

FLAGLER COUNTY,

Plaintiff,

v.

AJMAL M. ZULALI and ZUBAIR M.
ZULALI and 2251 S OLD DIXIE HWY LLC,

Defendants.

IN THE CIRCUIT COURT OF THE 7th
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO.: 2021 CA 000109

DIVISION: Terence Perkins

DEFENDANT'S NOTICE OF FILING
DEPOSITION TRANSCRIPT OF GREGORY KONG

Notice is hereby given that Defendant, 2251 S OLD DIXIE HWY, LLC, by and through its undersigned counsel, hereby files the May 2, 2023 deposition transcript of Gregory Kong, a true and accurate copy of which is attached hereto.

THE D'APUZZO LAW FIRM

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to via: e-mail to Abraham C. McKinnon, Esq. and Noah C. McKinnon, Jr., Esq. at lynn@mckinnonandmckinnopa.com, amckinnon@mckinnonandmckinnopa.com to Albert J. Hadeed, Esq. and Sean S. Moylan, Esq. at ahadeed@flaglercounty.org, smoylan@flaglercounty.org and via U.S. Mail to Zubair M. Zulali and Ajmal M. Zulali at 10780 Foxwood Road, San Diego, CA 92126, on this 20th day of December, 2023.

By: /s/ T. D'Apuzzo

Theodore D'Apuzzo, Esq.

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1 IN THE CIRCUIT COURT, SEVENTH
 2 JUDICIAL CIRCUIT, IN AND FOR
 3 FLAGLER COUNTY, FLORIDA
 4 CASE NO. 2021 CA 000109
 5 DIVISION: TERENCE PERKINS

6 FLAGLER COUNTY,
 7 Plaintiff,
 8 vs.
 9 AJMAL M. ZULALI, SUBAIR M.
 10 ZULALI and 2251 S. OLD DIXIE
 11 HIGHWAY LLC,
 12 Defendants.

13 *****

14 DEPOSITION OF: GREGORY KONG
 15 CORPORATE REPRESENTATIVE
 16 2251 S. OLD DIXIE HIGHWAY LLC

17 DATE TAKEN: MAY 2, 2023
 18 TIME: COMMENCED AT 11:05 A.M.
 19 CONCLUDED AT 1:18 P.M.

20 PLACE: 389 PALM COAST PARKWAY, SW
 21 SUITE 4
 22 PALM COAST, FLORIDA

23 STENOGRAPHICALLY
 24 REPORTED BY: DENISE D. MCMULLIN
 25 REGISTERED PROFESSIONAL REPORTER

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Page 2

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 17 EXHIBIT 2 17
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 24 S T I P U L A T I O N S
 25 It is hereby agreed and so stipulated by and
 between the parties hereto, through their respective
 counsel, that the reading and signing of the transcript
 are expressly reserved by the Deponent.

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1 P R O C E E D I N G S
 2 THE COURT REPORTER: Raise your right hand for
 3 me, please.
 4 Do you swear or affirm the testimony you shall
 5 give in this cause will be the truth, the whole
 6 truth, and nothing but the truth, so help you God?
 7 THE WITNESS: I do.
 8 THE COURT REPORTER: Thank you.
 9 THEREUPON,
 10 GREGORY KONG,
 11 having been duly sworn by this reporter, was
 12 examined and testified upon his oath as follows:
 13 DIRECT EXAMINATION
 14 BY MR. MCKINNON:
 15 Q Would you state your full name for the record,
 16 sir.
 17 A Gregory Kong. K-O-N-G.
 18 Q K-O-N-G.
 19 A Uh-huh.
 20 Q All right. Mr. Kong, have you ever had your
 21 deposition taken before?
 22 A This is my first.
 23 Q This is your first time?
 24 A Yeah.
 25 Q Excellent.

Page 5

1 MR. D'APUZZO: Abe, before we get started, I
2 would like to just put that statement on the
3 record. Is that all right?
4 MR. MCKINNON: Please. Please, go ahead.
5 MR. D'APUZZO: Okay. So Mr. Kong is here as a
6 corporate representative. He does not have the
7 most scope of knowledge as to several areas:
8 Number 1. Defendant's purchase of the
9 property.
10 He may have some answers as to Number 2, facts
11 related to entry of the -- entering into the
12 contract. But I suspect not.
13 He is being offered for Number 3 through 9.
14 And then with the document request, we're
15 reincorporating our prior objections filed May
16 11th, 2022.
17 But, regardless, he would not have any
18 knowledge as to request Number 1, documents prior
19 to execution of the agreement. I'm sorry. He's
20 not being offered as the individual with that
21 knowledge. He's not being offered as the
22 individual as to documents related -- Number 4,
23 documents related to the purchase of any other
24 properties.
25 MR. MCKINNON: Okay. And then you're saying

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1 at this time the Defendant, 2251 South Old Dixie
2 Highway, does not have someone that they want to
3 tender for 1 or 2?
4 MR. D'APUZZO: No. I think depending on -- if
5 he's able to answer all of the other questions, we
6 can just offer someone who has a very narrow scope.
7 But if there's other topics that you ask, and he
8 doesn't have the answer for, I would rather get you
9 someone that has all of your questions, so we can
10 hammer it out in one deposition, rather than
11 continue to do it piecemeal.
12 MR. MCKINNON: Okay. In regards to bringing
13 the documents under the second portion, did he
14 bring any of those documents with him? Because we
15 didn't get them from you. We got your response,
16 but none of the documents.
17 MR. D'APUZZO: He has some documents with him
18 today. And we previously raised objections as --
19 Well, Number 1 and 4, he's not being offered for
20 those purposes. And then Number 5, I think these
21 are all legal defenses. I don't know that there
22 are any documents. I think for most of these we
23 already responded; there are none. For Defense 5,
24 6, 7 and 12.
25 MR. MCKINNON: What about Number 2, do you

Page 7

1 have any of those documents?
2 MR. D'APUZZO: Number 2. Right. So we
3 previously objected; equally available. Because
4 the applications are all public records. They're
5 all filed with the County. Equally available.
6 Unduly burdensome.
7 And, Number 3, we objected because all
8 contracts regarding the Defendant and any other
9 person regarding any renovations or repairs or
10 demolition; trade secret, relevance, vague, unduly
11 burdensome.
12 However, he does have with him some documents
13 responsive for Number 2 as to the demolition.
14 MR. MCKINNON: Okay. So he has some documents
15 in relation to Number 3. And the rest you are
16 asserting objections and/or privileges?
17 MR. D'APUZZO: As stated, yes, that's correct.
18 MR. MCKINNON: Okay. All right. Then we will
19 attach as Exhibit -- do you want to use numbers?
20 THE COURT REPORTER: Yes, please.
21 MR. MCKINNON: Let's do Number 1, the Notice
22 of Taking Deposition that your counsel just
23 discussed.
24 (Plaintiff's Exhibit Number 1 was marked for
25 identification.)

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1 BY MR. MCKINNON:
2 Q And ask you, subject to the statements of your
3 attorney, are you the corporate representative here
4 today on behalf of 2251 South Old Dixie Highway LLC to
5 respond to that Notice of Taking Deposition?
6 A I am.
7 Q Okay. Mr. Kong, can you please state your
8 address.
9 A 6 Floyd Court, Palm Coast, Florida 32137.
10 Q And how long have you lived at 6 Floyd Court?
11 A Thirteen months.
12 Q And prior to that, where did you reside, sir?
13 A 1 Hickory Lane, Flagler Beach.
14 Q And how long did you live there, sir?
15 A Probably, roughly, 11-12 years.
16 Q And what is your occupation, sir?
17 A I am a Florida licensed real estate
18 salesperson.
19 Q The entity we're here for today, the
20 Defendant, is 2251 South Old Dixie Highway LLC. What is
21 your position or your affiliation with that particular
22 entity?
23 A I am essentially their project manager and key
24 holder for the property, overseeing coordination, things
25 of that nature.

Page 9

1 Q And when you refer to that project, what are
 2 you referring to when you say "the project"?

3 A 2251 South Dixie Highway is the address of the
 4 property in question.

5 Q And what's located there?

6 A There is a hotel property that is there.

7 Q And what is the project, as you understand it?

8 A It's a renovation of that hotel.

9 Q So what are your duties and responsibilities
 10 as project manager, you said, slash key holder?

11 A Get contractors.

12 Q I'm sorry.

13 A Get contractors to do various, you know,
 14 functions on the property, various jobs. And be a point
 15 of contact to answer questions, liaison, I guess, to the
 16 County, speak at depositions.

17 Q Now, you mentioned that this project has
 18 been -- this entity is described by an address, which
 19 includes an old, we'll call it, dilapidated hotel. Is
 20 that correct?

21 A It's a hotel that's not operating.

22 Q And when did, to your knowledge, 2251 South
 23 Old Dixie Highway acquire that hotel?

24 A I believe it was around May of 2021. I don't
 25 know the exact date.

Page 10

1 Q Now, you mentioned earlier that you are a
 2 Florida real estate salesperson. Were you involved in
 3 any way in the acquisition of that particular hotel?

4 A I was not.

5 Q When was the first time that you recall being
 6 involved in this project?

7 A It would have been May or June of that year,
 8 shortly after they acquired it.

9 Q So the first time you were contacted by anyone
 10 associated with 2251 South Old Dixie Highway, was after
 11 they purchased this particular hotel?

12 A Correct.

13 Q And who contacted you?

14 A I contacted them.

15 Q Why?

16 A Because I -- I was trying to purchase the
 17 property for another entity and unsuccessful. And I
 18 wanted to see where there's an opportunity for me to be
 19 involved in the property.

20 Q So you had another person that was interested
 21 in purchasing the dilapidated hotel from 2251 South Old
 22 Dixie Highway?

23 A It was not from them. It was initially I was
 24 trying to go after the Zulalis to get them to sell it to
 25 somebody else. A gentleman in Orlando that was doing

Page 11

1 hotel renovations.

2 Q Okay.

3 A So when my wife drove by and said there's a
 4 bunch of guys standing in front of the hotel, I told her
 5 to circle back and get me a number.

6 Q Okay.

7 A And she did. And I reached out to them and we
 8 had a conversation. They said they weren't interested
 9 in selling. And from there, they asked me if I would be
 10 involved in helping them get it renovated.

11 Q And this conversation you just described, what
 12 specifically did you tell them that you could do to help
 13 them get it renovated?

14 A After I found out that they're not local to
 15 Florida, or the principal owners aren't local to
 16 Florida, I told them that I could be their local
 17 representative, in essence, key holder/project manager.

18 Q And this conversation you said was, to the
 19 best of your recollection, was sometime in May of 2021?

20 A Towards the end of May or beginning of June,
 21 yeah.

22 Q And who did you -- who did you speak to?

23 A David. And there are a couple other
 24 individuals there. I don't know who the other
 25 individuals were.

Page 12

1 Q What was David's -- what is David's last name?

2 A David Shebiro.

3 Q Can you spell that for us?

4 A Yeah. It's in here somewhere. S-H-E-B-I-R-O.

5 Q I notice that you are looking at a document.
 6 Is that the --

7 A This is Notice of Taking Deposition.

8 Q Okay. So if we refer to Exhibit Number 1,
 9 what you're referring to is the agreement attached as
 10 Exhibit A, you're reading the back of that?

11 A Yes.

12 Q Okay. And this David --

13 A Shebiro.

14 Q -- Shebiro, who did you understand him to be
 15 in respect to the actual entity, this 2251 South Old
 16 Dixie Highway?

17 A One of the principals of the property.

18 Q Okay. When you had this conversation with
 19 Mr. Shebiro sometime in the end of May of 2021, did he
 20 provide you that agreement that you just looked at, this
 21 agreement with the County?

22 A Not at that time, no.

23 Q Okay. When you had the discussion about being
 24 the project manager/key holder, what did he tell you
 25 then was the intentions of 2251 South Old Dixie Highway?

Page 13

1 A To renovate it, you know, renovate and operate
2 it again as a hotel, or a motel, rather.
3 Q To renovate and operate it?
4 A Uh-huh.
5 Q You have to say yes.
6 A Oh, I'm sorry. Yes. Renovate and operate,
7 yes.
8 Q Did he tell you or give you an understanding
9 of the kind of timeline that he would be expecting that
10 renovation to occur?
11 A Not at that time, no.
12 Q Did he tell you specifically to the extent of
13 the renovations that he intended to perform at the
14 property when he engaged you as the project manager?
15 A I mean, I don't recall exactly the
16 conversation. But it was to renovate. Obviously, the
17 hotel wasn't operating. So it was to get everything
18 refurbished and then just renovate the whole property.
19 Q And this service as acting as project manager,
20 how were you to be compensated to act as the project
21 manager for 2251 South Old Dixie Highway?
22 A I would be paid at the completion of the
23 project.
24 Q And how was that compensation to be
25 determined?

Page 14

1 A It really depended. I mean, we didn't have a
2 hard number. It really depended on how much the project
3 cost, you know, and that was it.
4 Q Well, were you going to be paid a commission
5 similar to the way that you would be paid, for instance,
6 as a real estate agent? Or, were you going to be paid
7 in some other form or fashion?
8 A It wouldn't have been -- it wasn't structured
9 as a commission. It would have been a flat number. And
10 that number was basically going to be determined by the
11 budget that they had. And we had discussed a number.
12 And we said we would see how it goes as far as -- I know
13 it sounds crazy, but we would see how it goes, as far as
14 how much money they ended up spending, if above and
15 beyond whatever they thought the budget was going to be.
16 Q So what was the number that you discussed?
17 A Between us, we discussed \$25,000.
18 Q And what was your initial budget that was
19 provided to you by Mr., what is it --
20 A Shebiro.
21 Q -- Shebiro?
22 A And I apologize.
23 A That's all right.
24 Q I'm going to keep messing that up, I'm sure.
25 A Initial budget was thought to be about a

Page 15

1 million and a half. And it had changed along the way.
2 Q Did Mr. Shebiro tell you how he came to the
3 determination of the initial budget of 1.5 million for
4 the renovations of the Old Dixie Hotel?
5 A Did not.
6 Q Do you know how, as you sit here today, how he
7 came to the determination of \$1.5 million as an initial
8 budget for the renovation of the Old Dixie Hotel?
9 A I don't -- I mean, I don't have a printout of
10 it. But, I mean, there was verbal conversations about
11 what they thought it would cost. Which, after going
12 down that road a little bit, they determined it was
13 going to cost more than that, based off of speaking to
14 contractors and things of that nature.
15 Q Now, Mr. Shebiro is he -- do you understand
16 him to be here in Florida locally as a resident or does
17 he live somewhere else?
18 A He has a residence -- or he has a place in
19 either New York or New Jersey. And he is in Israel
20 right now, I know that. I think he has a place in New
21 Jersey.
22 Q Do you have any understanding of who
23 Mr. Shebiro discussed the potential renovations of the
24 Old Dixie Highway prior to your involvement in late May
25 of 2021?

Page 16

1 A As far as renovating it?
2 Q Yes.
3 A No, I don't.
4 Q He's never shared any of that information with
5 you?
6 A I mean, unless they talked to the County about
7 it, but no.
8 Q All right. Are you aware personally of any
9 conversations between Mr. Shebiro or anyone else with
10 2251 South Old Dixie Highway and the County prior to
11 your involvement in late May of 2021?
12 A I mean I've heard conversation about, you
13 know, this whole agreement with Jerry Cameron, and
14 things like that, and them meeting with tourist -- the
15 tourist board and stuff like that, but...
16 Q What did you hear?
17 A That they signed the agreement. That, you
18 know, he wanted to do it in good faith, things like
19 that, to show that they weren't the previous owners.
20 Q Okay. Who?
21 A I'm sorry. The Zulalis.
22 Q I understand. Okay. You referred to an
23 agreement. So I'm going to attach -- I might as well
24 just attach copies of it, so we can refer to it
25 together. This will be identified as Exhibit Number 2.

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1 (Plaintiff's Exhibit Number 2 was marked for
 2 identification.)
 3 MR. MCKINNON: Counsel, if you were here, I'm
 4 just referring to the agreement that's attached.
 5 I'm sorry that I can't pass them to you. But I
 6 have -- I did bring you copies. Although, I'm --
 7 I'll have -- the court reporter will probably have
 8 to produce them for you.
 9 MR. D'APUZZO: That's Exhibit A to the depo
 10 notice?
 11 MR. MCKINNON: That's correct.
 12 THE WITNESS: I look nervous (indicating
 13 Zoom). Did you see that?
 14 THE COURT REPORTER: Something with the
 15 connection.
 16 (Discussion off the record.)
 17 BY MR. MCKINNON:
 18 Q So a moment ago you said when you were first
 19 retained by Mr. Shebiro, you were not informed of an
 20 agreement between the 2251 South Old Dixie Highway and
 21 the County?
 22 A When we first spoke, right.
 23 Q When did you first understand that there was
 24 an agreement between this entity, 2251 South Old Dixie
 25 Highway -- if I continue -- if I call it 2251 --

Page 18

1 A Call it The Henry.
 2 THE COURT REPORTER: Call it what, I'm sorry?
 3 THE WITNESS: You can call it The Henry.
 4 That's what we named it.
 5 BY MR. MCKINNON:
 6 Q Well, let me refer to the Entity as 2251. And
 7 if I say that, can we agree --
 8 A The Entity?
 9 Yes, I know what you're talking about. You're
 10 talking about 2251.
 11 Q Right. Right. That way I don't have to keep
 12 repeating that.
 13 A That's fine.
 14 Q If we're okay with that, then we'll refer to
 15 that.
 16 A That's fine.
 17 Q When was the first time that you became aware
 18 of the agreement between 2251 and the County?
 19 A All right. It was -- it would be sometime
 20 that year. I don't know the exact month. But
 21 somebody -- I don't know if it was somebody from the
 22 building department. I don't know if it was a
 23 contractor mentioned it to me. But someone -- I almost
 24 feel like it was a contractor that mentioned it to me.
 25 And I followed up with the County Administrator or

Page 19

1 acting County Administrator at the time. And they said
 2 that they had an agreement. And that's when I went back
 3 and asked for the agreement from the Entity.
 4 Q So sometime later that year then you were --
 5 you came to the knowledge there was an agreement --
 6 A A month or two probably after our initial
 7 meeting, yeah.
 8 Q Okay. But you don't have a recollection of
 9 when that first occurred?
 10 A I mean if we met like first, you know, end of
 11 May, beginning of June, I would say it was probably, you
 12 know, about three or four week later. So would be
 13 talking about the first week in July probably. I think
 14 there were conversations about trying to hurry up and
 15 get things done. And I probably made the statement that
 16 you're dreaming. And then it led to, you know, me
 17 following up on things.
 18 Q Let me back up and sort of parse that out a
 19 little bit. When you said there's conversations that
 20 "hurry up," was that conversation between you and
 21 Mr. Shebiro?
 22 A Yeah. The Entity, that they needed to get,
 23 you know, certain things done by certain time frames.
 24 And I said that's impossible.
 25 Q Okay. And at that time you didn't have a copy

Page 20

1 of the agreement?
 2 A No.
 3 Q Okay. Were there any other -- we'll call
 4 them -- project managers or others, to your knowledge,
 5 working on this renovation of the hotel at the time that
 6 you were working on it?
 7 A Not that I'm aware of, no. To my knowledge,
 8 I'm the only one.
 9 Q As you sit here today, is there any other
 10 project manager working on the renovations of the hotel,
 11 other than you?
 12 A Definition of project manager.
 13 I mean, there's other people working on stuff.
 14 So, you know, I brought the architect and introduced
 15 them and things like that. I brought the contractor in
 16 and introduced them, you know.
 17 So if the project manager is the lead manager,
 18 construction manager, whatever you want to call it, I do
 19 not believe there's anyone else, besides myself.
 20 Q Have you been in contact with any other
 21 persons attempting to do the same work that you're doing
 22 for 2251?
 23 A The Entity.
 24 Q The Entity.
 25 A No. Not that -- anybody wanting to oversee

Page 21

1 the project?

2 Q Yes, sir.

3 A No.

4 Q Do you know if Mr. Shebiro is relying on

5 anyone else here to put him in contract with -- or

6 contact with contractors and engineers or anyone such as

7 that to pursue the renovations of the hotel, other than

8 yourself?

9 A Not to my knowledge. I mean, he might have

10 gotten quotes or something from other people

11 independently. But not to my knowledge, no.

12 Q So when you received this agreement, you

13 think, sometime in July from Mr. Shebiro, what did you

14 tell him once you got the agreement?

15 A I -- Well, you don't want the exact language.

16 But I said, You're crazy.

17 Q Okay. And why was that?

18 A Because I think there's a date on here of like

19 August 21st or August 20th at -- in 2021. I mean, just

20 when we were doing cleanup, you couldn't get a dumpster.

21 And to have -- Oh, here it is -- to have, you know,

22 rough-ins of electrical, mechanical, second rough of

23 plumbing, framing. The roof was still leaking. We

24 hadn't even, you know -- there were so many things

25 identified, just little things, walking the property

Page 22

1 that was -- you can't do any of this until you fix the

2 roof.

3 So it was just, you know -- was it August 20th

4 is the -- August 20th of 2021. I just said, You're

5 crazy. You're -- it's not happening.

6 Q Okay. Let me go back to the first page under

7 -- I think you're referring to section -- actually,

8 paragraph three, on the first page there's some

9 obligations that start on -- that is, A: On or before

10 June 3rd, the company will remove all litter, and drain

11 or repair and secure the pool, and erect a fence, and

12 those sorts of things.

13 Do you recall whether or not June 3rd was

14 before or after you were retained as the project

15 manager?

16 A I want to say it was right around, like I

17 said, that last week of May, first week of June. So, I

18 mean, to the best I recall, yeah, because I was involved

19 in bringing in people to start removing the litter and

20 stuff. They had a crew there that was already doing

21 some stuff. So they already had people there that were

22 doing that. But then I, you know, came in and sort of,

23 you know, facilitated the heavy equipment type of stuff.

24 Because those guys were just, you know, emptying rooms

25 and cleaning.

Page 23

1 Q When, to your knowledge, did the Entity, 2251,

2 beginning removing the litter and debris from the

3 property, if you know?

4 A I mean, it was -- I feel that when I met them

5 it was going on.

6 Q When you say you feel that way, did you

7 actually see it, observe it?

8 A There were piles of stuff that were being sort

9 of collected outside, as if you were to throw stuff over

10 and start -- like mattresses. So you can tell stuff was

11 being done. When I first met -- I didn't physically see

12 anyone, but you could -- it's pretty obvious, you know,

13 that stuff was being gathered and collected.

14 Q Okay. On June 3rd, do you know whether all of

15 the litter and debris was removed from the property?

16 A Impossible. No, it wasn't. It was just

17 impossible. There was just too much to do.

18 Q And on June 3rd, was the pool drained or

19 secured?

20 A I think that was done just -- it was done

21 shortly after. I don't know the exact date, I mean.

22 Because they had to have -- they had to get a demo

23 permit for that.

24 Q Okay.

25 A So you would have to reference back to that.

Page 24

1 I don't recall. I don't know if it's exactly done on

2 June 3rd or by June 3rd. So I don't recall exactly.

3 Q And as far as erecting a fence on the property

4 to prevent access to trespassers. When was that fence

5 installed?

6 A That fence, the southern-facing fence, which

7 would be the frontage of the property, was already there

8 when I met them.

9 Q Okay. But was it entirely enclosed or was it

10 just on one side?

11 A It was just the front part of the property.

12 And then later on, they were asked to enclose the whole

13 property. And I facilitated that.

14 Q Okay. When did you engage a contractor to do

15 that, to the best of your knowledge?

16 A I knew you would ask me that as a follow-up.

17 It was AAA Fencing. So I don't have an exact date of

18 when I had them, you know, encircle the entire property.

19 Q Okay. In regards to your project manager

20 duties and responsibilities, how did you go about doing

21 that, for instance?

22 And we'll just use the fence as an example.

23 Did you go get a contract or a quote from the fence

24 company?

25 A Yeah.

Page 25

1 Q And then you would send that to Mr. Shebiro?

2 A Yes.

3 Q And then he would sign the contract?

4 A Yes.

5 Q Or somebody for the Entity?

6 A Uh-huh.

7 Q And then as far as the permitting, were you

8 involved in applying for permits?

9 A Fence company does all of that.

10 THE COURT REPORTER: I'm sorry.

11 THE WITNESS: The fence company does all of

12 that.

13 BY MR. MCKINNON:

14 Q As far as the demo permit for the pool, were

15 you involved in the demo permit?

16 A They do all of that.

17 Q When you say "they," who are you referring to?

18 A The demo company. The contractors.

19 Q Okay. Do you know what's involved or what's

20 required to obtain, for instance, a demo permit from the

21 County of Flagler?

22 A Generally, you get a printout from the County

23 Building Department that tells you all of the

24 requirements.

25 Q Okay.

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1 A But, again, the contractors are the ones that

2 go -- the license people are the ones that go and get

3 the license. So we're dependent on them to, you know,

4 follow whatever state laws are.

5 Q Let me ask you -- let me back up for a minute.

6 In this particular project you were the project manager.

7 Have you ever been a project manager prior to this

8 particular matter?

9 A Yes.

10 Q Which matters were you project manager of?

11 A I was the project manager over -- Oh, God -- a

12 family-dorm renovation at University of Florida. Don't

13 ask me the year, because I can't remember. Over the

14 University of Florida. I think it was Building 303 or

15 305 at the University of Florida.

16 Q And were you working for a company at that

17 time?

18 A Malibu Construction.

19 Q Okay. And how long were you working -- that

20 was a construction company?

21 A Uh-huh.

22 Q Is that a yes?

23 A Oh, yes. Sorry.

24 Q Okay. How long were you a -- were you

25 considered a project manager for the construction

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1 company?

2 A I was probably there about two years.

3 Q Okay. Did you as a -- working for a

4 construction company, were you ever -- did you ever act

5 as say a project superintendent, as those terms are used

6 in a construction company?

7 In other words, did you go out and inspect

8 construction techniques? Did you ever look to see if

9 subcontractors were doing the work that's required to be

10 performed?

11 A I oversaw stuff like that. Because there were

12 certain things along the way. For instance, you know, I

13 would -- I distinctly recall giggling (phonetic) our fire

14 guys for not, you know, using fire rated insulation foam

15 to seal up, you know, cavities for where they had pipes

16 going through the floors and things like that.

17 So I wasn't the titled supervisor. But since,

18 you know, we had put bids out and I would be responsible

19 for those guys that get awarded the bids, I would follow

20 up and see if there was anything that I noticed offhand.

21 But each of those contractors, you know, mechanical,

22 whatever, those guys would have their own construction

23 supervisors or foreman that would oversee their crews.

24 Q Okay. So working for this construction

25 company you generally understood in order to do

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1 construction, at least in the State of Florida, you

2 generally have to get a permit?

3 A Uh-huh.

4 Q Is that a yes?

5 A Oh, yes.

6 Q Okay. To get the permits, you have to submit

7 plans for those permits?

8 A Correct.

9 Q And you have to pay a permit fee to the

10 government agency?

11 A Yes.

12 Q And there would be inspections of the work

13 that's performed?

14 A Yes.

15 Q And if those inspections, whether or not you

16 passed them or not, you have to come out and take

17 whatever actions required by the building authority,

18 correct?

19 A Correct.

20 Q And then when you finish, you get your

21 certificate of completion or certificate of operation

22 certifying that you built it in accordance with the

23 building code. Is that --

24 A Correct.

25 Q -- a fair statement?

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1 A Uh-huh. Yes. Sorry.
2 Q So we've talked about the -- you said in
3 relation to the pool, Mr. Shebiro hired some demolition
4 contractors. Is that correct?
5 A Correct.
6 Q Do you know the name of that contractor?
7 A It's on my computer. Do you have that --
8 Q He doesn't realize, you can't ask for help.
9 You don't --
10 A Oh, I don't have a help line?
11 Q You don't get a help line.
12 A I don't get three. Sorry.
13 Q If you don't know, you just say you don't
14 know.
15 A I don't recall at this time.
16 Q Fair enough. Fair enough.
17 MR. D'APUZZO: It's not who (Zoom
18 indiscernible) -- Millionaire.
19 THE WITNESS: You know, I thought, Hey, come
20 on. You look like Regis.
21 BY MR. MCKINNON:
22 Q Same thing with the fence, do you -- you said
23 it was AAA?
24 A AAA, yeah.
25 Q Now, when you got this agreement from

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1 Mr. Shebiro and you sort of tongue-in-cheek, you told
2 him that these time lines are unrealistic.
3 A Right.
4 Q What did he tell you?
5 A He said, we need to do the best we can. And
6 I, again, it's -- there was some heated conversation,
7 you know.
8 Q Why do you say it was heated?
9 A Because you could say it has to be done this
10 date as much as you can. But, you know, the reality is
11 you could, you know, tell me to go lift that 1,000
12 pounds. The reality is I'm not going to lift that 1,000
13 pounds, if I can't do it. And at the time, you know,
14 you can't even get a dumpster, you know, how are you
15 going to -- the roof was still leaking. We didn't fix
16 the roof yet.
17 So once those things came to realization, you
18 know, they realized and they just started moving as
19 quickly as they can to do whatever they could.
20 Q Okay. As far as the renovations itself, do
21 you recall the first time that you made efforts to try
22 to obtain permits or permit applications for those, what
23 we'll call, other renovations?
24 A I don't personally obtain permit applications.
25 That's the responsibility of the GCs or contractors that

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1 we hire.
2 The first time, I believe -- Oh, man. I just
3 don't recall the exact date. But the first time would
4 have been, as far as actual permit goes, anything that
5 required a permit, would have been when the pool was
6 taken out. I mean, that was really what the demo -- it
7 was -- it was I think it's called a discovery demo or
8 something like that. So they started like pulling, you
9 know, like some ceilings down in the lobby building, so
10 they could see what's there.
11 And the pool and all -- like I said, the pool
12 and all of that, that was dug out, the concrete
13 refilled, you know, surface put back down to, you know,
14 a normal surface. So it wouldn't look like there was a
15 pool there. And all of that was done by that
16 contracting company. And they would have been the ones
17 that pulled that permit.
18 Q Can you tell me all the permits that would be
19 required in order to obtain or to complete the
20 demolition or refurbishment that's contemplated under
21 this agreement, all of the mechanical, structural,
22 electrical, all of the things that was -- what permits
23 do you --
24 A Well, your general permits are -- if you're
25 going to have a renovation, there's different levels of

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1 permits; a 1, a 2. So this would have been -- even
2 though it's a renovation, it would have still required
3 the highest level, because you're essentially doing more
4 than 50 percent, so you're going to have -- it's a
5 higher intensity of work that's being done on the
6 property, more than 50 percent.
7 So it's essentially a building permit, just
8 like you're building a new structure, that the building
9 department is going to require, that's how they're going
10 to view it. So from there, you're going to submit your
11 architectural plans. You're going to -- you know, those
12 architectural plans not only include the structure and
13 the renovation, but it's also going to include all of
14 your mechanical aspects.
15 And in this case KPI is working on that. So
16 you've got your plumbing, your air conditioning, and
17 your electrical, as far as your mechanical. And all of
18 those permits are going to be part of your overall
19 building permit. And each one of those guys will, you
20 know, essentially pull their own trade permits to work
21 under that construction permit.
22 Q Okay. So let's talk about the general. You
23 said the first thing that you have to do would be to
24 submit architectural plans. And you said KPI is working
25 on that?

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1 A No. Albano Design is working on the
2 architectural. KPI is the engineering firm. So the
3 architect works on the structure. You know, this is
4 where we place the bathroom. This is where, you know,
5 the windows go, the doors go. He works on life safety
6 requirements for the -- per the building department
7 code, exits, things like that.
8 KPI is an engineering firm, mechanical
9 engineering firm, and they would do -- I don't know if
10 they only do mechanical. But KPI is the one that would
11 do the plumbing, electrical design and AC design per
12 whatever Florida code is.
13 Q Okay. Now you said Albano Designs is working
14 on the architectural?
15 A Correct.
16 Q Do you know or have an understanding of when
17 they will complete those?
18 A So initially there was some initial designs
19 and that kind of all went out in the trash when we
20 realized that the renovation of the lobby building is
21 just going to be too intense, so they chose to demolish
22 it. So initially there was an initial set of designs
23 that's kind of gone out the window now.
24 In speaking with Albano Designs, he should be
25 done with his portion of the new concept, hopefully,

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1 sometime next week, based on my conversation with him.
2 And then he'll turn it over to KPI.
3 And then KPI, he's thinking by, you know,
4 before the end of this month. He can't give me a hard
5 date, but before the end of this month, or sometime this
6 month, we should have the mechanical renderings from
7 KPI. From there, those would be reviewed by everyone
8 and we -- Oh, sorry.
9 Q Who is everyone?
10 A Myself, you know, David.
11 Q Within the Entity?
12 A Within the Entity to kind of, you know, see if
13 we identify any, you know, Hey, why is this here, you
14 know, we can't do that because of X, Y, Z or whatever
15 reason. So once the Entity approves the design, they
16 sign off on it. Architect gets their final payment.
17 And it would go to a GC and the GC would submit it to
18 the building department.
19 Q Okay. Do you have a GC that you engaged to do
20 the work yet, or is that something that's still to be
21 decided?
22 A Not the final work, no. I mean, there's
23 people in mind. But no one has been concretely, you
24 know, confirmed or --
25 Q So nobody --

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1 A -- awarded a contract. There's a GC currently
2 that has been working on things that require permitting.
3 But, I mean, if it were up to me, yeah, I'd probably
4 engage that GC to do the actual, you know, renovation.
5 Q Who is the GC now that's doing, you said, some
6 work out there?
7 A Seaman Construction, S-E-A-M-A-N,
8 Construction.
9 Q Do you know what construction work they're
10 doing out there presently?
11 A He just oversaw the demolition of the lobby
12 building.
13 Q Okay. So initially there was this belief or
14 understanding from the Entity that they were going to
15 renovate the lobby building and then there was later a
16 decision that it would be more cost effective or just
17 more useful to just demolish it. Is that correct?
18 A Yes.
19 Q Okay. When was that decision made, to the
20 best of your recollection?
21 A The final decision, April -- I'd say sometime
22 in February, I think we came to the realization that
23 it's not worth it to keep the building and just let's do
24 a redesign.
25 Q You said --

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1 A February of this year.
2 Q Okay. February of this year?
3 A Yes, sir.
4 Q So 2023?
5 A Uh-huh.
6 Q You have to say yes.
7 A Yes. Sorry.
8 Q No worries.
9 A Can we just assume that "uh-huh" means -- no,
10 I'm just kidding.
11 Q Do you know, you know, sort of why that
12 decision took as long as it did since, you know, sort of
13 these issues have been going on since mid 2021? Why did
14 it take, you know, a year and a half for that decision
15 to get made?
16 A I mean, I know why the decision was made. I
17 can't speak as to why it took them so long. But I would
18 say, you know: One, economics. Two, aesthetics.
19 I mean, the building kind of has, you know, a
20 unique aesthetic to it. And they would like to try to
21 save some of the -- you know, once you take down a
22 drop-down ceiling, you saw some of the tongue and groove
23 and some of the large timbers and things like that. It
24 has sort of a -- done right, it would have had sort of a
25 lodge type of a feel to it.

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1 And I think they look at it as, you know,
 2 well, it's going to cost X to demolish it, and then
 3 we've got to rebuild it. Can't we just fix this up.
 4 And I think all -- you know, all manner of
 5 thinking ideas of, Well, can't we just do this, can't we
 6 just do this, can't we just replace this beam, can't we
 7 just replace this, you know -- there were termites.
 8 There were just a lot of factors that, you
 9 know, in my mind and based off of, you know, things I
 10 had heard from, you know, contractors, just it would be
 11 easier just to take it down and build new. That way you
 12 can do exactly what you want. And that's -- that's what
 13 it came down to. I mean, you know, the time frame in
 14 between that from the start to when they actually made
 15 the decision to do it, I think it just came down to, you
 16 know, trying to preserve what was there.
 17 Q What you've referred to as the lobby, now
 18 there's other structures out there, there's actually --
 19 it looks -- for instance, there's a structure that has
 20 just rooms in it and a structure separated, which is the
 21 lobby. Is that correct?
 22 A Right. So there were a couple of buildings on
 23 that property.
 24 Q Right.
 25 A The L-shaped building contained the guest

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1 rooms.
 2 Q Right.
 3 A There was a -- like a -- like a -- let's call
 4 it a maintenance shed, for lack of a better term. And
 5 then there was the lobby building. So those -- and
 6 there was kind of like a deck and things like that, but
 7 -- so basically those three buildings on the property.
 8 The only thing remaining as we speak now is
 9 that L-shaped guest room portion, which is all, you
 10 know, poured concrete. And whereas the lobby building
 11 was, you know, a lot of wood and things like that.
 12 Q Okay.
 13 A And that L-shaped building is what they
 14 already, you know, redid the roof on.
 15 Q Okay. So from an economic standpoint it made
 16 sense to keep the L-shaped building?
 17 A Oh, yeah.
 18 Q And then to demolish the lobby building?
 19 A Oh, yeah.
 20 Q Okay.
 21 A And I think a big factor in that was also
 22 consideration of, you know, the County needing to
 23 appease a select few citizens.
 24 Q Now, what do you mean by that?
 25 A So in my personal opinion and statement?

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1 Q Uh-huh.
 2 A This is not speaking for the Entity. In my
 3 personal opinion, I feel that there was a, you know, an
 4 individual that was running for a County Commission seat
 5 that was using it as a soap box to get elected.
 6 Q So there was some political pressures that you
 7 understood that the County was under to have something
 8 done out there, renovations, demolition, that sort of
 9 thing?
 10 A Oh, I am -- not only understood, I'm a
 11 thousand percent certain of it.
 12 Q Okay. Okay. The permits then that we've
 13 referred to that you said might be -- sort of generally
 14 speaking, might be done in the next month or so?
 15 A The plans should be -- based on what I'm told,
 16 the plans should be ready before the end of the month.
 17 Q Okay.
 18 A So I was given a date, the week of the 21st.
 19 Again, I'm -- I get a date from a contractor, somebody
 20 like that, I'm going, all right, within the end of the
 21 month. So the 21st. The next stage of that, that gets
 22 delivered to us, the Entity and myself, and whoever else
 23 they choose. We look at it and try to see if we
 24 identify anything, any issues, or anything that needs to
 25 be adjusted.

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1 If it's a go from there, our architect seals
 2 it, engineering company seals it, and turns it over to
 3 whoever the GC is that's going to get awarded it. And
 4 from there -- I mean, you know, honestly we probably
 5 identify a GC before they get sealed, so that they can
 6 put eyeballs on it and figure out, you know, if they see
 7 any issues.
 8 So after it gets sealed by the architect and
 9 by the engineering firm, and the GC is fine with it, the
 10 GC runs with it, goes applies for a permit at building
 11 department with it.
 12 Q Okay. So to the best of -- and, again, I'm
 13 asking -- what is your best time frame? And I'm not
 14 saying best as in most ambitious. But just if you had
 15 to guess, how long do you think before you would be in a
 16 position -- I say "you," the Entity -- will be in a
 17 position to actually go and apply for a permit for the
 18 renovations of the hotel?
 19 A I hate questions like that. Okay. So
 20 sometime this year; no.
 21 If everything goes okay, as far as not having
 22 to go back to make any corrections and it's on schedule,
 23 I would think that a permit could be applied for -- so
 24 we got, what, May 21st, look it over, so figure it's a
 25 week. I'm just speaking out loud, thinking out loud.

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1 So in a perfect world, a permit can probably
2 be applied for within 30 to 45 days of getting sealed
3 copies. And sealed copies would mean, we all looked at
4 it, identified if there was any changes that need to
5 be -- any adjustments need to be made. And the GC had
6 the copies in his hand to go apply for a permit. So I
7 would say within 30 to 45 days after receiving them.
8 Q And, again, I'm -- again, if you have a
9 thought, when in your best thought would that be --
10 would that be something that might happen this year?
11 Would it be something --
12 A As far as submitting for a permit?
13 Q Yes.
14 A Oh, yeah.
15 Q Like within six months?
16 A To submit for a permit?
17 Q Correct.
18 A I'm saying in a perfect world, you know, it
19 could be as soon as mid July.
20 Q Okay. In a perfect --
21 A In a perfect world, it could be as soon as
22 July. Get the plans. No one identifies any issues with
23 it. The GC is fine with it. They get sealed. They get
24 submitted to the -- submitted to the County. Could be
25 done in about 40 days in a perfect world. Now, getting

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1 a permit that lays on the County.
2 Q Right.
3 A Because from there the building department has
4 to go through their, you know, different departments
5 and, you know, fire, all of that and review the plans.
6 Q So you're thinking -- again, you're saying in
7 a perfect world, and we obviously don't live in a
8 perfect --
9 A Right. In a perfect world, submittal could be
10 45 days from, you know, getting your sealed copies.
11 Which they're thinking we should have copies by the 21st
12 to review. Give everybody a few weeks to look
13 everything over. You're talking mid June. You know,
14 everybody okays it. They get stamped within a week
15 later. You're still in June.
16 Q Have to go get a contractor?
17 A Yeah. Well, the contractor is probably going
18 to be identified sometime within there.
19 Q Okay.
20 A But doesn't mean that he's the final
21 contractor. But, you know, odds are probably will be.
22 And you could submit to the building department probably
23 sometime in July, mid July. From there, you know, it's
24 in their hands to review and their technical review and
25 ask questions and scrutinize that everything is done to

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1 their requirements.
2 Q Okay.
3 A And I can guarantee you, I'll bet you a nickel
4 right now, there will be comments. Because there
5 usually are. They just want to, you know, ask
6 questions. Not that it's anything wrong. But I'm sure
7 that there will be comments. And, you know, RFIs put
8 out. And then you have to respond.
9 Q Okay.
10 A Request for information. Sorry.
11 Q Thank you.
12 A RFI.
13 Q And those would, of course -- those plans
14 would include the electrical, mechanical, plumbing and
15 framing.
16 A Yes.
17 Q All things identified in the agreement?
18 A You have to submit a complete plan for review.
19 Actually, I just thought of something. FGUA
20 plays a part in there.
21 Q Slow down for a minute.
22 A Okay.
23 Q What is FGUA, for the record?
24 A FGUA is Florida Governmental Utility
25 Authority. They're the water company. So water is

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1 supposed to be brought to that site and FGUA is the one
2 facilitating that. So FGUA needs to see -- they need to
3 be involved in those plans as well.
4 Q Okay. So those plans would have to be
5 submitted to --
6 A FGUA would have to see the plumbing portion --
7 Well, no, they would see the plans. Because FGUA is
8 going to want to know, you know, what type of capacity
9 is this property going to have potentially. And that's
10 going to determine their size of their lines and things
11 like that.
12 Good luck trying to talk to FGUA on the phone,
13 much less trying to get a date from them, Oh, yeah,
14 we're going to stamp this and we're ready to go.
15 Because you would need to submit some type of
16 documentation from FGUA to the building department to
17 confirm that, you know, yes, that they can supply
18 utility to that project.
19 Q Okay.
20 A To that property.
21 Q So the -- so in addition to the permit, as far
22 as maybe part of the permit process with the County, you
23 would need to get approval from the FGUA?
24 A Yes.
25 Q And they would need to see plans that have

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1 been signed, sealed by architects, engineers?
2 A Yes.
3 Q Okay. Now, has any -- the permit that you
4 referred to, this permitting process, has this been done
5 before, say, for a different design already with the
6 County? In other words, has there been a permit
7 application for the renovation that's different in kind
8 and this is a change to it? Or, would this be the
9 first --
10 A To my knowledge, this would be the first --
11 MR. D'APUZZO: Form.
12 THE WITNESS: -- full --
13 BY MR. MCKINNON:
14 Q Go ahead.
15 A Did he say something?
16 Q He may object to questions at times. Or, I'll
17 let your attorney --
18 A All right.
19 Q Unless he instructs you not to answer the
20 question, I think we --
21 MR. D'APUZZO: Yes. So, look, I'm here by
22 Zoom, so it's a little bit of a relay delay. I
23 might chime in and say, Object to form, or Form
24 objection, or just trying to do a quick Form. I'm
25 not instructing you not to answer. You can answer,

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1 if you can. That's really for the record for
2 later.
3 THE WITNESS: To my knowledge, there has not
4 been a renovation permit that has been done yet.
5 BY MR. MCKINNON:
6 Q Okay. The work that's going on now then. I
7 understand there was a fence permit that was obtained.
8 There was a demo permit related to the pool, a demo
9 permit related to the lobby.
10 A Uh-huh.
11 Q Is that correct?
12 A Yes. Yes.
13 Q And then there was some -- some work done to
14 the roof of the L building?
15 A Correct.
16 Q Okay. Other than that, to your knowledge, has
17 there been any other permits applied for and obtained
18 from the County related to this project?
19 A The roof, initial demo -- No. To my
20 knowledge, what, those three.
21 Q Correct.
22 A Yeah.
23 Q Do you -- are you aware of any actions of the
24 building department for the County that in any way
25 delayed those permits that had been requested?

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1 MR. D'APUZZO: Form.
2 THE WITNESS: I --
3 BY MR. MCKINNON:
4 Q Go ahead.
5 A I think -- I want to say that we were waiting
6 for the roof permit. And I can't really get into
7 specifics of it. But for some reason, I feel that there
8 was some type of a little bit of delay in getting the
9 roof permit once it was put in for.
10 Q Okay. So the roof permit that you applied
11 for, do you recall when that application took place?
12 A I mean it's on record in the County. April,
13 so it was done -- it would have been sometime last
14 summer.
15 Q Okay. Do you know what if --
16 A It might have been earlier than last summer.
17 But, completed -- yeah, I almost feel like that was
18 the -- because he was running all over the place
19 getting -- so the roof had to be rerolled.
20 The process that's -- and there's a liquid
21 that they put down and spread out, turns into a
22 membrane. But there was a shortage of that and he
23 couldn't get -- it comes in five gallon buckets and he
24 couldn't get enough of them to complete the job.
25 Q Okay.

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1 A And then there was a change order. So, you
2 know, I want to say it was sometime in the beginning
3 part of '22. Let's say, you know -- let's say it was
4 last April. But then, I think, it was finally
5 completed, you know, towards summer or towards the end
6 of summer. And, essentially, that was because of, you
7 know, we'd sit a week or two, because you couldn't get
8 any material.
9 Q Okay. And I think -- and maybe this is the
10 reason for the form. When I talked about the roof, I'm
11 talking about a delay in just getting the permit to go
12 do the work as opposed to the building --
13 A Yeah. I think once it was submitted, we -- I
14 feel -- I recall having some type of conversation about
15 why is this, you know -- why is -- what are we waiting
16 for type of thing. And then we had gotten the permit
17 like, probably, a couple days after that.
18 Q Do you recall how long it was between the
19 time --
20 A I mean, you know, maybe I felt like maybe it
21 was a week or two. It wasn't anything that -- I don't
22 think months or anything like that. But it doesn't take
23 much to get a -- I mean, you're not building a roof.
24 You're basically resealing it.
25 Q Right.

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1 A So, you know, I just -- in my opinion, I just
2 -- it should have been something submitted and you get
3 it back within a couple of days. Especially on a
4 project like this, you know.
5 Q Do you know what, if any, issues caused the
6 delay of issuance of that permit?
7 A Do not.
8 Q All right. Did you ever speak -- who is the
9 roofing contractor, I'm sorry, by the way?
10 A Four Seasons Roofing.
11 Q And this understanding you said you had that
12 there might have been a delay in obtaining a permit from
13 the County, where did -- is that something that you had
14 direct knowledge of, or is that something that you
15 recall maybe having a conversation with a contractor
16 about?
17 A No. That was just something that I recall,
18 you know, Oh, you know, he put in for the permit this
19 week, why has it gone a week and we don't have, you
20 know, a permit yet. And I think it was -- you know, it
21 was probably a week longer than, in my opinion, it
22 should have been.
23 Q Okay. So it took about a week longer to get
24 the permit than you thought it might have taken to
25 get --

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1 A For that type of job, yeah. It's kind of like
2 putting in for a fence permit. It's kind of a
3 no-brainer, you know. Here's the survey. Here's the
4 property line. That's where we're putting the fence.
5 Q Other than that week delay in getting the roof
6 permit, is there any other permits that you contend
7 you've had any difficulty obtaining from the County,
8 based on the applications that have been made by the
9 Entity?
10 A I mean, I think that -- not to any
11 extraordinary extent. I feel that, you know, every time
12 there was something put in, there was follow-up
13 questions from the County. Don't ask me what those
14 questions are. I just feel like there was conversation.
15 And the answers were provided. And, you know, then you
16 would end up getting the permit, so...
17 Q Okay. So nothing that sticks out in your mind
18 though as to any specific, any substantial delay of any
19 kind?
20 A No.
21 Q Were you involved in any -- some of the -- let
22 me go ahead and attach the documents so I can kind of
23 follow up a little bit. Let me start with -- this next
24 one we will attach as Exhibit 3. This is just the
25 property description. And I'm going to put it -- just

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1 have you -- again, because you're here as a corporate
2 representative, this is the General Warranty Deed from,
3 it looks like, the Zulalis.
4 (Plaintiff's Exhibit Number 3 was marked for
5 identification.)
6 A Zulali. That's who the previous owner was,
7 yeah.
8 Q To 2251 South Old Dixie Highway referring to
9 this is the one recorded in the public records and has a
10 legal description. And ask you if you can -- based on
11 the parcel ID and Warranty Deed, confirm that this is
12 the property owned by the Entity where the Old Dixie
13 Hotel exists?
14 A I don't -- I can't confirm the parcel number,
15 because I don't have that in front of me. But -- I
16 mean, Abe, honestly if we're being technical about
17 things, the only thing on here identifying the property
18 is the parcel ID number and without actually pulling
19 up --
20 Q There's actually a legal description.
21 A Where?
22 Q Attached as Exhibit A. It should be, if I
23 gave you the full exhibit.
24 MR. D'APUZZO: Are we looking at G to the
25 complaint?

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1 MR. MCKINNON: It should be, yes. I think
2 that's what we're looking at.
3 MR. D'APUZZO: May -- May 14, 2021.
4 BY MR. MCKINNON:
5 Q Is there not an Exhibit A attached?
6 A It's okay. I'm looking.
7 Q Okay. There you go. I'm pretty sure it's
8 been admitted, but --
9 A The only -- what I can tell you is without
10 having a physical address on the property, I can't
11 confirm the bearings on this.
12 Q Okay.
13 A You know, I could give you your legal
14 description to your house and you wouldn't be able to
15 definitively say, Yes, that's my property. I mean, this
16 is township and range and stuff like that.
17 But the Entity is 2251 South Old Dixie
18 Highway. And I know it by their address, 2251 South Old
19 Dixie Highway, Bunnell, Florida 32110.
20 Q Okay. Is there -- is there any other
21 property, to your knowledge, owned by the Entity, this
22 2251, than the Old Dixie Highway Hotel?
23 A No.
24 Q Okay.
25 MR. D'APUZZO: We admit in our answer defenses

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1 paragraph 24, which contains that Exhibit G.
2 MR. MCKINNON: Okay.
3 BY MR. MCKINNON:
4 Q I'm trying to think. I've got a couple of
5 individuals who have been identified in interrogatories.
6 And I wanted to ask you if you knew who they were, if
7 you could -- if you've had communications with them.
8 Do you know a Manny Gomez?
9 A Yes.
10 Q Who is Mr. Gomez?
11 A Manny is one of like the capital people
12 involved in the property, as far as, you know, money and
13 stuff like that.
14 Q Okay. Do you work with Mr. Gomez or
15 communicate with Mr. Gomez on your project, or is
16 there --
17 A No, he's -- he's a -- he's a capital, you
18 know, money entity. I don't think he can tell you the
19 color of the building.
20 Q Okay.
21 MR. D'APUZZO: And, just for the record, the
22 witness is not the corporate rep for, we'll call
23 it, the back-end structure, you know, what
24 ownership is, or specific duties of owners, or how
25 the Entity is formed, or its finances.

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1 MR. MCKINNON: I understand. I understand
2 that.
3 Yeah. I just want to know -- you've
4 identified people in the Answers to Interrogatories
5 and I wanted to know if he's familiar with those
6 individuals.
7 MR. D'APUZZO: Yeah. I just want to lay the
8 foundation later if we do a corporate rep that is
9 specified for that. You know, if the testimony
10 does conflict, that's the reason why. He's not
11 being offered for that today.
12 MR. MCKINNON: Okay.
13 MR. D'APUZZO: I've got no objection to your
14 question.
15 MR. MCKINNON: Okay.
16 BY MR. MCKINNON:
17 Q One of the matters that were mentioned in the
18 answer was a bond regarding -- obviously this litigation
19 involves a deposit of \$250,000 with the Clerk of the
20 Court for some of these renovations that are to be done
21 or potentially to be done here in the somewhat near
22 future.
23 What, to your knowledge, or what knowledge do
24 you have regarding that particular monies, or monies to
25 be transferred, and that sort of thing?

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1 A My knowledge based on that document?
2 Q The agreement here in front of you, you're
3 referring to?
4 A The agreement, yeah, was that they needed to
5 execute, you know, cleaning up the property, things of
6 that nature, and have the mechanical aspects, the roughs
7 for plumbing, electrical, AC, and all of that, done by a
8 certain deadline. I think it was August, you know, a
9 date in August. And if they hadn't done that, that they
10 need to put up -- the County is requesting \$250,000 to
11 ensure that it was completed. I mean, to my --
12 Q Go ahead.
13 A My opinion on that is, I feel that -- I think,
14 at the time it's unfair and it was politically
15 motivated. That's my opinion. With Jerry Cameron and,
16 you know, whoever had his ear.
17 Q Okay. So when you said "at the time," are you
18 referring to the time that they signed the agreement or
19 is that -- you're shaking your head?
20 A Yeah. I feel that, you know, because there
21 was certain people in the citizenship, you know, that
22 lived in the county that was pressuring the County to do
23 something. And that -- that was initially initiated
24 because of the previous owners, the Zulalis. Because
25 that property had sit -- or had sat in its condition

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1 without anything being done for all those years.
2 And I lived five minutes away from the
3 property. I can attest to that. And me being, you
4 know -- I've lived in this county since 1987. And, you
5 know, my wife has a business right in front of that
6 property.
7 And, you know, that's what had initially
8 driven me to try to get somebody to buy the property to
9 renovate it. I couldn't get in touch with the Zulalis.
10 I tried, tried, tried.
11 And, you know, I know what the chatterbox
12 around town about, you know, people being frustrated
13 about the property. But, you know, you have these --
14 the Entity come in and actually trying to do something.
15 And I felt that they were, you know, paying for the sins
16 of the previous owners.
17 Q Okay.
18 A I mean, that's -- listen, as a voting citizen,
19 that's my opinion. And I feel that it was easy for
20 management at the time to come up with this agreement to
21 say, Look at how -- what I did. And I think
22 management's expectations of the timeline, especially in
23 the first quarter of 2021 --
24 Q When you're referring to management, are you
25 --

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1 A I'm talking about the County Manager, Cameron.

2 Q Okay.

3 A I think that it was extremely unrealistic.

4 Q Why do you think that Mr. -- what's his

5 name -- Shebiro signed this agreement, if he felt it was

6 unrealistic?

7 A I don't think that he realized how unrealistic

8 it was. And in conversation, it was signed because they

9 wanted to show good faith that they were going to be

10 doing the project and renovating, not just having it,

11 you know, sit dilapidated like the Zulalis did. They

12 were actually going to spend money.

13 Q Did Mr. Shebiro ever share with you what, if

14 any, due diligence that he did before he signed the

15 agreement to determine if he could actually perform the

16 terms of it?

17 A No.

18 Q Do you have any understanding of why he

19 wouldn't have done that?

20 A Just nice guys, man. I mean, they just meant

21 well. I can't speak as to why he wouldn't do that. And

22 I think that's where -- when I came in with my knowledge

23 of the County and just having overall general knowledge

24 and knowing the property itself -- I mean, I used to go

25 there and eat Mexican when it was Rodeo's (phonetic).

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1 Here, I go again, freaking out (indicating

2 Zoom).

3 Q Do you think any reasonable project manager

4 who has some bit of experience would have advised

5 Mr. Zulali of this -- excuse me -- Mr. Shebiro of the

6 same thing before he signed this agreement?

7 A To not sign it?

8 Q Yes.

9 A Absolutely.

10 MR. D'APUZZO: Can you guys see and hear me

11 okay?

12 The witness said he was freaking out. He's

13 referring to the Zoom thing going on the screen.

14 THE WITNESS: We can see -- I can see you

15 fine, yeah.

16 MR. MCKINNON: We just don't look that way.

17 If we just look this way, we're okay. But you're

18 flashing a little bit on this side.

19 MR. D'APUZZO: Can you see two? I see your

20 display flashing. Mine looks okay.

21 THE WITNESS: Yours is fine, yes.

22 MR. MCKINNON: Yours is fine. But the

23 other -- now, it stopped.

24 MR. D'APUZZO: Okay.

25 THE WITNESS: So, yeah, I think anyone with --

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1 anyone with an understanding of what was going on

2 globally, much less nationally, much less

3 regionally, would have said, you're jumping on a

4 unicorn and flying over a rainbow if you think

5 you're going to hit that deadline. That's my

6 opinion.

7 And I -- I've got to state my opinion here.

8 Again, I strongly have the opinion that there were

9 certain individuals that were constantly at County

10 Commission meetings pounding the commissioners.

11 And, granted, they have a heck of a job to appease

12 everyone, which you can't.

13 And that person, you know, being politically

14 motivated that was running -- that was going to be

15 running for a commission seat, I feel that that was

16 their soap box and I feel that was the -- the

17 solution was the pressure caused by the individuals

18 speaking at County Commission meetings for the

19 current manager at that time to make it look like,

20 I've got the solution and here's what it is.

21 And when was that signed? May?

22 BY MR. MCKINNON:

23 Q The agreement is executed by Mr. Shebiro on

24 May 13th. It was signed by Mr. Cameron as County

25 Administrator on May 6th.

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1 A Okay. So May 13th is the last day that was

2 signed. May, June, July, August. What was it the 20th

3 or 21st of August. So four, eight -- so in 11 to 12

4 months they were to do that -- I'm sorry -- weeks. In

5 11 to 12 weeks they were to do what was requested on

6 that.

7 You could ask the newest person out of, you

8 know, any type of construction or any -- anyone that has

9 a limited knowledge of, you know, construction and what

10 was going on in the world and regionally at that time,

11 that they would have said you're crazy, unfulfillable.

12 Q Okay. So --

13 A And I feel the County -- them being held to

14 the standard that they should be held to, in my opinion,

15 I think they went into that knowing that it was -- it

16 was unrealistic. It was a pipe dream.

17 Q When you say "they," are you talking about

18 Mr. Shebiro?

19 A No, I'm referring to County management and

20 whoever else might have been involved in coming up with

21 that deadline.

22 Q Okay. What then do you think Mr. Shebiro

23 then, based on your conversation with him, was thinking

24 when he signed the agreement?

25 A I think he was in good faith saying, I'll get

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1 it done, you know, I'm going to shoot for that. And
2 then when reality hit him from talking to people like me
3 and contractors and everything said, Oh, shit, this
4 isn't going to happen.
5 Q Okay.
6 A So...
7 Q So the money that's to be deposited as, we'll
8 call it, as security for those renovations to occur of
9 250,000, there's mention in the answer about a bond was
10 going to be taken for the money. Are you familiar with
11 any of that intent by the Entity, 2251, to obtain a bond
12 for the \$250,000 security?
13 A There was --
14 MR. D'APUZZO: I'm going to object just on the
15 basis of, I believe, that mischaracterizes what the
16 paragraph states the money was used for. But he
17 can answer the question, if he's able to.
18 BY MR. MCKINNON:
19 Q Here, I'll restate it. I've got the answer in
20 front of me, so there's no misunderstanding I just want
21 to -- this says: The parties mistaken -- one or more
22 one of the parties mistakenly believe that the
23 Defendant -- that would be the Entity -- could obtain a
24 third party bond to cover the cash deposit obligation.
25 Are you familiar with --

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1 MR. D'APUZZO: I'm sorry. I meant the
2 contract language about the use of the 250. I
3 believe you stated to complete the renovations.
4 MR. MCKINNON: Okay.
5 BY MR. MCKINNON:
6 Q Let me go to the bond and then I'll read from
7 the agreement, just to make sure.
8 Are you familiar with any bond that was
9 attempted to be obtained by the Entity or Mr. Shebiro to
10 cover that \$250,000?
11 A Yes. There was an insurance person that was
12 contacted. I don't recall her name. And they issue
13 construction bonds, security bonds, things like that.
14 And when they saw the agreement, I do recall that they
15 said based on that agreement, we will not issue a bond.
16 Because -- I don't know exactly what the issue was with
17 what they felt the verbiage in the agreement was. But
18 they had taken issue with the way the agreement was
19 worded, as far as, you know, them putting a bond up.
20 Q Do you know what that bond -- the terms and
21 conditions of that bond, that was requested by the
22 Entity?
23 A Not -- I mean --
24 Q I'm --
25 A I guess the answer is no, because I don't know

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1 all of the specifics. But the bonds was instead of
2 giving you our 250, we're going to get a bond to show
3 that we're going to finish this work.
4 Q All right. So instead of doing the 250 --
5 A That's the generalization of how I understood
6 it.
7 Q Okay. So the \$250,000, what they refer to as
8 a bond was not going to be, for instance, cash handed to
9 the Clerk of Court, it was instead going to be a
10 construction bond to secure the renovations of the
11 project?
12 A Are you asking me if that's what I know the
13 Entity felt that it was?
14 Q Yes.
15 A I would assume so, if they were seeking a bond
16 from the insurance lady.
17 Q Okay.
18 A Actually, I think it was a guy from
19 California. It was the lady that was facilitating it.
20 So the company would have been some company out of
21 California.
22 Q Okay. So they were seeking a construction
23 bond, right?
24 A Yeah, to complete the project, to the best of
25 my knowledge.

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1 Q Okay. The next -- you said you don't have any
2 knowledge of the negotiations with the County that led
3 to the execution of this agreement, correct?
4 A No. I mean, yes, I said that.
5 Q And you're not here as a representative to
6 discuss the purchase of the property; is that correct?
7 To purchase the property? The purchase of the property?
8 A Correct. That's why they purchased the
9 property?
10 Q Right. But now you said at the time you were
11 representing a different entity that was seeking to
12 purchase the property?
13 A There was a gentleman that was doing
14 renovations of the property in Orlando. And, basically,
15 I was going to see if I could -- like I do a lot -- you
16 know, you want to sell, how much do you want to sell
17 for. I'll take it over to, you know, a potential buyer
18 and say, Hey, guys, I've got this guy, you know, you
19 guys renovate motels, here's a motel, they're willing to
20 sell it for X.
21 Q Now, this sale, according to the deed, was for
22 650,000. Do you recall what your buyer was willing to
23 do for the --
24 A No, I don't know what they were willing to do.
25 But I never could get hold of the Zulalis, so...

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1 Q Do you know why a building like this would
2 have sold, or a structure like this, for 650,000? Would
3 you expect it to be more or less?
4 A I never ran --
5 MR. D'APUZZO: Form.
6 THE WITNESS: I never -- I never ran the
7 numbers on that. But, I mean, it's a good deal. I
8 mean, good deals come across and you jump on it.
9 BY MR. MCKINNON:
10 Q Right.
11 A You know.
12 Q So if they get this -- let's assume they
13 perform the renovations, at least conceptually they
14 discussed in doing, do you have a sense as a real estate
15 agent, what the value of this property would be?
16 MR. D'APUZZO: Form. And outside the scope.
17 BY MR. MCKINNON:
18 Q Go ahead.
19 A So a hundred room hotel. If we use a
20 calculator -- but, I mean, you're probably looking --
21 the rooms renovated the way they want to renovate it,
22 you're probably looking at about, you know, 40,000 a
23 key. Plus, you know, you've got the pool. You know,
24 what's 40 times 100, what, 4 million. So you're looking
25 at just the room values at about 4 million.

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1 You know, you're building the lobby, building
2 things like that. So, you know, you're probably
3 looking -- and then adding in the remainder of the land,
4 you're probably looking somewhere upwards of, you know,
5 5-6 million dollars on what they want to do there.
6 Q How much -- do you have a sense, based on the
7 plans, you said that the Entity -- and you're the
8 project manager -- will be engaging or hope, you believe
9 to be, a contractor that's already involved in the
10 project, do you have a sense of what the cost of those
11 renovations would be?
12 A Not until we get all of the design work done.
13 Q So the contractor --
14 A I mean, there's -- you know, there's spaghetti
15 numbers that we kind of guesstimate it. But you're not
16 going to get a hard number until it gets priced out by
17 the -- you've got to take those plans, give it to your
18 different mechanical contractors and everybody else to
19 have them, you know, bid it out or quote it out.
20 Q So is your understanding of this project is to
21 renovate the hotel, get it to -- and then to ultimately
22 sell it, or is this going to be something that's going
23 to be run by the Entity?
24 A My understanding is that they're going to
25 operate it, yeah.

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1 Q Okay. And what's the name of the contractor
2 that you said that you believe might be engaged to give
3 an estimate for these plans that are expected to be
4 done?
5 A There's different contractors. So the GC who
6 would be the -- kind of the umbrella license, would be
7 Seaman Construction, at this point. But there's no
8 guarantee that's who actually, you know, gets awarded
9 the job.
10 Q Okay.
11 A As far as the other guys, if we go to, you
12 know, that GC, the GC needs to go get his tradesmen to
13 quote out the different aspects of the scope of work.
14 Q Okay. I've got to ask you, since he
15 identified you as being the corporate representative for
16 4 through 9 -- is that correct, Counsel?
17 MR. D'APUZZO: Let me go back. Hold on.
18 THE WITNESS: What are you looking at?
19 BY MR. MCKINNON:
20 Q This is the notice. If you look at the
21 notice. Hold on. Use this one since it's identified as
22 an exhibit.
23 MR. D'APUZZO: Yeah. So, yes, I think some of
24 the issues will overlap in the first two topics of
25 the notice of depo. But generally, yes, 3 -- it's

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1 actually 3 through 9.
2 MR. MCKINNON: I'm sorry. 3 through 9?
3 MR. D'APUZZO: Yeah. I don't think he's got
4 all of the knowledge for 2 or 3. I mean, you've
5 touched on some of it. But 4 through -- 3 through
6 9, you know, with the same limitations that it
7 overlaps on 1 and 2, that he's not going to have
8 knowledge as to.
9 BY MR. MCKINNON:
10 Q So I have to ask you, only because this is
11 what's in here, and so you may know some of this, you
12 may not. Since you have -- you know all facts,
13 witnesses and evidence to support the -- referred to as
14 the 4th Affirmative Defense. And I'm looking at it --
15 the next one -- let me see -- 5th Affirmative Defense
16 talks about that the County has and continues to hinder
17 the Defendant's ability to perform under the agreement.
18 Explain that to me, if you know.
19 MR. D'APUZZO: That's not what it says. But
20 if you want to allow the witness a chance to look
21 at it. Or, if you want him to answer the way that
22 you ask it, that's fine.
23 MR. MCKINNON: How about this, how about I
24 just read the paragraph that you typed.
25 MR. D'APUZZO: Sure.

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1 BY MR. MCKINNON:
2 Q (Reading) The Plaintiff has -- the Plaintiff
3 being the County -- has and continues to hinder
4 Defendant's -- that's the entity's -- ability to
5 successfully perform under the agreement and to perform
6 its construction project at large.
7 That's -- I've read it word for word now. Can
8 you tell me what acts or witnesses, that you're aware
9 of, that supports that accusation?
10 MR. D'APUZZO: Wait a second. What document
11 are you looking at? Are we looking at the
12 February 9th, 2022 Answer and Affirmative Defenses?
13 MR. MCKINNON: Yes. This is your Answer and
14 Affirmative Defenses. Is this not your defense?
15 MR. D'APUZZO: I'm not seeing that.
16 MR. MCKINNON: Submitted --
17 MR. D'APUZZO: (Zoom inaudible)
18 MR. MCKINNON: It's February 9th. Did you
19 serve an amended one after that?
20 MR. D'APUZZO: No, that's the one I'm looking
21 at. You're starting with 5, 5th Defense?
22 MR. MCKINNON: That's actually the 4th
23 Affirmative Defense. I'm sorry, that's the 4th.
24 MR. D'APUZZO: Okay. Okay.
25 BY MR. MCKINNON:

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1 Q That's the first one -- I'm sorry, the 4th.
2 That's the 4th Affirmative Defense, so let's start with
3 that.
4 A I can't speak specifically to something, so...
5 Q That's fair.
6 A Yeah, I mean, I don't want to -- I don't want
7 to misspeak. And, so, I just -- I can't speak
8 specifically to something.
9 Q Okay. So you don't have any specific
10 knowledge?
11 A Yeah, I do not.
12 Q Let me go to then -- the other ones are legal
13 issues. Let me go down to -- this is the 12th
14 Affirmative Defense. Do you know of anything that the
15 County did to knowingly relinquish the rights it
16 possessed under the agreement?
17 I know you didn't write this. And I
18 apologize. Unfortunately, you're put in the unfortunate
19 circumstance --
20 A No, no. That's fine. Restate the question.
21 Q Yes. Affirmative Defense 12 says that the
22 Plaintiff knowingly intended to relinquish the rights it
23 possessed under the agreement. The Plaintiff being the
24 County.
25 Do you know of anything the County did to

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1 relinquish its rights under the agreement?
2 A I just -- I need -- I just need to kind of
3 understand. If I can rephrase the question and tell me
4 if that's what you're asking. Am I able to do that?
5 Are you asking me do I knowingly know if the
6 County was trying to get the Entity to not be able to
7 perform and --
8 Q Well --
9 A -- thereby --
10 Q -- that's not my exact question. But I'll ask
11 you this one, is -- do you know of anything that the
12 County did, or said, that says that we don't believe
13 this agreement is enforceable on our behalf?
14 A I -- I do not.
15 Q Okay. All right.
16 A Sorry. I just wanted to be, you know, clear
17 and specific on interpretation of a question.
18 Q Right. I asked you before whether you knew of
19 anything that the County did that can hinder or
20 continues to hinder the entity's ability to successfully
21 perform an agreement. And you said you weren't aware of
22 any.
23 A Right.
24 Q Okay. I asked you before about whether or not
25 the bond -- they could obtain a bond. You said they

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1 looked into that. You don't know of any -- do you know
2 of any communications between the Entity and the County
3 related to the bond?
4 A There was conversation. I mean, I was part of
5 that conversation, just stating that -- and I -- you
6 know, I don't know if it was the County Manager. I
7 don't know if it was the Assistant County Attorney, who
8 it was that it might have been mentioned to. I don't
9 think anything was in writing.
10 But I think it was expressed that there was an
11 issue with the -- that per the bonding company, there
12 was an issue with the way the language was structured in
13 this agreement that the County had provided.
14 Q Okay.
15 A So, you know, yes, the Entity, you know,
16 inquired about the bond.
17 Q Who was involved -- do you remember the names
18 of any persons involved in trying to obtain the bond?
19 A Oh, man. It was -- it was actually a roofing
20 contractor that they had used up in Connecticut and he
21 has -- that was the lady -- I know I'm not giving you
22 names. It was a person that he uses in Connecticut
23 to -- when I say "he," I mean that roofing contractor.
24 A friend that they spoke to that used his insurance lady
25 to issue these completion bonds or whatever the

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1 technical word for them are. And then she referred it
2 over to the guy that does that out of California. And,
3 I mean, that's -- I don't have any names for those
4 people.
5 But I was on a conference call a couple of
6 times related to the bond. And, you know, I heard them
7 say that, you know, they weren't comfortable with the
8 way -- there was certain language in there, that they
9 didn't -- they would never issue a bond based on that.
10 Q Okay. Are you aware of any term or condition
11 under the agreement that the County was supposed to do
12 that it didn't do?
13 A Not to my knowledge.
14 Q Do you know of anything that -- I think I
15 asked you that.
16 You're not aware of anything that the County
17 did that hindered the Entity.
18 Did Mr. --
19 A Shebiro.
20 Q -- Shebiro, did he at any time ever tell you
21 or represent to you that he made a mistake in signing
22 the agreement?
23 A I don't think that he -- I don't think that he
24 mentioned it.
25 Q Okay.

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1 A I think it was more me verbalizing, You're an
2 idiot, why did you sign that.
3 Q Okay. So as far as the County's involvement
4 then, there's nothing that you know that the County did
5 that caused the Entity to miss any of its construction
6 deadlines?
7 A My opinion is that from conception, they
8 should have known that this was unrealistic.
9 Q Okay. But I'm --
10 A I'm telling you that as -- Okay.
11 Q I understand that. What I'm asking is, do you
12 know of anything, actual actions taken by the County
13 that prohibited or interfered with their ability to do
14 it?
15 A Not that I know of, no.
16 Q Was the -- did you, yourself, ever have to
17 reach out to the building department for the County of
18 Flagler, ask questions or anything?
19 A I have spoken to Bo, who's the County building
20 official, yeah, I mean, on -- we've spoken. We've met
21 at the site, you know, questions, things like that.
22 What would you allow?
23 Because at one time the County was going to
24 allow a partial work -- a partial permit to start being
25 done on renovating rooms while another -- like the lobby

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1 and all of that stuff was still being figured out. And
2 then, I mean, that was discussed on site.
3 I can't remember all of the individuals that
4 were there at that meeting. I think somebody else from
5 the building department. And I know Sean -- I think
6 Sean was there as well. But the County or the building
7 department, Bo, whatever, later changed course on that
8 and said, No, we need, you know, plans for everything to
9 be done all at once.
10 And my argument back to him -- not argument.
11 But my thing back to him was, you know, Why can't we
12 just start doing it in phases. And his thing was, you
13 know, It's my job to protect the owner and not have a
14 job half completed. And, I said, Well, it's the owner
15 that wants the request, so that we could move forward on
16 things.
17 And, you know, ironically things happen for a
18 reason, because the direction that the final conception
19 is going to be, based on all of the changes that were
20 made, is completely different than what would have
21 initially been done and which would have been a
22 financial mistake on their part.
23 Because the course where they're going now is
24 more suited for the market and the demands of the
25 market. Because there's not another project like that

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1 in this county that I'm aware of. Especially not along
2 the I95 corridor.
3 Q Okay. As far as Bo Snowden or others in the
4 building department, were they responsive to requests
5 that you made and requests to meet with them, any of
6 those things?
7 A Yes.
8 Q And if you asked them for documents or
9 anything, were they responsive in that regard?
10 A Yes.
11 Q Are you aware of any difficulties, any -- I
12 think we went through this. I think you said there was
13 a delay, about a week, in getting the permit. Other
14 than that --
15 A Involving a roof, yeah.
16 Q Yes. But other than that, the County was
17 responsive to your contractors who were seeking to work
18 out there?
19 A As far as I know, yeah.
20 Q Any specific or personal knowledge as to any
21 delays to get inspections performed on any of the work
22 that was done out there?
23 A I don't believe so, no.
24 Q Is the roof -- is it -- what you call that
25 roof repair, has that been completed?

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1 A Yes.

2 Q Okay. All right. And so the next things to

3 be done when the plans are finished and they're reviewed

4 by the Entity and there's final, signed off, sealed, and

5 then there's a contractor engaged, will be a permit

6 application sometime middle of this year or later?

7 A Yes.

8 Q All right.

9 A That is their -- that's their goal to try to

10 get that accomplished. You just -- FGUA plays a

11 significant part in that whole thing, believe me. And

12 they are their own animal. It's kind of like St. Johns

13 River Water Management.

14 Q The structure that's out there now, the

15 L-shaped building, they're just going to leave it in its

16 condition until they start the full renovation? They're

17 not going to do any other repairs to it or anything like

18 that?

19 A Well, I mean, they could -- they could start

20 on it. But that's not an option. The County wants a

21 complete set of plans for everything and do everything

22 at once.

23 Q Okay.

24 A So right now what you see is a totally gutted

25 structure, two stories, bathrooms. I mean, you can see

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1 right through from one room to the back rooms. Because

2 all of that has been taken care -- you know, removed.

3 Everything is dried in. So right now you're dealing

4 with a skeleton structure that's waiting for, you know,

5 the plans to be completed and renovated.

6 Very similar to 1000 North Atlantic Avenue in

7 Daytona Beach. It's like a four or five story building

8 that's been sitting there completely gutted for, I don't

9 know how long. And that's going to be a future Marriott

10 and it's sitting on A1A on the ocean, completely gutted.

11 Q I think I have gone through everything in

12 regards to what you've been brought here to testify

13 about. I just want to go through to see if there's

14 anything else here.

15 Some of those are legal arguments that I'm not

16 going to ask you about. Because some of them allege

17 certain facts I need to just see what you know, if

18 anything.

19 I don't know of anything else that I have,

20 based on sort of the limited scope that you are here to

21 testify about.

22 MR. MCKINNON: Let me ask. Counsel, do you

23 know when you might have a witness available for 1

24 and 2?

25 MR. D'APUZZO: It sounds like he was able to

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1 answer almost all of the questions. So, I think, I

2 can hammer it out with one person. Unfortunately,

3 the person I have to ask is traveling at the

4 moment. But I can get you a response as far as

5 those answers.

6 MR. MCKINNON: Again, just to recap, so I'm

7 clear, he was here as the representative for 3

8 through 9. And you're going to try to hammer out

9 or get me a -- identify a time that I can take the

10 deposition on 1 and 2?

11 MR. D'APUZZO: Right. And 2 is -- you know,

12 some of what was asked overlapped on 2. So from

13 the witness' time on site forward. So when it says

14 any facts relating to the execution --

15 MR. MCKINNON: Right. I think he testified

16 what he knew regarding the agreement.

17 MR. D'APUZZO: Yeah. Conceivably, if it's

18 related to the performance after he's there, he can

19 certainly testify to any of that now. But, yeah,

20 the person that can answer the remainder of Number

21 2, which would be the actual execution --

22 MR. MCKINNON: Correct.

23 MR. D'APUZZO: -- and prior to, and Number 1

24 --

25 MR. MCKINNON: Correct.

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1 MR. D'APUZZO: -- I can get you someone. I

2 think I can get one person that can do those two

3 topics.

4 MR. MCKINNON: Okay. Perfect. I think that

5 would suffice for what we have.

6 THE WITNESS: I know you lawyers hate this.

7 Can I say something?

8 MR. MCKINNON: Sure.

9 MR. D'APUZZO: Uh-oh.

10 THE WITNESS: No. It's just -- listen, I'm

11 sitting here being a good boy, keep my mouth shut

12 and not being opinionated.

13 So the Entity in me dealing with them in the

14 last few years of meeting them are extremely

15 conscientious and trying to do everything in their

16 effort to get this project completed. They have

17 been asked -- let me rephrase that. I have been

18 asked if they would do certain things. And with

19 the exception of hitting that deadline, they have

20 complied with everything that I have been asked to

21 ask of them.

22 Surrounding the fence. There have been people

23 complaining at County Commission meetings that the

24 sign, the monument sign out front is dilapidated

25 and needs to be taken down and blah-blah-blah. I

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1 was asked can they renovate the sign. I explained,
2 Well, renovating the sign, what do you mean by
3 that? Paint the sign; sure. No; fix the
4 plexiglass and all that. So they went ahead and
5 spent money, I think close to \$8,000, to do that.
6 Can you put up a screen along the fence, so we
7 can't see the property, so neighbors don't see the
8 property. So the property is in back of a gas
9 station and a commercial -- vacant commercial pad
10 ready development. They don't want to see the
11 property.
12 Well, my opinion, the BP is not exactly, you
13 know, a Wawa. I know that was sarcastic. But they
14 put up the screen, the wind screen along the front
15 of the property to camouflage the look of the
16 property. It's a two-story building and from the
17 road you can still see the stars above it.
18 But in my opinion, they've done everything
19 within their powers to try to be a good neighbor.
20 This is what the property looked like. It's a
21 picture of the front of the building beginning of
22 last year.
23 MR. MCKINNON: Okay.
24 THE WITNESS: This is after the lobby building
25 has been demolished.

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1 MR. MCKINNON: Do you mind if we attach these
2 then, since you referred to them?
3 THE WITNESS: I know I haven't given that to
4 you, Ted, but it's a very nice picture of how clean
5 the property is.
6 MR. MCKINNON: Composite Exhibit --
7 MR. D'APUZZO: Abe, can you just hold up the
8 picture just for a moment to the camera.
9 MR. MCKINNON: There's one.
10 MR. D'APUZZO: Okay.
11 MR. MCKINNON: It's going to be real hard.
12 MR. D'APUZZO: No, from there is fine.
13 And the other photo.
14 MR. MCKINNON: There's two other photos. This
15 one here.
16 THE WITNESS: So the building is an L-shape
17 and that's one side of the building. And then the
18 other side --
19 MR. MCKINNON: This is --
20 THE WITNESS: There you go.
21 MR. D'APUZZO: Okay. All right. Thank you.
22 BY MR. MCKINNON:
23 Q So you used a lot of "theys." And, so --
24 A I'm sorry.
25 Q No, no. No worries. No worries.

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1 So when you're referring to complaints, are
2 you referring to the neighbors that have asked for
3 certain things? Who are when you say --
4 A I'm referring to, in my opinion, what I feel
5 is kind of, you know, the certain individuals that get
6 up in front of County Commission --
7 Q Okay. So these are --
8 A -- and complain about -- the one or two
9 individuals that I can recall, yeah.
10 Q So people that are requesting things you
11 talked -- those are people that are getting up and
12 voicing their opinions as citizens in front of the --
13 A And emails to County staff. And then I get a
14 phone call, courtesy call, from County staff. We've
15 gotten some complaints on this, can we get this -- you
16 know, can you do -- can you fix the sign. But when I
17 ask, Well, who's complaining, I don't get a name. And
18 that's fine.
19 But the point is, is that they -- the Entity
20 does their best to comply with the request from County
21 staff to be aesthetically pleasing as much as possible
22 at the property site.
23 Q Who do you deal with mostly from County staff
24 that would send, you know, those kinds of requests to
25 you?

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1 A Of late, I've been speaking to the County
2 Manager and the Assistant County Manager, Jorge and
3 Heidi. Or, the other way around. Heidi is the County
4 Manager. Jorge is the Assistant. And I've given
5 them -- I say "them." I think the emails just go to
6 Heidi.
7 But I've given them periodic updates when we
8 started these -- the demolition and letting her know so
9 that, you know, she can advise -- I don't know how they
10 do that. But she can advise the County Commissioners
11 that, you know, it's not a stagnant property. Because
12 that's some of the, you know, stuff that goes around in
13 the gossip mill.
14 Q That's sort of the complaints of the people
15 that go to the County Commission?
16 A From what I -- from what I've witnessed, yes.
17 And also from what I understand, yes.
18 Q All right. Anything else that you would like
19 to add?
20 A A lot, but I'll probably keep my mouth shut.
21 MR. MCKINNON: All right. Sounds good.
22 THE COURT REPORTER: Did you want to mark that
23 as Number 4?
24 MR. MCKINNON: We're going to mark this as
25 Composite Exhibit 4.

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1 (Plaintiff's Exhibit Number 4 was marked for
 2 identification.)
 3 MR. D'APUZZO: How many pictures is that?
 4 MR. MCKINNON: There's three photographs.
 5 THE WITNESS: Just so you know, I blocked out
 6 that date. Because it says like May 2nd up here,
 7 because I printed it. So my computer -- I sent it
 8 as an email from my phone. And I just don't want
 9 you thinking that picture was from May 3rd, 2023.
 10 It's not -- it's --
 11 BY MR. MCKINNON:
 12 Q So the structure that we're looking at here on
 13 the front of Exhibit 4, that was the lobby before it was
 14 demolished?
 15 A Correct.
 16 Q So that's no longer there?
 17 A Correct. That's what those other two pictures
 18 depict.
 19 MR. MCKINNON: That's all the questions I
 20 have. Your counsel may have some questions, if he
 21 does.
 22 CROSS-EXAMINATION
 23 BY MR. D'APUZZO:
 24 Q Sure. I've got a couple follow-up questions.
 25 So with regards to the last items that you

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1 talked about in the last few minutes when you
 2 voluntarily gave more information. I've got a couple
 3 questions about that.
 4 A Yes.
 5 Q Would it be fair to characterize these
 6 complaints and work as work that is done in addition to
 7 what was required under the contract in this matter?
 8 A Yes. Because -- if I understand the question
 9 properly. The contract required the mechanical stuff to
 10 be completed by a certain timeline.
 11 Q All right. So the sign we have is not a
 12 condition in the contract with the County. Correct?
 13 A No, it's not a scope of work.
 14 Q So being a good neighbor, the Entity went and
 15 repaired the sign?
 16 A Yes.
 17 Q And the fence screening, the contract mentions
 18 a fence. So the screening of the fence, again, that's a
 19 good neighborly thing that the Entity did to assist with
 20 the aesthetics, it was not required by the contract?
 21 A Abiding by request from the County, yes.
 22 Q So if the County had additional things that
 23 from time to time were requested to be done, the Entity
 24 went and did those items, even if not required in the
 25 contract?

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1 A Correct. Yes.
 2 Q And do you have a copy of the contract in
 3 front of you? Or, could you get one, please. Thank
 4 you.
 5 So if you look at the first page of the
 6 contract, at the bottom of the first page, it has the
 7 June 3rd, 2021 section, Exhibit A. Do you see that?
 8 A Yes. Yes.
 9 Q So was all of the litter and debris removed
 10 from the property?
 11 A Yes.
 12 Q I'm not asking as of this date. As of today
 13 is all of the litter and debris removed from the
 14 property?
 15 A Yes.
 16 Q Was the pool drained and removed in its
 17 entirety?
 18 A Yes. And done the proper way, by the way.
 19 Q And was the property fenced -- is the property
 20 currently fenced in to prevent access of trespassers?
 21 A Yes. The whole property is. The perimeter of
 22 the buildings are encased in the fence, yeah.
 23 Q All right. If you can turn to the second
 24 page, 4(B).
 25 A 4 B. Okay.

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1 Q I'm going to read the first sentence.
 2 A Okay.
 3 Q (Reading) If company does not complete the
 4 remedial tasks outlined above prior to August 20, 2021,
 5 the company shall provide a cash deposit of \$250,000 to
 6 the Flagler County Clerk of Court as security for the
 7 abatement of the public health and building code
 8 violations which exist on the property.
 9 Do you see that sentence?
 10 A Yes.
 11 Q Are there currently any public health and
 12 building code violations on the property, that you're
 13 aware of?
 14 A Not that I'm aware of.
 15 Q And then also in that paragraph, not the
 16 following sentence, but the sentence after states:
 17 (Reading) The County may utilize the cash bond to
 18 demolish the building structures or to perform such work
 19 that the County deems necessary, in its sole discretion,
 20 to abate the public nuisance conditions on the property.
 21 Do you see that sentence?
 22 A Yes.
 23 Q Again, there's no current public nuisance
 24 condition on the property, that you're aware of?
 25 MR. MCKINNON: Object to the form.

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1 THE WITNESS: Yes.
2 BY MR. D'APUZZO:
3 Q And of the three buildings, two are demolished
4 and you described as the shed and the lobby. Correct?
5 A Yes.
6 Q And the third building is the L-shaped
7 building that you've been referring to. Correct?
8 A The guest rooms, yes.
9 Q Is demolition proper for that building?
10 MR. MCKINNON: Object to the form. If you
11 know.
12 THE WITNESS: Can you -- I don't understand
13 the question.
14 BY MR. D'APUZZO:
15 Q The building is in the process of being
16 rehabbed. Correct?
17 A Yes. The guest rooms, yes.
18 Q And that's the building where the roof work
19 was done?
20 A Yes. The roof was completely sealed in and
21 dried in.
22 Q Are there -- Well, strike that.
23 Has anyone -- has the County or any other
24 agency requested that building to be demolished?
25 A Has the County or any other agency?

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1 Not to my knowledge, outside of this
2 agreement.
3 Q And there's been significant work on that
4 building, correct?
5 A Cleaning of the -- demoing of the rooms and
6 getting it ready -- getting it staged for a renovation
7 process, yes.
8 Q Can you explain all of the work that's been
9 done on that building?
10 A Well, the roof was substantial. And then from
11 there it's gutting each room. Gutting involves -- I
12 mean you're going down to the bare wall. There's no
13 dividing walls between the front and back guest rooms.
14 You're exposing all of the mechanical aspects, you know,
15 being the plumbing and electrical. Again, getting it
16 staged for future work.
17 So there's no walls. There's no finished
18 walls, let's say. There's no beds. There's no
19 bathroom. None. There's nothing in the room, other
20 than the skeleton structure of the guest rooms.
21 Q You're using the term "gutting." This is
22 different than if you were to demolish the building. If
23 you were going to demolish the building, would you
24 have -- would the Entity have done all of this work to
25 that building?

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1 A Absolutely not. Because --
2 Q This is --
3 A The building is --
4 Q Describe --
5 A The building is currently staged now waiting
6 for the next step, which is a renovation stage.
7 Q So it was prepped and staged with continued
8 repairs in mind?
9 A Yes.
10 Q And done in a manner that is inconsistent with
11 the demolishing the building?
12 A Absolutely, yes.
13 Q And at a higher cost than if you were just
14 demolishing the building?
15 MR. MCKINNON: Object to form.
16 THE WITNESS: Yes. Because you'd have to
17 rebuild the structure.
18 BY MR. D'APUZZO:
19 Q So you're not supposed to ask a witness a
20 question you don't know. So I don't know this question,
21 but we're going to see.
22 Do you have any knowledge as to the County
23 threatening to withhold or hinder FGUA funding for the
24 project at this location?
25 A I have heard scuttlebutt about that. But I

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1 can't pinpoint the origin of that conversation.
2 Q And what is your understanding about that
3 situation?
4 A If they don't get it done -- if the Entity
5 doesn't get it done, we're not going to include them in
6 the -- I don't know the exact terminology -- but not
7 include them in the plumbing work or -- the
8 infrastructure work that the County had engaged FGUA for
9 in that corridor, being that Dixie Highway -- Old Dixie
10 Highway corridor.
11 Q And you were asked at the very beginning,
12 there's only one question, you said you couldn't
13 remember the pool demolition company. Can you recall
14 that name now after having done this deposition for a
15 couple hours?
16 A I'd have -- No, I cannot. I'd have to look it
17 up on my computer.
18 MR. D'APUZZO: All right. I don't have any
19 other questions.
20 REDIRECT EXAMINATION
21 BY MR. MCKINNON:
22 Q Just a couple of follow-up, because I just
23 want to make sure I understand. You were asked by your
24 attorney if there was any public health or building code
25 violations that exist on the property. What is your --

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1 what was your understanding of the structure, why it was
2 being condemned to begin with?
3 A Because of those violations. But the Entity
4 paid for those violations that were incurred by the
5 previous owners. And I believe they paid for -- they
6 paid those violations before they even closed on the
7 building. And then they moved forward with, you know,
8 the demolition to get rid of the pool, which was
9 obviously a hazard, and things like that.
10 Q Do you know all of the building violations on
11 the property that were of concern when this agreement
12 was signed?
13 A I mean, I have a general knowledge of it. I
14 don't know specifically.
15 Q Okay. So with specifics as to which building
16 code violations that they were referring to, you don't
17 know?
18 A No, sir.
19 Q With respect to building code violations, let
20 me ask you, do they exist today?
21 The structure today, you can't occupy,
22 correct?
23 A No.
24 Q It doesn't comply with the Florida Building
25 Code for occupation?

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1 A Correct.
2 Q There are a multitude of building violations
3 that exist to the extent that you want to occupy that
4 structure, correct?
5 MR. D'APUZZO: Form.
6 THE WITNESS: Rephrase that.
7 BY MR. MCKINNON:
8 Q Sure. For instance, you can't occupy that
9 structure today, correct?
10 A Correct.
11 Q Because it doesn't comply with the building
12 code of Florida?
13 MR. D'APUZZO: Form.
14 THE WITNESS: Correct. It's not a
15 completed -- it's not suited for occupancy yet,
16 because it's a construction site.
17 BY MR. MCKINNON:
18 Q Correct. For instance, on the second story
19 there's areas where railings are missing, correct?
20 A Right.
21 Q If somebody was to walk up there, they could
22 fall off, because those would be building code
23 violations?
24 A It's not -- it's not -- it cannot be licensed
25 as a motel at this stage of the construction.

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1 Q Fair enough. So he was asking you as they
2 exist today. So I have to ask you as it exists today,
3 you would understand that there would need to be secure
4 railings, for instance, on a second-story floor?
5 A To occupy the --
6 MR. D'APUZZO: Form.
7 THE WITNESS: -- motel, absolutely.
8 BY MR. MCKINNON:
9 Q And if there wasn't railing completely secured
10 or railings for stairs, those would be building code
11 violations, correct?
12 A Correct.
13 Q If there was open electrical wiring, it would
14 be building code violations, correct? If you didn't
15 have -- is that a yes?
16 A Correct.
17 Q If you didn't have sanitary sewer, those would
18 be building code violations, correct?
19 A Correct.
20 Q If you didn't have water, those would be
21 building code violations, correct?
22 A Correct.
23 Q So there's a multitude of, quote, violations
24 that exist as it exists today as an unfinished
25 structure?

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1 MR. D'APUZZO: Form.
2 THE WITNESS: No. I disagree.
3 BY MR. MCKINNON:
4 Q Okay. And why?
5 A Because it's a construction site and it's
6 not -- if it was licensed currently as a motel and you
7 were operating it right now?
8 Q Sure.
9 A Yes, you would go to jail probably for
10 operating a motel in that condition. But just like you
11 wouldn't allow somebody to live in a house under
12 construction. You know we're not -- there's no current
13 violations on the property, because it's not being
14 operated as a motel.
15 Q But it wasn't being operated as a hotel when
16 they bought it either, was it?
17 A It was not, no.
18 Q Okay. And those were building code
19 violations, weren't they?
20 A Those were building code violations imposed on
21 the previous owner that the current entity paid for the
22 previous owner's sins with the intention of moving
23 forward in construction.
24 Q So when you say there's no building code
25 violations, you say that because it's your understanding

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1 that by payment of fines and fees for building code
2 violations, those cured those violations?
3 A Correct.
4 MR. D'APUZZO: Form.
5 BY MR. MCKINNON:
6 Q Okay. Fair enough.
7 He asked you about a public --
8 A You guys --
9 Q He asked you about the public nuisance and
10 asked you what -- what is a public nuisance. What's
11 your definition of that?
12 A That's a very opinionated question. Because
13 there's multiple. It depends on the person. They could
14 have what is a nuisance. Public nuisance, from what my
15 understanding is, and then this is from conversations
16 with people, public nuisance is it -- and this is on
17 neighbor -- whatever -- Neighbor or Nextdoor.com and all
18 of these other social sites, you know, it looks like a
19 dilapidated piece of, you know, begins with an S.
20 And those are words that have been put on
21 public sites. And those are coincidentally comments
22 that are made to me that, you know, it's not
23 aesthetically pleasing, it looks like a mess. So public
24 nuisance to me is, you know, they don't like the way it
25 looks.

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1 Q So when you use the word "public nuisance"
2 when you were asked by your attorney, that was an
3 opinion of your own, because you understand that there's
4 many people, for instance, in the county that come to
5 complain that would consider it a public nuisance?
6 A There's people that have their opinions of
7 what their interpretation of public nuisance is.
8 Q Okay.
9 A There's people that don't like the fact that
10 there's no lines at that intersection and people just
11 cut across diagonally into the gas station. That's a
12 public nuisance that they've made comments on
13 Nextdoor.com.
14 Q The other thing you referred to and, again,
15 your attorney asked you about, questions regarding FGUA.
16 And you just said it was the scuttlebutt that you say --
17 you don't have any specific knowledge of any specific
18 County employee telling you anything, that it was going
19 to interfere with any request that you made to FGUA?
20 A Correct. There's nothing in writing or
21 anything like that.
22 Q That's ever said by the County --
23 A From a County official, correct.
24 Q I think that may be -- that may cover it.
25 And just as far as the public nuisance, you're

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1 not referring to any specific criteria you have, this is
2 just your personal opinion?
3 A As far as what would constitute a public
4 nuisance?
5 Q Right.
6 A I mean there's various things. But to answer
7 that question, I think it's the fact that they don't
8 like the way it looked. Yeah.
9 Q But I'm asking you, when you give the word,
10 you don't think it's a public nuisance, are you applying
11 a criteria to that?
12 A No. I don't think the property is a public
13 nuisance. I think it's part of progress.
14 Q Understood. Understood.
15 I'm just asking when you use those words, are
16 you applying a criteria, or is that just a personal
17 opinion?
18 A It's my personal opinion.
19 Q Okay. Okay. You don't -- I don't know that I
20 asked you this. You said you worked for a construction
21 company. Have you ever been a licensed contractor?
22 A No.
23 Q Do you have any degree, specific degrees in --
24 A My Florida real estate license is what I have.
25 I have various knowledge and experience with different

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1 aspects of construction throughout my twenty something
2 year career.
3 Q But as far as determining building code
4 violations, inspecting construction, none of that is --
5 A I'm not licensed to --
6 Q Not qualified to make those determinations?
7 Well, if you are, tell me.
8 A I mean, definition of qualified. If there's a
9 flat tire, I can qualify that's a flat tire. I don't
10 need to be a mechanic. But same thing with
11 construction. I mean, I know generally -- I know
12 general knowledge. So, yeah, I could look at something
13 and go, that's wrong. But I'm not state licensed or
14 certified to put anything in writing, you know, any
15 inspection report.
16 Q You don't have any training or specific
17 expertise to give you the qualifications to determine
18 specific building code violations?
19 A Other than my experience over my years as far
20 as having that expertise that I've developed along the
21 way to identify issues, I don't have any certified or
22 licenses to, I guess, certify something as right or
23 wrong.
24 Q Okay. Your expertise in this -- you refer to
25 as an expertise, is it particularly in plumbing or

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1 mechanical or --

2 A Just general. General construction knowledge.

3 Q Is it more along the lines of how construction

4 gets done or the specific -- I'm saying the manner and

5 method through the permitting process or is it more

6 specific as to the detail of how it's --

7 A I would say both. It's the process to get

8 permit. And also depending on the job, the process, the

9 specifics of, you know, this is how you're going to hook

10 up a sewer line. This is how you're going to deal with

11 a lift station. This is what an electrical panel should

12 look like correctly. Things like that nature.

13 Q Have you ever worked as an electrical

14 contractor?

15 A No.

16 Q What about plumbing contractor?

17 A No.

18 Q What about a framer?

19 A No.

20 Q Okay. So you just -- just kind of a general

21 idea of your general life experience?

22 A My exposure, yeah.

23 MR. MCKINNON: Okay. All right. That's all

24 the questions that I have. I appreciate it.

25 RE-CROSS-EXAMINATION

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1 BY MR. D'APUZZO:

2 Q I've got one follow-up. I hope this doesn't

3 turn into a debate back and forth. But I'm going to

4 try.

5 Go back to page two of that contract, 4(B).

6 And the third line says, public health and building code

7 violations. Are you aware of any current building code

8 violations?

9 A No, I am not.

10 Q And are you aware of any public health --

11 well, it just says public health. So I'll read it. Are

12 you aware of any public health and building code

13 violations?

14 A I am not.

15 MR. D'APUZZO: That's it.

16 REDIRECT EXAMINATION

17 BY MR. MCKINNON:

18 Q Okay. When was the last time you did or

19 performed an inspection of the premises?

20 A Yesterday.

21 Q And what did you do to perform that

22 inspection?

23 A What did I do?

24 I entered the property. There's some things

25 that the demolition guy needs to come and just finish

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1 tidying up. I mean, there's some -- like a pile of some

2 blocks and things like that. I typically walk around

3 the building, just --

4 Q Did you go upstairs in the building?

5 A Oh, yeah. Yeah.

6 Q You did?

7 A Yeah.

8 Q Did you take any notes on that inspection?

9 A No.

10 Q Did you note any building code violations?

11 A No.

12 Q That wasn't the purpose of you --

13 A Just a general -- I'm pretty much there once a

14 week or sometimes more.

15 Q Okay.

16 A I drive by it often. So, you know, just

17 checking it out.

18 Q Okay. But your understanding of what he's

19 asking for, building code violations, you believe none

20 exist on the property because it's under construction?

21 A That's correct.

22 Q That's your -- that's your --

23 A Because it's under construction.

24 Q Is there --

25 A And I would have thought that I would have

Page 104

1 heard something from the County.

2 Q What permits are presently open on that

3 property?

4 A Probably the demolition permit needs to be

5 closed out.

6 Q And that only pertained to the --

7 A The most recent demolition.

8 Q -- lobby, right?

9 A The lobby structure and the restaurant, yeah.

10 Q Okay. Is there any permits opened related to

11 the L building?

12 A Not that I'm aware of, no.

13 Q So there's no permit to do any construction on

14 the L building presently?

15 A Correct.

16 Q So -- okay. All right. So until -- unless

17 and until there's a permit pulled, there's no

18 renovations currently being performed on the L building?

19 A Correct.

20 MR. MCKINNON: Okay. Understood. Thank you.

21 Thank you, Counsel.

22 MR. D'APUZZO: All right. We will read.

23 (The testimony concluded at 1:18 p.m.)


24

25

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1 CERTIFICATE OF OATH
 2 STATE OF FLORIDA)
 COUNTY OF VOLUSIA)
 3
 4 I, the undersigned authority, certify that
 GREGORY KONG personally appeared before me and was duly
 5 sworn on May 2, 2023.
 6 WITNESS my hand and official seal this 12th
 day of May, 2023.
 7
 8
 9 _____
 Denise D. McMullin, RPR
 Notary Public - State of Florida
 My Commission No.: HH 116419
 Expires: July 12, 2025
 10
 11
 12
 13
 14
 15 Personally Known
 OR Produced Identification X
 16 Type of Identification Produced: DRIVER'S LICENSE
 17
 18
 19
 20
 21
 22
 23
 24
 25

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1 REPORTER'S DEPOSITION CERTIFICATE
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF VOLUSIA)
 5
 6 I, DENISE D. MCMULLIN, RPR, certify that I was
 7 authorized to and did stenographically report the
 8 foregoing deposition of GREGORY KONG; that a review
 9 of the transcript was requested; and that the
 10 transcript is a true and complete record of my
 11 stenographic notes.
 12 I further certify that I am not a relative,
 13 employee, attorney, or counsel of any of the
 14 parties, nor am I a relative or employee of any of
 15 the parties' attorney or counsel connected with the
 16 action, nor am I financially interested in the
 17 action.
 18 Dated this 12th day of May, 2023.
 19
 20 
 DENISE D. MCMULLIN, RPR
 COURT REPORTER
 21
 22
 23
 24
 25

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1 May 12, 2023
 2
 3 Volusia Reporting Company
 432 South Beach Street
 Daytona Beach, Florida 32114
 Telephone (386)255-2150
 5 Gregory Kong
 GregKongpa@gmail.com
 6
 7
 8 In Re: Flagler County vs. Ajmal M. Zulali, et al
 9
 10 Dear Mr. Kong:
 11
 12 This letter is to advise you that the transcript of your
 deposition taken in the above-styled cause on May 2,
 2023, has been completed and is awaiting your reading
 and signing.
 13 Please arrange to stop by our office at 432 South Beach
 Street, Daytona Beach, Florida, to read and sign this
 transcript. Office hours are from 8:00 a.m. to 4:30
 p.m. Monday through Friday.
 14
 15 Your transcript will be available in our office for
 reading and signing for 30 days from the date of this
 letter.
 16
 17 Should you have any questions regarding this matter,
 please call the number indicated above.
 18
 19 Sincerely,
 20 Denise D. McMullin
 Registered Professional Reporter
 21
 22 cc: Abraham C. McKinnon, Esquire
 Theodore D'Apuzzo, Esquire
 23
 24
 25

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1 ERRATA
 2 RE: FLAGLER COUNTY VS. AJMAL M. ZULALI, ET AL
 CASE NO: 2021 CA 000109
 DEPONENT: GREGORY KONG
 DATE: MAY 2, 2023
 3
 4 PAGE & LINE NUMBER CORRECTION AND REASON THEREFOR
 5
 6 _____
 7 _____
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 9 _____
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 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
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 18 _____
 19 _____
 20 _____
 21 _____
 22
 23 Under penalties of perjury, I declare that I have read
 my deposition and that it is true and correct subject to
 any changes in form or substance as reflected above.
 24
 25 DATED: _____ SIGNED: _____
 GREGORY KONG

