

ALBANY, NY
EDITH E. FORBES
EDITH FORBES COURT REPORTING SERVICE

1 STATE OF NEW YORK
2 ERIE COUNTY
3 TOWN BOARD OF SARDINIA

4 _____/

5
6 In the Matter of:
7 HEARING TO DETERMINE THE RESOLUTION
8 OF AN UNSAFE STRUCTURE LOCATED AT
9 11770 CREEK ROAD

10
11 _____/

12
13 Transcript of the Proceedings held before
14 the Town Board of Sardinia at the Town of Sardinia
15 Office building, 12320 Savage Road, Sardinia,
16 New York, on March 19, 2015.

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23 REPORTED BY: SUSAN M. RYCKMAN, CP, Court Reporter,
24 EDITH FORBES COURT REPORTING SERVICE,
25 21 Woodcrest Drive,
Batavia, New York 14020,
(585) 343-8612

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APPEARANCES:

TOWN BOARD OF SARDINA:
BEVERLY GAMBINO, Supervisor;
CHERYL EARL, Councilman;
LEONARD HOCHADEL, Councilman;
DOUGLAS J. MORRELL, Councilman;
DAVID MONTGOMERY, Councilman;
DAVID DiMATTEO, ESQ., Town Attorney;
GENE DEGMAN, Code Enforcement Officer;
BETSY MARSH, Town Clerk;
DONALD HOPKINS, Highway Superintendent.

BRIAN SKOK, NYS Dept. of Transportation.
CARL DENNIES, Respondent.
EVE DENNIES.

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WITNESS INDEX PAGE

WITNESS: EXAMINED BY: PAGE

BRIAN SKOK

MR. DiMATTEO: 6

COUNCILMAN MONTGOMERY: 9

GENE DEGMAN

MR. DiMATTEO: 18

COUNCILMAN MONTGOMERY: 29

COUNCILMAN EARL: 30

MR. DENNIES: 34

MR. DiMATTEO: 36

DONALD HOPKINS

MR. DiMATTEO: 36

CARL DENNIES

MR. DiMATTEO: 39

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EXHIBIT INDEX PAGE

EXHIBIT NUMBER	DESCRIPTION	ID	EVD
EXH. 1	DOT Letter dated 3/11/15	7	18
EXH. 2	Notice of Violation	21	57
EXH. 3	Report to the Town Board	23	57
EXH. 4	Photographs; 3 sheets	26	57
EXH. 5	Photographs; 2 sheets	26	57

* * *

1 SUPERVISOR GAMBINO: I would like to open
2 the hearing, which is an unsafe structure located at
3 11770 Creek Road, a barn owned by Carl Dennies.

4 MR. DiMATTEO: This is a hearing pursuant to
5 Chapter 46.7 of the Town of Sardinia, Unsafe Or
6 Dangerous Structures Law, for the Town of Sardinia.

7 The notice of this hearing was sent to
8 Mr. Dennies. It started to be sent to him on or about
9 March 16th. I believe the code enforcement officer
10 with the Erie County Sheriff's Department served
11 notice upon Mr. Dennies. The notice I will attach.
12 And Mr. Dennies appears here today.

13 You're Carl Dennies, sir?

14 MR. DENNIES: Yes.

15 MR. DiMATTEO: Nice to meet you. And you
16 reside at 11740 Creek Road?

17 MR. DENNIES: Yes.

18 MR. DiMATTEO: You received this notice?

19 MR. DENNIES: Yes.

20 MR. DiMATTEO: And you're the owner of 11770
21 Creek Road?

22 MR. DENNIES: 11740.

23 MR. DiMATTEO: Okay. And I think a copy of
24 the deed by which you own was attached to the notice?

25 MR. DENNIES: Yes.

1 MR. DiMATTEO: Okay. And we have with us
2 today, I am David DiMatteo, I am the Town Attorney.

3 SUPERVISOR GAMBINO: Beverly Gambino, Town
4 Supervisor.

5 COUNCILMAN EARL: Cheryl Earl, Town
6 Councilman.

7 COUNCILMAN HOCHADEL: Leonard Hochadel, Town
8 Councilman.

9 COUNCILMAN MORRELL: Doug Morrell, Town
10 Councilman.

11 COUNCILMAN MONTGOMERY: Dave Montgomery,
12 Councilman.

13 MR. DiMATTEO: And Brian, you're going to be
14 our first witness. And Brian, could you just state
15 your name and who you work for, please.

16 MR. SKOK: Brian Skok, S-K-O-K. I work for
17 the New York State Department of Transportation.

18 MR. DiMATTEO: And Brian, you sort of
19 initiated this and -- lets get him sworn in.

20
21 **BRIAN SKOK**, after being duly
22 called and sworn, testified as follows:

23
24 EXAMINATION BY MR. DiMATTEO:
25

1 Q. Brian, again, can you tell us where you're
2 employed and what you do for a living?

3 A. New York State Department of Transportation. I'm
4 the civil engineer with New York State DOT.

5 Q. And on or about March 11, 2015, did you send
6 notice to the Town of Sardinia?

7 A. Yes.

8 Q. Or to Mr. Dennies and --

9 A. Yes, I did.

10 MR. DiMATTEO: Could I have this marked.

11 (Whereupon, Exhibit

12 Number 1 was then marked

13 for identification.)

14 BY MR. DiMATTEO:

15 Q. I show you what's been marked Exhibit 1,
16 Mr. Skok. Is that the letter you sent and copied to
17 the Town of Sardinia on 3/11?

18 A. Yes, it is.

19 Q. And the attachment as well?

20 A. Yes.

21 Q. Can you tell us what the purpose of the letter
22 was?

23 A. While driving through the area there, I saw that
24 the barn had partially collapsed, and I was concerned
25 that its proximity to the highway, if it fell, and the

1 configuration of the road has S curves in it, that
2 people would not see it until they actually hit it.
3 And when we find stuff like this, we try to take
4 action on it as soon as we can.

5 Q. And the first that you saw it was when?

6 A. Actually on that date, the same date.

7 Q. And in the Department of Transportation were you
8 required to give notices to anybody else besides the
9 Town of Sardinia?

10 A. I believe that I spoke with our legal affairs
11 division.

12 Q. And they directed you to give the Town of
13 Sardinia notice?

14 A. They gave me permission to pursue the demolition
15 of the barn, yes.

16 Q. Okay. In addition to that, you sent notice to
17 Mr. Dennies?

18 A. Yes, we did, but it was delayed a couple days
19 because of the -- the miscommunication of the address
20 there.

21 Q. Okay. Did you do any researches to see where the
22 barn was situated in accordance with where the
23 right-of-way is?

24 A. I've known for years that the barn has been what
25 we call an encroachment, and typically in a rural

1 situation we don't really pursue these. It's been
2 there for a long time. I don't know if it predates
3 the right-of-way. That would have to be researched.

4 Q. Okay. Is there any agreement between New York
5 State Department of Transportation and Mr. Dennies
6 that would control this matter?

7 A. Not that I'm aware of.

8 Q. And from what you've observed, what are your
9 concerns, other than -- what are your concerns?

10 A. The concern is if the wall were to fall, it would
11 land on the road. The wall, it's tall enough, and it
12 is already leaning toward the road. It's at some
13 point in time, it could fall. And my primary duty as
14 traffic engineer or civil engineer is to make sure,
15 you know, that our highways are safe for use by
16 motorists.

17 Q. And that was the purpose of your letter, to keep
18 the highway safe?

19 A. Yes.

20 MR. DiMATTEO: Anybody on the board have any
21 questions of Mr. Skok?

22 COUNCILMAN MONTGOMERY: How much of the barn
23 is on the State right-of-way?

24 THE WITNESS: I would say no more than a
25 couple of feet. Without an exact survey, I couldn't

1 answer that to any, you know, within maybe five or six
2 feet maybe at the most.

3 COUNCILMAN MONTGOMERY: So it's on State
4 right-of-way?

5 THE WITNESS: I can only assume. Again,
6 without a survey --

7 COUNCILMAN MONTGOMERY: Is it possible to
8 come up with a survey?

9 THE WITNESS: Not with my group. That's
10 typically we would defer to the property owner. When
11 a person buys a property, and acquires property, they
12 are -- basically part of the transaction would be a
13 survey.

14 COUNCILMAN MONTGOMERY: Mr. Dennies, do you
15 have a survey?

16 MR. DENNIES: I don't think so, but from my
17 understanding, the barn is in the right-of-way of the.

18 THE WITNESS: Could be.

19 MR. DENNIES: I mean, I know your concern.
20 I've got a representative contact, she's off this
21 week, Constance something.

22 THE WITNESS: Yes, I know Connie.

23 MR. DENNIES: She is the real estate
24 division. I'm trying to figure everything out, you
25 know. If it's in the State right-of-way, that would

1 be the -- New York State would have to help with the
2 demolition.

3 THE WITNESS: I don't see that being the
4 case.

5 MR. DENNIES: You guys --

6 THE WITNESS: But we have no authority to
7 demolish structures. We have no contracts in place.

8 MR. DENNIES: But you do tree service.

9 THE WITNESS: That's a different type of
10 work, and I don't have a bucket truck.

11 MR. DENNIES: I'm just trying to figure
12 everything out.

13 COUNCILMAN EARL: I was curious when you
14 said you talked to your legal department to pursue to
15 take action to have the barn demolished. Do you know
16 what I'm saying, so it contradicts the last statement
17 a little bit that the State has responsibility or
18 doesn't have responsibility because it is in the
19 right-of-way.

20 THE WITNESS: Well, only a portion of it.

21 COUNCILMAN EARL: Well it's only the wall
22 right now which is in your portion.

23 THE WITNESS: And one of the sticking
24 points, it's my understanding under Town or highway
25 maintenance law, we really do not have any mechanism

1 to tax or to recoup any work we do. So we were --

2 COUNCILMAN EARL: So then it's free.

3 THE WITNESS: But that's part of the issue
4 there, is that it's actually like a Town issue. And
5 in a perfect world, prior to the barn being erected,
6 there would have been building permits.

7 COUNCILMAN EARL: If the wall would have
8 fell already, would the State have already come out
9 and cleaned it up?

10 THE WITNESS: If it was a highway emergency,
11 we might have pushed it off to keep the traffic
12 flowing, yes.

13 MR. DiMATTEO: I have no more questions of
14 Mr. Skok. Does anyone else?

15 MR. DENNIES: Well.

16 MR. DiMATTEO: You do. This again is
17 Mr. Dennies.

18 MR. DENNIES: I don't know if I should say
19 it now or --

20 MR. DiMATTEO: Feel free, Mr. Dennies.

21 MR. DENNIES: Okay. It just happened, like
22 three weeks ago, so the roof fell in. Now if that
23 wall would have blown out, it would have blown out at
24 that time. The wall has no -- I mean, the wall, the
25 roof is off. The wall is just standing there. Yes,

1 you see a roof caved in, it doesn't look good. But
2 the wall is standing. There is no weight on it,
3 bearing weight on it. So, yes, I want to get rid of
4 it, and I started to this week, but due to our
5 February weather, there's still snow up there. So I
6 can't even, you know. It's a mess up there, but I did
7 start dismantling it this last week. And I'm dropping
8 boards, they're not even hitting in the road. So I
9 don't understand why everybody's so concerned with it
10 falling in the road. It's not falling in the road.

11 I tried to -- everybody's just looking at it
12 from a distance. I tried to show Mr. Degman. There's
13 12-by-12 beams holding the wall up, 12-by-12 solid
14 beams. Now that's going to fall in the road? And
15 you're giving me 48 hours? It's a little -- it's
16 going to take time. This stuff takes time. I mean --

17 SUPERVISOR GAMBINO: Do you know about
18 roughly how much time, that you would need?

19 MR. DENNIES: Well, to get --

20 SUPERVISOR GAMBINO: I mean, don't rush --
21 don't short yourself.

22 MR. DENNIES: I mean, it's a tricky
23 situation.

24 MR. DiMATTEO: Why don't we hold on there.
25 We've got a witness sworn in. If we're going to

1 answer questions back and forth, let's direct them to
2 Mr. Skok. If we're done with Mr. Skok, we'll call our
3 next witness, and maybe we can get some of these
4 answers figured out. Anybody have anything else for
5 Mr. Skok from the DOT?

6 COUNCILMAN MONTGOMERY: What's the feeling
7 on the State on removing it, securing it? Would that
8 work, to secure it, pending Mr. Dennies has time to
9 take it down?

10 THE WITNESS: Basically as we stated in our
11 letter, is that if it is not going to fall on the
12 road, that it is secured enough that it is not going
13 anywheres until it can be demolished or whatever
14 action is taken on it, that would be fine.

15 Just looking at it this morning, the rope is
16 a pretty good attempt, that's on there. That thing is
17 leaning probably close to 20 inches toward the road
18 right now. I am concerned we have one good gust of
19 wind, this thing will fall on the road. That's a big
20 risk.

21 MR. DENNIES: You all look at it from a
22 distance. I'm up there working on it.

23 THE WITNESS: I have taken pictures of it
24 and I've been up close to it. And my first priority
25 is the users of our highway. That's one of the

1 reasons we're here, you know, that's my job, to make
2 sure people can use that road every day.

3 The one thing, and I don't know if this is
4 the appropriate time for it, but I've been authorized
5 that the DOT can assist the Town or your demolition
6 contractor with traffic control while the Town are
7 demolishing the structure.

8 MR. DENNIES: I might.

9 THE WITNESS: We would consider doing that
10 for one day.

11 MR. DiMATTEO: One day?

12 THE WITNESS: One day.

13 MR. DiMATTEO: Okay.

14 THE WITNESS: I don't know if the Town plans
15 on bringing a contractor in, I know there is some
16 extensive traffic control needed to be there, and we
17 can do that. That would keep the costs down. However
18 you work it out, we can do that.

19 MR. DiMATTEO: Okay. Any other questions of
20 this witness?

21 COUNCILMAN HOCHADEL: If that wall falls and
22 does some damage, kills somebody or something, are you
23 going to be responsible for it?

24 THE WITNESS: Unfortunately under the code,
25 it's the Town's responsibility.

1 COUNCILMAN HOCHADEL: You're saying we're
2 responsible for the State of New York?

3 THE WITNESS: You're responsible for the
4 condition of the barn. We're responsible to make sure
5 highway users are protected. You know, if this barn
6 was another 30 feet off the road, it wouldn't be an
7 issue.

8 MR. DiMATTEO: An issue for you?

9 THE WITNESS: For us, correct.

10 MR. DiMATTEO: An issue for the State
11 Department of Transportation.

12 COUNCILMAN EARL: If the State wouldn't have
13 pushed the road all the way to his barn, that wouldn't
14 be an issue.

15 MR. DiMATTEO: That might have something to
16 do with the creek as well.

17 COUNCILMAN EARL: It's the State's creek.

18 THE WITNESS: It's God's creek.

19 COUNCILMAN EARL: You guys have it all.

20 MR. DiMATTEO: Any other questions for this
21 witness?

22 MR. HOPKINS: Don Hopkins, Highway
23 Superintendent. I talked to you quick a few times.
24 Knowing that road and knowing the history of it, I've
25 lived here all my life, is there any possibility that

1 that road got encroached over to the right more and is
2 totally within its own right-of-way but to the edge of
3 it? Is the barn in that right-of-way or is the
4 right-of-way at the edge of the payment or what?
5 Years ago that was a two-lane highway and a bad one at
6 that time.

7 THE WITNESS: I suspect what happened --
8 it's my understanding that the Erie County roads were
9 all designated 66-foot right-of-ways in, like, 1850,
10 and I believe the barn was built in 1890.

11 MR. HOPKINS: Correct.

12 THE WITNESS: More than likely whoever built
13 the barn, because of the configuration, there's a
14 sloping hill there, they built the barn without really
15 realizing where there were any property boundaries.

16 COUNCILMAN EARL: I thought they moved the
17 road from when the road was originally built.

18 MR. HOPKINS: That's what I am wondering
19 about.

20 THE WITNESS: Again, that would be something
21 that for a licensed land surveyor to deal with or I
22 don't know how long Mr. Dennies owned the property,
23 but if he's owned the property, when he acquired it,
24 there should have been a property survey done.

25 MR. DiMATTEO: Looks like he acquired the

1 property through an estate, so lots of times when you
2 inherit or get it as part of your testamentary share,
3 you don't have a survey.

4 COUNCILMAN EARL: Family owned for, what?

5 MR. DENNIES: About 40 years.

6 MR. DiMATTEO: Any more questions for
7 Mr. Skok?

8 With that, I thank you very much for your
9 time. I would move Exhibit 1 into evidence.

10 (Whereupon, Exhibit
11 Number 1 was then received
12 into Evidence.)

13 MR. DiMATTEO: At this time I thank you. I
14 call Gene Degman.

15
16 **GENE DEGMAN**, code enforcement
17 officer for the Town of Sardinia, after being duly
18 called and sworn, testified as follows:

19
20 EXAMINATION BY MR. DiMATTEO:

21
22 Q. Mr. Degman, how did this come to your attention?

23 A. I received several complaints through the Town
24 offices and from Mr. Skok who was just here.

25 Q. What did you do upon receiving the complaints?

- 1 A. I investigated the property.
- 2 Q. When was the first time you visited 11770 Creek
3 Road?
- 4 A. The first time was, bear with me, please.
5 March 6th.
- 6 Q. And what did you observe on March 6th?
- 7 A. That the barn had collapsed in part, and that the
8 wall facing the road was tilted in towards the road,
9 and potentially --
- 10 Q. Could you describe the amount of tilt that you
11 saw on March 6th?
- 12 A. Probably maybe about at the one corner, about a
13 foot.
- 14 Q. When you say "the one corner," would that be the
15 most westerly corner?
- 16 A. Easterly corner.
- 17 Q. Easterly corner of the building, okay. And when
18 you're making your observations, you're using that
19 easterly corner as to gauge the --
- 20 A. Yes.
- 21 Q. Okay. After March 6th, what did you do?
- 22 A. I -- at that time no one was at the premise. And
23 I went back again on March 11th, at which time I spoke
24 with Eve Dennies.
- 25 Q. And did you indicate your concerns?

1 A. Yes.

2 Q. Did she have any concerns or did she indicate
3 that anyone else there had any concerns with regards
4 to the building?

5 A. She expressed a concern about the condition of
6 the barn.

7 Q. When you were there, and you're saying it's
8 March 11th, the next visit?

9 A. March 11th, yes.

10 Q. Did you have an opportunity again to make a
11 physical inspection or a visual inspection of the
12 building?

13 A. Yes.

14 Q. And what, if anything, did you see at that time?

15 A. It was at that point in time pretty much in the
16 same condition as I found the previous inspection.

17 Q. Okay. How did you leave it with Eve Dennies?

18 A. I told her I would be back later that day with a
19 notice to correct the violation.

20 Q. Okay. And did you return?

21 A. Yes, I returned about an hour later. I stopped,
22 there was no answer to the door, so I left my notice
23 between the storm door and the house door.

24 Q. Do you have a copy of that notice with you?

25 A. Yes.

1 (Whereupon, Exhibit
2 Number 2 was then marked
3 for identification.)

4 MR. DiMATTEO: And Mr. Dennies, I will show
5 you that letter. I don't know if you ever got that.

6 MR. DENNIES: Yeah, I got it.

7 MR. DiMATTEO: This was the second letter
8 that Mr. --

9 MR. DENNIES: Yes.

10 MR. DiMATTEO: You got that as well?

11 MR. DENNIES: Yes.

12 BY MR. DiMATTEO:

13 Q. This was a copy of the notice or copy of the
14 notice that you left in the door?

15 A. Yes.

16 Q. Did you get any response to this notice,
17 Mr. Degman?

18 A. No.

19 Q. And that was on March 11th?

20 A. Yes.

21 Q. And what did you do next?

22 A. That same day I spoke with yourself as the Town
23 attorney and advised you the situation, what I had
24 done up to that point in time, and I forwarded copies
25 of the notice to your office.

1 Q. And was a meeting, upon receipt of that, was a
2 meeting scheduled which you appeared at?

3 A. Subsequent to that there was a meeting between
4 myself and Mr. Dennies on the 12th to discuss the barn
5 situation.

6 Q. And can you describe that meeting to us?

7 A. Yes. Mr. Dennies at that point in time did not
8 believe there would be a problem, in that he did not
9 believe that the wall of the barn would fall down into
10 the road.

11 Q. Did you notice -- were you there at 11770 Creek
12 Road on the 12th?

13 A. Yes.

14 Q. Were you able to make visual observations of the
15 building again?

16 A. Yes.

17 Q. And what did you see, if anything?

18 A. Little change had taken place in the leaning of
19 that wall towards the road.

20 Q. Okay. Were you and Mr. Dennies able to go into
21 the building, and did he permit you access?

22 A. Yes.

23 Q. What did you see upon entering the building? Is
24 this the first time you had gone in it?

25 A. The first time I had gone in it. The first level

1 of this barn had no appreciable damage. What was
2 apparent is that the roof and part of some of the
3 walls had collapsed in on what would have been the hay
4 mound of the barn, which would have been the upper
5 level of the old barn, which is structurally not
6 completely tied into the base of the barn.

7 Q. Okay. Anything else that you observed on the
8 interior of the building?

9 A. No.

10 Q. Okay. And now your March 11th 48-hour notice
11 still had approximately 24 hours at that time?

12 A. That's correct.

13 Q. At the time you and Mr. Dennies visited, did the
14 two of you come to a resolution as to what actions
15 needed to be taken to secure the property?

16 A. No.

17 Q. Okay. After March 11th, what happened? I'm
18 sorry, March 12th?

19 A. March 12th. On March 13th I made another
20 inspection, and there was no change at that point in
21 time.

22 (Whereupon, Exhibit
23 Number 3 was then marked
24 for identification.)

25 MR. DiMATTEO: I will show you --

1 MR. DENNIES: Yes.

2 BY MR. DiMATTEO:

3 Q. I'll show you what's been marked Exhibit Number

4 3. Do you recognize that?

5 A. Yes.

6 Q. What's that a report to be?

7 A. That's a report to the Town Board regarding the
8 barn at 11770 Creek Road.

9 Q. What were your findings in that report,
10 Mr. Degman?

11 A. My findings were that the wall of that posed a
12 potential hazard to the roadway, in that if it fell
13 into the roadway, it would create possible property
14 damage or damage to or injury to humans.

15 Q. Okay. And at that point you handed that report
16 to the Town Board?

17 A. Yes.

18 Q. And then in accordance with 46.3 of the Town of
19 Sardinia Law, the Town then was required to schedule
20 this hearing; is that correct?

21 A. Correct.

22 Q. Okay. Since the 13th of March, have you made any
23 other visual observations --

24 A. Yes.

25 Q. -- of 11770 Creek Road, Chaffee, New York?

1 A. Yes, I have. On the 16th I made an inspection at
2 about 3 o'clock, just prior to the Town Board meeting,
3 and there had been no change in what was -- what has
4 been done at the barn.

5 Q. So at that time there looked like there was no
6 remediation occurring?

7 A. There was no remediation.

8 Q. So your March 11th, 48-hour notice to take some
9 action to clean the property up had not been acted
10 upon?

11 A. That's correct.

12 Q. And that was on the 16th?

13 A. That was on the 16th.

14 Q. Okay. And what, if anything else, did you notice
15 on the 16th?

16 A. It appeared that the gap on that upper corner had
17 widened.

18 Q. And again, did you take any photos of that upper
19 corner?

20 A. Let's see. Not on that day.

21 Q. Okay. When was -- when was the first time you
22 took pictures of that upper corner?

23 A. First day that I took pictures was on the 11th.

24 MR. DiMATTEO: Why don't we have your
25 picture on the 11th marked.

1 (Whereupon, Exhibit
2 Number 4 was then marked
3 for identification.)

4 BY MR. DiMATTEO:

5 Q. Are these the three pictures that you took that
6 are marked as Exhibit Number 4 on the 11th day of
7 March?

8 A. Yes.

9 Q. And those photos show some listing of the
10 building towards Route 39?

11 A. Yes.

12 Q. Did you subsequently take pictures on any of your
13 other visits?

14 A. Yes, on the 17th I took two pictures, which I
15 have right here.

16 MR. DiMATTEO: Would you mark these.

17 (Whereupon, Exhibit
18 Number 5 was then marked
19 for identification.)

20 MR. DiMATTEO: I will show you this.

21 MR. DENNIES: Now see, this is the line,
22 there is a separation right there from the first level
23 to the top. This is a little better angle to take.
24 See, I'm dropping these boards, and they're not even
25 hitting the white line.

1 MR. DiMATTEO: Okay.

2 MR. DENNIES: And plus, there is no roof on
3 it. There is no weight bearing pressure on it.

4 MR. DiMATTEO: I understand.

5 BY MR. DiMATTEO:

6 Q. And were these the photos you took on -- I will
7 show you what's marked as Exhibit Number 5. Were
8 those the photos you took on the 17th?

9 A. Yes.

10 Q. And what do they depict?

11 A. They depict several of the barn boards. The
12 vertical barn boards had been removed and piled up at
13 the base of the barn, and there was a rope tied to
14 that upper east corner of the barn and tied back into,
15 I'm not sure what, into the -- in towards the middle
16 of the barn.

17 Q. And is that an accurate depiction of how the barn
18 looked on the 17th?

19 A. Yes.

20 Q. And when you compare that photo to the photos
21 that you took on the 11th, can you describe generally
22 what -- generally, if anything, what the difference
23 is?

24 A. The gap at that upper east corner appears to have
25 widened.

- 1 Q. And what's that suggest to you, Mr. Degman?
- 2 A. That it is leaning more towards the roadway at
3 that point in time.
- 4 Q. Mr. Degman, can you tell us a little bit about
5 your history and your degrees and certifications?
- 6 A. Yes. I worked for the Erie County Health
7 Department for 35 years. Retired from there a number
8 of years ago. I have been a certified code
9 enforcement officer since 1981, and I've served in a
10 number of municipalities as code enforcement officer.
- 11 Q. Do you have any construction background at all?
- 12 A. Other than building my own house and doing some
13 construction work like that, but not extensive.
- 14 Q. Basically the training provided by the State of
15 New York?
- 16 A. Yes.
- 17 Q. In your professional opinion, what do you believe
18 to be happening with this barn?
- 19 A. That wall, that front wall of the barn facing
20 Creek Road, appears to be potentially capable of
21 falling into the road.
- 22 Q. Can you forecast when that's going to occur?
- 23 A. No.
- 24 Q. As you see it continuing to list further, are
25 your concerns growing greater?

1 A. Yes.

2 Q. And what, if anything, needs to be done to
3 alleviate any potential danger?

4 A. At the minimum, that wall needs to be secured to
5 the rest of the building, at least the east wall tied
6 in somehow to keep it from collapsing into the road.

7 Q. Should the wall be removed?

8 A. That could be one option, yes.

9 Q. One option. What other options do you see?

10 A. Securing the wall in place.

11 Q. Securing the wall. Basically tying it into the
12 rest of the building?

13 A. Tying it into the rest of the building.

14 Q. Either through wood or cable or --

15 A. Yeah, I'm sure there's several methods that could
16 be used to do that.

17 MR. DiMATTEO: Anybody else have any
18 questions for Mr. Degman?

19 COUNCILMAN MONTGOMERY: Could it be tied
20 into the silo?

21 THE WITNESS: I'm not sure. It might be a
22 possibility, but I couldn't say for sure.

23 COUNCILMAN MONTGOMERY: When you said tied
24 in, it's okay to have it tied in with rope?

25 THE WITNESS: I don't think a rope is a

1 permanent solution.

2 COUNCILMAN MONTGOMERY: I understand that,
3 but can you tie it in at the present time?

4 THE WITNESS: It is somewhat tied in, not to
5 the -- not to that wall. That easterly wall is
6 supported in part by -- by the silo, which makes it
7 much more stable. And I think if it was tied into
8 that wall, and I don't know whether I would use rope
9 certainly as a permanent solution for that, would
10 stabilize that wall and ease our concerns about it
11 falling into the road.

12 COUNCILMAN EARL: Well I noticed this
13 morning, obviously Mr. Dennies had taken off some
14 boards and put up the rope in trying to raise the
15 thing.

16 MR. DENNIES: I started.

17 COUNCILMAN EARL: So if he would continue
18 taking all those boards down basically, then he would
19 be removing the whole wall, I'm not sure on the beams
20 that you said that were there?

21 MR. DENNIES: Yes.

22 COUNCILMAN EARL: That would solve the
23 problem also then?

24 THE WITNESS: The rest of the boards would
25 have to be taken down, and the main horizontal cross

1 beam at the top would have to be taken down.

2 COUNCILMAN EARL: So that's still in place,
3 the top one?

4 THE WITNESS: Yeah, that's holding the
5 boards in at the top.

6 MR. DiMATTEO: Can I interrupt for a second?
7 I don't mean to, but I'm trying to draw a picture with
8 words, and I want to make sure, maybe by using the
9 exhibits, we can grab that.

10 Ms. Earl, when you talked about taking down
11 the boards, you're talking -- they look to be vertical
12 boards?

13 COUNCILMAN EARL: The vertical boards he
14 started here.

15 MR. DiMATTEO: I think maybe you call them a
16 clap board? It's the exterior structure?

17 COUNCILMAN EARL: The exterior, yeah, sorry.

18 MR. DiMATTEO: That's fine. So it sounded
19 like her suggestion, Mr. Degman, was they were going
20 to remove the vertical clap boards, and then what,
21 Ms. Earl?

22 COUNCILMAN EARL: Oh, he was saying because
23 of the beam that goes across the top. But earlier I
24 believe Mr. Dennies said there are 12-by-12 beams that
25 are holding up the wall, that must be vertical as

1 well?

2 MR. DENNIES: Yes.

3 THE WITNESS: I'm not sure if those beams go
4 all the way up. I think, and I would have to be able
5 to get kind of behind the structure, but I think the
6 possibility is that the beams only go up to the bottom
7 of that wall.

8 COUNCILMAN EARL: Okay.

9 THE WITNESS: That's giving the structural
10 stability to the first level of that barn, and that's
11 why they --

12 COUNCILMAN EARL: Do you know if they go all
13 the way downstairs? I guess I don't know if the beams
14 go all the way down to the first floor. Like all the
15 way to the ground, or are in the ground?

16 THE WITNESS: The upper level beams you're
17 talking about?

18 COUNCILMAN EARL: The vertical ones.

19 THE WITNESS: The vertical ones here.

20 COUNCILMAN EARL: Not the board, but the
21 beams that would be behind it.

22 THE WITNESS: I don't know as they go all
23 the way to the floor.

24 COUNCILMAN EARL: Because I am thinking if
25 it fell, would it take the beam.

1 MR. DiMATTEO: Ms. Earl, what you're
2 suggesting, it looks like that wall is two levels,
3 upper level and lower level. Are you suggesting if
4 the upper level were completely removed?

5 COUNCILMAN EARL: Well, see from the photos
6 I was looking at, it's basically he started removing
7 the boards off of -- they're all one piece, correct,
8 the boards that are vertical that are outside --

9 MR. DENNIES: Yes.

10 COUNCILMAN EARL: -- are all one piece?
11 These are all one piece? Oh, no, I am not talking --
12 I am not talking this part. I am not talking the
13 lower part.

14 MR. DiMATTEO: Just so we can draw a picture
15 of it. You are not discussing the lower part of the
16 barn where there appears there are three windows and
17 it's below. It looks like the wall is split in two,
18 that there is an upper wall that has very long boards
19 and some of them appear to be removed in Exhibit 5 of
20 the pictures taken 3/17/15, correct?

21 COUNCILMAN EARL: Correct. This is the beam
22 that's coming down.

23 MR. DiMATTEO: Okay.

24 COUNCILMAN EARL: I guess my next question
25 would be, how much debris is on the inside that if

1 that wall would be removed, that then would become a
2 hazard?

3 THE WITNESS: From -- from what I could see,
4 and I'm limited in my visibility in there --

5 COUNCILMAN EARL: Right, I understand.

6 THE WITNESS: -- I don't think there is a
7 lot of debris on the floor, which would be the ceiling
8 or the bottom of the hay mound, that would fall, you
9 know, out of it.

10 COUNCILMAN EARL: Okay.

11 THE WITNESS: From my vantage point there.

12 COUNCILMAN EARL: Those are my only
13 questions I had. Thank you.

14 MR. DiMATTEO: Anybody else have any
15 questions? Mr. Dennies, do you have any questions for
16 Mr. Degman?

17 MR. DENNIES: No, I don't.

18 MR. DiMATTEO: You sure?

19 MR. DENNIES: Well --

20 MR. DiMATTEO: Go ahead.

21

22 EXAMINATION BY MR. DENNIES:

23

24 Q. Your inspection of the barn was only looking in
25 from the doorway, you wouldn't even come in there and

1 look at it when I asked you to.

2 A. I went inside the building with you.

3 Q. No, you did not. You stood in the doorway and
4 didn't look at the 12-by-12 beams that go all the way
5 up to this top level where this roof was.

6 A. I did come into the barn.

7 Q. No, you did not.

8 A. I recall that I did.

9 Q. Yeah, you stood in the doorway, you would not
10 come in. That's the only way you inspected it.

11 Like I'm saying, nobody's inspected it.
12 Everybody just looks at it from a distance and looks
13 at it, and they see no roof, and they say, well, it
14 looks kind of bad. Well, yeah, but those 12-by-12
15 beams go all the way up, so -- I mean, the law of
16 physics, there's no weight bearing on that wall right
17 now. So I know it's a concern, and I'm getting to it.

18 MR. DiMATTEO: Okay.

19 MR. DENNIES: But --

20 MR. DiMATTEO: Do you have any questions for
21 him?

22 MR. DENNIES: No.

23 MR. DiMATTEO: Okay. That's fine. Any
24 other questions, anybody, for Mr. Degman?

25

1 EXAMINATION BY MR. DiMATTEO:

2

3 Q. In your opinion then, Mr. Degman, this can be
4 fixed -- it can be remediated in a multitude of ways?

5 A. Yes.

6 Q. And all you need to see is an application or a
7 request from the homeowner how, and your mind is open
8 to let it occur in any fashion that it needs to be
9 done?

10 A. Yes.

11 Q. You haven't got a foregone conclusion that it has
12 to be a wrecking ball?

13 A. No.

14 MR. DiMATTEO: I have no further questions.
15 At this time I would call the highway superintendent.

16

17 DONALD HOPKINS, after being duly
18 called and sworn, testified as follows:

19

20 EXAMINATION BY MR. DiMATTEO:

21

22 Q. Mr. Hopkins, you're the highway superintendent
23 for the Town of Sardinia?

24 A. Yes, I am.

25 Q. And in your position as highway superintendent,

1 do you routinely drive the roads and thoroughfares of
2 the Town of Sardinia?

3 A. Yes, I do.

4 Q. Do you on a regular ongoing basis have the
5 occasion to travel Route 39 in the location of
6 11770 Creek Road?

7 A. Yes, I do.

8 Q. Can you tell me over the last month, 45 days, if
9 you've noticed any material changes in the barn and
10 structures pertinent to State Route 39 at 11770 Creek
11 Road?

12 A. In my travels, I travel 39 to do some plowing. I
13 plow all the roads on Route 39, Town roads. I believe
14 it was last February when I noticed that the roof had
15 gone in on the barn. At that time I did not notice
16 the separation of the wall on the southeast corner,
17 because I do it quite frequently at night.

18 Q. Okay.

19 A. But the beginning of March, 1st, 2nd, 3rd,
20 somewhere in there, I did notice the fact that the
21 wall at the southeast corner of the barn at the
22 Dennies' residence had started to split, separate.

23 Q. And from the 1st, we're at the 19th, I think
24 today is the 19th, correct, have you noticed that
25 split changing in any way?

1 A. In the last -- probably the first two weeks of
2 March, yes, it widened considerably over the course of
3 a few days there.

4 Q. And is it extending more towards Route 39?

5 A. It is to a point, yes.

6 Q. And if that were on a Town road, would you have
7 concerns that would end up in the Town road?

8 A. Yes, I would.

9 MR. DiMATTEO: I have no further questions.
10 Do you have any questions of Mr. Hopkins?

11 MR. DENNIES: No.

12 MR. DiMATTEO: Anybody here have any
13 questions of Mr. Hopkins?

14 (No response from the Jurors.)

15 MR. DiMATTEO: Nothing further. Thank you,
16 you're done.

17 THE WITNESS: Thank you.

18 MR. DiMATTEO: Do you, Mr. Dennies, want to
19 testify and tell us what you know and what you
20 propose? I mean, it sounds like you've got some
21 ideas. We're not foreclosed to those ideas, we had to
22 go through this process.

23 MR. DENNIES: Yes, well, I planned on.

24 MR. DiMATTEO: Do you want to testify?

25 MR. DENNIES: I guess.

1 MR. DiMATTEO: Come on up.

2

3 CARL DENNIES, after being duly
4 called and sworn, testified as follows:

5

6 EXAMINATION BY MR. DiMATTEO:

7

8 Q. You can sit anywhere you want, Mr. Dennies. And
9 I know I'm the one doing all the talking, but you
10 probably should direct your attention to these fine
11 people here. Go ahead. Tell us what's happening?

12 A. Well, since it's just recently, it hasn't even
13 been a month since the roof caved in. And being our
14 February weather, due to all this snow, I've been
15 putting it off. I know, I don't want anybody to get
16 hurt, that's for damn sure, for it to fall in the
17 road. I've been putting it off, but I do plan on
18 demolishing the wall.

19 And like I've told -- I've told Mr. Degman a
20 couple times, I mean, you got 12-by-12 beams holding
21 that wall up, and there's no roof-weight bearing on
22 it. I don't know why -- what this immediate concern
23 is. I mean, I'm up there working. Like I said,
24 there's still snow up there.

25 Q. There might be snow there in July?

- 1 A. Up there, yeah. So I'm digging around, and I've
2 been making some progress this last week.
- 3 Q. What is your plan? How do you plan to tackle the
4 job?
- 5 A. I have to see what I can salvage out of the barn.
6 It doesn't look like the east end, there ain't much
7 good left in the boards. I have a wood stove, so I've
8 been -- looks like it's all firewood mainly. But I'm
9 starting at the east end and working down.
- 10 Q. And when you say that, is it your intention to
11 take off the upper level?
- 12 A. Yes, right to the -- well, it's probably like
13 eight feet. I will leave the bottom floor, I am just
14 going to take the top part off.
- 15 Q. And at the end of the day is the bottom part
16 going to be there?
- 17 A. Oh, yes. Yes.
- 18 Q. You're going to try to put a roof back over the
19 top of it?
- 20 A. Not all of it, probably the westerly end of it a
21 little part, portion of the barn. The eastern end is,
22 like I say, that's where it sways out. I am doing it
23 myself, so it's going to take me more than 48 hours.
- 24 Q. When you say that, though, and I understand we've
25 had some cold weather and some nasty days, but I mean,

1 the first notice you got from the State DOT was on
2 March 11th or 12th, at least that's the date of the
3 later. I mean, it came after that. But Mr. Degman
4 was there pretty early on. I mean, truthfully, I
5 think what he said, is all he wants is a plan from you
6 as to how you will tackle this. I would believe that
7 even to remove a building, you need a permit. Have
8 you applied for a building permit or maybe a
9 destruction permit?

10 A. No.

11 Q. Okay. I mean, that probably -- would you be
12 willing to do that?

13 A. But I'm not --

14 Q. You are not building anything?

15 A. No.

16 Q. I think even in demolition you need a permit?

17 A. I know. But I'm not demolishing the whole thing,
18 it's just the core portion of the -- core portion of
19 the wall. I don't know. You guys decide if I need a
20 demolition permit.

21 Q. If it's decided, you will apply for the permit?

22 A. I don't see why I should have to, but it's not up
23 to me.

24 Q. But the question was, if it's required, you're
25 going to apply for it?

- 1 A. Okay.
- 2 Q. Is that a yes?
- 3 A. Yes.
- 4 Q. Okay. But your idea is, again, to take off all
5 of those boards, the longer boards, above the first
6 floor?
- 7 A. The first floor, yes.
- 8 Q. Where all the little windows are?
- 9 A. Yes.
- 10 Q. And you said that's about eight feet?
- 11 A. Roughly.
- 12 Q. Above the eight feet, it's all going to come
13 down?
- 14 A. Yes.
- 15 Q. How are you physically doing that? I mean, how
16 do you --
- 17 A. Hammers and pry bar.
- 18 Q. No reciprocal saw to cut the nails out or --
- 19 A. You really it's -- where I got into so far, you
20 can just, you don't need a saw, you can rip it apart
21 by hand.
- 22 Q. How about, have you done anything to secure the
23 wall so it doesn't list any further out towards
24 Route 39?
- 25 A. Yes. I did have -- I have some ropes on it right

1 at the point. And that's about all I can say, is I
2 have ropes on it.

3 Q. You think ropes are a permanent solution?

4 A. No, I'm in the process.

5 Q. Would it make better sense to cable it?

6 A. The rope is, like, almost an inch. It's heavy
7 rope.

8 Q. Do you get up on the side of the building with a
9 ladder to help take that --

10 A. Sometimes.

11 Q. Can you access the second floor so you can do it
12 from the inside?

13 A. That's what I do.

14 Q. Okay. Approximately how long do you think it
15 would take you to get that wall controlled, and then
16 out of there?

17 COUNCILMAN EARL: You made pretty good
18 progress in the last two days, you took out that big
19 section.

20 A. I know, yes. So maybe a couple weeks. I don't
21 want to cut myself short, but within the month I plan
22 on getting it all down.

23 COUNCILMAN EARL: I know, like, the weather
24 hasn't been cooperative, okay. And actually, the
25 weather is part of the problem with the safety of the

1 building, also. Do you know what I mean? That's why
2 Mr. Degman and that's why the State -- you know, a big
3 gust of wind or something, just whatever, whatever is
4 tied there, pieces can fall off. And the weather is,
5 you know, your problem of getting it down and the
6 weather is our problem with it standing. But I did
7 notice this morning when I went by that, you know what
8 I mean, you had that section all gone, and I saw the
9 ropes in there. Do you think you could do it in a
10 week?

11 MR. DENNIES: No.

12 MRS. DENNIES: He has bursitis in his right
13 shoulder. Well, I'm not making excuses, but he has
14 bursitis.

15 MR. DiMATTEO: Ma'am, can I get your name.

16 MRS. DENNIES: I'm Eve Dennies, his wife.

17 MR. DiMATTEO: You reside where, 11740 --

18 MRS. DENNIES: With my husband, yes.

19 COUNCILMAN HOCHADEL: Do those beams run
20 from the second floor?

21 MR. DENNIES: No, they go all the way from
22 the ground up. So they're 12-by-12 beams.

23 COUNCILMAN EARL: Because like when Mr. Skok
24 was here, do you know what I mean, he said he would
25 assist in traffic control there while you are working.

1 So we'd need times or we would need to know when we
2 would have to have traffic control there. And that's
3 basically for your safety too while you are working on
4 the barn.

5 MR. DiMATTEO: It sounded like they thought
6 of bringing a crew in and doing it in a day. And I
7 don't know if you have, you know, access to a couple
8 of buddies.

9 MR. DENNIES: That's another thing. I mean,
10 when he was here, is it the State or is it me? It is
11 on the right-of-way, from what I understand, so are
12 they going to help me or --

13 MR. DiMATTEO: I think the level of help you
14 are going to get from them is they're going to control
15 traffic for one day. If they have to come back for a
16 second day, you will get the bill for controlling the
17 traffic.

18 MR. DENNIES: I know when you deal with the
19 State, things don't happen overnight.

20 COUNCILMAN EARL: Well, you know what I
21 mean, if you set a date, look, I will go and get all
22 the boards off there and secure that wall tomorrow,
23 and we need the State there tomorrow to do traffic
24 control, they would come.

25 MR. DENNIES: The idea that I have, if they

1 had a pay loader, high bucket, or I don't know just
2 something high so they could push it over. But I can
3 do it myself, too.

4 SUPERVISOR GAMBINO: Didn't you say you
5 threw some of the boards by the side of the barn, and
6 they never went in the road at this point?

7 MR. DENNIES: No. I took my time about it,
8 I dropped them down. Yeah, I mean, that's not --
9 yeah. Maybe if the whole wall fell in, it would hit
10 the travel lane, but where I'm working, that level
11 where the boards are, they don't even hit in the lane.

12 COUNCILMAN EARL: If the State brings in a
13 pay loader, the Town brings in a pay loader, that will
14 incorporate costs that will go on to you.

15 MR. DENNIES: I can do it myself, which I am
16 doing, so it's just going to take me time.

17 COUNCILMAN EARL: Do you have any helpers?
18 Any helpers?

19 MR. DENNIES: Not really. That's beside the
20 point. Like I said, the reason, there was so much
21 snow up there, I couldn't even see to figure out what
22 was what from the top of the roof. So I'm digging
23 through all that now. Since the snow has dissipated,
24 it helped out. I will just need a little more time.

25 MR. DiMATTEO: Are you saying if somebody

1 had a pay loader and they pushed it in, you would be
2 fine with that? Is that what you were saying?

3 COUNCILMAN EARL: Do you have personal
4 property in the barn under there?

5 MR. DENNIES: There is some valuable stuff
6 in there, but, like --

7 MRS. DENNIES: We can move it.

8 MR. DENNIES: No, like Mr. Degman said, I
9 mean the roof fell 30 feet.

10 COUNCILMAN HOCHADEL: Didn't hurt the second
11 floor?

12 MR. DENNIES: So I'm not worried about if
13 they push them all in.

14 COUNCILMAN EARL: What I'm getting at and so
15 you understand, and correct me if I'm wrong, if we
16 bring in somebody that has a pay loader to push that
17 wall over, it's going to incorporate costs that will
18 go on.

19 MR. DENNIES: Yeah, I don't want any.

20 MR. DiMATTEO: The other problem we have, we
21 could order the work done but --

22 MR. DENNIES: I don't want any costs at all.
23 I don't see why the State doesn't do it, because they
24 do tree removal.

25 MR. DiMATTEO: If they did it, they would

1 also send you the bill.

2 MR. DENNIES: They do tree removal and they
3 don't have --

4 MR. DiMATTEO: Trees are different than
5 buildings.

6 MR. DENNIES: I guess so. But there was a
7 tree, it took two years I talked to them about on the
8 west end of my property. It had quite a lean on it.
9 Do you remember that tree, that pine tree, that was
10 leaning for a couple years pretty bad? And now
11 they're worried about a wall. I mean, it was almost a
12 45-degree angle it looked like, and they're worried
13 about this wall. I know it looks bad but --

14 COUNCILMAN EARL: I look at it, my opinion,
15 is that Mr. Skok, when he is here, he is an engineer
16 for the highway, his job is to keep the highway clear
17 and safe. As for the property that the State owns
18 part of your house, I feel is -- is a different
19 division than in there, gets into their real estate
20 division.

21 MR. DENNIES: Yeah. I've been trying to get
22 a hold of this one representative, but she's had this
23 week off. She will be back Monday. And then that's
24 beside the point. I'm slowly working on it.

25 MR. DiMATTEO: One other question,

1 Mr. Dennies. If we were to grant you some time, would
2 you work with Mr. Degman to come up, and if he asks
3 you to, you know, cable some of the parts of the
4 building, you know, secure it in certain means, would
5 you be receptive to his proposals and make sure that
6 those were carried out in an expeditious fashion?

7 MR. DENNIES: Yes.

8 MR. DiMATTEO: Okay.

9 MRS. DENNIES: Can't we pull it in, secure
10 the wall, cut the sides, pull it down from the inside?

11 MR. DiMATTEO: Probably the guy sitting next
12 to you is better able to tell you if that would work.

13 MRS. DENNIES: Do you know what I'm talking
14 about?

15 MR. DEGMAN: You want to pull it in on top?

16 MRS. DENNIES: Yeah, use our come-alongs and
17 pulleys and pull it in?

18 MR. DEGMAN: I don't know if you could, but
19 it would be fine if you could.

20 MRS. DENNIES: Can you come up, take a look
21 at it, tell us if you can?

22 MR. DEGMAN: I can come take a look, tell
23 you if it would work.

24 COUNCILMAN MONTGOMERY: I think the problem
25 you have, those beams to the base of the building,

1 might have to cut those?

2 MR. DENNIES: That's why I was waiting for
3 the snow to --

4 COUNCILMAN MONTGOMERY: Trying to take out
5 that whole wall, you will take out the bottom.

6 MR. DENNIES: I have to see what I've got.
7 Plus, part of the roof debris, which is not too
8 healthy. I mean, I can rip it apart by my hands with
9 pry bars and stuff, whatever.

10 COUNCILMAN MONTGOMERY: I mean that barn
11 board's worth money.

12 MR. DENNIES: You would be surprised.

13 MRS. DENNIES: Not ours. It's all split and
14 rotted. That barn is over 150-years-old.

15 COUNCILMAN MONTGOMERY: It's still worth
16 money.

17 MR. HOPKINS: \$6 a foot on the Internet.

18 COUNCILMAN EARL: You looked it up already.

19 MR. DiMATTEO: Does anybody have any further
20 questions? Mr. Dennies, do you have any further
21 statements?

22 MR. DENNIES: No.

23 MR. DiMATTEO: I mean, I know you haven't
24 given us a date that you thought you could have it
25 done, but do you think the 1st of April is feasible

1 or --

2 COUNCILMAN EARL: Pray it doesn't fall down.

3 MR. DiMATTEO: No, I think he has to make
4 sure it doesn't fall down, and gets the upper wall
5 down.

6 COUNCILMAN EARL: Or secured.

7 MRS. DENNIES: He was going to call Connie
8 Monday at New York State. She mentioned something
9 about helping him demolish the barn before.

10 MR. DiMATTEO: Would you get a permit today,
11 make your application with the Town today?

12 SUPERVISOR GAMBINO: How much is it, Betsy?

13 MS. MARSH: \$25.

14 SUPERVISOR GAMBINO: Okay.

15 MR. DENNIES: I will try for April 1st.

16 MR. DiMATTEO: Will you fill out your permit
17 today?

18 MR. DENNIES: Yes.

19 MR. DiMATTEO: Okay.

20 COUNCILMAN EARL: None of us want to be
21 here, you know what I mean? As a government agency, I
22 totally feel it, you know, it's a situation, it's just
23 there is a danger there on 39, obviously, with the
24 State sending stuff and sending us out. It's not a
25 place where the Board really wants to be, you know

1 what I mean. And I think the Board really -- I feel
2 on the Board that this should be taken care of by the
3 State, but it's obviously our responsibility, falling
4 on us.

5 MRS. DENNIES: He is working on it, and
6 Monday he will call Connie at New York State DOT.

7 COUNCILMAN EARL: I don't know how far you
8 will get with Connie.

9 MRS. DENNIES: She offered it before to him,
10 so he's going to say, yeah, I will take it now, I will
11 take your offer. They will come and demolish.

12 COUNCILMAN EARL: They've offered that to
13 him since the collapse of the roof?

14 MRS. DENNIES: No, but they were going to
15 demolish it before because of 15 feet.

16 MR. DiMATTEO: How long ago was that; 15, 20
17 years ago?

18 MRS. DENNIES: Yeah.

19 COUNCILMAN EARL: Sorry, I got excited for a
20 minute.

21 MR. DiMATTEO: We live in a different state.

22 MRS. DENNIES: Yeah, well, we know. But he
23 is still going to call her Monday and see what she
24 will offer.

25 MR. DiMATTEO: I guess you are more than

1 welcome to find whatever resources you may find. I
2 think what we want is a commitment by April 1st you
3 will have that second story off there.

4 MRS. DENNIES: The wall?

5 MR. DiMATTEO: The wall.

6 COUNCILMAN EARL: The wall. Like I said, in
7 the last day or two you've gotten that one section all
8 down, and you didn't have a problem, you were dropping
9 boards and they weren't going in the road.

10 SUPERVISOR GAMBINO: That gives you 12 days.
11 Is that enough, 12 days?

12 MRS. DENNIES: Yeah, just take the boards
13 off, then you can cut the beams.

14 COUNCILMAN EARL: Is there hay and stuff in
15 the hay mound still.

16 MRS. DENNIES: A little bit.

17 COUNCILMAN EARL: Tarp it or something just
18 so it doesn't be blowing debris. That would be my
19 suggestion. Obviously, Gene would be in charge of
20 that, but you know what I mean, something and secure
21 the tarp.

22 MR. DiMATTEO: If I understand the
23 commitment then, the commitment is that you will file
24 for the demolition permit today, Mr. Degman will go up
25 and give you some of his pointers so as to secure it's

1 safe while you are working, and number 3, by April 1st
2 that second -- let's just mark this, make sure I am
3 right. That area is to be removed, correct, the X to
4 Xs?

5 COUNCILMAN EARL: X to X, yes.

6 MR. DiMATTEO: X to X, that X to X is to be
7 removed?

8 COUNCILMAN MORRELL: Yep, then he will cut
9 the beam.

10 COUNCILMAN MONTGOMERY: Yes, the wall and
11 the beams.

12 MR. DiMATTEO: The wall and the beams.

13 MR. DENNIES: That far corner, the west
14 corner, I will have to leave that. That's where my
15 power, you know, that's another 12-by-12 beam that
16 runs up there, so that's going to be staying. Again
17 majority of the wall will come down, and see, that's
18 where the power service is.

19 MR. DiMATTEO: You have electricity to that
20 barn?

21 MR. DENNIES: Yes.

22 MR. DiMATTEO: Okay.

23 COUNCILMAN MORRELL: Is that coming from a
24 pole or from the road?

25 COUNCILMAN EARL: Is that power to your

1 house or just barn?

2 MR. DENNIES: House and barn.

3 COUNCILMAN MORRELL: Does that come from a
4 pole?

5 MR. DENNIES: It comes from the pole, but
6 the power line runs behind the house and the barn.

7 MR. DiMATTEO: But our understanding is this
8 is what will be gone by April 1st?

9 MR. DENNIES: Yeah, because I don't know if
10 -- I have to see what's salvageable and I might save,
11 like, half of that westerly end. I have to see what's
12 what. But the end is pretty much --

13 MR. DiMATTEO: You're suggesting only going
14 to go to here or -- I want to make sure if we have an
15 understanding, we're not later --

16 COUNCILMAN EARL: I don't have a problem
17 leaving where his power is to the beam, okay, but we
18 still don't --

19 MR. DENNIES: Only halfway it actually looks
20 bad.

21 SUPERVISOR GAMBINO: That's to say it is
22 still attached at the far end where the power comes
23 in.

24 MR. DiMATTEO: Well, you will fill out a
25 permit.

1 COUNCILMAN EARL: I was just thinking if
2 they left a section of it, it's still going to cause
3 an issue.

4 MR. DiMATTEO: We were looking at Exhibit 5,
5 and the X to Xs drawn on there is what's agreed to be
6 removed. Okay.

7 MR. DENNIES: Hey.

8 MR. DiMATTEO: Oh, I took your stuff. And I
9 would steal it if I got a chance. Any further
10 questions?

11 Okay. Mrs. Dennies, we didn't ask if you
12 had anything to say. Do you want --

13 MRS. DENNIES: Apparently not.

14 MR. DiMATTEO: Thank you. Do you have a
15 motion to close the public hearing? We will sit and
16 make our decision.

17 SUPERVISOR GAMBINO: Could I get a motion to
18 close the public hearing? I will make a motion. Can
19 I get a second?

20 COUNCILMAN HOCHADEL: Second.

21 SUPERVISOR GAMBINO: All in favor?

22 (Affirmative response from
23 all Board members.)

24 SUPERVISOR GAMBINO: Any opposed?

25 (No response from the Board.)

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SUPERVISOR GAMBINO: Pass and carry.

MR. DiMATTEO: I will move all exhibits into evidence.

(Whereupon, Exhibit Numbers 2 through 5 were then received into Evidence.)

(The proceeding concluded at a time of 11:06 a.m.)

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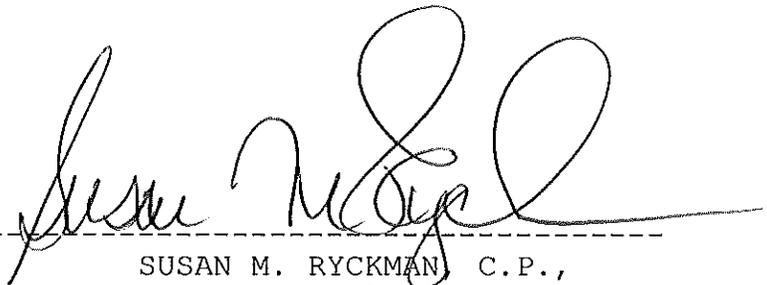
STATE OF NEW YORK)

ss:

COUNTY OF GENESEE)

I DO HEREBY CERTIFY as a Notary Public in and for the State of New York, that I did attend and report the foregoing proceeding, which was taken down by me in a verbatim manner by means of machine shorthand.

Further, that the proceeding was then reduced to writing in my presence and under my direction. That the proceeding was taken to be used in the foregoing entitled action. That the said witnesses, before examination, were duly sworn by me to testify to the truth, the whole truth, and nothing but the truth, relative to said action.



SUSAN M. RYCKMAN C.P.,
Notary Public.

\$	2nd [1] - 37:19	A		
\$25 [1] - 51:13	3	a.m [1] - 57:8	area [2] - 7:23, 54:3	bear [1] - 19:4
1	3 [6] - 4:7, 4:8, 23:23, 24:4, 25:2, 54:1	able [4] - 22:14, 22:20, 32:4, 49:12	assist [2] - 15:5, 44:25	bearing [4] - 13:3, 27:3, 35:16, 39:21
1 [5] - 4:5, 7:12, 7:15, 18:9, 18:11	3/11 [1] - 7:17	access [3] - 22:21, 43:11, 45:7	assume [1] - 10:5	become [1] - 34:1
11 [1] - 7:5	3/11/15 [1] - 4:5	accordance [2] - 8:22, 24:18	AT [1] - 1:8	beginning [1] - 37:19
11740 [3] - 5:16, 5:22, 44:17	3/17/15 [1] - 33:20	accurate [1] - 27:17	attach [1] - 5:11	behind [3] - 32:5, 32:21, 55:6
11770 [9] - 1:9, 5:3, 5:20, 19:2, 22:11, 24:8, 24:25, 37:6, 37:10	30 [3] - 3:12, 16:6, 47:9	acquired [2] - 17:23, 17:25	attached [2] - 5:24, 55:22	below [1] - 33:17
11:06 [1] - 57:8	34 [1] - 3:13	action [6] - 8:4, 11:15, 14:14, 25:9, 58:14, 58:17	attachment [1] - 7:19	beside [2] - 46:19, 48:24
11th [12] - 19:23, 20:8, 20:9, 21:19, 23:10, 23:17, 25:8, 25:23, 25:25, 26:6, 27:21, 41:2	343-8612 [1] - 1:25	actions [1] - 23:14	attempt [1] - 14:16	Betsy [1] - 51:12
12 [2] - 53:10, 53:11	35 [1] - 28:7	addition [1] - 8:16	attend [1] - 58:7	BETSY [1] - 2:11
12-by-12 [8] - 13:13, 31:24, 35:4, 35:14, 39:20, 44:22, 54:15	36 [2] - 3:14, 3:17	address [1] - 8:19	attention [2] - 18:22, 39:10	better [3] - 26:23, 43:5, 49:12
12320 [1] - 1:15	39 [9] - 3:20, 26:10, 37:5, 37:10, 37:12, 37:13, 38:4, 42:24, 51:23	advised [1] - 21:23	Attorney [2] - 2:9, 6:2	between [3] - 9:4, 20:23, 22:3
12th [5] - 22:4, 22:12, 23:18, 23:19, 41:2	3rd [1] - 37:19	affairs [1] - 8:10	attorney [1] - 21:23	Beverly [1] - 6:3
13th [2] - 23:19, 24:22	4	agency [1] - 51:21	authority [1] - 11:6	BEVERLY [1] - 2:4
14020 [1] - 1:24	4 [3] - 4:8, 26:2, 26:6	ago [5] - 12:22, 17:5, 28:8, 52:16, 52:17	authorized [1] - 15:4	big [3] - 14:19, 43:18, 44:2
15 [2] - 52:15, 52:16	40 [1] - 18:5	agreed [1] - 56:5	aware [1] - 9:7	bill [2] - 45:16, 48:1
150-years-old [1] - 50:14	45 [1] - 37:8	agreement [1] - 9:4	background [1] - 28:11	bit [3] - 11:17, 28:4, 53:16
16th [5] - 5:9, 25:1, 25:12, 25:13, 25:15	45-degree [1] - 48:12	ahead [2] - 34:20, 39:11	bad [5] - 17:5, 35:14, 48:10, 48:13, 55:20	blowing [1] - 53:18
17th [3] - 26:14, 27:8, 27:18	46.3 [1] - 24:18	ain't [1] - 40:6	ball [1] - 36:12	blown [2] - 12:23
18 [2] - 3:10, 4:5	46.7 [1] - 5:5	alleviate [1] - 29:3	bar [1] - 42:17	board [3] - 9:20, 31:16, 32:20
1850 [1] - 17:9	48 [2] - 13:15, 40:23	almost [2] - 43:6, 48:11	barn [53] - 5:3, 7:24, 8:15, 8:22, 8:24, 9:22, 10:17, 11:15, 12:5, 16:4, 16:5, 16:13, 17:3, 17:10, 17:13, 17:14, 19:7, 20:6, 22:4, 22:9, 23:1, 23:4, 23:5, 23:6, 24:8, 25:4, 27:11, 27:12, 27:13, 27:14, 27:16, 27:17, 28:18, 28:19, 32:10, 33:16, 34:24, 35:6, 37:9, 37:15, 37:21, 40:5, 40:21, 45:4, 46:5, 47:4, 50:10, 50:14, 51:9, 54:20, 55:1, 55:2, 55:6	BOARD [2] - 1:3, 2:3
1890 [1] - 17:10	48-hour [2] - 23:10, 25:8	alongs [1] - 49:16	bars [1] - 50:9	Board [10] - 1:14, 4:7, 24:7, 24:16, 25:2, 51:25, 52:1, 52:2, 56:23, 56:25
19 [1] - 1:16	5	amount [1] - 19:10	base [3] - 23:6, 27:13, 49:25	board's [1] - 50:11
1981 [1] - 28:9	5 [6] - 4:9, 26:18, 27:7, 33:19, 56:4, 57:5	AN [1] - 1:8	basis [1] - 37:4	boards [23] - 13:8, 26:24, 27:11, 27:12, 30:14, 30:18, 30:24, 31:5, 31:11, 31:12, 31:13, 31:20, 33:7, 33:8, 33:18, 40:7, 42:5, 45:22, 46:5, 46:11, 53:9, 53:12
19th [2] - 37:23, 37:24	57 [4] - 4:6, 4:7, 4:8, 4:9	angle [2] - 26:23, 48:12	Batavia [1] - 1:24	bottom [5] - 32:6, 34:8, 40:13, 40:15, 50:5
19th [2] - 37:23, 37:24	585 [1] - 1:25	answer [3] - 10:1, 14:1, 20:22	beam [7] - 31:1, 31:23, 32:25, 33:21, 54:9, 54:15, 55:17	boundaries [1] - 17:15
1st [7] - 37:19, 37:23, 50:25, 51:15, 53:2, 54:1, 55:8	6	answers [1] - 14:4	beams [18] - 13:13, 13:14, 30:19, 31:24, 32:3, 32:6, 32:13, 32:16, 32:21, 35:4, 35:15, 39:20, 44:19, 44:22, 49:25, 53:13, 54:11, 54:12	BRIAN [3] - 2:14, 3:5, 6:21
2	6 [2] - 3:6, 50:17	anywheres [1] - 14:13	basis [1] - 37:4	Brian [5] - 6:13, 6:14, 6:16, 6:18, 7:1
2 [4] - 4:6, 4:9, 21:2, 57:5	66-foot [1] - 17:9	apart [2] - 42:20, 50:8	Batavia [1] - 1:24	bring [1] - 47:16
20 [2] - 14:17, 52:16	6th [4] - 19:5, 19:6, 19:11, 19:21	apparent [1] - 23:2	beam [7] - 31:1, 31:23, 32:25, 33:21, 54:9, 54:15, 55:17	bringing [2] - 15:15, 45:6
2015 [2] - 1:16, 7:5	7	appear [1] - 33:19	beams [18] - 13:13, 13:14, 30:19, 31:24, 32:3, 32:6, 32:13, 32:16, 32:21, 35:4, 35:15, 39:20, 44:19, 44:22, 49:25, 53:13, 54:11, 54:12	brings [2] - 46:12, 46:13
21 [2] - 1:24, 4:6	7 [1] - 4:5	APPEARANCES [1] - 2:1	base [3] - 23:6, 27:13, 49:25	bucket [2] - 11:10, 46:1
23 [1] - 4:7	9	appeared [2] - 22:2, 25:16	basis [1] - 37:4	buddies [1] - 45:8
24 [1] - 23:11	9 [1] - 3:7	application [2] - 36:6, 51:11	basis [1] - 37:4	building [22] - 1:15, 12:6, 19:17, 20:4, 20:12, 22:15, 22:21,
26 [2] - 4:8, 4:9	9	applied [1] - 41:8	Batavia [1] - 1:24	
29 [1] - 3:11	9	apply [2] - 41:21, 41:25	beam [7] - 31:1, 31:23, 32:25, 33:21, 54:9, 54:15, 55:17	
	9	appreciable [1] - 23:1	beams [18] - 13:13, 13:14, 30:19, 31:24, 32:3, 32:6, 32:13, 32:16, 32:21, 35:4, 35:15, 39:20, 44:19, 44:22, 49:25, 53:13, 54:11, 54:12	
	9	appropriate [1] - 15:4	base [3] - 23:6, 27:13, 49:25	
	9	April [5] - 50:25, 51:15, 53:2, 54:1, 55:8	basis [1] - 37:4	

22:23, 23:8, 26:10, 28:12, 29:5, 29:12, 29:13, 35:2, 41:7, 41:8, 41:14, 43:8, 44:1, 49:4, 49:25 buildings [1] - 48:5 built [4] - 17:10, 17:12, 17:14, 17:17 bursitis [2] - 44:12, 44:14 buys [1] - 10:11 BY [13] - 1:23, 3:3, 6:24, 7:14, 18:20, 21:12, 24:2, 26:4, 27:5, 34:22, 36:1, 36:20, 39:6	cold [1] - 40:25 collapse [1] - 52:13 collapsed [3] - 7:24, 19:7, 23:3 collapsing [1] - 29:6 come-alongs [1] - 49:16 coming [2] - 33:22, 54:23 commitment [3] - 53:2, 53:23 compare [1] - 27:20 complaints [2] - 18:23, 18:25 completely [2] - 23:6, 33:4 concern [5] - 9:10, 10:19, 20:5, 35:17, 39:22 concerned [3] - 7:24, 13:9, 14:18 concerns [8] - 9:9, 19:25, 20:2, 20:3, 28:25, 30:10, 38:7 concluded [1] - 57:7 conclusion [1] - 36:11 condition [3] - 16:4, 20:5, 20:16 configuration [2] - 8:1, 17:13 Connie [4] - 10:22, 51:7, 52:6, 52:8 consider [1] - 15:9 considerably [1] - 38:2 Constance [1] - 10:21 construction [2] - 28:11, 28:13 contact [1] - 10:20 continue [1] - 30:17 continuing [1] - 28:24 contractor [2] - 15:6, 15:15 contracts [1] - 11:7 contradicts [1] - 11:16 control [7] - 9:6, 15:6, 15:16, 44:25, 45:2, 45:14, 45:24 controlled [1] - 43:15 controlling [1] - 45:16 cooperative [1] - 43:24 copied [1] - 7:16 copies [1] - 21:24 copy [4] - 5:23, 20:24, 21:13 core [2] - 41:18 corner [15] - 19:12, 19:14, 19:15, 19:16, 19:17, 19:19, 25:16,	25:19, 25:22, 27:14, 27:24, 37:16, 37:21, 54:13, 54:14 correct [13] - 16:9, 17:11, 20:19, 23:12, 24:20, 24:21, 25:11, 33:7, 33:20, 33:21, 37:24, 47:15, 54:3 costs [4] - 15:17, 46:14, 47:17, 47:22 Councilman [8] - 2:5, 2:6, 2:7, 2:8, 6:6, 6:8, 6:10, 6:12 COUNCILMAN [79] - 3:7, 3:11, 3:12, 6:5, 6:7, 6:9, 6:11, 9:22, 10:3, 10:7, 10:14, 11:13, 11:21, 12:2, 12:7, 14:6, 15:21, 16:1, 16:12, 16:17, 16:19, 17:16, 18:4, 29:19, 29:23, 30:2, 30:12, 30:17, 30:22, 31:2, 31:13, 31:17, 31:22, 32:8, 32:12, 32:18, 32:20, 32:24, 33:5, 33:10, 33:21, 33:24, 34:5, 34:10, 34:12, 43:17, 43:23, 44:19, 44:23, 45:20, 46:12, 46:17, 47:3, 47:10, 47:14, 48:14, 49:24, 50:4, 50:10, 50:15, 50:18, 51:2, 51:6, 51:20, 52:7, 52:12, 52:19, 53:6, 53:14, 53:17, 54:5, 54:8, 54:10, 54:23, 54:25, 55:3, 55:16, 56:1, 56:20 County [3] - 5:10, 17:8, 28:6 COUNTY [2] - 1:2, 58:3 couple [6] - 8:18, 9:25, 39:20, 43:20, 45:7, 48:10 course [1] - 38:2 Court [1] - 1:23 COURT [1] - 1:23 CP [1] - 1:23 create [1] - 24:13 creek [3] - 16:16, 16:17, 16:18 Creek [10] - 5:3, 5:16, 5:21, 19:2, 22:11, 24:8, 24:25, 28:20, 37:6, 37:10 CREEK [1] - 1:9 crew [1] - 45:6	cross [1] - 30:25 curious [1] - 11:13 curves [1] - 8:1 cut [8] - 42:18, 43:21, 49:10, 50:1, 53:13, 54:8	D	21:4, 22:4, 22:7, 22:20, 23:13, 30:13, 31:24, 34:15, 38:18, 39:8, 44:16, 49:1, 50:20, 56:11 DENNIES [91] - 2:15, 2:16, 3:13, 3:19, 5:14, 5:17, 5:19, 5:22, 5:25, 10:16, 10:19, 10:23, 11:5, 11:8, 11:11, 12:15, 12:18, 12:21, 13:19, 13:22, 14:21, 15:8, 18:5, 21:6, 21:9, 21:11, 24:1, 26:21, 27:2, 30:16, 30:21, 32:2, 33:9, 34:17, 34:19, 34:22, 35:19, 35:22, 38:11, 38:23, 38:25, 39:3, 44:11, 44:12, 44:16, 44:18, 44:21, 45:9, 45:18, 45:25, 46:7, 46:15, 46:19, 47:5, 47:7, 47:8, 47:12, 47:19, 47:22, 48:2, 48:6, 48:21, 49:7, 49:9, 49:13, 49:16, 49:20, 50:2, 50:6, 50:12, 50:13, 50:22, 51:7, 51:15, 51:18, 52:5, 52:9, 52:14, 52:18, 52:22, 53:4, 53:12, 53:16, 54:13, 54:21, 55:2, 55:5, 55:9, 55:19, 56:7, 56:13 Dennies' [1] - 37:22 department [1] - 11:14 Department [7] - 5:10, 6:17, 7:3, 8:7, 9:5, 16:11, 28:7 depict [2] - 27:10, 27:11 depiction [1] - 27:17 Dept [1] - 2:14 describe [3] - 19:10, 22:6, 27:21 DESCRIPTION [1] - 4:4 designated [1] - 17:9 destruction [1] - 41:9 DETERMINE [1] - 1:7 difference [1] - 27:22 different [4] - 11:9, 48:4, 48:18, 52:21 digging [2] - 40:1, 46:22 DiMatteo [103] - 2:9, 3:6, 3:10, 3:14, 3:17, 3:20, 5:4, 5:15, 5:18,
C	C.P [1] - 58:22 cable [3] - 29:14, 43:5, 49:3 capable [1] - 28:20 care [1] - 52:2 Carl [2] - 5:3, 5:13 CARL [3] - 2:15, 3:19, 39:3 carried [1] - 49:6 carry [1] - 57:1 case [1] - 11:4 caved [2] - 13:1, 39:13 ceiling [1] - 34:7 certain [1] - 49:4 certainly [1] - 30:9 certifications [1] - 28:5 certified [1] - 28:8 CERTIFY [1] - 58:6 Chaffee [1] - 24:25 chance [1] - 56:9 change [3] - 22:18, 23:20, 25:3 changes [1] - 37:9 changing [1] - 37:25 Chapter [1] - 5:5 charge [1] - 53:19 CHERYL [1] - 2:5 Cheryl [1] - 6:5 civil [2] - 7:4, 9:14 clap [2] - 31:16, 31:20 clean [1] - 25:9 cleaned [1] - 12:9 clear [1] - 48:16 Clerk [1] - 2:11 close [4] - 14:17, 14:24, 56:15, 56:18 code [5] - 5:9, 15:24, 18:16, 28:8, 28:10 Code [1] - 2:10				

5:20, 5:23, 6:1, 6:2, 6:13, 6:18, 6:24, 7:10, 7:14, 9:20, 12:13, 12:16, 12:20, 13:24, 15:11, 15:13, 15:19, 16:8, 16:10, 16:15, 16:20, 17:25, 18:6, 18:13, 18:20, 21:4, 21:7, 21:10, 21:12, 23:25, 24:2, 25:24, 26:4, 26:16, 26:20, 27:1, 27:4, 27:5, 29:17, 31:6, 31:15, 31:18, 33:1, 33:14, 33:23, 34:14, 34:18, 34:20, 35:18, 35:20, 35:23, 36:1, 36:14, 36:20, 38:9, 38:12, 38:15, 38:18, 38:24, 39:1, 39:6, 44:15, 44:17, 45:5, 45:13, 46:25, 47:20, 47:25, 48:4, 48:25, 49:8, 49:11, 50:19, 50:23, 51:3, 51:10, 51:16, 51:19, 52:16, 52:21, 52:25, 53:5, 53:22, 54:6, 54:12, 54:19, 54:22, 55:7, 55:13, 55:24, 56:4, 56:8, 56:14, 57:2
direct [2] - 14:1, 39:10
directed [1] - 8:12
direction [1] - 58:13
discuss [1] - 22:4
discussing [1] - 33:15
dismantling [1] - 13:7
dissipated [1] - 46:23
distance [3] - 13:12, 14:22, 35:12
division [4] - 8:11, 10:24, 48:19, 48:20
DO [1] - 58:6
don [1] - 16:22
DONALD [1] - 2:12
DONALD [2] - 3:16, 36:17
done [10] - 14:2, 17:24, 21:24, 25:4, 29:2, 36:9, 38:16, 42:22, 47:21, 50:25
door [4] - 20:22, 20:23, 21:14
doorway [3] - 34:25, 35:3, 35:9
DOT [6] - 4:5, 7:4, 14:5, 15:5, 41:1, 52:6
Doug [1] - 6:9
DOUGLAS [1] - 2:7

down [21] - 14:9, 15:17, 22:9, 30:18, 30:25, 31:1, 31:10, 32:14, 33:22, 40:9, 42:13, 43:22, 44:5, 46:8, 49:10, 51:2, 51:4, 51:5, 53:8, 54:17, 58:8
downstairs [1] - 32:13
draw [2] - 31:7, 33:14
drawn [1] - 56:5
Drive [1] - 1:24
drive [1] - 37:1
driving [1] - 7:23
dropped [1] - 46:8
dropping [3] - 13:7, 26:24, 53:8
due [2] - 13:4, 39:14
duly [5] - 6:21, 18:17, 36:17, 39:3, 58:15
duty [1] - 9:13

E

Earl [4] - 6:5, 31:10, 31:21, 33:1
EARL [54] - 2:5, 3:12, 6:5, 11:13, 11:21, 12:2, 12:7, 16:12, 16:17, 16:19, 17:16, 18:4, 30:12, 30:17, 30:22, 31:2, 31:13, 31:17, 31:22, 32:8, 32:12, 32:18, 32:20, 32:24, 33:5, 33:10, 33:21, 33:24, 34:5, 34:10, 34:12, 43:17, 43:23, 44:23, 45:20, 46:12, 46:17, 47:3, 47:14, 48:14, 50:18, 51:2, 51:6, 51:20, 52:7, 52:12, 52:19, 53:6, 53:14, 53:17, 54:5, 54:25, 55:16, 56:1
early [1] - 41:4
ease [1] - 30:10
east [5] - 27:14, 27:24, 29:5, 40:6, 40:9
easterly [4] - 19:16, 19:17, 19:19, 30:5
eastern [1] - 40:21
edge [2] - 17:2, 17:4
EDITH [1] - 1:23
eight [3] - 40:13, 42:10, 42:12
either [1] - 29:14
electricity [1] - 54:19
emergency [1] - 12:10

employed [1] - 7:2
encroached [1] - 17:1
encroachment [1] - 8:25
end [10] - 38:7, 40:6, 40:9, 40:15, 40:20, 40:21, 48:8, 55:11, 55:12, 55:22
Enforcement [1] - 2:10
enforcement [4] - 5:9, 18:16, 28:9, 28:10
engineer [4] - 7:4, 9:14, 48:15
entering [1] - 22:23
entitled [1] - 58:14
erected [1] - 12:5
ERIE [1] - 1:2
Erie [3] - 5:10, 17:8, 28:6
ESQ [1] - 2:9
estate [3] - 10:23, 18:1, 48:19
EVD [1] - 4:4
Eve [3] - 19:24, 20:17, 44:16
EVE [1] - 2:16
evidence [2] - 18:9, 57:3
Evidence [2] - 18:12, 57:6
exact [1] - 9:25
EXAMINATION [5] - 6:24, 18:20, 34:22, 36:1, 36:20
examination [2] - 39:6, 58:15
EXAMINED [1] - 3:3
excited [1] - 52:19
excuses [1] - 44:13
EXH [5] - 4:5, 4:6, 4:7, 4:8, 4:9
Exhibit [14] - 7:11, 7:15, 18:9, 18:10, 21:1, 23:22, 24:3, 26:1, 26:6, 26:17, 27:7, 33:19, 56:4, 57:4
EXHIBIT [2] - 4:1, 4:3
exhibits [2] - 31:9, 57:2
expeditious [1] - 49:6
expressed [1] - 20:5
extending [1] - 38:4
extensive [2] - 15:16, 28:13
exterior [2] - 31:16, 31:17

F

facing [2] - 19:8, 28:19
fact [1] - 37:20
fall [11] - 9:10, 9:13, 13:14, 14:11, 14:19, 22:9, 34:8, 39:16, 44:4, 51:2, 51:4
falling [5] - 13:10, 28:21, 30:11, 52:3
falls [1] - 15:21
family [1] - 18:4
far [4] - 42:19, 52:7, 54:13, 55:22
fashion [2] - 36:8, 49:6
favor [1] - 56:21
feasible [1] - 50:25
February [3] - 13:5, 37:14, 39:14
feet [8] - 9:25, 10:2, 16:6, 40:13, 42:10, 42:12, 47:9, 52:15
fell [7] - 7:25, 12:8, 12:22, 24:12, 32:25, 46:9, 47:9
few [2] - 16:23, 38:3
figure [3] - 10:24, 11:11, 46:21
figured [1] - 14:4
file [1] - 53:23
fill [2] - 51:16, 55:24
findings [2] - 24:9, 24:11
fine [6] - 14:14, 31:18, 35:23, 39:10, 47:2, 49:19
firewood [1] - 40:8
first [17] - 6:14, 8:5, 14:24, 19:2, 19:4, 22:24, 22:25, 25:21, 25:23, 26:22, 32:10, 32:14, 38:1, 41:1, 42:5, 42:7
five [1] - 10:1
fixed [1] - 36:4
floor [9] - 32:14, 32:23, 34:7, 40:13, 42:6, 42:7, 43:11, 44:20, 47:11
flowing [1] - 12:12
follows [4] - 6:22, 18:18, 36:18, 39:4
foot [2] - 19:13, 50:17
FORBES [1] - 1:23
forecast [1] - 28:22
foreclosed [1] - 38:21
foregoing [2] - 58:8,

58:14
foregone [1] - 36:11
forth [1] - 14:1
forwarded [1] - 21:24
free [2] - 12:2, 12:20
frequently [1] - 37:11
front [1] - 28:19

G

GAMBINO [14] - 2:4, 5:1, 6:3, 13:17, 13:20, 46:4, 51:12, 51:14, 53:10, 55:21, 56:17, 56:21, 56:24, 57:1
Gambino [1] - 6:3
gap [2] - 25:16, 27:24
gauge [1] - 19:19
Gene [2] - 18:14, 53:19
GENE [3] - 2:10, 3:9, 18:16
generally [2] - 27:21, 27:22
GENESEEE [1] - 58:3
given [1] - 50:24
God's [1] - 16:18
government [1] - 51:21
grab [1] - 31:9
grant [1] - 49:1
greater [1] - 28:25
ground [3] - 32:15, 44:22
group [1] - 10:9
growing [1] - 28:25
guess [5] - 32:13, 33:24, 38:25, 48:6, 52:25
gust [2] - 14:18, 44:3
guy [1] - 49:11
guys [3] - 11:5, 16:19, 41:19

H

half [1] - 55:11
halfway [1] - 55:19
hammers [1] - 42:17
hand [1] - 42:21
handed [1] - 24:15
hands [1] - 50:8
hay [4] - 23:3, 34:8, 53:14, 53:15
hazard [2] - 24:12, 34:2
Health [1] - 28:6

<p>healthy [1] - 50:8 HEARING [1] - 1:7 hearing [6] - 5:2, 5:4, 5:7, 24:20, 56:15, 56:18 heavy [1] - 43:6 held [1] - 1:13 help [4] - 11:1, 43:9, 45:12, 45:13 helped [1] - 46:24 helpers [2] - 46:17, 46:18 helping [1] - 51:9 HEREBY [1] - 58:6 high [2] - 46:1, 46:2 highway [12] - 7:25, 9:18, 11:24, 12:10, 14:25, 16:5, 17:5, 36:15, 36:22, 36:25, 48:16 Highway [2] - 2:12, 16:22 highways [1] - 9:15 hill [1] - 17:14 history [2] - 16:24, 28:5 hit [3] - 8:2, 46:9, 46:11 hitting [2] - 13:8, 26:25 Hochadel [1] - 6:7 HOCHADEL [7] - 2:6, 6:7, 15:21, 16:1, 44:19, 47:10, 56:20 hold [2] - 13:24, 48:22 holding [4] - 13:13, 31:4, 31:25, 39:20 homeowner [1] - 36:7 HOPKINS [7] - 2:12, 3:16, 16:22, 17:11, 17:18, 36:17, 50:17 Hopkins [4] - 16:22, 36:22, 38:10, 38:13 horizontal [1] - 30:25 hour [1] - 20:21 hours [3] - 13:15, 23:11, 40:23 house [6] - 20:23, 28:12, 48:18, 55:1, 55:2, 55:6 humans [1] - 24:14 hurt [2] - 39:16, 47:10 husband [1] - 44:18</p>	<p>identification [5] - 7:13, 21:3, 23:24, 26:3, 26:19 immediate [1] - 39:22 inch [1] - 43:6 inches [1] - 14:17 incorporate [2] - 46:14, 47:17 INDEX [2] - 3:1, 4:1 indicate [2] - 19:25, 20:2 inherit [1] - 18:2 initiated [1] - 6:19 injury [1] - 24:14 inside [4] - 33:25, 35:2, 43:12, 49:10 inspected [2] - 35:10, 35:11 inspection [6] - 20:11, 20:16, 23:20, 25:1, 34:24 intention [1] - 40:10 interior [1] - 23:8 Internet [1] - 50:17 interrupt [1] - 31:6 investigated [1] - 19:1 issue [7] - 12:3, 12:4, 16:7, 16:8, 16:10, 16:14, 56:3</p>	<p>leaning [5] - 9:12, 14:17, 22:18, 28:2, 48:10 least [2] - 29:5, 41:2 leave [3] - 20:17, 40:13, 54:14 leaving [1] - 55:17 left [4] - 20:22, 21:14, 40:7, 56:2 legal [2] - 8:10, 11:14 Leonard [1] - 6:7 LEONARD [1] - 2:6 letter [6] - 7:16, 7:21, 9:17, 14:11, 21:5, 21:7 Letter [1] - 4:5 level [12] - 22:25, 23:5, 26:22, 32:10, 32:16, 33:3, 33:4, 35:5, 40:11, 45:13, 46:10 levels [1] - 33:2 licensed [1] - 17:21 life [1] - 16:25 likely [1] - 17:12 limited [1] - 34:4 line [3] - 26:21, 26:25, 55:6 list [2] - 28:24, 42:23 listing [1] - 26:9 live [1] - 52:21 lived [1] - 16:25 living [1] - 7:2 loader [5] - 46:1, 46:13, 47:1, 47:16 LOCATED [1] - 1:8 located [1] - 5:2 location [1] - 37:5 look [10] - 13:1, 14:21, 31:11, 35:1, 35:4, 40:6, 45:21, 48:14, 49:20, 49:22 looked [4] - 25:5, 27:18, 48:12, 50:18 looking [5] - 13:11, 14:15, 33:6, 34:24, 56:4 looks [9] - 17:25, 33:2, 33:17, 35:12, 35:14, 40:8, 48:13, 55:19 lower [3] - 33:3, 33:13, 33:15</p>	<p>majority [1] - 54:17 manner [1] - 58:9 March [22] - 1:16, 5:9, 7:5, 19:5, 19:6, 19:11, 19:21, 19:23, 20:8, 20:9, 21:19, 23:10, 23:17, 23:18, 23:19, 24:22, 25:8, 26:7, 37:19, 38:2, 41:2 mark [2] - 26:16, 54:2 marked [11] - 7:10, 7:12, 7:15, 21:2, 23:23, 24:3, 25:25, 26:2, 26:6, 26:18, 27:7 MARSH [2] - 2:11, 51:13 material [1] - 37:9 matter [1] - 9:6 Matter [1] - 1:6 mean [29] - 10:19, 12:24, 13:16, 13:20, 13:22, 31:7, 35:15, 38:20, 39:20, 39:23, 40:25, 41:3, 41:4, 41:11, 42:15, 44:1, 44:8, 44:24, 45:9, 45:21, 46:8, 47:9, 48:11, 50:8, 50:10, 50:23, 51:21, 52:1, 53:20 means [2] - 49:4, 58:9 mechanism [1] - 11:25 meet [1] - 5:15 meeting [5] - 22:1, 22:2, 22:3, 22:6, 25:2 members [1] - 56:23 mentioned [1] - 51:8 mess [1] - 13:6 methods [1] - 29:15 middle [1] - 27:15 might [7] - 12:11, 15:8, 16:15, 29:21, 39:25, 50:1, 55:10 mind [1] - 36:7 minimum [1] - 29:4 minute [1] - 52:20 miscommunication [1] - 8:19 Monday [4] - 48:23, 51:8, 52:6, 52:23 money [2] - 50:11, 50:16 MONTGOMERY [17] - 2:8, 3:7, 3:11, 6:11, 9:22, 10:3, 10:7, 10:14, 14:6, 29:19,</p>	<p>29:23, 30:2, 49:24, 50:4, 50:10, 50:15, 54:10 Montgomery [1] - 6:11 month [3] - 37:8, 39:13, 43:21 morning [3] - 14:15, 30:13, 44:7 Morrell [1] - 6:9 MORRELL [5] - 2:7, 6:9, 54:8, 54:23, 55:3 most [2] - 10:2, 19:15 motion [3] - 56:15, 56:17, 56:18 motorists [1] - 9:16 mound [3] - 23:4, 34:8, 53:15 move [3] - 18:9, 47:7, 57:2 moved [1] - 17:16 MR [176] - 3:6, 3:10, 3:14, 3:17, 3:20, 5:4, 5:14, 5:15, 5:17, 5:18, 5:19, 5:20, 5:22, 5:23, 5:25, 6:1, 6:13, 6:16, 6:18, 6:24, 7:10, 7:14, 9:20, 10:16, 10:19, 10:23, 11:5, 11:8, 11:11, 12:13, 12:15, 12:16, 12:18, 12:20, 12:21, 13:19, 13:22, 13:24, 14:21, 15:8, 15:11, 15:13, 15:19, 16:8, 16:10, 16:15, 16:20, 16:22, 17:11, 17:18, 17:25, 18:5, 18:6, 18:13, 18:20, 21:4, 21:6, 21:7, 21:9, 21:10, 21:11, 21:12, 23:25, 24:1, 24:2, 25:24, 26:4, 26:16, 26:20, 26:21, 27:1, 27:2, 27:4, 27:5, 29:17, 30:16, 30:21, 31:6, 31:15, 31:18, 32:2, 33:1, 33:9, 33:14, 33:23, 34:14, 34:17, 34:18, 34:19, 34:20, 34:22, 35:18, 35:19, 35:20, 35:22, 35:23, 36:1, 36:14, 36:20, 38:9, 38:11, 38:12, 38:15, 38:18, 38:23, 38:24, 38:25, 39:1, 39:6, 44:11, 44:15, 44:17, 44:21, 45:5, 45:9, 45:13, 45:16, 45:25,</p>
<p>I</p> <p>ID [1] - 4:4 idea [2] - 42:4, 45:25 ideas [2] - 38:21</p>	<p>J</p> <p>job [3] - 15:1, 40:4, 48:16 July [1] - 39:25 Jurors [1] - 38:14</p>	<p>K</p> <p>keep [5] - 9:17, 12:11, 15:17, 29:6, 48:16 kills [1] - 15:22 kind [2] - 32:5, 35:14 knowing [2] - 16:24 known [1] - 8:24</p>	<p>M</p> <p>ma'am [1] - 44:15 machine [1] - 58:9 main [1] - 30:25 maintenance [1] - 11:25</p>	<p>L</p> <p>ladder [1] - 43:9 land [2] - 9:11, 17:21 lane [3] - 17:5, 46:10, 46:11 last [8] - 11:16, 13:7, 37:8, 37:14, 38:1, 40:2, 43:18, 53:7 Law [2] - 5:6, 24:19 law [2] - 11:25, 35:15 lean [1] - 48:8</p>

46:7, 46:15, 46:19, 46:25, 47:5, 47:8, 47:12, 47:19, 47:20, 47:22, 47:25, 48:2, 48:4, 48:6, 48:21, 48:25, 49:7, 49:8, 49:11, 49:15, 49:18, 49:22, 50:2, 50:6, 50:12, 50:17, 50:19, 50:22, 50:23, 51:3, 51:10, 51:15, 51:16, 51:18, 51:19, 52:16, 52:21, 52:25, 53:5, 53:22, 54:6, 54:12, 54:13, 54:19, 54:21, 54:22, 55:2, 55:5, 55:7, 55:9, 55:13, 55:19, 55:24, 56:4, 56:7, 56:8, 56:14, 57:2	Notary [2] - 58:6, 58:23 nothing [2] - 38:15, 58:16 notice [23] - 5:7, 5:11, 5:18, 5:24, 7:6, 8:13, 8:16, 20:19, 20:22, 20:24, 21:13, 21:14, 21:16, 21:25, 22:11, 23:10, 25:8, 25:14, 37:15, 37:20, 41:1, 44:7 Notice [1] - 4:6 noticed [4] - 30:12, 37:9, 37:14, 37:24 notices [1] - 8:8 number [3] - 28:7, 28:10, 54:1 Number [9] - 7:12, 18:11, 21:2, 23:23, 24:3, 26:2, 26:6, 26:18, 27:7 NUMBER [1] - 4:4 Numbers [1] - 57:4 NYS [1] - 2:14	ongoing [1] - 37:4 open [2] - 5:1, 36:7 opinion [3] - 28:17, 36:3, 48:14 opportunity [1] - 20:10 opposed [1] - 56:24 option [2] - 29:8, 29:9 options [1] - 29:9 order [1] - 47:21 originally [1] - 17:17 outside [1] - 33:8 overnight [1] - 45:19 own [3] - 5:24, 17:2, 28:12 owned [4] - 5:3, 17:22, 17:23, 18:4 owner [2] - 5:20, 10:10 owns [1] - 48:17	physical [1] - 20:11 physically [1] - 42:15 physics [1] - 35:16 picture [3] - 25:25, 31:7, 33:14 pictures [7] - 14:23, 25:22, 25:23, 26:5, 26:12, 26:14, 33:20 piece [3] - 33:7, 33:10, 33:11 pieces [1] - 44:4 piled [1] - 27:12 pine [1] - 48:9 place [5] - 11:7, 22:18, 29:10, 31:2, 51:25 plan [5] - 39:17, 40:3, 41:5, 43:21 planned [1] - 38:23 plans [1] - 15:14 plow [1] - 37:13 plowing [1] - 37:12 plus [2] - 27:2, 50:7 point [13] - 9:13, 20:15, 21:24, 22:7, 23:20, 24:15, 28:3, 34:11, 38:5, 43:1, 46:6, 46:20, 48:24 pointers [1] - 53:25 points [1] - 11:24 pole [3] - 54:24, 55:4, 55:5 portion [5] - 11:20, 11:22, 40:21, 41:18 posed [1] - 24:11 position [1] - 36:25 possibility [3] - 16:25, 29:22, 32:6 possible [2] - 10:7, 24:13 potential [2] - 24:12, 29:3 potentially [2] - 19:9, 28:20 power [6] - 54:15, 54:18, 54:25, 55:6, 55:17, 55:22 pray [1] - 51:2 predates [1] - 9:2 premise [1] - 19:22 presence [1] - 58:12 present [1] - 30:3 pressure [1] - 27:3 pretty [6] - 14:16, 20:15, 41:4, 43:17, 48:10, 55:12 previous [1] - 20:16 primary [1] - 9:13 priority [1] - 14:24 problem [9] - 22:8, 30:23, 43:25, 44:5,	44:6, 47:20, 49:24, 53:8, 55:16 proceeding [4] - 57:7, 58:8, 58:11, 58:13 Proceedings [1] - 1:13 process [2] - 38:22, 43:4 professional [1] - 28:17 progress [2] - 40:2, 43:18 property [15] - 10:10, 10:11, 17:15, 17:22, 17:23, 17:24, 18:1, 19:1, 23:15, 24:13, 25:9, 47:4, 48:8, 48:17 proposals [1] - 49:5 propose [1] - 38:20 protected [1] - 16:5 provided [1] - 28:14 proximity [1] - 7:25 pry [2] - 42:17, 50:9 public [2] - 56:15, 56:18 Public [2] - 58:6, 58:23 pull [4] - 49:9, 49:10, 49:15, 49:17 pulleys [1] - 49:17 purpose [2] - 7:21, 9:17 pursuant [1] - 5:4 pursue [3] - 8:14, 9:1, 11:14 push [3] - 46:2, 47:13, 47:16 pushed [3] - 12:11, 16:13, 47:1 put [2] - 30:14, 40:18 putting [2] - 39:15, 39:17
MRS [19] - 44:12, 44:16, 44:18, 47:7, 49:9, 49:13, 49:16, 49:20, 50:13, 51:7, 52:5, 52:9, 52:14, 52:18, 52:22, 53:4, 53:12, 53:16, 56:13 MS [1] - 51:13 multitude [1] - 36:4 municipalities [1] - 28:10 must [1] - 31:25	O	P	Q	
N	o'clock [1] - 25:2 observations [3] - 19:18, 22:14, 24:23 observe [1] - 19:6 observed [2] - 9:8, 23:7 obviously [4] - 30:13, 51:23, 52:3, 53:19 occasion [1] - 37:5 occur [2] - 28:22, 36:8 occurring [1] - 25:6 OF [6] - 1:1, 1:3, 1:8, 2:3, 58:1, 58:3 offer [2] - 52:11, 52:24 offered [2] - 52:9, 52:12 office [2] - 1:15, 21:25 Officer [1] - 2:10 officer [4] - 5:9, 18:17, 28:9, 28:10 offices [1] - 18:24 old [1] - 23:5 one [22] - 11:23, 14:18, 14:25, 15:3, 15:10, 15:11, 15:12, 17:5, 19:12, 19:14, 19:22, 29:8, 29:9, 31:3, 33:7, 33:10, 33:11, 39:9, 45:15, 48:22, 48:25, 53:7 ones [2] - 32:18, 32:19	PAGE [3] - 3:1, 3:3, 4:1 part [15] - 10:12, 12:3, 18:2, 19:7, 23:2, 30:6, 33:12, 33:13, 33:15, 40:14, 40:15, 40:21, 43:25, 48:18, 50:7 partially [1] - 7:24 parts [1] - 49:3 pass [1] - 57:1 pay [5] - 46:1, 46:13, 47:1, 47:16 payment [1] - 17:4 pending [1] - 14:8 people [3] - 8:2, 15:2, 39:11 perfect [1] - 12:5 permanent [3] - 30:1, 30:9, 43:3 permission [1] - 8:14 permit [11] - 22:21, 41:7, 41:8, 41:9, 41:16, 41:20, 41:21, 51:10, 51:16, 53:24, 55:25 permits [1] - 12:6 person [1] - 10:11 personal [1] - 47:3 pertinent [1] - 37:10 photo [1] - 27:20 Photographs [2] - 4:8, 4:9 photos [6] - 25:18, 26:9, 27:6, 27:8, 27:20, 33:5	point [13] - 9:13, 20:15, 21:24, 22:7, 23:20, 24:15, 28:3, 34:11, 38:5, 43:1, 46:6, 46:20, 48:24 pointers [1] - 53:25 points [1] - 11:24 pole [3] - 54:24, 55:4, 55:5 portion [5] - 11:20, 11:22, 40:21, 41:18 posed [1] - 24:11 position [1] - 36:25 possibility [3] - 16:25, 29:22, 32:6 possible [2] - 10:7, 24:13 potential [2] - 24:12, 29:3 potentially [2] - 19:9, 28:20 power [6] - 54:15, 54:18, 54:25, 55:6, 55:17, 55:22 pray [1] - 51:2 predates [1] - 9:2 premise [1] - 19:22 presence [1] - 58:12 present [1] - 30:3 pressure [1] - 27:3 pretty [6] - 14:16, 20:15, 41:4, 43:17, 48:10, 55:12 previous [1] - 20:16 primary [1] - 9:13 priority [1] - 14:24 problem [9] - 22:8, 30:23, 43:25, 44:5,	questions [18] - 9:21, 12:13, 14:1, 15:19, 16:20, 18:6, 29:18, 34:13, 34:15, 35:20, 35:24, 36:14, 38:9, 38:10, 38:13, 50:20, 56:10 quick [1] - 16:23 quite [2] - 37:17, 48:8
nails [1] - 42:18 name [2] - 6:15, 44:15 nasty [1] - 40:25 need [10] - 13:18, 36:6, 41:7, 41:16, 41:19, 42:20, 45:1, 45:23, 46:24 needed [2] - 15:16, 23:15 needs [3] - 29:2, 29:4, 36:8 never [1] - 46:6 NEW [2] - 1:1, 58:1 New [13] - 1:16, 1:24, 6:17, 7:3, 7:4, 9:4, 11:1, 16:2, 24:25, 28:15, 51:8, 52:6, 58:7 next [5] - 14:3, 20:8, 21:21, 33:24, 49:11 nice [1] - 5:15 night [1] - 37:17 nobody's [1] - 35:11 none [1] - 51:20	R	raise [1] - 30:14		

- real** [2] - 10:23, 48:19
realizing [1] - 17:15
really [7] - 9:1, 11:25, 17:14, 42:19, 46:19, 51:25, 52:1
reason [1] - 46:20
reasons [1] - 15:1
receipt [1] - 22:1
received [4] - 5:18, 18:11, 18:23, 57:6
receiving [1] - 18:25
recently [1] - 39:12
receptive [1] - 49:5
reciprocal [1] - 42:18
recognize [1] - 24:4
recoup [1] - 12:1
reduced [1] - 58:12
regarding [1] - 24:7
regards [1] - 20:3
regular [1] - 37:4
relative [1] - 58:17
remediated [1] - 36:4
remediation [2] - 25:6, 25:7
remember [1] - 48:9
removal [2] - 47:24, 48:2
remove [2] - 31:20, 41:7
removed [8] - 27:12, 29:7, 33:4, 33:19, 34:1, 54:3, 54:7, 56:6
removing [3] - 14:7, 30:19, 33:6
Report [1] - 4:7
report [5] - 24:6, 24:7, 24:9, 24:15, 58:8
REPORTED [1] - 1:23
Reporter [1] - 1:23
REPORTING [1] - 1:23
representative [2] - 10:20, 48:22
request [1] - 36:7
required [3] - 8:8, 24:19, 41:24
researched [1] - 9:3
researches [1] - 8:21
reside [2] - 5:16, 44:17
residence [1] - 37:22
resolution [1] - 23:14
RESOLUTION [1] - 1:7
resources [1] - 53:1
Respondent [1] - 2:15
response [4] - 21:16, 38:14, 56:22, 56:25
responsibility [4] - 11:17, 11:18, 15:25, 52:3
responsible [4] - 15:23, 16:2, 16:3, 16:4
rest [4] - 29:5, 29:12, 29:13, 30:24
retired [1] - 28:7
return [1] - 20:20
returned [1] - 20:21
rid [1] - 13:3
right-of-way [11] - 8:23, 9:3, 9:23, 10:4, 10:17, 10:25, 11:19, 17:2, 17:3, 17:4, 45:11
right-of-ways [1] - 17:9
rip [2] - 42:20, 50:8
risk [1] - 14:20
ROAD [1] - 1:9
road [30] - 8:1, 9:11, 9:12, 13:8, 13:10, 13:14, 14:12, 14:17, 14:19, 15:2, 16:6, 16:13, 16:24, 17:1, 17:17, 19:8, 22:10, 22:19, 28:21, 29:6, 30:11, 38:6, 38:7, 39:17, 46:6, 53:9, 54:24
Road [11] - 1:15, 5:3, 5:16, 5:21, 19:3, 22:12, 24:8, 24:25, 28:20, 37:6, 37:11
roads [4] - 17:8, 37:1, 37:13
roadway [3] - 24:12, 24:13, 28:2
roof [15] - 12:22, 12:25, 13:1, 23:2, 27:2, 35:5, 35:13, 37:14, 39:13, 39:21, 40:18, 46:22, 47:9, 50:7, 52:13
roof-weight [1] - 39:21
rope [8] - 14:15, 27:13, 29:24, 29:25, 30:8, 30:14, 43:6, 43:7
ropes [4] - 42:25, 43:2, 43:3, 44:9
rotted [1] - 50:14
roughly [2] - 13:18, 42:11
Route [6] - 26:10, 37:5, 37:10, 37:13, 38:4, 42:24
routinely [1] - 37:1
- run** [1] - 44:19
runs [2] - 54:16, 55:6
rural [1] - 8:25
rush [1] - 13:20
RYCKMAN [2] - 1:23, 58:22
- S**
- S-K-O-K** [1] - 6:16
safe [4] - 9:15, 9:18, 48:17, 54:1
safety [2] - 43:25, 45:3
salvage [1] - 40:5
salvageable [1] - 55:10
SARDINA [1] - 2:3
SARDINIA [1] - 1:3
Sardinia [13] - 1:14, 1:15, 5:5, 5:6, 7:6, 7:17, 8:9, 8:13, 18:17, 24:19, 36:23, 37:2
Savage [1] - 1:15
save [1] - 55:10
saw [8] - 7:23, 8:5, 19:11, 42:18, 42:20, 44:8
schedule [1] - 24:19
scheduled [1] - 22:2
second [10] - 21:7, 31:6, 43:11, 44:20, 45:16, 47:10, 53:3, 54:2, 56:19, 56:20
section [4] - 43:19, 44:8, 53:7, 56:2
secure [8] - 14:8, 23:15, 42:22, 45:22, 49:4, 49:9, 53:20, 53:25
secured [3] - 14:12, 29:4, 51:6
securing [3] - 14:7, 29:10, 29:11
see [25] - 8:2, 8:21, 11:3, 13:1, 20:14, 22:17, 22:23, 25:20, 26:21, 26:24, 28:24, 29:9, 33:5, 34:3, 35:13, 36:6, 40:5, 41:22, 46:21, 47:23, 50:6, 52:23, 54:17, 55:10, 55:11
send [2] - 7:5, 48:1
sending [2] - 51:24
sense [1] - 43:5
sent [4] - 5:7, 5:8, 7:16, 8:16
separate [1] - 37:22
- separation** [2] - 26:22, 37:16
served [2] - 5:10, 28:9
service [2] - 11:8, 54:18
SERVICE [1] - 1:23
set [1] - 45:21
several [3] - 18:23, 27:11, 29:15
share [1] - 18:2
sheets [2] - 4:8, 4:9
Sheriff's [1] - 5:10
short [2] - 13:21, 43:21
shorthand [1] - 58:10
shoulder [1] - 44:13
show [8] - 7:15, 13:12, 21:4, 23:25, 24:3, 26:9, 26:20, 27:7
side [2] - 43:8, 46:5
sides [1] - 49:10
silos [2] - 29:20, 30:6
sit [2] - 39:8, 56:15
sitting [1] - 49:11
situated [1] - 8:22
situation [5] - 9:1, 13:23, 21:23, 22:5, 51:22
six [1] - 10:1
Skok [11] - 6:16, 7:16, 9:21, 12:14, 14:2, 14:5, 18:7, 18:24, 44:23, 48:15
SKOK [4] - 2:14, 3:5, 6:16, 6:21
sloping [1] - 17:14
slowly [1] - 48:24
snow [7] - 13:5, 39:14, 39:24, 39:25, 46:21, 46:23, 50:3
solid [1] - 13:13
solution [3] - 30:1, 30:9, 43:3
solve [1] - 30:22
sometimes [1] - 43:10
somewhat [1] - 30:4
somewhere [1] - 37:20
soon [1] - 8:4
sorry [3] - 23:18, 31:17, 52:19
sort [1] - 6:18
sounded [2] - 31:18, 45:5
sounds [1] - 38:20
southeast [2] - 37:16, 37:21
split [4] - 33:17, 37:22, 37:25, 50:13
ss [1] - 58:2
- stability** [1] - 32:10
stabilize [1] - 30:10
stable [1] - 30:7
standing [3] - 12:25, 13:2, 44:6
start [1] - 13:7
started [6] - 5:8, 13:4, 30:16, 31:14, 33:6, 37:22
starting [1] - 40:9
state [2] - 6:14, 52:21
STATE [2] - 1:1, 58:1
State [29] - 6:17, 7:3, 7:4, 9:5, 9:23, 10:3, 10:25, 11:1, 11:17, 12:8, 14:7, 16:2, 16:10, 16:12, 28:14, 37:10, 41:1, 44:2, 45:10, 45:19, 45:23, 46:12, 47:23, 48:17, 51:8, 51:24, 52:3, 52:6, 58:7
State's [1] - 16:17
statement [1] - 11:16
statements [1] - 50:21
staying [1] - 54:16
steal [1] - 56:9
sticking [1] - 11:23
still [10] - 13:5, 23:11, 31:2, 39:24, 50:15, 52:23, 53:15, 55:18, 55:22, 56:2
stood [2] - 35:3, 35:9
stopped [1] - 20:21
storm [1] - 20:23
story [1] - 53:3
stove [1] - 40:7
structural [1] - 32:9
structurally [1] - 23:5
structure [4] - 5:2, 15:7, 31:16, 32:5
STRUCTURE [1] - 1:8
structures [2] - 11:7, 37:10
Structures [1] - 5:6
stuff [7] - 8:3, 13:16, 47:5, 50:9, 51:24, 53:14, 56:8
subsequent [1] - 22:3
subsequently [1] - 26:12
suggest [1] - 28:1
suggesting [3] - 33:2, 33:3, 55:13
suggestion [2] - 31:19, 53:19
Superintendent [2] - 2:12, 16:23
superintendent [3] - 36:15, 36:22, 36:25

<p>SUPERVISOR [13] - 5:1, 6:3, 13:17, 13:20, 46:4, 51:12, 51:14, 53:10, 55:21, 56:17, 56:21, 56:24, 57:1</p> <p>Supervisor [2] - 2:4, 6:4</p> <p>supported [1] - 30:6</p> <p>surprised [1] - 50:12</p> <p>survey [7] - 9:25, 10:6, 10:8, 10:13, 10:15, 17:24, 18:3</p> <p>surveyor [1] - 17:21</p> <p>SUSAN [2] - 1:23, 58:22</p> <p>suspect [1] - 17:7</p> <p>sways [1] - 40:22</p> <p>sworn [7] - 6:19, 6:22, 13:25, 18:18, 36:18, 39:4, 58:15</p>	<p>29:23, 29:24, 30:4, 30:7, 44:4</p> <p>tilt [1] - 19:10</p> <p>tilted [1] - 19:8</p> <p>TO [1] - 1:7</p> <p>today [7] - 5:12, 6:2, 37:24, 51:10, 51:11, 51:17, 53:24</p> <p>tomorrow [2] - 45:22, 45:23</p> <p>took [11] - 25:22, 25:23, 26:5, 26:14, 27:6, 27:8, 27:21, 43:18, 46:7, 48:7, 56:8</p> <p>top [10] - 26:23, 31:1, 31:3, 31:5, 31:23, 35:5, 40:14, 40:19, 46:22, 49:15</p> <p>totally [2] - 17:2, 51:22</p> <p>toward [2] - 9:12, 14:17</p> <p>towards [7] - 19:8, 22:19, 26:10, 27:15, 28:2, 38:4, 42:23</p> <p>TOWN [2] - 1:3, 2:3</p> <p>Town [36] - 1:14, 2:9, 2:11, 4:7, 5:5, 5:6, 6:2, 6:3, 6:5, 6:7, 6:9, 7:6, 7:17, 8:9, 8:12, 11:24, 12:4, 15:5, 15:6, 15:14, 18:17, 18:23, 21:22, 24:7, 24:16, 24:18, 24:19, 25:2, 36:23, 37:2, 37:13, 38:6, 38:7, 46:13, 51:11</p> <p>Town's [1] - 15:25</p> <p>traffic [9] - 9:14, 12:11, 15:6, 15:16, 44:25, 45:2, 45:15, 45:17, 45:23</p> <p>training [1] - 28:14</p> <p>transaction [1] - 10:12</p> <p>Transcript [1] - 1:13</p> <p>Transportation [6] - 2:14, 6:17, 7:3, 8:7, 9:5, 16:11</p> <p>travel [3] - 37:5, 37:12, 46:10</p> <p>travels [1] - 37:12</p> <p>tree [6] - 11:8, 47:24, 48:2, 48:7, 48:9</p> <p>trees [1] - 48:4</p> <p>tricky [1] - 13:22</p> <p>tried [2] - 13:11, 13:12</p> <p>truck [1] - 11:10</p> <p>truth [3] - 58:16, 58:17</p> <p>truthfully [1] - 41:4</p> <p>try [3] - 8:3, 40:18,</p>	<p>51:15</p> <p>trying [6] - 10:24, 11:11, 30:14, 31:7, 48:21, 50:4</p> <p>two [9] - 17:5, 23:14, 26:14, 33:2, 33:17, 38:1, 43:18, 48:7, 53:7</p> <p>two-lane [1] - 17:5</p> <p>tying [2] - 29:11, 29:13</p> <p>type [1] - 11:9</p> <p>typically [2] - 8:25, 10:10</p>	<p style="text-align: center;">U</p> <p>under [4] - 11:24, 15:24, 47:4, 58:12</p> <p>unfortunately [1] - 15:24</p> <p>UNSAFE [1] - 1:8</p> <p>unsafe [1] - 5:2</p> <p>Unsafe [1] - 5:5</p> <p>up [31] - 10:8, 12:9, 13:5, 13:6, 13:13, 14:22, 14:24, 21:24, 25:9, 27:12, 30:14, 31:25, 32:4, 32:6, 35:5, 35:15, 38:7, 39:1, 39:21, 39:23, 39:24, 40:1, 41:22, 43:8, 44:22, 46:21, 49:2, 49:20, 50:18, 53:24, 54:16</p> <p>upper [12] - 23:4, 25:16, 25:18, 25:22, 27:14, 27:24, 32:16, 33:3, 33:4, 33:18, 40:11, 51:4</p> <p>users [2] - 14:25, 16:5</p>	<p style="text-align: center;">W</p> <p>waiting [1] - 50:2</p> <p>wall [55] - 9:10, 9:11, 11:21, 12:7, 12:23, 12:24, 12:25, 13:2, 13:13, 15:21, 19:8, 22:9, 22:19, 24:11, 28:19, 29:4, 29:5, 29:7, 29:10, 29:11, 30:5, 30:8, 30:10, 30:19, 31:25, 32:7, 33:2, 33:17, 33:18, 34:1, 35:16, 37:16, 37:21, 39:18, 39:21, 41:19, 42:23, 43:15, 45:22, 46:9, 47:17, 48:11, 48:13, 49:10, 50:5, 51:4, 53:4, 53:5, 53:6, 54:10, 54:12, 54:17</p> <p>walls [1] - 23:3</p> <p>wants [2] - 41:5, 51:25</p> <p>ways [2] - 17:9, 36:4</p> <p>weather [7] - 13:5, 39:14, 40:25, 43:23, 43:25, 44:4, 44:6</p> <p>week [6] - 10:21, 13:4, 13:7, 40:2, 44:10, 48:23</p> <p>weeks [3] - 12:22, 38:1, 43:20</p> <p>weight [5] - 13:2, 13:3, 27:3, 35:16, 39:21</p> <p>welcome [1] - 53:1</p> <p>west [2] - 48:8, 54:13</p> <p>westerly [3] - 19:15, 40:20, 55:11</p> <p>white [1] - 26:25</p> <p>whole [5] - 30:19, 41:17, 46:9, 50:5, 58:16</p> <p>widened [3] - 25:17, 27:25, 38:2</p> <p>wife [1] - 44:16</p> <p>willing [1] - 41:12</p> <p>wind [2] - 14:19, 44:3</p> <p>windows [2] - 33:16, 42:8</p> <p>WITNESS [40] - 3:1, 3:3, 9:24, 10:5, 10:9, 10:18, 10:22, 11:3, 11:6, 11:9, 11:20, 11:23, 12:3, 12:10, 14:10, 14:23, 15:9, 15:12, 15:14, 15:24, 16:3, 16:9, 16:18, 17:7, 17:12, 17:20, 29:21, 29:25, 30:4,</p> <p>30:24, 31:4, 32:3, 32:9, 32:16, 32:19, 32:22, 34:3, 34:6, 34:11, 38:17</p> <p>witness [5] - 6:14, 13:25, 14:3, 15:20, 16:21</p> <p>witnesses [1] - 58:15</p> <p>wondering [1] - 17:18</p> <p>wood [2] - 29:14, 40:7</p> <p>Woodcrest [1] - 1:24</p> <p>words [1] - 31:8</p> <p>world [1] - 12:5</p> <p>worried [3] - 47:12, 48:11, 48:12</p> <p>worth [2] - 50:11, 50:15</p> <p>wrecking [1] - 36:12</p> <p>writing [1] - 58:12</p>	<p style="text-align: center;">X</p> <p>Xs [2] - 54:4, 56:5</p>	<p style="text-align: center;">Y</p> <p>years [8] - 8:24, 17:5, 18:5, 28:7, 28:8, 48:7, 48:10, 52:17</p> <p>YORK [2] - 1:1, 58:1</p> <p>York [13] - 1:16, 1:24, 6:17, 7:3, 7:4, 9:4, 11:1, 16:2, 24:25, 28:15, 51:8, 52:6, 58:7</p> <p>yourself [2] - 13:21, 21:22</p>
<p style="text-align: center;">T</p> <p>tackle [2] - 40:3, 41:6</p> <p>tall [1] - 9:11</p> <p>tarp [2] - 53:17, 53:21</p> <p>tax [1] - 12:1</p> <p>testamentary [1] - 18:2</p> <p>testified [4] - 6:22, 18:18, 36:18, 39:4</p> <p>testify [3] - 38:19, 38:24, 58:16</p> <p>THE [39] - 1:7, 9:24, 10:5, 10:9, 10:18, 10:22, 11:3, 11:6, 11:9, 11:20, 11:23, 12:3, 12:10, 14:10, 14:23, 15:9, 15:12, 15:14, 15:24, 16:3, 16:9, 16:18, 17:7, 17:12, 17:20, 29:21, 29:25, 30:4, 30:24, 31:4, 32:3, 32:9, 32:16, 32:19, 32:22, 34:3, 34:6, 34:11, 38:17</p> <p>they've [1] - 52:12</p> <p>thinking [2] - 32:24, 56:1</p> <p>thoroughfares [1] - 37:1</p> <p>three [3] - 12:22, 26:5, 33:16</p> <p>threw [1] - 46:5</p> <p>tie [1] - 30:3</p> <p>tied [10] - 23:6, 27:13, 27:14, 29:5, 29:19,</p>	<p>29:23, 29:24, 30:4, 30:7, 44:4</p> <p>tilt [1] - 19:10</p> <p>tilted [1] - 19:8</p> <p>TO [1] - 1:7</p> <p>today [7] - 5:12, 6:2, 37:24, 51:10, 51:11, 51:17, 53:24</p> <p>tomorrow [2] - 45:22, 45:23</p> <p>took [11] - 25:22, 25:23, 26:5, 26:14, 27:6, 27:8, 27:21, 43:18, 46:7, 48:7, 56:8</p> <p>top [10] - 26:23, 31:1, 31:3, 31:5, 31:23, 35:5, 40:14, 40:19, 46:22, 49:15</p> <p>totally [2] - 17:2, 51:22</p> <p>toward [2] - 9:12, 14:17</p> <p>towards [7] - 19:8, 22:19, 26:10, 27:15, 28:2, 38:4, 42:23</p> <p>TOWN [2] - 1:3, 2:3</p> <p>Town [36] - 1:14, 2:9, 2:11, 4:7, 5:5, 5:6, 6:2, 6:3, 6:5, 6:7, 6:9, 7:6, 7:17, 8:9, 8:12, 11:24, 12:4, 15:5, 15:6, 15:14, 18:17, 18:23, 21:22, 24:7, 24:16, 24:18, 24:19, 25:2, 36:23, 37:2, 37:13, 38:6, 38:7, 46:13, 51:11</p> <p>Town's [1] - 15:25</p> <p>traffic [9] - 9:14, 12:11, 15:6, 15:16, 44:25, 45:2, 45:15, 45:17, 45:23</p> <p>training [1] - 28:14</p> <p>transaction [1] - 10:12</p> <p>Transcript [1] - 1:13</p> <p>Transportation [6] - 2:14, 6:17, 7:3, 8:7, 9:5, 16:11</p> <p>travel [3] - 37:5, 37:12, 46:10</p> <p>travels [1] - 37:12</p> <p>tree [6] - 11:8, 47:24, 48:2, 48:7, 48:9</p> <p>trees [1] - 48:4</p> <p>tricky [1] - 13:22</p> <p>tried [2] - 13:11, 13:12</p> <p>truck [1] - 11:10</p> <p>truth [3] - 58:16, 58:17</p> <p>truthfully [1] - 41:4</p> <p>try [3] - 8:3, 40:18,</p>	<p style="text-align: center;">U</p> <p>under [4] - 11:24, 15:24, 47:4, 58:12</p> <p>unfortunately [1] - 15:24</p> <p>UNSAFE [1] - 1:8</p> <p>unsafe [1] - 5:2</p> <p>Unsafe [1] - 5:5</p> <p>up [31] - 10:8, 12:9, 13:5, 13:6, 13:13, 14:22, 14:24, 21:24, 25:9, 27:12, 30:14, 31:25, 32:4, 32:6, 35:5, 35:15, 38:7, 39:1, 39:21, 39:23, 39:24, 40:1, 41:22, 43:8, 44:22, 46:21, 49:2, 49:20, 50:18, 53:24, 54:16</p> <p>upper [12] - 23:4, 25:16, 25:18, 25:22, 27:14, 27:24, 32:16, 33:3, 33:4, 33:18, 40:11, 51:4</p> <p>users [2] - 14:25, 16:5</p> <p style="text-align: center;">V</p> <p>valuable [1] - 47:5</p> <p>vantage [1] - 34:11</p> <p>verbatim [1] - 58:9</p> <p>vertical [8] - 27:12, 31:11, 31:13, 31:20, 31:25, 32:18, 32:19, 33:8</p> <p>Violation [1] - 4:6</p> <p>violation [1] - 20:19</p> <p>visibility [1] - 34:4</p> <p>visit [1] - 20:8</p> <p>visited [2] - 19:2, 23:13</p> <p>visits [1] - 26:13</p> <p>visual [3] - 20:11, 22:14, 24:23</p>	<p>walls [1] - 23:3</p> <p>wants [2] - 41:5, 51:25</p> <p>ways [2] - 17:9, 36:4</p> <p>weather [7] - 13:5, 39:14, 40:25, 43:23, 43:25, 44:4, 44:6</p> <p>week [6] - 10:21, 13:4, 13:7, 40:2, 44:10, 48:23</p> <p>weeks [3] - 12:22, 38:1, 43:20</p> <p>weight [5] - 13:2, 13:3, 27:3, 35:16, 39:21</p> <p>welcome [1] - 53:1</p> <p>west [2] - 48:8, 54:13</p> <p>westerly [3] - 19:15, 40:20, 55:11</p> <p>white [1] - 26:25</p> <p>whole [5] - 30:19, 41:17, 46:9, 50:5, 58:16</p> <p>widened [3] - 25:17, 27:25, 38:2</p> <p>wife [1] - 44:16</p> <p>willing [1] - 41:12</p> <p>wind [2] - 14:19, 44:3</p> <p>windows [2] - 33:16, 42:8</p> <p>WITNESS [40] - 3:1, 3:3, 9:24, 10:5, 10:9, 10:18, 10:22, 11:3, 11:6, 11:9, 11:20, 11:23, 12:3, 12:10, 14:10, 14:23, 15:9, 15:12, 15:14, 15:24, 16:3, 16:9, 16:18, 17:7, 17:12, 17:20, 29:21, 29:25, 30:4,</p>	<p style="text-align: center;">Y</p> <p>years [8] - 8:24, 17:5, 18:5, 28:7, 28:8, 48:7, 48:10, 52:17</p> <p>YORK [2] - 1:1, 58:1</p> <p>York [13] - 1:16, 1:24, 6:17, 7:3, 7:4, 9:4, 11:1, 16:2, 24:25, 28:15, 51:8, 52:6, 58:7</p> <p>yourself [2] - 13:21, 21:22</p>		