

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND
MOBILE HOMES

IN RE: PETITION FOR ARBITRATION
MICHAEL MEIRESONNE,

Petitioner,

v.

Case No. 2021-04-5656

200 LA PENINSULA CONDOMINIUM
ASSOCIATION, INC., and THE CLUB
AT LA PENINSULA, INC.,

Respondents.

/

VIRTUAL ARBITRATION HEARING
ARBITRATOR J. A. SPEJENKOWSKI
Tuesday, February 15, 2022
9:00 A.M. to 4:41 P.M.

REPORTED BY:

Janet L. Hayden

Court Reporter

Notary Public

MAGNA LEGAL SERVICES

APPEARANCES

SECRET WARDLE, by
MR. HENRY EMRICH, ESQ.
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appeared on behalf of the Petitioner;

COLE, SCOTT & KISSANE, P.A., by
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appeared on behalf of the Respondent.

ALSO PRESENT:

Ms. Cheney Ward

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1 THE ARBITRATOR: Does the petitioner wish to
 2 begin?
 3 MR. EMRICH: Yes, sir. I think before we get
 4 started, we should put an agreement on the record that
 5 Ms. Woodcock and I have reached on our exhibits for
 6 your information, put in as a matter of record.
 7 And the first thing is that Petitioner's
 8 Exhibit 1 through 13 are as submitted without any
 9 objections. 14 was objected to, as it was a part of
 10 what will be Exhibit R-21, which I have stipulated to.
 11 Exhibit 15, there is no objection to that, P-15. 16
 12 through 21, she is objecting to that. And I'm
 13 withdrawing 18 and 19, and I will attempt to introduce
 14 16, 17, and 20 and 21 with a couple different witnesses
 15 that I've identified. Exhibits 22 through 28, the rest
 16 of my exhibits, there are no objections by her.
 17 MS. WOODCOCK: That's correct.
 18 THE ARBITRATOR: How about Respondent's exhibits?
 19 MR. EMRICH: With the exception of Exhibit 4. I
 20 have no objection to the introduction of Exhibits 1
 21 through 10. Exhibit 4 is something that was just
 22 brought to my attention and put in her exhibit list
 23 yesterday. So, we can talk about that after we've gone
 24 through this. Exhibit 11 she is withdrawing as there's
 25 no issues before his Honor regarding that issue.

1 Petitioner?
 2 MR. EMRICH: Yes.
 3 MS. WOODCOCK: Yes, sir.
 4 THE ARBITRATOR: Okay. So, if you want, I'll have
 5 to find the exhibits. Maybe they didn't arrive. They
 6 didn't make it into the file. I don't have them here
 7 today. I'll let you refer to them. And if you can
 8 just -- I guess after the hearing just list which ones
 9 you've objected to, which one you stipulated to, a
 10 brief statement as to the objection, like authenticity
 11 or no foundation or whatever. I'll look at them later,
 12 and that will make things, I think, a lot simpler
 13 today. How about that?
 14 MR. EMRICH: Works for me.
 15 MS. WOODCOCK: That's fine with us as well.
 16 THE ARBITRATOR: Great. So, are there any other
 17 pretrial matters, pre-hearing matters?
 18 MR. EMRICH: No.
 19 MS. WOODCOCK: No.
 20 THE ARBITRATOR: Okay. We'll go off the record
 21 just for a second.
 22 (Whereupon, a discussion was held
 23 off the record.)
 24 THE ARBITRATOR: Whenever you're ready.
 25 MR. EMRICH: I'd like to call Mr. Frank Apuzzo as

1 Exhibits 12 through 26, there are no
 2 objections. I have no objections to them. Exhibit 25,
 3 I've objected to that because I -- there is no
 4 indication as to when this was created, what it relates
 5 to, when it relates to, whatever it was dealing with.
 6 So, that's going to be -- we're objecting to that. 26
 7 and 27, I have no objections to them. 28 through 31,
 8 no objections to them.
 9 32, I object to that as I have no idea
 10 what it is in reference to, what facts are that support
 11 it, no foundation that I'm aware of that can be offered
 12 that deals with that particular -- what is referred to
 13 as an opinion. And so I've objected to that.
 14 THE ARBITRATOR: Hang on a second, counsel. Hang
 15 on a second. The exhibits I have are up to No. 28.
 16 MR. EMRICH: 28, no objection.
 17 THE ARBITRATOR: For respondent, anything that
 18 else I don't have?
 19 MS. WOODCOCK: We sent additional exhibits last
 20 week.
 21 THE ARBITRATOR: Okay. Wait a minute. The file
 22 (audio break). I don't have them. What we're going to
 23 do is if you've got objections to them since there are
 24 numerous objections here on both sides, I suspect you'll
 25 both want to submit final orders or proposed orders.

1 a witness. All right. Are you going to swear in him
 2 or anything like that?
 3 THE ARBITRATOR: Okay. Mr. Apuzzo, please raise
 4 your right hand.
 5 (The oath was thereupon duly
 6 administered to the witness by the
 7 Arbitrator.)
 8 THE ARBITRATOR: Please spell your last name for
 9 me, sir.
 10 THE WITNESS: A as in apple, P as in Paul,
 11 U-Z-Z-O.
 12 THE ARBITRATOR: Okay. Thank you.
 13 THE WITNESS: You're welcome.
 14 MR. EMRICH: Could you give us your name for the
 15 record, please?
 16 THE WITNESS: Frank Apuzzo.
 17 FRANK APUZZO,
 18 having been first duly sworn, was examined and
 19 testified as follows:
 20 EXAMINATION
 21 By: Mr. Emrich
 22 Q. And where do you live?
 23 A. 408 La Peninsula Boulevard, Isles of Capri,
 24 34113.
 25 Q. And is that address located in one of the

1 condominium buildings located at La Club at La
2 Peninsula?

3 A. Yes, it is.

4 Q. And it would be in what is know as the 400
5 Building?

6 A. That's correct.

7 Q. Now, my understanding is that you attended
8 the master board meetings on March 12, 2019, and
9 11/24/20 by telephone; is that correct?

10 A. That's correct.

11 Q. And at that time did you record those
12 meetings?

13 A. Yes, I did.

14 Q. How did you record those meetings?

15 A. I would have the meeting on speaker, and I
16 just used my voice recorder on my i-Phone.

17 Q. And why did you do that?

18 A. Well, I've got my own business, and so the
19 meetings were usually held during business hours, so I
20 couldn't always attend the meetings. So, I could have
21 the meeting playing in my phone, recording the meeting,
22 so I could later go in and listen to the meetings,
23 because oftentimes the minutes didn't include a lot of
24 things that were talked about in the meetings.

25 Q. And would you have recorded the entire

1 meeting?

2 A. Yes.

3 Q. Was this at anyone's request?

4 A. No.

5 Q. And what did you do with the recording after
6 you were done with it?

7 A. I just saved them in my phone.

8 Q. And did you provide them to anyone?

9 A. Yes, I did.

10 Q. Who did you provide them to?

11 A. Mr. Meiresonne.

12 Q. Did you do anything to in way alter or change
13 what had been recorded on the phone?

14 A. No, I did not.

15 MR. EMRICH: Your Honor, what I will indicate --
16 and I will connect this up later with Mike, but
17 Mr. Apuzzo is the primary foundation witness for
18 Exhibit 16 and Exhibit 20, which are the master board
19 meetings, March 12 of 2019, and November 24 of 2020. I
20 don't have any other questions for Mr. Apuzzo.

21 MS. WOODCOCK: I have no questions for Mr. Apuzzo,
22 but do object to Exhibits 16 and 20 being entered into
23 evidence.

24 THE ARBITRATOR: I have questions.
25

1 BY THE ARBITRATOR:

2 Q. Are the recordings as they were recorded
3 still available, Mr. Apuzzo?

4 A. Yes.

5 THE ARBITRATOR: And Petitioner's counsel, did you
6 provide those to me?

7 MR. EMRICH: I did. They are part of a video, a
8 video link that was provided to you, a cloud link.

9 THE ARBITRATOR: I don't see them.

10 MS. WARD: I also included them on a CD that I
11 sent to all parties and to the arbitrator.

12 THE ARBITRATOR: Hang on a sec. I think it's
13 here. I got them. Okay. Any other questions for this
14 witness?

15 MR. EMRICH: Not by me, your Honor.

16 MS. WOODCOCK: Not from the respondent, your
17 Honor.

18 THE ARBITRATOR: Okay.

19 (Whereupon, the witness was
20 excused.)

21 MR. EMRICH: I'd like to call Matt Darling.

22 THE WITNESS: Let me get my video to start. My
23 laptop is saying it doesn't detect the camera right
24 now. I have to sign out and sign back in. I'll be
25 right back. Still not letting me show my camera for

1 some reason. I am going to restart my laptop and try
2 to fire it back up. I apologize.

3 MR. EMRICH: Are you able to see us?

4 THE WITNESS: I can see everyone, yes.

5 MR. EMRICH: Maybe what we can do is proceed
6 without you -- without seeing you, I guess. That's the
7 best thing we can do at this point.

8 THE WITNESS: I have no issue with that.

9 MS. WOODCOCK: No objection if everyone else is
10 fine with that.

11 THE ARBITRATOR: Okay.

12 MR. EMRICH: All right. Mr. Darling, could you
13 give us your name for the record, please?

14 THE WITNESS: Yes. Matthew Darling.

15
16 MATT DARLING,
17 was examined and testified as follows:

18
19 EXAMINATION

20 By: Mr. Emrich

21 Q. And what is your job title?

22 A. I am the regional director for Resort
23 Management by Marco.

24 Q. And in connection with that work, what do you
25 do for Resort Management?

1 A. I oversee the day-to-day operations of our
2 company, oversee managers that handle the individual
3 accounts and the high-rises.

4 Q. And do you also keep -- is your entity
5 responsible for maintaining records for any
6 associations?

7 A. It is.

8 Q. And are you the record keeper for 200 La Pen
9 Building Condo Association?

10 A. Resort Management is, yes.

11 Q. And the Club at La Peninsula?

12 A. That's correct.

13 Q. And in connection with that, then you retain
14 the documents that are required to be kept under
15 Florida law?

16 A. Yes. Individual managers keep them on the
17 server that is connected to the actual association.

18 Q. In connection with that, did you receive some
19 document requests from the petitioner, Michael
20 Meiresonne?

21 A. Yes.

22 Q. And I'm going to ask that we put Exhibit P-24
23 (sic) on the screen.

1 (Whereupon, the document was marked
2 as Petitioner Exhibit No. 25 for
3 identification.)

4 MS. WARD: I just wanted to say I'm pulling it up
5 right now. Give me just one minute.

6 MR. EMRICH: Thank you.

7 BY MR. EMRICH:

8 Q. I show you what we've marked as P25.

9 Mr. Darling, does that look familiar to
10 you?

11 A. I mean, I see a lot of these. I can't say
12 that this is one that I would recognize. Again, I
13 wasn't the one that was actually handling the account
14 at the time.

15 Q. And if this document had been sent to you,
16 would it have been something that you would have been
17 in a position to respond to?

18 A. I would pass it on to the manager handling
19 the account at the time to respond as they would be the
20 one to handle the day-to-day operations.

21 Q. And who would that have been?

22 A. At that time, 2020, I believe that was Jack
23 Spring.

24 Q. I'm going to show you what we've introduced
25 and agreed to as a second document request of

1 petitioner dated December 17 of 2020. Take a look at
2 that.

3 MS. WARD: Which document number -- or which
4 exhibit number was that?

5 MR. EMRICH: Exhibit 26. P-26.

6 (Whereupon, the document was marked
7 as Petitioner's Exhibit No. 26 for
8 identification.)

9 BY MR. EMRICH:

10 Q. Have you seen --

11 THE COURT REPORTER: Henry, we can't hear you.

12 BY MR. EMRICH:

13 Q. Have you seen this document before?

14 A. I don't believe I actually have seen that
15 document before.

16 Q. And I'm going to show you what we've also
17 introduced as Exhibit 27.

18 (Whereupon, the document was marked
19 as Petitioner's Exhibit No. 27 for
20 identification.)

21 BY MR. EMRICH:

22 Q. Have you ever seen is that document before?

23 A. No.

24 Q. And then I need to back up to Exhibit P-24
25 that's been introduced, and if we would put that on the

1 screen.

2 (Whereupon, the document was marked
3 as Petitioner's Exhibit No. 24 for
4 identification.)

5 BY MR. EMRICH:

6 Q. And have you seen that document before?

7 A. I can't remember if I had seen that one or
8 not. There were a bunch of record requests over the
9 past two years.

10 Q. So, if the petitioner would have sent those
11 documents to the attention of Resort Management
12 requesting records, what would you have done with those
13 document requests?

14 A. My department would have forwarded them to
15 the manager who handles the account at that time.

16 MR. EMRICH: Now, I'm going to ask you to put --
17 Cheney to put Respondent's Exhibit 6 up on the screen.
18 No, No. 6. There it is.

19 (Whereupon, the document was marked
20 as Respondent's Exhibit No. 6 for
21 identification.)

22 BY MR. EMRICH:

23 Q. Mr. Darling, I'm going to show you what is
24 marked as Exhibit 6. R-6 as has been introduced as
25 such.

1 Could you tell us what that is?
 2 A. That looks like a canned copy of the letter
 3 that came from my office.
 4 Q. What do you mean my "canned copy?"
 5 A. It looks like a generic letter that we send
 6 when we have the records available to people who have
 7 requested them.
 8 Q. And would that have been something that would
 9 have gone out under your signature or purported
 10 signature?
 11 A. It may have, depending on who the manager was
 12 at the time.
 13 Q. All right. And would that have then been
 14 responsive to at least one of the document requests
 15 submitted by the petitioner?
 16 A. That look like it would be the last one you
 17 showed, would line up with the dates.
 18 Q. And that was specifically with regards the --
 19 THE COURT REPORTER: Henry, we can't hear you.
 20 BY MR. EMRICH:
 21 Q. That would have been specifically referred to
 22 as a response to Exhibit No. 25. Correct?
 23 A. I would assume so, yes. If that is -- yes.
 24 Q. And then you indicated if you had no
 25 recollection of seeing the other three document

1 recollection as to whether you had any conversations
 2 with Mr. Meiresonne, e-mail communications?
 3 A. Yeah. I mean, it doesn't really ring a bell,
 4 but I mean, obviously it's coming from me. So --
 5 Q. And scrolling down the page, and looking at
 6 the e-mail from you to Mr. Meiresonne dated the on same
 7 date only earlier in the day, does that look familiar
 8 to you?
 9 A. Yes.
 10 Q. And again, would that refresh your
 11 recollection in any way as to what was sent to
 12 Mr. Meiresonne?
 13 A. Not really, no. To be honest, no.
 14 Q. Looking at the next page of Exhibit 28, P28,
 15 reference the request for Master board records and arc
 16 committee records, is Mr. Spring the person you
 17 referenced who had been working on this account?
 18 A. That's correct.
 19 Q. And was he authorized to speak on behalf of
 20 Resorts Management regarding document requests?
 21 A. He would be, as he was handling the account.
 22 Yes.
 23 Q. And according to that particular e-mail, he
 24 indicates that he did not have -- receive anything
 25 regarding the master board and arc committee, that he

1 requests, they would have been sent to someone else at
 2 Resorts Management. Correct?
 3 A. That's correct. The current manager, whoever
 4 that was at the time.
 5 Q. And then did you have further conversations
 6 with the petitioner regarding those document requests?
 7 A. With Mr. Meiresonne? I don't believe I've
 8 spoken to him in a number of years.
 9 Q. That wasn't my question.
 10 Do you recall having conversations with
 11 him with regard to those document requests?
 12 A. No, I do not.
 13 Q. Did you have e-mail communications?
 14 A. Not to my recollection.
 15 MR. EMRICH: I'm going to ask Ms. Ward to put
 16 Exhibit 28 on the screen.
 17 MS. WARD: Is that Petitioner's or Respondent's?
 18 MR. EMRICH: Petitioner's Exhibit 28.
 19 (Whereupon, the document was marked
 20 as Petitioner's Exhibit No. 28 for
 21 identification.)
 22 BY MR. EMRICH:
 23 Q. I'd like you to take a look at that,
 24 Mr. Darling, and tell us if that -- and take a look at
 25 that, and let me know if that refreshes your

1 had no records and no history of any complaints in
 2 these matters. Correct?
 3 A. So it says in the e-mail.
 4 Q. And again, he was the person that would have
 5 been authorized to speak on behalf of the association?
 6 A. Yes.
 7 MR. EMRICH: Going to -- put Exhibit 29, P-29, on
 8 the screen, please.
 9 (Whereupon, the document was marked
 10 as Petitioner's Exhibit No. 29 for
 11 identification.)
 12 BY MR. EMRICH:
 13 Q. If we scroll -- if you look down to the
 14 bottom part of the page, under the heading: Resort
 15 Correspondence on --
 16 THE COURT REPORTER: Henry, I'm not hearing you.
 17 MR. EMRICH: I'm sorry, Janet. Is that better?
 18 THE COURT REPORTER: Yes.
 19 MR. EMRICH: I'll try to remember to speak
 20 directly to the computer. I'm trying to get exhibits
 21 and coordinate them and speak at the same time. I
 22 apologize.
 23 BY MR. EMRICH:
 24 Q. Mr. Darling, looking at that e-mail, is that
 25 an indication -- do you have any recollection of having

1 discussed this with Mr. Meiresonne regarding the
2 document requests that we previously had put on the
3 screen?

4 A. Obviously, there was an e-mail exchange, but
5 I don't remember talking to you -- him. I mean, I
6 guess you don't understand how many things we have
7 going on in this office, but e-mails go left and right.
8 So, I mean, obviously if my name is on the e-mail, it
9 came from my thing, and obviously I was involved with
10 it.

11 Q. So, if -- again, I would ask you to take a
12 minute and look through the remaining exhibits, e-mails
13 of Exhibit 29, if you would, regarding your
14 conversations with Mr. Meiresonne regarding this
15 document request, and tell me if it refreshes your
16 recollection.

17 MS. WARD: Mr. Darling, you can let me know when
18 you're ready for me to move pages, and I will.

19 THE WITNESS: You can go to the next. Okay.
20 Okay. Okay. Okay. Next. Okay. Good. Okay. Okay.
21 Okay. Okay. Okay. Next. Okay. Okay. Next. That's
22 good. Okay.

23 MS. WARD: That was the last page.

24 BY MR. EMRICH:

25 Q. All right. Mr. Darling, in reviewing those

1 indicated to Mr. Meiresonne that he had to come to
2 Resorts Management to inspect the records, you would
3 have engaged with him, and provided him all the
4 documents you had in your possession regarding the
5 document requests that he had filed in December of '20?

6 MS. WOODCOCK: Objection. Leading.

7 BY MR. EMRICH:

8 Q. Would you agree with me, Mr. Darling, that
9 despite indicating that in the original response that
10 you sent to him, that you referred to as a canned
11 response on December 22, '20, you had engaged and
12 communicated with Mr. Meiresonne regarding the document
13 request that he had made. Correct?

14 MS. WOODCOCK: Objection. Leading.

15 BY MR. EMRICH:

16 Q. That's correct?

17 THE ARBITRATOR: I don't think it's a leading
18 question. I think he's asking him based on the
19 documents that were introduced to confirm that there
20 was a communications between the two of them. So, I'm
21 going to let him ask the question the way it was
22 phrased.

23 THE WITNESS: Yes.

24 BY MR. EMRICH:

25 Q. And you would agree with me then that you had

1 documents, did this refresh your recollection at all as
2 to your communication with Mr. Meiresonne regarding
3 these document requests?

4 A. Yes, a little bit.

5 Q. All right. So, and who is -- there was a
6 reference to a Matt Hopkins.

7 Who is Matt Hopkins.

8 A. Matt Hopkins is the new manager for the 200
9 building.

10 Q. And was he authorized to speak regarding
11 document requests on behalf of the association and your
12 agency?

13 A. Again, he is the manager of record for the
14 property, so he would be able to.

15 Q. And how about Kerry Korman (phonetic)?

16 A. Kerry Korman (phonetic) is an ex-financial
17 rep for our company.

18 Q. And what would have been his role at Resorts
19 Management?

20 A. Kerry is a woman, and she was -- she just
21 handled the monthly financials. She did the
22 reconciliation of the books.

23 Q. And in connection with the requests that --
24 and the e-mails that you just reviewed, you would agree
25 with me that despite the fact that you had originally

1 engaged him -- you had told him you would provide
2 whatever documents you had responsive to his request.
3 Correct?

4 A. Yes.

5 MS. WOODCOCK: Objection. Leading.

6 THE ARBITRATOR: Okay. Well, what we could do
7 here is I'll just assume that documents speak for
8 themselves, sir. And that I'll draw my own conclusions
9 based on what they say, based on the preliminary
10 document, which was -- I believe we started at P-24,
11 and they go through P-29. And the documents speak for
12 themselves over the course of the communication. And I
13 think that's the best way to handle this.

14 MR. EMRICH: Thank you, your Honor.

15 THE ARBITRATOR: Okay. Let's move on.

16 MR. EMRICH: Thank you.

17 BY MR. EMRICH:

18 Q. Mr. Darling, if documents would not have been
19 produced by you that were responsive to his request on
20 either behalf of the 200 board or the master board, the
21 La Club board, then you would not have had them in your
22 possession; is that correct?

23 A. That's correct.

24 Q. Specifically, there was a request in
25 Exhibit 24 for -- I'm sorry. Strike that. Exhibit 25,

1 pertaining to -- and this was a response -- or this was
2 a request that was sent to 200 La Peninsula Condominium
3 Association.

4 Specifically there was a request for the
5 minutes, correspondence documents pertaining to the
6 revised board bylaws that were passed in 2018,
7 including any proxies and documents detailing the
8 membership vote, and the documents that detailed the
9 changes to the bylaws. You never sent those documents
10 to Mr. Meiresonne.

11 Would that be because you would not have
12 had them in your possession?

13 A. Yes.

14 MS. WOODCOCK: Objection. Assumes facts not in
15 evidence.

16 THE ARBITRATOR: Okay. Counsel, your examination,
17 you ask open-ended questions. I suspect we're going to
18 get leading objections to everything asked in that
19 fashion. So, ask the open-ended question, then ask why
20 is it true, you know.

21 MR. EMRICH: I will. I'm sorry. I'm trying to
22 move it along a little faster.

23 THE ARBITRATOR: I understand that, but we're
24 going to get an objection every single time. Then
25 we're going to go through this every single time.

1 regarding the ARC committee or any aspect of the ARC
2 review done by the master board. Correct?

3 A. I can't recall.

4 Q. And assume for the sake of argument that that
5 request would have been made, and assume for the sake
6 of argument that documents would not have been produced
7 responsive to it, why would that have been?

8 MS. WOODCOCK: Objection as to --

9 THE WITNESS: I can't comment on that.

10 THE ARBITRATOR: Hang on a second. What's the
11 objection?

12 MS. WOODCOCK: Assumes facts not in evidence.

13 THE ARBITRATOR: It's a fact not in evidence?
14 Hang on a second. I thought Exhibits 22 through 28
15 were no objections.

16 MS. WOODCOCK: I don't have objections to the
17 exhibits being entered into evidence. The question
18 that's being asked is if something was not done, then
19 what? But there's no evidence that something was not
20 done.

21 THE ARBITRATOR: He was asking a hypothetical
22 question. I don't understand. People ask hypothetical
23 questions. If he has an explanation, he can explain
24 why it wasn't done if, in fact, it wasn't. I don't
25 understand the objection, Ms. Woodcock.

1 MR. EMRICH: All right.

2 BY MR. EMRICH:

3 Q. Mr. Darling, you would have -- in document
4 request Exhibit 25 to the La Peninsula Condominium
5 Association, you were asked for four minutes -- four
6 correspondence documents pertaining to the revised
7 board bylaws passed in 2018, including its proxies and
8 the documents detailing the membership vote, and the
9 documents that detailed the changes to the bylaws.
10 Correct?

11 A. Yes.

12 Q. And why -- and if you did not produce them,
13 why would that have occurred?

14 A. I probably could not find them on the system.

15 Q. Is it -- is it or was it at the time of that
16 particular request the obligation of your company to
17 retain any such documents if, in fact, they were
18 created by the 200 board?

19 A. Yes.

20 Q. Thank you. With respect to the document
21 request of December 16th, '20 -- and that would be
22 P-24, your Honor.

23 BY MR. EMRICH:

24 Q. That was directed to the master board. There
25 was a request in that document for certain documents

1 MS. WOODCOCK: The objection is that things are
2 being asked that are being -- you know, that things
3 were or were not done when the response that has been
4 provided and was then put into evidence is that if it
5 was in your possession, they would have provided it.

6 THE ARBITRATOR: I mean, is it an objection based
7 on speculation? Is that what you're saying in essence?
8 It calls for him to speculate if it wasn't done?

9 MS. WOODCOCK: I find that it is a separate
10 objection, but I didn't base it -- I'll maintain my
11 objection for the record, your Honor, but you can
12 proceed.

13 THE ARBITRATOR: What's the question again,
14 Counsel?

15 BY MR. EMRICH:

16 Q. Again, the question would be: If the request
17 was made for the records that are referenced in that
18 document request from Exhibit 24, and they were not
19 provided, would that be because Resorts Management
20 would not have had any of those records in its
21 possession?

22 A. Yes.

23 THE ARBITRATOR: Okay. He answered the question.

24 BY MR. EMRICH:

25 Q. And with respect to the document requests

1 that were sent, would that have been the case with
2 regard to any documents requested that were not
3 provided by Resorts Management?

4 A. Yes.

5 Q. Were you, Mr. Darling, yourself ever involved
6 in any of the board management activities with regard
7 to either the 200 -- well, you let's just start with
8 the 200 board.

9 A. Yes.

10 Q. Could you tell me what you did with regard to
11 the 200 board?

12 A. I was the manager for probably about four or
13 five years, and then gave the account away to newer
14 managers.

15 Q. When did you give the account away? Let's
16 talk about what period of time then you would have been
17 responsible for this account as the manager of it.

18 A. I'm talking about 2015, '16.

19 Q. And then who became responsible?

20 A. I believe it was Dan Hutchinson.

21 Q. And how long would he have been responsible?

22 A. Probably about two years, I would think.

23 Q. And who, Mr. Darling, would have been
24 responsible for this account as the manager, and
25 responsible for involving -- monitoring what was going

1 period of time that they were in charge of it?

2 A. One would hope. Yes.

3 Q. Now, with regard to the master board, the La
4 Club at -- or the Club at La Peninsula, would you have
5 had any management responsibilities over that other
6 than what you've already testified to today?

7 A. Yeah. I mean there was a number of managers
8 there over the years as well.

9 Q. Can you tell me who you would have been
10 responsible for the management of that association from
11 January 1st of 2018, until December 31 of 2021?

12 A. It probably started with Dan Hutchison, and
13 then went to Don Montroy(phonetic. Then went to Jack
14 Spring. Then it went to -- I believe Rego is the
15 latest.

16 THE COURT REPORTER: Who?

17 THE WITNESS: The new manager of La Club, Rego
18 Roid (phonetic).

19 BY MR. EMRICH:

20 Q. And again, same question as I asked you
21 previously: If they were the ones that were
22 responsible for those -- that account and handling that
23 account, and the governance of that account, again they
24 would be the ones that would be charged with the
25 responsibility of monitoring and managing the

1 on with regard to the governance of that association
2 from January 1, 2018, until December 31 of 2021?

3 A. It would have been Jack Spring and Matt
4 Hopkins.

5 Q. All right. And again, we referred to both of
6 those persons in the document requests that we have
7 here; is that correct? That we've talked about already
8 and the responses. Correct?

9 A. Yes.

10 Q. Thank you. So, just so I'm clear, you would
11 not have any knowledge about the governance issues of
12 200 La Pen during the time Mr. Spring or Mr. Hopkins
13 were involved. Correct?

14 A. That is not correct. I would hear things in
15 the office.

16 Q. Did you act on any of those things that you
17 would have heard, other than what you've testified to
18 regarding these document requests?

19 A. I can't answer that. I mean, acting on what
20 specifically?

21 Q. Well, again, if Mr. Spring and Mr. Hopkins
22 were charged with the responsibilities for the 200
23 board condominium association, then they would have
24 been the ones that would have been in charge of that on
25 a daily basis, monthly basis, annual basis during the

1 governance of that association. Correct?

2 A. That would be correct.

3 MR. EMRICH: Thank you. I have no further
4 questions from this witness, your Honor.

5 THE ARBITRATOR: Counsel? Ms. Woodcock?

6 CROSS-EXAMINATION

7 By: Ms. Woodcock

8 Q. Mr. Darling, are you and Resort Management
9 aware of the Florida statute regarding maintenance of
10 official records?

11 A. Yes.

12 Q. And do you and Resort Management maintain the
13 records that are required by the Florida statute
14 governing official records?

15 A. Yes.

16 MS. WOODCOCK: No more questions for Mr. Darling.

17 MR. EMRICH: Nothing further, your Honor.

18 THE ARBITRATOR: Okay, Mr. Darling. I got a few
19 questions for you.

20 THE WITNESS: Yes, sir.

21 EXAMINATION

22 By: The Arbitrator

23 Q. This is the Arbitrator.

24 A. Yes.

1 Q. And bear with me. I'm going to try and ask a
2 compound question that just clarifies everything.

3 You stated you work for Resorts
4 Management, and you were a manager there from what
5 period to what period?

6 A. I still work for Resort Management. So for
7 the -- I've been here since 2007 at Resort Management.

8 Q. To present?

9 A. Yes, sir.

10 Q. And as far as it concerns La Peninsula, how
11 long were you records -- what dates were you the
12 records manager of La Peninsula?

13 A. The Resort took over the 200 building I want
14 to say in 2009, '08 or '09 for the 200. And the Club,
15 I believe we entered into the contract with them in May
16 2015.

17 Q. Okay. When did you stop being the manager
18 for the 200 building as it pertains to records
19 management?

20 A. Probably 2000 -- early 2017. Prior to Irma.
21 Hurricane Irma.

22 Q. And for the Club?

23 A. The Club has always had an individual manager
24 on-site there. I started probably 2015 for about a
25 year, maybe two years, and there were a few other

1 managers after there.

2 Q. So, would it be fair to say that for any
3 records request for the 2000(sic) building, you were
4 not personally involved after 2015?

5 A. For the Club, yes. For the 200, it was
6 probably about 2017, early 2017. That's correct.

7 Q. Let me get that back again.

8 When did -- so in 2017 you stopped being
9 the records manager for the 200 building. Correct?

10 A. Correct. It went to Dan Hutchinson, yes.

11 Q. And also in 2017, you stopped being the
12 record manager for the Club. Correct?

13 A. Yes. Personally, yes.

14 Q. So, you can't really testify here today about
15 any records requests after 2017 for either the building
16 or the Club. Right?

17 A. I mean, we do manage them here in the office.
18 I mean, I can see --

19 Q. Your personal knowledge, sir?

20 A. Not day-to-day.

21 Q. Okay. Thank you.

22 MR. EMRICH: May I follow up, your Honor?

23 THE ARBITRATOR: Sure.
24
25

1 REDIRECT EXAMINATION

2 By: Mr. Emrich

3 Q. Mr. Darling, despite that, you did engage and
4 discuss and communicate -- not discuss but communicate
5 by e-mail with Mr. Meiresonne, as did some of your
6 subordinates that were in charge of this particular --
7 these particular associations regarding
8 Mr. Meiresonne's document request. Correct?

9 A. Correct.

10 Q. And you did indicate to him what records you
11 did have that were responsive. Correct?

12 A. Correct.

13 Q. And you did provide them to him. Correct?
14 What you had to him. Correct?

15 A. What I had, yes.

16 Q. And as you indicated earlier, what you did
17 not have then would not -- would then not have been
18 something that you would have been -- your Resorts
19 Management would have been in possession of. Correct?

20 A. Correct.

21 Q. Because, just so we're clear, despite the
22 fact that you did not have day-to-day management of
23 that document function as a manager overseeing that --
24 those associations, you did, in fact, have the ability
25 to determine what records you did actually have that

1 would have been responsive to those document requests.
2 Correct?

3 A. Yes. The managers are to put them on a
4 server so we all have access.

5 Q. So again, in that sense, when you were --
6 when you looked into these matters for Mr. Meiresonne
7 at the request -- at his request pursuant to the
8 document requests and the exchange of e-mails that you
9 had, you would have had then personal knowledge of what
10 records that Resorts Management had maintained or kept
11 as part of its function as document managers retention
12 -- document retention entities for those two
13 associations. Correct?

14 A. When it is provided.

15 Q. And it would have been with regard to the
16 periods of time that we specifically -- that you were
17 specifically asked about in earlier testimony, as well
18 as what was referenced in the document requests.
19 Correct?

20 A. Correct.

21 MR. EMRICH: Thank you. Thank you, your Honor,
22 for your indulgence. No further questions.

23 THE ARBITRATOR: Ms. Woodcock, anything else?

24 MS. WOODCOCK: No further questions for
25 Mr. Darling.

1 THE ARBITRATOR: Okay. Thank you, Mr. Darling.
 2 You're excused.
 3 (Whereupon, the witness was
 4 excused.)
 5 THE ARBITRATOR: Next witness.
 6 MR. EMRICH: Nancy Taylor, your Honor.
 7 THE ARBITRATOR: Who is Dave Petrella?
 8 MS. WOODCOCK: Dr. Petrella is the representative
 9 of the Club at La Peninsula.
 10 THE ARBITRATOR: Okay. His background is totally
 11 whited out. I can't even see his face.
 12 MR. EMRICH: I know. This is wild.
 13 THE ARBITRATOR: Okay.
 14 MR. EMRICH: I'm waiting for Nancy Taylor.
 15 THE WITNESS: I'm here. I think I'm on Zoom.
 16 THE ARBITRATOR: There you are.
 17 MS. WOODCOCK: We can hear you, Nancy.
 18 THE WITNESS: Okay.
 19 MR. EMRICH: Could you give your name for the
 20 record, please?
 21 MS. WOODCOCK: Oh, sorry to interrupt. I think
 22 you need to swear her in.
 23 MR. EMRICH: I was just going to ask him to do
 24 that once she gave her name for the record?
 25 MS. WOODCOCK: Oh, okay.

1 since, I think, 2011, maybe 2012. I'd have to go back
 2 and look and see when I was first elected.
 3 Q. And as treasurer, you're also a board member?
 4 A. Yes.
 5 Q. And are you still a board member today?
 6 A. Yes, I am.
 7 Q. And did you have any other role on any other
 8 boards at La Peninsula?
 9 A. The 200 building?
 10 Q. With regard to, say, the master board?
 11 A. Yes. I've been the treasurer of the master
 12 association for about three years.
 13 Q. So, that would date back to what date?
 14 A. Oh, I think probably 2018. I'm not really
 15 sure.
 16 Q. And in connection with your work on those
 17 boards, and in particular with regard to the 200 board,
 18 were you involved in the -- what we refer to as "the
 19 walkway project?"
 20 A. Yes, I have been.
 21 Q. And could you tell us how long you've been
 22 involved in that project?
 23 A. Since its inception, which --
 24 Q. And -- I'm sorry. I didn't mean to
 25 interrupt.

1 THE WITNESS: Nancy Taylor.
 2 THE ARBITRATOR: Ms. Taylor, please raise your
 3 right hand.
 4 (The oath was thereupon duly
 5 administered to the witness by the
 6 Notary.)
 7 NANCY TAYLOR,
 8 having been first duly sworn, was examined and
 9 testified as follows:
 10 DIRECT EXAMINATION
 11 By: Mr. Emrich
 12
 13 Q. Ms. Taylor, are you a resident of 200
 14 building at La Peninsula?
 15 A. Yes, I am.
 16 Q. How long have you lived there, ma'am?
 17 A. Since 2010.
 18 Q. And in connection with that, have you also
 19 served on the various boards there regarding the
 20 governance of the condominium associations?
 21 A. Yes, I have.
 22 Q. Could you tell us, please, exactly what your
 23 role has been in that regard with regard to 200
 24 building?
 25 A. I've been the treasurer of the 200 board

1 A. Since we started working on it.
 2 Q. And what exactly was your role?
 3 A. My role was working with the other board
 4 members in terms of looking at possibilities,
 5 conceptualizing and setting up (audio failure) walkway
 6 confirmed, and work through the master board approval
 7 process.
 8 Q. And as I understand the timeline -- and again
 9 correct me if I'm wrong -- since you are the one that
 10 has been working on this since its inception, as you've
 11 testified, would you have been -- would you be
 12 knowledgeable or familiar with when the project went to
 13 the 200 board for consideration?
 14 A. Can you define "going to the 200 board for
 15 consideration." There was a number of steps. I'd like
 16 to know that I'm identifying the correct steps.
 17 Q. When was the first time that this project was
 18 put to the 200 board for a specific approval?
 19 A. For specific legal approval was in June
 20 of 2018. And board discussions before that, but the
 21 real action was June of 2018.
 22 Q. Okay. And prior to that, would there have
 23 been board action, specific board action taken?
 24 A. No. Other than just discussions and
 25 information to owners.

1 Q. Well, let's take a look at exhibit --
2 A. Oh, wait. No, wait. You're right. I've got
3 to stop. 2017 we looked at that -- a discussion about
4 looking at the plans, of looking at the conception, I'm
5 sorry. 2017.

6 Q. Any other time that you recall?

7 A. I don't recall.

8 Q. Now, when was the project -- you mentioned
9 that you were involved since its inception.

10 When would have been the inception of the
11 project?

12 A. I would say the official inception would have
13 been that discussion in 2017. I don't think any of the
14 other discussions were more just informational and
15 research. So, they weren't legal or formal steps.

16 Q. So, were you authorized by the board to take
17 the research -- to perform the research and look into
18 this project by the board?

19 A. As the board members, yes, we were looking
20 into it.

21 Q. And when did that start?

22 A. Again, I'd have to go back, but 2017 is the
23 first I recall officially of having made some movement
24 or something as the board.

25 Q. What do you recall about that movement,

1 regarding --

2 THE COURT REPORTER: Can't hear you.

3 MR. EMRICH: I'm sorry Janet.

4 BY MR. EMRICH:

5 Q. Would have been provided with a couple of
6 documents regarding the work that they did, and those
7 would be Exhibit R-1, and there are two documents in
8 that document, in that exhibit. And I'd ask that those
9 be pulled up. That's R-1.

10 (Whereupon, the document was marked
11 as Respondent's Exhibit No. 1 for
12 identification.)

13 BY MR. EMRICH:

14 Q. Looking at the first document as part of R-1,
15 we have a letter to the board of directors from
16 WJ Johnson and Associates dated January 26, 2008, sent
17 care of -- sent care of Matt Darling who is Resort
18 Management. Correct?

19 A. Correct.

20 Q. And were you working with Mr. Darling on this
21 project?

22 A. Only in the sense that we looked for probably
23 some recommendation on an engineering company or
24 something like that for it, as we were starting to get
25 past the conceptual ideas of what we were talking

1 because we've had no -- we've been provided no
2 documentation regarding any activity of the board in
3 2017.

4 Do you have a specific recollection of
5 when that would have been?

6 A. No. It would be in some of the minutes that
7 have been provided, I believe, which is in 2017. We
8 had a discussion about looking into the project. And
9 what would be involved with that.

10 Q. And was there a specific approval or an
11 authorization to move forward to another step at that
12 time?

13 A. There was an authorization to look at seeing
14 about what would be involved in developing such a
15 proposal. Yes.

16 Q. And what did you do in response to that
17 particular step?

18 A. We made overtures to an engineer and
19 contracting company to see what it would take to pull
20 such a plan together.

21 Q. And would that have been WJ Johnson?

22 A. Yes.

23 Q. And you would have been working with them?

24 A. Yes.

25 Q. And we've been provided with documents

1 about.

2 Q. So, this would have been the first official
3 document or proposal from anybody regarding the project
4 that you were moving forward with. Correct?

5 A. Yes.

6 Q. And at this point, what do you recall being
7 the next steps that were taken?

8 A. The next steps that were taken was to work
9 with WJ Johnson, and to look at what it would take to
10 secure an engineer, and move forward to develop a plan
11 that we could present to the owners.

12 Q. When they -- when WJ Johnson gave you the
13 proposal that was referenced in that R-1, were there
14 any renderings included with that particular proposal?

15 A. I'm not going to tell you -- I can't recall
16 exactly what was attached to each one of these, but we
17 did have renderings done that were showing, like, an
18 overhead view of the project to see what it would
19 conceivably look like. We also had some Photo Shop
20 pictures done that would show what we thought it would
21 look like. I cannot tell you that I am going to attach
22 those drawings to this exact January 22nd, 2018, date,
23 because we were looking at a lot of different
24 documents.

25 Q. I understand.

1 A. Excuse me if I -- I'm sorry. I don't know if
 2 you guys know. I have COVID, so I'm still working
 3 through that. So, excuse me just a second here. Okay.
 4 So, I can't exactly attach renderings and drawings to
 5 each one unless you have them attached here.
 6 Q. We'll get to that. All I want to know is if
 7 you recall receiving any renderings with that
 8 particular proposal?
 9 A. I do not recall receiving the renderings
 10 exactly with this proposal. I might have, but I do not
 11 recall.
 12 Q. After you received this proposal, what do you
 13 recall doing?
 14 A. Probably we had continued discussions about
 15 what we would do with the drawings, and more
 16 particularly how we would secure an engineer who could
 17 possibly do the design work and implementation,
 18 construction.
 19 Q. And at some point do you recall going back to
 20 the board at La Pen regarding these particular minutes?
 21 I'm sorry, regarding this particular project?
 22 A. Other than an occasional update between 2017
 23 and 2018, no. I don't recall any formal action.
 24 MR. EMRICH: All right. Let's put Exhibit R-18 on
 25 the screen.

1 handicapped accessibilities throughout the 200
 2 building. Correct?
 3 A. That was our goal and our hope. Yes.
 4 Q. All right. And according to that particular
 5 -- those particular minutes, you indicated that you
 6 authorized Jamie Gruesel, that apparently was one of
 7 your association attorneys at the time?
 8 A. Jamie is our legal counsel, yes.
 9 Q. And is it a he or a she?
 10 A. It's a she.
 11 Q. She was authorized to draft a legal document
 12 and send to the owners to approve or deny the concept
 13 of adding townhouse walkways that connected nine units
 14 to the elevator; is that correct?
 15 A. The proxy, I do not believe, specified nine
 16 units. I'd have to go back and look, or if you have a
 17 copy of it --
 18 Q. We'll get there. I'm just asking about this
 19 particular -- these minutes.
 20 That's what the minutes say. Correct?
 21 A. Okay. The proxy says -- approve or deny the
 22 concept. Yes, it was a concept connecting nine. Yes.
 23 Q. So, this concept that was approved in March
 24 of 2018 was going to connect nine units to this
 25 walkway. Correct?

1 (Whereupon, the document was marked
 2 as Respondent's Exhibit No. 18 for
 3 identification.)
 4 BY MR. EMRICH:
 5 Q. I show you what we've introduced as R-18.
 6 Could you take look at that, please?
 7 A. Oh, yeah. This is the action that we took in
 8 March of '18, in order to draw up a proxy, in order to
 9 get approval for the building.
 10 Q. So, again, this would have been following the
 11 receipt from RJ -- WJ Johnson of the proposal that you
 12 referenced previously. Correct?
 13 A. We had an initial -- a plan and approval from
 14 RJ, then we had an official plan. So I'm not sure
 15 which one you might be referring to as attached. But
 16 yes, we did have some renditions and some pictures that
 17 would be referenced in addition to this proposal for
 18 a proxy.
 19 Q. And looking at this particular exhibit, if we
 20 look at Exhibit 3, and we'll look at Section 3-B, that
 21 is where you specifically discuss the walkway.
 22 Correct?
 23 A. Correct.
 24 Q. And according to the comments in the minutes,
 25 that 200 La Peninsula is looking into approving

1 A. It was a concept of adding nine units as long
 2 as all nine people agreed to it. So, the proxy was not
 3 necessarily going to designate that number, but it was
 4 going to authorize us to look into that concept and
 5 that approval of the proxy. Yes.
 6 Q. And that -- so, again this particular project
 7 that was authorized at that particular meeting
 8 specifically referred to a walkway that was to connect
 9 nine units to the elevator. Correct?
 10 A. At this time on March 28, 2018, we were
 11 discussing nine --
 12 THE COURT REPORTER: Discussing what? It totally
 13 dropped off.
 14 THE WITNESS: Nine potential connections.
 15 BY MR. EMRICH:
 16 Q. And those were the nine unit owners that were
 17 going to be connected to that walkway. Correct? That
 18 was the concept or the plan; is that right?
 19 A. That was the concept.
 20 Q. And according to those minutes, that walkway
 21 was going to be funded by the owners of those new unit
 22 -- those nine units. Correct?
 23 A. If they agreed to it, yes.
 24 Q. So, that was a condition to that particular
 25 project going forward. Correct?

1 A. If the nine current owners at the time of
 2 passing the proxy were supportive, then yes, it would
 3 be.
 4 Q. So, the answer to my question is yes, that
 5 was a condition to the project moving forward.
 6 Correct?
 7 A. I think I disagree with some of the -- you're
 8 adding into this. So, no. I would say that it was a
 9 proxy looking at a concept for nine units to see if
 10 owners agreed to it, and then we would move forward.
 11 Q. Thank you. I'll move on. So, again, the
 12 next sentence in that particular -- those minutes, it
 13 said: If approved by an owners' vote, the concept will
 14 then go to ARC for approval. Correct?
 15 A. At the time ARC was the standard of
 16 operation, but really it was the master board. The arc
 17 was the recommending body, and then it would go to the
 18 master board for final approval.
 19 Q. I didn't ask for any explanation. I simply
 20 asked if the March 28th minutes indicated that, if this
 21 concept, this nine-unit walkway was approved by an
 22 owner vote, the concept would then go to ARC for
 23 approval.
 24 That's what the minutes said. Correct?
 25 THE ARBITRATOR: Mr. Emrich --

1 MS. WOODCOCK: Objection. But --
 2 THE ARBITRATOR: -- the documents speak for
 3 themselves.
 4 MR. EMRICH: Thank you. Thank you, your Honor.
 5 THE ARBITRATOR: Now, if you want to ask her
 6 things about what happened at the unit owners' meeting,
 7 or if she denies anything that's on the minutes, that's
 8 one thing. But to go sentence by sentence for the rest
 9 of this hearing as to what is already printed on the
 10 paper, I don't see the sense in that. I could read it.
 11 It's there. And I would ask you to tell your questions
 12 so that we don't have to go sentence by sentence, and
 13 have her either authenticate it, agree with it, or
 14 disagree with it.
 15 MR. EMRICH: That's fair enough, your Honor. I'll
 16 do my best to do that. I'm just trying to make it
 17 clear as that to what the particular project was.
 18 THE ARBITRATOR: Well, then ask her: What did the
 19 project include at this point in time?
 20 MR. EMRICH: And that's what I was trying to do.
 21 THE ARBITRATOR: Thank you, sir.
 22 MR. EMRICH: My apologies.
 23 THE ARBITRATOR: All right.
 24 BY MR. EMRICH:
 25 Q. So, following that meeting, the vote of the

1 project then went to a vote by the building owners of
 2 the 200 building. Correct?
 3 A. Not following that meeting. At a different
 4 meeting.
 5 Q. As I said, following this meeting, it went to
 6 a vote of the 200 board. Correct?
 7 A. We did not vote at this meeting on -- I guess
 8 I don't understand your question. I'm sorry. At this
 9 meeting we voted for this concept and to get a legal
 10 proxy. At another meeting we voted to pass the proxy.
 11 So, I guess I'd like you to qualify that question,
 12 please.
 13 Q. Following this meeting, after this meeting,
 14 the proxy was then generated and sent to the owners of
 15 building 200. Correct?
 16 A. Yes.
 17 Q. And that proxy dealt with a special meeting
 18 that was to be held on June 26, 2018. Correct?
 19 A. Yes.
 20 Q. And if we go to Exhibit 10, put ten up on the
 21 board.
 22 MS. WARD: Did you want P-10 or R-10?
 23 MR. EMRICH: P-10.
 24
 25

1 (Whereupon, the document was marked
 2 as Petitioner's Exhibit No. 10 for
 3 identification.)
 4 BY MR. EMRICH:
 5 Q. Looking at P-10, Ms. Taylor, have you seen
 6 this document before?
 7 A. Yes.
 8 Q. And would that have been the document that
 9 would have been sent to the 200 building owners
 10 regarding the walkway project that you were requesting
 11 authorization to move forward with? Correct?
 12 A. Correct. Yes.
 13 Q. And would that document have correctly stated
 14 what the conditions were with regard to the exercise of
 15 that proxy, and what was to happen if the proxy were
 16 approved? Correct?
 17 A. It dealt specifically with the reflection
 18 that the owners of the nine units would bear the
 19 construction cost as you have outlined here on this
 20 one. I don't who outlined this part. I don't know if
 21 you did or if it came that way. That part is correct.
 22 Q. Does that outline -- does that information --
 23 that statement that's in the box correctly state what
 24 the project -- what was going to happen with respect to
 25 the project if the project was approved?

1 A. Yes. The nine units would be affected, and
2 the nine owners would have the option of agreeing to
3 the actual cost and bearing the cost of the
4 construction.

5 Q. And again, it indicates that no action would
6 go forward until all those nine unit owners agreed to
7 the actual cost. Correct?

8 A. No. It was going to go forward in terms of
9 the structure of the project. The project, if you're
10 not physically familiar with it, it was constructed in
11 four -- it was designed in four --

12 Q. I'm asking you what that document says, and
13 if it accurately states what the project was. And so,
14 again, your Honor, I will simply refer to the
15 documents.

16 A. No. It does not accurately reflect the full
17 story. No. It does not.

18 Q. I don't want to argue with her.

19 The document reflects as to what's to
20 happen at the vote, and with the project. Correct?

21 A. No.

22 MS. WOODCOCK: Objection. Asked and answered.
23 She just answered that she did not agree with that.

24 THE ARBITRATOR: If we're going to get into this,
25 I mean, I'm going to be here all day being a referee.

1 fact, passed the 200 board. Correct?

2 A. Correct.

3 (Whereupon, the document was marked
4 as Petitioner's Exhibit No. 13 for
5 identification.)

6 BY MR. EMRICH:

7 Q. And according to the minutes in Exhibit 13,
8 the project was approved to construct walkways
9 connecting Units 201, 202, 203, and on as indicated in
10 that proxy. Correct?

11 A. Yes. It was indicated for those current
12 owners to have that constructed if they wished to.
13 Yes.

14 (Whereupon, the document was marked
15 as Petitioner's Exhibit No. 12 for
16 identification.)

17 BY MR. EMRICH;

18 Q. Now, looking at the actual votes in
19 Exhibit 12, P-12, three of the affected units did not
20 approve the project. Correct?

21 A. I'll take your word for it without me going
22 through and counting each one and seeing who's where,
23 yeah.

24 Q. And why was that -- why did the project then
25 go forward if three of the affected units that were

1 You're asking close-ended questions which are typical
2 cross-examination. The documents speaks for itself.
3 If the witness wants to disagree with something, she's
4 allowed to expand upon her answer. So, I'm going to
5 ask you to stop asking close-ended questions. This is
6 direct examination. Let's get on with this, please.

7 (Whereupon, the document was marked
8 as Petitioner's Exhibit No. 11 for
9 identification.)

10 BY MR. EMRICH:

11 Q. Now, the next document is the proxy that was
12 sent to the -- sent to the building owners with that
13 letter. Correct?

14 A. I'm sorry. I lost the mic there at the end.
15 Would you repeat that?

16 Q. The proxy, Exhibit 11, was then sent to the
17 owners. Correct?

18 A. Yes.

19 Q. And according to that proxy, it indicates
20 that you're asking the owners whether or not the
21 walkway should be constructed for Units 201, 202, 203,
22 208, 209, 210, 211, 212, and 213. Correct?

23 A. Yes, if they could. Yes. That was what we
24 intended.

25 Q. And, in fact, that particular proposal, in

1 going to be connected by that project did not approve
2 it?

3 A. Because the vote was to allow the board the
4 authority to look at developing the project.
5 Afterwards the owners in the affected units could
6 decide to opt out, which in effect would have killed
7 the project. But this vote was to allow us to go
8 forward with the project.

9 Q. So, again, then if those owners opted out, it
10 would kill the project. Right?

11 A. Eventually it could if they didn't
12 participate. However, as I said -- no, if I'm going to
13 answer, you've got to let me finish.

14 Q. I said I'm sorry. Go ahead and finish.

15 A. Okay. Sorry. Okay. We'll go forward slowly
16 here. The units -- the project was broken up into --
17 it was essentially constructed in four parts:
18 Townhomes on the left, townhomes on the right, ground
19 units on the left, ground units on the right. If any
20 one of those particular sections backed out, the other
21 three could still proceed.

22 Q. Now, where does it say that in the minutes
23 approving the project? Where does it say that?

24 A. It says the board has the authority to make
25 this -- to look at it. Go back and read the proxy.

1 The board had the authority to set up this project.
 2 Q. The board -- it says the board had the final
 3 approval of the plans; is that correct?
 4 A. That is correct. So, we would have plans
 5 that would have this set up, and that would be the
 6 final approval of our plan.
 7 Q. And the first part of it indicates that the
 8 vote was to construct a walkway connecting those nine
 9 units. Correct?
 10 A. That was an option for those ground units to
 11 look at, or the townhouse units to look at.
 12 Q. Now, as I understand it, the project that
 13 this was based on had some renderings that were
 14 submitted to the --
 15 THE COURT REPORTER: The what?
 16 THE WITNESS: I can't hear you. When you speak
 17 away from the mic, I cannot hear you.
 18 BY MR. EMRICH:
 19 Q. I'm sorry. The project that was approved in
 20 this meeting to connect these units was subject to some
 21 renderings that were presented to the board; is that
 22 correct?
 23 A. Yes. We had renderings that would depict
 24 what we hoped to be the project. Yes.
 25 Q. And looking at Exhibit 2, if we put Exhibit 2

1 from Respondent's submission up on the screen.
 2 (Whereupon, the document was marked
 3 as Respondent's Exhibit No. 2 for
 4 identification.)
 5 BY MR. EMRICH:
 6 Q. And if we click down to -- if we click
 7 through the first four pictures and get to the fifth
 8 picture, we see the renderings that we're referencing
 9 that were sent to the membership. Correct?
 10 A. Correct.
 11 Q. And that particular rendering shows a project
 12 that connects all of the nine units. There's a walkway
 13 along the base of the right wing or the -- I guess that
 14 would be the --
 15 MS. WOODCOCK: I'm just going to object.
 16 Mr. Emrich is testifying.
 17 THE ARBITRATOR: Mr. Emrich, we've been over this
 18 before. I'm not going to do it again. Objection
 19 sustained.
 20 MR. EMRICH: All right. Thank you.
 21 BY MR. EMRICH:
 22 Q. Looking at that particular document, that --
 23 those renderings had a walkway along the bottom of the
 24 -- of the -- each wing of the unit. Correct?
 25 A. Those renderings were drawn by someone who

1 made an assumption about certain conditions. The
 2 current sidewalk, if you went and looked at the
 3 renderings, would see was outside of the walkway. So
 4 we used these as general guidelines, not as specific.
 5 It was to show a concept that these walkways would go
 6 over to the elevator tower.
 7 Q. So again, that was what was to be included in
 8 the project: A sidewalk along the building connecting
 9 those three units on the lower part of that wing, each
 10 wing, to that elevator. Correct?
 11 A. If the three unites agreed to it after the
 12 final concept was done.
 13 Q. And again, that was what was approved at the
 14 meeting. Correct?
 15 A. Yes. What was approved was the concept of
 16 this nine units being connected if the nine unit owners
 17 at the time all agreed.
 18 Q. What happened after that particular -- after
 19 that meeting?
 20 A. Which meeting?
 21 Q. The meeting in June 26th of 2018.
 22 A. After June of 26th, we proceeded to get with
 23 an engineer who could draw up more specific drawings
 24 that could be used for permitting.
 25 Q. And if we go back to Respondent's Exhibit 1

1 -- I'm sorry, Exhibit -- hang on a second. Bear with
 2 me here. Respondent's Exhibit 1 and the document that
 3 is dated November 2, 2018, from WJ Johnson included as
 4 part of that document, that's what you're referring to.
 5 Correct?
 6 A. I'd like to read through this, please.
 7 Q. Sure. Go ahead.
 8 MS. WARD: Ms. Taylor you can just let me know
 9 when you're ready for me to move to the next page.
 10 THE WITNESS: Thank you. Okay. Next page. Yes.
 11 That looks like our initial contact with WJ Johnson,
 12 saying we're going to go forward and try to get all the
 13 specifics in order to build this.
 14 BY MR. EMRICH:
 15 Q. All right. And again, would there have been
 16 any renderings with that that were included, to your
 17 knowledge, that were different from what had been
 18 submitted to the building owners on June 26th of 2018?
 19 A. No. We would have taken that set of pictures
 20 you had used earlier and the renderings, and gone to
 21 the engineer to start to put this together to be an
 22 actual permitted project.
 23 Q. And again, this was operating on the
 24 assumption that there were going to be nine unit owners
 25 connected to that. Correct?

1 A. Nine unit owners if they agree. It was not
2 an assumption it would automatically be nine without
3 discussion with those owners, and without approval by
4 those owners. Current owners.

5 Q. You then took the project to the master board
6 at some point in 2019. Correct?

7 A. We took it to the master board a number of
8 times in 2019. There was, I believe, a preliminary
9 presentation by Bob White. There was a more detailed
10 presentation in March by myself and Bob White. There
11 was a review of it in July of 2019 or '20. I'd have to
12 go back and look at my dates, by Bob White and myself.
13 And then there was the final approval.

14 Q. So, in 2019, there was -- the project --

15 THE COURT REPORTER: The project what?
16 BY MR. EMRICH:

17 Q. The project was taken to the master board on
18 March 12th of 2019. Correct?

19 A. That was the second time it was taken to the
20 master board.

21 Q. Do you remember when the first time was? Was
22 that January?

23 A. It's in the meeting minutes. Yeah. In
24 January. Bob did a preliminary of it.

25 Q. Was there any official board action in

1 townhome owners and the six current owners of the
2 units, and determined who was interested in proceeding.

3 Q. You indicated you went to six. But the
4 project that was passed was for nine.

5 Why was that?

6 A. Six townhome owners, and the other three
7 ground level owners.

8 Q. So, you would have went to all nine affected
9 owners. Correct?

10 A. At some point during that period -- I cannot
11 identify the exact dates that we did it, but we would
12 have done it shortly after that meeting as we were then
13 proceeding.

14 Q. Shortly after the June 26, 2018 meeting.
15 Correct?

16 A. Yes.

17 Q. And before you went to the master board.
18 Correct?

19 A. I believe so. I cannot recall exactly.

20 Q. And so at that point, then you would have
21 known that at least three of the owners of the affected
22 units that were part of the original proposal and the
23 March -- or June 26, 2018, approval, did not want to
24 participate. Correct?

25 A. I would have to go back and actually look at

1 January of 2018?

2 A. (Audio break) in February. They might have
3 tabled the motion until we came back.

4 Q. Do you know why that was?

5 A. They just wanted to review it, I believe.

6 Q. And what would have been submitted to them?

7 A. At that point I think Bob might have given
8 them the initial documentation. I was not physically
9 at that meeting as I was still living in Michigan at
10 the time. So, I probably would have called in. So I
11 can't tell you that I was physically there to see what
12 was actually --

13 Q. And again at that particular meeting --
14 (audio break) would the project have, that was
15 submitted, included renderings that showed nine unit
16 owners being connected to that walkway as was
17 authorized and passed by the board on June 26 of 2018?

18 A. As would have been presented at that meeting,
19 it would have shown the renderings of nine potential
20 units being given the option of participating in the
21 meeting -- in the production.

22 Q. So, at that point had you reached any
23 agreements with those nine owners that were potential,
24 as you put it, unit -- or participants in the project?

25 A. After the June vote, we went to the six

1 sales records. I'm sorry. But by then we had six
2 townhome owners who were all supportive of that.

3 Q. You knew that 201 and 208, and then 213, who
4 originally approved it, was not approving it. Correct?

5 A. 201 had no interest at the time. 208 had no
6 interest at the time. And 213, which was Bill
7 Zammer(phonetic), who was in the process of selling but
8 he was still the owner, and he indicated he was not
9 interested at that time.

10 Q. So, again, three of the nine owners were not
11 participating in the project. Correct?

12 A. They were not participating --

13 MS. WOODCOCK: Asked and answered.

14 THE WITNESS: I have answered that.

15 BY MR. EMRICH:

16 Q. Thank you. So, again, at that point you only
17 had six owners, and earlier you indicated that if three
18 -- if any of those nine owners had backed out, it would
19 kill the project. Correct?

20 A. No. I did not say that.

21 MS. WOODCOCK: Objection. Mischaracterizes the
22 testimony.

23 THE WITNESS: Thank you.

24 THE ARBITRATOR: She's saying -- the testimony was
25 that it was going to go forward conceptually, and that

1 the --
 2 MR. EMRICH: So then you go to the master board.
 3 THE ARBITRATOR: The approval would go back to the
 4 owners. That was the testimony that she gave, Counsel.
 5 MR. EMRICH: I'm sorry, what did you say, your
 6 Honor?
 7 THE ARBITRATOR: The testimony was that it was
 8 conceptually approved back -- we're talking about
 9 Respondent's Exhibit 2. And then they would go back to
 10 the owners at a later date to see who wanted to go
 11 forward, and who would not go forward.
 12 MR. EMRICH: All right.
 13 THE ARBITRATOR: That's all, Counsel.
 14 MR. EMRICH: All right. Thank you.
 15 BY MR. EMRICH:
 16 Q. So, then the project goes to the master board
 17 in March of 2019 -- or January of 2019, it's tabled,
 18 and then goes in March of 2019. Correct?
 19 A. Yes.
 20 Q. And at that point the renderings that you
 21 would have showed the master board would have been the
 22 renderings from WJ Johnson that we had looked at
 23 previously as part of the Exhibit R --
 24 A. You have to keep your face in front of the
 25 computer. I can't hear you.

1 referring to, are those the pictures that are found in
 2 Exhibit 2, that are in the first part of the -- of that
 3 exhibit?
 4 A. Well, either you have to put them up, or you
 5 have to wait while I open up my big book and look at
 6 them. Can you tell me exactly which ones --
 7 Q. Okay. We'll put up all the pictures from
 8 Exhibit 2.
 9 A. Thank you.
 10 MS. WARD: Ms. Taylor, I can put them up one at a
 11 time for you so that they're visible for you. Do you
 12 --
 13 THE WITNESS: You know, that's all right. What's
 14 the -- what is it? Is in the -- I'm sorry, Barbara. I
 15 have two binders here. Is the large one? Is it the
 16 small binder? Which one am I looking for?
 17 MS. WOODCOCK: It should be the larger one.
 18 THE WITNESS: Okay. Which number is it?
 19 MS. WOODCOCK: I believe that's Exhibit 2.
 20 Mr. Emrich, correct?
 21 MR. EMRICH: Exhibit R-2.
 22 THE WITNESS: Actually that was easier than I
 23 thought. Okay. So, I have my picture here, which we
 24 said right said today, right side tomorrow. And then
 25 there's -- elevators, a gray and blue drawing. Is that

1 Q. As part of R-2. Correct?
 2 A. Would you repeat it? I only caught half of
 3 that.
 4 Q. Okay. So, when you went to the master board,
 5 you went to the master board with the plans that had
 6 been -- the renderings that had been prepared by
 7 WJ Johnson, which had been presented to the members
 8 previously, and then presented to master board in March
 9 of 2019, which showed a walkway that was going to
 10 connect all nine units. Correct?
 11 A. At that point the initial renderings, which
 12 were very rough, and then we really relied upon the
 13 pictures with the kind of the cad cam addition of the
 14 railing across the top from the townhomes. We used
 15 that as a better explanation to the general membership
 16 who were at the March 19 meeting, in order for them to
 17 understand how the walkway was conceived as connecting
 18 across the top, and explain how it would connect
 19 underneath. That was what was really relied on as part
 20 of the very extensive, long March 19 presentation,
 21 which when David Petrella comes up, he can confirm
 22 exactly what the master board saw.
 23 Q. (Inaudible.)
 24 A. I cannot hear you.
 25 Q. If we look at the pictures that you're

1 what you're referring to?
 2 BY MR. EMRICH:
 3 Q. I'm not sure what you mean. I'm talking
 4 about the pictures of the actual building itself. The
 5 Photo shopping showing the walkway that is proposed on
 6 the right side.
 7 A. Yes. Those are what we would have -- we
 8 would have used all of those in the presentation in
 9 March of 2019.
 10 Q. And where are the pictures showing the right
 11 side along the units that would be to the right, along
 12 the lower level of the building? Did you show them?
 13 A. No. We went back to the renderings, and said
 14 that they would somewhat represent that. But anybody
 15 familiar with -- would know that those sidewalks were
 16 never in the right spot in the renderings; that they
 17 were conceptual drawings that then would have been
 18 reflected by sidewalks in a slightly different
 19 location.
 20 Q. So, you would not have shown those then to
 21 the members?
 22 A. No, but we explained them.
 23 Q. And so, when you went to the master board,
 24 there was also an issue that the building was going to
 25 be ADA compliant. Correct?

1 A. When we initially conceived of this, we
2 thought that ADA compliance was going to need to be a
3 very specific requirement, I guess. And as we went
4 through this, it became more of an issue of other
5 things the owners were looking for. So, we relied on
6 the engineer. But really we were trying to get to the
7 point where we could get an engineer to design them,
8 and say what we could and couldn't do.

9 Q. So, the project design that had come from WJ
10 Johnson in November of 2018, indicated that the project
11 would be ADA compliant. Correct?

12 A. Those were the goal of it. I don't know that
13 those renditions went through any kind of ADA approval
14 process to certify that those were ADA compliant.

15 Q. And in order for it to be ADA compliant, it
16 would have had to connect all nine walkways. Correct?
17 All nine units to the walkway. Correct?

18 MS. WOODCOCK: Objection. Calls for a legal
19 conclusion.

20 THE ARBITRATOR: Well, just a moment, Mr. Emrich.

21 MR. EMRICH: Yes.

22 THE ARBITRATOR: If the witness knows the answer
23 to that question, then she can answer it. It she
24 doesn't know, then she just says she doesn't know.

25 THE WITNESS: Okay. Can you ask the question

1 by engineering drawings.

2 Q. And at some point when the -- vote that the
3 master board and --

4 THE COURT REPORTER: Henry, I missed the beginning
5 of your question.

6 BY MR. EMRICH:

7 Q. At some point it went to a vote of the master
8 board on March 12 of 2019. Correct?

9 A. Yes. During that meeting, it went to a vote.

10 Q. I'm just trying to find that particular
11 document here, if I can just have a minute. Your
12 Honor, could we take a short break?

13 THE ARBITRATOR: Sure. Five minutes? Ten
14 minutes?

15 MR. EMRICH: Ten minutes would be great.

16 THE ARBITRATOR: Okay. Ten minutes. Thank you.

17 (There was a break taken, after
18 which the deposition was resumed
19 as follows:)

20 MR. EMRICH: All right. We're back on the record.
21 Your Honor, I was asking about the master board meeting
22 of March 12 of 2019. And I would like to put Exhibit
23 R-21 up on the screen, please.

24 MS. WARD: Got it, and I'm working on it right
25 now.

1 again, please, sir?

2 BY MR. EMRICH:

3 Q. Yes. I can ask the question again.

4 Was it your understanding that in order
5 for the project to be ADA compliant, as indicated by WJ
6 Johnson, that the project would have had to connect all
7 -- the walkway would have had to connect all nine unit
8 owners?

9 A. No.

10 Q. What was your understanding of what it would
11 have been?

12 A. Our understanding is that we would have
13 connected a walkway that would have connected those
14 that were interested in being connected. Now, if the
15 people on the lower level decided not to do it, that
16 would not affect the connectivity of the people in the
17 upper level.

18 Q. And but it would certainly affect the
19 handicap accessibility of the entire building to the
20 walkway. Correct?

21 A. Yes. But given that most of the units in the
22 middle level are not handicap accessible either because
23 they have two steps in from the elevator pad, it did
24 not seem to me that we were ever going to -- you know,
25 that was an issue that was going to have to be decided

1 MR. EMRICH: All righty.

2 (Whereupon, the document was marked
3 as Respondent's Exhibit No. 21 for
4 identification.)

5 BY MR. EMRICH:

6 Q. All right. Looking at Exhibit 21, if we go
7 to the second page of that document, and I direct your
8 attention to Subsection F. At that time, the master
9 board indicated that there was a discussion of ADA
10 compliant access to the elevators for those units
11 without access. And then you mentioned that you gave
12 this presentation as to the possible visual impact, as
13 well as the access provided.

14 Now, when you did that, were you
15 indicating that, again, all nine owners were going to
16 be attached to this walkway? Was that the walkway that
17 you were showing them? I can't hear you.

18 A. Sorry. I was muted because I was coughing.
19 We showed the design with all nine units attached with
20 the information that we had said at the original
21 meeting, was that if people opted out, they opted out.
22 But this was what the overall intention was.

23 Q. And at that point, again, you did not have
24 nine owners that approved it. Correct? Or authorized
25 it? Of the nine, all nine had not indicated that they

1 would participate. Correct?
 2 A. I'll have to go back. You're asking me to --
 3 I can't answer that directly, because I'd have to go
 4 back and try and recreate exactly when I spoke to each
 5 owner, or Bob spoke to each owner, when the meetings
 6 were, et cetera. During that time period, we
 7 approached owners about did they want to participate or
 8 not, trying to get a general direction. But all that
 9 was predicated on the final, the final cost, and we
 10 couldn't do any of that until we had the master board.
 11 Q. And this particular meeting according to the
 12 minutes, there was no ARC approval given. Correct?
 13 A. That was explained in the master board
 14 minutes if you go back in later.
 15 Q. I'm just asking you about what the minutes
 16 indicate. There is no indication of arc approval?
 17 A. There was no arc approval because there was
 18 no ARC.
 19 Q. There was no ARC. So --
 20 A. Not at that time.
 21 Q. And at the time of the original meeting
 22 approving this in June 26 of 2018, the board had
 23 indicated that an arc approval would be sought; is that
 24 correct?
 25 A. That is correct. We were in June of '18, and

1 BY MR. EMRICH:
 2 Q. When you went back to your -- when you --
 3 after this particular project, you mentioned that you
 4 had engineering drawings drafted up; is that correct?
 5 A. Yes.
 6 Q. And were those drawings based on a walkway
 7 that connected nine of the unit owners as had been
 8 indicated in the prior June 26, 2018, proposal, or was
 9 it to be six?
 10 MS. WOODCOCK: Objection.
 11 THE WITNESS: Sorry. I missed that, Barbara.
 12 MS. WOODCOCK: Objection. Compound question.
 13 THE ARBITRATOR: I think what you could just ask,
 14 Counsel, is how many unit owners -- how many --
 15 BY MR. EMRICH:
 16 Q. How many unit owners were to be included in
 17 the proposal that you or the drawings that you had
 18 drawn up after this meeting?
 19 A. We did not have drawings immediately after
 20 the meeting. Those drawings with the engineers took
 21 many months. During that time we decided to draw up
 22 plans that would include both the six above and the
 23 three below with separate actions available for each
 24 depending on owner's preferences.
 25 Q. So you had -- what you're saying then is that

1 bylaws were being re-written by both arc and by the
 2 master board and implemented. We were still working
 3 with assumptions about ARC, but ARC was not in
 4 existence, and so it didn't go to ARC. It went to the
 5 master board.
 6 Q. Now, what happened following the master board
 7 action of March 12 of 2019?
 8 A. We proceeded with our plan.
 9 Q. And what did that involve?
 10 A. Continuing our work with our engineer.
 11 Q. And what did you decide to do?
 12 A. We decided to have him draw up plans.
 13 Q. And was that plan to be consistent with what
 14 had been approved by the board on June 26 of 2018: A
 15 walkway with nine unit owners connected, or a walkway
 16 with six unit owners connected?
 17 A. It was a --
 18 MS. WOODCOCK: Objection. Compound question.
 19 THE WITNESS: Thank you.
 20 THE ARBITRATOR: Rephrase it, Counsel.
 21 MR. EMRICH: I'm sorry. What was the objection?
 22 I didn't hear it.
 23 MS. WOODCOCK: Compound.
 24 THE ARBITRATOR: Just rephrase it, please.
 25

1 you had two sets of plans drawn up: One that would
 2 have included nine, and one that would have included
 3 six; is that correct?
 4 A. No. That's not correct. That's not what I
 5 say. I'd said we were in the process of drawing up
 6 plans that would allow for either six or nine,
 7 depending on how the owners wanted to proceed. Or
 8 three on one side, or four on one side, two on the
 9 other. We were setting it up very compartmentalized.
 10 Q. So, I guess my point is that whatever plan
 11 was going to be going forward, it was not going to
 12 include nine owners as the board had authorized the
 13 project back on June 26th of 2018. Correct?
 14 A. No, not correct.
 15 Q. Sorry. What's that?
 16 A. Someone has banging going on. It might be
 17 construction.
 18 THE ARBITRATOR: Is that in your unit?
 19 THE WITNESS: No, not in mine.
 20 MR. EMRICH: The court reporter's.
 21 BY MR. EMRICH:
 22 Q. All right. So again, the plans that were
 23 being drawn would not have included all nine unit
 24 owners as was approved in June of 2018. Correct?
 25 A. Correct.

1 MS. WOODCOCK: Objection. Asked and answered
2 numerous times.
3 BY MR. EMRICH:
4 Q. You're saying it wasn't, but you're telling
5 me there were different plans depending on who approved
6 it.
7 A. No. I said there was one plan we were
8 drawing up with an engineer as we developed it that
9 would allow for flexibility with both sides, top and
10 bottom, one plan.
11 MS. WOODCOCK: Your Honor, I would just ask that
12 when I make an objection, if both counsel and
13 Ms. Taylor can wait until you make a ruling on the
14 objection?
15 THE ARBITRATOR: Yes. From now on, if she
16 objects, everybody please stop. And I'll rule on the
17 objection, and we'll move on from wherever we're going.
18 MS. WOODCOCK: Thank you, your Honor.
19 BY MR. EMRICH:
20 Q. Now, if we look at this next step, again I'm
21 just trying to understand whether or not the project
22 that was going to go forward was to connect all nine
23 unit owners affected by the walkway that was approved
24 in June of 2018. That's all I'm trying to ascertain
25 from you.

1 BY MR. EMRICH:
2 Q. Could you take look at that, please,
3 Mrs. Taylor?
4 A. If you go to the next page? Yes. That looks
5 like the communication we had from the engineer.
6 Q. Now, when we -- if we go back to the first
7 page, looking at the second section of that page, there
8 were certain amendments that were being made to the
9 project at the owners' request. Okay? Do you see that
10 section?
11 A. No. Tell me which one you're talking about.
12 Q. Talking about the second paragraph: We are
13 now acknowledge the design documents set by Structure
14 Design and Consulting dated 8/21/2019, with the
15 following amendments at the owners' request."
16 A. Okay. What's your question about that?
17 Q. Would that have reflected how the plan
18 changed at that point, that was going to be actually
19 put up?
20 A. That would have reflected one change that we
21 made. Yes.
22 Q. By looking at that document, there's actually
23 three changes that are reflected on the project from
24 what it had been -- what you had asked for back in
25 August of 2019. The walkway was going to be four feet

1 THE ARBITRATOR: I don't understand the question.
2 BY MR. EMRICH:
3 Q. What owners were to be impacted or affected
4 by these new renderings, these new plans?
5 A. Potentially, all nine.
6 Q. So, you're moving forward as if you had nine
7 unit owners as was authorized originally. Correct?
8 A. We moved forward with the option to give all
9 nine unit owners an idea of what would be involved so
10 they could agree or not agree to participate.
11 Q. And at some point then you obtained a
12 proposal from Florida (audible break) Fabrications in
13 September of 2020; is that correct?
14 A. I will take your word for it if that's the
15 date.
16 Q. I don't want you to take my word for it. I
17 want if you recall. And just to help you with your
18 recollection, we'll put Exhibit R-13 on the board.
19 THE COURT REPORTER: And I missed the name. What
20 Fabrications?
21 MR. EMRICH: It would have been All Florida
22 Industrial fabrication.
23 (Whereupon, the document was marked
24 as Respondent's Exhibit No. 13 for
25 identification.)

1 wide instead of five feet wide. Correct?
2 A. Uh-huh.
3 Q. Was that a yes?
4 A. Yes. I'm sorry, yes.
5 Q. And it was to have a T-frame column assembly
6 in lieu of a portal frame column assembly.
7 What did that mean?
8 A. We were going to have almost a -- it was
9 going to have a double set of columns, and the engineer
10 figured out how to design it with a single set of
11 columns. And also that parens part which removed
12 provisions for first floor matching units or a matching
13 path, by the time we got to September, we had gotten --
14 we had had the preliminary "no participation" in --
15 between March and April from 201, 208, 213. So, we
16 moved forward with that with no further information.
17 Q. So, in other words, the project that you were
18 moving forward with, as of that time, had removed three
19 of the units on the west side of the lower level of the
20 building. Correct?
21 A. No. Two level. Two units on the west side.
22 One unit is on the east side.
23 Q. So, there was not going to be a path or a
24 sidewalk that was going to run along the bottom lower
25 level of the west side of the building to connect the

1 units. Correct?

2 A. As we had indicated in the meeting in

3 March 19th, that we would check with the owners, and

4 only move forward with those who wanted to participate.

5 As we had the three lower level units decline

6 participation when we started this work with the

7 engineer in March and April of 2019, we then worked

8 with the design so that we could use the different

9 column, and still provide the space should the bottom

10 levels ever wish to add themselves in. We allowed that

11 to be built into the possibility, but we did not

12 include it in the planning.

13 Q. So, again, the project now, as it was going

14 forward at the time and after you received the bid from

15 the board, was not going to connect nine unit owners.

16 Correct?

17 A. If they wanted it, we would have. But no, it

18 did not.

19 Q. It did not. And you then -- you indicated

20 that you were asking various owners about the project.

21 Did you ask Mr. Meiresonne about the

22 project?

23 A. He was not an owner at the time when we made

24 this movement forward.

25 Q. I'm sorry?

1 participate in the project?

2 A. He was notified through his sales agreement,

3 I believe, that there was a project in place. We had

4 spoken to the other -- you've got to let me finish.

5 You asked me a question. We had -- we went to the

6 other two owners. They gave us a no. They'd let us

7 know if they changed their mind.

8 We talked to Mr. Zammer(phonetic). He

9 said he left it up to the new owner. He informed them

10 of it, but he wasn't an owner at the time that Bill was

11 -- Bill hadn't sold it to him yet. Bill Zammer, the

12 owner of the unit. So, we did not pursue it with him,

13 because we knew he had the adequate information about

14 it. And if he had wanted to participate, we assumed he

15 would have come forward.

16 Q. So, the answer to my question -- so, the

17 answer to my question is: You did not ask him to

18 participate at any point up until the time of the All

19 Florida Industrial Fabrication bid. Correct?

20 A. I did not ask him to participate, because he

21 evidenced no interest in participating.

22 Q. And there were two other owners that were not

23 participating. Correct?

24 A. Correct.

25 Q. So now again we had a walkway that was going

1 A. He was not an owner at the time we made this

2 discussion going forward.

3 Q. You're talking about in June of 2018?

4 A. I'm talking about through April of 2019.

5 Q. In April of 2019, you're saying he was not an

6 owner?

7 A. I believe he closed on his unit in May

8 of '19.

9 Q. And this project that was eventually put

10 together by All Florida Industrial Fabrication was

11 dated September 9 of 2020. He certainly was an owner

12 by that time. Correct?

13 A. He was --

14 MS. WOODCOCK: Objection.

15 THE ARBITRATOR: I'm sorry. What was --

16 MS. WOODCOCK: The objection is argumentative.

17 THE ARBITRATOR: If you can just ask -- rephrase

18 the question as to when he became an owner, sir.

19 BY MR. EMRICH:

20 Q. Do you know whether he was an owner as of the

21 date of September 9th, 2020, Mrs. Taylor?

22 A. Yes, he was.

23 Q. Did you ever ask him prior to the All Florida

24 Industrial Fabrication bid that we just talked about as

25 being Exhibit 13, whether or not he wanted to

1 to connects only six of the owners -- affected owners

2 by the walkway. Correct?

3 A. Six owners who had expressed interest; three

4 owners who had declined.

5 Q. Thank you. And that was not what was

6 approved by the board or the building owners back in

7 June of 2018. Correct?

8 A. Owners -- if you read the proxy, the owners

9 approved a proxy that said that the board was allowed

10 to move forward on this project, and had the decision

11 making authority on it.

12 Q. I understand what you say the proxy said. I

13 just asked you simply whether or not the project that

14 was going forward was what was approved back in June

15 of 2018? That's all.

16 A. Yes.

17 Q. It was now only going to have six?

18 THE ARBITRATOR: Counsel, we've been over this.

19 Move on.

20 MR. EMRICH: All right. Thank you.

21 BY MR. EMRICH:

22 Q. You then went to the master board in November

23 of 2020. Correct?

24 A. Yes.

25 Q. And at that point you obtained -- you

1 requested that they give a final approval on the
 2 project. Correct?
 3 A. Well, there was an interim meeting. Are you
 4 going to address the July meeting in 2019 as well?
 5 Q. I can. Tell me about the July meeting in
 6 July 2019.
 7 A. We went forward, and we updated the master
 8 board that we were doing exactly as we had told them we
 9 would do and approved for in March of 2019.
 10 Q. And that was what?
 11 A. That we were -- had a plan; that it was
 12 adhering to the pictures we had shown; that we were
 13 securing a permit, and that we had engineering plans
 14 underway.
 15 Q. And that was with -- that would affect either
 16 nine or six. Correct?
 17 A. Nine or six as we said, as according to what
 18 the owners if the nine owners wished.
 19 Q. And then in July you went, and what did the
 20 master board do at that time?
 21 A. They indicated that we were doing what we
 22 said we would do. There was no vote of approval at
 23 that point. There was just confirmation that we were
 24 doing exactly as we had been told to do.
 25 Q. In July?

1 discuss that, because that was under their purview, not
 2 mine.
 3 Q. So, you don't know one way or another?
 4 A. I know what I believe I know, but I'm not
 5 going to assert it here.
 6 Q. Thank you. And so, at the time then that you
 7 went to the master board in November of 2020, at that
 8 point the project was only going to have a walkway that
 9 connected six units. Correct?
 10 A. Which date did you just say.
 11 Q. On November -- I believe it was November 24
 12 of 2020.
 13 A. By that point, yes. We would have been
 14 confirmed that we were going according to the wishes of
 15 the six owners and the three owners at the time of the
 16 approval, at the time of the confirmation of the
 17 planning, at the time of contracting the engineer. And
 18 we were going for six interested townhome owners, and
 19 no interested ground level owners that we were aware
 20 of.
 21 Q. So, again, six of the nine --
 22 THE COURT REPORTER: Could we hold on one second?
 23 I'm sorry. I can't hear a word.
 24
 25

1 A. In July.
 2 Q. Okay. And at the time that you did that, did
 3 the master -- did you provide the master board with the
 4 minutes of the approval that had been obtained in June
 5 of 2018?
 6 A. I believe the master board might have
 7 probably had that in March of 2019, when they --
 8 Q. Do you know one way or another?
 9 A. No. That would be up to the master board to
 10 confirm that or not.
 11 Q. And so, again, in July was there any kind of
 12 architectural review control approval sought?
 13 A. No, because we were past that point. In
 14 March of '19, we had had approval from the master
 15 board, so there was no longer any need for any
 16 architectural review committee review or approval.
 17 Q. And again, that's based on your recollection
 18 of what the master board did at that time?
 19 A. It's based on my recollection of it, as well
 20 as a review of those minutes, when you read both the
 21 March and July, and then the --
 22 Q. Where in the March minutes does it say that
 23 there was architectural review control approval given?
 24 A. I'm going to say I'm not going to confirm or
 25 deny that, but we'll leave that to the master board to

1 (There was a break taken, after
 2 which the deposition was resumed
 3 as follows:)
 4 MR. EMRICH: So, your Honor, may we resume?
 5 THE ARBITRATOR: Please.
 6 MR. EMRICH: Thank you.
 7 BY MR. EMRICH:
 8 Q. Mrs. Taylor, are you there?
 9 A. I'm here.
 10 Q. All right. So, again, when we talk about the
 11 next step of the project, you are now at the master
 12 board in November of 2020, and you're getting -- going
 13 back in front of them, and telling them that you're
 14 moving forward with the project. Correct?
 15 A. Correct.
 16 Q. All right. Now, at that time, we've already
 17 established that the project now is only going to
 18 connect six of the owners.
 19 Do you know whether or not it was ADA
 20 compliant at this point one way or another?
 21 A. It only connects six of the owner, because
 22 it's the six owners that agreed. I want to clarify
 23 that. And no, it is not ADA compliant at this point,
 24 which was made clear to the master board.
 25 Q. So, you would agree then it wasn't ADA

1 compliant at that point?
 2 A. Yes.
 3 Q. And as I understand it, this walkway was no
 4 longer the one that is elevated along the second floor,
 5 is no longer connected to the building; is that
 6 correct? It's moved out?
 7 A. I don't understand.
 8 Q. Originally, the walkway proposal that you had
 9 presented to the board showed the walkway connected to
 10 the building. Correct?
 11 A. No. The renderings that were very rough and
 12 incomplete might have showed that. But the drawings
 13 that we used for the basis of the approval shows the
 14 walkway extending directly from the pad in front of
 15 Units 203 and from Unit 209 directly over to the
 16 building, not connected or hugging the walls.
 17 Q. When you say "the units regarding the
 18 approval," are you talking about the master board
 19 approval?
 20 A. Yes.
 21 Q. So, again, the original approval that your
 22 building owners and your 200 board gave, at that time
 23 the renderings showed the walkway against the building.
 24 Correct?
 25 A. No. We showed them both. They had both the

1 pictures that were shown what was proposed, and we go
 2 to -- if we can put Exhibit 2 back up on the screen.
 3 THE ARBITRATOR: I can't hear you.
 4 BY MR. EMRICH:
 5 Q. If we put R-2 up on the screen --
 6 MS. WARD: Working on it.
 7 MR. EMRICH: Okay.
 8 MS. WARD: Ms. Taylor, is this a better view for
 9 you to be able to see more of those pictures at one
 10 time?
 11 THE WITNESS: Yes, it's good. Thank you. You
 12 keep talking about the drawings that are below the
 13 level you're on now.
 14 BY MR. EMRICH:
 15 Q. All right. If we look at what's the right
 16 side -- the picture that's identified as Right Side
 17 Proposed in R-2 on the left of your screen, do you see
 18 that?
 19 A. Uh-huh.
 20 Q. That was what was a rendering that was shown
 21 the board, shows that walkway that goes over and it is
 22 level as to where it attaches to the elevator tower.
 23 Correct?
 24 A. That was the initial plan, to try to have it
 25 level. Yes.

1 pictures and the renderings, which we showed them were
 2 very preliminary. They showed --
 3 Q. The renderings showed the walkway against the
 4 building. Correct? The renderings, not the photos.
 5 The renderings.
 6 A. I find that answer difficult, because you're
 7 separating two things that were one.
 8 Q. Only if you recall, ma'am. The renderings
 9 had the walkway against the building, directly against
 10 the building.
 11 A. Yes. I believe that the renderings did; the
 12 pictures didn't.
 13 Q. Thank you. Now, also at that time the
 14 renderings showed the walkway going over to the tower
 15 by the elevator, and showed a flat or -- it was just a
 16 flat walkway that went over and connected to the wall.
 17 There were no stairs; is that correct? Where it
 18 connects to the tower?
 19 A. You mean on the ground level?
 20 Q. On the second level.
 21 A. The renderings were not that detailed, I
 22 don't believe. I don't recall that. They just showed
 23 an extension.
 24 Q. Okay, but if we look at your pictures that we
 25 talked about -- (audio break) and we went to the

1 Q. And that particular part of the plan had
 2 changed by the time you went back to the master board
 3 in November of '20. Correct?
 4 A. Yes, because the board was authorized to make
 5 decisions and plans for this as --
 6 Q. I don't -- I just -- I'm just asking you
 7 whether or not it had changed. Yes or no?
 8 MS. WOODCOCK: She can provide an explanation for
 9 the response.
 10 THE ARBITRATION: We've been through this. You
 11 ask the question, she gives the answer. You don't
 12 interrupt, please.
 13 BY MR. EMRICH:
 14 Q. And that was because there were stairs that
 15 were put in there. Correct?
 16 A. Yes. As the board was authorized to
 17 determine what was in the best interests of the
 18 building, unit owners had expressed concern about
 19 privacy, and did not wish to have owners to have a
 20 walkway directly under their windows. So we went with
 21 the drawing as proposed to the master board because
 22 that accomplished both those objectives.
 23 Q. So again --
 24 A. Let me finish.
 25 MS. WOODCOCK: She's still talking, Mr. Emrich.

1 Please let her finish.
 2 BY MR. EMRICH:
 3 Q. Sorry. I thought you were done. My
 4 apologies.
 5 THE ARBITRATOR: Continue, ma'am.
 6 THE WITNESS: The walkway was -- as drawn was a
 7 direct extension off that pad in front of unit -- as
 8 you see in Right Side Proposed, from Unit 209 across.
 9 And then as we moved through the planning with the
 10 engineer, what would accomplish ADA, what would
 11 accomplish privacy, the board exercised the authority
 12 granted in the proxy to make the decision about what
 13 would (audio break), and that was to have the extended
 14 go out directly from the pad in front of 209 and 203,
 15 even if that then precipitated two shallow steps.
 16 BY MR. EMRICH:
 17 Q. And the walkway there was also raised two
 18 feet. Correct?
 19 A. Which walkway was raised two feet?
 20 Q. Thank you.
 21 A. No. I don't understand that question. I
 22 didn't say yes or no.
 23 Q. Was the walkway raised two feet from how it
 24 is shown in that particular document -- in that
 25 photograph?

1 THE ARBITRATOR: I'm going to start cutting you
 2 off.
 3 BY MR. EMRICH:
 4 Q. Does that picture --
 5 MR. EMRICH: May I proceed?
 6 THE ARBITRATOR: Yes, sir.
 7 MR. EMRICH: Thank you.
 8 BY MR. EMRICH:
 9 Q. Does that picture show the walkway at the
 10 second level as it was constructed?
 11 A. Yes.
 12 Q. And if we go to the next picture, if we look
 13 at the next picture, does that show the underneath of
 14 that walkway?
 15 A. As it was at construction, yes.
 16 Q. Now, the original plans had, as we were going
 17 back to the contract that the Florida company had put
 18 together for you, changed the original columns that had
 19 been in the plan that supported the deck; is that
 20 correct?
 21 A. Yes.
 22 Q. And those column had originally come out to
 23 the edge as opposed to this T-shaped column underneath
 24 the elevated portion of the walkway. Correct?
 25 A. I don't understand -- oh, I'm sorry, Barbara.

1 A. No, it wasn't raised two feet. It extends
 2 out from the pad, made a turn and went into the --
 3 Q. I'm talking about right where the level of
 4 the walkway itself, was it raised up from what had been
 5 depicted in that picture or rendering?
 6 A. No.
 7 (Whereupon, the document was marked
 8 as Petitioner's Exhibit No. 7 for
 9 identification.)
 10 BY MR. EMRICH:
 11 Q. So, if we go then -- if we put Exhibit P-7 up
 12 on the screen, and we go to the third picture in that
 13 screen, that shows the walkway --
 14 MS. WOODCOCK: Objection. Mr. Emrich is
 15 testifying.
 16 BY MR. EMRICH:
 17 Q. Does that show --
 18 THE ARBITRATION: Sustained. Ask her what it
 19 shows. Counsel, I'm not going to let you get away with
 20 this anymore.
 21 BY MR. EMRICH:
 22 Q. Does that show the walkway --
 23 THE ARBITRATOR: Sir, am I clear? Ask her
 24 open-ended questions. Don't testify.
 25 MR. EMRICH: I was just doing that, your Honor.

1 Go ahead.
 2 MS. WOODCOCK: I didn't say anything.
 3 THE WITNESS: Oh, I'm sorry. I thought I heard
 4 something. I don't understand your comment about to
 5 the edge. We substituted the double column for the
 6 T-shaped column in order to reduce the impact and the
 7 footprint of the column.
 8 BY MR. EMRICH:
 9 Q. So, the original column -- was the original
 10 column or supporting beam or whatever you want to call
 11 it -- column, was it on the exterior of that walkway as
 12 you're looking -- in other words, on the left side of
 13 the walkway?
 14 A. It was in the exact same location.
 15 Q. So, was it --
 16 A. In the engineering, he could have move it an
 17 inch or two. So, I'm not going to say exact. It's in
 18 the general location of the T-column.
 19 Q. And this particular document is looking down
 20 from Unit 213 towards the elevator tower; is that
 21 correct?
 22 A. Yes.
 23 Q. Now, I'd like to put Exhibit 22 on the board,
 24 on the screen.
 25 MS. WARD: P22 or R22?

1 MR. EMRICH: P-22.
 2 (Whereupon, the document was marked
 3 as Petitioner's Exhibit No. 22 for
 4 identification.)
 5 THE WITNESS: Can I clarify something that was
 6 said earlier about those pictures? I don't know if I
 7 made it clear, but I'd like to definitely say that the
 8 attorney definitely inferred something was raised two
 9 feet, and I'd want to reiterate it was not raised two
 10 feet.
 11 BY MR. EMRICH:
 12 Q. Okay. That's fine. Okay. Following the
 13 board meeting on November 24 of 2020, after the master
 14 board, you then sent an e-mail to building 12; is that
 15 correct?
 16 A. That is correct. After this meeting I sent
 17 the e-mail.
 18 Q. And that is part of Exhibit 22; is that
 19 correct?
 20 A. You say Exhibit 22, and I don't see it
 21 identified as 22. Thank you.
 22 Q. P-22.
 23 A. Thank you.
 24 Q. And if we go to the third page of that, there
 25 is a document that you then also sent out to the board

1 that kind of goes through the history of the project;
 2 is that correct?
 3 A. That's correct.
 4 Q. And that was sent to all the building owners;
 5 is that correct?
 6 A. Correct.
 7 Q. And in that -- in that particular document,
 8 you indicate that you did not go back to your board and
 9 seek an approval of the -- of the new plan that only
 10 had six owners; is that correct?
 11 A. Which I made clear was not required by the
 12 proxy vote.
 13 Q. I understand that. I understand what you
 14 made clear. But again, just my question is: You did
 15 not go back to the owners or to the board for 200 and
 16 get substantive approval that the plan was only going
 17 to connect six unit owners as opposed to what had
 18 originally been said; is that correct?
 19 A. The original assumption was, it was the nine
 20 voting owners that participated. Six didn't
 21 participate. We did not directly go back. That was
 22 made very clear at that board meeting, which meant that
 23 the owners (audio break) had access to that area.
 24 Q. I understand your position, ma'am. I'm just
 25 asking you one real simple question.

1 Did you go back and get -- you indicate in
 2 that letter you did not go back and get approval. You
 3 did not think you needed it. Correct? Yes or no?
 4 A. Yes. We did not need to go back and get
 5 approval.
 6 Q. And you did not go back and get that
 7 approval?
 8 A. I believe I stated that.
 9 MS. WOODCOCK: Objection. Asked and answered.
 10 THE ARBITRATOR: Sustained.
 11 MR. EMRICH: All right. I don't have any further
 12 questions of this witness, your Honor.
 13 THE ARBITRATOR: All right. Redirect.
 14 MS. WOODCOCK: Yes, your Honor.
 15 THE ARBITRATOR: Or cross, whatever you want to
 16 call it.
 17 MS. WOODCOCK: Thank you, your Honor.
 18
 19 CROSS-EXAMINATION
 20 By: Ms. Woodcock
 21 Q. Ms. Taylor, earlier in your testimony you
 22 referenced several times townhomes versus ground floor
 23 units.
 24 Can you explain what you mean by townhome
 25 units and ground floor units?

1 A. There are six townhome units in the building.
 2 There's 25 units. The buildings are connected prior to
 3 this lateral convenience construction by stairs that go
 4 up from the sidewalks in front of the building. That
 5 was the only access into the townhome units. Then
 6 there were three ground-floor level units that also had
 7 stairs between them and the elevator pad.
 8 So, we constructed or we conceptualized a
 9 plan that would then connect the ground floor units
 10 across the bottom, and the townhome units across the
 11 top. The reason that we broke it into six -- or four
 12 pieces, two townhomes on the east, four townhomes on
 13 the west, two ground levels on the west, one ground
 14 level on the east was that not only did we want to
 15 offer the owners the option of participating or not,
 16 but the cost differential was going to be significant.
 17 The cost for the townhomes to build that
 18 elevated walkway was borne by the townhome units. If
 19 the ground floor level units had decided to
 20 participate, they would not be participating in any of
 21 the cost of the townhomes. We were going to separately
 22 bill them. As the upper level floor units, the
 23 townhome units costs were predicted to be between 20 to
 24 \$25,000 each unit paid by the owner.
 25 And the cost for the sidewalk -- it would

1 be a simple sidewalk across the grounds from the door
2 opening of 201, 208 and 213 from in front of 208 with a
3 simple sidewalk that we thought estimated would cost
4 about \$2,000 per sidewalk.

5 So, we constructed this very definitely,
6 separately, compartmentalized in order to provide that
7 flexibility, and that no one was penalized by
8 participating at a level greater than what they would
9 have the benefit of from the construction. So, that is
10 why we have delineated this townhome versus ground so
11 distinctly in this package, why we made it clear at the
12 master board level, and why we made it clear to the
13 owners, and why we made it clear as we proceeded
14 through this project.

15 Q. Thank you. The six townhome unit owners,
16 were any of those unit owners handicapped?

17 A. Yes. In 209, the Turras(phonetic) who live
18 there, I believe Linda has significant back issues.
19 No. Are they classified as handicapped or do they have
20 ADA? I can't attest to that. I just know that
21 Ms. Turra(phonetic) has had back issues, and expressed
22 an interest in participating with her husband because
23 of that.

24 And I know that Roland and Jeanine
25 Geradol(phonetic), who live in 210, are 87 or 88 years

1 old, and have mobility issues that are probably not
2 called handicapped but fall under certainly senior or
3 other ADA guidelines or something. But then I know
4 that Robert Krohn(phonetic), who is in 211, has
5 scoliosis, multiple surgeries over the past few years,
6 and at times can only access his unit by going up the
7 stairs, seated, one step at a time in order to access
8 his unit.

9 We were very aware of these challenges by
10 our fellow owners, and so that is another reason that
11 we thought given that there was no access other than
12 these steps, very significant steps up to the top, that
13 we would go forward with this project.

14 So, we did not have any ADA filings. We
15 did not have any ADA assertions from these people, but
16 we certainly had a lot of information to say that a
17 couple people were considering ADA filings against the
18 building. And we thought preempted by providing what
19 would be -- as what the County called a lateral
20 convenience, that would minimize the access problems
21 and difficulties they had totally at the cost of the
22 owners who would wish to have this access.

23 Q. I'm going to show you Exhibit R-26.
24
25

1 (Whereupon, the document was marked
2 as Respondent's Exhibit No. 26 for
3 identification.)

4 MS. WOODCOCK: Your Honor, it says that -- or I
5 guess Mr. Emrich, it says that Host Has Disabled
6 Participant Screen Sharing. Can you please enable that
7 for me?

8 MS. WARD: Yes, I will. I'm sorry. I didn't
9 realized that was even an option. So, let me work on
10 that.

11 MS. WOODCOCK: Thank you.

12 MS. WARD: Okay. I think I just fixed it. So
13 let's try that again.

14 MS. WOODCOCK: Okay. Thank you. Yes. That
15 works.

16 BY MS. WOODCOCK:

17 Q. Ms. Taylor, I'm showing you on the screen
18 what's previously been marked and admitted into
19 evidence as Respondent's Exhibit R-26. It is a
20 three-page document. I can scroll through it so you
21 can see it, and I'm going to ask you some questions.

22 Okay?

23 A. Okay.

24 Q. Have you seen this document before,
25 Ms. Taylor?

1 A. Yes. These are the detailed plans provided
2 by the engineer.

3 Q. Well, which engineer provided these plans, if
4 you know?

5 A. Keith Blackwell with the aforementioned
6 engineering company.

7 Q. And what -- do you know when these plans were
8 made?

9 A. I'd have to go back and look at e-mails from
10 Mr. Blackwell, but I would assume that these came in
11 about the time that we were going for final approval.
12 Honestly, I don't remember.

13 Q. Would you have (inaudible)?

14 A. We had a lot of discussions. We had a lot of
15 planning around these.

16 Q. I'm trying to zoom in here. On the first
17 page of these plans, there is a date of July 23, 2020.
18 Was that --

19 A. That would sound about right. We were -- it
20 was a slow process as our engineer developed COVID over
21 the summer during the worst of COVID. So, we were a
22 little delayed on that as well.

23 Q. These plans in Exhibit R-26, is this
24 ultimately what was constructed?

25 A. Yes.

1 Q. And are these plans shown in R-26, were they
2 provided to The Club at La Peninsula?

3 A. Yes.

4 Q. Let me bring back up for you Petitioner's
5 Exhibit 7. One moment. My computer is fading as I'm
6 trying to get to the right exhibit here. Bear with me
7 one minute. These are Petitioner's Exhibit 7. And
8 this is the first page.

9 Can you describe what's shown in the
10 photograph?

11 A. What's shown on the bottom is the -- bottom
12 center, is the sidewalk approaching Unit 2-- I'm trying
13 to see the number. Oh, I'm on the right side. That's
14 208. This is on the west side of the building. So
15 Unit 208 is one of the units that could have been
16 interested in having the sidewalk access. And then
17 above it on the immediate lower right corner is the
18 original stairway going up, which makes a turn outside
19 of the camera range, continues up to the top of the
20 platform. And shows the original platform leading into
21 209 and 210. The -- obviously from 209 where the
22 window is to the left of that 209 door is where the
23 platform for the extension occurred, connecting it to
24 the walkway.

25 You can see in front of the unit that's

1 A. This is as you stand outside of Unit 213 and
2 look to your immediate right, you would see an area
3 that previously had been covered by some fairly dense
4 vegetation and vines crawling up the wall, and then the
5 trees above were over the top of it. We trimmed the
6 trees back. The walkway was extended into that. And
7 since then that has been heavily landscaped.

8 Q. What about P-7 Photograph 5? What does this
9 show?

10 A. That's a picture of the area that I just
11 described prior to the digging of posts and the putting
12 up of the walkway. So, we trimmed the trees back as
13 you can see. No trees were being cut down or damaged
14 right there. And then we cut out all of the
15 vegetation. You can actually see the orange squares,
16 which is where the posts were dug. And we hand dug in
17 order to minimize any damage to the building. We had
18 those hand dug.

19 Q. What is shown in P-7, page 6?

20 A. This is the actual walkway. Above as it --
21 up in the upper right you would see Unit 209's doorway.
22 It comes across. And as you can see it was higher than
23 the elevator landing on the second floor, which
24 precipitated us with the shallow two steps. That was
25 the one change we did make in order to not have this

1 labeled 224. What was also a possibility was if the
2 walkway had been continued, it would have gone off the
3 sidewalk that you see center, it would have extended
4 through the yellow-green bushes, the red Thai plants,
5 the red Thai's, and connected via sidewalk to the
6 elevator platform, again in front of the unit you see
7 as 207 on the far left.

8 Q. Thank you. And I'm going to show you the
9 next photograph in P-7.

10 A. I can describing it without rotating.

11 Q. Thank you.

12 A. That's the view from 211 and 212 on the upper
13 level. Across the area that was previously -- that is
14 now occupied by the walkway, you can see that there was
15 trees that extended across this area. And below it you
16 can see the open area that is now landscaped again.
17 And there's air conditioning units on the left side.
18 And so the walkway now occupies this space across the
19 right side of the picture.

20 Q. I'm going to show you -- wait. We talked
21 about the third photograph, so I'm not going to talk
22 about that again. Now, this fourth photograph, can you
23 see that? Do I need to rotate it?

24 A. No. It's okay. I can see it. This is --

25 Q. What does this photograph show?

1 walkway go into that alcove on the right, and be
2 attached directly above and below and onto the windows
3 of those units. So, we took this walkway across.

4 You can also see below it to the right of
5 the red Thai's --those are those bright red plants,
6 that there is a space there. The reason that we
7 created it with the single bars as well is allowed us
8 to in the future should the three ground floor units
9 wish to add in a sidewalk, we left the space for them
10 to do so; And so at any point 201, 208 and 213 can add
11 a sidewalk.

12 Q. And in P-7, page 7 -- hold on. My computer
13 is doing something.

14 A. I would answer, but I'm kind of --

15 Q. Okay. Can you see what's shown on page 7?
16 What's shown in this photograph?

17 A. So, there it is on the left side looking up,
18 the walkway is going up into 208. Where the green hose
19 is, because I think they were watering plants at the
20 time -- is where we allowed for a sidewalk to be put in
21 if 208, 213 had desired it. And then above it is the
22 walkway as it was built, coming out from 209 on the
23 left, coming around and making its turn, and connecting
24 to the elevator -- I've always called it the elevator
25 pad. I don't know what to call the access point across

1 each of the floors where the elevator stops. But this
 2 is where you would walk across this, go into the
 3 walkway in front of the other unites, and walk down to
 4 the elevator. I think I already described this one.
 5 Oh, no. This is farther -- yeah. I --
 6 Q. Hold on one second, Ms. Taylor. The next
 7 photograph, I guess is eight photograph in P-7.
 8 What is shown in this photograph?
 9 A. I think -- okay. This is after the walkway
 10 is built. I described it before, before the walkway
 11 was built. So, sorry. This is the walkway up. This
 12 is the sidewalk up to 208. The stairs up to 209 and
 13 210. This shows the walkway coming off the pad from in
 14 front of 209 and 210, going to the left where it
 15 eventually connects with where the elevator access is.
 16 And this also shows the area under the walkway to the
 17 left where the red Thai's are, which is where a
 18 sidewalk could be added if 208 and 213 wish to add it.
 19 Q. And where is Unit 213 located in relation to
 20 this photograph?
 21 A. To the far right. 208 and 213 share a common
 22 wall to the right of this picture.
 23 Q. Now I'm going to show you what's previously
 24 been marked and admitted as Respondent's Exhibit 28.
 25

1 (Whereupon, the document was marked
 2 as Respondent's Exhibit No. 28 for
 3 identification.)
 4 BY MS. WOODCOCK:
 5 Q. This is a composite exhibit of several
 6 photographs. We're going to go through them and talk
 7 about them. All right. This is the first photograph
 8 shown in Respondent's Exhibit 28.
 9 What is shown in this photograph?
 10 A. This shows the east side of the building. It
 11 shows Unit 202 and 203, with the stairway that goes up
 12 to it from the lower sidewalk. And Unit 201 below it,
 13 which all three of them were listed in the original
 14 nine-unit plan. What eventually occurred then
 15 obviously was the walkway, the lateral convenience was
 16 constructed off from the 203 doorway, and went to the
 17 right, and connected with the elevator plan.
 18 Q. You just said the word "lateral convenience."
 19 I think that's first time I've heard that today.
 20 What do you mean by a "lateral
 21 convenience?"
 22 A. When we applied for a permit with the County,
 23 and they wanted to decide what they were granting us,
 24 given that we had put -- included steps because we were
 25 not willing to put in the -- all the extensive detail

1 that went around into the buildings. People wanted
 2 privacy. They didn't want walkways in front of their
 3 windows. So, we created a plan that, in fact, actually
 4 mirrors what we had gone to the master board with
 5 initially in March of 2019.
 6 So, when we built according to that
 7 preferred plan, approved plan, in March of '19, we
 8 created this walkway. The County looking at it said
 9 that we had created was a lateral convenience. So, we
 10 had created a walkway that was a convenience for the
 11 people from 202, 203, 209, 10, 11 and 12 to access the
 12 elevator.
 13 Q. Yeah. And Photograph 2 of R-28.
 14 What's shown in this photograph?
 15 A. The same one, or are you showing me another
 16 one?
 17 Q. This is the second photograph. This is the
 18 first photograph we looked at that you just described,
 19 and this is the second photograph.
 20 A. I think -- oh, I'm sorry. That shows the
 21 walkway rendition of what we thought -- what we were
 22 proposing the pathway would look like.
 23 Q. And where the extra railing and pathway is
 24 put in, that is Photo Shopped in; is that correct?
 25 A. That is correct.

1 Q. Photograph 3 of R-28 is on the screen.
 2 What does this photograph show?
 3 A. The actual picture of the building with no
 4 pathway constructed. It would be before we started the
 5 project.
 6 Q. And what does Photograph 4 that's being shown
 7 demonstrate?
 8 A. This was the Photo Shop demonstration of what
 9 the walkway would look like extended over to the
 10 elevator area.
 11 Q. And in Photograph 6 in R-28.
 12 What's depicted in this photograph?
 13 A. This is a picture of the building as it was
 14 -- as it existed prior to the construction of the
 15 walkway. And it shows -- it's hard to see through the
 16 vegetation, but obviously there's a stairway up to 209,
 17 210. There's a stairway up to 211, 212. There is no
 18 extension over to the left to connect to the elevator
 19 tower.
 20 Q. This is Photo 11 in R-28.
 21 What does this photograph show?
 22 A. This is a picture of the extreme west side of
 23 the building. It shows the window on the bottom level
 24 to Unit 213. To the immediate left in the darkened
 25 area between the tree and the white wall is the doorway

1 to 213. Above it is Unit 212, which is a two-story
2 townhome. And you can see to the left of the first
3 floor window on 212 the recessed doorway that is also
4 their doorway into Unit 212. The top floor then shows
5 the upper floor window of 212. The next window is the
6 bathroom of 212. The next window is the bathroom of
7 211, and the final window is the bedroom of 211.

8 This shows that the walkway which is
9 beginning at the doorway of 212 on that second floor
10 extends to the left. You can barely see the white line
11 of it through the trees, and does not cover the front
12 part of the window of 213, but does extend over the
13 third floor -- or the third bedroom window, I think, on
14 213. That was previously in the same area under the
15 trees.

16 Q. Do you know when this photograph was taken?

17 A. Yes. It was taken about a week or two ago.

18 Q. And who took this photograph?

19 A. I did.

20 Q. This is Photograph 12 of R-28.

21 What does this photograph show?

22 A. This is another perspective of the same area
23 of the building. You can see now the walkway. You can
24 see the stairs going up to Unit 212 and 211. 211's
25 doorway is behind the palm tree. The doorway. That

1 new repainted railings of the walkway. I should
2 clarify. The brand new railing of the walkway that are
3 now matched by the brand new painted railings of the
4 stairs.

5 Q. And what about on the backside of the
6 building?

7 What is depicted -- what is being depicted
8 in this photograph?

9 A. That's depicting both 213 and 212 from this
10 point. If you continue on with the view, looking out
11 over the waterway, it's totally on the opposite side of
12 where the walkway is constructed. So, the waterway
13 view is on the right side of the picture, and the
14 walkway view to the road and the air conditioning units
15 and the trees is on the left side.

16 Q. What does this photograph depict?

17 A. This is the south side of the building.
18 These are the four townhomes across the top level, and
19 Unit 208 on the right side lower level, and Unit 213 on
20 left side lower level. This depicts the view of these
21 units out across the walkway. So, the first floor is
22 208, 213, and the next two stories of each unit.

23 So, you can see they're divided by
24 fireplace chimneys. So, there is 212 on the end.
25 There's a fireplace, then it's 211. There's a half

1 stairway was always there. It was always over the
2 doorway into 213. So, there is no extension of the
3 walkway over the front of Unit 213's doorway, nor of
4 the window. And then the walkway continues on east
5 from that point, passing in front of 211, 210, 209, and
6 going over to the elevator tower.

7 Q. Showing you the next photograph, what does
8 this photograph show?

9 A. This is a closer picture of the same thing I
10 just described, which is the stairs that have always
11 been there going up to Unit 211 and 212; the walkway
12 extending from it. The walkway railings, as you can in
13 the lower level, the walkway railings are dark and
14 railings going up the stairs are dark.

15 And then you look on the railing of the
16 walkway as it begins to extend eastward towards the
17 center, that shows an opacity because we were in the
18 middle of a huge building remodel, and those railings
19 are wrapped because they were already installed with
20 the correct color of paint as opposed to the new
21 railings going up, which have just recently been
22 painted.

23 So, the contractor covered those railings
24 with a white plastic. So, while it looks more visible,
25 it's only visible because we were protecting the brand

1 wall, and then it's 210. There's a fireplace, and then
2 it's 209. The rest of the picture on the right depicts
3 the center unit that are all one story, and they extend
4 out.

5 Q. And what about this photograph? What's shown
6 in this photograph?

7 A. This is a picture of the very end of the
8 building. The gap between 200 building which -- and
9 then what you can't see immediately on the left out of
10 the photo is the 203 building. And this demonstrate
11 some of the vegetation that's in the area, including
12 the sea grape bush at the very low level. It's a three
13 or four-foot bush that, I believe, was also part of the
14 discussion.

15 Q. And just to clarify, to the left of this
16 photograph is the 300 building. Correct?

17 A. Correct.

18 Q. And what's shown in this photograph?

19 A. This is --

20 Q. I'm going to rotate it. Hold on one second.
21 Okay.

22 What's shown in this photograph?

23 A. This is just a closer-up view of the doorways
24 into 213 and 212. You can see the beginning of the
25 stairway at the bottom by the red Thai to go up to 212

1 and 211. The rest of the stairway to 212 and 211 is
2 behind that green tree. That is the original platform
3 that was always part of the stairs for access to 211
4 and 212. The walkway continues on from the left, going
5 east towards the central elevator tower. The door
6 below on 213 shows its historically same position with
7 only the walk -- with only the stair pad. It's been
8 there since the building was built over that doorway,
9 and nothing over the windows in either 213 or 212 on
10 the right side.

11 I'll just note the reason you see
12 different colors painting, we're in the middle of
13 painting the whole building white. That's why you see
14 some of it beige and some of it white.

15 Q. And then what about this last photograph?
16 What does this photograph show?

17 A. This shows the walkway -- I think I've done
18 this one. But this shows the walkway immediately to
19 the right of the door of 213. This would be shortly
20 after construction. And since then, this has been
21 fully landscaped.

22 Q. In the current view of the outside of this
23 area, are these 18 units still visible?

24 A. Yes. Maybe not as visible, because of the
25 landscaping that's in. But I think that you would see

1 you right now, I have questions for the witness
2 regarding both the original declaration of bylaws and
3 the amended declaration of bylaws. So we're going to
4 get to that. Okay? So, I just want everybody to be
5 aware that I've got questions regarding both for this
6 witness. So, there could be an objection to this.
7 That's fine. But I'm going to tell you right now, I'm
8 going to look at them, and I have questions for the
9 witness.

10 The second thing I've got, it's now --
11 what, 12:30 or 12:29. Do you need to take a break,
12 Ms. Woodcock?

13 MS. WOODCOCK: I'm almost finished with
14 Ms. Taylor. So, what I'd like to do is finish my
15 questioning, and then perhaps we can take the break,
16 and then come back and you can ask your questions if
17 that would be okay.

18 THE ARBITRATOR: Okay. So, what I'm going to say
19 now is, while I've interrupted, you finish your
20 questions. We'll take, what, a half an hour break is
21 it?

22 MS. WOODCOCK: Yes, sir.

23 THE ARBITRATOR: And then, Ms. Taylor, do you have
24 both the original and the amended declaration and
25 bylaws with you?

1 them marginally, but they're still somewhat visible.
2 Yes.

3 Q. I'm going to show one last document. This
4 has been marked as Exhibit R-4.

5 (Whereupon, the document was marked
6 as Respondent's Exhibit No. 4 for
7 identification.)

8 MS. WOODCOCK: And Mr. Emrich and Mr. Arbitrator,
9 Mr. Emrich has objected to this exhibit. This is one
10 of the ones we could not stipulate on. It as we had it
11 revised. The prior Exhibit R-4, which is what you have
12 in your records, Mr. Arbitrator, is just the amended
13 and restated bylaws. And this exhibit is correcting
14 that, and we're going to explain it in a minute. I
15 just wanted to get that kind of background first.

16 THE ARBITRATOR: I've just got a quick question.
17 I've got two quick questions. This is the 200 -- this
18 is the amended bylaws or -- oh, or the declaration?

19 MS. WOODCOCK: So, what you have in the binder
20 that you have, sir, is the amended bylaws. But there
21 is an amended declaration and Articles of
22 Incorporation, which is what we were trying to amend
23 R-4 to reflect the entire amended and restated
24 declaration, Articles of Incorporation, and bylaws.

25 THE ARBITRATOR: Okay. Because I'm going to tell

1 THE WITNESS: I know I have the amended. I'll
2 look in my records and double-check, and try to get a
3 hold of both before you ask me questions.

4 THE ARBITRATOR: Okay, because I've got some
5 questions for you, ma'am.

6 MS. WOODCOCK: And I can make sure that she has
7 them, sir.

8 THE ARBITRATOR: Okay. Thank you.
9 BY MS. WOODCOCK:

10 Q. All right. Ms. Taylor, this is -- showing
11 you Respondent's Exhibit 4. It's a 77-page document.
12 I'm not going to scroll through the whole thing here,
13 but have you seen this document before?

14 A. I probably have, but I can't recall it
15 exactly, other than what you just sent me.

16 Q. So, in 2018 the 200 La Peninsula Association
17 amended the declaration Articles of Incorporation and
18 the bylaws. Correct?

19 A. The 200 building we did in March of 2018. Is
20 that your question, or did you ask about the --

21 Q. Yes. That was my question.

22 A. Okay.

23 Q. And are you familiar with Section 15.5 of the
24 amended declaration regarding all --

25 MR. EMRICH: Your Honor --

1 BY MS. WOODCOCK:
2 Q. -- to common elements and association
3 property?

4 MR. EMRICH: Your Honor, I'm going to place my
5 objection again on the record here as to any questions
6 about this document. As I indicated earlier, it was
7 produced to me for the first time last night -- late
8 last afternoon, close to 5:00. This is a document --
9 these are documents that we requested in the original
10 document request that was sent to Resort Management.

11 Mr. Darling indicated that he did not
12 produce it, and would have had it if he had it, if it
13 had been in existence. And I'm going to object to it
14 being introduced, as it was not on the witness list
15 that this court -- that this arbitrator indicated had
16 to be filed back on February 1.

17 THE ARBITRATOR: Okay.

18 MS. WOODCOCK: If I may just respond briefly, your
19 Honor?

20 THE ARBITRATOR: Hold on. You don't have to. I'm
21 looking at Respondent's exhibits that they submitted
22 timely. Okay? And I'm looking at the amended and
23 restated bylaws. So, while you may have -- you may say
24 that they didn't give them to you in response to the
25 records request, they gave them to my as an exhibit,

1 THE ARBITRATOR: Because the document I've got,
2 R-4, and I'm looking at it right here, goes up to
3 page 24. And it ends with -- it's got Section 15 as
4 miscellaneous. Okay?

5 MS. WOODCOCK: Those are the bylaws, which are a
6 portion of this amended R-4 that I'm trying to present,
7 your Honor.

8 THE ARBITRATOR: When were they amended?

9 MS. WOODCOCK: When were the documents amended?

10 THE ARBITRATOR: Wait a second. Now, they were --
11 the one that you're talking about here for this hearing
12 has got -- on the first page it's got an amendment date
13 of May 1st, 2018. Correct?

14 MS. WOODCOCK: Correct, your Honor.

15 THE ARBITRATOR: Okay. Well, have you -- did you
16 get this last night, Counsel?

17 MR. EMRICH: I did last night, yes, your Honor.

18 THE ARBITRATOR: Okay. Well, you know what? I'm
19 going to let her ask her about this, and then you get
20 to cross-examine her. And that's going to be it.
21 Objection noted, but I'm going to let it in. I mean, I
22 gave you great latitude, counsel, in your presentation.
23 So I'm going to let it in. Go ahead.

24 MS. WOODCOCK: Thank you, your Honor.
25

1 and I'm assuming that they gave them to you as an
2 exhibit when they filed their exhibits.

3 MR. EMRICH: But I believe these documents -- this
4 document -- these documents are different than what's
5 in Respondent's submission. That's why she tried to
6 submit the amended document yesterday. That's what she
7 told me. It had not been submitted.

8 MS. WOODCOCK: Yes, your Honor. If I can just
9 clarify again for the record and for yourself. What is
10 originally R-4 is the 200 building's amended bylaws.
11 At the same time that these bylaws were amended, the
12 declaration and Article of Incorporation were also
13 amended. By clerical error they were left out of R-4.
14 These are documents that are recorded in the public
15 record of County of Collier County. And these are the
16 governing documents of the association.

17 THE ARBITRATOR: Okay. So, what you're saying
18 here is R-4 that I have in front of me that you gave me
19 for hearing was amended again or something? Or just --

20 MS. WOODCOCK: The exhibit was amended and it was
21 sent out to you yesterday, your Honor, but I guess you
22 haven't received it yet, the paperwork. But if it's
23 helpful in some way that I could e-mail it to you so
24 you have it directly, I don't know if you're amenable
25 to that.

1 BY MS. WOODCOCK:

2 Q. Ms. Taylor, do you need me to repeat the
3 question?

4 A. Yes, please.

5 Q. Are you familiar with Section 15.5 of the
6 amended and restate declaration of condominium?

7 A. Yes.

8 Q. And what does Section 15.5 of the amended and
9 restated declaration of condominium provide?

10 A. It talks about what we're allowed to make
11 replacement and repair up to a certain dollar amount,
12 the \$20,000 aggregate. It also says at least a
13 majority of voting interest who are present and are in
14 person have to agree. And then it goes into some other
15 already existing common elements. But the two key
16 things, I think, were the dollar amount and the
17 majority voting.

18 Q. Prior to the amended and restated declaration
19 of condominium being in effect, what was -- or were you
20 aware of what the provisions regarding material
21 alterations in addition to the common elements were?

22 A. I believe that prior to this bylaw change,
23 that we were -- that we had the standard Florida
24 statutory requirement of 75 percent in place. The
25 bylaws were amended effective -- began to -- if I could

1 explain why they -- how they came into existence.
 2 The bylaws were begun discussion based on
 3 our counsel's recommendation, Jamie Greusel, sometime
 4 in '15 or '16 that we had a number of errors in our
 5 bylaws, just dated. You know, they were old, and they
 6 hadn't been touched in quite a few years. Maybe a
 7 decade or more. So, she told us that she thought we
 8 should clean these all up.

9 And one of those changes was to go to a
 10 majority vote, because that was representing what was
 11 more common among condominium associations rather than
 12 the statutory 75 percent that's in Florida statute.

13 So, going along with this, we asked her to please fix
 14 the bylaws. We had some meetings with her in '15, '16
 15 or '17. I can't even remember. We have to go back to
 16 Jamie's billings. And we went through and cleaned up
 17 the bylaws, and took her recommendations on all points,
 18 including this change to a majority vote.

19 So, after that, then we were ready to move
 20 on this in -- I think sometime in '17. And again, our
 21 billing with Jamie Greusel's office would show when she
 22 completed the bylaw change. And at that point she came
 23 to us and told us that she was also working on the
 24 master board bylaws and revising them, because they
 25 also had a very dated document that she was updating.

1 So, what's different is we had the bylaws,
 2 and then we had the declarations, and we had this
 3 filing that did not get into the record. And on behalf
 4 of my attorney and us, we will apologize for that. But
 5 what this is just reflecting the bylaws that are in the
 6 submission of all these documents. The final -- the
 7 full piece of the puzzle of the change in our
 8 condominium bylaws.

9 And this was a building vote that was
 10 taken place. And if you go into the documents -- I
 11 don't know where it is, but the proxies for the
 12 building vote is there, showing that 75 percent
 13 majority.

14 MS. WOODCOCK: I don't have any other questions
 15 for Ms. Taylor.

16 THE ARBITRATOR: Before we leave this document, I
 17 want you to go back to the beginning of this document
 18 to where it says Definitions. Stop. Go up a little
 19 bit. Keep going. I want you -- is there a definition
 20 of voting interest here?

21 MS. WOODCOCK: Yes, sir. Section 5.21.

22 THE ARBITRATOR: Okay. Can you just go up to
 23 where it says Definitions?

24 MS. WOODCOCK: Yes, sir.

25 THE WITNESS: I think you went past it.

1 And she suggested that we hold onto our
 2 bylaw change and the vote on it, because we needed
 3 obviously a vote of two-thirds vote of the membership
 4 because we were still under a 75 percent majority with
 5 the old bylaws. She would suggest that we waited until
 6 the master board finished their bylaws, then she would
 7 make sure there were no tweaks in the master board that
 8 would cause us to have our bylaws out of sync again
 9 with the master board. And so we agreed to that.

10 So, we literally sat on this bylaw change
 11 for -- I can't tell you if it was six months or a year,
 12 but it was a substantial amount of time that we waited
 13 until the master board -- which I think David Petrella
 14 can speak to later -- amended their bylaws and updated
 15 them as well.

16 Once that was done, Jamie said we were
 17 back in sync with the master board. And we proceeded
 18 then in March of 2018 to vote the bylaw change to
 19 correct all of the major changes and smaller tweaks
 20 that Jamie had put in for us as our general counsel.
 21 Thus we were exempt from the statutory requirement in
 22 Florida statute of a 75 percent majority, because we as
 23 a board had approval with a 75 percent majority the
 24 change to a simple majority. And these are what you
 25 see here.

1 THE ARBITRATOR: Okay. Do you have any more
 2 questions?

3 MS. WOODCOCK: I do not have any more questions
 4 for Ms. Taylor. No.

5 THE ARBITRATOR: Okay. Mr. Emrich, do you have
 6 cross-examination or what?

7 MR. EMRICH: I do.

8 THE ARBITRATOR: All right. Why don't we let
 9 Ms. Woodcock deal with her child, and we'll come back.
 10 What time is it? It's 12:43. How about quarter after
 11 1:00?

12 MR. EMRICH: Sounds good.

13 MS. WOODCOCK: Thank you, your Honor.
 14 (There was a break taken, after
 15 which the deposition was resumed
 16 as follows:)

17 MR. EMRICH: We are ready to rock. Your Honor,
 18 you had --

19 THE ARBITRATOR: I can't hear you. You're on
 20 mute.

21 MS. WOODCOCK: You're on mute, Henry.

22 MR. EMRICH: My apologies.

23 THE ARBITRATOR: That's okay.

24 MR. EMRICH: The first time through on this kind
 25 of thing.

1 THE ARBITRATOR: I suspect it won't be the last
2 given the state of the world.

3 MR. EMRICH: Yeah. Unfortunately, I think you're
4 right, your Honor. You had indicated you were going to
5 ask some questions of her.

6 THE ARBITRATOR: Yes. And let me clarify
7 something that we did before the break here. You
8 objected to this new document coming in that you were
9 not provided with until last night. The question -- I
10 had a series of questions that I still have these
11 questions. Okay? Regarding both declarations and both
12 sets of bylaws, both the originals and the amended.

13 And now I find out today that I was not
14 given the amended as we're talking about today. So, it
15 would only be logical at some point in time when I'm
16 talking about an amended document that is outdated or
17 incomplete that it's going to lead into this other
18 document that is now complete. Okay.

19 And while I understand your objection
20 about, quote, what could possibly be described as
21 surprise evidence," the natural and logical course of
22 things based on the questions that I had in comparing
23 the original documents, meaning the declaration and
24 bylaws of both associations, to those as have been
25 amended would have led to discussion of this other

1 But at the end of the day, I've expressed
2 to you what my concerns are. You've indicated --
3 you're a trial lawyer. You understand what happens.
4 You know, you proceed, you prepare, you do things based
5 on what is given to you, what an arbitrator like
6 yourself sets up in terms of a -- in terms of, you
7 know, the rulings and what's going to happen and when
8 you got to do stuff. And, you know, we try to comply.
9 And things happen. I get that.

10 So, please understand where I'm coming
11 from. I'm not trying to be obstreperous. I'm not
12 trying to be a jerk. I understand your rules. I read
13 your procedures. You know, again, I'm trying to get a
14 list of the facts out to support what we have
15 submitted.

16 And so, that's all I'm going to say about
17 it. And again, I respect where you're coming from.
18 But, you know, you make your record, and we can, you
19 know, argue about it later if need be. But at this
20 point you know how I feel about it. I mean, there was
21 information that was submitted that was supposed to be
22 -- that we had requested with that, you know, the
23 packet of things that went with that. And none of that
24 was produced. Until -- and then we get these
25 amendments last night.

1 document. This now -- what I'll call the complete
2 document.

3 So, while I understand that you may have a
4 case in that it wasn't presented to you or your client
5 in regards to their records or documents request, my
6 questions are going to lead there, sir.

7 MR. EMRICH: Well, again, I've got my objection on
8 the record.

9 THE ARBITRATOR: Yes, sir. You do.

10 MR. EMRICH: And I respect your ruling. And
11 you've already said it's coming in. You said that
12 previously. And so, my point was real simple: One of
13 the reasons we submitted a document request and asked
14 for this right out of the block, is according to what
15 the witness has already said, it was in existence as of
16 -- it looks like what's scratched out on the
17 certificate is that it was in existence on May 1 of
18 2018. And so, we had asked for this, your Honor. And
19 we never got it.

20 And Ms. Woodcock indicated that it was
21 filed, it was on file. Yada-yada-yada. We heard from
22 Darling -- I don't want to rehash all that, because
23 I'll talk about that when we get to the stage where I'm
24 writing what my proposed findings and order -- you
25 know, my recommendation.

1 So, again, I'm not making any accusations
2 here. I'm going to do that. But at the end of the
3 day, we strongly objected to it coming in that late
4 hour. I mean, I had, you know, I just --

5 THE ARBITRATOR: I've been a litigator 30 years,
6 sir. Okay? And I understand your concern. I
7 sympathize. All I can say is once again, I had numerous
8 questions regarding these documents, and it's only
9 natural that the answers to those questions would lead
10 to these new documents. So, your objection is noted.

11 I appreciate your position thoroughly.
12 I've been on that side of the coin, so to speak. But I
13 am going to move forward because we're going to get
14 there whether you ask the questions or whether I ask
15 the questions.

16 MR. EMRICH: And that's fair. Again, you know
17 where I'm coming from. This is exactly why we asked
18 for the documents back when we filed our document
19 requests.

20 THE ARBITRATOR: I got it. I got it.

21 MR. EMRICH: Okay. Thank you. Thank you for
22 understanding my position, you know, as somebody who
23 does this kind of thing. You get it.

24 THE ARBITRATOR: As I told you before, I have not
25 been a desk jockey for the last 30 years.

1 MR. EMRICH: And I respect that. I try not to be,
2 too. And I appreciate where you're coming from. And
3 you know where I'm coming from.

4 THE ARBITRATOR: Okay. So, you will please
5 redirect the witness?

6 Ms. Taylor, how are you doing?

7 THE WITNESS: I'm fine. Thank you.

8 THE ARBITRATOR: Okay. I will have questions once
9 Mr. Emrich is finished, just to clarify some things in
10 my mind. Okay?

11 THE WITNESS: Okay.

12 THE ARBITRATOR: All right.

13 MR. EMRICH: Thank you.

14
15 REDIRECT EXAMINATION

16 By: Mr. Emrich

17 Q. Ms. Taylor, you mentioned that the new bylaws
18 and other documents that were submitted last night, you
19 indicated that were passed on May -- or effective as of
20 May of 2018, had been in the works for some time, and
21 had been held back, as you indicated I believe, for the
22 purposes of waiting for the master board to amend their
23 documents; is that correct?

24 A. Yes.

25 Q. And you indicated that that was going to

1 happen at some point around the same time that you did
2 this; is that correct?

3 A. I did not know when it was going to happen.
4 I stated that it did happen around that same time.

5 Q. Have you had an opportunity to look at
6 Exhibit R-12 of your attorney's presentation of
7 exhibits?

8 A. Which is?

9 Q. It's the certificate of amendment of the
10 bylaws and the other documents that are listed,
11 governance documents that are listed in Exhibit 12 for
12 La Club -- the Club at La Peninsula?

13 A. The ones that are dated 2017?

14 Q. No. The ones that are dated August 26, 2015.
15 If you look at -- you're looking at the first page?

16 A. Uh-huh.

17 Q. If you scroll down and look at when those
18 were amended, they were amended three years -- almost
19 three years before the documents that you said were
20 being held back to wait for the master board's
21 amendments.

22 A. That might be correct, but in 2014 it was
23 still causing consternation to our general counsel.
24 And they were being redone in 2017 and '18.

25 Q. But again, what was redone was not put into

1 effect until May of 2018. And my only point is that
2 what was being done here with the master board had been
3 done almost three years before. They weren't being
4 redone at the time of this -- at the time that you were
5 redoing them?

6 A. I'll have to refer back to Dave Petrella when
7 he speaks. It was my understanding that they were --

8 Q. That's fine. I'm just referring to the
9 document here as to when those were in place.

10 Was there any other reason why you changed
11 the voting percentages from 75 percent to 50 percent on
12 the eve of this vote by your board, 200 board and your
13 building owners on this project?

14 A. Well, I -- Barbara, want to object? I did
15 not -- that's a supposition that I did it on the eve.
16 We did not do it on the eve.

17 Q. All right. Excuse me for the
18 characterization.

19 A. Let me finish. You've asked a question. I
20 get to finish, please. We did not do it on the eve.
21 We actually had these drafted up quite some time
22 earlier. And by direction of our general counsel,
23 which we relied on for legal matters and by -- matters
24 and bylaw drafting, she asked us to wait. So, we
25 waited. There was no eve of waiting for something

1 else. We waited on general counsel advice.

2 Q. So, what your testimony then is, is that had
3 nothing to do with this project, getting this project
4 through with a 50 percent vote as opposed to a
5 75 percent vote?

6 A. No.

7 Q. And as I understand it --

8 A. Awhile ago -- we have a lot -- we have other
9 votes that occur. This isn't the only vote that ever
10 has occurred that needed to be recorded.

11 Q. As I understand it --

12 A. Our general counsel stated that it was
13 becoming common practice in a lot of condominium
14 associations to go to a simple majority rather than
15 three-quarters.

16 Q. As I understand it, your building is the only
17 building and the only association building that has
18 changed its voting requirements regarding the 75 versus
19 50; is that correct? Or any change in the common
20 areas. Correct?

21 A. That is correct, as far as I know. I would
22 not know the status of each building's bylaws. But I
23 do know that was a decision by the 200 building based
24 on counsel's recommendation.

25 Q. As of this date, the master board has not

1 changed its voting percentages from 75 to 50 percent
 2 for any material change, have they?
 3 A. That was a decision by the master board.
 4 Q. What's that?
 5 A. That was a decision by the master board. So,
 6 if you say they haven't, David Petrella can confirm
 7 that. I don't believe they have either.
 8 Q. We'll ask him. I just want to understand
 9 what we're talking about here.
 10 Now, one of the things that you talked a
 11 lot about when you were answering Ms. Woodcock's
 12 questions was that this accessibility issue to these
 13 unit owners on the second floor was something that was
 14 a very big concern to you because of their difficulties
 15 in getting around, I think as you put it; is that
 16 correct?
 17 A. Accessibility for the townhome owners, yeah.
 18 Q. The townhome owners. And the townhome
 19 owners, for the arbitrator's benefit, are the town --
 20 are the owners on the second floor of the wings of this
 21 building; is that correct?
 22 A. Those are the townhome owners that are on the
 23 east and west wings of the building, with no access
 24 except for the stairways.
 25 Q. So, again the answer would be that's correct

1 is that correct?
 2 A. They park their vehicles in ground floor
 3 parking spaces either underneath the building, in the
 4 visitor parking spot out front, or in the side parking
 5 spots that are all ground floor, which are all then
 6 accessible by wheeled conveyances to the base of the
 7 elevator that they would take to go up to the second
 8 floor.
 9 Q. And my point is, at least with respect to
 10 some of them, they have to come up some stairs to get
 11 to the ground floor or to the second floor if they go
 12 up the stairs to their unit; is that correct?
 13 A. If they were not to use the Elevator, yes.
 14 They had stairs to use.
 15 Q. And as you indicated, they also have second
 16 floors where the bedrooms are located in those units;
 17 is that correct?
 18 A. Correct.
 19 Q. With stairways going up to those units; is
 20 that correct?
 21 A. Correct.
 22 Q. So they have to climb stairs in their units
 23 as well. Correct?
 24 A. That is a decision with regarding their own
 25 personal inside of their unit.

1 -- I'm correct. Right?
 2 A. These are two-storey units. So, there's not
 3 eight of them there -- or yeah.
 4 Q. And the walkway that had been approved by the
 5 200 board building owners in part was to service those
 6 townhome owners, in addition to those along the ground
 7 to give them accessibility to the elevator; is that
 8 correct?
 9 A. Yes.
 10 Q. Now, just so I'm clear and so the arbitrator
 11 is clear, the people that live in those townhomes,
 12 where do they park their cars?
 13 A. In the parking lot.
 14 MS. WOODCOCK: Objection. Relevance.
 15 MR. EMRICH: Well, I believe it -- I think it's
 16 relevant, your Honor, because I think it goes to
 17 question her about why they -- her justification for
 18 the decision they made on moving forward with this
 19 project.
 20 THE ARBITRATOR: I'll just allow it, Counsel,
 21 Ms. Woodcock.
 22 MR. EMRICH: Thank you.
 23 BY MR. EMRICH:
 24 Q. How do they get to their -- they park their
 25 vehicles in garages underneath the ground floor units;

1 Q. I understand that. But there are stairs that
 2 go up to their bedrooms, a set of stairs if you will.
 3 Correct?
 4 A. Yes.
 5 Q. All right. Now, with regard to your -- you
 6 live in one of these townhomes; is that correct?
 7 A. Yes.
 8 Q. And you live on a second floor where you have
 9 the walkway outside your window that runs along below
 10 your windows; is that correct?
 11 A. No. The walkway is to the left of my
 12 windows.
 13 Q. But it's underneath the windows; is that
 14 right?
 15 A. You mean the walkway we constructed?
 16 Q. That you constructed.
 17 A. No, it is not underneath my windows. It is
 18 to the (audio break).
 19 Q. When you look out, you see the walkway from
 20 your windows in your unit?
 21 A. No. If you look at the pictures, I'm in 202.
 22 There is no walkway below my windows. The platform for
 23 access to the handicap -- handicap, I shouldn't call it
 24 that -- the elevated walkway is to the left of my front
 25 door.

1 Q. So, when you look out your windows, you don't
2 look at a walkway that's over the top of those windows,
3 covering those windows, shading those windows?

4 A. No.

5 Q. Right? Is that correct?

6 A. Correct.

7 Q. And you -- when we looked at some of the
8 photographs here, and if we could put the photographs
9 back up from Exhibit No. 7, P-7, and if we go to the
10 last photograph of that group?

11 A. Are you putting them up, or am I supposed to
12 be looking?

13 Q. We're going to put them up on the screen for
14 you.

15 A. Thank you.

16 Q. When you look at that photograph, what you
17 had previously indicated was from looking from the
18 doorway of 213 towards the elevator tower, you can see
19 that that walkway that was constructed, the darker area
20 of that walkway covers the windows -- a couple of the
21 windows into 213 as well as the other units on the
22 ground floor. Correct?

23 A. I would disagree with your description of
24 covering. It does not cover because it does not attach
25 to the wall. There is definitely a space with light

1 coming through between the walkway and those windows.

2 Q. But there is also a walkway that obscures
3 some of their view from their windows. Correct?

4 A. I will say yes, but no different than the
5 trees that used to be there.

6 Q. And there are now pillars outside of that
7 window that those folks look at; is that correct?

8 A. Yes. That is correct. There are now
9 pillars.

10 Q. And you folks that had this approved on the
11 second floor, you don't have that, do you?

12 A. No, we don't. We have railings.

13 Q. Now, with regard to the considerations of the
14 people on the ground floor, was one of the concerns
15 that was discussed when this project was presented, and
16 the reason why that it was voted on the basis that it
17 was to be a project connecting all nine units was
18 because of concerns expressed by some of the building
19 owners about the potential obstruction, if you will,
20 that we're looking at in that photograph for the ground
21 floor owners?

22 A. First off, it wasn't approved specifically
23 for nine. It was nine units mentioned within the proxy
24 allowing us to --

25 Q. I get that.

1 A. Well, if you get it, then please misstating
2 it to me. Thank you. So anyway, what we said was --
3 well, go back to the -- go back to the meat of your
4 question and not the supposition part, please.

5 Q. Again, was that a consideration that was
6 expressed by some of the building owners, the 200
7 building owners, who were asked to vote on this at the
8 time of the vote in June of 2018, and one of the
9 reasons why the minutes and the project that was passed
10 was a project to connect nine units that are enumerated
11 in the proxy to the walkway?

12 A. I don't agree with you.

13 MS. WOODCOCK: Objection. Asked and answered.

14 THE ARBITRATOR: Could you just make a short
15 statement? Was it? Yes or no, I mean?

16 THE WITNESS: It was designed -- I don't know
17 there's a short statement to that question, because
18 there's so many pieces to it. But there was -- it was
19 recognized that there would potentially be something in
20 front of some of the lower units. There was also the
21 recognition that the ones up above did not want it
22 attached directly to their building, which is why we
23 have it extended out from the building. So, we tried
24 to make it as away from the building as possible while
25 we did it. But notwithstanding that, it was also

1 voted by a majority to allow it.

2 BY MR. EMRICH:

3 Q. I understand that. But there were concerns
4 expressed by some of the building owners about the
5 impact of that walkway overhanging those windows in the
6 lower units. Correct?

7 A. I don't recall anyone saying that one to me
8 specifically, no. The only ones who would have
9 objected to me were 201, 208, and the current
10 at-the-time owner of 213. They did not say that to me.
11 The only person that said that to me was probably Mike
12 after he moved in.

13 Q. So, he was one of the owners that was
14 impacted concerned --

15 A. After the fact. He was not an owner at the
16 time of the vote.

17 Q. I understand that. So, he was one of the
18 persons that was impacted? His view was impacted.
19 Correct?

20 A. He has a post in front of his window, yes.
21 And he has an air conditioning unit.

22 Q. So, just so I'm clear, you were going over
23 some pictures that showed the front of his unit that
24 had been taken the other day. And those were in --

25 THE ARBITRATOR: Can't hear you.

1 BY MR. EMRICH:
 2 Q. -- R-28 of the Respondent's exhibit list.
 3 And if we go to the last couple of photographs that
 4 were looked at, that were looking at Mike's unit from
 5 the front, you talked about the fact that there was a
 6 stairway that went up to the unit above Mike's unit,
 7 that there was a deck that was over his doorway.
 8 Correct?
 9 A. Correct.
 10 Q. And we're looking at one of those photos
 11 right now. Okay?
 12 A. Yes.
 13 Q. And you indicated that the -- that there was
 14 already a walkway of some sort, porch or whatever you
 15 want to call for the unit above Mike that was
 16 overhanging his doorway. Correct?
 17 A. That is correct. That is what has been
 18 placed over his doorway since the building was built in
 19 1989.
 20 Q. And your point in making that was what?
 21 Making that statement was what?
 22 A. The walkway did not extend further to the
 23 east -- or west over his doorway.
 24 Q. So, the window to his kitchen, which is to
 25 the right of his doorway, did not have any walkway over

1 landing.
 2 BY MR. EMRICH:
 3 Q. It also shows a picture of a -- of what
 4 appears to be some sort of a support column; is that
 5 correct?
 6 A. That gray line could be. Perhaps not. I
 7 think so.
 8 Q. And that was what was in the original
 9 renderings that were provided with the original
 10 project; is that correct?
 11 A. Yes. Those were the renderings that were
 12 very loosely designed, waiting for an engineer to give
 13 us actual placements.
 14 Q. If we go back to R -- better yet, let's go to
 15 P-7. And we go back to the eight page of that
 16 document. I'm sorry, the seventh page. That is from
 17 inside of that area, looking out at what appears to be
 18 there now. Correct?
 19 A. Yes.
 20 Q. And as you can see, there are several more
 21 structural supports than what were depicted in the
 22 proposed rendering. Correct? That we just looked at?
 23 A. I'm going -- I told you the rendering was set
 24 up as a guide for what we would want it to get look
 25 like. The actual design that the engineering drew in

1 it. Correct?
 2 A. That is correct.
 3 Q. Thank you. Now, if we go back to Exhibit R-2
 4 for a minute, R-2? And if we go to the second picture
 5 in R-2, that is a proposed right side, if you will,
 6 right side proposed. That's the area looking into that
 7 corner that goes or connects the walkway or was going
 8 to connect the walkway to the elevator tower building.
 9 Correct?
 10 MS. WOODCOCK: Objection. Mr. Emrich is
 11 testifying again.
 12 BY MR. EMRICH:
 13 Q. Is that what that is?
 14 THE ARBITRATOR: Rephrase the question to an
 15 open-ended question.
 16 BY MR. EMRICH:
 17 Q. What does that picture depict?
 18 A. That picture depicts --
 19 MS. WOODCOCK: Asked and answered.
 20 THE ARBITRATOR: Go ahead. I'll allow it one more
 21 time.
 22 MR. EMRICH: Thank you.
 23 THE WITNESS: That picture depicts the walkway as
 24 proposed from the landing on the top of 209 and 210,
 25 extending across the open space to the elevator

1 order to support it, then brought in the number of
 2 posts. We also minimized the posts from double posts
 3 to single posts. So I can't say that there are many
 4 more, because you are counting double posts versus
 5 single posts.
 6 Q. Well, when we look at that, we can clearly
 7 see that there are more posts than what had been in the
 8 rendering. Correct? That we looked at first?
 9 MS. WOODCOCK: Objection. Asked and answered.
 10 THE ARBITRATOR: You covered the differences
 11 between the renderings and what was actually built.
 12 MR. EMRICH: Okay. As long as that point is in
 13 the record, that's all I need.
 14 THE ARBITRATOR: It's different. I got it.
 15 MR. EMRICH: Okay. Thank you.
 16 BY MR. EMRICH:
 17 Q. Now, one of the issues that you talked about
 18 here was that -- that were you trying to make decisions
 19 about accessibility versus privacy. And what --
 20 explain that for me. I didn't quite understand the
 21 point you were making when you were asked about that in
 22 connection with these particular decisions that were
 23 made regarding the project going forward.
 24 A. If you look at the picture that's still on
 25 the screen, if you stop at the first railing where it

1 clears the building, you would have made a sharp right
2 turn. If we had gone for 100 percent ADA
3 acceptability, which required a greater slope, then we
4 would have turned the corner on the right, attached it
5 to the building, gone back and attached it in front of
6 -- in that case it would have been 224, I believe. And
7 come around the front in front of 224's exit railing
8 before opening up to go onto the Elevator.

9 We had had a lot of comments from owners,
10 including the owner of 224 in that they valued their
11 privy. And the option then was to take this walkway,
12 and take it straight out from the building, and make
13 the small turn that we did, and keep this walkway from
14 attaching to the building, and being in front of
15 numerus windows or directly over numerous windows.

16 And when I say "directly over," not with
17 the gap that's shown in the other picture that shows
18 the gap between 213 and 208 that has a gap between the
19 walkway and the windows, but this would actually be
20 attached to the building. So, there would be no gap,
21 no allowance of any privacy. So, we took this ramp,
22 and we took it out across.

23 Now, in the end, this extension of the
24 ramp this way, which we had originally planned on but
25 found did not provide enough slope, was then the one

1 BY MR. EMRICH:

2 Q. Was there any consideration as to the impact
3 on the financial value of those units by the placement
4 of this walkway in the position that it was along the
5 second floor area over the windows with those posts
6 placed where they were along the ground floor of the
7 units on either side of the elevator tower?

8 A. We did not do these for discussions -- any
9 discussion of value on the units, whether it was the
10 townhomes other the lower ones. We focused on privacy
11 and accessibility for our owners. That was the sum
12 total of our discussions as we talked to owners, and as
13 we talked to engineers. If other people brought up
14 value issues, it was not something that we based our
15 decisions on.

16 MR. EMRICH: All right. I think I'm done, your
17 Honor. And can I just take a minute before I complete,
18 and go off record?

19 THE ARBITRATOR: Sure.

20 MR. EMRICH: Thank you.

21 (There was a break taken, after
22 which the deposition was resumed
23 as follows:)

24 MR. EMRICH: Back on the record. Can you hear me?

25 THE WITNESS: Yes.

1 that exactly matches what the master board approved.

2 Q. And as I understand what you're saying then,
3 is that the impact on the lower unit owners, in terms
4 of how this might impact their units, was secondary to
5 the considerations that you just mentioned?

6 A. No.

7 MS. WOODCOCK: Objection. Mischaracterizes the
8 testimony, and assumes facts not in evidence.

9 BY MR. EMRICH:

10 Q. Was there any consideration given to the
11 impact of this particular walkway on how it might
12 impact the potential value of the lower units along the
13 ground floor?

14 THE ARBITRATOR: Mr. Emrich, you're on redirect.
15 I don't recall your direct talking about the impact on
16 value of the lower units.

17 MR. EMRICH: Well, but I would indicate that she
18 was -- in her testimony, she was talking about the
19 considerations that were made regarding the placement
20 of this walkway. So, I think that it's only
21 appropriate for me to cross-examine her on that, and
22 ask some questions about that on redirect.

23 THE ARBITRATOR: All right, fine. A few questions
24 will be fine on that basis.

25 MR. EMRICH: Thank you.

1 BY MR. EMRICH:

2 Q. All right. So, one last question, then I'll
3 be done.

4 When this project was finally approved,
5 the ADA compliance aspect of it was no longer something
6 that was relevant to the project given what had -- what
7 decision you had made about moving forward; is that
8 correct?

9 MS. WOODCOCK: Objection. Asked and answered.

10 THE ARBITRATOR: This is his last question. I'll
11 just let it go ahead.

12 THE WITNESS: I thought that was has last
13 question. Am I supposed to answer that? I'm sorry.
14 I'm confused.

15 THE ARBITRATOR: Just answer. This is his last
16 question.

17 THE WITNESS: Okay. I'm sorry. Please say that
18 again.

19 BY MR. EMRICH:

20 Q. So, as I understand it, at the time that this
21 project -- the final project with the six units as
22 opposed to the nine units that was -- that you moved
23 forward with, as I understand what you're now saying
24 based on what was done, the concern about the one of
25 the features or aspects of it that had been advertised

1 to the building owners was the ADA compliance aspect
 2 was no longer a consideration?
 3 A. I would answer that by saying that it's not
 4 something -- it's not something that I am now saying.
 5 It was something that was discussed with owners
 6 verbally and at meetings, and it was discussed at the
 7 master board. It was gone through in detail in March,
 8 July, November at the master board, and it was a
 9 decision based on what we were voted authority in the
 10 proxy, which was to make a decision about this as board
 11 in the best interests of the building.
 12 Q. So, the answer is: It was not a concern at
 13 that point. It was not something that was part of this
 14 project?
 15 A. I will not use the word concern.
 16 MS. WOODCOCK: Objection.
 17 THE WITNESS: Thank you.
 18 THE ARBITRATOR: It's been asked and answered. I
 19 understand her answer, sir. So --
 20 MR. EMRICH: All right. I have no further
 21 questions, your Honor. Thank you.
 22 THE ARBITRATOR: Ms. Woodcock, do you have
 23 anything?
 24 MS. WOODCOCK: No, your Honor.
 25 THE ARBITRATOR: How are you doing, Ms. Taylor?

1 THE WITNESS: Pretty good, thank you.
 2
 3 EXAMINATION
 4 By: The Arbitrator
 5 Q. Okay. I need to get some facts straight in
 6 my head, ma'am. And do you have a complete list of
 7 exhibits for Respondent's exhibits?
 8 A. Yes. I believe I do. It's what Barbara gave
 9 me.
 10 Q. And what I want to discuss with you, it is
 11 Respondent's 15, 16 and 17.
 12 A. 15 the proxy votes.
 13 Q. Yeah.
 14 A. Okay. And 16 the proximate votes? Okay.
 15 Q. And 17 is proxy votes.
 16 (Whereupon, the document was marked
 17 as Respondent's Exhibit No. 15 for
 18 identification.)
 19 (Whereupon, the document was marked
 20 as Respondent's Exhibit No. 16 for
 21 identification.)
 22 (Whereupon, the document was marked
 23 as Respondent's Exhibit No. 17 for
 24 identification.)
 25 THE WITNESS: Okay. I have it here. I've got

1 them open. What's your question, please? Thank you.
 2 BY THE ARBITRATOR:
 3 Q. These exhibits seem to have some different
 4 dates on them as I go through them.
 5 A. Okay. Under 15 --
 6 Q. Right?
 7 A. 15 is March 6th. That was the vote on the
 8 proxy. That's why -- that was the vote on the bylaws.
 9 Q. Okay. 15 is to amend bylaws?
 10 A. Yes.
 11 Q. Whose bylaws?
 12 A. 200 building bylaws.
 13 Q. Now, in Exhibit 15, is actually two sets of
 14 votes it seems.
 15 A. If I could explain? I think somehow in all
 16 of these connections of trying to copy things, the
 17 second set of proxy is the actual vote on the walkway.
 18 The first set is the vote on the bylaws. There are
 19 various PDF creations and connections. These are both
 20 in the same document.
 21 Q. So, Exhibit 15 contains two sets of votes:
 22 One vote in the upper right-hand corner is 3/6/18.
 23 A. Correct.
 24 Q. And the second set of votes in the middle of
 25 the page is 6/26/18.

1 A. Correct.
 2 Q. Okay. The 3/6/18 represents the vote to
 3 amend 200 building bylaws; is that correct?
 4 A. Correct.
 5 Q. So, that's the vote for that.
 6 Then what is the 6/26/18?
 7 A. The 6/26/18 is the vote for permission for
 8 the proxy to go forward with the planning for the
 9 walkway. And the approval of it.
 10 Q. And these are those units on the votes?
 11 A. I'm sorry, pardon.
 12 Q. These are the votes of building 200 unit
 13 owners; is that right?
 14 A. Yes.
 15 Q. Now, let's go to R-16.
 16 A. Okay. That seems to be a repeat of the vote
 17 of March 6 of the bylaw change. Another copy of it,
 18 with all of the votes attached.
 19 Q. So, that's a repeat of part of 15, just with
 20 the votes attached. I got that right?
 21 A. Yes.
 22 Q. Now, 17.
 23 A. That is a repeat of the vote on the walkway.
 24 Q. So, essentially, I could throw Exhibit 15
 25 out, and just use 16 and 17.

1 A. Yes.
 2 Q. Because 16 is to amend the bylaws with the
 3 votes, 17 is a vote on the walkway with proxies?
 4 A. Yes. And I believe it's just 15 got included
 5 in an overabundance of documentation.
 6 Q. Shame on you.
 7 A. Right.
 8 Q. Now, you're going to need -- and I'm going to
 9 need some help here from counsel -- the master amended
 10 declaration of bylaws, and the master amend -- and the
 11 200 building amended declaration and bylaws. Let me
 12 know when you're with me.
 13 MS. WOODCOCK: I'm not sure what your question
 14 was. I'm sorry.
 15 THE ARBITRATOR: Okay.
 16 MS. WOODCOCK: You want me to clarify which
 17 documents are which documents?
 18 THE ARBITRATOR: I need four documents.
 19 MS. WOODCOCK: Okay.
 20 THE ARBITRATOR: Let me ramble on for a second.
 21 Okay? And I'm going to give counsel some understanding
 22 where I'm going here. I just need some facts. It
 23 seems that about the time that the vote to amend the
 24 bylaws and the vote on the walkway -- what we're
 25 calling the walkway -- are all pretty much around --

1 kind of around the same time. I need to determine at
 2 the time the vote was taken which set of bylaws and
 3 declarations controlled. Okay? That's what I need to
 4 know.
 5 MS. WOODCOCK: Understood.
 6 THE ARBITRATOR: Because to me, whether this
 7 project was voted on correctly is determined by the
 8 date that those amendments were or were not enacted.
 9 MS. WOODCOCK: Yes.
 10 THE ARBITRATOR: So, we can either do this through
 11 the witness, or we can do this through counsel.
 12 MS. WOODCOCK: I suggest doing it through counsel,
 13 because the documents are what the documents are. And
 14 they were recorded and passed when they were passed and
 15 dated. I don't think we really need witness testimony
 16 as to that. But that's my opinion.
 17 THE ARBITRATOR: Mr. Emrich, do you got a problem
 18 with that?
 19 MR. EMRICH: No, your Honor. No.
 20 THE ARBITRATOR: Okay. So, let's go off the
 21 record a moment, and we'll get this straight between
 22 the counsels.
 23 (Whereupon, a discussion was held
 24 off the record.)
 25 THE ARBITRATOR: We can go back on the record.

1 Does either counsel want to recap of what we've just
 2 gone through for purposes of the record? Mr. Emrich?
 3 MR. EMRICH: I'm not going to, your Honor.
 4 THE ARBITRATOR: Ms. Woodcock?
 5 MS. WOODCOCK: No, your Honor.
 6 BY THE ARBITRATOR:
 7 Q. Okay. Ms. Taylor, we're back on the record.
 8 And we had a conversation about various sections of the
 9 amended declaration for building 200, the amended
 10 declaration and bylaws for the master association.
 11 Right?
 12 A. Yes.
 13 Q. Okay. Did you follow that conversation?
 14 A. I believe so, but I'm assuming that when you
 15 ask me a specific question, if I have a doubt, you
 16 would clarify it for me. Thank you.
 17 Q. Absolutely, ma'am. I read -- now, I don't
 18 know if you were privy to this.
 19 Did you get a copy of -- I'll strike that.
 20 It's been brought up during the course of this hearing
 21 that certain unit owners who opted into the walkway
 22 project would pay for the construction of the project.
 23 Is that a correct understanding of the
 24 facts?
 25 A. Yes.

1 Q. So, people who are on the elevated first
 2 floor would pay for the walkway. And if a sidewalk had
 3 been installed, those people on the ground floor would
 4 pay for the sidewalk.
 5 A. Correct.
 6 Q. Now, it's also my understanding that
 7 maintenance of the walkway is going to be incumbent
 8 upon unit owners or association owners.
 9 Who gets to pay for maintenance?
 10 A. As it's written in the proxy, that after the
 11 unit -- after the walkway was developed and fully paid
 12 for, that it would become part of the common elements
 13 of the building and maintained through the building.
 14 Q. Only building 200 unit owners pay for
 15 maintenance of it?
 16 A. Correct.
 17 Q. So, the cost of any maintenance is not -- is
 18 or is not dispersed over the master association?
 19 A. No. None of the 200 building maintenance is
 20 dispersed to master board.
 21 Q. Are there any costs resulting from the
 22 walkway that are dispersed over master association?
 23 A. Since the walkway was finished, there have
 24 not been any costs that were dispersed over to the --
 25 I'm sorry, did you say the master, or the building?

1 Q. The master.
 2 A. No. I'm sorry. No. No walkway expenses
 3 were dispersed to the master at all, nor will they ever
 4 be.
 5 Q. Does that include insurance?
 6 A. Insurance is all paid individually by the
 7 building. Property, casualty, wind, fire, et cetera.
 8 Q. Does the master incur any other liabilities
 9 aside from insurance casualty that would be associated
 10 with the walkway?
 11 A. No. Zero.
 12 Q. I'm going to get a little facetious here, if
 13 you don't mind, ma'am?
 14 A. Please, go ahead.
 15 Q. So, Hurricane Zelda comes up the coast, and
 16 -- you're in Naples. Right?
 17 A. The Naples address; closer to Marco Island.
 18 Q. I know the area very, very well. Okay?
 19 Hurricane Zelda comes up and blows that walkway away
 20 just like Dorothy in the house, and it lands somewhere
 21 in Naples.
 22 Who is liable based on your understanding
 23 of insurance liability, things like that?
 24 A. The 200.
 25 MR. EMRICH: I object to her answering that

1 placed squarely on the owners of units in building 200?
 2 A. I would say only the bylaws as it related to
 3 the proxy being voted and approved that the owners
 4 would -- the townhome owners would pay for
 5 construction, and the approval by the building owners
 6 to accept the maintenance expense as a common element
 7 going forward. I would say that would be authorizing
 8 to put it into the bylaws if it was necessary.
 9 Q. Could you just give me a moment, ma'am?
 10 A. Yes, of course.
 11 Q. So, in some point of your testimony, it was
 12 when Ms. Woodcock was, I'll say, redirecting you or
 13 cross-examining you technically, because you were
 14 called as a witness by petitioner, you were briefly
 15 described cleaning up the bylaws as you called it.
 16 A. I did use that term casually, yes.
 17 Q. Excuse me?
 18 A. I said I did use that term. Yes.
 19 Q. Can you just give me a basic chronology on
 20 how that cleanup started?
 21 A. Sometime after I became the treasurer -- so
 22 probably after '13 or '14, and it might have been after
 23 we commenced -- we had a settlement for Hurricane Irma
 24 back in '12 or '13, and proceeded to do some building
 25 repairs. And as we were looking at pieces of the

1 question, your Honor. She's not a lawyer.
 2 THE ARBITRATOR: I said based on her understanding
 3 of the documents. She's a board member.
 4 MR. EMRICH: Okay.
 5 THE WITNESS: I'm also in the middle of dealing
 6 with Citizens and Irma. I actually have Irma and Zelda
 7 close in my mind, also being facetious, sir.
 8 Anyway, the buildings' insurance would be
 9 approached, and obviously a claim would be made for the
 10 repair of that. And then depending on building
 11 deductibles and determination, it would be a cost
 12 borne, we hope, by insurance. And then it would be a
 13 question if the owners had to have any responsibility
 14 after an insurance claim was made. The building.
 15 BY THE ARBITRATOR:
 16 Q. So, it's basically building 200. They're all
 17 on the hook for this walkway if something happens?
 18 A. That would be correct as with any other
 19 common element. Yes.
 20 Q. Aside from the governing documents that we've
 21 discussed, meaning the building 200 amended declaration
 22 and amended bylaws, and then the master association
 23 amended declaration and amended bylaws, are there any
 24 other documents that, to your knowledge, that reflect
 25 the liabilities associated with the walkway being

1 building and how it was being managed, our general
 2 counsel said that there were a number of aged flaws in
 3 our bylaws. Just a matter of time and age. You know,
 4 as things become outdated with time or with changes
 5 within the building. And she suggested that we re-do
 6 the bylaws.
 7 And so it was that discussion after --
 8 perhaps after the Wilma Hurricane fixes that we went
 9 through and said we should clean up the bylaws, and
 10 have those as efficient as possible. And that was upon
 11 recommendation of general counsel, Jamie Greusel. So,
 12 we proceeded to meet with her a couple of times as she
 13 went through our bylaws, and pointed out what she felt
 14 were old language, possibly some areas that were in
 15 conflict with Florida statute. Nothing -- what do I
 16 want to say -- debilitating that would stop us from
 17 running the association, but just to recognize the fact
 18 that we had old bylaws.
 19 And so we agreed to that, and went through
 20 a long process with her of reviewing and exchanging.
 21 As part of that, one of the recommendations was to go
 22 to a simple majority, which she had also indicated was
 23 a more common direction that boards were going instead
 24 of the three-quarter vote for a lot of changes. So, we
 25 went along with her recommendations.

1 I can't tell you that I remember those
2 changes. I'm assuming that in Jamie Greusel's records
3 somewhere are detailed descriptions of what she went
4 from bylaw Version 2013 to bylaw Version 2018. But
5 that was all done at general counsel recommendation.
6 So, it was a long process which then, as I explained
7 earlier, became halted when Jamie Greusel said to us,
8 "I'm also looking at the master board."

9 And I know they were doing something at
10 the master board. And I wasn't serving on the master
11 board at the time, so I can't -- it was my
12 understanding they were changing the bylaws. But if
13 they didn't, Jamie still gave us counsel to hold off on
14 ours until she had rewritten the master's to make sure
15 that we tried to stay in sync with what she considered
16 to be upcoming master bylaw changes.

17 So, we were going on the advice of general
18 counsel to make all those steps to keep the building as
19 updated as possible.

20 Q. I don't want you to necessarily tell me what
21 your lawyer said. That's none of my business.

22 A. Sorry.

23 Q. No. I mean, well, I don't want to get into
24 specifics.

25 THE ARBITRATOR: Counsel Woodcock, can you please

1 both counsel an opportunity to ask some questions based
2 on the stuff I've asked if they want to. I think I got
3 this straight in my mind now. Mr. Emrich?

4 MR. EMRICH: No questions, your Honor.

5 THE ARBITRATOR: Ms. Woodcock?

6 MS. WOODCOCK: No questions, your Honor.

7 THE ARBITRATOR: Okay. Thank you for your time,
8 ma'am. You've been very patient. I appreciate it.

9 THE WITNESS: Thank you.

10 (Whereupon, the witness was
11 excused.)

12 THE ARBITRATOR: Mr. Emrich, do you have any more
13 witnesses?

14 MR. EMRICH: Yes, I do, your Honor.

15 THE ARBITRATOR: Okay. Who's next?

16 MR. EMRICH: Mr. Petrella. Or Doctor. I
17 understand he's a doctor. Dr. Petrella.

18 THE WITNESS: Present.

19 MS. WOODCOCK: Dr. Petrella isn't listed as an
20 representative of the association -- of the master
21 association on petitioner's witness list. So, I'm
22 going to state an objection to that. But I had talked
23 with counsel prior, and he stated that he would have
24 him near and available to testify, so I'm going to
25 allow it to proceed.

1 go to the definition of voting interest again in the
2 200 bylaws?

3 BY THE ARBITRATOR:

4 Q. So, Ms. Taylor, are you able to see that on
5 your screen: Voting interests?

6 A. I can read part of it. The problem is the
7 view. Just a minute. I got to shut down the view of
8 all the screens. Okay. "Voting interest shall be
9 defined as the arrangement established in the
10 condominium documents." Is this the one you were
11 referring to? 5.21?

12 Q. Right. This is one of the changes that got
13 adopted?

14 A. (Witness pausing.)

15 Q. Is this one of the changes that was adopted?

16 A. I don't believe I know if that's one of the
17 ones, because that doesn't address the simple majority.

18 Q. Okay. Because in the original documents,
19 there was no definition of voting interest for building
20 200. It only appeared in the declaration of the master
21 bylaws.

22 A. And I would say that was probably one she
23 suggested. That's the only conclusion I could draw
24 from your information.

25 Q. Can you just give me a moment? I'll give

1 THE ARBITRATOR: Okay. This is how I feel about
2 it. I mean, you know, we're not Circuit Court, we're
3 not in the DCA, we're not part of the Supreme Court of
4 the U.S. Supreme Court here. Okay? There was a bit of
5 a surprise from Mr. Emrich's part about the amended
6 bylaws.

7 MS. WOODCOCK: Understood, your Honor.

8 THE ARBITRATOR: Mr. Petrella is here. You know,
9 let's just have it out here today, folks. Make a
10 record, and whatever I decide, you know, you go to the
11 next level.

12 MS. WOODCOCK: Yes, your Honor. Understood.

13 THE ARBITRATOR: Mr. Emrich, call your witness.

14 MR. EMRICH: Yes. Dr. Petrella.

15 THE WITNESS: Yes.

16 THE ARBITRATOR: Sir, would you please raise your
17 right hand.

18 (The oath was thereupon duly
19 administered to the witness by the
20 Arbitrator.)

21 THE ARBITRATOR: Okay.

22 MR. EMRICH: Your name for the record, sir?

23 THE WITNESS: David Petrella.
24
25

1 DAVID PETRELLA,
2 having been first duly sworn, was examined and
3 testified as follows:
4

5 DIRECT EXAMINATION

6 By: Mr. Emrich

7 Q. And your address?

8 A. My official address is a Michigan residence.
9 Currently, we have a condominium here at 700 La
10 Peninsula Boulevard.

11 Q. And what role do you play in the master
12 board?

13 A. I am the current president.

14 Q. And before that were you on the master board?

15 A. Yes.

16 Q. And what role did you play on the master
17 board?

18 A. I was a director from 2018 until such time
19 that I was voted in as president.

20 Q. And that was when?

21 A. July 2019.

22 Q. So, as president you were present at the
23 July 11 of 2019 meeting?

24 A. Correct, but I did not assume the presidency
25 until after that meeting.

1 board in March of 2018, have there been any changes in
2 your bylaws, your declaration documents, any of the
3 documents that govern your association's operation from
4 what was adopted in August of 2015?

5 A. Yes.

6 Q. So, there have been changes?

7 A. Yes.

8 Q. And when did those occur?

9 A. To the best of my recollection, they would
10 have been May or June of 2019.

11 Q. 2019?

12 A. Or maybe 2020.

13 Q. 2020. So, it would not have been around the
14 time that this project was first approved by the 200
15 board and the 200 owners. Correct?

16 A. It would have been subsequent to that.

17 Q. Thank you, sir. Now, in 2018 when you got on
18 the board, was there an architectural control
19 committee?

20 A. I don't believe so. Not an active one.

21 Q. What do you mean by that?

22 A. There were no designated members at the time.

23 Q. And how long had that been the case?

24 A. Probably since prior to or just at the time
25 of Hurricane Irma.

1 Q. So, it was effective after that meeting, sir?

2 A. Correct.

3 Q. But you were involved in the vote that was
4 taken at that time?

5 A. Correct.

6 Q. And were you involved in preparing any of the
7 minutes at that time?

8 A. I assisted in supplying notes to management
9 for the March 12th meeting. Yes.

10 Q. The March 12th meeting of 2019?

11 A. Correct.

12 Q. And my understanding is that you would have
13 also been then involved in the January 2019 meeting of
14 the master board?

15 A. I was present, yes.

16 Q. And are you familiar, sir, your role with
17 regard to the architectural control committee of the
18 master board?

19 A. Maybe if you could be more specific?

20 Q. Would you -- you said that you got on the
21 board in 2018.

22 What part of 2018?

23 A. Most likely it was March of 2018, when we had
24 the annual board of director elections.

25 Q. And at any time since you've been on the

1 Q. As to what? I'm sorry. I didn't catch the
2 last part?

3 A. Prior to Hurricane Irma.

4 Q. What was the date of that?

5 A. For our community, that was September 2017.

6 Q. So, was the architectural control committee
7 put in abeyance at that time, or just suspended? Or
8 what happened?

9 A. That's a very good description. I think it
10 was placed in abeyance, and used as an ad hoc committee
11 rather than a standing committee.

12 Q. So, at any point from March of 2018 until
13 January of 2019, was there an arc control committee in
14 place on the board, master board?

15 A. Not to my knowledge, no.

16 Q. So, at what point do you -- was the
17 architectural control committee reinstated?

18 A. It was after -- it was actually at the first
19 meeting that I ran as president. That would have been
20 August of 2019.

21 Q. So, at the time of the March 2019 master
22 board meeting, there was no arc committee in place?

23 A. Correct.

24 Q. And that would have been the case in January
25 of 2019 as well?

1 A. Yes.
 2 Q. In looking at -- let me see if can find it a
 3 minute here, sir. R-31.
 4 MS. WARD: Working on that.
 5 MR. EMRICH: Okay. Thank you.
 6 (Whereupon, the document was marked
 7 as Respondent's Exhibit No. 31 for
 8 identification.)
 9 MR. EMRICH: And, your Honor, just for your
 10 edification, this particular document was part of the
 11 additional documents that counsel provided earlier last
 12 week as part of an amended submission. Or it may have
 13 been even the week before that, your Honor.
 14 THE ARBITRATOR: But did you object to those?
 15 MR. EMRICH: What's that?
 16 THE ARBITRATOR: Did you object to R-25 through
 17 31?
 18 MR. EMRICH: No, I did not. I only objected to
 19 the one document -- so called legal opinion.
 20 MS. WOODCOCK: We can't hear you, Henry.
 21 MR. EMRICH: What was that?
 22 MS. WOODCOCK: We couldn't hear you.
 23 MR. EMRICH: I'm sorry. That only dealt with the
 24 so-called legal opinion.
 25 THE ARBITRATOR: Let me just clarify something in

1 THE COURT REPORTER: Can't hear you.
 2 BY MR. EMRICH:
 3 Q. -- which is R-31 in front of you.
 4 THE COURT REPORTER: We can't hear you.
 5 BY MR. EMRICH:
 6 Q. -- looking at the notes in front of you on
 7 R-31, Item No. 6 references a discussion: Vote, ARC
 8 review, Unit 407, interior blinds. Correct? Do you
 9 see that?
 10 A. I see that.
 11 Q. And can you tell me anything about that
 12 particular vote? You had indicated that you didn't
 13 believe that ARC was in place at that time?
 14 A. You're breaking up, Counsel. As you turn
 15 your head away from the microphone, you're no longer --
 16 Q. All right. I'm trying really hard not to do
 17 that. So, what I asked you is were you aware --
 18 looking at those notes, those minutes, R-31, that
 19 there's a discussion about a vote from and
 20 architectural review committee -- or architectural
 21 review regarding Unit 407? I apologize for that
 22 misstatement.
 23 A. Yes. I see that, but I would probably need
 24 to see prior minutes, because that may have been
 25 something that had been submitted to the ARC several

1 my notes here. I had written that you objected to 25
 2 to 31. Is that incorrect?
 3 MR. EMRICH: That's incorrect, yes.
 4 THE ARBITRATOR: Okay. So, 25 to 31 is no
 5 objection?
 6 MR. EMRICH: Hang on a minute. I have to find my
 7 notes.
 8 MS. WOODCOCK: I have that Mr. Emrich objected to
 9 25, and then 32.
 10 MR. EMRICH: That's correct. 25 and 32 I objected
 11 to.
 12 THE ARBITRATOR: Okay. Thank you for correcting
 13 my notes.
 14 MR. EMRICH: No, thank you. All right.
 15 BY MR. EMRICH:
 16 Q. So, Dr. Petrella, looking at the January
 17 meeting, my understanding was that the project at issue
 18 had come before the master board; is that correct?
 19 A. Yes.
 20 Q. And at that point it was tabled. Correct?
 21 A. Yes.
 22 Q. And then it came before the master board in
 23 March of 2019. Correct?
 24 A. Which was the subsequent meeting. Correct.
 25 Q. Right. Now --

1 months prior, and only now came up to the master board
 2 after the January 2019.
 3 Q. So, what you're telling me is then, as far as
 4 you were concerned, ARC review was not in place at that
 5 time?
 6 A. Correct.
 7 Q. And that would have been true in March
 8 of 2019. Correct?
 9 A. Correct. And it was at that meeting that the
 10 discussion occurred whereby the master board members
 11 decided that it was time -- rather than having the
 12 master association make all these decisions, there
 13 would be a buffer, and that buffer would be the ARC.
 14 Q. 2019 that was not yet in place. Correct?
 15 A. Correct.
 16 Q. And the plans then that we're talking about
 17 here today for the walkway were then put in place or
 18 put before this board at that time. Correct?
 19 A. Correct.
 20 Q. But there was no ARC review done at the time.
 21 Correct?
 22 A. Stated.
 23 Q. I'm sorry?
 24 A. Stated.
 25 Q. So, that's a yes?

1 A. That is correct.
 2 Q. Thank you, Doctor. Now, were you presented
 3 at that time with any kind of an application for
 4 architectural review?
 5 A. No.
 6 Q. Control review?
 7 A. Did you ask another question, Counsel?
 8 Q. Are you unable to answer that question?
 9 A. I thought I did. I said no.
 10 Q. I'm sorry?
 11 MS. WOODCOCK: He said he did answer. Maybe you
 12 didn't hear him.
 13 MR. EMRICH: I'm sorry. I didn't hear him. What
 14 did he say? He's kind of soft spoken.
 15 MS. WOODCOCK: You can repeat your answer,
 16 Dr. Petrella.
 17 THE WITNESS: Repeat the question then so we can
 18 be certain that we're talking about the same point.
 19 BY MR. EMRICH:
 20 Q. Was there any application for architectural
 21 review control filed by the building 200 board at that
 22 time?
 23 A. No.
 24 Q. But a plan did come before your board that
 25 you reviewed and commented on. Correct?

1 70s and '80s, and they were no longer able to access
 2 their units because elevators didn't go to their
 3 floors.
 4 Q. Was the project that was brought before you
 5 and it was discussed and shown to you a project that
 6 would connect nine unit owners to the walkway?
 7 A. You know, my recollection was that no
 8 specific number was given during that entire
 9 discussion. I do recall hearing nine units, because
 10 it's now subsequent to that risen multiple times. But
 11 do I have any specific memory of that number? No. I
 12 can say it was somewhere between six and nine.
 13 Q. Were you aware that the 200 board had had a
 14 special meeting where the owners were asked to vote of
 15 200 board -- of 200 condominium association on the
 16 project?
 17 A. Perhaps not in the detail that you described.
 18 What the master board was informed at the time, that
 19 they had circulated a proxy, and the proxy passed with
 20 the required vote.
 21 Q. Did you review that proxy at any time?
 22 A. No, not personally.
 23 Q. Did you review the minutes of the meeting --
 24 of the special unit owners' meeting?
 25 A. We were assured by management that everything

1 A. "You" meaning me personally, or "you" meaning
 2 the master board?
 3 Q. Before the master board.
 4 A. That discussion initiated in January, and it
 5 continued into March.
 6 Q. But the matter was tabled in January. No
 7 official action was taken. Correct?
 8 A. That is correct.
 9 Q. And in March of 2009(sic), the plans then
 10 were discussed with you; is that correct?
 11 A. March of 2019 I think you mean.
 12 Q. Yes. That's what I believe I said.
 13 Do you recall anything about that
 14 discussion?
 15 A. Yes. There was a power point presentation
 16 given by Nancy Taylor and Dr. Bob White.
 17 Q. What do you recall about that presentation?
 18 A. Very extensive, very detailed, and it
 19 engendered a great deal of discussion.
 20 Q. What was that discussion about?
 21 A. We heard from several unit owners in the 200
 22 building, you know, requesting that we seriously
 23 consider the proposition, you know, so far as even
 24 though they had bought units 20 years ago when they
 25 were in their 50s and 60s, that now they were in their

1 was in order.
 2 Q. So, is the answer to the question: You did
 3 not review the minutes?
 4 A. I did not personally review the minutes.
 5 Q. And at that time there was some notes made in
 6 the file that -- or in the minutes that the discussion
 7 was about the fact this building, this walkway, was
 8 going to be ADA compliant. Correct?
 9 A. That I can't recall was in the initial
 10 description in January, but at the time of the voting
 11 in March, I think it was discussed that it may or may
 12 not be.
 13 Q. So, again coming back to what I asked you,
 14 did you -- you would not have looked at the proxy or
 15 the minutes of the board from the 2018 meeting?
 16 A. That is --
 17 MS. WOODCOCK: Objection. Asked and answered.
 18 BY MR. EMRICH:
 19 Q. Did you look at the letter that had been sent
 20 to the owners of 200 with regard to proxy vote?
 21 MS. WOODCOCK: Mr. Emrich, can you please wait
 22 until the arbitrator rules on my objection or, I guess,
 23 withdraw your question so we have a clear record?
 24 THE ARBITRATOR: What was the objection again?
 25 Was it asked and answered?

1 MS. WOODCOCK: Yes.
 2 THE ARBITRATOR: Yes. It has been asked and
 3 answered, sir.
 4 BY MR. EMRICH:
 5 Q. Did you review -- and I haven't asked this
 6 one.
 7 Did you review the letter that had been
 8 sent to the owners of building 200 with that proxy?
 9 A. I was not even aware of the letter, and I
 10 don't think that's the master board's responsibility
 11 either.
 12 Q. So, the answer is no? Your answer is no?
 13 A. It's no to a question that I -- "you" is
 14 irrelevant.
 15 THE ARBITRATOR: Dr. Petrella, this is the
 16 arbitrator.
 17 THE WITNESS: Yes, sir.
 18 THE ARBITRATOR: This would go a lot faster and
 19 simpler if you just answer the question without
 20 commentary. If you know it, you know if. You don't,
 21 you don't. If you wouldn't mind, just answer the
 22 question that's asked, sir.
 23 THE WITNESS: I'm sorry, your Honor.
 24 THE ARBITRATOR: That's okay. It just makes life
 25 a lot easier for everyone. This way counsel doesn't

1 have to repeat the question, and say whatever,
 2 whatever.
 3 THE WITNESS: Understood.
 4 THE ARBITRATOR: Go ahead, Mr. Emrich.
 5 MR. EMRICH: Thank you, your Honor.
 6 BY MR. EMRICH:
 7 Q. Now, Dr. Petrella, you mentioned something
 8 about the July meeting of the master board.
 9 Do you recall talking about that?
 10 A. Only relative to my position as a director
 11 during that meeting.
 12 Q. Now, if we put R-22 in front of you, those
 13 are the minutes from the July 11, 2019 master board.
 14 Correct?
 15 MS. WARD: Can you repeat the exhibit you're
 16 referencing, Mr. Emrich?
 17 MR. EMRICH: Yes. R-22.
 18 (Whereupon, the document was marked
 19 as Respondent's Exhibit No. 22 for
 20 identification.)
 21 MS. WARD: Dr. Petrella, if you need me to scroll
 22 to the next page, just let me know and I'll keep
 23 scrolling for you. Okay?
 24 THE WITNESS: Thank you. Okay. Okay. Okay.
 25

1 BY MR. EMRICH:
 2 Q. All right. Let's go back to the second page
 3 of that document. Going down to about two-thirds of
 4 the way down, Dr. Petrella, according to that document,
 5 the architectural review control committee had been
 6 reconstituted at the annual meeting in March; is that
 7 correct.
 8 A. That's not correct.
 9 Q. But that's what that says; is that correct?
 10 A. That's what it says, but it wasn't as you
 11 could see from reading the March 2019 minutes.
 12 Q. Okay. So, there would have been no master
 13 board activity then with regard to architectural review
 14 control that would have been voted upon at that
 15 meeting; is that correct?
 16 A. That's correct.
 17 Q. And so, you indicated then that the first
 18 time that the architectural control committee was put
 19 in place would have been in August; is that correct?
 20 A. Correct.
 21 (Whereupon, the document was marked
 22 as Respondent's Exhibit No. 34 for
 23 identification.)
 24 BY MR. EMRICH:
 25 Q. If we go to R-34, that's the first time that

1 the architectural review committee would have been in
 2 place; is that correct?
 3 A. My recollection is that it was at this
 4 August 14th meeting. Yes.
 5 Q. And as I look at that document, there's
 6 nothing on there or this particular plan or project was
 7 voted upon by the master board; is that correct?
 8 A. I can't see all the minutes, so --
 9 Q. All right. Well, why don't we take a minute
 10 for to you look at them before you answer that
 11 question.
 12 MR. EMRICH: And, your Honor, might this be a good
 13 time to take a short break?
 14 THE ARBITRATOR: Sure. No problem. Ten minutes?
 15 Five minute?
 16 MR. EMRICH: That would be perfect. Thank you.
 17 THE ARBITRATOR: Okay. I just want to let you
 18 know it's 3:00.
 19 (There was a break taken, after
 20 which the deposition was resumed
 21 as follows:)
 22 MR. EMRICH: All right. Are we able to go back
 23 on, Doctor?
 24 THE WITNESS: Yes.
 25

1 BY MR. EMRICH:
 2 Q. Doctor, you've had an opportunity to look at
 3 R-34, which are the minutes of August 14, 2019, of the
 4 master board; is that correct?
 5 A. Correct.
 6 Q. In reviewing those minutes, Doctor, is there
 7 any indication that the ARC committee was reconstituted
 8 at that meeting?
 9 A. There is no written indication. Correct.
 10 Q. So, and those are the official meeting
 11 minutes of the master board?
 12 A. Correct. But there's a reason for that, if
 13 you'd care me to explain that.
 14 Q. We'll let Ms. Woodcock ask you that.
 15 I just want to know if these minutes
 16 include anything that recreates the arc committee of
 17 the master board in the August meeting of 2019, of that
 18 master board as you indicated previously?
 19 A. Other than the inference that all the
 20 committees had been re-established.
 21 Q. Well, again we could go back to that -- those
 22 minutes, and if we look at page 3 -- put page 3 up on
 23 the screen. Committee reports.
 24 Is there anything in that committee
 25 reports where an architectural review committee was

1 A. Again, I realize this answer becomes a little
 2 lengthy, and perhaps more than you care to hear, but
 3 the person who had historically chaired that committee
 4 had let me know that he no longer desired to do that;
 5 and that that was one of the reasons why that this was
 6 delayed in getting, you know, minutes in writing as to
 7 the disposition of that committee.
 8 Q. I understand what you're saying. But again,
 9 there was no official reconstituting of that ARC review
 10 committee in August as you indicated it had been
 11 reinstated?
 12 MS. WOODCOCK: Objection. Asked and answered, and
 13 mischaracterizes his testimony.
 14 THE ARBITRATOR: I'm going to sustain it. I mean,
 15 you know, you can just ask the guy when it was
 16 officially reinstated.
 17 MR. EMRICH: I've been trying to do that, your
 18 Honor.
 19 MS. WOODCOCK: And he's answered that multiple
 20 times.
 21 THE ARBITRATION: Yeah.
 22 BY MR. EMRICH:
 23 Q. When did you -- when was it officially
 24 reconstituted?
 25 A. As needed. I guess that's -- in medicine we

1 recreated?
 2 A. It's not in the written report.
 3 Q. So, no official recreation of the ARC
 4 committee. Correct?
 5 A. No official --
 6 MS. WOODCOCK: Objection.
 7 THE WITNESS: -- recreation of the architectural
 8 review committee.
 9 BY MR. EMRICH:
 10 Q. Did that happen -- when was the next master
 11 board meeting after the August 2019 master board
 12 meeting?
 13 A. Probably September.
 14 Q. Was -- (audio break) committee was voted on
 15 at that time?
 16 THE COURT REPORTER: We missed the first part of
 17 your question.
 18 BY MR. EMRICH:
 19 Q. Do you know, as you sit here today, whether
 20 or not the arc committee was voted on at that meeting?
 21 A. There's certainly no vote required. Like I
 22 had said earlier, the ARC was an ad hoc committee that
 23 if indeed they had been submitted an application, then
 24 the committee would have been reformed.
 25 Q. Was an application --

1 say PRN. It's an ad hoc committee, and would have been
 2 called upon to act when indeed there was an application
 3 submitted.
 4 Q. Was there an application for this project for
 5 and ARC committee review ever submitted?
 6 A. Not to my knowledge.
 7 Q. And so, when in November of 20 -- (audio
 8 break).
 9 THE COURT REPORTER: We lost you. Henry, you're
 10 on mute.
 11 BY MR. EMRICH:
 12 Q. When this matter came before the master board
 13 in November of 2020 -- November 24, 2020, that would
 14 still have been the case. Correct?
 15 A. But again, I think that's irrelevant because
 16 the project had already been approved.
 17 Q. I was asking about the ARC review committee
 18 control --
 19 A. Again, (simultaneous speaking) control --
 20 application to the arc for that project.
 21 THE ARBITRATOR: Okay. Hold on a second here,
 22 gentlemen. We're not here to argue. Mr. Emrich is
 23 entitled to ask his questions, and if you could just
 24 please answer the question that he's asking. I'm sure
 25 Ms. Woodcock will have some follow-up, and she will

1 redirect your testimony as appropriate. But I don't
 2 want to get into more arguments between counsel and
 3 witnesses. Would that be okay with you, sir?
 4 THE WITNESS: That's fine with me, because I am
 5 not the argumentative type.
 6 THE ARBITRATOR: Okay. So, if we can just please
 7 proceed in that manner, I'd appreciate it, because this
 8 hearing was only supposed to take four hours at the
 9 most. And here we are at about 3:30, and I'm worried
 10 about people getting in all the testimony. Okay?
 11 THE WITNESS: All right.
 12 THE ARBITRATOR: Thank you, sir.
 13 BY MR. EMRICH:
 14 Q. Dr. Petrella, when we look at the November
 15 minutes, there was no vote taken by the master board on
 16 this project. Correct?
 17 A. That is not correct.
 18 Q. Well, let's put --
 19 MS. WARD: We can't hear you, Henry.
 20 BY MR. EMRICH:
 21 Q. Let's look at Exhibit 24. Put that up on the
 22 screen.
 23 Ms. Ward: P-24 or R-24?
 24 MR. EMRICH: R-24.
 25

1 looked here today in July for architectural review
 2 control. Correct?
 3 A. In July, no. Correct.
 4 Q. Thank you. I have no further questions of
 5 you on that particular exhibit. I just have a couple
 6 more questions, and I'll be done.
 7 Dr. Petrella, do you recall an issue with
 8 regard to certain sea grape bushes that the petitioner
 9 Mr. Meiresonne had filed a complaint about?
 10 A. Yes.
 11 Q. (Audio break.)
 12 A. I can't hear you, Counsel.
 13 Q. What do you recall about that, sir?
 14 A. He and I had several conversations about
 15 that, and I -- you know, assured him that I would take
 16 whatever action I could to address his concerns.
 17 Q. And what was that -- what action did you
 18 take?
 19 A. I talked to the adjacent building president,
 20 and asked what their plans were for trimming back the
 21 landscaping.
 22 Q. And why did you do that?
 23 A. That was at his request.
 24 Q. Did they do that?
 25 A. Yes.

1 (Whereupon, the document was marked
 2 as Respondent's Exhibit No. 24 for
 3 identification.)
 4 BY MR. EMRICH:
 5 Q. Looking at that document, Doctor, was any
 6 vote taken on this project that day by the master
 7 board?
 8 A. The master board doesn't show the vote, no.
 9 But I'm only looking on page one. I've got another
 10 copy here on my desk that I'm looking at, and I don't
 11 see where a vote is reflected. But indeed I have
 12 fairly acute recall on that particular meeting, and I
 13 had said at that meeting -- and I believe it's
 14 confirmed in your transcripts that you submitted of the
 15 recording, that indeed we took -- I felt more
 16 comfortable if we just revoted on the fact that all the
 17 conditions were met for the previous approval.
 18 Q. You refer back to the July and the March of
 19 2019 meetings. Correct?
 20 A. Well, specifically the March.
 21 Q. Okay. And earlier you testified that no
 22 architectural review control vote was given at that
 23 time -- approval was given at that time?
 24 A. I did.
 25 Q. And there would have been no vote as we

1 Q. Now, do you recall having told Mr. Meiresonne
 2 to submit an application to the architectural control
 3 committee regarding that particular complaint?
 4 A. Yes. It's either he or I did it.
 5 Q. And why was that, sir?
 6 A. Because I think -- and this maybe also
 7 reflected in some of the minutes, that all the communal
 8 living conditions here, we need to respect each other's
 9 rights and have a neighborly attitude between the
 10 buildings. This had been going on for several months.
 11 We tried to get the buildings to resolve that between
 12 the 2 and 300 buildings. And I, you know, thought that
 13 progress had been made, but apparently he wasn't
 14 satisfied with the results. So, we said we would do a
 15 formal submission to the ARC, which we did. And I
 16 believe you've been provided with that report.
 17 Q. And that particular submission was denied; is
 18 that correct?
 19 A. No. I think the ARC agreed that all efforts,
 20 you know, should be made to trim back the trees as, you
 21 know reasonably possible. But you understand, this is
 22 subjective. What the ARC perceived perhaps was not
 23 something that Mr. Meiresonne perceived as being
 24 acceptable. But again, the 300 building did again trim
 25 their vegetation back.

1 Q. But as far as the ARC committee of the master
2 board, they denied his complaint?
3 A. I don't believe so. No. I think they
4 instructed the ARC to proceed with their findings.
5 MR. EMRICH: Hang on a minute, your Honor. I'm
6 looking for --
7 BY MR. EMRICH:
8 Q. Dr. Petrella, did -- who was in charge of the
9 ARC committee at the time that that sea grape complaint
10 was made?
11 A. I'm sorry. Repeat the question, please.
12 Q. Who was in charge of the ARC committee at the
13 time of that?
14 A. Vida Chenair (phonetic), I believe.
15 Q. And would you agree with me, sir, that
16 whoever would put one of those trees into their
17 landscaping could conceivably cause a visual
18 obstruction to someone who was in an adjacent building;
19 is that correct?
20 A. I missed the salient point of your question.
21 Q. Someone in an adjacent building who is
22 looking towards the building where the sea grape has
23 been planted could conceivably have a concern about the
24 presence of that sea grape tree obstructing their view;
25 is that correct?

1 (Whereupon, the document was marked
2 as Respondent's Exhibit No. 23 for
3 identification.)
4 BY MR. EMRICH:
5 Q. According to that document --
6 MS. WARD: We can't hear you.
7 BY MR. EMRICH:
8 Q. -- 2019 board of directors meeting of the
9 master board; is that correct?
10 THE COURT REPORTER: I missed the first part of
11 your question.
12 BY MR. EMRICH:
13 Q. Is Exhibit 23 the minutes of the November 4,
14 2019, master board meeting?
15 A. They appear to be, yes.
16 Q. The issue (audio break).
17 THE COURT REPORTER: Can't hear you.
18 BY MR. EMRICH:
19 Q. -- particular patio had come before it; is
20 that correct?
21 A. I'm only getting the second half of your
22 question.
23 Q. Was that -- at that meeting, was the ARC
24 review application (audio break).
25 THE COURT REPORTER: Can't hear you.

1 A. Certainly.
2 Q. And it certainly could be considered a
3 nuisance to that person in the adjacent building.
4 Correct?
5 A. Again, as I had said earlier, it's
6 subjective; but conceivably could, certainly.
7 Q. When the -- Mr. Meiresonne's patio was
8 presented to the master board for review, as well as to
9 his own building, he had to submit a -- he had to
10 submit an architectural review committee -- control
11 committee request as well; is that correct?
12 A. Correct.
13 Q. And at the time of that particular
14 application, there was a determination made that the
15 project was not going to be approved by the
16 architectural review committee because it impacted the
17 view of the adjacent property owner, building 300.
18 Correct?
19 A. No, that is not correct.
20 Q. Let me see if I can find -- 23.
21 MS. WARD: Mr. Emrich, you're cutting out. You'll
22 want to repeat your question.
23 MR. EMRICH: Exhibit R-23.
24 MS. WARD: All right.
25

1 BY MR. EMRICH:
2 Q. -- master board?
3 A. You're not audible, Counselor. Sorry.
4 Q. All right. Is that better?
5 A. Yes. Much better.
6 Q. At the time of the November 4th, 2019,
7 meeting, was the ARC committee review report done by
8 your committee -- your architectural review committee
9 regarding that patio. Correct?
10 A. Correct.
11 Q. At that time you indicated -- the committee
12 indicated to you, according to your minutes, that
13 several -- that the basis for the objection in
14 opposition of the ARC committee to the patio was that
15 it possibly objected(sic) the view of an adjacent
16 property owner. Correct?
17 A. You know, I don't recall that. There were
18 several objections, but I don't recall that as being
19 one of them. I think it was asked: Did the
20 neighboring units object to that? That question was
21 asked. But I don't think that was an objection by the
22 ARC or the board.
23 Q. Could you look at the third page of
24 Exhibit 23, and read the third paragraph of the section
25 entitled: Arb application for Unit 213?

1 A. Third paragraph states, "Ron Jacobson
 2 reported on the ARC recommendation to deny the
 3 application. He emphasized that the scope of the
 4 review of the ARC was limited, and that the role of the
 5 -- correction -- ARC was not unanimous, was several
 6 opponents of the application relying upon their concern
 7 that the patio would have a negative impact on the
 8 adjacent owner's water view."

9 Q. So, that was one of the reasons for the
 10 refusal of the ARC committee to approve the project.
 11 Correct?

12 A. Because it's written here, I'll say yes.
 13 But, in fact, I had conversations with the chairman of
 14 the committee at that time, and I think I made my
 15 opinion known to the general membership that the ARC at
 16 this time had probably overstepped its mandate.

17 Q. Thank you. I have no further questions,
 18 Dr. Petrella.

19 MS. WOODCOCK: Dr. Petrella, I just have a few
 20 brief questions for you.

21
 22 CROSS-EXAMINATION

23 By: Ms. Woodcock

24 Q. Mr. Emrich was asking you questions about the
 25 August 2019 meeting where you testified that the ARC

1 committed was reinstated, and you said that you had
 2 been -- you said that there was a reason that the
 3 meeting minutes did not mention the ARC committee.

4 What was that reason that you wanted to
 5 say?

6 A. Simply that the ARC is an ad hoc committee,
 7 and they're only active once an application has been
 8 submitted either by the board of directors or by,
 9 certain cases, the individual themselves. But they're
 10 -- as delineated explicitly in the July 2019 minutes,
 11 those are the steps that need to be taken for ARC
 12 review. And that's why, as I just commented to
 13 counselor, that the committee was somewhat, you know,
 14 rebuked by me in the November meeting, because they did
 15 not abide by those guidelines.

16 Q. After the ARC committee was reinstated by
 17 yourself when you became president, who are the members
 18 of the ARC committee?

19 A. It's changed since that time. The ad hoc
 20 committee at one time was made up of the presidents of
 21 the various buildings. The problem we had was certain
 22 presidents never attended. And the other problem is we
 23 were having to listen to the same opinions of the same
 24 people being that they were either board presidents --
 25 or rather board members and/or presidents of their

1 buildings.

2 So, we, in October, had suggested when we
 3 were notified that our chairman was going to resign
 4 from that committee, you know, once this last issue had
 5 been addressed, we had strongly recommended that we
 6 change the makeup of that, and have the members be
 7 non-board members, non-master association directors.

8 Q. In January 2019, are you aware of whether the
 9 Club at La Peninsula had a form application for members
 10 to fill out to request alterations?

11 A. Being that I was a director only at that time
 12 and not an officer, I suspect there was a form that
 13 was held by management. But, you know, I would have to
 14 -- I admit I only more recently within the last year
 15 have become aware that there was indeed an ARC form.
 16 Did that answer what you were asking me?

17 Q. Yes, sir. So, you said that the presidents
 18 of the associations -- of the several associations had
 19 been the members of the architectural review committee.

20 Who are the members of the board of the
 21 Club at La Peninsula?

22 A. Each building has a representative. So, I
 23 can enumerate the individuals if you'd like. But each
 24 building, which is in each different association, is
 25 represented by one individual.

1 Q. And do you know how that individual
 2 representative is chosen?

3 A. Through elections. The term is two years,
 4 and through a formal submission of an application. And
 5 then at our annual member meeting, proxies are
 6 collected and votes counted.

7 Q. From the Club at La Peninsula's perspective,
 8 did the 200 La Peninsula Condominium Association do
 9 what was required of it by the master association to
 10 have the walkway project approved and constructed?

11 A. Yes.

12 Q. I'm going to show you one of the photographs
 13 that's part of composite Exhibit 28. I just want to
 14 ask you a particular question about it. Well, a couple
 15 questions about it.

16 Do you recognize what's shown in this
 17 photograph?

18 A. Yes.

19 Q. In this -- what is shown in this photograph?

20 A. What is shown in the photograph?

21 Q. Yes.

22 A. That is the water side of the 200 building.
 23 I can see the retention pond is off to the right. The,
 24 you know, various landscaping, etc., etc.

25 Q. In the various landscaping shown in this

1 photograph, do you see -- is the sea grape tree that
2 the petitioner complained about depicted in this
3 photograph?

4 A. I'm going to be honest with you. I think the
5 see grape tree -- one of them, because I know there is
6 a large tree that is -- it's probably been there for
7 25 years, is actually on common property of the 300
8 building adjacent to it. I think that's Mr.
9 Meiresonne's biggest complaint. But there's -- as you
10 look adjacent to the retention pond where there looks
11 like there's wild grass off to the right there, that I
12 believe is the sea grape bush that he's referring to
13 and complaining about it -- not currently but
14 potentially obstructing his view in future once it
15 matures.

16 MS. WOODCOCK: I don't have any other questions
17 for Dr. Petrella.

18 MR. EMRICH: I have one follow-up, your Honor.

19 THE ARBITRATOR: Yes.

20 MR. EMRICH: Regarding the sea grape tree. I'd
21 like him to look at Photograph No. 12 of P-7. If we
22 put that -- put up photograph 12 of P-7 on the board.
23
24
25

1 retention pond. Correct?

2 A. No. That's a different one.

3 Q. That's a different one.

4 So, he was concerned about that as well as
5 it grew taller?

6 A. Again, I'm not sure exactly which one. I
7 know the big tree, certainly. And, you know, with
8 Hurricane Irma we had construction of a new seawall.
9 All that occurred at the same time. Some of these were
10 replacements as to what was destroyed by both
11 construction and Hurricane Irma.

12 Q. And you -- and one of the concerns that he
13 had expressed was the rapid growth that the sea grape
14 trees grow at; is that correct?

15 A. That is correct.

16 Q. And you've indicated that his complaint was
17 reasonable, as I think you indicated. Correct?

18 A. On certainly on the large tree, yes. But I
19 might add here, too, that that large tree has now been
20 significantly cut back compared to what is in this
21 photo.

22 Q. Thank you. Now, I just have a couple last
23 questions, Doctor.

24 Had you ever expressed, as the president
25 of the board, when this 200 walkway proposal came

1 REDIRECT EXAMINATION

2 By: Mr. Emrich

3 Q. Dr. Petrella, are you able to see those two
4 photographs?

5 A. I am, sir.

6 Q. Is the sea grape tree that you mentioned as
7 being the larger tree the sea grape tree depicted in
8 the left photograph?

9 A. It is.

10 Q. And that is one of the trees that he had
11 complained about as it grew -- as it grew bigger.
12 Correct?

13 A. Correct.

14 Q. And as you indicated, you talked to that
15 board, the 300 board, about trimming that back.
16 Correct?

17 A. No. I spoke to the president of that board.

18 Q. And that is because of the fact that you
19 believe that it, in fact, was a nuisance for
20 Mr. Meiresonne. Correct?

21 A. I wouldn't be judgmental. I would say that I
22 think he had a reasonable concern.

23 Q. Thank you. And the picture in the right
24 photograph of that document is the sea grape tree that
25 we talked about being planted down to the left of the

1 before you, as to whether or not it constituted a
2 material change of the condominium properties that were
3 part of the master board association?

4 MS. WOODCOCK: Objection. Outside the scope.

5 THE ARBITRATOR: Sustained.

6 MR. EMRICH: I have no further questions.

7 THE ARBITRATOR: Stay on this picture. I have
8 questions. Ms. Woodcock, do you have any questions?

9 MS. WOODCOCK: No, your Honor.

10 THE ARBITRATOR: Okay.
11

12 CROSS-EXAMINATION

13 By: The Arbitrator

14 Q. Doctor, this is the arbitrator. I'm going to
15 need a little bit more of your time if you don't mind.

16 A. Please proceed.

17 Q. Okay. We're on Plaintiff's Exhibit 7,
18 page 12, and I'm looking at two pictures here.

19 Do you still see them?

20 A. Yes, sir.

21 Q. The picture on the left, that's a sea grape
22 tree?

23 A. Yes.

24 Q. Is that tree part of the original plantings
25 at the association?

1 A. To the best of my knowledge, yes.
 2 Q. And what about the one on the right?
 3 A. That I can't tell you, your Honor. That's
 4 either a replacement of post Irma, post construction,
 5 or it was a rehabbed sea grape tree that has been
 6 there, you know, for some length of time. I can't
 7 answer that.
 8 THE ARBITRATOR: If someone could please put on
 9 the screen Petitioner's Exhibit 9, which --
 10 MS. WARD: I'll take care of that.
 11 (Whereupon, the document was marked
 12 as Petitioner's Exhibit No. 9 for
 13 identification.)
 14 THE ARBITRATOR: And go to page 12. If counsel
 15 will please state for the record that this is, in fact,
 16 the master amended declaration in effect as of May 27,
 17 2015? Mr. Emrich?
 18 MR. EMRICH: It is, your Honor.
 19 THE ARBITRATOR: Ms. Woodcock?
 20 MS. WOODCOCK: Yes, your Honor.
 21 THE ARBITRATOR: Okay. So, there's no
 22 disagreement about that this bit master association --
 23 and this would be in effect as of 2018, Mr. Emrich?
 24 MR. EMRICH: Yes, your Honor.
 25 THE ARBITRATOR: Ms. Woodcock?

1 MS. WOODCOCK: Yes, your Honor.
 2 BY THE ARBITRATOR:
 3 Q. Okay. Doctor, if you would please read to
 4 yourself Provision 6.1?
 5 A. Okay.
 6 Q. Now, correct me if I'm wrong, sir, you've
 7 been on the master association board since March
 8 of 2018?
 9 A. Correct.
 10 Q. So, do you agree that as of your time on the
 11 board, these would be the -- 6.1 would be the governing
 12 documents that would reflect the governing documents
 13 that were in effect regarding the architectural control
 14 committee?
 15 A. Yes, sir.
 16 Q. Doctor, to your knowledge, you said that --
 17 if I can paraphrase you -- it's an ad hoc committee?
 18 A. Yes. Let me correct that. Now over the last
 19 few months we've made it more formal, because the new
 20 chairman has taken that position very serious. So,
 21 they've asked that they report at each meeting.
 22 Q. Thank you. Given the fact that you've been
 23 on the master board since 2018, and Section 6 of the
 24 master declaration covers the ARC committee, based on
 25 your knowledge of the association -- and I mean master

1 association, is there any provision that you can point
 2 me to that makes it an ad hoc committee as opposed to,
 3 say, a mandatory committee?
 4 A. I believe there is, but I can't point you to
 5 it. It's optional. We are not mandated to have an
 6 ARC.
 7 MS. WOODCOCK: And just for the record, this
 8 Provision 6.1 has no reference to and architectural
 9 review committee.
 10 BY THE ARBITRATOR:
 11 Q. Well, Doctor, assuming Ms. Woodcock is
 12 correct, then how are people supposed to -- how are
 13 associations supposed to modify structures if there's
 14 no committee to approve that modification?
 15 A. The master association makes those
 16 determinations. It effectively all comes down to the
 17 rule of the master association. If we choose to
 18 intervene, we can. If we choose not to, we also can.
 19 I think that we be accused of selective, you know,
 20 enforcement if we varied.
 21 But, you know, your Honor, you have to
 22 understand, this was a war zone back then after Irma
 23 and after the construction from a new seawall. We had
 24 2800 linear feet of seawall put in here. The place was
 25 a disaster. So, we as a master association, could not

1 oversee every single daffodil that got planted to
 2 replace the previous landscaping.
 3 Q. I respect your answer, sir. I'm not talking
 4 -- my questions are not directed towards the sea
 5 grapes.
 6 A. Okay. Okay. I thought that's what --
 7 Q. They are directed towards the walkway. So,
 8 with that predicate, that's where they're going, sir.
 9 A. Okay.
 10 Q. Okay? If you take a look at Provision 6.2 on
 11 the next page, and read that to yourself, sir.
 12 A. Okay.
 13 Q. If, as you testified before previously, the
 14 ARC committee was an ad hoc committee, then -- or is
 15 not actually implemented by an ARC committee or --
 16 there is nothing in the documents that form that
 17 committee, then how would you explain who prosecutes
 18 violations based on Section 6.2?
 19 A. Well, the management company is responsible
 20 for enforcement, but it's the master board that makes
 21 that decision.
 22 Q. Well, since the master association shall have
 23 the right to legal proceedings to enforce compliance.
 24 Right?
 25 A. Right.

1 Q. But you're saying the management company
 2 makes the decision?
 3 A. Yes, sir. No. They don't make the decision.
 4 They prosecute the decision. So, in other words, if we
 5 perceive a violation, or even if the management company
 6 perceives the violation, then by our declarations, the
 7 first response comes from management.
 8 Q. Okay.
 9 A. And this can be in the form of certified
 10 letter, a letter from an attorney, something like that.
 11 But that is initiated by management.
 12 Q. Thank you. Just so I have a few facts
 13 straight, you were on the board of the master board as
 14 of 3/18?
 15 A. Yes, sir.
 16 Q. And at some point after 3/18, the directors
 17 or the board members of building 200 brought to the
 18 master board to vote on the walkway; is that correct?
 19 A. Yes, sir.
 20 Q. Do you remember offhand what -- approximately
 21 what month and year that was?
 22 A. It was first brought up in January of 2019.
 23 Q. And that's when the master board voted to
 24 okay the walkway project?
 25 A. No. That occurred in March 2019.

1 Q. Folks, Doctor, I'm going to need another half
 2 an hour of your time, but as I told counsel before,
 3 I've got my heating guy here. He's at the door. I
 4 just got to talk to him for five minutes, because I'm
 5 freezing.
 6 (There was a break taken, after
 7 which the deposition was resumed
 8 as follows:)
 9 THE ARBITRATOR: I'm sorry for the delay.
 10 Everyone is on mute.
 11 MS. WOODCOCK: Yes, sir.
 12 THE ARBITRATOR: I just had a couple more
 13 questions. I apologize for the delay.
 14 BY THE ARBITRATOR:
 15 Q. Okay. Doctor, this is the arbitrator again.
 16 A. Sorry.
 17 Q. Sorry for the delay. We're back in March
 18 of 2019. The 200 board brought the plans for the
 19 walkway to a vote by the master association and
 20 counsel.
 21 A. Correct. Yes, sir.
 22 Q. And do you recall if that was the nine or six
 23 units?
 24 A. I don't think a number that I recall was ever
 25 clearly stipulated.

1 Q. To your knowledge, did the master board
 2 evaluate the plans brought to them by the 200 board in
 3 conformance with Section 6.1?
 4 A. Yes. I believe that on the Power Point
 5 presentation in March was very instructive. And it was
 6 quite a lengthy meeting with lots of questions and
 7 answers. Understand that this was the second
 8 go-around. We had already heard most of this in
 9 January.
 10 Q. Now, at some point -- and you'll have to fill
 11 in the date for me, sir, as best you can you -- did the
 12 200 board come back to the master board and ask again
 13 for approval of the project? And by "project," I mean
 14 the walkway.
 15 A. No.
 16 Q. So, the one time the master board approved
 17 the walkway project was March 2019?
 18 A. Correct. May I interject something, your
 19 Honor?
 20 Q. Go ahead.
 21 A. In January, even though the minutes are
 22 pretty skinny, it was presented then and asked -- a
 23 vote was asked then, and we thought that was premature,
 24 and had told Dr. White to return with more information.
 25 And that's why this prolonged discussion at the March

1 meeting occurred.
 2 MR. EMRICH: Your Honor, I'm going to object to
 3 that testimony. It's not in conformity with the
 4 minutes of that meeting.
 5 THE ARBITRATOR: Okay. So, sue him for not having
 6 accurate minutes.
 7 MR. EMRICH: Your Honor, with all due respect, the
 8 board acts through its minutes and what it approves as
 9 part of its actions at the board, and there's no
 10 indication that that happened. He said it was tabled
 11 previously.
 12 MS. WOODCOCK: You're talking about two different
 13 meetings.
 14 THE ARBITRATOR: I beg your pardon, Ms. Woodcock?
 15 MS. WOODCOCK: I said we're talking about two
 16 different meetings.
 17 THE ARBITRATOR: Well --
 18 MS. WOODCOCK: The meeting -- the vote to approve
 19 was in March.
 20 BY THE ARBITRATOR:
 21 Q. That's your testimony, Doctor? The vote to
 22 approve the walkway project was in March?
 23 A. Yes, sir.
 24 MR. ARBITRATOR: So, Counsel, when you write your
 25 proposed order, you can go back to the minutes, and if

1 they're inconsistent with the testimony, you can bring
2 that point to my attention.
3 MR. EMRICH: Thank you.
4 THE ARBITRATOR: How's that sound as a remedy?
5 MR. EMRICH: I think that's fine, your Honor.
6 THE ARBITRATOR: Okay.
7 BY THE ARBITRATOR:
8 Q. Doctor, there's a gazillion exhibits here.
9 Do you have access to the exhibits?
10 A. Yes. I can dig them out.
11 Q. I'm just basically looking for you to
12 identify for me the Power Point presentation either at
13 the January or the March 2019 board meeting.
14 A. There was no Power Point presentation in
15 January. The Power Point presentation took place in
16 March of 2019. And I believe all of those -- well, not
17 -- there was subsequent. The renderings that I had
18 asked to be made part of the November 24th, 2020,
19 minutes reflected what was presented at the March 12,
20 2019, board meeting.
21 Q. I'm just trying to match an exhibit number up
22 to what you testified to, sir. So, we're talking about
23 R-2?
24 A. Yes.
25 THE ARBITRATOR: All right. I don't have any more

1 Q. Okay.
2 A. Well, here, let me clarify that. I've seen
3 this now during discovery, but prior to the arbitration
4 I have not.
5 Q. That's fair. So, you had not seen this
6 letter prior to the vote of the master board that you
7 referenced. Correct?
8 A. Correct.
9 Q. I'm going to have you look at Exhibit 11.
10 Had you seen that document prior to the
11 vote of the master board? P-11.
12 A. No, sir.
13 Q. And that, as we look at it, was the proxy
14 that was voted on. Correct?
15 A. That I can't attest to.
16 Q. I'm going to ask you to look at P-13.
17 Have you seen that prior to the master
18 board meeting?
19 MS. WOODCOCK: Your Honor, I'm just going to
20 object to the questioning about these exhibits as
21 Mr. -- Dr. Petrella previously testified that they were
22 not provided, he has not seen them.
23 THE ARBITRATOR: Well, if he hasn't seen them, I
24 don't know what weight they're even going to be given
25 regarding his --

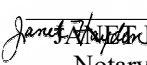

1 questions for the witness. Mr. Emrich, any follow-ups?
2 MR. EMRICH: Yeah. I do have a couple, your
3 Honor. You okay with that?
4 THE ARBITRATOR: Yeah. Go ahead.
5
6 RE-REDIRECT EXAMINATION
7 By: Mr. Emrich
8 Q. Dr. Petrella, I'm going to ask you to look at
9 P -- Exhibit P-10. Putting that up on the screen.
10 MS. WOODCOCK: I'm just going to object to any
11 questioning about this exhibit to Dr. Petrella as he
12 earlier testified that he had not seen this letter.
13 THE ARBITRATOR: He testified he hadn't seen it?
14 MS. WOODCOCK: Correct.
15 THE ARBITRATOR: Well, let's just see where the
16 questioning guess, and if he hasn't seen it, he hasn't
17 seen it. If he hasn't seen it, I don't think he can
18 answer questions about it, but let's see what he says.
19 Okay?
20 MS. WOODCOCK: Understood.
21 THE ARBITRATOR: Counsel, go ahead.
22 BY MR. EMRICH:
23 Q. I think he's reviewing it.
24 Have you seen this letter?
25 A. No.

1 MR. EMRICH: Your Honor, just trying to speed
2 things up, because he's already testified he hasn't
3 seen these, and we're asking him basically to
4 re-testify again he hasn't seen them.
5 THE ARBITRATOR: Well, this is all repetition as
6 to things he hasn't seen?
7 MR. EMRICH: I don't know that it's repetition,
8 because I haven't asked him to look at these
9 previously, Judge.
10 THE ARBITRATOR: If he hasn't seen them, and
11 they're from the 200 board, really what relevance are
12 they as to his testimony?
13 MR. EMRICH: Well, let me ask that question then
14 as a follow-up once I've asked if he has not seen
15 these.
16 MS. WOODCOCK: But it's already asked. You didn't
17 show him the document, but you asked him if he had seen
18 them.
19 BY MR. EMRICH:
20 Q. Dr. Petrella?
21 A. Yes, sir.
22 THE ARBITRATOR: Go ahead. Just make it quick.
23 BY MR. EMRICH:
24 Q. Dr. Petrella, as you sit here and as you sat
25 on that master board in March of 2019, you did not know

1 what action the board of directors of 200 building had
 2 taken with regard to this project. Did you?
 3 A. That's not true.
 4 Q. Well, you indicated earlier when the
 5 arbitrator asked you whether you knew whether or not
 6 this was six -- whether or not six units or nine units
 7 were being put before the board for approval, and you
 8 said you didn't recall; is that correct?
 9 MS. WOODCOCK: Objection. Mischaracterizes his
 10 testimony.
 11 THE ARBITRATOR: What he testified to, I wrote it
 12 down. Counsel can ask the question, but I know what my
 13 notes say.
 14 BY MR. EMRICH:
 15 Q. I've asked the question: Do you know whether
 16 or not the project that was approved by the master
 17 board was for six or nine units being affected or
 18 involved with the walkway project?
 19 A. I think I had earlier said I think it was up
 20 to nine.
 21 Q. Up to nine?
 22 A. The way it was described. I'm not sure
 23 whether a specific number was indicated. What they dis
 24 were the end units, and that's how the presentation
 25 went.

1 MR. EMRICH: I have no further questions, your
 2 Honor. I'm not going to argue with him.
 3 THE ARBITRATOR: Ms. Woodcock?
 4 MS. WOODCOCK: No questions. No more questions
 5 for Dr. Petrella.
 6 THE ARBITRATOR: Okay, Doctor. Thank you very
 7 much for your time. You're excused.
 8 THE WITNESS: Thank you.
 9 (Whereupon, the witness was
 10 excused.)
 11 THE ARBITRATOR: Who's next?
 12 MR. EMRICH: Petitioner Mike Meiresonne.
 13 MS. WOODCOCK: Your Honor, if we may, can we go
 14 off the record for a minute to talk about housekeeping?
 15 THE ARBITRATOR: Sure.
 16 (Whereupon, a discussion was held
 17 off the record.)
 18 THE ARBITRATION: What we're going to do, it's
 19 4:39. I'll let you folks chat tomorrow, whenever, and
 20 somebody can reset and re-notice the remainder of the
 21 hearing, at which point both counsel could have plenty
 22 of time with Mr. Meiresonne, and Ms. Woodcock can
 23 present her part of the case, too, and have plenty of
 24 time. How does that sound?
 25 MS. WOODCOCK: Very good, your Honor.

1 MR. EMRICH: Very good.
 2
 3 (Whereupon, the arbitration was
 4 continued sine die.)
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1 C E R T I F I C A T E
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF SAINT LUCIE)
 5
 6 I, Janet Hayden, certify that I was authorized
 7 to and did stenographically report the arbitration, and
 8 that the transcript is a true and complete record of my
 9 stenographic notes.
 10
 11 I further certify that I am not a relative,
 12 employee, attorney, or counsel of any of the parties,
 13 nor am I a relative or employee of any of the parties'
 14 attorneys or counsel connected with the action, nor am
 15 I financially interested in the action.
 16
 17 DATED this 14th day of April, 2022.
 18
 19  JAMES L. HAYDEN
 20 Notary Public 
 21
 22
 23
 24
 25

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