MR. MENDELSON: Objection as to  
10 form.  
11 A. I'm not sure.  
12 (DEFENDANT'S EXHIBIT EE, TWO-PAGE  
13 DOCUMENT, WAS MARKED FOR IDENTIFICATION,  
14 AS OF THIS DATE.)  
15 BY MS. ZALANTIS:  
16 Q. I'm showing you a two-page document seems  
17 to be another copy of that November 2000 survey  
18 with markings indicated and there's a stamp on  
19 the second page. Do you know what this refers  
20 to?  
21 A. The only indication on this plan says  
22 "Proposed rock ledge cut out." Looks like "MP"  
23 miscellaneous permit 20030029 from 5/19/03.  
24 Q. Would a building permit have been issued  
25 with respect to this?

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1 in the City of New Rochelle?  
2 A. It's more of an electronic card now, but  
3 yes.  
4 Q. So I just want to clarify that it's more  
5 of an electronic system than an actual card for  
6 the City of New Rochelle?  
7 A. Yes.  
8 Q. You see the reference for "Non-conforming  
9 preexisting contractor's yard"?  
10 A. Yes.  
11 Q. Do you know who would have made or  
12 written that?  
13 A. I do not know who put that on the card.  
14 I do not know who put that on the card.  
15 Q. Would it have been somebody from the  
16 Building Department that filled out these cards?  
17 MR. MENDELSON: Objection as to  
18 form.  
19 A. Yes.  
20 BY MS. ZALANTIS:  
21 Q. Property owners are not allowed to fill  
22 out these cards, right?  
23 A. No, ma'am.  
24 Q. If you could pull out a copy of the  
25 survey for me, please, T.

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1 A. This stamp indicates that there was a  
2 permit.  
3 Q. What is MP versus?  
4 A. Miscellaneous.  
5 Q. Okay. So I request documentation  
6 regarding the issuance of the building permit and  
7 any CFCs or CFOs in connection with this plan  
8 issued under permit MP2003-0029, and I'll make  
9 that request in writing.  
10 (COUNSEL REQUESTS INFORMATION TO BE  
11 SUPPLIED.)  
12 (DEFENDANT'S EXHIBIT FF, BUILDING  
13 CARD, WAS MARKED FOR IDENTIFICATION, AS  
14 OF THIS DATE.)  
15 Q. Showing you what's been marked as  
16 Defendant's FF. Do you recognize this document?  
17 A. Yes.  
18 Q. What is it?  
19 A. It's a building card for the property.  
20 Q. And is this building card something that  
21 the Building Department maintains in the regular  
22 course of its business?  
23 A. Yes.  
24 Q. And does the Building Department  
25 currently maintain building cards for properties

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1 A. T?  
2 Q. Yes. Do you see in the area -- you may  
3 want to pull out B also, the survey that you  
4 marked up. In the area where you indicated where  
5 the parcel was, the oval-shaped area, there's  
6 something indicating concrete wall or --  
7 A. Yes. Yes, there's a little area. Yes, I  
8 see the concrete wall on the parcel in the  
9 polygon right there (indicating) just east of the  
10 manhole.  
11 Q. Okay. Can you pull out, if you can, that  
12 aerial shot?  
13 MR. MENDELSON: Talking about this  
14 one?  
15 MS. ZALANTIS: Yes.  
16 MR. MENDELSON: R.  
17 BY MS. ZALANTIS:  
18 Q. In that aerial shot, do you see what  
19 appears to be some kind of concrete path or --  
20 A. I see -- okay. This path (indicating)?  
21 Q. Yes. Is that a path?  
22 A. Yes. And this is the path here  
23 (indicating) on the survey.  
24 Q. Okay. Can you indicate that in yellow  
25 highlighting on Exhibit B?

1 A. (Witness complied.)  
 2 Q. At some point after 2015, did the City  
 3 install a fence in or around the parcel area?  
 4 A. I don't know.  
 5 (DEFENDANT'S Exhibit GG,  
 6 PHOTOGRAPHS, WAS MARKED FOR  
 7 IDENTIFICATION, AS OF THIS DATE.)  
 8 Q. Showing you what has been marked  
 9 Defendant's GG and I'll represent those are  
 10 pictures, and I apologize for the rain, that were  
 11 taken the date of the site visit that I had with  
 12 your attorneys at the property. And if turn to  
 13 the -- just to orient yourself, if you turn to  
 14 the third page, you could see a portion of the  
 15 Skatepark?  
 16 A. Yes.  
 17 Q. And do you see the area then where the  
 18 fence has been installed?  
 19 A. Yes.  
 20 Q. Is that the parcel area that has been  
 21 fenced off?  
 22 A. That's part of the parcel area, yes.  
 23 MR. MENDELSON: Objection as to  
 24 form.  
 25 BY MS. ZALANTIS:

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1 So I'm trying to ascertain --  
 2 MR. MENDELSON: Objection as to  
 3 form. Is there a question?  
 4 MS. ZALANTIS: Yes. I'm trying to  
 5 ascertain what is depicted in the second  
 6 picture of the exhibit to the area where  
 7 the work was done, and I'm acknowledging  
 8 that he did not view the actual work that  
 9 was done but he viewed it later in the  
 10 Day.  
 11 BY MS. ZALANTIS:  
 12 Q. Is that the same area where you indicated  
 13 that there had been a surface placed down? Is  
 14 that the same area as depicted in the fenced-off  
 15 area as in Exhibit GG?  
 16 MR. MENDELSON: Objection as to  
 17 form.  
 18 A. I don't know if the edges are exactly the  
 19 same around the perimeter but it seems to be the  
 20 same general area.  
 21 BY MS. ZALANTIS:  
 22 Q. Okay. If you could just take a look, for  
 23 example --  
 24 A. Yes.  
 25 MR. MENDELSON: Wait for a

1 Q. Okay. What part of the parcel area is  
 2 not depicted?  
 3 MR. MENDELSON: Objection as to  
 4 form.  
 5 A. This whole thing is one parcel  
 6 (indicating).  
 7 BY MS. ZALANTIS:  
 8 Q. Okay.  
 9 A. The south side isn't depicted in Picture  
 10 1. Part of Picture 3 has the south. And I'm not  
 11 sure if he went all the way to the end of parcel  
 12 1 to the north with any of these photos.  
 13 Q. So if you can pull out the pictures from  
 14 the Complaint and the pictures that -- the  
 15 colored version marked as A1.  
 16 A. Okay. Go ahead.  
 17 Q. If you could just open to Exhibit 1.  
 18 A. Okay.  
 19 Q. Okay. So, for example, if you could turn  
 20 to the second page of Exhibit 1. You indicated  
 21 that you viewed this area on May 16th, on a  
 22 Saturday, whenever that weekend Saturday's date  
 23 was, and what is being depicted in the fenced-off  
 24 area, the same area? I know you didn't view the  
 25 work actually being done but you viewed it after.

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1 question.  
 2 BY MS. ZALANTIS:  
 3 Q. The second and third pages -- here  
 4 (indicating).  
 5 A. Sure.  
 6 Q. The last page of exhibit -- just call out  
 7 the exhibit.  
 8 A. Yes, it's Exhibit C.  
 9 Q. The last page of Exhibit C, is that the  
 10 same general area as what's depicted as being  
 11 fenced off in Exhibit GG?  
 12 A. It's the same general area but the  
 13 fencing does not encompass the entire prepared  
 14 area.  
 15 Q. Can you explain that?  
 16 A. The prepared area exceeds the limits of  
 17 the fence by a bit.  
 18 Q. What do you mean by "prepared area"?  
 19 A. This prepped area here (indicating) with  
 20 the subbase exceeds the limits of the fence line  
 21 by quite a bit.  
 22 MR. MENDELSON: For the record, he  
 23 has pointed to the right-hand side of  
 24 Exhibit C picture, the last picture of  
 25 Exhibit C, and he's pointing to the

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1 bottom right side of that picture.  
 2 BY MS. ZALANTIS:  
 3 Q. I'm just trying to understand. Are you  
 4 saying that the road surface is outside of the  
 5 limits of what's enclosed by the fence in  
 6 Exhibit GG?  
 7 MR. MENDELSON: Objection as to  
 8 form.  
 9 A. I think that the prepped area here  
 10 (indicating) is partially within the road  
 11 surface.  
 12 BY MS. ZALANTIS:  
 13 Q. By the prepped surface here {indicating},  
 14 you're referring to what is being depicted in the  
 15 last page of Exhibit GG?  
 16 A. Yes.  
 17 MR. MENDELSON: He's pointing to  
 18 the lower right-hand side of that last  
 19 picture.  
 20 BY MS. ZALANTIS:  
 21 Q. And do you see in Exhibit GG the first  
 22 page, the path, or a path?  
 23 A. Yes. It's not really clear but it looks  
 24 like it's towards the back side of the picture.  
 25 Q. And is that, to your knowledge, the same

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1 Q. To your knowledge is that what you  
 2 indicated on Survey B in yellow highlighting?  
 3 A. I believe it is.  
 4 (DEFENDANT'S EXHIBIT HH, ZONING MAP,  
 5 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 6 DATE.)  
 7 Q. I'm showing you what has been marked as  
 8 Exhibit HH, which is the zoning map of the City  
 9 of New Rochelle, and I blew up a section of it so  
 10 that we can actually see it. And if you can turn  
 11 to the second page of the blown-up section. Do  
 12 both East Place and East Street appear on the  
 13 zoning map?  
 14 A. Yes.  
 15 MR. MENDELSON: Objection as to  
 16 form.  
 17 (DEFENDANT'S EXHIBIT II, TAX MAP,  
 18 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 19 DATE.)  
 20 BY MS. ZALANTIS:  
 21 Q. You've been handed what has been marked  
 22 Exhibit II. Do you know what is this map is pro.  
 23 A. Looks like a tax map.  
 24 Q. Portion of a tax map?  
 25 A. Yes.

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1 path that you indicated in yellow highlighting on  
 2 Exhibit B?  
 3 A. It looks like the end of the path is  
 4 parallel -- just the beginning of the path in  
 5 this GG?  
 6 Q. Okay. And do you see in GG that that  
 7 there's various trees depicted, of course, in  
 8 winter-type state behind the path you can see the  
 9 first -- on the first page?  
 10 MS. ZALANTIS: Objection as to form.  
 11 A. Yes.  
 12 BY MS. ZALANTIS:  
 13 Q. Is it your contention or the City's  
 14 contention that there were trees previously  
 15 existing in the area now fenced in with the fence  
 16 depicted in GG?  
 17 MR. MENDELSON: Objection as to  
 18 form.  
 19 A. I don't know.  
 20 BY MS. ZALANTIS:  
 21 Q. Can you pull up that aerial picture  
 22 again, the Google images one, I think it was.  
 23 And do you see the path depicted in that  
 24 Google images?  
 25 A. Right here, I see the path (indicating).

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1 Q. All right.  
 2 (DEFENDANT'S EXHIBIT JJ, GIS SYSTEM  
 3 MAPPING OF WESTCHESTER COUNTY, WAS MARKED  
 4 FOR IDENTIFICATION, AS OF THIS DATE.)  
 5 Q. Showing you what has been copied from I  
 6 believe the GIS System Mapping of Westchester  
 7 County are you familiar with that system?  
 8 MR. MENDELSON: Objection as to  
 9 form.  
 10 A. I use part of their GIS so I'm familiar  
 11 with this -- not this particular map, but part of  
 12 it.  
 13 (DEFENDANT'S EXHIBIT KK, MAP, WAS  
 14 MARKED FOR IDENTIFICATION, AS OF THIS  
 15 DATE.)  
 16 BY MS. ZALANTIS:  
 17 Q. Showing what has been marked as Exhibit  
 18 KK. Do you know what this map is from?  
 19 MR. MENDELSON: Objection as to  
 20 form.  
 21 A. I don't.  
 22 MS. ZALANTIS: I request information  
 23 regarding any legend or explanation of  
 24 what the basis of this plan and map is  
 25 and I will put that request in writing.

1 (COUNSEL REQUESTS INFORMATION TO BE  
 2 SUPPLIED.)  
 3 (DEFENDANT'S EXHIBIT LL, DEED;  
 4 (DEFENDANT'S EXHIBIT MM, SUBDIVISION  
 5 MAP, WAS MARKED FOR IDENTIFICATION, AS OF  
 6 THIS DATE.)  
 7 BY MS. ZALANTIS:  
 8 Q. So LL is a deed from 1914?  
 9 MR. MENDELSON: Objection as to  
 10 form.  
 11 BY MS. ZALANTIS:  
 12 Q. And MM is a subdivision map. And then  
 13 just so we can see the pages clearly, I blew up  
 14 the date of the subdivision map of the first  
 15 page.  
 16 MR. MENDELSON: Objection as to  
 17 form.  
 18 BY MS. ZALANTIS:  
 19 Q. So if you could turn to MM first, the  
 20 second page, do you know what a fuel subdivision  
 21 map is?  
 22 A. Yes.  
 23 Q. Okay. What is it?  
 24 A. It the map that's prepared for, prepared  
 25 and submitted to the City typically today we do

1 that before the planning board process.  
 2 Q. If you could, just because it may be  
 3 easier for you to read, on the first page just  
 4 because it's below that, there's markings with a  
 5 number. Does that indicate the subdivision flat  
 6 was filed?  
 7 A. Yes. It's low but.  
 8 MR. MENDELSON: Objection as to  
 9 form.  
 10 A. This is a copy of the original map filed  
 11 in the Office of the Registrar of Westchester  
 12 county.  
 13 BY MS. ZALANTIS:  
 14 Q. Okay. Today we file it differently.  
 15 A. Yeah, with the county clerk.  
 16 Q. Right. So do you see that there's  
 17 various streets on the subdivision map that are  
 18 indicated? You may have to turn to the second  
 19 page.  
 20 A. Yes.  
 21 Q. Starting from, if you hold it this way  
 22 (indicating) --  
 23 A. (Indicating.)  
 24 Q. Correct. And reading down, do you see  
 25 Weeks Place (phonetic)?

1 A. Yes.  
 2 Q. Pinebrook Road?  
 3 A. Yes.  
 4 Q. Crestview Street?  
 5 A. Yes.  
 6 Q. Ashland Street?  
 7 A. Yes.  
 8 Q. And then the other direction there's  
 9 Chatworth Place?  
 10 A. Yes.  
 11 Q. East Place?  
 12 A. Yes.  
 13 Q. And at the very bottom it's East Street?  
 14 A. I see that.  
 15 Q. Okay. If you could turn to the deed that  
 16 I provided to you marked as Exhibit LL. Look at  
 17 the language referenced or highlighted in orange,  
 18 and if you could compare it to the streets that  
 19 we just read and reviewed on the subdivision map.  
 20 Are there any streets referenced in orange that  
 21 are not on the filed subdivision map?  
 22 MR. MENDELSON: Objection as to  
 23 form.  
 24 A. The only read I see on this map that's  
 25 not on this map is Fifth Avenue which is just on

1 the peripheral of the subdivisions.  
 2 BY MS. ZALANTIS:  
 3 Q. Okay. And other than that, all the other  
 4 streets on the subdivision plat are referenced in  
 5 the orange language; is that correct?  
 6 MR. MENDELSON: Object as to form .  
 7 A. Yes.  
 8 BY MS. ZALANTIS:  
 9 Q. Okay. Now can you look at the language  
 10 in yellow, highlighted in yellow?  
 11 A. Yes.  
 12 Q. And just read it to yourself. Let me  
 13 know when you're ready.  
 14 A. Yes.  
 15 Q. Have you ever seen language like that or  
 16 similar to that language in any deeds that you  
 17 ever reviewed?  
 18 MR. MENDELSON: Objection as to  
 19 form.  
 20 A. I don't recall.  
 21 BY MS. ZALANTIS:  
 22 Q. What do you understand that language to  
 23 mean?  
 24 A. It says.  
 25 MR. MENDELSON: Objection as to

1 form.

2 A. To the end, and "Said streets and avenues

3 may -- may be forever public streets or highways

4 and may be enjoyed as such," that the person that

5 entered into this subdivision chose to sub divide

6 all these parcels, gave all these streets names,

7 and gave the rights of these streets to the City.

8 Q. Okay.

9 (DEFENDANT'S EXHIBIT NN, MINUTES,

10 WAS MARKED FOR IDENTIFICATION, AS OF THIS

11 DATE.)

12 BY MS. ZALANTIS:

13 Q. Showing you what's been marked as Exhibit

14 NN. Prior to today, have you ever had an

15 opportunity to review these minutes?

16 A. No.

17 Q. If you could look at what's marked as

18 page 179, and I highlighted it for you in yellow

19 certain language.

20 A. I see that.

21 Q. And it notes in the minutes of the clerk,

22 read the following communication from assistant

23 Corp Counsel which was on motion order received

24 and filed and then the following language appears

25 in yellow that seems to suggest that the deed was

1 Q. There's certain streets referenced.

2 A. Okay.

3 Q. And if you compare it to the deed, if you

4 could tell us which streets are not referenced as

5 compared to the orange language in the deed?

6 MR. MENDELSON: Objection as to

7 form.

8 A. East Place and East Street are not in

9 this resolution.

10 BY MS. ZALANTIS:

11 Q. So it appears that despite the attorney's

12 recommendation, the City decided not to accept

13 East Street as a public street; is that correct?

14 MR. MENDELSON: Objection as to

15 form.

16 A. It doesn't say that they accepted it

17 here.

18 BY MS. ZALANTIS:

19 Q. Right. And this resolution, if you could

20 look at the date of the deed and compare. Did

21 this resolution happen after the date of the

22 deed?

23 MR. MENDELSON: Objection as to

24 form.

25 BY MS. ZALANTIS:

1 conveying as public streets certain private

2 streets.

3 MR. MENDELSON: Objection as to

4 form.

5 BY MS. ZALANTIS:

6 Q. Is that correct?

7 A. "The City conveying as public streets

8 certain private" -- yes.

9 Q. Okay. And the attorney notes that, "East

10 Street is only 30 feet wide." But he writes,

11 "The street board is on City park and in view of

12 this, it might be well for the City to accept it

13 as it is." Do you see that language?

14 A. I do.

15 Q. Now if you can turn to pages 186 and 187,

16 and I highlighted it because there was a ton of

17 resolutions in these minutes, the relevant

18 section. If you could read it. It starts at the

19 bottom 186 then goes to the bottom of 187,

20 correct?

21 A. Yes.

22 Q. If you could just read it to yourself?

23 A. Okay.

24 Q. If you look at first via resolve clause?

25 A. Yes.

1 Q. Its on the first page.

2 MR. MENDELSON: Objection as to

3 form.

4 A. The 30th day of April, 1914.

5 BY MS. ZALANTIS:

6 Q. And the date of the resolution?

7 A. May 19, 1914.

8 Q. Sorry, where are you seeing that?

9 A. As commander -- dated May 19th of --

10 Q. That was the date of communication.

11 A. 1914, sorry. Sorry. Approved June 3rd,

12 1914.

13 Q. Okay. Just note that the date of the

14 minutes are June 2nd, 1914, correct? Look at the

15 first page.

16 A. Correct, June 2nd, 1914.

17 Q. So if you could put the subdivision map

18 in front of you again from 1907. So go back to

19 the subdivision map. From 1907 until June 2,

20 1914, all street were private streets; is that

21 correct?

22 MR. MENDELSON: Just for the

23 record, you're the one calling it a

24 subdivision map.

25 MS. ZALANTIS: He identified it as a

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1 subdivision map.  
 2 MR. MENDELSON: The record will  
 3 speak for itself. Objection as to form.  
 4 A. Okay. What was the question?  
 5 BY MS. ZALANTIS:  
 6 Q. So let's start over. Is this a file  
 7 subdivision map, what is --  
 8 A. I thought we went over this.  
 9 Q. -- Exhibit MM?  
 10 A. Okay. It says file map number 1728 Fifth  
 11 Avenue Heights.  
 12 Q. So does this appear to be a file  
 13 subdivision map?  
 14 A. It does -- it appears to be a file  
 15 subdivision map.  
 16 Q. So from 1907 to June 2nd, 1914, all the  
 17 streets depicted on this map were private  
 18 streets; is that correct?  
 19 MR. MENDELSON: Objection as to  
 20 form.  
 21 A. I'm not sure. It says here that they  
 22 wanted to, maybe forever, public streets or  
 23 highways that maybe used, and enjoys as such, but  
 24 I don't know what happened between 1907 and 1914.  
 25 BY MS. ZALANTIS:

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1 form.  
 2 A. I don't know if it was a private street  
 3 or if it was under construction, so it could have  
 4 been one or the other.  
 5 BY MS. ZALANTIS:  
 6 Q. Assuming that it was constructed in 1907,  
 7 was it a private street, Weeks Street, until it  
 8 was accepted by the City on June 2nd, 1914?  
 9 MR. MENDELSON: Objection as to  
 10 form.  
 11 A. Yes.  
 12 BY MS. ZALANTIS:  
 13 Q. Have you ever had an opportunity as  
 14 building commissioner or in any other capacities  
 15 when working for the City to be involved when  
 16 developers dedicate streets formed as part  
 17 subdivisions as public streets to the  
 18 municipality?  
 19 MR. MENDELSON: Objection as to  
 20 form.  
 21 A. No, no.  
 22 BY MS. ZALANTIS:  
 23 Q. Are you familiar with the rights of  
 24 property owners in streets laid out as part of  
 25 the subdivision plan?

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1 Q. At some point, and we went over it, in  
 2 1914, certain streets were accepted as public  
 3 streets, correct?  
 4 MR. MENDELSON: Objection.  
 5 A. That's what it states in these minutes.  
 6 BY MS. ZALANTIS:  
 7 Q. Correct. And you're referring to the  
 8 minutes marked as Exhibit MM?  
 9 A. From 1914.  
 10 Q. But East Street was not accepted as a  
 11 public street?  
 12 A. It doesn't appear that it was as per that  
 13 resolution, those minutes.  
 14 Q. Let me not ask you about East Street.  
 15 Let me ask you about a different street, Weeks  
 16 Place.  
 17 A. Okay.  
 18 Q. So Weeks Place appears as one of the  
 19 streets listed in the resolution from June 2,  
 20 1914; is that correct?  
 21 A. Yes.  
 22 Q. So from 1907 until Weeks Place was  
 23 accepted by the City as a public street, was  
 24 Weeks Street a private street?  
 25 MR. MENDELSON: Objection as to

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1 MR. MENDELSON: Objection as to  
 2 form. Are you asking for his legal  
 3 opinion or his --  
 4 MS. ZALANTIS: His understanding.  
 5 A. No.  
 6 BY MS. ZALANTIS:  
 7 Q. So again Weeks Street, for example, was  
 8 accepted by the City as a public street but not  
 9 East Street or East Place; is that correct?  
 10 A. That's what the document reflects.  
 11 Q. So what is East Street, a street?  
 12 MR. MENDELSON: Objection as to  
 13 form. Again, are you asking for his  
 14 legal opinion?  
 15 MS. ZALANTIS: His understanding  
 16 based on his work in the City?  
 17 MR. MENDELSON: Objection as to  
 18 form.  
 19 A. I'm not sure.  
 20 BY MS. ZALANTIS:  
 21 Q. Is there anything from barring the public  
 22 from driving over East Street?  
 23 MR. MENDELSON: Objection as to  
 24 form.  
 25 A. Not that I'm aware of.

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1 BY MS. ZALANTIS:  
 2 Q. Is it the City's position that it evens  
 3 East Street?  
 4 MR. MENDELSON: Objection as to  
 5 form.  
 6 A. I believe it is a public right-of-way.  
 7 BY MS. ZALANTIS:  
 8 Q. Is there a list of public right-of-ways  
 9 in the City of New Rochelle?  
 10 A. I'm not sure.  
 11 Q. Are there lists of public right-of-ways  
 12 owned by the City of New Rochelle?  
 13 MR. MENDELSON: Objection. Asked  
 14 and answered.  
 15 A. I don't know.  
 16 MS. ZALANTIS: No. I think I asked  
 17 first for a list of public rights of way  
 18 and then second asked for a list of  
 19 public rights of way owned by the City of  
 20 New Rochelle.  
 21 MR. MENDELSON: I think you asked  
 22 for the list of public streets earlier.  
 23 MS. ZALANTIS: That was a different  
 24 than public right-of-way.  
 25 BY MS. ZALANTIS:

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1 Q. See where it says map number 1728?  
 2 A. Yes.  
 3 Q. Is that the same map number referenced in  
 4 Exhibit MM?  
 5 A. Yes.  
 6 Q. P, if you can take a look at it, it's a  
 7 deed from the La Roccas to FMLR Management LLC,  
 8 dated January 30, 2008. And if I could again --  
 9 there is no Schedule A, but if you can look at  
 10 the section of the deed, the first paragraph  
 11 under the section "All that certain parts deeds  
 12 with the building and improvements thereon  
 13 erected lying being in the" -- and you can look  
 14 at the forth line down that refers to map number.  
 15 MR. MENDELSON: Objection as to  
 16 form.  
 17 A. File map, June 7 -- yes.  
 18 BY MS. ZALANTIS:  
 19 Q. Is that the same map number that's  
 20 referenced in Exhibit MM?  
 21 A. Yes.  
 22 (SKIPPED EXHIBIT PP)  
 23 (DEFENDANT'S EXHIBIT QQ, DOCUMENT,  
 24 WAS MARKED FOR IDENTIFICATION, AS OF THIS  
 25 DATE.)

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1 Q. Do you know if there was any discussion  
 2 about incorporating East Street into the City's  
 3 parking area?  
 4 MR. MENDELSON: Objection as to  
 5 form.  
 6 A. No.  
 7 (DEFENDANT'S EXHIBIT OO, DEED, WAS  
 8 MARKED FOR IDENTIFICATION, AS OF THIS  
 9 DATE.  
 10 Q. So Exhibit OO is the deed from the  
 11 Demaces (phonetic) to the La Roccas dated  
 12 September 18, 2002. And if you can just look,  
 13 turn to Schedule A, you can ask for any legal  
 14 interpretations but, if you know, the first  
 15 paragraph, fifth line down, there's a reference  
 16 to a map.  
 17 A. Okay.  
 18 MR. MENDELSON: Where are we?  
 19 MS. ZALANTIS: Fifth line down,  
 20 first paragraph of Schedule A.  
 21 BY MS. ZALANTIS:  
 22 Q. Do you see that?  
 23 A. I do.  
 24 MR. MENDELSON: Okay.  
 25 BY MS. ZALANTIS:

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1 Q. Showing you a document marked as Exhibit  
 2 QQ. Do you know what this document is?  
 3 A. No. Looks like -- no -- an invoice. I'm  
 4 not sure.  
 5 Q. Okay, that's fine.  
 6 (DEFENDANT'S EXHIBIT RR, LIST OF  
 7 STREETS, WAS MARKED FOR IDENTIFICATION,  
 8 AS OF THIS DATE.)  
 9 Q. Showing you a list of what appears to be  
 10 streets.  
 11 MR. MENDELSON: Objection.  
 12 BY MS. ZALANTIS:  
 13 Q. Do you know what this list is from?  
 14 MR. MENDELSON: Objection as to  
 15 form.  
 16 A. No.  
 17 BY MS. ZALANTIS:  
 18 Q. Okay. So just to the final series of  
 19 question, we heard a lot today about Flavio but I  
 20 note that Maria La Rocca is named in this  
 21 litigation. Can you explain what allegations  
 22 relate to Maria La Rocca?  
 23 MR. MENDELSON: Objection as to  
 24 form. It's calling for a legal opinion.  
 25 BY MS. ZALANTIS:

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1 Q. Was there any allegations that  
 2 Maria La Rocca was involved in any way of  
 3 resurfacing an area of City owned property?  
 4 MR. MENDELSON: Objection as to  
 5 form.  
 6 A. I don't know. If she's listed as the  
 7 owner of the property, then the answer is yes.  
 8 BY MS. ZALANTIS:  
 9 Q. Well, we saw the last deed base was not  
 10 in the name of either of the two.  
 11 A. No. It's in the name of a holding  
 12 corporation that they probably own that she has  
 13 shares of. So ...  
 14 Q. Okay. So that's the basis, in other  
 15 words?  
 16 MR. MENDELSON: Objection as to  
 17 form.  
 18 A. I don't have a basis. I don't a basis.  
 19 MS. ZALANTIS: I have nothing  
 20 further.  
 21 (Proceedings concluded: 3:03 p.m.)  
 22  
 23  
 24  
 25

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1 CERTIFICATION  
 2  
 3 STATE OF NEW YORK )  
 4 ss.  
 5 COUNTY OF WESTCHESTER )  
 6  
 7  
 8 I, Robyn Harrell, Notary Public within  
 9 and for the State of New York, do hereby certify:  
 10 That I reported the proceedings in the  
 11 within entitled matter, and that the within  
 12 transcript is a true record of said proceedings.  
 13 I further certify that I am not related  
 14 to any of the parties to this action by blood or  
 15 marriage, and that I am in no way interested in  
 16 the outcome of this matter.  
 17 IN WITNESS WHEREOF, I have hereunto set  
 18 my hand this 5th day of March, 2020.  
 19  
 20  
 21  
 22 \_\_\_\_\_  
 23 ROBYN HARRELL, RPR  
 24  
 25

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1 STATE OF NEW YORK )  
 2 ss:  
 3 COUNTY OF WESTCHESTER )  
 4  
 5  
 6 I, PAUL VACCA, the Witness herein,  
 7 having read the foregoing testimony of the  
 8 pages of this deposition, do hereby certify  
 9 it to be a true and correct transcript,  
 10 subject to the corrections, if any, shown on  
 11 the attached page.  
 12  
 13  
 14 \_\_\_\_\_  
 15 PAUL VACCA  
 16  
 17  
 18 Subscribed and sworn to before me  
 19 this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
 20  
 21 \_\_\_\_\_  
 22 NOTARY PUBLIC  
 23  
 24  
 25

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 21 (S skipped over)  
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 23 U PHOTOGRAPH 70  
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 25 W PHOTOGRAPH 72

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1 STATE OF NEW YORK )

2 SS:

3 COUNTY OF WESTCHESTER )

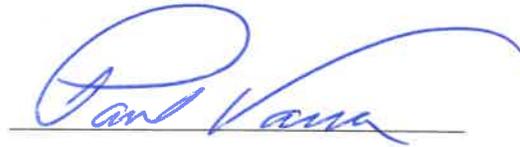
4

5

6 I, PAUL VACCA, the Witness herein,  
7 having read the foregoing testimony of the  
8 pages of this deposition, do hereby certify  
9 it to be a true and correct transcript,  
10 subject to the corrections, if any, shown on  
11 the attached page.

12

13



14

PAUL VACCA

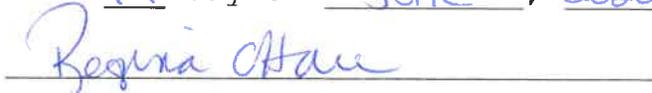
15

16

17

18 Subscribed and sworn to before me  
19 this 17 day of June, 2020.

20



21

NOTARY PUBLIC

22

Regina O'Hare  
Notary Public, State of New York  
No. 01OH5067784  
Qualified in Westchester County  
Commission Expires Oct. 28, 2022

23

24

25

**ERRATA SHEET**

Re:

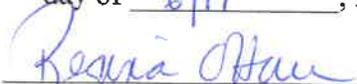
Our File No.: 7367.101

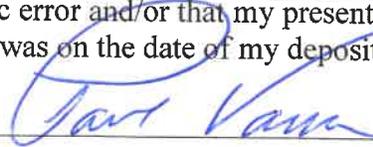
The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter, held on February 25, 2020.

<b>PAGE</b>	<b>LINE</b>	<b>SHOULD READ</b>
8	21	I'm a building official
16	24	Alexander Tergis (sp.)
42	7	I would believe
44	14	He is an online journalist
46	1	I think we try to follow up on any
55	13	Maffei (sp.)
56	14	Maffei (sp.)
64	1	Maffei (sp.)
68	10	It looks like this a slight (strike trench)
74	20	Strike Door
76	11	Turns and goes down East Street
82	6	Strome (sp.)
88	7	Yes. It is the block and lot card stored electronically.
93	13	not (sp.)
98	20	Second page, do you know what a filed subdivision
99	5	number. Does that indicate the subdivision plat
106	10	Okay. It says filed map number 1728 Fifth
106	14	It does – it appears to be a filed
114	18	I don't have a basis.

The reason for the above revisions is stenographic error and/or that my present recollection of the aforementioned facts is more accurate than it was on the date of my deposition.

Sworn to before me this  
day of 6/17, 2020

  
Notary Public

  
Regina O'Hare  
Notary Public, State of New York  
No. 01OH5067784  
Qualified in Westchester County  
Commission Expires Oct. 28, 2022

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