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November 2, 2017

INDIANA UTILITY
REGULATORY COMMISSION

IN THE SCOTT CIRCUIT COURT
For CLARK CIRCUIT COURT2 2

CHARLESTOWN PLEASANT RIDGE NEIGHBORHOOD ASSOC. CORP.,)	
)	No. 10C01-1701-CT-10
PLANTIFF,)	
)	
vs.)	
)	9-1-2017
CITY OF CHARLESTOWN, CHARLESTOWN BOARD OF PUBLIC WORKS AND SAFTEY,)	Pages 1-259
)	
DEFENDANT		

PRELIMINARY INJUNCTION
SPECIAL JUDGE JASON MOUNT

APPEARANCES:

For the Plaintiff:	Anthony Sanders Stephen Voelker Jeffery Redfern Keith Diggs
For the Defendant:	Michael Gillenwater Mark Crandley

Court Reporter: Cindy Bonsett
Proceedings recorded by electronic sound recording.

<u>I N D E X</u>					
<u>WITNESS (ES)</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	
<u>FOR THE Plaintiff:</u>					
Tina Barnes	22	39	56	57	
Mayor Robert Hall	58	91	113	113	114
Michael A. Jackson	115	137	144	145	
Josh Craven	146	156			
Ellen Keith	168	174	175		
<u>FOR THE Defendant:</u>					
Josh Craven	176	181			
Michael A. Jackson	184	207	211		
Mayor Robert Hall	212	231			

1 Proceeding commenced at 9:03 AM

2 THE COURT: Alright, first of all we are here for
3 Charlestown Pleasant Ridge Neighborhood Association versus The
4 City of Charlestown, 10C01-1701-CT-10. If you are here for any
5 other reason if you have your own matter that is set today we
6 have some criminal defendants that may be here today this
7 hearing is going to take most of the day, so if you are here for
8 a criminal matter you may want to step out into the hallway the
9 Prosecutor's office will find you here in the next few minutes
10 and talk to you about your criminal matter and then they will be
11 able to provide you with some instruction on how we plan on
12 handling those matters today. Secondly for those of you who are
13 here for the matter that we are going to hear I know we talked
14 about this last time we were here, there is no recording or
15 video, video recording in the Courtroom, also with respect with
16 cell phones there are some Courts in Indiana that have started
17 to ban the use of cell phones in the Courtroom, I will allow you
18 to use your cell phone in the Courtroom obviously you can't make
19 calls while you are in here and I ask that you keep it on
20 silent, the first person who distracts me with the cell phone
21 will be warned, the second time that I am distracted by a cell
22 phone we will not have cell phones in the Courtroom after that
23 so, we will give everyone one warning on a cell phone. But
24 please make sure your cell phones are on silent, and give mw
25 just a second to organize myself. If I could have for the

1 benefit of the Court reporter, if I could have all the Attorneys
2 identify themselves please. And we will start over here please
3 with Mr. Voelker.

4 Mr. STEPHEN VOELKER: Yes, Steve Voelker one of the
5 attorneys for Pleasant Ridge.

6 Mr. JEFFERY REDFERN: Jeffery Redfern, Pleasant Ridge

7 MR. ANTHONY SANDERS: Anthony Sanders one of the
8 attorneys for the Plaintiff.

9 Mr. KEITH DIGGS: And Keith Diggs attorney for the
10 Plaintiffs.

11 MR. MARK CRANDLEY: Good morning Your Honor, Mark
12 Crandley for the Defendants.

13 MR. MICHAEL GILLENWATER: And Mike Gillenwater for the
14 Defendants.

15 THE COURT: Okay I'm sorry, very good, very good
16 alright, thank you. Well this is the Plaintiff's Motion for
17 Preliminary injunction so we will start with them do we want
18 anything by way of opening statement or argument?

19 MR. ANTHONY SANDERS: Yes Your Honor I have an opening
20 statement prepared and we have discussed with the other side
21 after we each have our Witnesses a period of time for closing
22 statements and oral arguments at the end of the day.

23 THE COURT: Okay sure. Alright then we will start
24 with you go ahead.

25 MR. MICHAEL GILLENWATER: Your Honor before we get

1 started a couple of things I just informed opposing Counsel, you
2 may know Rebecca Lockard she is an attorney, she practices in
3 the same office as me, her husband passed away two days ago and
4 the viewing and funeral are today so need to be out of here by
5 about four o'clock, if I can.

6 THE COURT: Okay

7 MR. MICHAEL GILLENWATER: Otherwise I will not be able
8 to get there. So I think everybody understands and I don't know
9 if we will still be here that long and we have each gotten or
10 exchanged some exhibits with one another and I think as a
11 preliminary matter I would propose that we provide you with a
12 copy of those thing I am not necessarily agreeing that
13 everything relevant.

14 THE COURT: Sure

15 MR. MICHAEL GILLENWATER: But just to speed things up
16 I would be willing to stipulate that their admissibility.

17 THE COURT: Okay, very good, and of course we don't
18 have a jury here so I am smart enough to figure out what I ought
19 to pay attention to and what I ought not pay attention to.

20 MR. MICHAEL GILLENWATER: We agree with that Your
21 Honor.

22 THE COURT: Alright very good.

23 MR. ANTHONY SANDERS: So do we, your Honor. We have
24 our first witness I will bring them up to you.

25 THE COURT: Okay that sounds good, alright, is that

1 all the preliminary matters we have? Alright you may proceed.

2 MR. ANTHONY SANDERS: Plaintiffs will present evidence
3 today showing that in 2016 the city of Charlestown began
4 enforcing its property maintenance code against properties in
5 the Pleasant Ridge Neighborhood in an illegal and
6 unconstitutional way. The evidence will show that this unlawful
7 enforcement coincided with the accusation of close to half of
8 the neighborhood by a private developer and it is party of the
9 city's plan to demolish all of Pleasant Ridge and redevelop from
10 scratch. This evidence will establish that Plaintiffs are
11 entitled as a matter of law to a preliminary injunction ordering
12 the city to obey the law when it enforces the code. Your Honor
13 will first hear from Plaintiff and Charlestown City Counselor,
14 Tina Barnes, who will describe Pleasant Ridge neighborhood, the
15 history of recent efforts to redevelop the neighborhood, and the
16 fight of many home owners and the landlords to save their
17 properties. Next you will hear from Mayor Hall himself, who
18 will verify that he has repeatedly said that the redevelopment
19 of Pleasant Ridge is an all or nothing matter and he will
20 testify how he has lead that effort in partnership with a
21 private developer John Neace. The Mayor will also will verify
22 that after this law suit was filed he stated publicly that
23 inspections will continue. The ordnance that he has advised the
24 property owners not to fix up their properties because the homes
25 will be torn down anyway. He will also testify that in April of

1 this year the city adopted a resolution that stated inspections
2 against the homeowners not just landlords are now on the table.
3 The Mayor will also likely try to equivocate, say that there is
4 no officially written plan, that he doesn't himself have the
5 power to take the homes and that the developer is doing this on
6 speculation. The evidence will show however that the reason why
7 everyone knows the Mayor intends to take the homes is that he
8 has repeatedly said so. He partnered with Neace in 2014 to
9 apply to the State for millions of dollars of grant money to
10 accomplish that and then he partnered with Neace again in 2016
11 after the 2014 plan melted down. Third you will hear from city
12 inspector Tony Jackson, who will verify that issued dozens of
13 citations in 2016 to Pleasant Ridge property owners including
14 Pleasant Ridge Neighborhood Association under Indiana Safe
15 Building Law and the 2008 Property Maintenance code. He will
16 testify that the citations he wrote imposed fines immediately
17 and fines that accumulated on a daily basis without first
18 providing the property owner a reasonable opportunity to correct
19 any alleged defects. In the case of the Association itself, Mr.
20 Jackson and Defendant, Board of Public Works and Safety imposed
21 a nearly \$9,000.00 dollar fine despite the Associations lack of
22 history of violations and its immediate good faith effort to fix
23 everything Mr. Jackson required. You will also hear from Mr.
24 Jackson that he did not require Pleasant Ridge Redevelopment,
25 LLC, the company controlled by John Neace that has been buying

1 up properties to fix up properties it acquired even though
2 people would remain in them for some period of time. Mr.
3 Jackson will at last tell the Court that he runs a private on
4 the side and that he worked out a deal with Neace to do private
5 asbestos inspections, meaning that every time a Pleasant Ridge
6 was sold to Neace, Mr. Jackson benefited financially. Next you
7 will hear from Josh Cravens, the president of Plaintiff
8 Neighborhood Association, he will explain how the non-profit
9 association bought its property on Riley Avenue in Pleasant
10 Ridge in 2015 to show how redevelopment should occur. Mr.
11 Cravens will testify about how the Association did everything it
12 could to resolve the problems that Mr. Jackson identified, but
13 nevertheless was hit with a close to \$9,000.00 dollar fine that
14 under the city's new policy cannot be waived. We will then hear
15 from an Association Board Member, Melissa Crawford, she will
16 primarily testify to admit into evidence photos that she helped
17 take of the home that Pleasant Ridge Redevelopment has acquired.
18 Last you will hear from Ellen Keith a forty year resident of
19 Pleasant Ridge, she will testify that Pleasant Ridge
20 Redevelopment homes of numerous current code violations
21 including garbage in yards, and the presence of rats that have
22 arisen since the properties were sold and she and her neighbors
23 have had to go to the Clark County Health Department to address
24 these problems because the city hasn't wanted to crack down its
25 favored developer. She will also describe how the Mayor stood

1 in her back yard and told her and her husband that the city
2 intends to get her property and along with everybody else's.
3 She will testify that the Mayor said the city would use would
4 use fines and emanate domain to force those sales. Finally in
5 the closing and oral argument later this afternoon we will
6 explain how the evidence demonstrates the Court should issue a
7 preliminary injunction. Plaintiffs are likely to succeed on the
8 merits because the city's actions have been unlawful and
9 unconstitutional, the city has violated Indiana Unsafe Building
10 Law and its own Property Maintenance Code as well as the Equal
11 Protection Clause of the US Constitution and Indiana's
12 Constitutions Equal Privileges and Immunities Clause. Thank You
13 Your Honor.

14 THE COURT: Thank You, Mr. Gillenwater or Mr.
15 Crandley.

16 MR. MICHAEL GILLENWATER: Thank You, Your Honor. In
17 order to understand what is going on here you have to have a
18 little bit of background and you are going to hear some
19 testimony about that today. You will hear a little bit about
20 the city of Charlestown which is a neighboring community, you
21 are fully aware of, you will hear that in Charlestown at one
22 point in 1939 there was 700 hundred people in town about and
23 less than one year later there were 9,000 thousand and less than
24 one year after that there were 27,000 thousand people in that
25 community and that was predominantly because of the construction

1 of the Indiana Army Ammunitions Plant, that is located there.
2 The government came in and helped with the housing by building a
3 housing development now known as Pleasant Ridge that is located
4 in the city of Charlestown, which is the focal point of this
5 litigation. You will hear that the homes that were assembled in
6 Pleasant Ridge are modular homes that were constructed in New
7 Albany then bolted together in Charlestown. They could be put
8 up in one to three days and that they were by 1941 standards
9 substandard housing because they were temporary. By today's
10 standards you will hear that they are still substandard, they
11 were never designed to last this long and they are there. You
12 will hear that there were approximately 412 of those homes built
13 at the time. The aging of the homes has caused problems you
14 will hear testimony from the Mayor and Mr. Jackson and from some
15 of the Plaintiffs that there are problems in Pleasant Ridge,
16 because of the aging of the homes, because of the deterioration,
17 because of the nature of the construction and this has led to
18 the neighborhood being basically a low rent neighborhood where
19 most of the properties are rental homes. And that because of
20 this the nature of the neighborhood has changed from mostly
21 owner occupied to mostly rental and with that has come or have
22 come a lot of problems. You will hear that there is increased
23 crime, you will hear that there is problems with drug use and
24 dealing, you will hear that there is problems with feral
25 animals, you will hear that there a lot of code violations for

1 the maintenance of structures, that people are continuing to
2 live in substandard homes. You will hear of efforts that the
3 city has made not over the last two or three years, you will
4 hear of efforts this mayor has made over the last seventeen
5 years to revitalize that neighborhood infusing literally
6 millions of dollars into that neighborhood to try to revitalize
7 it and you will hear about how some of programs worked and how
8 most of those have failed. You will hear from the Plaintiffs
9 and the Defendants that the property values in Pleasant Ridge
10 have continued to decline while everyone else's property values
11 go up theirs continue to go down. There are problems in
12 Pleasant Ridge and we will agree to that, I think everybody will
13 agree. The question then comes to what should be done and can
14 the city enforce laws and how can they do that. The city has a
15 right to govern itself, the legislature has granted cities,
16 towns, counties authority to enact legislation to govern their
17 selves to protect the health, safety and well fair of the
18 communities. They have given them laws to do redevelopment,
19 they have given them the almost a blank check to regulate
20 anything that is not exclusively regulated by the State
21 government, that is called Home Rule Authority. And some the
22 tools the city has, the city has the executive branch consisting
23 of the Mayor, hos departments heads and the city workers, there
24 is the legislative branch which is the city council, one of the
25 Plaintiffs, Ms. Barnes is a member of that city council, there

1 are administrative agencies, there is the board of public works
2 and safety, whose responsibility it is in part to oversee the
3 utilities, the safety, the police, and other aspects of the day
4 to day operations of the city. And there is a redevelopment
5 commission which has the responsibility and the authority to
6 identify and plan for the redevelopment the areas needing
7 redevelopment formality known as blighted areas. The city has to
8 play by the rules, you know this as an attorney that official
9 action can only be taken by the city or by one of its organs in
10 public meetings by the appropriate authority by the appropriate
11 people and it has to be documented. Mayors are granted the
12 authority to go out and do things, they talk to people, they
13 encourage people, they promote their city, they do a lot of
14 things, and Mayor Hall will testify that he has done those
15 things. He will testify that since he was elected in 2000 there
16 have been efforts, continuous efforts except for 4 years when he
17 was not Mayor since 2000, continuous efforts to revitalize and
18 redevelop the Pleasant Ridge neighborhood. He will tell you he
19 knows many people that live there, he has owned property there,
20 he has dealt with problems there, he is familiar with it and it
21 is his responsibility to deal with that. Now today we are here
22 for a preliminary injunction so we are not going to try to prove
23 the case in chief or disprove the case in chief at least that is
24 what I think we are here to do. And it is not your
25 responsibility to as you know to preempt the will, desire and

1 | legislation of those who have been elected in the city of
2 | Charlestown to run that city, you are here to see if they have
3 | followed the law, to see if the law allows them to do what they
4 | have done. The Plaintiffs do not like the way the city is
5 | administering the law, they do not like the place that it leads
6 | to, and so they ascribe sinister motives to everything the city
7 | has done, and you will hear about that. Fortunately for the
8 | Defendants you are required to give benefit of the doubt
9 | regarding any legislation to the city not to those that accuse
10 | the city of having sinister motives. Some of the efforts that
11 | the city has made in and you will hear about this in the
12 | Pleasant Ridge neighborhood are to institute a neighborhood
13 | watch program to have code enforcement that encouraged people to
14 | bring their housing up to code and that occurred much of it in
15 | early 2000s, without a great effect, it did not last, it did not
16 | work the city had too much a bit of tolerance they removed
17 | hundreds of junk cars, they have had clean-up days, they have
18 | improved roads and utilities. You will hear that the Pleasant
19 | Ridge neighborhood constitutes only a small fraction of the
20 | city's population yet a great disproportionate amount of city's
21 | resources are expended in enforcement actions, whether that be
22 | law enforcement, code enforcement, collecting delinquent
23 | utilities, and other things. The city has a problem in the
24 | neighborhood not to say that everybody who lives there is bad
25 | but they have had problems there. In 2008 the city enacted its

1 property maintenance code and you will hear arguments about that
2 property maintenance code and its relation to its State's Unsafe
3 Building Code because there is a relationship there but that
4 goes more towards the law. In 2014 the city had an opportunity
5 to become involved in something called the Blight Elimination
6 Program it was a grant basically there were grant moneys
7 available for the refurb, the revitalization to help with
8 blighted areas, the city got involved in an application for
9 that. The city council in the end of 2014 choose not to pursue
10 that grant, it would have meant the infusion of millions of
11 dollars into the city that could of helped with redevelopment of
12 Pleasant Ridge. The following year in 2015 there was an
13 election and you will hear that the seminal issue was should
14 Pleasant Ridge be redeveloped, 4 of the 5 city council people
15 who were elected supported the proposition that it should be, 1
16 supported the proposition that shouldn't she happens to live in
17 that neighborhood and she is in the Courtroom with us today.
18 Since the new city council has put in office at the beginning of
19 2016 there has been an effort and you will see some of the
20 documents to promote the redevelopment or revitalization of
21 Pleasant Ridge, you will see a resolution passed by the city
22 councilman in January, 2016 expressing concerns and directing
23 the Mayor and the Department of Redevelopment to investigate and
24 come up with a plan for the redevelopment or solving of the
25 problems in Pleasant Ridge. You will see on the last page of

1 that resolution the principals by which they hoped the Mayor and
2 redevelopment commissions would guided, which expressly states
3 that there should be concern for the people who live there
4 particularly the elderly who live there and particularly those
5 who own their own homes, that was the directive of the city
6 council and the Mayor will testify that's been followed. Since
7 then the next month on February 1st, 2016 the city enacted an At
8 Risk Residential Rental Property Inspection Ordinance indicating
9 that rental properties, residential rental properties classified
10 as at risk properties and those were properties that were
11 certain age, that were originally built with hazardous
12 materials, that didn't have foundations, and there is another
13 factor that has to be, those properties would have to register
14 and regularly be inspected, because those properties were the
15 most likely and you will read this in the resolution or ordinance
16 most likely to post problems for the residents who live there it
17 is a health and safety ordinance. That was on February 1st, 2016,
18 it did not become effective until June and inspections under
19 that ordinance did not begin until August of 2016. You will hear
20 that there were many, many landlords of properties that owned
21 these rental properties who did absolutely nothing to bring
22 their properties up to code during that period of time despite
23 the fact that they were forewarned that they would be inspected
24 and that when inspections began that rather than invest the
25 money necessary to bring their properties up to code, they sold

1 those properties. You will hear that there is a speculator,
2 Pleasant Ridge Redevelopment, LLC who is buying those homes
3 nobody is forced to sell their homes at all, nobody is forced to
4 sell to them, nobody from the city there is no official action
5 that requires that. What you will find is pretty simple you
6 either bring your houses up to code or you tear it down or you
7 pay fines, you get to choose, that is the city's policy that is
8 what is being enforced. Unlike in the early 2000s when the code
9 enforcement was, there was code enforcement but that it was
10 somewhat permissive with regards to fines and in this case fines
11 are being levied and are being levied immediately because people
12 are on notice. You will see that the redevelopment commission
13 later in 2016 after conducting multiple hearings to determine
14 whether this area is an area needing development as defined by
15 the Indiana Code made a determination that it was. You will see
16 that there are eight factors that if you can prove any one of
17 them that qualify an area as an area needing redevelopment. In
18 the case of Pleasant Ridge there are seven of eight of those
19 factors present, you will hear evidence that proves that. Later
20 that year the redevelopment commission adopted a formal plan for
21 the redevelopment of the Pleasant Ridge neighborhood, one of the
22 specific findings in that plan that was adopted by the
23 redevelopment commissions and ratified by the city council was
24 at this time no properties would be acquired by eminent domain
25 but the redevelopment commission recognized many of the problems

1 in Pleasant Ridge and recognized that it would be difficult, if
2 not impossible to redevelopment Pleasant Ridge if only some of
3 the houses were removed because it would be difficult if not
4 impossible to put new housing in that neighborhood. You will
5 hear that there have been continuing inspections ugh and that
6 when homes, these at risk residential rental homes have been
7 inspected and violations are discovered that fines have been
8 imposed, they have been imposed for each violation on a daily
9 basis as the ordnance prescribes you will note that there toward
10 the minimum range the law allows up to, excuse me the ordinance
11 allows up to \$15,000 hundred dollar fine per violation per day
12 and it is nowhere near that. You will hear that the violations
13 for which people have been cited are health and safety
14 violations based upon the city's property maintenance code which
15 is in effect the 2006 international property maintenance code,
16 the same standards set out in that code. You will hear Your
17 Honor that the Pleasant Ridge neighborhood Association was
18 formed and they chose to purchase a home to rent that they did
19 significate work to that home and that at some point later in
20 the year their property was inspected as were many other
21 properties, they allege in their complaint that they were the
22 only landlord that owned only one property that was inspected or
23 the first to be inspected but you will hear testimony that is
24 simply not the case, they were treated like everyone else you
25 will testimony to that effect, there was significate serious

1 health and safety code violations. They will not deny this,
2 they do not dispute the fact that fines that well excuse me,
3 violations that were noted at ever home that was inspected they
4 cannot point to one of them that they think was not a legitimate
5 code violation, that is not the issue here, the fact that the
6 city is inspecting and fining people with them. The bases of
7 their complaint is that one of the basis of their motion here
8 today is that there is a speculator that has purchased certain
9 properties and has promised to tear these properties down and
10 the city has not waived their fines but has entered into a
11 discussions indicating that if their homes are taken down that
12 the fines may be waived, there will be testimony that the city
13 has requested because of the number of homes that they have
14 purchased that they not evict, that they not put everybody out
15 all at once and there has been an orderly progressive vacation
16 of those premises, which are now being boarded up. You will
17 hear testimony that since these homes have been boarded up and
18 since the population of this area of the community has been
19 going down that some of the problems that the city has
20 experienced are diminishing. The Plaintiffs believe that they
21 have been treated unfairly because the fines against their
22 properties have not been waived, yet that they have behaved, you
23 will hear testimony that they have not behaved the same as these
24 land speculator who has agreed to tear their houses down, so
25 that redevelopment can occur. You will hear that the

1 redevelopment commission passed a resolution recommending to the
2 Board of Public Works and Safety that unless landlords agreed to
3 permanently solve the problem with these substandard homes that
4 no fines be waived, that they be accountable to maintain their
5 homes up to the Property Maintenance Code standards and that if
6 they don't that they be fined because otherwise there would not,
7 there would be a disincentive to maintain their properties
8 properly. Your Honor, ugh in the end what you will hear is
9 testimony that shows that there are problems in Pleasant Ridge,
10 that there are many health and safety code problems, that the
11 efforts undertaken by the city are working, that the problems
12 are diminishing because the city is being allowed to govern
13 itself rather than have somebody else come in and govern it and
14 you will see that what has been done is, is according to law
15 whether the city ever takes properties ugh by eminent domain is
16 irrelevant to today's discussion, regardless of the fact they
17 may want to get to that point the road that they are taking now
18 does not pass through that point, we are talking about code
19 enforcement and you will hear testimony that the violations for
20 which they seek are legitimate violations that nobody disputes
21 that and that is a rational, in that there is a rational bases
22 or relationship between the objective of the city which is to
23 eliminate substandard housing and the way they are going about
24 doing it. Thank You Your Honor.

25 THE COURT: Alright Thank You.

1 MR. ANTHONY SANDERS: Your Honor for our first Witness
2 we would like to call Council member Tina Barnes to the stand
3 for the Plaintiff.

4 MR. MICHAEL GILLENWATER: Your Honor we would ask for
5 a separation of witnesses.

6 BY THE COURT: Any response to that?

7 MR. ANTHONY SANDERS: Your Honor, the parties
8 Plaintiffs should not be separated, they have right to see the
9 trial of their own case.

10 BY THE COURT: The parties do have a right...

11 MR. MICHAEL GILLENWATER: That is true Your Honor, I
12 thought Ms. Crawford was going to testify.

13 MR. ANTHONY SANDERS: As for Ms. Crawford, maybe I
14 can just clear this up now. So my understanding is all the
15 evidence on both sides is admitted, so we will not have to ask
16 for documents to be admitted, during the course of the today's
17 proceedings, is that right?

18 BY THE COURT: Right that is my understanding.

19 MR. ANTHONY SANDERS: Ms. Crawford really here to
20 admit one particular exhibit, uhm, Tab 20 we will get to those
21 latter, so we do not have to call her today, now Defendant may
22 still wish to call her for whatever reason the noted her but we
23 will not be calling her, if that Exhibit is admitted.

24 MR. MICHAEL GILLENWATER: Your Honor, we have agreed
25 that those documents should be admitted although we haven't

1 necessarily stipulated to their relevance.

2 BY THE COURT: Right so ...

3 MR. MICHAEL GILLENWATER: So if they don't intend to
4 call her that is fine.

5 BY THE COURT: Okay well then certainly I am not
6 going to remove the parties and if that is the only witness that
7 is a non-party and if you are not going to call her except for
8 maybe some foundational things, I'm not going to exclude anyone
9 at this time.

10 MR. ANTHONY SANDERS: Thank you Your Honor, I call
11 Ms. Barnes to the stand and then if we can.

12 BY THE COURT: Ms. Barnes if I could have you raise
13 your right hand, you solemnly swear and affirm the testimony you
14 are about to give to be the truth, the whole truth, and nothing
15 but the truth.

16 BY WITNESS- TINA BARNES: I do.

17 BY THE COURT: You can have a seat, thank you. They
18 make me use this huge monitor. Okay we will recess for two
19 weeks and I will review all of this.

20 MR. ANTHONY SANDERS: Your Honor we have a
21 demonstrative map that Ms. Barnes is going to testify to and put
22 into evidence, this is a map of Pleasant Ridge Neighborhood,
23 this one has names and properties owners pulled from and county
24 date this one is cleaner without the names of the actual
25 property owners.

1 BY THE COURT: Alright very well.

2 MR. ANTHONY SANDERS:

3 DIRECT WITNESS- TINA BARNES

4 Q Good Morning Ms. Barnes.

5 A Good Morning

6 Q Can you state your full name for the record?

7 A Tina Marie Barnes

8 Q Where do you live?

9 A 222 Marshall Drive in Charlestown

10 BY THE COURT: Hang on a minute is that a cell phone?

11 It needs to be on silent that is our warning, if I get one more
12 cell phone I will have cellphone remove, thank you.

13 Q Could you state your address again?

14 A 222 Marshall Drive in Charlestown, Indiana

15 Q And is that in Pleasant Ridge?

16 A Yes it is.

17 Q Okay what is your occupation?

18 A I am a medical biller.

19 Q And do you hold any positions in government?

20 A Yes I was elected to the City Council Board in Charlestown.

21 Q When were you elected?

22 A 2015

23 BY THE COURT: We need you to speak up, if she could
24 please.

25 A Maybe if I come over this way more.

1 BY THE COURT: That just records you it doesn't
2 amplify you much, so if you could just make sure you speak up,
3 talk to the back of the room.

4 A So talk up.

5 Q You said you were elected to the City Council, when were
6 you elected?

7 A In 2015 and start at 2016.

8 Q Why did you run for city Council?

9 A I wanted to continue to be a voice against the demolition
10 of Pleasant Ridge.

11 Q Now what is the Pleasant Ridge neighborhood, describe it to
12 us?

13 MR. MICHAEL GILLENWATER: Excuse me Mr. Jackson you
14 need to leave the room they are going to call you as a witness.

15 Q What is the Pleasant Ridge Neighborhood, describe it to us?

16 A In World War two there was a lot of people that came to
17 Charlestown due to the Indiana Army Ammunitions Plant being
18 built, so they hired a Mr. Gunnison to bring these home in and
19 put them up that didn't require the raw goods that the war
20 needed and it housed a lot of people that way. They are
21 elongated homes, most were duplexes, some of them singles and a
22 few quadplexes.

23 Q And about how many homes would you say in the beginning of
24 2017, about how many homes were there in Pleasant Ridge?

25 A About 350.

1 Q How did, or describe a little bit more about what they
2 looked like and how they used these homes?

3 A They are long so the front of the house is most will have
4 two front doors because they were duplexes, so at the beginning
5 you could have two families in one unit, one home. My home
6 myself I have my adult daughter lives on one side that is
7 disabled and then myself and my two grandchildren live on the
8 other side. So they are used for homes, for families.

9 Q And do you know many of your neighbors in Pleasant Ridge?

10 A I know a lot of my neighbors, yes.

11 Q How would you describe the income status of people in the
12 neighborhood?

13 MR. MARK CANDLEY: I object Your Honor, how is she, it
14 is not established that the witness would have personal
15 knowledge of the income is of the people in the neighborhood.

16 BY THE COURT: You want to respond?

17 BY ANTHONY SANDERS: I can lay a little foundation
18 Your Honor.

19 BY THE COURT: Go ahead.

20 Q What kind of cars to people drive in Pleasant Ridge?

21 A Just modest

22 Q And when you are talking with your neighbors what kind of
23 jobs do they work?

24 A The most people I know have factory jobs.

25 Q And are there people that don't have jobs for whatever

1 reason in Pleasant Ridge?

2 A Uhm, we have a lot of retirees and disabled people.

3 Q All right and do people wear fancy clothes what you would
4 expect in an upscale community?

5 A No, we wear just regular tee shirts and jeans, most of the
6 time.

7 Q And so how would you describe the income status of those
8 people?

9 A I would describe that modest to low income.

10 Q How long have you lived in Pleasant Ridge?

11 A This time five (5) years.

12 Q And what was the last time before that?

13 A Uhm, I was brought home the hospital there until I was
14 about seventeen (17) years old.

15 Q And di you have connections with Pleasant Ridge from
16 seventeen (17) to five (5) years ago?

17 A Oh yes, my family there is still cousin that live there, we
18 all grew up together and actually I would go through there just
19 to visit people that I grew up with.

20 Q And you said that you own your own home?

21 A Yes I do.

22 Q And you purchased it five (5) years ago?

23 A I did yes.

24 Q What is the Pleasant Ridge Association, one of the
25 Plaintiffs in this case?

1 A The neighborhood association we formed it after we found
2 out about the Blight Elimination Program. A group of us came
3 together trying to figure out how we were going to work
4 together, in one of those aspects we formed the Neighborhood
5 Association.

6 Q And when was that?

7 A In 2014.

8 Q Are you a member of the association?

9 A Yes I am.

10 Q And have you been a member since it was formed?

11 A Yes

12 Q Based on you knowledge as a home owner in Pleasant Ridge
13 and a City Council member, does the city want to redevelop
14 Pleasant Ridge from scratch by demolishing all the homes?

15 A From my knowledge, yes.

16 Q Right, so you mentioned this Blight Elimination Program,
17 you are familiar with what happened in 2014 regarding that
18 program?

19 A Yes, I am.

20 Q All right I would like you to turn in the first binder in
21 volume one (1) here, to what is marked as Tab (ten) 10 and is
22 this a portion of that Blight Elimination Program application?

23 A Yes it is.

24 Q Is this all of the application?

25 A No it was very lengthening, I have never seen it in paper

1 but I did receive disk. I have been told it is over one
2 thousand (1,000) pages.

3 Q Okay, and what was the purpose of this application?

4 A To me the purpose was to obtain money from the Federal
5 Government to completely demolish all of our homes.

6 Q Okay so it looks like it was an application to the State
7 but was that money originally from the Federal Government?

8 A Yes that is correct.

9 Q And who did the City partner with as part of this
10 application?

11 A Ugh, Neace Ventures.

12 Q All right and what is Neace Ventures to your understanding?

13 A An private developer, that would be able to come in and
14 build the big new fancy homes.

15 Q Okay what was the amount of requested grant again?

16 A About six (6) million dollars.

17 Q And did the city have a brochure that it gave to the people
18 of Charlestown along with this application?

19 A Yes it was called the Bright to Blight. Blight to Bright.

20 Q And if you turn to Tab eleven (11), is this a copy, flip to
21 those pages is this a copy of that brochure?

22 A Yes it is.

23 Q Okay and these are only four (4) pieces of paper but it was
24 six (6) pages it looks like is that correct?

25 A I thought it was one, two, three, four, five, yes.

1 Q So did you agree with the plan that the city purposed as
2 part of this Blight Elimination Program application? Did you
3 agree with what the city was doing?

4 A No

5 Q What did you do to oppose it?

6 A Uhm, when we, the group of us came together we started a
7 petition to save it, we did rallies, we talked to everybody, we
8 wrote letters, we sent them to the State to ask the board not to
9 approve it.

10 Q And what did the city ultimately do, the City Council
11 regarding this application?

12 A The City Council finally listened to us and would not vote
13 to approve the forward to into the program.

14 Q Now since 2014 has the city renewed its plans to redevelop
15 Pleasant Ridge?

16 A Yes, in 2016.

17 Q Now, just to be clear, when I say redevelop, when you hear
18 the word redevelop from the city, what do you take that word to
19 mean?

20 A To me redevelop the way the city is using it, take all the
21 homes, completely get rid of Pleasant Ridge and everyone that is
22 there and start all over.

23 Q Now if we could turn back in the same binder to what is Tab
24 six (6), and it says at the top Redevelop Resolution 2016 R6, is
25 this the redevelopment plan that Mr. Gillenwater was referring

1 to earlier in his opening statement?

2 A Yes

3 Q And this is the Commissions resolution but later was this
4 adopted by the full City Council?

5 A Yes it was.

6 Q And what do you take this document to mean?

7 A Means the same thing that there are going to take all of
8 our homes.

9 Q And has the city passed other ordinances and resolutions
10 about the redevelopment of Pleasant Ridge?

11 A They have passed several.

12 Q All right is one of them a rental inspection ordinance?

13 A Yes it is.

14 Q And is one a nuisance ordinance?

15 A Yes it is.

16 Q And then there were others resolutions the city has passed?

17 A Yes

18 Q Did you vote against all of these ordinances and
19 resolutions?

20 A I did.

21 Q Why did you vote against them?

22 A Because I don't agree with destroying Pleasant Ridge
23 completely.

24 Q Did anyone else vote against them?

25 A No

1 Q Based on your experience as a City Council Member, do you
2 believe that the other members of the City Council are allied
3 with the Mayor on issues to do with Pleasant Ridge
4 Redevelopment?

5 MR. MARK CRANDLEY: Your Honor I object how does she
6 have personal knowledge of a speculative term like allied means?

7 Q Have the other City Council members always voted with the
8 Mayor since the beginning of 2016 on Pleasant Ridge
9 Redevelopment issues?

10 A Yes they have.

11 Q You believe they will continue to vote that way?

12 A Yes I do.

13 Q Now is there is company that has been requiring properties
14 in Pleasant Ridge since the middle of 2016?

15 A Yes, Pleasant Ridge Redevelopment, LLC.

16 Q What is your understanding on who controls Pleasant Ridge
17 Redevelopment, LLC?

18 A Mr. John Neace

19 Q And is this the same John Neace who was connected with the
20 2014 Blight Elimination Program Application?

21 A Yes

22 Q And this map here to your knowledge does this accurately
23 illustrate who, where owners, what properties in Pleasant Ridge
24 are currently owned by Pleasant Ridge Redevelopment and what
25 properties are currently owned by members of the Association and

1 then also owned by other people?

2 A Yes

3 Q Now after a document rental inspection ordinance did the
4 city begin inspecting homes?

5 A Yes they did.

6 Q Have you seen copies of any citations that were issued as a
7 result of these inspections?

8 A Yes, Tom Brown gave me several of his.

9 A A landlord, yes.

10 Q In Pleasant Ridge?

11 A Yes

12 Q And have you talked to any other landlords who own property
13 in Pleasant Ridge and (indiscernible)?

14 A Jimmy Woods and Kenny Westmorland

15 Q Okay, what did these landlords tell you happened with these
16 inspections?

17 A They received a lot of fines and citations on each property
18 but not just one property they owned multiple properties so
19 those fines were very large when you add them up together. They
20 added them up daily and by the time that they received them they
21 were thousands of dollars.

22 Q So did they tell you the fines actually began before they
23 even received them in the mail?

24 A They started on day one (1) yes, that is the way, before
25 they even seen them.

1 Q And so what did these properties choose to do after they
2 received these fines about their properties?

3 A Eventually they decided it was best interest economical to
4 go ahead and sell those properties to Neace Venture, Pleasant
5 Ridge Redevelopment, LLC.

6 Q And did they not have to pay the fines if they sold the
7 properties?

8 A Correct

9 Q Was anyone else other than Pleasant Ridge Redevelopment
10 interested in buying those properties?

11 A Not that I am aware of.

12 Q And how much did they receive for these sales of these
13 properties?

14 A My understanding \$10,000 thousand dollars per property.

15 Q Now did the Redevelopment Commission adopt a resolution
16 that encouraged the Board of Public Works to not waive fines for
17 properties in Pleasant Ridge unless they were destroyed?

18 A Yes that is correct.

19 Q Okay and just a note to if you could turn to Tab seven (7)
20 in Plaintiff document. Is this a copy of that resolution?

21 A Yes it is.

22 Q And was this resolution then, or similar resolution stating
23 that they would not waive fine unless properties in Pleasant
24 Ridge were torn down, then adopted by the Board of Public Works
25 and Safety?

1 A Correct

2 Q And the Board of Public Works and Safety is the board the
3 reviews appeals of fines, is that true?

4 A Right, yes.

5 Q Now these homes that were sold in Pleasant Ridge
6 Redevelopment, a lot of them in 2016, from these landlords, were
7 there tenants living in many of them?

8 A Yes there was.

9 Q Okay and when did that happen in 2016, these fines and
10 sales?

11 A The fines I believe stated like July -August in that area
12 and probably sold out in September-October.

13 Q Okay, so what happened to those tenants who were living
14 there in the fall of 2016?

15 A Well a lot of their leases were not up so they were allowed
16 to continue to live there and in March we had very large amount
17 of people that had to leave, so it is just over whelming when
18 you see that many people leave.

19 Q And to this day are there still some tenants living in some
20 of those homes?

21 A Yes there is.

22 Q To you knowledge, if you don't know that is fine, to your
23 knowledge is Pleasant Ridge Redevelopment made any repairs to
24 these homes while the tenants are still living there.

25 A To my knowledge no.

1 Q Living in the neighborhood and seeing these homes on a
2 daily basis, would you have noticed if the developer was
3 repairing the homes?

4 A I would feel like if I didn't my neighbors and they would
5 point it out to me.

6 Q And what has happened to these homes since the tenants have
7 moved out?

8 A Well when they first left, trash and furnishings and
9 anything they just couldn't take with them was left in the yards
10 and houses were just left open. And then we had a lot of people
11 that came in and started tearing vinyl and aluminum siding off
12 of the houses, windows being removed, doors, eventually some of
13 them have been boarded up, but even the ones that have been
14 boarded up boards have been coming down, doors are left open,
15 they are just left for people to wander through and the trash is
16 just laying around with high grass.

17 A I would like now to move to Volume 11 the big binder of
18 Plaintiff's exhibits, if you could turn to Tab thirteen (13), is
19 this a copy of an email exchange you had with Mayor Hall?

20 A Yes it is.

21 Q And it was in early November, 2016

22 A Correct

23 Q What was the purpose of you sending this email?

24 A Well, being a home owner and speaking with the other home
25 owners we wanted some assurance that is we had fines and we

1 fixed our properties would we be able to continue to live in our
2 homes because we don't want to sell, we want to keep living in
3 our homes and he would not give me that assurance he said no, it
4 is an all or nothing and they were going to take our properties.

5 Q Is that a complete copy of that email exchange, if you
6 could look through it please.

7 A Yes it is.

8 Q Now if we could now move to back to the first Volume, to
9 Tab eight (8), this is a resolution of the Redevelopment
10 Commission concerning Spring Field Manor, is that true?

11 A Yes it is.

12 Q All right and is Springfield Manor another construction
13 project connected to John Neace?

14 A Yes it is.

15 Q Is it senior housing?

16 A Fifty-five (55) and older.

17 Q Okay, now this Redevelopment Commission was this later
18 adopted by the full City Council?

19 A Yes it was.

20 Q If you could turn to the third to the last page, which on
21 the bottom says page two (2) of four (4) of this exhibit, if you
22 could read from paragraph seventeen (17) the first three (3)
23 pages, so physically the first five (5) lines in paragraph
24 seventeen (17).

25 A In addition to the at risk rental properties inspections

1 imitative described in paragraph eleven (11) above the city
2 intends to more vigorously enforce the city's property
3 maintenance code as applied to other unsafe, substandard homes
4 in the interest of public health, safety and well fair. Many
5 unsafe, substandard owner occupied homes are located in the
6 CEEA, such enforcement could result in renovation removal or
7 replacement of owner occupied housing located there.

8 Q What is your take away from what that language means?

9 A That they are now going to start to come after the home
10 owners for the property code violations.

11 Q Are you afraid that your home might be inspected for code
12 violations?

13 A Absolutely

14 Q Are you afraid that you might that you might receive an
15 order with daily fines that you have to begin fixing
16 immediately, like other properties have in Pleasant Ridge?

17 A That's what I fear, yes.

18 Q What would you do if you received an order like that?

19 A Unfortunately even if I could fix those violations, I
20 probably would not be able to because I fell they would come
21 back and fine me again for something else and those, that money,
22 it just would not be any use. I would eventually have to sell
23 my home.

24 Q Would some of your neighbors find it even harder to respond
25 to a notice like that?

1 MR. MARK CRANDLEY: Your Honor that question asks
2 for speculation outside of her personal knowledge what her
3 neighbors know and don't know.

4 THE COURT: Go ahead you want to restate.

5 Q I will lay some foundations Your Honor. Are some of your
6 neighbors, you said some of your neighbors are elderly?

7 A Yes they are.

8 Q Is it harder to say fix up their properties than it is for
9 you?

10 A Yes it is, they are not physically able and with Social
11 Security and Pensions benefits, they wouldn't, they may not have
12 that financial backing.

13 Q What have you personally done as a result of this city push
14 for redevelopment in Pleasant Ridge?

15 A Just the stress of watching what they have done to the
16 landlords who have turned around and the renters that have had
17 to leave, watching that the children that used to play in my
18 yard are all gone, having to speak with my children and try to
19 completely calm them to reassure them that they won't have to
20 leave. The stress and the emotion of it on a daily basis is
21 overwhelming and when you go to visit the elderly it is truly
22 just heart breaking.

23 Q Now have to researched, different line of questioning, have
24 you researched home prices in Charlestown but outside of
25 Pleasant Ridge?

1 A Yes I have.

2 Q How did you do that research?

3 A If you just go on like Charlestown, Indiana and do homes
4 for sale, it will bring homes up and then also I went like Remax
5 or Shuler Bauer or just Realtor.com where I can look those up.

6 Q And have you looked at any paper resources, traditional
7 resources?

8 A Yes, like The Courier Journal, The News and Tribune, yes.

9 Q Okay and you have done this in 2017?

10 A Yes I have.

11 Q What prices did, well let me put it this way, do you find
12 any homes for sale in Charlestown that were less than \$50,000
13 dollars?

14 A No

15 Q And before all this redevelopment started could you get a
16 home in Pleasant Ridge for less than \$50,000 dollars?

17 A Yes

18 Q Have you also researched the same methods with rental
19 prices in Charlestown but outside Pleasant Ridge?

20 A Yes I have.

21 Q And what did you find was available for rental units in
22 Charlestown but outside Pleasant Ridge?

23 A Just recently the lowest one I believe I remember seeing is
24 like \$750.00 dollars for a one bedroom and generally go up, I
25 seen the majority were around \$1,000.00- \$1,2000.00 dollars.

1 And Pleasant Ridge was very economical at \$450.00 -\$600.00
2 dollars, so it is not comparable.

3 Q Ms. Barnes what would you and your family do if suddenly
4 you had to move out of your home and all you had in return was a
5 check for \$10,000 dollars?

6 A Well, I would absolutely have to move away because number
7 one I couldn't buy anything and I own my home, so and I am not
8 going to give my rent money to Neace or anyone else that has
9 been a part of this, I'm not going to do it. So I would move to
10 Florida and be with my brother.

11 MR. ANTHONY SANDERS: No further questions.

12 THE COURT: Any cross?

13 CROSS-EXAMINATION- OF WITNESS TINA BARNES

14 MR. CRANDLEY: Thank You Your Honor.

15 Q Good morning Ms. Barnes good to see you again.

16 A Hi

17 Q I understand that you bought your home in 2012?

18 A Yes that is correct.

19 Q How much did you pay for your home at that time?

20 A \$9,500 dollars

21 Q If I recall correctly you paid cash, right?

22 A Yes I did.

23 Q No mortgage on the home at this time?

24 A Correct.

25 Q You have remodeled your home since 2012?

1 A Yes I have.

2 Q Can you tell the Court about what those remodel, I know
3 there was some remodeling done in 2005, I really want to focus
4 on the period of time after you bought the home.

5 A Uhm, on my daughters side of the home which is a one
6 bedroom we have divided it out that way, she wanted a nice
7 wooded floor so we put one in there for her, we have redone the
8 bathroom for her and ugh, let's see, a furnace and air, central
9 air unit on that side. And on my side we done the same with the
10 furnace and air unit.

11 Q And was there any work done on hardwood floors?

12 A Yes, yes we striped there are two bedrooms, two bedrooms
13 that we stripped the hardwood floors down and then we
14 refurnished, refurbished those.

15 Q And you put new piping in to, did you not?

16 A Yes for the water, yes, for the new bathroom, I mean redone
17 the bathroom, yes.

18 Q And you didn't do all this work yourself, did you?

19 A No, no not all of it, I did a lot.

20 Q Some of it involved a contractor, did it not?

21 A Yes

22 Q For instances the putting in of the new electrical box in
23 that was done by a contractor, was it not?

24 A Yes it was.

25 Q Do you need a glass of water?

1 A Yes that would be nice.

2 MR. ANTHONY SANDERS: Yes actually, I apologize

3 BY TINA BARNES: Sorry.

4 Q I recognize that coughing.

5 A That is much better, thank you.

6 Q And at that same time you added a new air conditioner?

7 A Yes that is correct.

8 Q I think I mis-phrased that you added an air conditioner,
9 you did not have an air conditioner unit before?

10 A Correct yes we put the whole unit in.

11 Q Do you know how much you spent for that work?

12 A Probably about \$5,000 - \$6,000 dollars.

13 Q And that would include for the electricity and the air
14 conditioning unit?

15 A Yes

16 Q And you don't recall what you paid for some of the other
17 work that you had done in the house?

18 A I don't remember, it was just piece milled and together.

19 Q Okay, do you know whether there was any viol, well let me
20 restart that. You are familiar with Property Maintenance
21 Standards within the City of Charlestown, are you not?

22 A Yes I am.

23 Q Are you aware of any violations of those standards on your
24 property?

25 A I am not aware of any, no.

1 Q Do you know how much your home is worth?

2 A According to the tax assessment that I looked up it was
3 \$31,900 dollars.

4 Q And do you the fair market value of your house is?

5 A No I have never had a reason to inquire about that.

6 Q In the binders that are in front of you, in the third
7 binder the skinniest one, and there is a Tab thirty-two (32).

8 THE COURT: Did you say Tab thirty-two (32).

9 MR. CRANDLEY: Yes Your Honor, It is the affidavit
10 submitted by the Plaintiffs.

11 THE COURT: Thank You

12 Q And I am going to take you to the very first one of those.
13 Do you recognize that document?

14 A Yes I do.

15 Q This is your affidavit, is it not?

16 A Yes it is.

17 Q And who prepared this affidavit?

18 A Well the lawyers prepared it, yes.

19 Q And when you saw it from your lawyers you made no
20 modifications to it?

21 A Not to this one no.

22 Q You signed it?

23 A Yes

24 Q I want to take you to paragraph twenty-two (22) of that
25 document, and you say towards the bottom, if I occurred enough

1 fines before fiving alleged violations I might be forced to sell
2 the property to the city's favorite developer Pleasant Ridge
3 Redevelopment, LLC, for an amount close to \$10,000 dollars, a
4 fraction of its actual value. Is that what you say in your
5 affidavit?

6 A Yes, that is what I said.

7 Q And your testimony a moment ago was you don't know the
8 actual value of your home, is that right?

9 A Tax assessment said 31.., to me that is my actual value.

10 Q So when you are saying actual value you mean tax?

11 A That is the only thing I had to go by, yes.

12 Q But you understand and I believe you testified in your
13 deposition there is a difference between a fair market value and
14 a tax assessment.

15 A There is a difference, yes.

16 Q How have your tax assessment changed over the years, since
17 you have owned your home in 2012?

18 A They have gone down.

19 Q And when did they start going down?

20 A From the time that I bought it.

21 Q Prior to 2014 Blight Elimination Plan?

22 A Yes

23 Q Prior to any code enforcement in 2016?

24 A Yes

25 Q You have never worked in code enforcement, is that right?

1 A No I have never.

2 Q You would agree with me that is appropriate for a city to
3 protect its citizens from health and safety dangers, right?

4 A Yes

5 Q And you would agree with me that fire protection devices
6 like smoke detectors and fire walls between units are a matter
7 of public health and safety?

8 A Yes I do.

9 Q And you would agree with me that reducing or eliminating
10 bugs and vermin in housing is a matter of public health and
11 safety.

12 A Yes that is correct.

13 Q And you would agree with me that reducing or eliminating
14 feral animals is an important public health and safety matter?

15 A Yes

16 Q And you would agree with me that removing rubbish and
17 garbage is an important public health and safety matter, right?

18 A Yes

19 Q And preventing structural supports of homes from
20 deteriorating is an important public health and safety matter?

21 A Yes

22 Q Having proper wiring in a home is an important public
23 health and safety matter, is it not?

24 A Yes it is.

25 Q You would not want to be in a home that did not have proper

1 wiring, right?

2 A No I would not.

3 Q And you would not want to rent property to someone knowing
4 that it had bad wiring?

5 A Knowing, no I would not?

6 Q Because it would be dangerous.

7 A It would be dangerous.

8 Q You would not want improper wiring in a home that you lived
9 in knowing or not knowing, you would want it fixed, right?

10 A I would want it fixed.

11 Q These things that we just discussed the safe wiring,
12 reducing vermin, preventing, protecting the structural supports
13 of homes, these are all the things addressed in the City's
14 Property Maintenance Code, are they not?

15 A Yes they are.

16 Q And you talked to three (3) gentlemen, I believe Mr. Woods,
17 Mr. Moreland, and Mr.

18 A Brown

19 Q Yes Mr. Brown, thank you, regarding citations for
20 violations of their properties, that is how I understood your
21 testimony?

22 A Yes

23 Q And at any point during those conversations did they say
24 that the violations were unfounded? Do you need me to explain
25 what I mean by unfounded, I am glad to do so?

1 A Okay, please.

2 Q Did they at any point say that the violations that were
3 found didn't exists, my property complied with?

4 A No

5 Q And did they say this is a false violation, this did not
6 exist?

7 A No

8 Q Their complaint was that they didn't want to pay the fines,
9 is that correct?

10 A Their complaint to me was that the fines came at them daily
11 and they just multiplied too quickly to be able to even do
12 anything.

13 Q And because of that their economical best interest was it
14 was more profitable for them to sell their homes rather than pay
15 the fines and fix up the properties, is that your testimony.

16 A It was more economical because they feared that they would
17 be cited again so yes.

18 Q You don't believe that when Mr. Jackson inspects a home
19 that he makes up violations, do you?

20 A No

21 Q You have no evidence that he has ever cited someone for a
22 violation that doesn't actually exists?

23 A I have no evidence of.

24 Q You talked to Mr., with Counsel regarding your concern that
25 Mr. Jackson may come and knock on you door someday, has Mr.

1 Jackson in fact done that?

2 A No Sir.

3 Q And you don't rent your property correct?

4 A No I do not.

5 Q So you talked with Mr. Sanders regarding the inspection
6 ordinance do you recall that discussion?

7 A Yes

8 Q And the inspection ordinance only applies to rental
9 property, does it not?

10 A The rental inspection, yes.

11 Q Would you agree with me that if Mr. Jackson didn't find a
12 violation at your home he would not have a basis to issue fines
13 against you?

14 A If he didn't find any he would have a basis, correct.

15 Q I think you put this in your deposition no violation no
16 fine.

17 A No fine.

18 Q You still agree with that?

19 A Yes

20 Q You say ugh, in your affidavit at paragraph twenty-one
21 (21), that is the document in front at the top, you and other
22 association, association members and that is the Pleasant Ridge
23 Association Members, right?

24 A Correct, yes.

25 Q That you take special care of your homes.

1 A Yes we do.

2 Q And special in that context means out of the ordinary, more
3 than the norm, right?

4 A To me, yes.

5 Q Would you agree with me that it is not possible to see
6 whether the inside of a home violates the Property Maintenance
7 Code without doing an inspection?

8 A Correct

9 Q Let's go ahead and turn to, If I may approach at this time
10 and give the witness our exhibits?

11 THE COURT: You may, blue binder?

12 Q Yes the blue binder, this is Exhibit D, do you see that
13 document?

14 A Yes

15 Q That is the inspection ordinance that we were just talking
16 about, right?

17 A Yes that is.

18 Q And you see where it has what I will refer to as whereas
19 clauses?

20 A Yes

21 Q You see it says in the second of those paragraphs begins
22 with the whereas housing that does not the minimum standards
23 established in the City's Property Maintenance Code City
24 Ordinance 2008 OR001 and other explicable laws here and after
25 referred to as substandard housing is undesirable as it leads to

1 or creates a higher risk of discomfort disease, injury, death,
2 fire, blithe, squalor, abandonment, crime, falling property
3 values, cessation of growth, lack of development, proliferation
4 of vermin, as well as negative conditions. Do you see that
5 language?

6 A Yes

7 Q You agree with that statement, right?

8 A Yes

9 Q And the next paragraph down in the inspection ordinance
10 where it says, whereas allowing substandard housing to exists in
11 the city is harmful to children, families and others in having
12 such housing is detrimental to the quality of life in the
13 neighborhood with the substance, substandard housing is located
14 and is harmful to the city and other neighboring communities,
15 and you agree with that statement as well, right?

16 A Yes I do.

17 Q You would agree with me that if the city wanted to address
18 these problems of substandard housing talked about in this
19 ordinance the logical place to start in Pleasant Ridge in 2016
20 would be the large landlords, the landlords that own the most
21 property, right?

22 A Yes

23 Q Have you ever been approached about selling your home since
24 2012?

25 A No I have not.

1 Q Has anyone ever told you that you have to sell your homes
2 to any particular entity?

3 A No

4 Q Say for instance you wanted to sell your home to someone
5 other than Pleasant Ridge Redeployment, LLC, you are free to do
6 so, right?

7 A I am free to do so.

8 Q I understand your position that you do not want to sell
9 your home?

10 A Exactly

11 Q But no one has told you that you have to sell it to any
12 particular entity?

13 A No they have not.

14 Q And no one at this point that you have to sell it at all?

15 A Exactly, yes that is right.

16 Q And no one has told you that you have violations on your
17 property?

18 A No one has told me that.

19 Q Have you always called the neighborhood Pleasant Ridge?

20 A No

21 Q When about did you start using that term?

22 A Not until after the Blight Elimination Program came out, I
23 honestly thought the name was The Projects.

24 Q And that was the name commonly used?

25 A Yes it was.

1 Q And you yourself used it?

2 A All my life.

3 Q And just to close the lip on that, how did it come that you
4 started using the term Pleasant Ridge?

5 A It was the project of the Army to build those homes, so the
6 people that started living there just would say the projects, so
7 The Projects.

8 Q And I want to talk a little bit about your statue as a City
9 Council member at this point, you have been on the City Council
10 since 2015?

11 A Yes one year and a half.

12 Q And in that time have you learned whether official city
13 policies need to be written?

14 A Yes

15 Q And they do, do they not?

16 A Yes

17 Q What is a City Council role in entering a contract?

18 A Entering in I'm sorry?

19 Q Entering into contracts? Let me ask in a different way and
20 try to be helpful. Does the City Council approve contracts that
21 the city enters into in?

22 A Yes, well some I can't say all, I don't think they do.

23 Q Okay has the City Council ever approved a contract between
24 Pleasant Ridge Redeployment, LLC and the City?

25 A No they have not.

1 Q You don't think there should be an exception to the
2 Property Maintenance Code for lower income neighborhoods do you?

3 A I'm sorry?

4 Q Let me try to speak up a little bit, you don't think there
5 should be an exception to the Property Maintenance Code for
6 lower income neighborhoods, right?

7 A No I do not.

8 Q Homes that people who have less income should be held to
9 the same standards as anyone else?

10 A I don't feel the city needs to have an exception for any
11 neighborhood.

12 Q When you were talking to Mr. Sanders you mentioned the
13 search you did regarding the possible housing options, do you
14 recall that discussion?

15 A Yes

16 Q Did you examine at all the possibility of someone moving to
17 a housing authority property, city housing authority property?

18 A No I did not investigate that personally, no.

19 Q I am going to turn you back to Exhibit six (6) which is in
20 Volume one (1) it is Resolution 2016-R-6.

21 A I'm sorry what page again. R-6

22 Q Do you know where in this document that is says that the
23 city is going to in your words take the homes in Pleasant Ridge?

24 A In my words just the word redevelopment says that to me.

25 Q Because it says redevelopment, you read that to mean there

1 are going to take every home in Pleasant Ridge?

2 A Yes because they have said development of Pleasant Ridge is
3 all or nothing, so to me when I read it that is what it says.

4 Q It doesn't say Pleasant Ridge is all of nothing,
5 redevelopment...

6 A Not in here.

7 Q It doesn't say anything other than were are trying to
8 foster redevelopment in this neighborhood that we have
9 identified as troubled. It doesn't say anything other than that
10 using the word redevelopment that we are going to take people's
11 homes, right?

12 A That is what is says, yes.

13 Q Let's go to Exhibit eight(8), and lets go a couple pages
14 back, let me see if I can get you there, this is where it says
15 Exhibit C at the top page 104, you have gone a little too far
16 come back.

17 MR. CRANDLEY: May I approach Your Honor?

18 THE COURT: You may.

19 Q Here we go you are now looking at Exhibit C to Exhibit 8,
20 correct?

21 A Yes

22 Q You see it says 2017 Economic Development Area Plan, right?

23 A Yes

24 Q Do you know what territory within the city is included
25 within that economic development area?

1 A Not at this very moment.

2 Q Do you have any knowledge of whether Pleasant Ridge is
3 included in that economic development area?

4 A Looks like in paragraph thirteen (13) it includes the
5 Pleasant Ridge, yes the RDA.

6 Q That paragraph thirteen (13) says that in 2016 the
7 commission adopted Resolution 2016-R9 establishing a
8 redevelopment area designated as Pleasant Ridge Redevelopment
9 Area.

10 A Right

11 Q Do you know whether that is the same as the redevelopment
12 area being discussed in Exhibit C?

13 A Without completely reading it and refreshing my memory the
14 only, just that they are too many.

15 Q I don't know if I was referring it right, I'm going to turn
16 you to the big binder number two (2), Exhibit thirteen (13)
17 which is the second one in that one, you recall this is the
18 email exchange between you and the Mayor.

19 A Yes

20 Q You remember that discussion with Mr. Sander a little bit
21 ago?

22 A Right

23 Q And I believe your testimony was that in this email the
24 Mayor said that people shouldn't fix up their homes, was that
25 your testimony?

1 A Yes

2 Q But isn't it more fair to say that people should, what he
3 really says is that people should look at their options before
4 fixing up their homes?

5 A That is what he stated, that is not how I took it.

6 Q What do you understand Springfield Manor to be?

7 A A housing complex that they have, the city has started to
8 move fifty-five (55) and older into.

9 Q When you say the city has started to move, are you saying
10 that people are being moved there involuntary?

11 A No, no that is an option that they have to go to.

12 Q So this is a fifty-five (55) and older community?

13 A The first homes as my understanding is yes.

14 Q As for instance, some of the folks you mentioned there was
15 a concern about the elderly people in the neighborhood.

16 A Yes

17 Q And the Manor would be one spot potentially they could
18 live, if they needed to sell their home at some point.

19 A If they, yes if they wanted to sell their homes it would be
20 an option.

21 Q And that is something that the city has helped foster and
22 bring about?

23 A Yes it is.

24 MR. CRANDLEY: Nothing further, Your Honor.

25 THE COURT: I just want to make sure I understand an

1 answer, there was one answer that was a little unclear to me
2 before we got you to speak out a little bit and you did great
3 after that. You said you purchased your house originally in 2012
4 for how much?

5 A \$9,500.00 dollars

6 THE COURT: That is what I thought, do you have any
7 questions?

8 MR. ANTHONY SANDERS: Yes just very brief questions.

9 REDIRECT EXAMINATION- TINA BARNES

10 Q If we could go back to Exhibit thirteen (13) that you just
11 looked at, Ms. Barnes and if you could turn to the second page
12 of that and where the Mayor answered your question that began
13 forth, where you answered the question there, if you could read
14 the last sentence of that paragraph, that starts no.

15 A However if they proceed with inaccurate or incomplete
16 information it could financially disastrous to them.

17 Q What do you take that sentence to mean?

18 A To me it still means that if you are going to spend money
19 on your house it is not going to be worth it, it is disastrous,
20 meaning financially, financially we wouldn't have any finances
21 left.

22 Q Now Ms. Barnes you believe that the city intends to remove
23 all the homes in Pleasant Ridge and whoever acquires those will
24 build new ones, correct, you stated that?

25 A Yes

1 Q So if assuming that if Mr. Jackson inspects your home
2 doesn't he have an incentive to find code violations even code
3 violations that might be a gray area?

4 MR. CRANDLEY: You Honor I object that is speculation.

5 THE COURT: You have any response to that.

6 MR. ANTHONY SANDERS: If well we have established that
7 the city has an interest in acquiring the homes in Pleasant
8 Ridge that it is doing this through code enforcement and so I am
9 asking if the code enforcer would have an incentive to find
10 violations.

11 MR. CRANDLEY: Well first of all the city there has
12 been no evidence that the city acquired even a single home in
13 Pleasant Ridge.

14 MR. ANTHONY SANDERS: Not that the city is acquiring
15 homes that the city is using code enforcement to have sales of
16 homes.

17 THE COURT: I think it is argumentative and
18 inconclusive, so I sustain his objection.

19 MR. ANTHONY SANDERS: No further questions Ms. Barnes.

20 MR. CRANDLEY: One bit of re-cross if I may, Your
21 Honor. Just one question.

22 THE COURT: Go ahead.

23 RE-CROSS-EXAMINATION-TINA BARNES

24 Q For the sentence that Mr. Sanders pointed you to isn't it
25 true that the Mayor say, I think everyone concerned about the

1 home owners in PR, which I understand to be Pleasant Ridge,
2 right?

3 A Ye

4 Q Should strive to encourage those people to seek and
5 understand all their options before they make any major
6 investments into their properties, does he not say that?

7 A Yes he does.

8 THE COURT: Any other questions, for her.

9 MR. ANTHONY SANDERS: No further questions.

10 THE COURT: Alright is she released? You are free to
11 go.

12 MR. ANTHONY SANDERS: Plaintiffs will now call Mayor
13 Robert Hall to the stand.

14 THE COURT: If I could have you raise your right hand,
15 do you solemnly swear and affirm the testimony about to give to
16 be the truth, the whole truth and nothing but the truth.

17 BY MAYOR ROBERT HALL: Yes Sir.

18 THE COURT: Alright you may have a seat.

19 DIRECT EXAMINATION-MAYOR ROBERT HALL

20 Q Mayor Hall please state your name and your job title.

21 A My full name is George Robert Hall and I am the Mayor of
22 the City of Charlestown.

23 Q And you have not been deposed, taken a deposition in this
24 case yet, right?

25 A That is correct.

1 Q So this is the first time that you are testifying under
2 oath in this lawsuit?

3 A That is correct.

4 Q How long have you been the Mayor of Charlestown?

5 A Fourteen (14) years total.

6 Q And in addition to being the Mayor you are the President of
7 the Charlestown Redevelopment Commission, correct?

8 A That is correct.

9 Q The redevelopment commission is supposed to do some things
10 such as eliminate blight and promote economic development in
11 Charlestown, correct?

12 A That is correct.

13 Q And you are also a member of the Defendant, Board of Public
14 Works and Safety, correct?

15 A Yes

16 Q And the Board of Public Works, one of the things it does
17 is, it reviews appeals of code enforcement citations, is that
18 true?

19 A That is true.

20 Q Okay, so I would like to shift to discussing the effort in
21 2014 to redevelop Pleasant Ridge that we discussed earlier. In
22 2014 the city applied for roughly six (6) million grant from the
23 State of Indiana Blight Elimination Program to redevelop the
24 Pleasant Ridge Neighborhood, correct?

25 A I, I, I can't verify the amount but yes we did apply for a

1 grant.

2 Q Okay and if you turn to what Ms. Barnes looked at earlier
3 and this is in Volume one (1) of Plaintiffs Exhibits, Tab ten
4 (10), that is the big one, right there.

5 A This one or this one?

6 Q I think it is the second one.

7 A The Blight Elimination, is that what you are looking for?

8 Q That is right, so the Mayor and the President of the
9 Redevelopment Commission, you were the leader of that
10 application, is that true?

11 A Yes that would be true.

12 Q Now if you could turn to, there are two (2) yellow stickems
13 in there, if you turn to the second one, close to the end of it.

14 A The second one okay

15 Q The page is 12 but it is actually quite a ways into the
16 document.

17 A Twelve (12)?

18 Q Yes, now if you could look to there is a question number
19 one (1) and then there is an answer to that question, if you
20 could turn to the last sentence of that answer that paragraph
21 and it says the size of this project includes the demolition of
22 approximately three hundred and fifty-four homes (354), do you
23 see that?

24 A I do.

25 Q So that was, that was an objective as part of this

1 application, is that true.

2 A That is true.

3 Q Now if you could turn back to the first yellow stick tab on
4 the application and it is marked as page three (3) but it is
5 actually the fourth or sixth page.

6 A Yes

7 Q Okay and here it says Neace Enterprises, LLC dba Neace
8 Ventures, was Neace Ventures a partner on this application?

9 A Yes during this application process the State had informed
10 us that not only should that City be involved but that we should
11 have other parties involved, which we had Neace Enterprises, was
12 one of those.

13 Q And Neace Ventures or Neace Enterprises, LLC is owned by
14 John Neace, correct?

15 A That is my understanding.

16 Q Now the City never received this grant, correct?

17 A That is correct.

18 Q The City Council voted not to proceed with this?

19 A That is correct.

20 Q I would now like to shift gears leading up to Pleasant
21 Ridge Redevelopment efforts in 2016, now we have discussed the
22 2014 plan you and the rest of the City Council stood for
23 election in November in 2015, correct?

24 A That is correct.

25 Q And now I would like to turn to, this is in the big binder

1 near the end, Tab twenty-seven (27), and there are this was
2 obtained from the city in discovery, what we are going to look
3 at and there is a yellow Tab within Tab 27 for a document that
4 is numbered 6112 at the bottom, and this one was numbered by
5 your Lawyers as 6112,

6 A You are talking about the little number on the bottom,
7 right?

8 Q That is right.

9 A I have it, it is regarding elections.

10 Q Okay, so this is an email you wrote in February 22, 2015 to
11 John Neace, is that true?

12 A That is correct.

13 Q And if you look down there is a, if you look down after you
14 say John, and then the third paragraph, do you see in that third
15 paragraph it is very short and it is just two sentences, do you
16 see where you ask for Mr. Neace's support, to support our team
17 which was all quote, recorded end quote 100% committed to the
18 redevelopment of Pleasant Ridge, do you see that?

19 A I do.

20 Q Okay, and was this team that you recruited in fact then
21 elected to the City Council in 2015?

22 A They was.

23 Q Did you send an email like this to any other property
24 developer in 2015, other than Mr. Neace, stating that you had a
25 team recruited that was 100% committed to the redeployment of

1 Pleasant Ridge?

2 A I don't know, I don't think so, I send out a lot of emails
3 for raising funds for the campaign and I would assume that they
4 all addressed something that was of interest to those in the
5 city.

6 Q Any emails that were addressed to property developers, who
7 might be interested in developing Pleasant Ridge?

8 A Not to my recollection.

9 Q Now I would like to turn to what is in the same group of
10 documents but it is page 5528, if you could please turn to that
11 document, and it should have a yellow tab on it.

12 A 55

13 Q 28

14 A Another email, is that what we are looking at?

15 Q Yes, that is right, so you wrote this email to Mr. Neace,
16 correct?

17 A Correct

18 Q And do you see in the second paragraph you wrote we are
19 having landlords calling waiting, wanting to sell their
20 properties because they know code enforcement is coming June 1st,
21 do you see that?

22 A I do

23 Q And did you write that, to Mr. Neace?

24 A I did.

25 Q And this is dated January 21, 2016, is that true?

1 A Yes

2 Q Okay, did you send any emails to any other property
3 developers in early 2016 saying that they were buying, that
4 there was buying opportunities in Pleasant Ridge created by the
5 city's upcoming code enforcement?

6 A I don't know if I sent emails but I remember having
7 discussions with many developers about the ugh, that Pleasant
8 Ridge, or the city's plans of redeveloping it and that there may
9 be opportunities there with it. I know particularly that there
10 was several landlords who had previously in 2014 had signed
11 letters to sell their properties during the Blight Elimination
12 Program that from the time that was turned down to this time had
13 continued to ask me because they had wanted to sell their
14 properties if Mr. Neace would still be interested in buying
15 them.

16 Q So get back to the beginning of your answer, who were the
17 developers that you talked to in early 2017 telling them there
18 are opportunities to but properties in Pleasant Ridge because of
19 code enforcement?

20 A Are you, ugh, this email was in 16.

21 Q I'm sorry 2016, early 2016, who were those developers?

22 A I remember talking with a well-known developer in the area
23 Jesse Ballew, who also owns businesses in, or property in
24 Charlestown as well as a gentleman named Dennis Frankenberger,
25 who also was doing development in Charlestown, I remember those

1 two.

2 Q Did you reach out these gentlemen and say you might want to
3 start buying properties in Pleasant Ridge, because we are doing
4 code enforcement?

5 A Yes

6 Q Alright, what was their response?

7 A Well, let me re rephrase that, yes I reach, reached out to
8 them and believe others that there is properties that there will
9 be properties to be bought in Pleasant Ridge.

10 Q And did you encourage them to look into that and you might
11 want to but these properties?

12 A I believe I would have said something to the fact, if you
13 think there is an opportunity you might want to do that. All
14 during that time period if I may add to, is that I, I have met
15 with many developers and every time gave a, most of the time
16 when requested or were there to look at investment opportunities
17 in Charlestown, I would give them an overview of the city and
18 what the plans were and would encourage them to look at,
19 participate in any way the felt they could.

20 Q I would like to show you another email that you wrote to
21 Mr. Neace, this one is from dated April 8th and its page number
22 is 5535, it should just be a page or two after that.

23 A Okay

24 Q Okay, and this is an email dated April 8, 2016 that you
25 sent to Mr. Neace, is that correct?

1 A That is correct.

2 Q Alright, so in here if you could down to the fourth
3 paragraph and you state and I will quote, "you are very nervous,
4 quote very nervous, because I don't like making decisions that
5 ultimately affect your money and the success of this project",
6 do you see that?

7 A Yes

8 Q And did you write that?

9 A Yes

10 Q So in April of 2016, you conveyed to John Neace, that you
11 were making redevelopment decisions that you believed affected
12 his money and you wanted his impute, correct?

13 A Ugh, that is what email reflects yes.

14 Q Now I will ask this next question, you didn't communicate
15 with any other developers in 2016 specifically asking for their
16 impute because you were personally nervous about making
17 decisions that could affect their money regarding the
18 redevelopment of Pleasant Ridge, correct?

19 A Not that I recall, no.

20 Q I would like to go to another email, and it should be just
21 after this one just one or two pages after it, and it is marked
22 5538 and it is dated April 30, 2016, do you see that?

23 A Okay

24 Q And do you see near the end the last three (3) lines, were
25 it says things that we still need is a rough plat for PR and

1 your property also try to purchase homes to establish comps I
2 would love to go to breakfast or lunch this week if you are
3 available, did you write that?

4 A I did.

5 Q Okay, now I would like to turn, might be the next page or
6 two pages to uhm, what is marked as, marked as 5540 at the
7 bottom, and it is an email dated June 2nd.

8 A Give that number again.

9 Q Sure, 5540.

10 A Okay

11 Q Okay and this is a very short email it looks like, it is
12 from you to Mr. Neace and also and a fellow named John Hampton,
13 do you see that?

14 A I do

15 Q Okay, and it states, here is a letter which is about rental
16 inspections that was sent to the landlords earlier this week,
17 did you write that email?

18 A I did.

19 Q Now the very next page is a copy of that letter that you
20 attached to that email, is that true?

21 A Uhm, yes I am assuming, I mean I don't see the attachment
22 and all that but I am assuming this has been checked out.

23 Q And this is the letter that was sent out to landlords on
24 June 1st, 2016?

25 A That is correct.

1 Q Okay

2 A I say that is correct, it is not signed I am assuming that
3 did go out, yes.

4 Q Okay, and you sent this letter to Mr. Neace because you
5 believed that that the city's code enforcement would result in
6 buying opportunities in Pleasant Ridge for Mr. Neace, correct?

7 A I not believed it, I knew that there was landlords that had
8 come in and talked to me and said that they were interested in
9 selling their properties to Mr. Neace that they were not going
10 to fix them up, so yes.

11 Q Okay, you didn't forward this email to any other property
12 developers to let them know about buying opportunities in
13 Pleasant Ridge at that time, correct?

14 A Ugh, I, I do not believe I did, ugh, with it but again I
15 would stress prior to our inspection program being started
16 multiple landlords had come in and talked to me, they were
17 familiar with Mr. Neace because they had talked to him
18 previously in the 2014, ugh, ugh, Blight Elimination Program so
19 yes I was, I told them, they had asked for Mr. Neace's numbers,
20 they have asked to be in touch with him, so yes I was keeping
21 him informed on were we was going.

22 Q And this, state for the record we received these from the
23 city last Friday in discovery, the city the documents of Tab
24 twenty-seven (27), we had not received any copy of emails from ,
25 to other developers, and Mayor Hall has said he does not recall

1 those emails.

2 MR. MARK CRANDLEY: But of course I have to object to
3 that, Counsel is raising the implication that we somehow
4 withheld a document and the document doesn't ...

5 MR. ANTHONY SANDERS: I am not at all I am just
6 stating that we have not received those in response to our
7 discovery.

8 MR. MARK CRANDLEY: Right and I am trying to make the
9 point that the discovery request asks for emails with John Neace
10 and John Hampton and not other developers so...

11 MR. ANTHONY SANDERS: They also asked for broadly
12 communications regarding the redevelopment of Pleasant Ridge.
13 We don't believe that we have received all of those, yet, but we
14 have been working with them to ...

15 MR. MARK CRANDLEY: That is our intention we are
16 working, but I just want to say the emails was a very narrow
17 request.

18 THE COURT: I understand, very well I understand

19 MR. MARK CRANDLEY: Thank you Your Honor

20 MR. ANTHONY SANDERS:

21 Q Now you are also aware of a company called Pleasant Ridge
22 Redevelopment, that has acquired something in the order of one
23 hundred and fifty (150) homes in Pleasant Ridge, is that true?

24 A I am.

25 Q And you are also aware that Pleasant Ridge Redevelopment is

1 owned by John Neace or at least co-owner?

2 A Ugh, I am aware that he is one of the owners, yes.

3 Q Okay, you are also aware that there is another investor in
4 Pleasant Ridge Redevelopment, whose name is Brigadier General
5 Larry Lunt, is that true?

6 A That is true.

7 Q And isn't it true that you introduced Brigadier General
8 Lunt to Mr. Neace because you believe that Pleasant Ridge
9 Redevelopment was a promising business venture for him, correct?

10 A Ugh, Mr. Lunt has been a, an acquaintance of mine for
11 probably ten (10) years, somewhere in there, that maybe a little
12 long. He contacted me and wanted to look at investment
13 opportunities in the city of Charlestown, I introduced him to
14 our Renaissance Project, which is going on there cattycorner
15 from the square with it, I talked to him about what we refer to
16 as the 703 Buildings, the old Ammunition Property, I remember
17 talking to him about that project, also I talked to him about
18 the thirty-three (33) acres that Mr. Neace is wanting to develop
19 properties, apartments (indiscernible) because that is really
20 his main stay of his business with it, and, and so in that
21 process I introduced him to the projects he said he would like
22 to talk to Mr. Neace and so yes I did introduce him.

23 Q And you didn't, did you introduce Brigadier General Lunch,
24 Lunt to any other property developers who were interested in
25 redeveloping Pleasant Ridge?

1 A Not Pleasant Ridge but I did introduce him to ugh, ugh some
2 people, some developers that were interested in the possibility
3 of redoing the 703 Building that I referred to earlier.

4 Q And you are aware that there is a man named, John Hampton,
5 who I just referred to, who is in charge of Pleasant Ridge
6 Redevelopment, is that true?

7 A Ugh...

8 Q Who is the guy on the ground at Pleasant Ridge
9 Redevelopment?

10 A Oh for the LLC?

11 Q Yes

12 A Yes

13 Q And you are aware the John Hampton's boss is John Neace,
14 correct?

15 A I am.

16 Q And you have discussed the redevelopment of Pleasant Ridge
17 with John Hampton, correct?

18 A I have.

19 Q And you have exchanged text messages and emails with John
20 Hampton about the redevelopment of Pleasant Ridge, correct?

21 A I have.

22 Q And you have had personal meetings with John Hampton to
23 discuss the redevelopment of Pleasant Ridge, correct?

24 A That is correct.

25 Q I would like to now shift to Tab twenty-nine (29,) which is

1 actually in Volume 111, I believe, the skinny binder.

2 A Twenty-nine (29) is that what you said, Sir?

3 Q Yes, and in Tab Twenty-nine (29) if you could turn to what
4 is bates number and it is marked as Neace0021 and for the
5 Court's information these documents were obtained by a subpoena
6 of companies connected to Mr. Neace. And that is the third
7 page, the first yellow Tab in this Tab Twenty-nine (29).

8 A I have it, Sir, I am sorry.

9 Q Okay, thank you, so this email if you could briefly look it
10 over isn't it true it discusses a meeting that you and Mr.
11 Gillenwater had with John Hampton on July, 6, 2016, isn't that
12 true, take your time to review it?

13 A Yes it would appear to be that.

14 Q And during this meeting the three (3) of you discussed the
15 possible need for eminent domain against property owners in
16 Pleasant Ridge, who had not sold voluntary, correct?

17 A Mum, I,I,I don't specifically remember this meeting or the
18 contents of the meeting, but I have had many conversations with
19 a lot of people this and I know I have had conversations with
20 Mr. Neace as well.

21 Q And those conversations with Mr. Hampton have they
22 discussed eminent, possible use of eminent domain?

23 A I'm sure yes, I am sure we have.

24 Q And during this meeting or others that you may remember
25 have you discussed driving prices down in order to receive, in

1 order to reduce the just compensation award in any future
2 eminent domain proceedings against the homeowner?

3 A Driving properties down?

4 Q Driving prices down so eventual eminent domain will be
5 cheaper than it would otherwise?

6 A No

7 Q So you are saying you did not ...

8 A I have had no discussions talking about driving property
9 values down in Pleasant Ridge, no.

10 Q So, is Mr. Hampton incorrect when he says this is what you
11 discussed on that day?

12 A You would have to show me what you are talking about, Sir.

13 Q Okay, if you turn to the next page, to the very top of what
14 is marked 0022

15 A I have it.

16 Q On the second line there is a sentence it says, once the
17 city starts condemnation proceedings no purchases from that date
18 forward can be used to determine value only purchases prior to
19 that point which are all on arm's length contractions between us
20 and the owners and that is what sets the value for compensation,
21 did you read that?

22 A I did, yeah, I followed you.

23 Q Okay and what do you take that, do you take that to mean
24 that it is in the best interest of the city financially for
25 sales to be cheaper before eminent domain, than they might

1 otherwise, before eminent domain begins, because the city would
2 spend less money on eminent domain?

3 A No I do not take that as that, no. I, no, I do not take
4 that as that.

5 Q Moving on lets go back to your April 30th email for a moment
6 and that in Tab 27.

7 A Yes

8 Q And

9 MR. MICHAEL GILLENWATER: Could you please be
10 specific, which one that is?

11 Q I was getting to that, that is bates number 5538.

12 A Is that in this one or...

13 Q That is Tab twenty-seven (27), in Volume lll.

14 MR. MICHAEL GILLENWATER: The big binder.

15 A Oh the big binder.

16 Q Or is it.

17 A Would you give the number again?

18 Q Yes, 5538

19 A 5538

20 Q That is right.

21 A There

22 Q Okay, let's look to the, the second to last line, and you
23 see where you advise Mr. Neace to purchase homes to establish
24 comps?

25 A I do.

1 Q What do you mean by comps, there?

2 A Comps are established by market value of sales in a home.

3 Q So why would he interested in establishing comps?

4 A Ugh, I don't remember the contexts of this, I, I do know
5 that we were interested, if you will, what values of homes are.

6 Q Were you advising him to buy properties to establish comps
7 for the purpose of eminent domain proceedings against home
8 owners who had refused to sell to him voluntary down the road?

9 A You know I, I, I ran and operated a mortgage business for
10 years and I so I dealt with comps and real estate and mortgages
11 and all that, what someone buys a particular property for is
12 determined by the condition of the property and so on in any
13 given area with it so I don't remember the context behind this
14 but yes I was interested in knowing what real market value was
15 in properties there.

16 Q So is your answer no to my question on whether you are
17 advising him to buy properties to establish comps for the
18 purposes of eminent domain?

19 A I don't know if that is the case, no. I mean..

20 Q You don't know or...

21 A Well I wouldn't think so, eminent domain eventually will
22 could be a part of this program, but at this point it is
23 defiantly not nor in the plans that we pass or anything with it.
24 You know I, I have been through this five (5) times in the City
25 of Charlestown redeveloping areas with it, with residential

1 properties and trailer parks and so on, five (5) times we, we
2 have relocated people, we have done the program, we successful
3 redeveloped the areas, never once have we used eminent domain or
4 have we had to use it. We have had to look at values of the
5 homes and help people move into home you know other homes and so
6 on in order to know, if I were going to try to set up an
7 incentive package for someone to move out of one home into
8 another as Mayor and as the City, I would want to know what the
9 values of those homes were so that we might be able to look at
10 what to do in order to advise people to move.

11 Q Okay I would like to move back to Tab twenty-nine (29) in
12 the skinner Volume,

13 A Twenty-nine (29) in the skinner one.

14 Q That is right, where we were looking just prior, and if you
15 could turn to bates 308, which should be marked with a ...

16 A Excuse me again could you give me that number.

17 Q So Tab twenty-nine (29), and then with in Tab 29 there is
18 document that should be marked with a yellow stickem.

19 A There are several of them, so which one?

20 Q That is 308, is the number.

21 A Okay

22 Q Okay, so this is an email that you sent or that you receive
23 from John Hampton?

24 A Yes

25 Q And that is you email address, there Ballball20?

1 A It is.

2 Q Okay now see in this email he says note that in area F we
3 show use of some land owned by the City that you indicated we
4 should be able to buy, do you see that?

5 A I do.

6 Q Do you remember receiving this email?

7 A Uhm, I don't remember receiving an email, but it is
8 obviously I did, but I mean if you, if it stood out to me, no I
9 don't remember that.

10 Q Now turn the page and there is a map there.

11 A Okay

12 Q This is, do you have any reason to think that this is not
13 that map that he attached to that email and referred to?

14 A No I trust that it is.

15 Q Okay, and is Mr. Hampton correct that you indicated that
16 the City would be willing to send, sell some of its land in
17 Pleasant Ridge in area F to Pleasant Ridge Redevelopment?

18 A Ugh, yes, I think it is a pretty simplified thing in the
19 email. But if this overall project you know in redevelopment and
20 down the road if it happens or successful, there is property
21 that the city owns which is trees that we did not use, and I
22 believe the context of this is, is that available for it. My
23 answer is yes it is today yes, yes if this was ever redeveloped
24 that property is available the city has no use for it, it could
25 be incorporated into the overall plan, yes.

1 Q Okay let's move now to Plaintiff's Exhibit one 1 so that is
2 the first Volume and if we could turn to Tab two (2), now this
3 the 2016 Rental Inspection Ordinance, is that true?

4 A Uh-huh

5 Q So in August 2016 city inspector Tony Jackson began rental
6 inspections pursuant to this ordinance, correct?

7 A Ugh, yes.

8 Q Mr. Jackson commenced these inspections with your personal
9 approval and the approval and support of the majority the City
10 Council, correct?

11 A That is correct.

12 Q Now I am not going to ask you specific questions about the
13 citations that Mr. Jackson issued, we will hear from him in a
14 little bit. But let us fast forward to October, 2016 so I would
15 like to move back to Tab twenty-nine (29) in that last Volume
16 again and this time to a page that is bates numbered 157, it
17 should also be marked. Do you see are you there Sir?

18 A Not yet, yes.

19 Q Do you see in the middle of this page where it is an agenda
20 for a project update meeting?

21 A Yes

22 Q And do you see the list of participants, John Neace and his
23 wife, Brigadier General Lunt and his wife, John Hampton and his
24 wife, you, City Attorney Mr. Gillenwater and then there is
25 engineer and architect, do you see that?

1 A That is correct.

2 Q Did you attend this meeting on October 16, 2016 in New
3 Albany?

4 A I did.

5 Q And were John Neace, Larry Lunt, and John Hampton there?

6 A Yes

7 Q Did their wives also attend?

8 A I believe so.

9 Q Okay, and you give your remarks on vision for the project
10 as indicated here at the bottom?

11 A No, on the vision

12 Q Well it says here vision dash Mayor Hall, did you give
13 remarks?

14 A No, I gave the same presentation there that I gave to the
15 Chamber of Commerce, that I have given to many, many,
16 developers. I have a presentation that talks about the overall
17 view of the City, where we are headed, and inside that I talk
18 about the redevelopment of Pleasant Ridge, but I talk about all
19 the things and that is what I was asked to do, was to come and
20 give an overall vision of the City and where we were headed.

21 Q Okay, now...

22 A I would note to that I was accompanied by counsel because I
23 wanted to make sure that ugh, we done things properly and so on,
24 I mean I was asked to come to a meeting of potential investors
25 in the community and I asked counsel to come with me.

1 Q Alright understood, now on in late October the City
2 Redevelopment Commission declared Pleasant Ridge an area in need
3 redevelopment under Indiana law, correct?

4 A Ugh, yes.

5 Q And the City Council thereafter in early November 2016
6 adopted that plan?

7 A Ugh, I am going to stipulate that you are telling me the
8 right dates, but I mean I don't have knowledge that, I mean to
9 recall, yes.

10 Q I understand, so Geneva Adams is your assistant, correct?

11 A That is correct.

12 Q Okay, I would like to show you a series of emails from Ms.
13 Adams to Mr. Hampton were she gives Mr. Hampton the contact
14 information for Pleasant Ridge property owners who have been
15 called, who have called your office expressing interest in
16 selling.

17 A Okay

18 Q And that is in Tab twenty-nine (29) and these are bates
19 numbers 407.

20 A Okay, excuse me.

21 Q And there is about seven (7) pages of them, if you could
22 flip through them, do you have any reason to believe that these
23 are not email from Ms. Adams to John Hampton with names of
24 property owners?

25 A I, I do not have any reason to believe that.

1 Q Okay, are you aware of Ms. Adams contacting any other
2 developers during this time period, about property owners in
3 Pleasant Ridge who have called your office expressing an
4 interest in selling?

5 A I do not know if she did or didn't.

6 Q I would now like to look at that email exchange between you
7 and Ms. Barnes that was referred to earlier, that is Tab
8 thirteen (13) in the big binder.

9 A I'm there.

10 Q Okay, now if you look at your, at the first paragraph of
11 your response to her question about people who don't want to
12 sell will be allowed to stay you wrote all indications are that
13 a successful redevelopment of Pleasant Ridge is an all or
14 nothing undertaking so regarding the promise you asked for the
15 answer is answer is no, you wrote that answer correct?

16 A I did.

17 Q And you wrote all the others answers in this response,
18 correct?

19 A I did.

20 Q I would now like to look at the last point on the second
21 page, in which you respond to Plaintiff's Barnes questions about
22 other developers in the works besides Neace.

23 A Okay

24 Q Okay, do you see the first line of your response in which
25 you say, there are several developers companies who have come to

1 talk to me about Pleasant Ridge?

2 A I do.

3 Q Okay, but other than what you stated earlier those
4 conservations that you had with a couple of developers earlier
5 in 2016 or before that, did you in the second half of 2016 until
6 today have you emailed or texted with any other developers aside
7 from those connected with Mr. Neace about redevelopment of
8 Pleasant Ridge, about opportunities to buy in Pleasant Ridge?

9 A Yeah, all through this process I talked to a lot of
10 developers about uhm, about Pleasant Ridge, uhm Mr. Neace's
11 company is the only one that has come forward to start buying
12 properties, no one else has said that they are going to buy
13 properties there. In this particular one that you are pointing
14 out about several developers and a request for proposals, that
15 is true if and when this ever goes to a need to, to do a full
16 blown redevelopment project inviting people to come in with it,
17 just like we did with the Springville Manor and also what we are
18 putting together right now for the Renaissance Project downtown.

19 Q Now among the other...

20 A Now when that happens all developers, we send them out, we
21 will and had before, we will contact a lot of developers to see
22 if they are interested in sending a proposal to the City as to
23 what they would like to do.

24 Q And among these other properties developers, who among them
25 presently owns property in Pleasant Ridge?

1 A Jesse Ballew owns properties there.

2 Q Do you know how many homes he owns?

3 A I do not, no.

4 Q And you stated that Pleasant Ridge Redevelopment, LLC
5 presently owns upwards of beyond one hundred and fifty (150)
6 homes, isn't that true?

7 A Ugh, I am not sure of the number but, I would think it is
8 in that area, yes.

9 Q Okay this response to Ms. Barnes was on November, 7th, 2016,
10 we can see it from this email, I would like to go forward one
11 day, if you turn, sorry once again for the turning, Tab twenty-
12 seven (27) in the bates number 6488.

13 A Did you say in the big one?

14 Q In the end of the big one.

15 A This one here and in Tab?

16 Q Tab twenty-seven (27)

17 A Okay

18 THE COURT: 6488

19 Q That is right.

20 A I have noticed my attorneys not asking if I wanted a drink
21 a water, have you noticed that?

22 Q I do have a bottle if you would like one.

23 A If you could that would be great.

24 THE COURT: I don't think your attorney likes you as
25 much as the other witness.

1 A He might be over paid, what do you think? Thank you Sir.

2 Q You're welcome, and have you reached that page number 6488?

3 A I have not, 64, I do have it.

4 Q Okay, and isn't it true that this is provided by your
5 attorneys in discovery, isn't this true this is a text message
6 that you sent on November 8th , 2016 to Mr. Neace, General Lunt
7 and Mr. Hampton.

8 A Ugh, Yes.

9 Q Okay, and isn't it true it says the City Council voted to
10 pass the Pleasant Ridge Redevelopment Plan last night.

11 A Yes

12 Q Why was that great news for those three (3) gentleman?

13 A It wasn't I don't know, particularly for them, it was for
14 me, ugh, I was very excited that we had finally gotten to the
15 point where we could redevelopment ugh, put the redevelopment
16 plan out with it so.

17 Q And did you text any other developers at that time stating
18 that this was great news.

19 A Ugh, I don't know.

20 Q Right now I would like you to turn to...

21 A I, I, Sir I do remember, I mean this was a good thing,
22 Pleasant Ridge has been a challenge for the City for many, many,
23 many years or the Projects is what formerly been referred to, as
24 me as Mayor this was exciting, with it to have an opportunity to
25 go forward with a redevelopment plan that was going to help the

1 City, that was going to help the people in Peasant Ridge to be
2 able to find better housing and so my excitement in this ugh,
3 might of, I might, probably told a lot of people, over the next
4 few days how excited I was about the, the, this news.

5 Q I would like for you to now turn to Tab seventeen (17) in
6 the large binder.

7 A In the same one?

8 Q Yes, seventeen (17) and this is a Facebook post that you
9 stated on I little hard to read but November 22nd, 2016.

10 A Okay

11 Q And you wrote this Facebook post, correct?

12 A Yes

13 Q Do you see in the last paragraph of the part that you
14 wrote, were you say I hope the residents won't listen to Josh
15 Craven and his followers, who have already cost property owners
16 thousands of dollars by giving our false information, false
17 claims and false hope, do you see that?

18 A I do

19 Q What specifically is the false hope that Plaintiff Craven
20 and followers has given to residents of Pleasant Ridge?

21 A I think in general what I am talking about in that
22 statement is, is that like during the Blight Project with it Mr.
23 Cravens and those had continued to oppose the redevelopment of
24 Pleasant Ridge and put out a lot of false information and ugh
25 and, and just like in this process they have certainly tried to

1 villainize everything the City has done in it, ugh the costing
2 money what you are referring to and that, and I, my reference to
3 that is, that the City was going to get millions of dollars,
4 several million dollars from the State in the first process with
5 the Blight Project which was going to add lots of money, a lot
6 more money I should say to be able to meet the needs of the
7 people in Pleasant Ridge, so that is what I am referring to as
8 cost of money.

9 Q Why did you put millions of dollars instead of thousands of
10 dollars?

11 A Why didn't I put trillions, or why didn't I put two (2)
12 dollars, or I mean it is a general statement as to the cost of
13 money.

14 Q I would like you now to flip to the next Tab which is Tab
15 eighteen (18).

16 A Eight (8), is that what you said?

17 Q Eighteen (18)

18 A Eighteen (18), I am sorry, okay.

19 Q And isn't it true, this is a Facebook post that you put up
20 that is shortly after this lawsuit was filed in January of this
21 year.

22 A Yes

23 Q And you stated in this post, in response to this lawsuit we
24 are going forward with inspections and putting the pieces
25 together for redeveloping PR, do you see that?

1 A I did, I do, yes.

2 Q And you wrote that?

3 A I did.

4 Q I would like shift gears to discuss briefly to discuss
5 another project that Mr. Neace is connected to that is called
6 Springfield Manor and if we could go back to the first Volume
7 one (1) Binder, Tab eight (8). Oh I am sorry in the Volume One
8 (1) not the big binder.

9 A Okay I am sorry, section eight (8), is that what you said?

10 Q Yes, Tab eight (8), and this is the development agreement
11 that later approved by the City Council, the Resolution later
12 approved by City Council regarding Springfield Manor, correct?

13 A Ugh, yes.

14 Q And the developer of Springfield Manor is Springfield
15 Manor, LLC, correct?

16 A That is correct.

17 Q And John Hampton also runs the day to day operations of
18 Springfield Manor, LLC, correct?

19 A That is correct.

20 Q You are also aware that John Neace owns Springfield Manor,
21 LLC, correct?

22 A I am not sure who all owns that LLC, but I am aware that
23 Mr. Neace is part of it.

24 Q Okay, and at least one purpose of Springfield Manor is to
25 relocate elderly people displaced by redevelopment on Pleasant

1 Ridge, correct?

2 A That is correct.

3 Q Now besides Pleasant Ridge Redevelopment and Springfield
4 Manor what other property does John Neace own in Charlestown
5 whether personally or indirectly through a company?

6 A Ugh, I don't know how many properties he owns in
7 Charlestown, but I do know, there is one property that he owns
8 which is about approximately thirty-three (33) acres on Highway
9 403, I am aware of that piece of property.

10 Q And that property is between Pleasant Ridge and Highway
11 403, is that correct?

12 A That is correct.

13 Q Now just going back to a question I had a moment ago you
14 stated in that Facebook post about referring to Mr. Craven about
15 false hope and thousands of dollars, I didn't ask you what you
16 meant about false hope, what did you mean by that?

17 A I, I, my recollection is, is that they, that they wouldn't
18 be able to receive hundred thousand dollars for properties and
19 things that have been said by that group on the redevelopment
20 process.

21 Q Okay, do you remember when we discussed in the beginning,
22 that the objective of the Blight Elimination Program Project in
23 2014 was the demolition of three hundred fifty-four (354)
24 properties in Pleasant Ridge?

25 A Yes

1 Q And you remember that Neace Ventures was a partner in that
2 application?

3 A Yes

4 Q And do you remember that we discussed your November 7, 2016
5 response to Plaintiff Barnes in which you said that the
6 redevelopment of Pleasant Ridge was an all or nothing deal?

7 A Ugh, Are you saying that was in an email, I mean, I don't
8 have it before me?

9 Q No I am stating do you remember you said it was an all or
10 nothing deal?

11 A In that email?

12 Q Yes, that you said that in that email, that it was an all
13 or nothing deal.

14 A If I said it in an email then yes, I said it.

15 Q Okay...

16 A Are you asking me do I believe it is an all or nothing
17 deal, I mean I am not sure?

18 Q Do you still believe that?

19 A I do.

20 Q Before we close I would like to go back to a document we
21 discussed earlier, this was the email from John Neace to John
22 Hampton that described a conversation between you and Mr.
23 Gillenwater and Mr. Hampton on July 6, 2016, do you remember our
24 discussion of that?

25 A If you can point me to it.

1 Q Lets go back it is Tab twenty-nine (29)...

2 A In the big binder?

3 Q In the last binder, the skinner one, and it is NEACE21.

4 A Okay I am in Tab twenty-nine (29).

5 Q Okay, you are at NEACE 21?

6 A NEACE21?

7 Q That is right, okay and do see.

8 A I'm not there.

9 Q You're not there I'm sorry.

10 A Okay got it, 21.

11 Q Okay now turn to page twenty-two (22), the second page of

12 that and it says about five (5) lines down, the City only

13 anticipates twenty(20) to forty (40) hold outs at that point,

14 what do you think that means twenty (20) to forty (40) hold

15 outs?

16 A Ugh, you would have to ask Mr. Neace what he is talking

17 about there. The City in the original Blight Program that we

18 done, that we ugh, introduced in 2014, the association during

19 the meetings that we had, the City Council meetings, the public

20 meetings that we had, and so on, ugh, there was a group which

21 many ugh, ugh, people joined the Pleasant Ridge Association and

22 that spoke vocally against the Project, by their own admissions

23 it was you know twenty (20), thirty (30), forty (40) people or

24 something, I can't remember the numbers. Mr. Neace was involved

25 in all of those discussion or those meetings back during that

1 time so I don't, I don't know if there will be any hold outs.

2 You know as we go farther, I have no ideal on that I do that my
3 experience has shown me that of the other five (5) other
4 projects that we have done, that reasonable people can sit down
5 and find win, win situations.

6 Q Well given what you just said about an all or nothing deal.

7 A Uh-huh

8 Q If I ask you right now would you be able to promise the
9 dozens of Pleasant Ridge home owners who want to stay in their
10 homes, that they will be allowed to stay in those homes as long
11 as those homes are kept in good shape under the Property
12 Maintenance Code? You wouldn't be able to make that promise
13 would you?

14 A I would not.

15 MR. ANTHONY SANDERS: No further questions Your
16 Honor.

17 CROSS-EXAMINATION-MAYOR ROBERT HALL

18 MR. MICHAEL GILLENWATER:

19 Q Mayor Hall maybe we should start were we left off and since
20 you are already there in Tab twenty-nine (29), you were
21 questioned about this email between Mr. Neace and Mr. Hampton.

22 A Yes

23 Q Did you compose this email?

24 A I did not.

25 Q Now in the question I thought I heard him ask you ugh, or

1 say something to the effect that this documents a meeting
2 between Mr. Hampton and you and myself, is that what he, do you
3 remember him saying that?

4 A Ugh, I don't remember him phrasing that but I trust that.

5 Q Do you see any place in that email that it says that I was
6 present in a meeting with you and Mr. Hampton.?

7 A No

8 Q Did you draft this email?

9 A I did not.

10 Q Did he send it to you?

11 A He did not.

12 Q Can you explain to the Court in, in you know briefly what
13 the Blight Elimination Program was?

14 A There was monies during the banking crises that was
15 developed ugh, in federal government that came down tar funds or
16 Tariff funds is what they were, that the State was offering to
17 communities to remove blight, blight properties with it and that
18 was announced I believe like in January or February 2014 by the
19 Lieutenant Governor that there would be, there was several
20 million dollars available for communities to apply to help
21 eliminate blight structures.

22 Q And did the program define in its own terms what blighted
23 properties were?

24 A Ugh, it did.

25 Q Was money available in that program to revitalize

1 properties or renovate properties?

2 A It was not no.

3 Q What how did you receive the money?

4 A You had to put an application together, apply for it and
5 then if I remember right it was something like \$15,000 dollars
6 per home that you would, per structure I should say, that they
7 would approve and that would account for the purchase price of
8 it and demolition.

9 Q But in order to receive the money demolition of the
10 property was required?

11 A Yes, it was only for demolition.

12 Q And I will refer you back to Exhibit ten (10) then, and
13 that would be the Blight Elimination Program application, you
14 recall that?

15 A Ugh, yep

16 Q That is in the medium size binder.

17 A I got it, yes I do.

18 Q And there was a on the second yellow Tab, you were pointed
19 back to the sentence that says the size of the project includes
20 the demolition of approximately three hundred and fifty-four
21 (354) homes, you recall that, coving 1.89 square miles?

22 A I do, I see it, yes.

23 Q And so in order to receive those Blight Eliminations monies
24 the homes had to be demolished?

25 A That is correct.

1 Q You were on the Redevelop, were you on the Redevelopment
2 Commission in 2016 when it declared Pleasant Ridge to be an area
3 needing redevelopment?

4 A I was.

5 Q And does that plan that was adopted by the Redevelopment
6 Commission differ that the requirements of the Blight
7 Elimination Program?

8 A Yes

9 Q So this statement about this application for the Blight
10 Elimination Program is not necessarily exactly what the
11 Redevelopment Commission has planned, is that correct?

12 A Ugh yes they are quite different, yes. The one thing I
13 might add to the application process was that we meet with Jacob
14 Sipes, who was director of ICHA, Indiana Community Housing,
15 Indiana Housing and Community Development Association, to go
16 over all of the guidelines. The Blight Elimination Program
17 monies were only for voluntary sales they were not, is was not
18 to be used in combination of properties, so this, we at that
19 point ugh were introduced, we didn't know who would sell and who
20 wasn't, so in our application we had to submit every home which
21 was about 17,000 if I remember right pages with it and then as
22 we went through we got letters from people who at welling , were
23 willing to sell their properties and with it and so that is what
24 developed the scope of the work.

25 Q Was that Blight Elimination money sought only for the

1 Pleasant Ridge area?

2 A I believe it was.

3 Q Did those homes qualify as blighted properties, under the
4 definition in that Program?

5 A One of the things we did early was went and met with the
6 person with ICHA, with the State who wrote up the parameters of
7 this to go over the project ugh, ugh area to see if those homes
8 in their definition not ours qualified as a blighted area and
9 they came to Charlestown and they looked at the properties and
10 they invited use to put an application in.

11 Q Alright, that application was that application withdrawn?

12 A Yes it was.

13 Q Why was it withdrawn?

14 A To do, to do the Project it would have had the votes of the
15 City Council and the support of the City Council and that City
16 Council voted not to continue it, so but previously to that well
17 I can't say it was previous or not somewhere in that process,
18 ugh the City Council indicated that they would not go forward,
19 we withdrew the Project, withdrew the application.

20 Q Was that your first effort or attempt to revitalize or
21 redevelop Pleasant Ridge?

22 A No

23 Q When did you first take office?

24 A 2000

25 Q When did began efforts to revitalize or redevelop Pleasant

1 Ridge?

2 A Ugh, early 2000, sometime in there.

3 Q Can you recall some of the efforts that you made?

4 A Ugh

5 Q Or that the City made, while you were Mayor?

6 A Ugh, we this was in 200 of course, Blight Elimination
7 Program was not around, we set forth efforts to revitalize
8 Pleasant Ridge, doing that we made application grants to the
9 State for, for ugh infrastructure, water, sewer, roads, so on.
10 We also went through HUD for a development program for building
11 new homes in that area, with it so we started putting that
12 together in early 2000.

13 Q And you did code enforcement?

14 A Uhm, ye, I mean we have done code enforcement all along so
15 I am assuming we did, yes.

16 Q Were there junk cars removed from that neighborhood?

17 A Oh, yeah if, I remember one time augh the building
18 commissioners telling us we had taken something like four
19 hundred (400) junk cars out of there.

20 Q Were roads paved?

21 A They were.

22 Q Utilities upgraded?

23 A They were.

24 Q Did the neighborhood improve?

25 A Parts of the neighborhood improved, those that were will to

1 participate and spruce up I think the overall spirt décor did. I
2 think people were encouraged about attention being given to the
3 area, with it, we did spend upwards in the neighborhood of three
4 (3) and one half (1/2) four (4) million dollars in there, with
5 it seen new roads, new, we, it was not uncommon to get many,
6 many leaks, I know days that we had two (2) or three(3) water
7 leaks in Pleasant Ridge alone because e of the aging of the
8 pipes and so on, with it now we very seldom have a leak there,
9 we replaced all the water lines and upgraded the sewers were
10 needed and put in or repaved all the roads in that project.

11 Q Now you were asked about a document in Tab twenty-seven
12 (27) the number is 5528, where you sent an email to John Neace
13 that said, last Monday the City Council passed the Resolution on
14 Pleasant Ridge four (4) to one (1) and an Rental Inspection
15 Ordinance for the rental properties in PR, we are having
16 landlords calling wanting to sell properties because code
17 enforcement is coming June 1st, how do you know what the
18 landlords knew? You said that you had people calling you, why
19 were they calling you?

20 A Oh, ugh they wanted to sell their properties.

21 Q Were you contacting them?

22 A I was not.

23 Q Did you tell people who to sell their properties to?

24 A I did not.

25 Q Did you tell them they had to sell their properties?

1 A I did not.

2 Q You said they knew code enforcement was coming, was that a
3 secret?

4 A No, no.

5 Q And this email is dated January 25th?

6 A I'm not looking at the email, counselor but I will take
7 your word for it.

8 Q Okay, do you know when those inspections began?

9 A I do not know the exact date, no.

10 Q Was it later that year like in August?

11 A Yes

12 Q You believe that code enforcement works?

13 A Yes

14 Q Why do you believe that?

15 A I t is like any ugh, ugh, enforcement policies of any, of
16 society, I mean does stopping people from speeding work, yes it
17 does if you sitting there and you see them coming. This has
18 worked because people have through the years and I am talking
19 since 2000 we have had probably hundreds of these types of
20 situations were we have cited people for code enforcements and
21 they either have been brought up or to or brought into
22 compliance, whatever that compliance meant.

23 Q And since 2000 have the Board of Public Works waived those
24 fines?

25 A We have.

1 Q Does that ultimately solved the problems in Pleasant Ridge?

2 A Waving fines does that solve the problems?

3 Q Yes

4 A No

5 Q Have you had more success up in Pleasant Ridge by not
6 waving the fines than you did by waving the fines as far as
7 getting compliance or getting actions from the landlords?

8 A Ugh, I guess I would just I'm not sure what you mean by
9 success, that is my hesitation.

10 Q What is the City's objective with regard to Pleasant Ridge,
11 what are you really trying to accomplish?

12 A Two-fold one is to redevelopment an area that is need of
13 redevelopment by every statute that you look at it qualifies for
14 redevelopment, it has been a drain on City resources, it's
15 defiantly a challenge from the criminal element, we have had
16 serious crimes committed there, ugh, one of things practically
17 in that area is a contract attempt to, murder for contract
18 attempt from a gentleman who wanted to get our drug officer
19 killed, we, we have had tons of drug problems, the area, we have
20 needles, that has been over the last probably three (3) years
21 maybe a little longer, we have received an increasing number of
22 complaints about needles, drug needles being left out in the
23 street, yards and that is particularly concerning to us because
24 we have a school right there on the grounds, the resources of
25 the City are greatly taxed because of what it takes there, our

1 police chief has told me many times that ugh, ugh, nearly half
2 of all calls of the police routes are in a small area of our
3 city, Pleasant Ridge, and so as Mayor what I would like to see
4 is that redeveloped, I would like to be able to accomplish a
5 safe and good neighborhood, that is the one thing. The second
6 side is the human factor we do have people up there that have
7 been a part of this community, the home owners, many of the home
8 owners that are here today have been second generation, third
9 generation Charlestown, so the second part of any redevelopment
10 project is if you are going to have people move to one area to
11 another what are you going to provide for them. Like I have
12 said earlier this is my fifth (5th) project of redevelopment
13 areas, residential areas where people live, it's been a, all of
14 them have been successful, all of them have had people move from
15 the area without eminent domain and without kicking them out you
16 know into the street, ugh, even, ugh, with kicking them out into
17 the street, ugh it's all of them we were patient, we took our
18 time in the redevelopment projects and made sure people had
19 places to go to live. In this one particular in Pleasant Ridge
20 it is very complicated one thing ugh, and we have, we have had
21 the housing authority that is helping in this, the trustees, and
22 we have hired a real estate company that has had practically has
23 two levels of experience, one is relocation of rental properties
24 being able for people to find rental properties and also the
25 PATH, the home ownership program. So we have been taking

1 approach to this that we have in all the redevelopment projects
2 that we have done is to recognize that code enforcement is
3 necessary for safe housing and then people that are moving make
4 sure they have some place to go. This is our inspection program
5 as you stated was surpassed in January of 16, or yes ugh 16,
6 wouldn't starting until August of 16, I believe is the right
7 date or time frame. So we have been a year into it, with it
8 there has been a lot of homes purchased, there has been people
9 move, no one to my knowledge even to this date despite all of
10 the hype, and all the rhetoric, and all the TV runs, and all the
11 commercials that the Institute of Justice has put out that the
12 people are being put out in the streets, there has been no one
13 evicted everyone has moved into other home, with it we have not
14 done anything to the home owners, we have not notified the home
15 owners that their properties our being inspected, we've not
16 asked any of the home owners to move, we, all the things the
17 City has supposedly done to create all these homeless people is
18 just not happened anywhere. And ugh, so again this is not my
19 first time of going through this in a redevelopment project and
20 I understand that it is complicated, I understand that people's
21 lives are involved, with it, one of the big differences is that
22 we have had a lot of rhetoric that pending catastrophe, I guess,
23 I am trying to think the proper word that telling Seniors and
24 others that the City is going to come tomorrow, or next week ,or
25 soon, you are going to be kicked out of your house and we have

1 made no effort to do any of that. And ugh, with it and like I
2 have said the effort that we have put forward in that respect is
3 that we have built new senior homes, we have thirty-two (32) of
4 them in our first project here, which was done by a, a ugh
5 request for proposals, invited developers to come in and give us
6 a proposal on how to provide affordable housing to seniors.
7 We've got sixteen (16) of those built now and all sixteen (16),
8 well not all sixteen (16, there is thirty-two (32) of them
9 scheduled, out of the thirty-two (32) we have eighteen (18)
10 commitments now to take those from people and they are built
11 specifically for seniors in River, ugh in Pleasant Ridge.
12 During the Blight Elimination process I met with probably one
13 hundred (100) home owners up there, our property owners not all
14 of them our home owners and a lot of the seniors that all want
15 out of Pleasant Ridge because of the crime, it is not the area
16 that it was back when I was growing up and people in
17 Charlestown, back then when it was started, I agree with Ms.
18 Barnes it was put there because the Army Ammunition Plant and
19 people were there, working families, they were there to support
20 to the, the Army effort you know in the plant, it was a family
21 community, working families, with it. Over the years it's not
22 become that it as properties and people have died off and
23 properties have been sold, particularly probably over the last
24 twenty-five (25) years it, properties are not sold to become
25 single families, they are sold to become rental properties and

1 that is the reason the majority of the homes now are rentals not
2 family homes, occupied homes as they were back when it was first
3 put in there, it was out in ugh to be temporary in nature and
4 was supposed to be removed, the homes are the 1940 version of
5 the double wide mobile home, they were built brought in, bolted
6 together, put on piers not on permanent foundations, has
7 skirting around it just like a double wide mobile home. Over
8 the years it has become the low rent district not only for
9 Charlestown but for the area and I know it is not political
10 correct to say but when you have a low rent district it invites
11 people who are not contributing people in society and they come
12 with crime elements and we have seen that happen in Charlestown,
13 in this particular area, so when you ask me do I want to be
14 seen, done it is two-fold, I would like to be able to reduce the
15 problems that exists there and I would like to be able to see
16 that redeveloped into a something that benefits the City as a
17 whole and whole community, but that's the, that side of it. The
18 other side is that we are working equally hard on trying to make
19 sure that the home owners have alternatives to go to and homes
20 and hopefully improve their life in the process as well.

21 Q Alright

22 A I'm sorry that is such a long answer but this a complicated
23 issue ugh not a something that I want to handle just in little
24 sound bites.

25 Q Thank you Mayor, earlier you were asked about an Exhibit

1 Tab twenty-seven (27), document 5535 regarding a statement...

2 A I'm sorry counselor

3 Q Tab twenty-seven (27) the big book, I think we are still in
4 twenty-seven (27), the number is 5535.

5 A Sorry I am laughing the big book sounds like I was with my
6 grandkid, get the big book, get the, 55.

7 Q You said this appears to an email you sent to John Neace,
8 is that correct?

9 A No, Counselor I am still trying to find it.

10 Q Its okay it has a Tab on it, it is the second Tab, it is
11 the second yellow thing in Tab twenty-seven (27). Tab twenty-
12 seven (27) the second yellow sticky.

13 A Okay

14 Q And this is an email according to your earlier testimony to
15 John, John Neace about the project, now earlier you just a
16 minute ago you said...

17 A Counselor, I think my Tabs have gotten mixed up because, is
18 this it?

19 Q That looks like it.

20 A Okay, good enough, thank you. Now you feel like you are
21 with your grand kid.

22 Q You were asked earlier about why you sent this letter to
23 John Neace, first of all do you recall the email?

24 A I don't, I , I don't recall I mean it I guess when you ask
25 if I recall sitting down doing this, no, when I did it, no, but

1 I sent the email.

2 Q Okay you testified a few minutes ago that John Neace owned
3 one parcel of which you were aware in Charlestown, other than
4 the ones in Pleasant Ridge.

5 A That is correct.

6 Q Where is that?

7 A Ugh, it is in between Highway 403 and Pleasant Ridge, ugh,
8 ugh.

9 Q It is between the Highway and Pleasant Ridge?

10 A That is correct.

11 Q Does the City have plans to build a road through there?

12 A We do.

13 Q With grant money?

14 A Yes

15 Q Has Mr. Neace agreed to give the City some land to that?

16 A He has.

17 Q Okay so would it be fair to say that you are working with
18 Mr. Neace on projects other than just the Pleasant Ridge
19 Project?

20 A It is, yeah.

21 Q And when I say Mr. Neace I mean Mr. Neace and companies
22 that he has an interest in?

23 A That is correct, yes.

24 Q Tell me about Springfield Manor?

25 A Ugh, how far you want me to go back?

1 Q Well tell the Court what it is and why it is there.

2 A Oh, Springfield Manor is approximately fifteen (15) areas,
3 that is also owned by John Neace and or the Springfield Manor,
4 LLC is the owner of it and whoever is in that group. But it is
5 thing that we, we sent out request for proposals asking for the
6 opportunity for people to, for developer to come in and build an
7 affordable house in order to allow those who are wanting to move
8 out of Pleasant Ridge to be able to move in, into those. It's
9 got, the only phase that's been plated and, and decided on is
10 the first thirty-two (32) houses in that which are single family
11 houses, eight hundred (800) have an option one eight hundred
12 (800) and one other one I think is nine hundred and sixty-seven
13 (967) square feet, on, in this development, ugh, we sent out
14 proposals the ugh the Springfield Manor group brought one back
15 that they would be able to, our proposals said we wanted houses
16 that were affordable not to exceed seventy-five thousand
17 (\$75,000), which we, they come back and agreed to that and
18 showed how they would do it, they wanted to do it on their
19 property that they had purchased at a trailer park that had been
20 under our scrutiny since year 2000, it was owned by a gentleman
21 out of Indianapolis, that did keep the roads, it was a, it was
22 one of our redevelopment goals. So the trailer park was had
23 received fines, was endanger of getting its license renewed and
24 sold the property. Mr. Neace bought that property, so we entered
25 into an agreement with the Springfield Manor, LLC to put homes

1 in there and the City, ugh, all that is documented and all that.
2 But here is the, here is crucks of it, seniors that we had asked
3 them to build a home to sell to the people in Pleasant Ridge,
4 the City's contribution to that was that joint venture was to
5 build the infrastructure, which we did or in the process of
6 doing, we are also offering to the residents that move into it,
7 \$20,000 dollar, note against the property that is forgivable in
8 three (3) years, much like the HUD properties do in there
9 subsidize thing but three (3) years if they move there and live
10 there for three (3) years then that is forgivable. If they
11 would, because...

12 MR. ANTHONY SANDERS: Objection Your Honor I
13 understand the question was the talk about Springfield Manor but
14 this is turning in to a long speech with a lot of details and we
15 are supposed to get everything done today, if Counsel could
16 please direct the witness to what he is getting at.

17 THE COURT: Yes I would agree, let's focus on the
18 questions we had a lot...

19 MR. MICHAEL GILLENWATER: That is fine.

20 BY MAYOR ROBERT HALL: I'm sorry Your Honor.

21 THE COURT: You are offering a lot of information this
22 is the second 5 minute answer we have gotten, but we could
23 direct him a little bit more about the information, the relevant
24 information that you want to get from him please.

25 Q Is the City investing money in this development.

1 A Yes in three(3) different areas, one is in redevelopment
2 and I will try to speed up the answers, \$20,000 in forgivable
3 note and then \$35,000 in a mortgage that has a 2% interest that
4 they don't have to make payments on.

5 Q Fixed rate?

6 A Fixed rate 2% yes, simple interest.

7 Q Simple interest and is, are the primary ugh, people that
8 are invited to live here from Pleasant Ridge?

9 A That is the priority, yes.

10 Q You know how much the City is investing in Springfield
11 Manor?

12 A Overall it will be right at 2.5 million dollar range.

13 Q And that is with the ideal that if people move out of
14 Pleasant Ridge have a benefit there?

15 A Sure

16 Q Have you been contacted by landlords wanting to sell their
17 properties in Pleasant Ridge, landlords in Pleasant Ridge?

18 A Ugh, yes.

19 Q And what do you when you get contacted by them?

20 A I, I want, most people that call are not asking who is
21 going to buy my property, people that have contacted me has
22 asked me or my staff to put them in contact with Mr. Neace.

23 Q And know there is somebody buying, they don't know who it
24 is?

25 A Ugh, I can only speak for me, from my standpoint most

1 people who appoint me know who it is, yes.

2 Q Okay, are you aware of any other speculators that are
3 buying properties in Pleasant Ridge?

4 A No

5 Q Is the city forcing anybody to sell their property?

6 A No

7 Q Well how can say that if they are issuing these fines that
8 accumulate daily?

9 A Everybody that has been, the landlords that have come and
10 talked to me, everybody has the same option, either fix your
11 home bring it to standards, tear it down, or pay the fines,
12 continue to pay fines, with it, ugh so there are choosing to
13 sell their home and sell their properties, I would add to my
14 knowledge everyone that has sold also signed letters in 2014,
15 yeah in 2014 during the volunteer portion you know of the Blight
16 Elimination Program this is not the first time landlords have
17 been talked to about selling their property and they were
18 willing to sell then and signed letters to that effect that they
19 are interested in selling, so.

20 Q What if they don't want to sell to Pleasant Ridge
21 Redevelopment, LLC?

22 A I don't care who they sell to, or even if they sell, I mean
23 the City is not that is not the function of the City, the
24 function of the City is to enforce its codes and with it and
25 that is it, so it doesn't matter to me, that end of it.

1 Q Do you believe by enforcing the Property Maintenance Code
2 you will drive some irresponsible landlords out of business?

3 A Ugh, I would, I would say not only will it, it has, you
4 know, with it.

5 Q There were some question about Brigadier General Lunt, do
6 you know if he had any experience in the housing business?

7 A Ugh, yes he has extensive experience, has probably has two
8 -three (2-3) thousand rental properties, and that is a guess.

9 Q There was a question or some questions about the, was the
10 City trying to drive down prices, ugh, have you ever engaged in
11 discussions with anyone about driving down prices in Pleasant
12 Ridge?

13 A No

14 Q In your experiences are prices of houses going up in
15 Pleasant Ridge?

16 A They haven't for years.

17 Q Okay, have you owned property in Pleasant Ridge?

18 A I have.

19 Q How many properties?

20 A Just one (1).

21 Q How long did you own it?

22 A Uhm, a year maybe a year and one half (1/2) at the most.

23 Q Did you reside there?

24 A I did not.

25 Q You were a landlord?

1 A Yes it was a rental property.

2 Q Why did you sell it?

3 A One because of maintenance, ugh and then also maintenance,
4 keep them up is hard, was hard, ugh and then getting dependable
5 renters was equally hard.

6 Q There was some questions about a development meeting that
7 you attended with some potential investors, you recall that
8 questioning?

9 A If it is the one pointed me to where ugh Mr. Neace, Mr.
10 Lunt and ...

11 Q That is the one I am referring to. Is it uncommon for you
12 to attend those types of meetings?

13 A No

14 Q How often do you talk to people who are interested in
15 investing in the City of Charlestown?

16 A Uhm, couple times a week, maybe two (2), three (3) times a
17 week, on the average.

18 Q And what type of, are these real estate developers,
19 business people what are they?

20 A Uhm most are developers or people that are looking to buy
21 indivial pieces of property in the City and they will come and
22 ask me questions concerning that.

23 Q There was some question about an email exchange you had
24 with Ms. Barnes, I think that was in Tab thirteen (13), in the
25 big book. Did you ever intend that people in Pleasant Ridge not

1 live in safe or healthy housing?

2 A No

3 Q Is there anywhere in your response to her that you said
4 that people shouldn't live in safe or healthy housing?

5 A No

6 Q Did you say people shouldn't fix their houses?

7 A No

8 Q What do you recall your response was there?

9 A Ugh, I, the question was would I advise people to put money
10 into their house, ugh, so my response was no because they, or
11 people should look at all of their options meaning if they
12 wanted to move, are you investing more that your property is
13 worth, you know on the market, I mean, but, from my, I have some
14 experience in this, no I would not advise people to put in money
15 in not only in Pleasant Ridge not in any home without looking at
16 all their options.

17 Q You have actually owned property in Pleasant Ridge and made
18 that choice didn't you?

19 A I did and that was probably twenty (20) years ago now or
20 so.

21 MR. MICHAEL GILLENWATER: Your Honor I have no other
22 cross-examination at this time.

23 THE COURT: Its noon do you have more or less than ten
24 (10) minutes?

25 MR. ANTHONY SANDERS: Less, much less.

1 THE COURT: Okay , alright let's go ahead then.

2 REDIRECT EXAMINATION-MAYOR ROBER HALL

3 MR. ANTHONY SANDERS:

4 Q Mayor Hall you stated and perhaps I misheard that the funds
5 that you were going to perhaps get in 2014 in the Blight
6 Elimination Program that you could not use those funds for
7 eminent domain?

8 A That is correct.

9 Q Was there any, if you had gotten those funds, was there any
10 requirement from the State or Federal Government that you could
11 not otherwise do eminent domain as a part of the project using
12 those funds?

13 A There was no, the plight, the Blight money was strictly
14 restricted to use of that money.

15 Q So you could use separate City money for eminent domain as
16 part of the same project?

17 A We could of, yes.

18 Q Also isn't it true that the City has not tried to collect
19 fine money from any home owned by Pleasant Ridge Redevelopment,
20 LLC in Pleasant Ridge?

21 A That is correct.

22 Q No further questions Your Honor.

23 RECROSS-EXAMINATION-MAYOR ROBERT HALL

24 MR. MICHAEL GILLENWATER:

25 Q Mayor has the City tries to collect fine money from anybody

1 since the fines began in 2016?

2 A No we have not.

3 Q What about the Pleasant Ridge Neighborhood Association?

4 A We have not.

5 Q They have appealed it, so no efforts have been made to
6 collect?

7 A That is correct.

8 Q Anybody else appealed their fines?

9 A No

10 Q Anybody else challenged the violations?

11 A No

12 MR. MICHAEL GILLENWATER: I have no other questions
13 Your Honor.

14 THE COURT: Anything else?

15 RE-REDIRECT EXAMINATION-MAYOR ROBERT HALL

16 MR. ANTHONY SANDERS:

17 Q Mayor are you certain that no one has appealed their fin,
18 no one appealed their fines to the Board of Public Works from
19 who owns property in Pleasant Ridge?

20 A In 2000, you talking about?

21 Q In 2016 or 2017, other than the Association?

22 A I, I, I cannot reelect, recollect if they have.

23 Q Did someone named Tomas Young appeal his fines?

24 A I do not remember that name, Sir.

25 MR. ANTHONY SANDERS: No further questions Your Honor.

1 MR. MICHAEL GILLENWATER: No questions Your Honor.

2 THE COURT: Alright, you can be dismissed. Alright
3 it is noon so we will take a break at this time, one hour? Come
4 back in ...

5 MR. ANTHONY SANDERS: We are fine with one half hour.

6 THE COURT: Well then let's do, let's split the
7 difference let's be back at 12:45, okay.

8 MR. ANTHONY SANDERS: Great.

9 Off record 12:28, recommencing at 12:53

10 THE COURT: Okay we are back on the record in the
11 Charlestown matter, you may call your next Witness.

12 MR. ANTHONY SANDERS: Your Honor we would like to call
13 Michael Anthony Jackson to the stand the City's inspector.

14 THE COURT: Alright, is he in the hallway? I will
15 have to raise your right hand please, do you solemnly swear and
16 affirm that the testimony that you are about to give to be the
17 truth, the whole truth and nothing but the truth.

18 MR. MICHAEL A. JACKSON: I do.

19 THE COURT: You may have a seat.

20 DIRECT EXAMINATION- #3 MICHAEL A JACKSON

21 MR. ANTHONY SANDERS:

22 Q Mr. Jackson state your name for the record?

23 A Michael Anthony Jackson

24 Q And this is the first time that you have testified under
25 oath in this lawsuit, is that correct?

1 A Yes Sir.

2 Q And my Co-Counsel and I have not had a deposition from you
3 in this lawsuit before?

4 A No Sir.

5 Q You are the Inspector for the City of Charlestown, correct.

6 A Yes Sir.

7 Q You are the person who inspects the properties for
8 compliance with the 2008 Property Maintenance Code, is that
9 correct?

10 A That is correct.

11 Q You are also the person who conducts inspections of rental
12 properties under the 2016 Rental Inspection Ordinance, correct?

13 A Yes Sir.

14 Q You are the person who conducts property inspections, sorry
15 you have inspected the Pleasant Ridge Neighborhood Associations
16 duplex property at 114 - 116 Riley Avenue, correct?

17 A Yes I have, Sir.

18 Q And if I refer to Association you understand I mean the
19 Neighborhood Association?

20 A Yes Sir.

21 Q Now you inspected that duplex in I believe in the summer of
22 2016 because they were getting some new wiring work and they had
23 a building permit, is that true?

24 A I can't remember the date but yes I did inspect it for
25 rewiring.

1 Q Okay, and at that time, you did not tell Josh Craven the
2 President of the Association that there was anything wrong with
3 the duplex, correct?

4 A No I didn't I was just checking for the electrical wiring,
5 I didn't find anything wrong with the wiring, there might have
6 been a problem but they corrected it, no Sir.

7 Q And you told him it was okay for the Association to start
8 renting that half of the duplex out, correct?

9 A I can't remember what the statement was, but I am pretty
10 sure it was I did tell him that.

11 Q Now in the fall of 2016, a few week or months later after
12 that first inspection, you again inspected the exterior, this
13 time you inspected the exterior of that duplex, correct?

14 A That is correct, Sir.

15 Q And later pursuant to a warrant you inspected the interior
16 of both sides of the duplex, is that correct?

17 A That is correct.

18 Q And pursuant to those exterior and interior inspections you
19 issued citations to the Associations for property code
20 violations, is that correct?

21 A That is correct.

22 Q I would like you to turn to what we have are some binders
23 up there, one of them the big one that is open has a Tab number
24 fifteen (15), if you could please turn to that Tab.

25 A Alright

1 Q And do you recognize this document?

2 A Yes Sir.

3 Q And isn't it true this is an order and fine that you issued
4 against 114 Riley Avenue?

5 A Yes Sir.

6 Q And you did that on, look like on the bottom the twenty-six
7 (26) day of September, 2016.

8 A That is correct, yes.

9 Q Okay, and following that page if you could flip, there are
10 two (2) pages that itemizes the different violations, is that
11 true?

12 A Yes Sir.

13 Q Okay, and then the page after that there is a proof of
14 mailing for that mailing, is that true?

15 A Yes Sir.

16 Q Okay, if you could turn to the very next page, isn't it
17 true that this is also an order and fine for 116 Riley Avenue,
18 that was also issued on the twenty-six (26) day of September,
19 2016?

20 A Yes Sir.

21 Q Okay, now we can just stay with this 116 Riley Avenue,
22 isn't it true here that it says there is a fine in the amount of
23 two hundred dollars (\$200.00) and that is fifty dollars (\$50.00)
24 per violation, with four(4) violations and that there is an
25 initial fine of \$200.00 and then subsequent fines of \$200.00 a

1 day.

2 A That is correct.

3 Q And that is daily fines began the date of the citation the
4 26th day of September?

5 A That is correct.

6 Q Alright also at the very top it says order and fine per
7 IC36791 and City Ordinance 2008 OR1. Isn't it true that the
8 first citation there is a citation to the States Unsafe Building
9 Law?

10 A No Sir, it is a citation for our Property Maintenance.

11 Q Right but, Indiana Code 36-7-9-1, isn't that true that is
12 the Indiana Unsafe Building Law, it is also called the Indiana
13 Unsafe Building Law?

14 A Oh that is correct that is the Unsafe Building Law.

15 Q Now if you could turn back to the first page of the Tab
16 again, that order and fine, isn't it true that order and fine
17 was for four hundred (\$400.00) dollars, for eight(8) violations,
18 and it also began to run on the 26th day of September, \$400
19 dollars a day.

20 A Yes Sir.

21 Q Okay, and also in the very bottom of the order and fine
22 there are some letters in all caps, isn't it true that among
23 other things that advises the Association in this case, or
24 another case if another property owner, that they have ten (10)
25 days to request an appeal?

1 A Yes Sir.

2 Q Okay, Now I like now to turn actually to one of the
3 Defendant's Exhibits, in the blue binder to A-9, tab that says
4 nine (9).

5 A Yes Sir I have it.

6 Q And isn't it true that this is an inspection warrant that
7 was obtained to enable you to do the inspections of that Riley
8 Avenue duplex?

9 A I believe so, yes Sir.

10 Q Okay, if you could look to the forth page, it is 3 of 4 of
11 the warrant, it is the fourth piece of paper.

12 A Yes Sir I have it.

13 Q Okay and at the very bottom it says, wherefore the Affiant
14 respectfully requests, do you see that?

15 A Yes Sir

16 Q Isn't it true that it then cites Indiana Code 367916?

17 A Yes Sir

18 Q Okay and I would like the Court to take Judicial Notice
19 that is a citation to a portion of the State's Unsafe Building
20 Law.

21 THE COURT: Very good.

22 Q So let's go back to those orders we were just looking at,
23 we looked at the two exterior orders, let's go a little bit
24 further to the interior orders, so if you would turn the page
25 past the ones we just looked at, to the order and fine for 114

1 Riley that is dated, the date at the bottom is October 3, 2016,
2 do you see that?

3 A Uhm, yes I have it.

4 Q Okay, and we just looked at the warrant that you used to,
5 to do the inspection and the warrant was dated, if you look at
6 the very first page of the warrant, sorry to direct you back to
7 it, is dated November 2, 2016, do you see that?

8 A Yes Sir

9 Q Okay, so is this where it says October 3, 2016 on the order
10 and fine, is that a typo and actually it was November?

11 A That could be correct Sir.

12 Q Okay

13 A I can't remember.

14 Q So it is likely you did this inspection just after the
15 warrant was obtained?

16 A Yes Sir, I did it immediately after the warrant was issued.

17 Q Okay, now let's look at this order and fine, it is for 114
18 Riley Avenue, it looks like it is a fine in the amount of \$50.00
19 dollars, for one (1) violation, and it says \$50.00 dollars per
20 day starting on the 4th day of October, 2016, do you see that?

21 A Yes Sir.

22 Q And that may have meant the 4th, day of November, 2016, isn't
23 that true?

24 A Yes Sir that is correct.

25 Q Okay, if you now turn three (3) pages to the other order

1 and fine that order is for 116 Riley Avenue, do you see that?

2 A Yes Sir.

3 Q Okay and isn't it true that this is a fine for \$150.00
4 dollars, for three (3) violations.

5 A That is correct.

6 Q And that those were \$50.00 dollars a day starting on what
7 says the 5th day of October, but I think perhaps that meant the
8 5th of November, 2016, is that true?

9 A Yes Sir.

10 Q Alright, so let's go back to the exterior citations, the
11 earlier citations, so we have established that one (1) of those
12 was for \$400.00 dollars and then daily subsequently, and one (1)
13 was for \$200.00 hundred.

14 A Yes Sir.

15 Q That is true, okay, so together this is \$600.00 dollars?

16 A Uh-huh

17 Q They begin to run on the 26th of September, is that true?

18 A Alright, let's now go to the fourth (4th) page, which is the
19 mailing, the USPS tracking for these mailings.

20 A Uh-huh

21 Q Isn't it true it says here that they were mailed on
22 September 28th, where it says acceptance, September 28th, right?

23 A Yes

24 Q Isn't it true that it says here that it was delivered, left
25 with individual on October 4th?

1 A Yes Sir.

2 Q So isn't it true that the fines begin to run on September
3 26th but they were not delivered according to this, until October
4 4th?

5 A That is correct.

6 Q And so during that time, we have \$600.00 dollars a day, I
7 calculate that to be nine (9) days, by the time that this was
8 delivered the Association had already received \$5,400.00 dollars
9 in fines.

10 A Apparently that is correct Sir.

11 Q Okay, let's turn to the other citations, go back to those,
12 the interiors ones, those were a total of \$200.00 dollars,
13 \$50.00 dollars and \$150.00, is that true?

14 A Yes, I believe so.

15 Q And let's assume that for the moment that it was the, the
16 3rd of November, right the fines did not begin to run until one
17 on the 4th and one until the 5th, is that right?

18 A Yes Sir.

19 Q So now turn two (2) pages to the post office tracking for
20 those mailings, it on that page arrived at USPS facility on
21 November 9th, 2016, do you see that?

22 A Yes Sir.

23 Q And then it says delivered November, 14, 2016.

24 A Yes Sir.

25 Q So let's go from, let's be charitable here to your side and

1 go from November 5th, 2016 to November 14 that is a period of
2 nine (9) days, is that correct?

3 A So the fines begin to run on November 5th but this was not
4 delivered until November 16th, is that true?

5 A That is correct

6 Q So that is 200 times nine (9) days that is \$1,800.00
7 dollars of fines before the Association received this mailing,
8 is that true?

9 A Yes Sir.

10 Q Now prior to you issuing these citations and fines to the
11 Association in 2016, the Association did not as owners of this
12 property, did not have any history of refusing to comply with
13 the Property Maintenance Code, correct?

14 A I can't recall any?

15 Q And prior to you issuing these citations and fines, have
16 you given the Association any specific warning about any of
17 these problems that you identified in the citations?

18 A No Sir.

19 Q After you issued the citations and imposed the fines the
20 Association began to work right away to correct these problems,
21 right?

22 A I believe so Sir.

23 Q And the Association eventually within a matter of weeks
24 corrected all of the problems, isn't that true?

25 A That is correct.

1 Q So let me be sure I understand what happened, between,
2 between your initial visit about the wiring and then these
3 fines. You authorized the Association to rent its duplex out in
4 the first place, correct?

5 A What I did was, I inspected the wiring, the wiring passed
6 at that time, I didn't say, I didn't particularly say they could
7 rent it or not, that just says that passed, that particular
8 inspection, that was a permit inspection, had nothing to do with
9 a rental inspections.

10 Q And in that inspection or any other time before the
11 citations were issued, you never expressed concerns about the
12 duplex, that it was not authorized to take in tenets because it
13 had code violations, correct?

14 A No, I believe that is what they were trying to do fix it.

15 Q And since the Association had begun renting out the duplex
16 it had no history of ignoring your requests to fix up the
17 property, correct?

18 A Not at that time, not that I can recall.

19 Q But you still issued these fines against the Association,
20 correct?

21 A That is correct.

22 Q Now during August, 2106 to the end of 2016 at least you
23 issued citations to the owners of dozens rental properties in
24 Pleasant Ridge, correct?

25 A That is correct.

1 Q Okay, now I would like to turn to what Tab twenty-three
2 (23) in that same big binder there, uhm, isn't it true and if
3 you could flip through after the first page and examine some of
4 these documents. Isn't it true that these are notices of
5 volitions and orders and fines that you sent to a landlord named
6 Jimmy Woods?

7 A Yes Sir.

8 Q And these concerned some of the properties that he owned in
9 Pleasant Ridge?

10 A That is correct.

11 Q Alright, and if you turn to, let's just turn to the fourth
12 page, for the first one, and this is a citation for 101 Spring
13 Street, do you see that?

14 A Yes Sir.

15 Q Do you see at the bottom that this was a determination was
16 made on the 29th day of August, 2016?

17 A Yes Sir.

18 Q And that the fines started that day, the 29th day of August?

19 A Yes Sir.

20 Q And they were daily fines in the amount of \$350.00 dollars?

21 A Yes Sir.

22 Q And now flip back to the first page, looks like this was a
23 cover letter were you sent all these a once to Mr. Woods?

24 A That is correct.

25 Q And isn't it true that the cover letter is dated the 31st

1 day of August, 2016?

2 A Yes Sir if that is what it is stated, yeah.

3 Q So just for that one (1) property looks like there are many
4 more in here for various amounts of fines, that property had
5 three(3)days times \$350.00 dollars already by the time you put
6 it in the mail to Mr. Woods?

7 A That is correct, yes.

8 Q Let's now turn to Tab twenty-four (24), the next Tab I
9 believe in that binder, isn't it true that, and if you could
10 flip through a few of these.

11 A Uh-huh

12 Q Isn't is true that these are citations against a property
13 owned by landlord named Tom Brown?

14 A Yes Sir.

15 Q Okay, now if you go to the third page isn't it true that
16 for example this is 126 Clark Road and the fines are in the
17 amount of \$350.00 dollars and that they are daily accumulating
18 fines?

19 A Yes Sir.

20 Q And that was issued on the 19th day of August, 2016?

21 A That is correct.

22 Q During that same period starting in August, 2016 did the
23 owners of rental properties with pending citations such as Mr.
24 Woods and Mr. Brown sell their properties to Pleasant Ridge
25 Redevelopment, LLC?

1 A I can't, I don't know what dates they sold or anything
2 after it was inspected.

3 Q Say between August, 2016 and the end of the year, did they
4 sell their properties to Pleasant Ridge Redevelopment, LLC?

5 A I can't recall when they sold those Sir.

6 Q Do you know that they did sell them to Pleasant Ridge
7 Redevelopment?

8 A I know they have been sold.

9 Q You know that they did sell?

10 A Well I know that the list that I have and some of these
11 house are on the list that I have been given.

12 Q Okay, let's now turn to what is marked as Plaintiff's Tab
13 twelve (12) and this in the same big binder. Okay do you
14 recognize this document Mr. Jackson?

15 A Yes Sir.

16 Q Okay, isn't it true that this is a letter from John Hampton
17 on behalf of Pleasant Ridge Redevelopment, LLC to you which
18 attaches a list of what he says are one hundred and four (104)
19 homes or lots in Pleasant Ridge that Pleasant Ridge
20 Redevelopment, LLC has acquired?

21 A Yes Sir.

22 Q This letter and its attachment are dated October 24, 2016,
23 correct?

24 A Yes Sir.

25 Q Can you please turn to the second to last paragraph of the

1 letter which begins the goal it says, the goal of purchasing all
2 the homes within Pleasant Ridge is critical to the success of
3 PRR redevelopment plan do you see that?

4 A Yes Sir.

5 Q Now let's turn the page there is a list of properties here,
6 do you see on the first page there is a big block of properties
7 at the very top with a seller named Brown. It is the very first
8 page after Mr. Hampton's letter.

9 A Oh okay I see it now.

10 Q Sure do you see the properties where the seller was named
11 Brown?

12 A Yes Sir,

13 Q Is the same Tom Brown that we looked at his citations?

14 A I believe so yes.

15 Q And it looks like the lease expiration date for those
16 buildings was not until March 31, 2017, is that true?

17 A That appears to be correct.

18 Q Let's turn the page to the next page, the list of
19 properties, and see the second half, most of the second half of
20 the page it says the seller s name is Woods, do you see that?

21 A Yes Sir.

22 Q Isn't is true that these are properties that were owned by
23 the same Jimmy Woods that we looked at the citations against?

24 A I believe so Sir.

25 Q And isn't it true that you had issued those fines and

1 orders to those landlords Mr. Woods and Mr. Brown earlier that
2 year?

3 A Yes Sir.

4 Q Isn't it true that you issued citations against other
5 landlords for example Mr. Westmorland who is listed here?

6 A I had, yes Sir.

7 Q So in the approximately two (2) months between August, late
8 August and late October, this letter dated 2016, isn't it true
9 that some of the properties owners to whom you had issued order
10 and fines sold their properties to Pleasant Ridge Redevelopment,
11 LLC.

12 A Yes that is apparent, they have.

13 Q Now let's turn back to the letter, first page, can you look
14 in the first paragraph second sentence it says, at your request
15 this letter comes to confirm Pleasant Ridge redevelopment
16 responsibility regarding those properties, and the tenants and
17 the houses. Do you confirm it says that?

18 A Where is this at?

19 Q The second sentence of the first paragraph, at your
20 request. So this letter was sent at your request.

21 A Yes Sir.

22 Q Okay now if you could review, don't read it out loud, just
23 review the paragraphs that are numbered one (1) through six (6),
24 these requirements.

25 A Uh- huh

1 Q Okay, now under those requirements once Pleasant Ridge
2 Redevelopment requires a property from a landlord with pending
3 citations, did you require Pleasant Ridge Redevelopment to
4 perform any of the repairs ordered in the citations?

5 A No Sir.

6 Q And it is true that you did not require Pleasant Ridge
7 Redevelopment to fix up these newly acquired properties pursuant
8 to the citations even when tenets remained in them?

9 A No Sir what I did when a, if I was given a request to have
10 a, if there was problem then I contacted the owners and have
11 them fix it. In this particular case these houses the list of
12 these houses that went before the Board of Public Works and
13 approved for demolition.

14 Q

15 Q Right then people remained living in some of those homes
16 for several months is that true?

17 A Yes Sir.

18 Q And isn't it true that under paragraph four(4) of this
19 letter it states that, any fines attached to the properties will
20 no longer remain once the property is raised and removed?

21 A That is correct.

22 Q Noe based on the practice towards Pleasant Ridge
23 Redevelopment, LLC if the Association had sold it property to
24 Pleasant Ridge Redevelopment, LLC after you issued those
25 citations against it you would not have required Pleasant Ridge

1 Redevelopment, LLC to fix the property up in the way that the
2 Association did fix the property up, isn't that true?

3 A That would be up to the owner of the house.

4 Q But you would have not required Pleasant Ridge

5 Redevelopment to fix the property up, correct?

6 A It is according to what the circumstances were, I believe?

7 Q If Pleasant Ridge Redevelopment promised to eventually
8 raise and remove the property you would have not forced them to
9 fix the property up correct?

10 A Oh I understand what you're saying yeah I'm sorry, ugh,
11 yes.

12 Q And you would not have required Pleasant Ridge
13 Redevelopment to fix up the Association's property in that case
14 even if the Association's tenets remained there for a period of
15 time.

16 A That is correct.

17 Q Are you aware of any other developer buying properties in
18 Pleasant Ridge for the specific purpose of redevelopment, other
19 that Pleasant Ridge Redevelopment, LLC?

20 A No Sir I am not aware of any.

21 Q Alright, so over the last year or so, I believe you have
22 emailed with and texted with and spoken on the phone with and
23 met personally with John Hampton, the head of Pleasant Ridge
24 Redevelopment, LLC about issues related to the developers plans
25 for Pleasant Ridge, correct?

1 A Ugh, about his plans, the only thing that I relate to with
2 his plan is document here. He has had some issues with his
3 properties, to deal with.

4 Q Have you spoken to him about his acquisition of the
5 properties, his properties in Pleasant Ridge?

6 A I don't understand your question.

7 Q Have you spoken to Mr. Hampton about his ongoing efforts to
8 acquire more properties and has he told you when he acquires
9 more properties?

10 A Oh he tells me when he acquires more properties, he has to
11 add to the list, Sir.

12 Q Okay, let's turn to Tab twenty-nine (29), which is in the
13 skinniest binder, I think it is the one under the other one
14 there.

15 A Okay

16 Q Okay, in Tab twenty-nine (29) there is a document with
17 these little numbers which are called bates numbers, there is a
18 document numbered bates 381 and it has a Tab on it, if you could
19 find that document.

20 A 381 trying to find the bates number.

21 Q It is the second to the last yellow Tab.

22 A I believe I have found it.

23 Q Okay, do you recognize this email that seems to be an email
24 you sent to Mr. Hampton?

25 A It looks like an email all I can see is please review the

1 attached notice.

2 Q Okay, and it states can I get an updated list of
3 properties, do you see that?

4 A Yes Sir.

5 Q Why was important to you to get an updated list of
6 properties to him?

7 A So I would know what is going on the properties. So when I
8 have problems I can contact, I don't know who owns what
9 properties until I'm informed.

10 Q And why do you want to know why Pleasant Ridge
11 Redevelopment owns properties?

12 A Because he has an agreement with The Board of Public Works
13 and the agreement was he was supposed to update the properties.

14 Q What do you mean by update the properties?

15 A The original list that you seen and that was given to the
16 Board of Public Works for demolition, he had to add to that
17 list.

18 Q I see so you need to know as the list grows.

19 A Correct, because the counties GIS is not up to date most of
20 the time, so I have to depend on him to notify me about which
21 properties he owns and which he does not.

22 Q I would like to look at very quickly at another document in
23 the big binder it is again it is Tab number twenty-two (22), and
24 this is another set of orders and fines let's look at the very
25 first one, it says owner F & J apartment, LLC.

1 A That is correct.

2 Q Isn't it true that is a LLC that is owned by Jimmy Woods,
3 the same landlord?

4 A I believe he owns part of it I don't know, I don't know who
5 all the owners are, but I believe Jimmy is part of it.

6 Q Okay, and isn't it true that the date of this citation is
7 the 9th day of October, 2014?

8 A Yes Sir.

9 Q And isn't it true that this is a fine in the amount of \$150
10 dollars?

11 A That is correct.

12 Q And then subsequent fines in the amount of between
13 \$2,500.00 and \$1,500.00 dollars per day were assessed starting
14 on the 10th day of October, 2014?

15 A Yes Sir.

16 Q Alright if you turn to the fourth page, this is an order
17 and fine for 130 Winthrop Avenue, do you see that this one is
18 personally issued against James and Florena Woods?

19 A Yes Sir.

20 Q And if you could flip through the rest are they all against
21 F & J apartments or Mr. and Mrs. Woods and are I'm sorry, they
22 also all dated the 9th day of October, 2014?

23 A Yes sir.

24 Q Okay thank you.

25 A But I believe these may have been previous to what was

1 going on.

2 Q Why I understand these are dated October, 2014.

3 A Right.

4 Q Not 2016. I would to shift gears now, we are almost done,
5 you are an Indiana licensed asbestos inspector, correct?

6 A That is correct, Sir.

7 Q And you have your own company called, Southern Indiana
8 Field Services, correct?

9 A That is correct.

10 Q Does your company have any employees, other than you?

11 A No Sir just me.

12 Q And does your company and your company does asbestos
13 inspections?

14 A That is correct, inspections and abatement, plus I also do
15 insurance, insurance inspections.

16 Q I would like you to go back to Tab twenty-nine (29) which
17 is the skinny binder.

18 A Yes Sir.

19 Q And if we could go to a document labeled NEACE36, I believe
20 it is the second Tab, yellow Tab, isn't it true that this is an
21 email to John Neace purposing that your Company handle asbestos
22 inspection for Neace's Pleasant Ridge properties?

23 A That is correct Sir.

24 Q And you have in fact have been conducting asbestos
25 inspections for Pleasant Ridge Redevelopment, LLC, correct?

1 A That is one of my clients, yes.

2 Q And if you look at, now let's turn back to the big binder
3 Tab twenty-six (26) and if you could flip through those papers,
4 isn't it true that these are examples of asbestos inspections
5 that you have done in your capacity as the owner of Southern
6 Indiana Field Services, for Pleasant Ridge Redevelopment.

7 A Yes Sir those are my reports.

8 THE COURT: What is the citation on that document, the
9 Tab number?

10 Q Twenty-six (26) Your Honor, And how many buildings in
11 Pleasant Ridge has Southern Field, Southern Indiana Field
12 Services done an asbestos inspections for?

13 A Between thirty (30) and forty (40).

14 Q So of those thirty (30) and forty (40) homes, when Pleasant
15 Ridge Redevelopment acquired them, Pleasant Ridge Redevelopment,
16 LLC acquired them that represented an opportunity for your
17 company to profit, correct?

18 A Yes Sir.

19 MR. ANTHONY SANDERS: No further questions Your Honor.

20 THE COURT: Any cross?

21 CROSS-EXAMINATION-MICHAEL JACKSON

22 MR. MICHAEL GILLENWATER:

23 Q Mr. Jackson with regards to the fines, ugh, or the
24 notifications of fines against the Association's property there
25 on Riley Avenue, both units, when did those fines begin?

1 A Ugh, I can't recall the date but the date that I sent them
2 a letter.

3 Q Okay, when you did the final calculation on how much money
4 was due to the City.

5 A That was correct.

6 Q When did you start that calculation was it the date that
7 the inspection was done or a later date.

8 A I believe it was the, the recalculation was a later date.

9 Q What do you mean the recalculation?

10 A Well when they went to the Board of Public Works it was
11 determined that those original ten (10) days were to be removed
12 from the original date that Mr. Craven had given us, so we
13 recalculated it to take away that monetary fine.

14 Q That first ten (10) days.

15 A Yes Sir.

16 Q For the interior inspections?

17 A I can't remember if it was for interior or exterior, but I
18 believe it was both, yes.

19 Q You believe it was both?

20 A Yes Sir.

21 Q And that was at Mr. Craven's request?

22 A That is correct.

23 Q So, if, if there was no fines for the first ten (10) days
24 then he would have received the notices prior to the time that
25 the fines had started?

1 A That is correct.

2 Q Did Mr. Carven or anybody from the Association ever
3 complain and say that the violations that you detected were not
4 real or falsified?

5 A No, no Sir.

6 Q Okay, when you were there, well let me back up, when you go
7 in and do an electrical inspection, do you inspect for plumbing
8 at the same time?

9 A No

10 Q Do you inspect the HVHC system?

11 A No Sir.

12 Q Do you inspect the roof?

13 A No Sir.

14 Q If they ask you to come in and do an electrical inspection,
15 what do you inspect?

16 A I inspect the electrical system and whatever the
17 corrections are being made or additions that are being made.

18 Q Okay, so you were at the Association's property sometime in
19 the summer of 2016 to do an electrical inspection?

20 A That is correct, yes.

21 Q Did you detect, detect anything wrong at that time with the
22 electrical system?

23 A There was just some minor stuff, that they corrected.

24 Q Did you find them?

25 A Yes, Sir.

1 Q Did you fine them that day?

2 A Oh did I fine them?

3 Q Fine not find, excuse me, did you, did you issues any
4 citations for any imperfections that you detected?

5 A No Sir that is on a permit you would not do that.

6 Q Did you tell them what need to be corrected?

7 A Yes, that is correct.

8 Q Okay, why didn't you point out all the other violations
9 that might have existed at the house, interior and exterior?

10 A Because I was there to do a permit electrical inspection.

11 Q Now there was a letter from John Hampton regarding his
12 intent with regards to fines on properties that had been
13 acquired by Pleasant Ridge Redevelopment, do you recall that
14 testimony?

15 A Yes

16 Q And you said you had an interest in how many properties had
17 been acquired?

18 A That is correct, yes.

19 Q Why did you have an interest in that?

20 A Because he was supposed to keep up with the amount of
21 houses or the certain house he had, so we would know what was
22 going on.

23 Q When you say what was going on, what do you mean by that?

24 A That if there was issues there they had to be taken care
25 of.

1 Q What type of issues?

2 A Could be garbage, could be electrical, could be anything.

3 Q And do you have an ongoing list from Pleasant Ridge
4 Redevelopment about the properties that they have acquired?

5 A Yes Sir.

6 Q Have you contacted them regarding problems at some of the
7 things they own?

8 A Yes

9 Q Can you give an example of the type of problems you have
10 experienced?

11 A Trash, high grass, junk, there is some junk being thrown on
12 their properties but that have to go back and correct that, I
13 have people that are living in the houses that have contacted me
14 and they have had some issues that Mr. Hampton has had to
15 correct, water issues, heating and air, such as that.

16 Q Are they responsive?

17 A Yes Sir.

18 Q Is it, do you try to keep track of who owns all the
19 properties up there?

20 A I try, but it is very hard, but yes.

21 Q Now the fines that were originally imposed against the
22 original owners that Pleasant Ridge Redevelopment may have
23 required these properties from are those fines ongoing?

24 A Yes

25 Q Who can waive those fines?

1 A The Board of Public Works are the only one who can waive
2 those fines.

3 Q Okay, so when you had the question about if the Association
4 had come to you and that they were selling their property and
5 they were going to demolish it would you have waived those
6 fines, do you waive fines?

7 A No Sir, I would have had them do the same thing that Mr.
8 Hampton did, they would had to write a letter and approach the
9 Board of Public Works.

10 Q Is the process available to anyone?

11 A Anyone Sir.

12 Q Have they asked to participate in that process?

13 A No Sir.

14 Q And there seems to be some concern that all of these
15 properties that have been acquired by Pleasant Ridge
16 Redevelopment, which are slated to be demolished are not being
17 fixed up first, why aren't you concerned that they are not being
18 fixed up?

19 A Because they have an agreement to remove those, if I did
20 fine them there would be a severe imminent danger, they would be
21 removed.

22 Q Regarding your company Southern Indiana Field Services?

23 A Yes

24 Q How many clients do you have or have you had?

25 A I have had roughly twenty (20), thirty (30) clients well I

1 would say more than that actually with the insurance probably
2 roughly one hundred (100) clients.

3 Q And how long have you had that company?

4 A Since 2004.

5 Q Do you do business through, as a representative of that
6 company when you are on the clock for the City?

7 A No Sir

8 Q When do you do it?

9 A Usually I do it on Saturdays and late nights, use my
10 vehicle and my own personal equipment.

11 Q You don't use city equipment?

12 A No Sir, most of the equipment I use, is my personal
13 equipment.

14 Q And what type of services does Southern Indiana Field
15 Services perform?

16 A We do, I do asbestos inspections, asbestos abatement, we do
17 what they call insurance inspections, get hired by companies to
18 do and do drive by insurance, I do some interior inspections of
19 heating units, things like that.

20 Q Has the State of Indiana ever hired you?

21 A They have asked me to, when I was the building commissioner
22 in the city of Salem they had tornados in Marengo, did a lot of
23 damage so the State requested that I go to Marengo and represent
24 them as their building inspector and I inspected the homes in
25 Marengo, that were damaged that was at the request of the State

1 of Indiana Building Commissioner.

2 Q Do you have any type of agreement with the City that you
3 can't moonlight or do work on the side?

4 A No, if I could clarify actually Mr. Hampton is the one that
5 approached me concerned about the cost.

6 Q What do you mean?

7 A When he was, when he was originally looking into the cost
8 of abatement, he knew that he was given some prices and he knew
9 that I was an inspector and he asked me some general questions
10 and he was given some larger numbers so when I told him what the
11 reality of the numbers are he asked me to put in a bid so I did
12 so, he gave me the bid for the inspections but I did not get the
13 bid for the abatement.

14 Q Did you give those numbers before or after the properties
15 had been acquired?

16 A I believe it was after.

17 Q You had no reason to have it before?

18 A No

19 MR. MICHAEL GILLENWATER: I have no other questions.

20 REDIRECT EXAMINATION MR MICHAEL JACKSON

21 MR. ANTHONY SANDERS:

22 Q One question Mr. Jackson have you issued fines against a
23 home owned by Pleasant Ridge Redevelopment, LLC since that
24 company acquired any homes in Pleasant Ridge?

25 A I don't believe I have.

1 MR. ANTHONY SANDERS: Thank you Mr. Jackson.

2 THE COURT: Anything else, go ahead.

3 RECROSS-EXAMINATION- MR MICHAEL JACKSON

4 MR. MICHAEL GILLENWATER:

5 Q Mr. Jackson are the fines ongoing?

6 A Yes Sir they are ongoing yes.

7 Q So you haven't issued any new notices but the fines are
8 ongoing?

9 A That is correct.

10 Q And if Pleasant Ridge Redevelopment, LLC fails to have the
11 Board of Public Works fails to waive those fines for some reason
12 they are still due?

13 A Yes Sir.

14 MR. MICHAEL GILLENWATER: Okay, no other questions
15 Your Honor, thank you.

16 MR. ANTHONY SANDERS: I'm finish Your Honor, thank you
17 very much Mr. Jackson.

18 THE COURT: You may step down.

19 THE COURT: I know you had asked him to be separated,
20 are we done with him?

21 MR. MICHAEL GILLENWATER: No, no Your Honor we are not
22 done with him.

23 THE COURT: Okay very well.

24 MR. ANTHONY SANDERS: We are getting close to the end
25 Your Honor, second to the last witness. Josh Craven

1 THE COURT: I would have you raise your right hand, do
2 you solemnly swear and affirm that the testimony that you are
3 about to give to be the truth, the whole truth, and nothing but
4 the truth.

5 THE WITNESS- JOSH CRAVEN: I do.

6 THE COURT: You may have a seat.

7 DIRECT EXAMINATION- JOSH CRAVEN

8 MR. ANTHHONY SANDERS:

9 Q Good afternoon, Mr. Carven.

10 A Good afternoon.

11 Q Please state your full name for the record.

12 A Joshua Matthew Craven.

13 Q Where do you live Mr. Craven?

14 A 203 Gilford

15 Q In what city?

16 A Charlestown, Indian

17 Q What neighborhood is that?

18 A Pleasant Ridge

19 Q What is your occupation?

20 A I am an exterminator for Mr. Pest control.

21 Q And what periods in your life have you lived in Pleasant
22 Ridge?

23 A Ugh, from as far back as I can remember when I was probably
24 around three(3), I believe up until 2001 when my parents bought
25 a place and then I moved back in 2007.

1 Q Okay, and have you lived in the same home since 2007?

2 A Yes

3 Q Do you own that home?

4 A I buy it on contract from my Father.

5 Q Okay, does it have a mortgage on it?

6 A My Father has a mortgage on it yes.

7 Q And when did you begin to purchase it?

8 A Uhm, the contractual agreement with me and my Father was in

9 2014.

10 Q And who do you live with in your home?

11 A Me and my daughter.

12 Q And how old is your daughter?

13 A Four (4) years old.

14 Q You're I believe the president of the Pleasant Ridge

15 Neighborhood Association?

16 A Yes

17 Q How long have you been president?

18 A Ugh, since its founding in 2014.

19 Q Do you know any of your neighbors in Pleasant Ridge?

20 A Yeah

21 Q And how did you get to know them?

22 A Just from you know going door to door throughout the years,

23 and you know through the Neighborhood Association, through the

24 way we do things.

25 Q Does the Association help people fix up their homes.

1 A Yes

2 Q What is an examples of what you do as part of that work?

3 A Ugh, we have people repair steps, you know that would be
4 broken or something, ugh, paint guard rails, paint you know
5 fencing, things of that nature, beautification of the
6 neighborhood.

7 Q We heard from Mr. Jackson about a rental property on Riley
8 Street, that the Association owns, why did it acquire that
9 property?

10 A Uhm, to achieve, to help achieve its goal, the
11 neighborhood's mission, the Neighborhood Association Mission.

12 Q And how does that achieve its mission?

13 A Well it brings in more revenue so we can then do other
14 positive things throughout the neighborhood.

15 Q And when did it require that duplex?

16 A December of 2015, I believe.

17 Q What did the Association do with the duplex after it
18 acquired it, what did it do to improve it?

19 A Uhm, well one end was, you know in very good shape so we
20 basically painted it, we remodeled the bathroom on it, and the
21 other end we basically had to do almost a full rehab on it.

22 Q Alright, and was part of that rehab where Mr. Jackson
23 visited the property to inspect the electrical work?

24 A Yes

25 Q What did Mr. Jackson say about the state of the property

1 that day?

2 A He approved the permits that I had for the, actually I had
3 building, I had building permits for the plumbing and the
4 electrical at two separate times.

5 Q And did he say you could rent it out?

6 A Uhm, up on the final inspection yes he did say I could rent
7 it out.

8 Q Did you and him discuss the firewall between the units on
9 that visit?

10 A Uhm, I don't believe on that visit.

11 Q Did you discuss the firewall with him when he coming to
12 check on this work?

13 A Yes

14 Q And what did he say about the firewall?

15 A Uhm, he said that he didn't think I need to have the
16 firewall because Duke Energy requirement is that if you have an
17 electric drop if since it is a duplex, if both electrical drops
18 are on one side of the house then you wouldn't need a firewall.

19 Q And then we heard that there were exterior and interior
20 inspections of the property in the next couple months, is that
21 true?

22 A Ugh, I believe so yes.

23 Q And it is true that these, there are fines issued after
24 these inspections?

25 A Ugh, yes.

1 Q And these fine accumulated on a daily basis?

2 A What I was told yes.

3 Q Did you appeal those citations that have those fines?

4 A Yes

5 Q And what was your understanding on how quickly you had to
6 appeal those citations?

7 A Ugh, my understand was you had ten (10) days to appeal to
8 the Board of Public Works, up on receiving of the citations.

9 Q Now when you got these citations what did you do about
10 these alleged violations that were listed on here?

11 A Immediately I looked towards fixing them, we immediately
12 took action to fix them.

13 Q And what are some of the things you did?

14 A Ugh, we were already in the process of fixing the
15 guttering, when Mr. Jackson showed up to do the exterior
16 inspection, hence is why we had the actual guttering off the
17 house when he fined us for the guttering. But I mean we, I
18 immediately rushed, you know rushed the process of getting that
19 done and you know just started going through the check list of
20 things to fix it.

21 Q And did he say there needed to be some work done to the
22 foundation.

23 A Yes that is what he said.

24 Q And what did you do about fixing the foundation?

25 A I contacted Mr. Jackson and told him you know I couldn't

1 understand what, never heard of a structural engineer cuz you
2 know I am not in that field, and he told me it is pretty easy to
3 get one they are pretty common and up on asking around I finally
4 got a structural engineer, got an appointment, and had a
5 structural engineer come out check it.

6 Q And did that structural engineer and yourself fix the
7 foundation?

8 A Well we fixed the foundation, the structural engineer
9 didn't fix, and all he did was come out and give me guidelines
10 of what to fix and then would come back out and check it when
11 the work was finished.

12 Q Could you please turn to what is marked Tab sixteen (16),
13 it is in the binder that is open in front of you.

14 A This one here?

15 Q Yes, and is this the report that the engineer issued to
16 you?

17 A Yes

18 Q And the engineer said that foundation had been fixed and
19 properly secure?

20 A Yes the engineer had came out on, you know his initial
21 inspection and you know had said there was a few minor issues
22 and told me how to go about fixing them and then came back out
23 and cleared it, yes.

24 Q Did Mr. Jackson express any specific concerns about the
25 property warning that if they weren't addressed it could result

1 in fines before you received those citations?

2 A Could you repeat the question?

3 Q So before you received those citations did Mr. Jackson told
4 you about any specific concerns of anything to do with the
5 property that you needed to fix that you might get fines?

6 A No

7 Q Now you said that you appealed those fines to the Board of
8 Public Works, is that true?

9 A Yes

10 Q And then what happened with the Board of Public Works?

11 A Ugh, I can't recall exactly I believe there is two (2) or
12 three (3) separate meetings that we went to, but ugh, each time
13 I would go I would you know I would appeal it and say hey I
14 would like to have the fines waived and they would I believe
15 once or twice I am not exactly for sure they put it under
16 advisement. Until once was because of the until the foundational
17 work was finished up I believe and once was because of the
18 firewall, there was a dispute there you know over Tony telling
19 me originally, I didn't need the firewall and then of course
20 they are coming back and citing us for the firewall.

21 Q Why did you think the fines should be waived?

22 A Well because we have fixed the, we fixed the citations that
23 were handed down to us.

24 Q Now do you know other inspections and fines that were made
25 on rental properties in Pleasant Ridge since mid 2016?

1 A Mid-2016?

2 Q Since the middle of 2016, do you know about other fines
3 that have issued to other landlords in Pleasant Ridge?

4 A I mean I have spoken with a couple of landlords who have
5 received fines, yes.

6 Q And who are those that you have spoken to?

7 A Jimmy Woods and Tom Brown.

8 Q And what did they tell you happened to them regarding
9 fines?

10 A They essential had told me that they had received the fines
11 and basically the same process as us and they just essential
12 said they had to sell, they had no choice, it was either fix
13 your property up and pay the citations or you could sell to
14 redevelop, you could sell to Neace, which was at that time
15 Pleasant Ridge Redevelopment or whatever.

16 Q And was anyone offering to buy the properties other that
17 Pleasant Ridge Redevelopment, LLC?

18 A That is just what they have told me, so they never told me
19 of anyone else no.

20 Q So based on that experience this conversations that you
21 have had with the landlords is it your understanding that the
22 Association's only options were to appeal the fines or to sell
23 the properties, so they wouldn't have to pay the fines?

24 A To the best of my understanding, that is the only options
25 that we had.

1 Q Now are you afraid that your own home where you live might
2 be cited for code violations?

3 A Yes

4 Q What is the basis for that fear?

5 A Based off the fact that the Mayor and, has said numerous
6 times that it is an all or nothing deal.

7 Q And are you afraid that might involve daily fines for a
8 list of violations?

9 A Yes

10 Q What would you do if you received a daily fine like that?

11 A I would first appeal it, but I you know depending on how
12 much it is, I may not be able to afford it.

13 Q What personally have you gone through because of the City's
14 efforts to try to redevelop Pleasant Ridge since beginning of
15 2016?

16 A I mean, since the founding of the Neighborhood Association
17 I mean I have spent numerous hours weekly, you know I spend
18 twenty (20), thirty (30) hours a week working on stuff for the
19 neighborhood and helping people throughout the neighborhood and
20 trying to fight redevelopment because we all want to keep you
21 know the majority of us want to keep our homes and so we formed
22 the Neighborhood Association, I handle the day to day task of
23 the Neighborhood Association and I work on people's property for
24 them and personally I mean it takes time away from my child, it
25 takes time away from me and my kid as a single parent, it is

1 hard for me to raise a kid plus do this. Plus go to work fifty
2 (50) hours a week.

3 Q Let's go back very quickly to 2014, you were President of
4 the Neighborhood Association, then?

5 A Yes

6 Q And we heard earlier about that there were some landlords
7 in 2014 that signed these letters of intent, do you remember
8 that?

9 A Yes

10 Q Uhm, did you hear from Mr. Jimmy Woods in 2014 about
11 whether he was going to sign a letter of intent or not?

12 A Jimmy Woods was in 2014 at that time part of the
13 Neighborhood Association and he had told us he that he had no
14 interest in signing a letter of intent, he was a member of the
15 Neighborhood Association.

16 Q And what happened to him after he refused to sign the
17 letter of intent?

18 A He was essentially fined by the City.

19 Q Were those the same fines we were discussing earlier with
20 Mr. Jackson?

21 A I believe so.

22 Q And what happened to Mr. Woods after that?

23 A He I mean he was essentially fined with them and then he
24 signed the letter of intent to sell.

25 Q Do you object to the lawful enforcement of properties codes

1 as long as it is done equally and according to the law?

2 A No

3 MR. ANTHHONY SANDERS: No further question Your Honor.

4 CROSS-EXAMINATION JOSH CRAVEN

5 MR. MICHAEL GILLENWATER:

6 Q Mr. Craven why don't we pick up where you just left off.

7 You believe that people should maintain their property in

8 accordance with the Property Maintenance Code?

9 A Yes

10 Q And so if people don't maintain their property in

11 accordance with the Property Maintenance Code you agree that

12 there should be some consequent for that?

13 A Yes

14 Q You believe in safe healthy housing?

15 A Yes

16 Q Would you want your daughter living in an unsafe, unhealthy

17 house?

18 A No

19 Q Are you aware of any provision in the City's Property

20 Maintenance Code that requires people to do anything other than

21 keep their homes or their properties safe and healthy?

22 A Can you please, I mean I don't understand what you are

23 trying to say there.

24 Q The Property Maintenance Code are you familiar with the

25 City's Property Maintenance Code?

1 A I have seen it, yes.

2 Q And you are familiar with what it requires?

3 A Yes

4 Q That people maintain their properties>?

5 A Yes

6 Q And you think that is a good, good thing to maintain their
7 properties?

8 A Yes

9 Q That people be required to maintain their properties up to
10 some minimum standards?

11 A Yes

12 Q Why do you think that is a good ideal?

13 A I mean, you never want to somebody let their house just go
14 to the dumps.

15 Q Any other reasons?

16 A I mean just like you have said, I mean you want to live in
17 a safe environment, you want to know that people are living you
18 know keeping up with their properties, I mean I don't want my
19 neighbor over here trashing their property next to mine.

20 Q You don't want you neighbor's house catching on fire?

21 A I wouldn't want my neighbor's house to catch on fire.

22 Q And you don't want yours catching on fire?

23 A No

24 Q Okay do you think that people who violate the Property
25 Maintenance Code should be coerced into obeying the Property

1 Maintenance Code?

2 A What do, what do you mean by coerced?

3 Q Do you think there should be some negative consequence if
4 people don't adhere to the Code?

5 A I mean if they are neglecting it, then yes.

6 Q Okay, and by neglecting it what do you mean?

7 A Well I mean if someone is, if you come to someone's
8 property and a building inspector looks at their property and
9 finds a citation, there should be a certain time frame to fix
10 the citation, if they decide they don't want to fix the citation
11 and they decide they want to neglect the system, then I have no
12 issues with being, with fining someone.

13 Q Do you think that landlords should be held to a higher
14 standard than land, that home owners that occupy their own
15 properties?

16 A I think we should all be held to the same standard.

17 Q Okay, so do you think that landlords should be required to
18 keep their properties safe?

19 A Yes

20 Q And if they don't there should be consequences?

21 A Yes

22 Q But you think they deserve a warning before there should be
23 any consequences?

24 A I believe everyone should be treated equally.

25 Q Okay, do you think that people should maintain their

1 property before they are warned?

2 A Like I said, I believe everyone should maintain their
3 property.

4 Q Do you think they should do that without having to be
5 warned first?

6 A Well I mean some people just don't know if they have, the
7 way the codes are set, I mean you don't know, if a simple piece
8 of lattice could get you a fine, then a lot of people have a
9 simple piece of broken lattice or things of that nature, I mean
10 if it something drastically broken then yeah I firmly believe
11 they should fix it.

12 Q Why did you again say the Association acquired the property
13 on Riley Avenue?

14 A To help with the, you know we wanted to save the property
15 and we wanted to be able to bring in a better revenue for the
16 Neighborhood Association, so we could do other things throughout
17 the neighborhood and help improve the neighborhood.

18 Q So it is a revenue stream?

19 A No not necessarily.

20 Q Okay then how is owning the property going to help you do
21 other things in the neighborhood?

22 A Once again I said, it is a revenue stream but not the only
23 purpose of it no.

24 Q Okay but it is a revenue stream?

25 A It is yes.

1 Q And when we took your deposition a couple of weeks ago the
2 Association had money in the bank, is that right?

3 A Yes

4 Q And did you tell me that was about \$6,000.00 dollars?

5 A At the time, yes.

6 Q Okay, what did the Association do prior to the time that it
7 rented the property out to insure that the provisions of the
8 Property Maintenance Code had been adhered to?

9 A I have been down there, I have worked on that property for
10 months and I went through there and like I said Mr. Jackson had
11 came there and when that last time he left there he said, you
12 know I specifically told him, I'm putting dry wall up and I am
13 getting ready to rent it out, and he said that is fine.

14 Q Are you familiar with the At Risk Residential Rental
15 Property Inspection Ordinance that we have been talking about?

16 A Yes

17 Q Are you familiar with the provision that allows you to
18 request that the building commissioner come down and inspect the
19 home, prior to the time that it is inspected for fines?

20 A I was not familiar with the fact that you could call the
21 building inspector and have him come down there and inspect it,
22 no, not familiar with that.

23 Q You are new in the landlord business?

24 A Yes this is the first time we have done this, yes.

25 Q Okay, so you are not really an expert in this field?

1 A No

2 Q Do you think it is a good ideal to rent homes that are
3 unhealthy and unsafe?

4 A No

5 Q Okay, now it is my understanding that the Association has
6 not appealed the violations but only the fines, is that correct?

7 A Yes

8 Q You don't deny that the violations existed?

9 A No

10 Q Okay, you characterized the work to the foundation to minor
11 violations what did you mean by that?

12 A Well is it would have been a major ugh, issue then a
13 structural engineer even told me that day that he would have
14 deemed it unsafe and you can't live here, but he even in one of
15 the papers that he had given us like a sixty (60) day time frame
16 to fix one specific thing.

17 Q He gave you sixty (60) days?

18 A He had said you know that you could give sixty (60) days,
19 up on sixty (60) days upon his request.

20 Q Okay what did you have to do to repair the foundation?

21 A Uhm, there was a few pier blocks that were I guess one of
22 them was turned the wrong way and then there was a couple that
23 had cracks I believe, I'm not actually for sure but I know we
24 just ended up replacing upwards of five (5) or six (6) of the
25 piers, and that was basically at my request, I said it just may

1 | be easier to just completely replace the pier foundation right
2 | there on that spot.

3 | Q And just to clarify this is not a structure that has a
4 | tradition foundation all around the edge of the house, is that
5 | correct?

6 | A It has a pier foundation.

7 | Q And tell the Judge what that is.

8 | A It is an essentially a 24-32 inch foundation poured into
9 | the ground, you know structural foundation poured it is I
10 | believe it is 16 or 12 by 12 and then you place your pier on top
11 | of that, your connected that together through mortar mix and
12 | stuff and that is how your house sets on top of that.

13 | Q So when you say pier is that like a pole or something that
14 | the house just sits on?

15 | A No it is a concrete pier.

16 | Q Right, but it doesn't go all the way around the edge of the
17 | house?

18 | A No they are about eight (8) feet apart.

19 | Q Okay, when you went before the Board of Public Works to
20 | appeal the fines you said you went back 2-3 times, is that
21 | correct?

22 | A Like I said, I believe it was 2-3 times or 2-3 meetings.

23 | Q And the first time you appeared there did the Board express
24 | some concerns because the title of the property was not in the
25 | name of the Association?

1 A They had express some concerns a far as they didn't
2 understand who was the owner of the property, yes.
3 Q Right and they asked you to provide some proof of that.
4 A Yes
5 Q And later you recorded the deed and provided that proof.
6 A We was in the process of already having the deed recorded.
7 Q Okay, and then you asked that the matter be postponed a
8 least once maybe twice, is the right.
9 A I believe once because of my work.
10 Q Okay, and ultimately the Board choose not to waive the
11 fines.
12 A Ultimately the Board choose not to waive the fines, yes.
13 Q But in accordance with Mr. Jackson's testimony do you
14 acknowledge that the first ten (10) days of the fines were not
15 imposed?
16 A I was never specify told what days of what were fined, I
17 know a one point when we came there the number I believe close
18 to \$20,000 dollars in fines and then upon the last time we left
19 there when they had said the Board of Public Works would not
20 waive the fines it totaled \$8,950.00 dollars, whatever it is
21 here in the complaint.
22 Q Why did you do the repairs to the house?
23 A Because we want to keep it.
24 Q Okay, and what were you afraid would happen if you didn't
25 do the repairs?

1 A Well I believe that, like I said before I mean I believe
2 that we would have had to sell the property, if you know the
3 plan all along here was for the fines we couldn't get them
4 waived, then they would enforce the fines and the private
5 developer would then come in and try to buy the property from
6 us. We chose to fix the property because we wanted to keep the
7 property.

8 Q Okay and why did you not fix the problems before the
9 inspection was done?

10 A Because like I said earlier I was in the process of fixing
11 I came down there every weekend and during the week and had been
12 working on it.

13 Q Okay, You knew rental properties were being inspected,
14 right?

15 A Yes

16 Q And did you rent it out before you had completed the
17 repairs?

18 A We had on end rented out in I believe January or February
19 of 2016 before the rental inspection program.

20 Q Okay

21 A And then yes we did, when Tony Jackson left and told me it
22 was okay to rent out, then I had someone come in and we found a
23 renter.

24 Q Did you get something in writing from Mr. Jackson, like a
25 certificate of occupancy or a letter or anything that says what

1 you just testified to, that he told you it was okay?

2 A When you get a building permit he has to sign off on the
3 building permit, for the electrical and plumbing, in order to
4 get electrical hooked up he has to sign off on that.

5 Q Right

6 A He had approved that, he went through that whole process
7 with Duke and then that is how that happened.

8 Q So because he signed your electrical permit and your
9 plumbing permit you thought the whole house was okay?

10 A That is not the reason I felt that when he left the
11 property I specifically told him what I was going to do, I said
12 I'm going to put the drywall up now, finishing this flooring and
13 for the most part I will be done and is it okay to rent out, and
14 Mr. Jackson words was yes.

15 Q Okay, so you said a minute ago you have no problem with
16 people being required to maintain their properties?

17 A I have no problem with that.

18 Q And you don't have any problem with people being fined if
19 they don't maintain their properties?

20 A Like I said I, I believe that someone should be given a
21 specific amount of time to fix their property.

22 Q Do you think the law should say that if they come inspect
23 no matter what is wrong, that people should have time to fix it
24 before they have to repair it?

25 A Yes

1 Q Okay so what is to prevent landlords from just letting
2 their properties run down until the inspector comes by?

3 A I, I can't speak for that, I don't know.

4 Q You have lived in Pleasant Ridge for quite some time?

5 A Yes

6 Q How has it changed from the time when you were young, are
7 there more people or less people living there?

8 A Well today there is drastically less people.

9 Q Okay but even three (3) years ago, were there more or less
10 people?

11 A Ugh, I mean maybe a little less I don't know a number, but
12 I mean it has not changed a lot.

13 Q Fewer structures there than there used to be?

14 A Well just over the years, I mean a few have caught on fire
15 and things of that nature.

16 Q Quite of few have caught on fire, haven't they?

17 A I, I don't an exact number.

18 Q Well I did not ask for an exact number but you know there
19 has been a number of them that have caught on fire, is that
20 correct.

21 MR. ANTHONY SANDERS: Objection this is outside the
22 scope of redirect or cross examination.

23 MR. MICHAEL GILLENWATER: Your Honor he talked about
24 Mr. Craven being familiar with the Pleasant Ridge Neighborhood
25 and I'm just trying to establish whether he really is.

1 THE COURT: I will allow it, but be careful being to
2 argumentative Mr. Gillenwater, I get your point.

3 Q Okay,

4 A Can you repeat the question?

5 Q There have been quite a few fires there haven't there?

6 A I mean I can't give you a number, I don't know actually
7 what you mean by quite a few but.

8 Q Okay, there used to be some commercial business up there?

9 A Yes

10 Q Sweet Shop and some other places?

11 A Yes

12 Q And those are all closed down?

13 A Yes

14 Q The houses generally are in worst condition than they used
15 to be, that when you were young?

16 A Uhm, I mean well today a lot of them are boarded up.

17 Q And that has changed?

18 A Well there wasn't that many of them boarded up there was
19 maybe three (3) back then.

20 Q Do you believe that there is more or less crime when you
21 were a child, or do you know?

22 A That I do not know I can't

23 Q I am about to go beyond the scope of direct, I can stop now
24 or I can recall him your choice.

25 MR. ANTHONY SANDRS: Your Honor we only have a couple

1 of hours left here so how about we do our last witness and then
2 they can call Mr. Carven.

3 MR. MICHAEL GILLENWATER: That would be great.

4 THE COURT: That is fine, we will do that, do you have
5 another witness? Mr. Gillenwater how many witness do you
6 anticipate.

7 MR. MICHAEL GILLENWATER: Three (3) Your Honor,
8 counting Mr. Craven if I recall him.

9 THE COURT: Okay

10 MR. JEFFERY REDFERN: I would call Ellen Keith.

11 THE COURT: Very well, could I have you raise your
12 right hand do you solemnly swear that the testimony that you are
13 to give to be the truth, the whole truth and nothing but the
14 truth.

15 THE WITNESS-ELLEN KEITH: Yes Sir.

16 THE COURT: Be sure you speak up.

17 DIRECT EXAMINATION- ELLEN KEITH

18 MR. JEFFERY REDFERN:

19 Q Mrs. Keith can you state your full name for the record.

20 A Ellen Beatrice Keith

21 Q And what is your occupation Mrs. Keith?

22 A I'm a beautician.

23 Q Is that a full time job?

24 A No

25 Q And where do you live?

1 A 101 Clark Road in Pleasant Ridge Subdivision.

2 Q And how long have you lived on Clark Road?

3 A Forty (40) years.

4 Q Do you have a mortgage on your house?

5 A No

6 Q What family has lived in the house over the years?

7 A My daughter, my son, my husband and myself.

8 Q Ugh, do you take good care of your house?

9 A Yes

10 Q Have you made any improvements over the years?

11 A Many

12 Q What are some of the improvements that you have made?

13 A We totally remodeled the inside of our house, new carpet,

14 re-did our kitchen, new bathroom, siding.

15 Q Ugh, did you ever have to take out a loan to make any of

16 those improvements?

17 A Yes

18 Q When you took out that loan were you worried about whether

19 you would be able to re-coop your investment, down the road?

20 A No

21 Q Why not?

22 A We didn't plan to move?

23 Q So you like your house?

24 A I love my house.

25 Q Why?

1 A It's home, it is not a house it is my home, we raised our
2 children there, our families have come there for family
3 gatherings, my husband have put blood, sweat and tears into that
4 home.

5 Q Let's talk about Pleasant Ridge Neighborhood, do you like
6 living in Pleasant Ridge?

7 A I do.

8 Q Why?

9 A I love my neighbors, my daughter lives next door, we have
10 grandchildren living next door, we have the perfect setup.

11 Q Have you spoken to any people who have previously owned
12 rental property in Pleasant Ridge but who have sold that
13 property in the last year?

14 A Yes

15 Q Who did you speak to?

16 A Jimmy Woods

17 Q And changing topic ugh, has the neighborhood changed in
18 recent months?

19 A In recent months it has.

20 Q Can you describe some of those changes?

21 A Grown up properties, trash in the yards, doors and windows
22 torn off the houses, siding tore off, boarded up houses.

23 Q When you say ugh, grown up you mean the grasses have gotten
24 long.

25 A Yes

1 Q Any issues with pests?

2 A Yes we have had two (2) neighbors that have had snakes in
3 their house and we have one (1) neighbor that have had a rat in
4 their house.

5 Q That is a change from before that is worse than it was from
6 before in terms of pests?

7 A We have never seen that before.

8 Q Never seen that before. Ugh, have you spoken to anyone in
9 government about the state of the neighborhood?

10 A I have.

11 Q Who did you speak to?

12 A The Health, The County Health Department.

13 Q Ugh, and what did the official at the County Health
14 Department say?

15 MR. MICHAEL GILLENWATER: I am going to object your
16 Honor to hearsay from the County Health Department official
17 unless he is here.

18 THE COURT: This is a preliminary injunction we have
19 had an awful lot of hearsay already I'm going to allow it.

20 MR. MICHAEL GILLENWATER: Okay

21 Q Ugh, sorry what did the official at the County Health
22 Department say?

23 A That they were inspecting the properties.

24 Q And did the County Health Department do anything about
25 these properties?

1 A I believe he has got ahold of Mr. Jackson.

2 Q Okay, did County issue any citations?

3 A Uhm, I am not really sure about that I don't think they
4 have I think they told the City that those properties need to be
5 cleaned up.

6 Q Could you take a look at Volume two (2) Tab twenty-one
7 (21), may I approach.

8 THE COURT: Yes you may.

9 Q What is this?

10 A This is emails from Brandon Perkins from the Health
11 Department.

12 Q And are you familiar with there?

13 A I am, they were sent to me.

14 Q They were sent to you?

15 A Yes

16 Q And what did they say.

17 A That he has looked at these properties and sent
18 notification to Mr. Jackson.

19 Q Okay, and these properties let's make sure we are clear
20 here, these are the properties that have been purchased by the
21 redeveloper?

22 A Yes Sir.

23 Q There is one more thing I want to ask you about, has the
24 Mayor ever been to your house??

25 A Yes

1 Q When was that?

2 A In the summer of 2014.

3 Q Why did the Mayor come to your house?

4 A To try to convince us to get on plan with the redevelopment
5 of Pleasant Ridge, to sell our homes.

6 Q Did he convince you?

7 A No

8 Q Did you discuss redevelopment?

9 A He did.

10 Q What did you understand redevelopment to mean?

11 A He told us he was going to take all the properties in
12 Pleasant Ridge.

13 Q He was going to take all the properties in Pleasant Ridge
14 and you told him that you were not onboard with that plan?

15 A Yes

16 Q Did the Mayor tell you how the properties were going to be
17 acquired?

18 A First by fines and then my husband asked him what about
19 eminent domain and that would happen if, you know if they
20 couldn't get them any other way.

21 Q So the Mayor said, that fines were going to be used as a
22 tool to help acquire properties as part of the development plan?

23 A Yes

24 Q Have anyone from the City ever asked to inspect your house

25 A No

1 Q Are you worried that they will?

2 A Yes

3 Q Your house is in such good shape then why are you worried.

4 A They will find something wrong.

5 MR. JEFFERY REDFERN: No further questions.

6 THE COURT: Questions for her?

7 MR. MICHAEL GILLENWATER: Thank you Your Honor.

8 CROSS-EXAMINATION- ELLEN KEITH

9 MR. MICHAEL GILLENWATER:

10 Q Ms. Keith ugh, regarding the complaints to the Health
11 Department, did you make those complaints?

12 A I did.

13 Q Okay, and what was the nature of the complaints again?

14 A Trash in yards, furniture in the yards, grown-up grass,
15 weeds all over the place, snakes, rats.

16 Q Have you seen snakes?

17 A I haven't but there are two (2) people here that have.

18 Q Have you seen rats?

19 A Personally no.

20 Q Okay, now you have lived in Pleasant Ridge for a long time
21 and would you acknowledge that a lot of the homes up there are
22 rental homes?

23 A Yes

24 Q And a lot of people move in and out, pretty frequently?

25 A No

1 Q Okay, in the past that people have often times left
2 furniture and others items laying on the side of road up there?

3 A I haven't really seen a lot of that.

4 Q Okay, and how long have you lived there?

5 A Forty (40) years.

6 Q Okay and ugh, now isn't it true that you have addressed the
7 City Council before or was it your Husband that did that.

8 A My Husband.

9 Q Okay, when we took your deposition just a week or two (2)
10 ago and you were relating this discussion that you had with the
11 Mayor, you didn't mention anything about him saying that the
12 City was going to oppose fines, did you?

13 A It didn't really come to mind at that time.

14 Q Okay and when did it come to your mind?

15 A After I talked to you.

16 Q After the deposition?

17 A Yes

18 Q Okay,

19 MR. MICHAEL GILLENWATER: I have no other questions,
20 thank You.

21 THE COURT: Anything else for her?

22 REDIRECT EXAMINATION-ELLEN KEITH

23 MR. JEFFERY REDFERN:

24 Q Just one more question, at your depositions, were you
25 specifically asked whether the Mayor said that he was going to

1 use fines?

2 A No

3 MR. JEFFERY REDFERN: No further questions.

4 THE COURT: Hang on, are you done?

5 MR. MICHAEL GILLENWATER: Yes Your Honor I'm finished.

6 THE COURT: Alright, Ms. Keith, thank you.

7 MR. ANTHONY SANDERS: Your Honor Plaintiffs rest our
8 case.

9 THE COURT: Thank you very much. Mr. Gillenwater.

10 MR. MICHAEL GILLENWATER: Thank you Your Honor, I
11 would like to re-call Josh Craven.

12 THE COURT: Alright, Mr. Craven I would remind you,
13 you are still under oath.

14 DIRECT EXAMINATION- JOSH CRAVEN

15 THE COURT: You are still under Oath.

16 MR. MICHAEL GILLENWATER: Do you have some water, do
17 you need some?

18 THE WITNESS: I would like some water.

19 MR. MICHAEL GILLENWATER: There you go.

20 Q Mr. Craven ugh, you have lived in Pleasant Ridge for quite
21 a while, is that right?

22 A Yes

23 Q And you have referred to it many times as the Projects, is
24 that right?

25 A Up in till 2014, yes.

1 Q Okay, and everybody did?

2 A I can't say everybody but.

3 Q But a lot of people did?

4 A Yes

5 Q And you didn't mean anything bad by it did you?

6 A No

7 Q So if somebody from the City had referred to it in that way
8 did you take offence?

9 A Up until 2014, no.

10 Q And after that you did?

11 A Given the meaning of what City was trying make it out to be
12 yes.

13 Q Okay, in your deposition I think you estimated about
14 seventy-five percent (75%) of the Pleasant Ridge used to be
15 rental homes is that right?

16 A I said approximately seventy-five (75), yes.

17 Q Right, right, and ugh, has that increased or decreased
18 since you first lived there as far as the percentage of rental
19 homes?

20 A As I sit here right now, I mean I don't know actually.

21 Q Was it uncommon for you as you went through Pleasant Ridge
22 to see furniture and other discarded items laying on the side of
23 the street?

24 A I mean I have seen it over the years, but nowhere near what
25 it is now.

1 Q Okay, where you invited to come before the redevelopment
2 commission as the President of the Neighborhood Association?

3 A Yes

4 Q And you remember the purpose of that invitation?

5 A I believe it was to present a plan, is that what you are?

6 Q Yes

7 A Then yes.

8 Q To present a plan for what?

9 A I, you guys had, well the redevelopment commission had
10 stepped forth and said they wanted to see what our plan for the
11 neighborhood was essentially.

12 Q And do you recall the plan that you put forth?

13 A I didn't put forth an exact plan, that day.

14 Q Well not that day but you came back, you asked for sixty
15 (60) to ninety (90) days, is that right?

16 A Yes

17 Q And you came back about ninety (90) days later.

18 A It was something around that time frame, yes.

19 Q And you remember the proposals that you made to the
20 Redevelopment Commission?

21 A The plan that I purposed to them was that we wanted to have
22 a sit down meeting and come to, you know try to work this thing
23 together and try to revitalize the neighborhood and I had
24 specifically had mentioned the word revitalization.

25 Q And what did you mean by that?

1 A Help to fix up the homes that are there, come to, you know,
2 come to a better understanding, help you know, revitalization of
3 the neighborhood, a more beautification not redevelopment.

4 Q And would that include improving the roadways?

5 A I've never, we have never talked about the roadways, I
6 don't believe.

7 Q Did you give a specific plan?

8 A I didn't give a specific plan, no.

9 Q Did the Pleasant Ridge Neighborhood Association present a
10 proposal to, to refurbish the homes up there?

11 A When I went to the, the Board of, the meeting there that
12 day that was asked, when I got to that meeting, I had entered, I
13 came in there with Greg Sekula of Indiana Landmarks, and also
14 came there with Lisa Thompson from New Direction Housing and
15 they, Greg Sekula had given us a grant for a study and that was
16 presented to the Board of Public, the Board that day.

17 Q I would like you to turn to the blue binder.

18 A This one or black?

19 Q The one on your right, would you mind please turning to Tab
20 P?

21 A E

22 Q P as in police, do you recognize that document?

23 A Yes

24 Q What is that?

25 A It is the home study that was done from the grant money

1 that we received thru Indiana Landmark.

2 Q And this was presented by the Pleasant Ridge Neighborhood
3 Association?

4 A I actually believe Mr. Sekula presented it that day.

5 Q Okay, but it says by the Pleasant Ridge Neighborhood
6 Association, is that misleading?

7 A It does say that, I did not present this personally there
8 that day, Mr. Sekula personally presented it you but it was
9 during our meeting, I think that is where the misconception was.

10 Q Okay but he was there on your invitation?

11 A Yes

12 Q Okay, to present this as an alternative?

13 A He was here to present this as a finding of the, what he
14 got with the grant money study that we had done, yes.

15 Q Okay, Now do you recall the redevelopment commissioners
16 asking you how you felt about doing property maintenance code
17 enforcement?

18 A I don't specifically recall, no but I don't specifically
19 recall it exactly what they asked.

20 Q Well they asked about code enforcement and you refused to
21 answer didn't you?

22 A It wasn't that I refused to answer.

23 Q I think your exact words were, I plead the fifth (5th) on
24 that.

25 A No I believe I had answered it that as long as it was done

1 fairly and then it was asked again and I said as long as it was
2 done fairly and then they asked one more time and then I said I
3 plead the fifth (5th).

4 Q Okay,

5 MR. MICHAEL GILLENWATER: I have no other questions
6 for the witness Your Honor.

7 THE COURT: Alright, do you have any re-direct or
8 cross?

9 CROSS-EXAMINATION-JOSH CRAVENS

10 MR. ANTHONY SANDERS: Just one question Your Honor.

11 Q Mr. Craven when you said that I plead the fifth (5th), was
12 that because you were tired of being asked the same question?

13 A Yes, I plead the fifth (5th) because I was going to get
14 nowhere.

15 MR. ANTHONY SANDERS: Thanks, that is all the
16 questions I have.

17 THE WITNESS: Thank you.

18 REDIRECT EXAMINATION-JOSH CRAVEN

19 MR. MICHAEL GILLENWATER:

20 Q Mr. Craven during any meeting, public meeting, well, let
21 back up and lay a foundation, you appeared in many public
22 meetings and spoken out on this issue, haven't you?

23 A Yes

24 Q And during any of those meetings have you suggested to the
25 City Council and or the Mayor that the City hold landlords

1 accountable for the poor condition of their rental properties?

2 MR. ANTHONY SANDERS: Objection Your Honor, this is
3 outside the scope of re-direct.

4 THE COURT: I understand your objection but I will go
5 ahead and permit it and let him open that back up.

6 MR. MICHAEL GILLENWATER:

7 Q During any of those meetings that you spoke at did you ask
8 the Mayor and or the City Council or suggest to them that they
9 hold landlords accountable for the poor condition of their
10 rental properties?

11 A Yes

12 Q Okay do you think that is something that should still be
13 done?

14 A Yes as I stated earlier, yes.

15 Q Okay and you have acknowledged publically that there are
16 problems in Pleasant Ridge?

17 A There are some problems yes.

18 Q And what problems are you talking about when you say that?

19 A Well what I mean by that is the City has made it out to be
20 way worse than it really is in my opinion. I don't believe that
21 the crime rate is anywhere near fifty percent (50%) and that is
22 just my personal belief from being in the neighborhood and
23 living there I don't believe that you know the some of the
24 complaints the City had towards the neighborhood I don't believe
25 that it is that bad of an neighborhood, but if you ask me today

1 is it bad neighborhood, one hundred and forty (140) properties
2 that Mr. Neace owns aren't the it has drove the neighborhood
3 down.

4 Q What do you mean it has drove the neighborhood down, what
5 do you mean by that I don't think I understand?

6 A Well as I have said earlier when I was growing up I can't
7 remember maybe possibility maybe three (3) homes being boarded
8 up if that, and now you come into the neighborhood and you can't
9 go three house without seeing one (1) or two (2) duplex homes
10 boarded up.

11 Q Okay and you think makes the neighborhood worse?

12 A Yes

13 Q In what way?

14 A Well I mean when you drive through the neighborhood and all
15 you see is nothing but boarded up homes, I mean just, just the
16 appearance alone is going to drive the neighborhood, you know it
17 is going to drive the visual aspect of the neighborhood down, it
18 is going to drive people's morale down.

19 Q What if all those homes were taken down would that improve
20 things?

21 A Ugh, I, I believe so, yes.

22 MR. MICHAEL GILLENWATER: I have no other questions
23 for Mr. Craven Your Honor.

24 THE COURT: You have any other questions.

25 MR. ANTHONY SANDERS: No further questions, Your

1 Honor.

2 THE COURT: Thank you Mr. Craven you may step down.

3 MR. MICHAEL GILLENWATER: I would like to call Mr.
4 Jackson.

5 THE COURT: I think he is back in the hallway again.

6 DIRECT EXAMINATION-MICHAEL JACKSON

7 THE COURT: Mr. Jackson I will remind you, you took an
8 oath earlier and we consider still under oath.

9 THE WITNESS: Yes Sir.

10 THE COURT: Alright, thank you.

11 MR. MICHAEL GILLENWATER:

12 Q Thank you Mr. Jackson for coming back I'm going to move
13 pretty quickly, uhm, what responsibilities do you have with the
14 City of Charlestown, as you employer?

15 A I am the Building Commissioner, the Code enforcement
16 Officer, planning and zoning, and various other small jobs.

17 Q And have you attended any classes or gotten any
18 certifications that allow you to do all of those things?

19 A Yes Sir I have training certificates in home inspections,
20 residential inspections such as framing and plumbing, HCAC,
21 structure, and I have training certificates in regular
22 commercial buildings, I have a training certificate in property
23 maintenance code enforcement, and I have an license in asbestos
24 inspections and asbestos removal to provisions.

25 Q And how long have you been functioning in these capacities?

1 A I functioned from 2000 to 2004 in the City of Charlestown
2 and then I went in the same capacity in the City of Salem from
3 2004 to 2008, then I came back to Charlestown and been back
4 since 2008 to present day.

5 Q So you have been doing this for a number of years?

6 A Yes Sir

7 Q Are you familiar with the differences in homes that were
8 built in different eras of our Country's existence during your
9 life time?

10 A Yes Sir

11 Q You prepared a document, did you prepare a document for the
12 City of Charlestown Redevelopment Commission regarding Pleasant
13 Ridge?

14 A Yes I did.

15 Q If you would I would like you to take a look at Tab number
16 K, do you recognize that document?

17 A Let me put my glasses back on, yes Sir.

18 Q What is that?

19 A That is a document I prepared for the Board which ugh,
20 speaks about the neighborhood in itself, Pleasant Ridge
21 Neighborhood.

22 Q Is there anything peculiar or different about Pleasant
23 Ridge compared to the rest of the City or other areas that you
24 worked in?

25 A Yes Sir, the Pleasant Ridge Neighborhood was built for the

1 Amination Plant, from what we have been told, what was supposed
2 to have occurred was a an issue with not enough housing so a
3 gentlemen was sent down by the name of Steve who requested more
4 housing and there was a plan in place, a set of plans, which I
5 have the originals in my office, that actually called for better
6 housing, ugh, he submitted the plan in November if 1941 and in
7 December it got kicked back because of the war and so what
8 happened was they had to come up with a way of housing the
9 people working at Powder Plant and so the came up with the
10 Gunnison Homes and it had to be made out of materials, due to
11 the lack of materials for the war effort, it had to be made out
12 of some substandard materials.

13 Q And you use the words Gunnison Home and what do you mean by
14 that?

15 A A Gunnison style home is a, more of a, it was designed for
16 the war barracks now you will see a lot of that and that is more
17 of a temporary style home. There are some homes that they
18 didn't make at Gunnison in the factories that were assembled but
19 it was along the same line except in this case they had to use
20 less, lesser standard materials and were built to not last very
21 long.

22 Q What is the difference between a Gunnison Home such as were
23 built in Charlestown and a regular stick built home that would
24 have been built in the same time period?

25 A Well they are modular style homes that were brought in on

1 trucks and placed, the floor system was bolted together in four
2 (4) sections and then the houses were raised from the frames,
3 now their frames the wood that they used in those houses that
4 were used in those houses were thinner than a normal house
5 because of the wood efforts, war efforts, so they were cut down
6 pretty good, those frames were mostly around 2 and 3/4 inch
7 instead of a standard 3 and 7/8 inch.

8 Q Any other differences?

9 A Yeah the pier systems that Gunnison had brought as
10 representative of ugh, trying to fix the problems, they were
11 brought in with a pier system, so when those floors were placed
12 they were placed on piers so of the piers ugh were just there
13 and some of the other piers had actual tie downs on them and
14 what I find a lot of times is that those tie downs have rusted
15 or missing nails.

16 Q When you are talking about piers what are you talking
17 about, describe that for the Judge?

18 A Well a normal house would have a foundation around it that
19 is attached, the house sets on that foundation and bolted to
20 that foundation, so the whole house has weight on that. The
21 pier system the house generally sits just on those pier points
22 the particular case up there what has happened is the where the
23 pier points are the wood that they used back then was good wood
24 but they didn't have all the pressure treated so what happen
25 they start to bow a little bit. The other problem up there that

1 also exists is that those houses were built without any kind of
2 -, any kind of vapor barrier underneath, so a lot of those
3 houses had oak floors and they were nice oak floors but the
4 paper type thin insulation that was under them gave away and
5 then the water damage and damp has went into the wood and we
6 have a severe problem with a lot of the buckling of the floors.

7 Q Were those home insulated like regular homes?

8 A No, they used 99% glass from Mansfield, and it was a quick
9 fix to try to get them there. Over the years that glass has
10 rather fell off from underneath and in the sides it has
11 deteriorated and become very thin, because it is a glass and
12 glass doesn't last like that.

13 Q Are the walls as thick as a regular home?

14 A No, no the wall when they were constructed like I said they
15 were constructed with, they were cut down, the inside, on the
16 inside was a panel board placed which was a type of marine
17 plywood in a 4 x 8 sheet, and the marine plywood has some issues
18 with it. The paneling on the outside, so then you had the
19 frame, then you had outside you had the insulation on the
20 outside and then you had another thin sheet of plywood which was
21 not, the problem was the plywood was not weather resistant and
22 today you will find a bunch of those walls, that is why the
23 walls bow and separate and then on the outside of that was a
24 fiber type covering.

25 Q What about the roofs were they built like standard roofs?

1 A No they were built with the same type of, some of them were
2 built with the same type of wood framing and a lot of them were
3 on four (4) foot centers, National did put some on two (2) foot
4 centers but for the most part those were T (3) threes, for the
5 most part T(1) ones and T(2) twos were built on four (4) inch
6 centers, I 'm sorry four foot centers.

7 Q Were most of those homes built the same year?

8 A Yes Sir, they were for the war effort, so they were
9 originally constructed, they were constructed there was a
10 tornado and that is how National got involved and then stated
11 construction, it was an ongoing project.

12 Q And there was a couple of different contractors that
13 constructed these?

14 A Correct.

15 Q Assembled these?

16 A National and Gunnison

17 Q How long did it take to put a Gunnison home up?

18 A For the most part they tried to get one up in a day, a day
19 and one half, but they could take up to three (3) days.

20 Q And so these were bolt together homes?

21 A Yes they were bolted, the floor system was bolted, then a
22 ban board was placed around the walls and the floor system to
23 hold it together, that's where we get a lot of problems with
24 that ban board failing.

25 Q Were these single family residences?

1 A No they were originally, majority of them were duplex
2 units, there were a few single family residences, but I think
3 they were for officers, I don't know why they had a couple of
4 single family residences, the majority of them were duplex
5 units.

6 Q How many square feet were inside, were they all the same?

7 A There are three (3) types of, T-1 which are the smaller
8 ones, T-2 which is two (2) bedroom and a T-3 which is a three(3)
9 bedroom, but yeah, they are primarily the same except the
10 smaller ones, yes.

11 Q And how many square feet would that be?

12 A Around 1,100 square feet.

13 Q Is that for both units?

14 A Yeah

15 Q So about 1,100, that would be 550 foot more or less per
16 unit.

17 A Yes, pretty much.

18 Q And each unit and some of the units have two (2) bedrooms
19 in them and some of them have one (1)?

20 A That is correct, yeah.

21 Q Did they have forced air or heat?

22 A No, when they were constructed they constructed with two
23 (2) types of heat. One (1) of course was the fuel oil stove
24 which is where the asbestos, the asbestos problems are and the
25 other one was they had some of them had coal heat.

1 A Do they have asbestos in them?

2 A Yes Sir they do.

3 Q All of them?

4 A There are some that it's been remove, like when somebody
5 has replaced the heating and air, they might remove some of it,
6 and for the most part from what I have found from doing the
7 asbestos inspections I would say about ninety, about ninety
8 percent (90%) still have asbestos in them.

9 Q Were they originally constructed with lead based paint in
10 them?

11 A Yes Sir, the original paint was done in a factory in
12 Charlestown and The Colonial Paint Factory and what had happened
13 was the paint was came in vibrant colors, like blue, pink, and
14 red and stuff like that and that was lead based paint.

15 Q Is the pier system as durable as ugh, typical foundation
16 system?

17 A No Sir.

18 Q Do the homes last as long on a pier system as a typical
19 foundation?

20 A No Sir.

21 Q Are there other homes that were built in Charlestown about
22 the same time as the Gunnison were assembled up there in
23 Pleasant Ridge?

24 A Yes Sir.

25 Q Ugh, and if you could, would compare the conditions how

1 would that be?

2 A For the most part the homes the other homes built outside
3 of Pleasant Ridge are more contractual sound because they don't
4 have a lot of the failings that a pier system home would have,
5 and homes without vapor barriers.

6 Q How many, if you could guess, how many of these Gunnison
7 homes have you inspected?

8 A Roughly over one hundred (100).

9 Q Okay, have you seen any common problems in the Gunnison
10 homes?

11 A Yes Sir I have, the electrical service when they built the
12 electrical service the original service was a sixty (60) amp
13 service because all they need were lights. And a lot of people
14 have upgraded and they have changed the panels out without
15 changing the system, so therefore it is an ungrounded system
16 which is fine if you only use the two (2) prong outlet. Of
17 course a lot of people went to the three (3) prong and that and
18 a lot of the floors buckling is a severe problem, the band
19 boards separating and causing the walls to buckle, you know a
20 lot of, just a lot of problems with the electric, heating
21 systems, a lot of those heating systems when they did change the
22 heating systems they put them in a small closet so you don't get
23 the correct ventilation, the water heaters we have found
24 numerous problems with people placing water heaters in there,
25 replacing the old water heater they had and they are not

1 correctly, and they don't have the correct TPI valve and we have
2 found quite a few with the gas does not have the correct drip
3 leg in them which is a very dangerous situation.

4 Q Were these home designed to last this long?

5 A No Sir.

6 Q Now you have worked for the City of Charlestown for several
7 years now as the building inspector.

8 A That is correct.

9 Q Have you been involved in the redevelopment of different
10 neighborhoods, or housing development?

11 A Yes Sir, yes Sir I have.

12 Q And how, how do, how do you do that?

13 A Ugh, we have had areas were there, such as a couple of the
14 trailer parks that were in severe problems, ugh, you know we
15 pretty much go in and talk to the people, try to help them and
16 if they need relocated we do that, if they are real severe and
17 they need to be placed out quickly we try to help them. Ugh,
18 other than that it is through code enforcement.

19 Q What do you mean through code enforcement?

20 A We tell them what the problems are with their houses and
21 then we give them notice and have them to bring them up to code
22 or you know or do something else with them.

23 Q When you say something else you mean get rid of them?

24 A Right, demolition.

25 Q And how many different neighborhoods or developments have

1 you been involved with in Charlestown, that have been
2 redeveloped in this way?

3 A Three (3) ugh, we have had three (3) mobile home parks that
4 were severe, ugh those were removed, we have also done the
5 City's Renaissance Project, those properties the commercial
6 properties up off of Mark Street were really severe and they
7 have also taken down and tried to improve some neighborhoods, we
8 have taken down houses off of Edgewood, houses off Fourth
9 Street, some uptown, things like that.

10 Q Do you know how many homes if any have been built in
11 Pleasant Ridge since the original Gunnison Homes were built
12 there in the nineteen, early 1940s?

13 A I believe five (5).

14 Q Okay do you know when they were built?

15 A Yes Sir, well they were built primarily around 2003- 2004
16 as a part, as their attempt to revitalize the area.

17 Q Okay, other than that all of the homes that are there were
18 the original Gunnison Homes?

19 A That is correct.

20 Q Are all of the original Gunnison Homes still there?

21 A No, there are some that have caught fire and been taken
22 down, some were removed for reasons I don't know, but there are
23 empty lots.

24 Q As Building Commissioner do you get notified when there are
25 fire call in the City of Charlestown?

1 A Yes Sir, the fire department and I have agreement and I am
2 on their call out, so every time they get a fire, anywhere in
3 the Charlestown area I get called out.

4 Q Are there fires in Pleasant Ridge?

5 A Yes Sir.

6 Q Compared to the other areas of the City are there more or
7 less?

8 A There is more.

9 Q Significantly more?

10 A I would say so.

11 Q Now is there a distinction between what you would call a
12 minor and a major fire.

13 A Yes, a minor fire of somebodies you know and, and there is
14 a lot a stove catches on, a camp, you know fire a wieney roast
15 gets out of hand, or something like that, that is minor thing.
16 And normally what will happen, the police department, or the
17 fire department will contact me and it is just this, it is just
18 that. A major fire would be with the property is damaged so bad
19 that you can't really live there, thirty percent (30%) is a
20 standard that is used and it is so bad that health and safety
21 hazard to neighbors and to the person that was going to live
22 there.

23 Q In the document that you submitted to the Redevelopment
24 Commission does it talk about fires?

25 A Yes Sir I believe it does.

1 Q And what did you say about fires?

2 A I don't have it, I'm turned to it right here, I believe
3 there was nine (9) out of ten (10) fires were in Pleasant Ridge,
4 major fires.

5 Q Does that concern you as the Building Commissioner?

6 A Yes it does.

7 Q Why

8 A Because ugh, because I take it to heart, for the safety of
9 the people and I don't want to see somebody burn in it, I go
10 home every day thinking about that.

11 Q Is there a common theme or common cause for those fires?

12 A Yes electrical.

13 Q Now in the past you have issued citations to people for
14 violations, have you issued citations to people for violations
15 of the City's Property Maintenance Code?

16 A Yes Sir.

17 Q Can you explain to me what your understanding of the
18 difference between the Property Maintenance Code and the Unsafe
19 Building Code is?

20 A Yeah, the Property Maintenance Code is one that enforces
21 the minimum standards for property maintenance and it coves
22 things like grass, and, and ugh, you know under pinning not
23 being there, all the way up to some of the major problems with
24 the electrical and things like that. Indiana Unsafe Building
25 Code is more of a vacant and dilapidated building code, it is

1 where you are coving vacant, dilapidated, abandoned homes, which
2 we have out in Pleasant Ridge.

3 Q Can the two (2) work together?

4 A Yes Sir, they actually overlap some, yes.

5 Q Okay the notices that you send when you detect citations
6 does it make references to both of them?

7 A Yes Sir.

8 Q Does it say the citation to the Unsafe Building Code and or
9 the Property Maintenance Code?

10 A That is correct.

11 Q So you use the same notification whether it is Unsafe
12 Building or Property Maintenance?

13 A Yes, yeah

14 Q When you enforce the Property Maintenance Code, who do you
15 notify?

16 A I notify the owner of record, the a, which is I usually get
17 with the, through the Clark County GSI, I also attempt to use
18 the Water Department to find out who the owner of record is and
19 then we also try to notify the person, the occupant, if it is a
20 rental property.

21 Q Do you try to sometimes to notify the owners ahead of time?

22 A Yes Sir.

23 Q And when you do these inspections under the property, the
24 Rental Property Inspection Ordinance do you notify them ahead of
25 time?

1 A No, as far the notice that we are going to inspect, yes we
2 have a requirement for a twenty-one (21) day notice to do the
3 interior, we can do the exterior but we usually give them notice
4 and that goes to the owner of record and to the person living in
5 the home.

6 Q When you send the twenty-one (21) day notice you send it to
7 the owner and the occupant?

8 A That is correct.

9 Q They know what day and time you are going to show up?

10 A That is correct.

11 Q So the owner has the opportunity to be there?

12 A That is correct.

13 Q They have the opportunity to watch you do the inspection?

14 A That is correct.

15 Q And when you inspected the Riley Avenue property that the
16 Pleasant Ridge Association owns, did you give them notice that
17 you were going to inspect?

18 A Yes we did.

19 Q In fact didn't you accommodate somebody's schedule to do
20 the interior inspection?

21 A That is correct.

22 Q Was anyone from the Association there when you did the
23 inspections?

24 A I believe Mr. Craven was there.

25 Q So actually had notice the very day you did the inspection?

1 A Yes.

2 Q Okay, now I am going to take a little side step here and
3 ask you about this firewall thing, there has been some testimony
4 that Mr. Craven asked you about a firewall, do you recall ever
5 speaking to him about a firewall?

6 A The only conversation we ever had was when they went to do
7 their electrical permit, to do the electric I advised him that
8 in accordance with Duke Energy requirements that if the
9 electrical panel, or electrical meter bases were separate then
10 those would require a firewall, that is the only thing and that
11 was prior to any rental inspection, that was just through the
12 permit, but I tell that to everybody when they come to my
13 office.

14 Q Did you give him any type of certificate of occupancy?

15 A No

16 Q Did you inspect his, the, the Association rental property
17 and tell them everything was okay and they could rent it?

18 A I don't recall ever saying anything like that.

19 Q Do you normally give certificates of occupancy?

20 A Not for renting things out, no.

21 Q Did he ever request that you inspect the property?

22 A No, only, only through the permit process.

23 Q Have you ever told anyone that they had to sell their
24 property?

25 A No Sir.

1 Q Have you ever as part of your job, as a Building
2 commissioner, or an Inspector for the City of Charlestown ever
3 told anyone that they had to sell their property to Pleasant
4 Ridge Redevelopment or anyone else?

5 A No Sir.

6 Q Have people asked you for contact information for Pleasant
7 Ridge Redevelopment?

8 A Yes they have.

9 Q Have you provide that?

10 A Yes I have.

11 Q And why did you do that?

12 A Because they requested it.

13 Q Okay, when, have you spoken to landlords about the Rental
14 Inspection Ordinance?

15 A Yes

16 Q What, how do you explain that to them about their options?

17 A I tell them they have the same options as everybody, they
18 can bring it up to code, they can appeal, or you know they can
19 demolish it in accordance with the ordinance but they would have
20 to go the, The Board of Public Works for that.

Commented [C1]:

21 Q Have you ever forced anybody to, to demolish their home?

22 A No

23 Q Have you ever forced anybody to sell their home?

24 A No

25 Q Tony I would like you to look if you don't mind at Tab T, T

1 as in Tyrannosaurus, do you recognize those documents?

2 A Yes Sir.

3 Q What are those?

4 A Those are enforcement pictures that I utilized when I do
5 hosing inspections.

6 Q So these are actual pictures of some of the inspections
7 that you have done?

8 A Yes Sir.

9 Q Are these all from Pleasant Ridge?

10 A Yes Sir.

11 Q Do you have more than this or is this everything you've
12 got?

13 A Oh, I have numerous more pictures.

14 Q And you have these categorized in different areas?

15 A That is correct.

16 Q How do you have that organized?

17 A Ugh, roofs, gutters, downspouts, windows, doors,
18 electrical, exterior, different things like that.

19 Q There seems to be more exterior pictures than interior
20 pictures, why is that?

21 A Cuz, exterior problems are one of the major problems.

22 Q Are they more visible?

23 A Yes

24 Q Do you get complaints from people about exterior problems
25 in other neighborhoods, or in other homes?

1 A Yes I do.

2 Q Does the conditions of the homes in Pleasant Ridge lead to
3 problems there that you have observed?

4 A Yes

5 Q What types of problems?

6 A Like I said when the exterior starts to fail you get, you
7 get a lot of, no vapor barriers, you get a lot of the wood
8 starting to rot, the roofs buckle, the majority are on four (4)
9 foot centers so they buckle, the repairs that are made are not
10 correct, you know when you get high grass and weeds and vermin,
11 you know you get mosquito problems, garbage you get animals
12 going through the garbage and things like that.

13 Q Have you noticed any types of rodents or vermin up there?

14 A Yes, I have seen rats, you know feral cats, bed bugs a lot
15 of roaches.

16 Q And ugh, you have been doing this for a while, are things
17 better or worse or the same as they have been for a while?

18 A As far as vermin?

19 Q Vermin?

20 A Oh yes, there is less feral cats, we have noticed that and
21 of course should be less rats because I haven't seen quite as
22 many rats, because there is no food for them, food source for
23 them.

24 Q What would be a food source for a rat be?

25 A A lot of people will leave their dog food out by the side

1 of the house, garbage you know just thrown out in bags, junk
2 like that.

3 Q During your time as Building Commissioner have you ever had
4 an occasion to get complaints about rubbish, furniture or other
5 things on the side of the road in Pleasant Ridge?

6 A Yes I have.

7 Q Is that something that is happening more or less than it
8 used to?

9 A Ugh it is less because a lot of that has been picked up,
10 there is a lot of dumping that occurs up there, with less people
11 in less houses with more boarded up houses, there is less of
12 that.

13 Q So you think that there is less of that now, than there
14 used to be?

15 A Yes

16 Q Did the City used to pick used to pick that kind of stuff
17 up?

18 A Yeah, I believe so.

19 Q Sanitation Department?

20 A Yes

21 Q Do they pick it up the same now as they used to?

22 A Yes they do.

23 Q There has been some testimony that, if I told you there had
24 been some testimony that the rubbish and junk on the side of the
25 road is worse now than it used to be, would you agree or

1 disagree with that from your experience?

2 A I would disagree.

3 Q Strongly or just a little?

4 A I would strongly disagree, I made a visit up there
5 yesterday.

6 Q Okay, you have given some testimony today that you've got a
7 business, field services business, and sometimes you are hired
8 by insurance companies.

9 A That is correct.

10 Q And what do you do for them?

11 A I do what they call some by are drive by which is the
12 majority of them, that is where you go through and look at the
13 condition of the exterior of the property, look for roof damage,
14 tried to give them an age of the roof, look for hazardous
15 conditions, vicious dogs, trampolines, pools with no fences, and
16 do some inspections on the inside where they will ask me to go
17 in and check those and we look at the heating and air units get
18 the dates off of those, and see what conditions they are in.

19 Q Do they ever ask you for an opinion regarding the cost of
20 things?

21 A They sometimes do yes.

22 Q Okay, you are familiar with a lot the Gunnison Homes in
23 Pleasant Ridge would it and you know a little bit about the
24 costs of doing repairs I assume?

25 A Uh-huh yes that is correct.

1 Q In order to bring one of these things up to code, to fully
2 bring up to the Property Maintenance Code are there some of
3 those that really need a lot of work?

4 A There are some of those that need extensive work.

5 Q Okay, the last time you inspected the Pleasant Ridge
6 property, they had met the minimum qualifications?

7 A Yes they did.

8 Q Were there other properties own by landlords that you think
9 would have been cost prohibited to fix?

10 A Yes Sir.

11 Q Are a lot of those the ones that are boarder up, now?

12 A That is correct, those are the worst of the worst.

13 Q Now this Property Inspection Ordinance that we have been
14 talking about, that is only for rental properties, is that
15 correct?

16 A That is correct, no that is not correct, that is for any
17 property. Are you talking about the Rental Property Ordinance?

18 Q Rental Property Ordinance is only...

19 A That is only for rental properties, yes.

20 Q The Property Maintenance Code applies to all.

21 A Applies to everybody, yes.

22 Q Okay, Tony where do you currently live?

23 A I live in Washington County.

24 Q Have you ever lived in Charlestown?

25 A Yes Sir.

1 Q Have you ever lived in Pleasant Ridge?

2 A Yes I was born and raised in Pleasant Ridge.

3 Q How long did you live there?

4 A I lived there from birth to 1980 when I went into the Navy,
5 I got out of the Navy in 1992, after Desert Storm and then I
6 moved back there with my wife and children at the time I lived
7 there until 2004 and then in 2014 I left and went to Washington
8 County and became the Salem Building Commissioner and then I
9 came back 2008, well, I didn't come back I don't live in
10 Charlestown anymore.

11 Q Do you know anyone who still lives in Pleasant Ridge, who
12 lives in the home where you grew up?

13 A My Mother.

14 Q Same home?

15 A Same home.

16 Q How much did she pay for the home, if you know?

17 A \$1,500 dollars

18 Q Has she invested any money in repairing that home?

19 A Yes over \$200,000 dollars.

20 Q Do you every do any repairs for your Mother.

21 A Yes I do.

22 Q How frequently do you go up and do that?

23 A My ugh, four (4) or five (5) times a month.

24 Q And why do you have to go up so frequently?

25 A Well because the age of the house and the whole thing is

1 starting to deteriorate, so they need a lot of constant
2 maintenance on it.

3 MR MICHAEL GILLENWATER: I have no other questions for
4 Mr. Jackson at this time.

5 THE COURT: Questions?

6 MR. ANTHONY SANDERS: Thank you Your Honor.

7 CROSS-EXAMINATION MICHAEL JACKSON

8 MR. ANTHONY SANDERS:

9 Q Mr. Jackson I would like to go to Tab nineteen (19) of what
10 was Plaintiff's exhibits, earlier, so that big binder in front
11 of you.

12 A This one?

13 Q I believe it is that one, I think you are wrong, Tab
14 nineteen (19), and these if you could flip through a few of the
15 properties.

16 A Yes Sir.

17 Q Do you recognize some of these pictures?

18 A Yes I do.

19 Q Isn't it true these are properties in Pleasant Ridge?

20 A Yes they are.

21 Q These are actually properties of the Association members?

22 A Yes Sir.

23 Q Are these properties in an inherently in violation of the
24 Property Maintenance Code?

1 A No that group does not, that was a home owner property.

2 Q No the Property Maintenance Code, which applies to all
3 buildings?

4 A Oh, I know, yeah, but that is what I am saying, normally
5 these do not, cuz the majority of the time owner occupied or
6 owner occupied homes do not have normally have problems with the
7 code.

8 Q Those home inherently, what my meaning is inherently, just
9 by being a Gunnison Home those homes are not in violation of the
10 Property Maintenance Code?

11 A I couldn't, I have never inspected them I couldn't tell you
12 that.

13 Q No I don't think you understand my question.

14 A Yeah I must not.

15 Q I don't mean your inspection, I just knowing it is a
16 Gunnison Home.

17 A That is correct.

18 Q Is it, is it automatically in violation of the Property
19 Maintenance Code?

20 A I couldn't, I can't, I can't tell you that because I have
21 not been inside them, I don't know.

22 Q No again are Gunnison Homes, just by being Gunnison Homes,
23 no matter how much you fixed them up, automatically in
24 violations of Property Maintenance Code, because Gunnison Homes
25 just can't comply with the code?

1 A I must be misunderstanding what you are saying, but
2 Gunnison Homes as far as you know the vapor barriers it is
3 according how much maintenance been done on it. There is
4 inherently going to be problems, because of the age, but I don't
5 know how much work has been done on them and I don't have the
6 right to go in an inspect them and tell them what is wrong.

7 Q So if a property owner renovated their property, even if it
8 is a 1942 Gunnison Home it could be, it could be ugh, compliant
9 with the Property Maintenance Code?

10 A I there again it can as far as there is no need for me to
11 go look at it, so I can't tell you, you know what the problems,
12 if there are problems, I can't tell you what corrections have
13 been made, I can't tell what kind of work that was done, there
14 are some that have been totally redone, but.

15 Q So just by knowing it is a Gunnison Home you can't give a
16 violation, because you don't know if it is in violation of the
17 Property Maintenance Code?

18 A That is correct.

19 Q You spoke a little bit about lead paint, isn't it true all
20 homes painted before 1978 may have lead paint in them?

21 A They may but, not all of them do.

22 Q You talked about the inspection of the Association's
23 Property, did you provide notice of the exterior inspection of
24 that property?

25 A I can't remember if we did, I don't believe I did. We seen

1 that when we were doing an inspection on another home, we seen
2 the exterior problems.

3 Q And we talked about pier foundations, is a pier foundation
4 inherently, again inherently just because it is a pier
5 foundation, I am not talking about what an actual pier
6 foundation looks like, whether it's decayed or anything like
7 that, but is a pier foundation inherently in violation of the
8 Property Maintenance Code, you just can't comply with the
9 Property Maintenance Code if you have a pier foundation?

10 A It is according to what type, there are numerous types of
11 pier foundations it is according to what types. If you speaking
12 primarily about Pleasant Ridge ugh like I said some of those the
13 pier structures that they have there are there inherently, there
14 is problems.

15 Q That is because of their age and they haven't been kept up.

16 A Their style of insulation, the Gunnison style insulation.

17 Q And the age.

18 A Yeah there is problems the age, we do, there is a lot of
19 problems with piers starting to, as in the case of the
20 Neighborhood Associations the pier started to turn sideways.

21 A But is you revenant say you do have age problems, you
22 revenant like the Association did, you can be in compliance with
23 the Property Maintenance Code, is that true?

24 A That is true.

25 MR. ANTHONY SANDERS: No further questions.

1 THE COURT: Any more follow u

2 REDIRECT EXAMINATION MICHAEL JACKSON

3 MR MICHAEL GILLENWATER:

4 Q Just very briefly to make sure, I don't think that Tony was
5 quite catching what you were asking so I want to try to make
6 sure I understand to. If a Gunnison Home is brought up, if it
7 was as it originally was...

8 A Correct

9 Q Is there something about that home that causes it not to
10 comply with the Property Maintenance Code, right now?

11 A I guess if it is brought into compliance, no.

12 Q And if it is a, if it is, if it was built and it was brand
13 new and nobody had ever remodeled it, it would be grandfathered
14 in, in its current condition?

15 A That is correct, yes Sir.

16 Q Okay they wouldn't have to change anything?

17 A It is nonconforming, yes.

18 Q But if somebody changes it they have to bring it up to
19 code?

20 A That is correct.

21 Q Okay but there are some Gunnison Homes that you have
22 inspected that have not had any violations, is that correct?

23 A That is correct.

24 Q Like the last time you were at the Pleasant Ridge Property
25 they had complied it that correct?

1 A That is correct, yes Sir.

2 Q So, they brought it into compliance?

3 A Yes they did.

4 MR MICHAEL GILLENWATER: Okay I have no other
5 questions.

6 MR. ANTHONY SANDERS: No further questions Your Honor.

7 THE COURT: Alright, thank you Mr. Jackson, you have
8 another witness?

9 MR MICHAEL GILLENWATER: Mayor Hall, I would like to
10 recall him.

11 THE COURT: And Mr. or Mayor, excuse me I will remind
12 you that you are still under oath.

13 DIRECT EXAMINATION MAYOR ROBERT HALL

14 MR MICHAEL GILLENWATER: Do you intend to call Mr.
15 Jackson back?

16 MR. ANTHONY SANDERS: No

17 MR MICHAEL GILLENWATER: You can sit in here with the
18 big people.

19 Q Mayor you sit on the Redevelopment Commission?

20 A I do.

21 Q And you can you explain what steps the Redevelopment
22 Commission has taken to determine if the Pleasant Ridge is an
23 area needing redevelopment?

24 A Ugh, yes ugh the Redevelopment Commission asks all the
25 departments that uhm, in the City to make reports as to their

1 experience, costs, what are, what are we, we doing there in
2 general, I made the request so each of them either written or
3 verbal came and gave reports to the Redevelopment Commission.

4 Q And did some of them provide written materials to the
5 Redevelopment Commission?

6 A They did.

7 Q Did you invite other people to give the Redevelopment
8 Commission information about Pleasant Ridge?

9 A Ugh, uhm yes we invited several others, yes.

10 Q Okay, have you seen the report that Mr. Jackson prepared,
11 The Pleasant Ridge, the decline of a neighborhood that is
12 Exhibit K or Tab K in the blue binder?

13 A Yes

14 Q And you read that and understood it?

15 A I've thumbed through it, yes. I don't know if I have read
16 it 100% let me look at and then tell you whether this is the one
17 I have read.

18 Q You are familiar with the Gunnison style home?

19 A I am.

20 Q And you actually owned one of these homes?

21 A I did.

22 Q And is it your opinion that these, the home that you owned
23 was easy to maintain?

24 A It was not.

25 Q Okay in Exhibit L, I would like you to take a look at that

1 and see if you recognize it?

2 A Yes

3 Q What is that?

4 A A report from the Police Department.

5 Q Could you summarize or state what, what you glean from that
6 report.

7 A That there is inappropriate, in-proportional amount of
8 telephone calls that are to the Pleasant Ridge area as compared
9 to the rest of the communities' area even if...

10 THE COURT: I'm sorry Mayor if I could have to speak
11 up a little I know we have all been here all day and I am having
12 a little difficult time hearing you.

13 A Okay, yeah ugh, in, in general terms what the Police
14 Department reported was that there was an in-proportionate
15 amount of calls in the Pleasant Ridge area as opposed to any
16 other, as a City as a whole and defiantly in the Pleasant and
17 defiantly in, as you compare their neighborhood to other
18 neighborhoods it was drastically different.

19 Q Was it less or more?

20 A Oh excuse me, tremendous amount more.

21 Q Did you have a Narcotics Detective testify to the
22 Redevelopment Commission?

23 A We did.

24 Q What did he say about the drug active in Pleasant Ridge or
25 in the City compared to Pleasant Ridge?

1 A Ugh, uhm, one a lot more active with it, I remember at one
2 point they, they had looked over the previous two years and like
3 90% of all drug dealing arrests were made out of the Pleasant
4 Ridge area, but that it was obvious that it, that it is the
5 gateway in, to the drugs in our City.

6 Q Did he have an opinion why that was the case?

7 A Ugh, well the, ugh, If I remember birds of the feather
8 flock together, I think was one of the things he told me before
9 with that, the, that the area had attracted that element.

10 Q You are not suggesting that everybody in Pleasant Ridge
11 deals drugs are you?

12 A Absolutely not, there is a lot of good folks in Pleasant
13 Ridge, yeah.

14 Q You ugh, the City was ugh, you testified that the City made
15 some efforts to redevelop in Pleasant Ridge?

16 A We have.

17 Q Was the City engaged with an effort with New Hope Services?

18 A We did, ugh...

19 Q What did you do?

20 A The City obtained, I believe at the time I believe ten (10)
21 properties, its much like what has been suggested you know us do
22 today, you know with it, and what I get faced with most is why
23 don't you just buy some of the homes and you know redo, redo it
24 that way. We attempted that in 2001 or 2002 somewhere in that
25 neighborhood, where we bought ten (10) homes we had got a ugh,

1 we worked with New Hope Services to get grant approval and they
2 built five (5) new homes inside Pleasant Ridge, the only five
3 (5) that have been built, but they built them and, and to have
4 people buy them in there.

5 A Okay, and ugh you said you bought ten (10) lots and built
6 five (5) homes, why did you stop?

7 A New Hope Services was going through similar program that we
8 are using today with the Pathway Home Ownership Program where
9 they would get a number of applicants, go through their credit,
10 distill them down to where they could get, clean up their
11 credit, get their income, do all the things necessary for HUD
12 financing and then would ugh give them a certificate to it. What
13 did New Hope Services ran into and why they only did five (5)
14 according to them was that because the found that even once the,
15 the potential buyer was qualified that they did not want to buy
16 a home in Pleasant Ridge.

17 Q And would you take a look at the Exhibit under the Tab
18 labeled N.

19 A N?

20 Q N

21 A M or N?

22 Q N as in Nut.

23 A I have it.

24 Q Is that a letter that the Redevelopment Commission received
25 from New Hope?

1 A It is.

2 Q Would you read the third paragraph?

3 A The problem, is that the one?

4 Q That is the one.

5 A The problem was not one of finding qualified families to
6 purchase homes in our program, the program was finding families.
7 Once they went through our home owners and financial assistant
8 training wanting to purchase a new home and move their families
9 into a blighted neighborhood in Pleasant Ridge, those qualified
10 families simply choose to move into other neighborhoods in the
11 city or other cities.

12 Q So the City invested significate money in this project?

13 A We did.

14 Q Did you, did the Redevelopment Commission h?ear from any
15 realtors?

16 A Ugh, I believe so yes.

17 Q Would you take a look at Exhibit O.?

18 A Okay.

19 Q And do you recognize that document?

20 A I do.

21 Q What was your understanding of what that document
22 conveying?

23 A Let me read through it real quick again. That the area was
24 not ugh, marketable and then if you and you couldn't ugh and the
25 prices were going down, I'm just scuming, scanning through this.

1 Q Does it mention Pleasant Ridge?

2 A It does?

3 Q Would you read that second paragraph?

4 A Okay, were it says conversely?

5 Q The over all.

6 A The overall medium sales price in Charlestown has increased
7 from \$140 or \$134,450 to \$64,875 in just five (5) short years
8 that is an increase of over 22% conversely in Pleasant Ridge
9 multiple duplexes have recently sold as rental property for less
10 than \$10,000, some as even low as \$2,000 for an area that just a
11 few years ago had sold prices of \$35 to \$60,000, the current
12 market situation for this one small area is apparently heading
13 in the wrong direction.

14 Q And do you know when this letter was delivered or when you
15 got it, was that before or after the inspections had started.

16 A Before.

17 Q Now if you would turn to Exhibit P, next page, next Tab, do
18 you recognize that document?

19 A Yes

20 Q What is that document?

21 A Ugh, that is, the one that says, make sure, Pleasant Ridge,
22 Gunnison Home revitalization study right?

23 Q That is correct.

24 A Okay, that was a presentation that the, the Redevelopment,
25 or the Pleasant Ridge Home Owners Association appeared before

1 the Redevelopment Commission and this was presented by what we
2 would assume was there agent or someone who had done a study for
3 them to present to the City.

4 Q What was the take away from this, from what do you remember
5 about it?

6 A Well there was a couple things I remember, one is that they
7 I, I, he said this is one last Gunnison projects, because this
8 is not the only one, Walkertons had them several communities
9 both in the State of Indiana and throughout the country. Around
10 the ammunition period of that time building, or making
11 ammunition, he said this is one of the last ones, which told me
12 the rest of them had a the same thing of course the Walkerton
13 video shows their video shows the identical homes same problems
14 so, so that was one take away. The second take away was, is
15 that the, ugh, I thought they was confirming what we had said
16 all along that it is cost prohibitive to be able to bring these
17 houses up to modern day standards this report if I remember
18 right showed anywhere from \$45,000 to \$78,000 dollars in repairs
19 per home to be able to bring them up, or most homes I should
20 say, ugh, with it. And in that area ugh with it you would be
21 talking \$25-30 million dollars, with it to be able to do that
22 type of thing.

23 Q Did that price tag include the price of the house?

24 A It did not it just you own the property you go and fix it
25 up.

1 Q And, and you remember that it was going to cost \$45-\$78,000
2 per home?

3 A Yeah well that, I guess that is what they presented yes.

4 Q Okay alright, did you hear from your animal control
5 officer?

6 A We did.

7 Q I would refer you to Exhibit R.

8 A We did.

9 Q And what do you remember from what Mr. Slaughter said?

10 A Ugh, in general that most of his calls for animal control
11 is, excuse me into the Pleasant Ridge area.

12 Q Did he have an opinion why that was?

13 A I'm sure he did I don't have great recall of what his
14 opinion was of it, but I remember that it was an abnormal amount
15 of calls that went to the area.

16 Q And is that the memo that he presented?

17 A Yes

18 Q And would you look quickly at Exhibit S?

19 A Yes.

20 Q Do you recall receiving that memo?

21 A Yes

22 Q And uhm, what does that pertain to, if you recall?

23 A Ugh, animal control calls, ugh with it, looks like, ugh,
24 yes, animal control.

25 Q In you experience as the Mayor since 2000, has, is there

1 rubbish left on the side of the road at Pleasant Ridge.

2 A Yes

3 Q What is the cause of that?

4 A The transient nature of the area, uhm, we have had uh, we
5 grappled with the problem since 2000, since I have been Mayor, I
6 am sure they did before, but definitely since 2000, since I've
7 been Mayor, ugh, because of the transient agent, nature of it a
8 lot of people move landlords move large amounts garbage and
9 stuff that was left behind out to the, out to the road and it is
10 there often.

11 Q Have you been up in Pleasant Ridge in the last couple of
12 months?

13 A Uhm, yeah probably within the last couple of months, yeah.

14 Q Have you notice more or less about the same amount of
15 debris on the side of the road?

16 A Ugh, there is not as much we are not taking near as much
17 garbage out as we once was, with it in the City.

18 Q Mayor have you been in the rental property business?

19 A Yes

20 Q For how long?

21 A Tenety-five (25) years, or so.

22 Q So you have owned rental properties?

23 A I have.

24 Q Do you still own rental properties?

25 A A couple, yes.

1 Q And ugh, you testified earlier that you were in the
2 mortgage business?

3 A I was.

4 Q Those kind of go together in some ways?

5 A Yes they do.

6 Q Have you had the occasion to assess the value of
7 properties?

8 A Ugh, through the mortgage business, I mean you had to do
9 that all the time.

10 Q The most, well there are many of the Gunnison Homes up in
11 Pleasant Ridge ugh, like the one you owned, did it require a lot
12 of work?

13 A Yes , ugh, ongoing maintenance in a rental property you
14 know is an expense obviously and you have to balance that
15 against what you are going to be able to get in rent. One of
16 the challenges we had, I felt that I had in the rental property
17 there was being able to collect enough rent to justify putting
18 all of the money that would be in and continue to put money in
19 as I did and found out that a year eighteen (18) months down the
20 road that it what not the best decision I had ever made.

21 Q Are the, how are the property values in Pleasant Ridge been
22 over the last ten (10), fifteen (15), twenty (20) years?

23 MR. ANTHONY SANDERS: Objection foundation.

24 THE COURT: He asked him a lot of questions about his
25 real estate background, if you want to ask him about his

1 knowledge of Pleasant Ridge...

2 MR. MICHAEL GILLENWATER: I can ask, I can ask some
3 more.

4 MR. ANTHONY SANDERS: We had a series of questions on
5 these matters before.

6 THE COURT: Go ahead.

7 Q Mayor are you familiar with the sales prices of housing in
8 the City of Charlestown?

9 A I am.

10 Q What makes you familiar with that?

11 A Ugh, I, I follow real estate a little bit, so I am familiar
12 with it that way, when I was in the mortgage business I was very
13 familiar because it determined what, what you want to do as far
14 as a loan.

15 Q You keep track of the assessed values of properties within
16 the City of Charlestown?

17 A Uhm, no not as individuals no.

18 Q How about as neighborhoods?

19 A No not really, I mean the assed value does not, the assed
20 value for the City is important because that is what determines
21 our levy in taxes, but as far as real estate sales and all that,
22 that doesn't matter a whole lot.

23 Q With the regard to the properties of Pleasant Ridge have
24 you had discussions with some of the property owners the rental
25 landlords?

1 A I have had discussions with the landlords, yes.

2 Q And have, had you indicated earlier that you had some
3 discussions back in 2014 when they were talking about the Blight
4 Elimination Program?

5 A I did.

6 Q Did you talk to Mr. Woods?

7 A I did.

8 Q Did he indicate a willingness to sell?

9 A Yes

10 Q Did he sign a document saying he would?

11 A He did.

12 Q I have heard some testimony that wasn't the, that he said
13 that wasn't the case, did he really sign that, do you know that
14 he did?

15 A He did, yes.

16 Q Have you seen that?

17 A Hum, I believe I was there when he signed it, uhm yes.

18 Q Okay, do you know what percentage of the property owners of
19 Pleasant Ridge signed those types of affidavits, back in 2014,
20 approximately?

21 A Uhm, if I remember, no, I, I don't know exact percentage
22 because some property owners obviously owned multi properties,
23 but I would say probably 60% percent maybe, somewhere in that
24 range.

25 Q Have you talked to people in Pleasant Ridge who want to

1 leave?

2 A Ugh, since 2000 yes.

3 Q And are there some people there who, who don't leave even
4 though they want to?

5 A Ugh, yes.

6 Q Have they explained why?

7 A Ugh, yes a lot of the people there, a lot of the Seniors
8 particularly that have ugh lived there when into retirement and
9 then since that time the neighborhood has continued to go down
10 and increase more crime and so they wanted to leave but their
11 properties are not valued enough that they can sell and make a
12 lateral move into another area in the community.

13 Q Are there other problems with some people with the regard
14 to the, what they owe on their properties?

15 A Yeah there is definitely some lending that has gone that
16 might not of should of, there are people that deep under water
17 in their property, yes.

18 Q Has the City done anything to help them?

19 A Ugh, at the moment ugh, what we done is contracted with a
20 firm to meet with anybody that would like to meet with them.

21 Q What kind of firm?

22 A A firm that specializes in ugh restructuring of finances
23 and short sells and (indiscernible) companies.

24 Q Okay, has, has the City also considered the people who are
25 renting but want to own homes?

1 A We have, when, when the landlords started selling it went
2 fast and a lot of them ugh, to my surprise, a lot of them sold
3 quicker than we ever anticipated and it did create a large
4 amount of homes, a lot of properties with renters in them that
5 were, would be noticed to move at some point. So our concern as
6 a City was is that if we didn't staggered these dates of when
7 these leases are coming up that we would put to many people out
8 in the market at the same time looking for rental properties and
9 then the second thing was is that as in the other redevelopment
10 projects that we have done we have always took a proactive
11 approach, meet with people, offer them to meet with us, some
12 don't want to meet with us, but offer to meet with them, and
13 help them find other living areas, so we ugh, we have ugh,
14 engaged the housing authority in the Trustee's office and the
15 City has contracted with a real estate company to meet with ugh,
16 renters that desire to meet with them we contact them and help
17 them move.

18 Q There has been some testimony today about your relationship
19 with Pleasant Ridge Redevelopment LLC, John Neace, John Hampton,
20 could you describe that relationship for the Judge?

21 A That is a good question, ugh, I guess probably the best way
22 I can describe it is I come from the sports world the Mayor is
23 kind of like a coach you know you got'a, you got'a decide what
24 you are going to do, build a team, and everything to accomplish
25 that and so as far as them and Pleasant Ridge and all that I

1 think it is a lot like the coach asking everybody to come and
2 supporting them at an away ballgame or something like that, you
3 know to come and participate and help with the team but he also
4 knows that he can't buy the bus for them, you know, buy there
5 gas, do all that, but he is more than happy for them to come and
6 participate with them and support the cause. In the case of,
7 maybe another good analogy that is when you are putting a team
8 together you don't have control who is going to show up and to
9 try out you know so you got'a choose from ones who trying out.
10 The relationship with the redevelopment, Pleasant Ridge
11 Redevelopment, LCC, LLC is they are going the same direction we
12 are, with it, from the stand point that they are wanting to buy
13 properties. So we have not discouraged them from buying
14 properties at all and, and the but we have no contract with
15 them, we promise them no compensation, but we are happy that
16 they are on the same direction that we are and are wanting to
17 help to redevelop so the questions earlier about did we advise
18 anybody else at the moment they are the only ones that I am
19 aware of that have showed up anywhere asking to but properties
20 or willing to buy properties. We have invited a lot of
21 developers to participate but like the team you are only going
22 to be able to select from the ones that show up to play.

23 Q And that company has put money into the City of
24 Charlestown?

25 A They have.

1 Q Do you have any guarantees from them?

2 A In what way?

3 Q They guarantee that they are going to redevelopment
4 Pleasant Ridge or they are going to keep buying properties until
5 they are all purchased?

6 A No, no.

7 Q Is it possible they could sell out tomorrow, to somebody
8 else?

9 A Uhm yes absolutely.

10 Q Okay did, does the City, do you as the Mayor intend to
11 advise the Redevelopment Commission and the City Council to
12 redevelop Pleasant Ridge?

13 A Yes

14 Q And when you say redevelop what does that mean to you?

15 A Well redevelop is taking one thing and redevelop it or
16 making it something better, you know or and the aspect of the
17 City redevelopment maybe just going and stopping the problems
18 that exists, that you're facing with as, as a City or Government
19 or community.

20 Q Do you believe with the housing as it exists in Pleasant
21 Ridge that redevelopment will be possible if that housing isn't
22 dealt with?

23 A No

24 Q Do you think that the people that live up there deserve a
25 fair price for their house?

1 A Ugh, yes.

2 Q And do you at this point in time has the City taken any
3 action to exercise the power of eminent domain?

4 A No

5 Q Has the City Council done anything to exercise eminent
6 domain?

7 A No

8 Q Has the Redevelopment Commission has adopted a plan, does
9 it call for eminent domain?

10 A It does not.

11 Q Does it require that the City work with any particular
12 developer?

13 A It does not.

14 Q Can you obligate the City to any agreement without the
15 approval of a board or council?

16 A I cannot.

17 Q Okay, do you believe that issuing fines against violators
18 of the Property Maintenance Code is affective?

19 A I do.

20 Q Why do you say that?

21 A Well you and I have had discussions about this and ugh, in
22 the past and one of the things that I have learned when we was
23 raising our kids is that I watched as we said if one of our kids
24 was doing something wrong and we said stop that, they didn't do
25 it, and we said stop that, and they didn't do and they we said

1 stop that and they didn't do it and finally we said if you don't
2 stop that this is going to happen and then, but my wife took it
3 to the level she said I told you once, I told you twice, I told
4 you, I found out that they didn't do it until they knew what you
5 said and the consequences that came after it. You know so you
6 could tell them twenty (20) times not to say anything, but we
7 seen that today where the, our Honorable Judge said if you get
8 one, you know on the phones, I thought that was a kind of, you
9 got to one and then everybody understands and we haven't had it
10 happen since. So I think from the stand point that fines, yes
11 having fines with them, they understand they are coming, they
12 would of, they are effective in that not, not to put yourself in
13 a position to obtain them.

14 Q You feel like the landlords were given fair warning that
15 the inspections were imminent.

16 A I, yes I mean it was started in January, I don't know the
17 first one didn't happen till August or so, yeah.

18 Q Were you aware of any landlords that went out and tried to
19 improve their properties so that they would not receive fines
20 for violations?

21 A No

22 Q Did many of those landlords approach you and tell you it
23 was their intent to eventually sell?

24 A Yes, I mean I had a lot of landlords long before the
25 inspections program desires to sell, yes.

1 Q Have any of them came to you and complained that it was
2 unfair that their properties were inspected?

3 A No, other than Pleasant Ridge at the, well I shouldn't say
4 they even complained about the unfairness of it, the complained
5 about the fines, yeah.

6 Q Do you believe that enforcing the Property Maintenance Code
7 will make Pleasant Ridge a safer place?

8 A Yes

9 Q Healthier?

10 A Yes

11 Q Have you already seen that?

12 A Yes

13 Q How so?

14 A Ugh, we have talked about a couple of them earlier as we
15 have seen a decrease in the animal control calls as well as
16 sanitation and rubbish in the area. But also our police
17 department has said that they have received less call there than
18 they once did.

19 MR. MICHAEL GILLENWATER: I have no other questions at
20 this time Your Honor.

21 THE COURT: Any questions?

22 MR. ANTHONY SANDERS: Some very brief questions Your
23 Honor.

24 CROSS-EXAMINATION MAYOR ROBERT HALL

25 MR. ANTHONY SANDERS:

1 Q Mr. Mayor you referred to something called the, I believe
2 it is called Path To Homer Ownership Program?

3 A Yes

4 Q That the City has partnered with an outside organization
5 about, do you know how many people used to rent in Pleasant
6 Ridge that have been approved for loans for new homes through
7 that program?

8 A I don't know how many been approved for loans, with it my
9 last report was around thirty (30) or something of that but that
10 has been probably two (2) months ago.

11 Q And that is thirty (30) people that actually have obtained
12 loans or who have applied?

13 A Ugh, I think that is how many I think the report said that,
14 it was a verbal report from the Company that is doing it, ReMax.

15 Q So out of the hundreds of people who lived in those units
16 that are no longer rented out about thirty (30) have go through
17 that program, successfully?

18 A No you asked me how many do I think that of been qualified
19 or that have gone through it long enough to be qualified, with
20 it. Ugh, I don't know how many total but probably in upwards of
21 sixty (60) or seventy (70) have contacted or something.

22 Q Sixty (60) or seventy (70) people have actually have
23 gotten loans through that program, who used to live in Pleasant
24 Ridge?

25 A No Sir, you asked me have gone through the program,

1 rephrase your question, and I will be glad to answer it, but you
2 are asking me two different questions.

3 Q So people who used to rent in Pleasant Ridge and now can't
4 anymore because of boarded up homes how many have obtained, gone
5 through the Path to Homer Ownership Program, been approved and
6 then been able to get financing to purchase a new home?

7 A Ugh, I don't know that exact number.

8 Q Okay, you spoke about the eminent domain, isn't the
9 adoption of the plan designated in area and redevelopment, isn't
10 that a pre-condition for later, having eminent domain occur?

11 A Uhm, you would have to ask my Attorney that to be honest.

12 Q Do you agree that sorry, since January 2016 and you have
13 been on the Redevelopment Commission and the Board of Public
14 Works have you ever been out voted on a vote in either body, you
15 voted one way and two people voted the other?

16 A Yeah probably, ugh, ugh, I, I don't know, I don't believe I
17 have but I might have been, yeah.

18 Q Have you been out voted since January 2016 on the City
19 Council?

20 A Ugh, no.

21 Q Do you agree that the City has to obey the Code its own
22 Code?

23 A Yes

24 Q Does the City have to obey State Laws?

25 A Yes

1 Q Do you agree even if a property is bad shape it still has
2 to obey the laws that relates to that property?

3 A To that property?

4 Q The City has to obey the law and how it interacts with that
5 property?

6 A Ugh, I'm not sure, can you ask, I'm not sure can you
7 clarify your question?

8 Q If the City thinks the property is really bad can it ignore
9 the law in trying to do something about that property?

10 A Ugh, I, I don't, I don't know that ignore is the right
11 word, I do know that there, I can give you lists and lists of
12 all the things...

13 Q I'm not asking you about induvial situations...

14 A I'm trying to answer your question Counselor.

15 Q Can the City obey the law, or ignore the law?

16 MR. MICHAEL GILLENWATER: Your Honor can the witness
17 be allowed to answer the question, the last question, he was
18 stopped?

19 THE COURT: Well if you want to ask him that question
20 again in a minute he can rephrase his question, if he is not
21 getting the answer he is looking for, if you want to rephrase
22 your question.

23 MR. MICHAEL GILLENWATER: Okay.

24 MR. ANTHONY SANDERS:

25 Q I am not talking about a specific property, can that

1 property if it is in bad shape and the City wants to do
2 something about it can the City not follow the law in how it is
3 dealing with the property or should or does it have to follow
4 the law as how it relates to how the City will do something
5 about that property?

6 A Yes, if the City if you are asking the question that if a
7 City, if it is a property and the City deems it to be a problem
8 and the want to exercise its rights you know the City's rights
9 of it they have to follow the law, yes if that is what you are
10 asking, I'm sorry I misunderstood you.

11 MR. ANTHONY SANDERS: No further questions

12 THE COURT: Alright do you have any follow up?

13 MR. MICHAEL GILLENWATER: No Your Honor thank you. No
14 other witnesses.

15 THE COURT: No other wittiness or rebuttal or do we
16 just have some argument?

17 MR. ANTHONY SANDERS: I think what we talked about is
18 some time for oral argument and closing, how much would your
19 Honor grant us?

20 THE COURT: That is fine, I've got what ninety (90)
21 pages of briefs already so I have taken a look at those, Mike
22 you need to get out of here?

23 MR. MICHAEL GILLENWATER: I can leave Mr. Crandley to
24 do the, he is smart one I'm the good looking one, okay?

25 THE COURT: Okay

1 MR. MARK CRANDLEY: He is handing the steering wheel
2 to me.

3 THE COURT: Okay, I would be happy to give you each
4 just fifteen minutes, enough time, or are you thinking you need
5 more than that?

6 MR. ANTHONY SANDERS: I can do that and maybe if I
7 could take twelve (12) minutes and three (3) for rebuttal?

8 THE COURT: Yes sure.

9 MR. ANTHONY SANDERS: You do that here, okay great.

10 THE COURT: Do we maybe want to take a five (5) minute
11 break, before we start?

12 MR. ANTHONY SANDERS: That would be fine Your Honor.

13 MR. MARK CRANDLEY: That wouldn't be bad for me
14 either.

15 THE COURT: Why don't we do that, let's take a, let's
16 come back at ten (10) till.

17 (Off the record at 3.39 PM)

18 (Back on record at 3:51 PM)

19 MR. ANTHONY SANDERS: Your Honor one small piece of
20 housekeeping before we begin our motion was originally filed we
21 had a Proposed Order and this is a copy and it is actually the
22 small what we put back in February but it has your name on it.

23 THE COURT: Okay, I didn't get that, okay that's good,
24 yeah I looked for this and I couldn't find it, so thank you very
25 much. To be clear for the record all of these Exhibits are

1 admitted without objection is the correct?

2 MR. ANTHONY SANDERS: That is correct Your Honor.

3 MR. MARK CRANDELY: That is correct Your Honor.

4 THE COURT: We will show those formally admitted, I
5 don't know if I did that before, so Mr. Sanders.

6 MR. ANTHONY SANDERS: Thank you Your Honor. We have
7 heard a lot of testimony today Your Honor about conditions in
8 Pleasant Ridge, ferial animals, the history of the area, all of
9 that is beside the point in what Plaintiffs are asking for
10 today. Our motion is about the City can enforce its code, not
11 about whether it should, not about whether code enforcement is a
12 good or bad thing, we don't object to code enforcement. What
13 these people are here for today, these home owners and these
14 good landlords, are that the City must follow the law when it
15 engages in code enforcement. We are asking for a narrow yet
16 critical injunction in this proposed order that I just gave you,
17 all this order asks for is that the City obey State law and its
18 own Property Maintenance Code when it engages in code
19 enforcement. And we are also asking the City treat people
20 equally as it must under the State and Federal Constitutions,
21 now I won't go over all the requirements for Motion for
22 Preliminary Injunction and most important of course is likely
23 hood of success on the merits, we have a likely hood of success
24 on all four(4) of our claims. We also have a irreparable harm,
25 people about to lose their homes the balance of harm weighs in

1 our favor and public policy also weighs in favor of an
2 injunction. The for two (2) of our claims the Unsafe Building
3 Law and Property Maintenance Code it doesn't matter at all why
4 the City is doing this code enforcement, now we have put forth
5 evidence today the City is doing code enforcement as part of its
6 plan to try to get people to sell to a developer. But whether
7 it was over active code enforcement for health and safety or it
8 was that reason or some other reason the way they have been
9 enforcing this statute in this ordinance is contrary to them and
10 it needs to be stopped. For our Unsafe Building Law claim we
11 have demonstrated that citations have been issues that have
12 immediate daily fines that begin from the first notice, when the
13 property owner has never been told before that there is
14 something wrong with their property, the City said it intends to
15 continue these inspections, Mayor Hall testified to that, and
16 the City Council passed a resolution that stated that they are
17 going to broaden these inspections to owners occupied homes.
18 Further under these citations as we saw from the numerous ones
19 in the record, these citations invoke the Unsafe Building Law,
20 they cite the Unsafe Building Law and they only give ten (10)
21 days to appeal which is the appellate deadline of the Unsafe
22 Building Law. The appellant deadline of the Property
23 Maintenance Code is twenty (20) days so either they have been
24 giving the wrong appellant deadline for years to numerous
25 property owners in the City of Charlestown which would be a

1 massive procedural due process violation or what they have been
2 doing is what we claim how State Law works, they use the Unsafe
3 Building Law a statute that the City has opted itself into and
4 therefore is required to follow in evoking it's Property
5 Maintenance Code, that much is fine, what's not fine is they
6 don't follow the mandates of the Unsafe Building Law. Now the
7 City argues that the Unsafe Building Law is just one mechanism
8 for it to follow, but if that were true what would be the point
9 of the Unsafe Building Law. The home rule act itself states
10 that Cities when a statute requires a specific command cities
11 must follow that statute the Unsafe Building Law has specific
12 commands when it comes to enforcement of property standards and
13 therefore the City needs to follow those standards under the
14 statute. There are many protections in the Unsafe Building Law
15 for property owners there are many powers to cities now one of
16 the protections is when it comes to fines, fines can't be
17 immediate, the City has to give a reasonable times before it can
18 take further action on a property owner between ten (10) and
19 sixty (60) days and there is even caps that the General Assembly
20 has placed just two (2) years ago on the amount of those fines,
21 that is a State's statute the City has opted into the City must
22 follow it. The City doesn't argue in fact that these fines
23 violate the Unsafe Building Law it simple says they don't apply
24 and yet its has opted into that law, it evokes that law, it will
25 continue to evoke that law as is its prior practice, and that

1 law requires it to evoke the statute because otherwise it is a
2 statute the City will ignore it will, which doesn't make any
3 sense even under the Home Rule Act. I will now turn to the
4 City's Ordinance so if this Court rules in our favor on the
5 Unsafe Building Law an injunction that it should issue it to
6 enforce to follow that statute and there would not be a need for
7 the Court to really address the, the Property Maintenance Code.
8 But I will address it in any case, it all boils down to what is
9 page four(4) of the Property Maintenance Code as both sides have
10 given a copy in our binders, it is very simple how this works
11 under section 106 of the Property Maintenance Code it says
12 prosecution of violations, so violations of the subtile
13 requirements of your property, and person failing to comply with
14 a notice of violation or order served in accordance with Section
15 107 shall be deemed guilty of a civil infraction, that is 106.3
16 of the Ordinance, then you go down to 107 because it says you
17 need to follow Section 107, notices and orders, okay. There are
18 some protections there for property owners in Section 107, one
19 of them is 107.24, a notice should include a correction order
20 allowing a reasonable time to make the repairs and improvements
21 required to bring the dwelling, unit or structure into
22 compliance, we are not complaining about notices to bring
23 structures into compliance however that then gives you a
24 reasonable time before the City can fine you for having a
25 violation, if the City then says no we can fine you from the

1 moment that, that we give you the notice even though you get a
2 reasonable time to correct it. If we go up to 106.4, violation
3 penalties, the City claims that there is language there that
4 says we, this does not preclude us from using other laws against
5 property owners, well we are not saying you can't use other laws
6 against property owners, but we are saying that this law, the
7 Property Maintenance Code also says that, that each, it also
8 says in this paragraph , each day that a violation continues
9 after due notice has been served shall be deemed a separate
10 offence and then it gives some language about fines. Due notice
11 there must be read in conjunction with Section 107, which means
12 you get a reasonable time to correct now let's take a step back
13 the Property Maintenance Code and the Unsafe Building Law they
14 both make sense, in fact the make sense according to what Mayor
15 Hall was saying about your warning about cell phones. Property
16 owners can't be expected to have an absolutely perfect property
17 and all moments of the day, every day, and be subject to fines
18 for something they might not even know about, that's why we
19 require them both the General Assembly and the City Council,
20 through the Property Maintenance Code requires some kind of
21 notice to a property owner before you can fine them for having
22 that violation, this is how most cities use code enforcement.
23 Most rental inspections programs, an inspector goes in sees
24 something wrong, you want to fix that or you might get your
25 license taken away, you don't get fined thousands of dollars for

1 small imperfections in either your rental property or your home.
2 I'm sure like most people you might have an imperfection in your
3 home, I have one in, I have some in mine I'm sure, some dirt on
4 a wall or some peeling paint you haven't addressed. Cities
5 don't have the power to fine you thousands or hundreds of
6 thousands of dollars a day on the first notice, because you
7 haven't addressed that imperfection on your property. Now there
8 are some bad properties in Pleasant Ridge that where subject,
9 that did not, were not up to code but they deserve these
10 protections and so do people with nice properties that
11 nevertheless because the City has said this is an all or nothing
12 deal every home must go, they are terrified that any day Mr.
13 Jackson will give them a notice the fines for which might even
14 start when he mailed it, not when they get it, and that they
15 will have no choice but to sell. Now very quickly I would like
16 to go over our equal protection claims in the minute that I have
17 left. All we are saying in both of these claims is that there
18 is unequal treatment in Pleasant Ridge, there is Pleasant Ridge
19 Redevelopment which has all these new homes and then there is
20 everybody else. Pleasant Ridge Redevelopment hasn't had to pay
21 fines for code violations that they've got from the previous
22 owners and people live in those homes for some period of time.
23 The City wants to redevelop and tear down every home and yet the
24 City is imposing massive fines because they think those homes
25 should be torn down haven't been fixed up. There is not a

1 rational connection between that policy and a legitimate
2 governmental interest, if the City really wants better home sin
3 Pleasant Ridge it is not going to be engaging in this policy,
4 but there is a connection between an illegitimate interest and
5 that is forcing people to sell to a developer were just the
6 arbitrary policy which is not legitimate of homes that you want
7 to be torn down being fined because they are not being fixed up
8 and what the City is doing, so there no rational relationship
9 between the one and the other and therefore it is
10 unconstitutional under the test that we provided in our briefing
11 under both the State and Federal Constitutions, and I see my
12 twelve (12) minutes have expired.

13 THE COURT: Alright thank you, and you reserve three
14 (3), go ahead.

15 MR. MARK CRANDLEY: Thank you Your Honor and I
16 appreciate Mr. Sanders being respectable of the time and I will
17 try to do the same. I will address each of the three (3) legal
18 arguments I think the injunction standard I will kind of do what
19 Mr. Sanders did and put that aside and I think you have that in
20 the briefs.

21 THE COURT: I understand that.

22 MR. MARK CRANDLEY: But this is an issue that
23 engenders a lot of passion and we certainly respect that these
24 are people that live in our City and that is important to us and
25 the Mayor said that on the stand, this is something that is

1 important to us, that is why there is all of these permits in
2 place to help people that do want to relocate. But in this
3 impassioned issue sitting and listening to the testimony today
4 It was remarkable to me and frankly unexpected how much of the
5 evidence is really not disputed, really on the core issues. The
6 first one is ugh, that no one in the owner occupied homes, which
7 would be the Plaintiffs like Mrs. Barnes, Mrs. Keith, came
8 forward and said I'm afraid because my home is in violation,
9 there and couldn't have said it any better, when she said no
10 violations no fines. There has to be a correlation there, so
11 this whole case is built on this predicate that people are being
12 forced out of their homes, but we have to step back from that
13 first and realize if people have to comply with the Property
14 Maintenance Code in the first place and if there is a violation
15 of that then we can deal with it through fines. And we have
16 this language that these are small infractions, Mr. Craven
17 testified on the stand about a lattice being broken, there is no
18 evidence that Mr. Jackson has written thousands and thousands of
19 dollars of fines for things like that, in fact there is no
20 evidence in the record at all that Mr. Jackson wrote a single
21 violation that wasn't true. And I, I, and it is not up for you
22 right now and I am not really sure why but the map that was up
23 in front of you all day had red those were all the Pleasant
24 Ridge, LLC homes that have been bought from previously landlords
25 and there were multiple violations, in fact if you look in the

1 Exhibits binders and we have spent a lot of time in them today
2 so I won't put you back in them, it is like this thick of
3 violations, none of those are false. So if this is some plan to
4 force people out it certainly doesn't have the any misconduct on
5 the part of Mr. Jackson, he has gone forward and found
6 violations and look what some of these violations are. The
7 Plaintiffs have put the Associations violations front and center
8 so that is obviously where I'll go, these weren't Mr. Sanders
9 words small imperfections these were things like improper wiring
10 that could burn that house down, that could electrocute someone
11 that is a serious concern. Ms. Barnes agreed with me when I
12 asked her about those kind of wiring things she wouldn't want to
13 live in a home like that, that had a wiring risk to her in fact
14 I walked her down all the different parts of the Property
15 Maintenance Code and addressed public safety, she agreed those
16 were all serious legitimate concerns. The firewall was a
17 firewall issue, we saw the number of fire runs being made up
18 there, that isn't a small imperfection that could risk someone's
19 life. Ugh, we had foundations issues so this aren't ticky tacky
20 things and no one else has contested them so we have a ream of
21 uncontested violations that were substantial true actual
22 violations of the Property Maintenance Code, that is a core of
23 this case, that is to me the pillar, you have to make level of
24 that abstraction before you can start talking about the fines.
25 No violation no fine and there are no violations there and I, I

1 hear a home owner like Mrs. Keith take the stand and I think she
2 is here, yeah there she is, you can see the pride exuding off
3 her, she is obviously proud of her home, we don't debate that
4 she is a proud Charlestown resident. Is there some reason to
5 think that there is a violation within her home there is no
6 evidence presented there? Mrs. Barnes testified that she lovely
7 takes care of her home that it is above normal, that she treats
8 it special again no reason to think there is a violation there,
9 so this whole predicate is not there. Ugh, on the, I guess I
10 will move along given time cited we have had a long day. On the
11 Unsafe Building Act we really have to start with the Home Rule
12 Act. The Home Rule Act is the kind of tie breaker in Indiana
13 Municipal Law, it sets out what cities can and cannot do, and
14 what it did was take a long standing rule you will see it called
15 Dillon's Rule in the cases and say, Dillon's Rule said that
16 cities only have what a statute expressly gives them in this
17 turned out to be a real handcuff on development, on the
18 administration of cities, relegations within cities and so in
19 1980 when the Home Rule Act was passed the General Assembly said
20 enough of that we're going to do 180 flip and we're are going to
21 say instead of presuming that cities don't have powers, we are
22 going to give cities all powers expressly granted by statute but
23 also any power that is not expressly taken away and so the Home
24 Rule Act goes a step further and says, to carry out that really
25 strong public policy in fostering the municipal, local municipal

1 control because after all they say they government, government
2 best is the government that governs locally, so the General
3 Assembly turns the authority back over to the municipalities. To
4 carry that out there is a presumption that we presume that the
5 powers exists unless it clearly doesn't and Your Honor I will
6 provide the authorities that citing here in a moment but, but
7 there is an explicit provision in the Home Rule Act that says
8 that. And it says if there is any doubt that the resolution is
9 resolved in favor of the finding municipal power. So here are
10 the statutes that the Plaintiffs say is the Unsafe Building Act,
11 well first of all that Act is voluntary and of course the City
12 did opt into the Unsafe Building Act, but that is hardly the
13 mandatory statute that would preempt the local government
14 control. But what's going on here is we have a broad state's
15 statute that sets out really broad state's standards about
16 Unsafe Building Act and we have a local Ordinance that sets out
17 very specific standards, what your wiring has to be, what your
18 foundation has to be, what kind of smoke alarms you have to
19 have, where they are, where is your firewall, very specific
20 standards. You can very easily have a situation where you have
21 a violation of the Property Maintenance Code because some very
22 specific provision is not being met, you know a home that is
23 perfect in every other way but has the wiring problems that Mr.
24 Jackson referred to, that might not qualify as an unsafe
25 building under the Unsafe Building Act but it sure as heck

1 violates the Property Maintenance Code. If you had them
2 reversed well if you have something that violates the Unsafe
3 Building Act and not the Property Maintenance Code, they are two
4 separate systems, they are enforced separately. The Plaintiffs
5 are clinging to a enforcement mechanism imbedded within the
6 Unsafe Building Code, that makes since within the statute
7 because it has broad standards that need to be tested on a case
8 by case bases, so I f a building is quote on quote "unsafe"
9 under the thing, the Act you need to go into Court and enforce
10 that, you need to have notice and those kinds of procedures
11 because there is not a specific standard being met. That's why
12 there is this more elaborate enforcement system under the Unsafe
13 Building Act. But we are not enforcing that Act, what we are
14 enforcing is our Ordinance, and Mr. Sanders points to the form,
15 but the form very clearly says, this is, you have a violation of
16 the Unsafe Building Act citing it by, by code number or the
17 Property Maintenance Code citing it by code number, it says and
18 /or and yet the City is using the same form for both violations.
19 There is a certain amount of efficacy there I don't think the
20 City necessarily losses its Home Rule Act powers because it has
21 a more efficient type of form. Ugh, the Plaintiffs have also
22 contested that well you went and got a warrant under the Unsafe
23 Building Act and that is true, because the Property Maintenance
24 Code specifically incorporates a warrant requirement and the
25 warrant procedures of the Unsafe Building Act into the Property

1 Maintenance Code, it doesn't do that for the enforcement
2 procedures, in fact I think that silence is deafening, if the
3 Property Maintenance Code meant to be some kind of corollary or
4 subsidiary of the Unsafe Building Act and to adopt its
5 enforcement procedures it would have done the same thing it
6 would have done the same thing it did with the warrant part, it
7 would have adopted it by code reference. But it didn't do that
8 it has its own enforcement procedures which I will get to in a
9 second. Ugh, in all the stacks upon stacks of violations the
10 Unsafe Building, I'm sorry, in all the stacks upon stacks of
11 violations the Property Maintenance Code is cited every single
12 time including in the Plaintiff Association violations, it
13 points out the specific part of the Property Maintenance Code
14 being violated, and so the argument goes that Home Rule Act
15 requires the cities and towns to enforce and carry out their
16 powers in any manor expressly required by state law. But there
17 is no State Law that says this City has to carry out and enforce
18 its Ordinance in any particular way, it does have to carry out
19 the Unsafe Building Act in a particular way and the City does so
20 when it is enforcing that, but when we are enforcing a specific
21 clearly delineated portions of the Unsafe, I'm sorry the
22 Property Maintenance Code, a different set of enforcement powers
23 apply. So that takes us to the argument that the statute, I'm
24 sorry, the Property Maintenance Code doesn't allow for an
25 immediate penalty, what the Plaintiffs are saying is that it

1 doesn't matter how serious the violation, how dangerous it is,
2 whether the Plaintiff or Owner had notice of it, whether
3 someone's life was put at risk or how unsafe the condition is
4 that get a free pass, that they get notice and a chance to fix
5 it ugh regardless. Of course that doesn't make any since the
6 Plaintiffs say that ultimately that the Unsafe Building Act
7 would have no meaning if there wasn't this type of notice, but
8 this is simply not true. To give teeth to this provision there
9 has to be the ability to have a fine for a violation, and the
10 key provisions are in 106 of the Property Maintenance Code the
11 very first part of 106, 106.1 says that a violation occurs
12 anytime ugh, there, ugh, it, it is unlawful, let me read the
13 exact provision, it shall be unlawful for a person, firm or
14 cooperation to be in conflict with for violation of any
15 provision of this code. No waiting period there if there was
16 going to be some kind of a grace period ugh it would have been
17 right there, but it says a violation happens immediately it's
18 unlawful, immediately when a violation of the Property
19 Maintenance Code occurs. The Plaintiffs say instead that well
20 if we look at provision 106.4 it says that before, I'm sorry
21 106.3 before you can bring an action to prosecute, an order,
22 there has to be an order and there is another provision of the
23 code 107 that requires there to be a giving of notice explaining
24 what the violations were and how to fix them. What the
25 Plaintiffs are missing here is that, that is talking about the

1 enforcement of the order and whether the infraction penalties
2 that exists under the Indiana law can be used as kind of a kick
3 in and give an extra penalty on to that we are not prosecuting
4 these as infractions we are prosecuting them as an Ordinance
5 violations. But if someone disobeys an order 106.3 in the
6 provision that the Plaintiff are relying on allows the City to
7 go into Court and prosecute it as an infraction, that is a
8 serious thing, not only because an infraction has a you know a
9 Class A infraction goes all the way up to \$10,000 dollars and
10 ugh allows the City to reduce that amount to a judgment which in
11 turn allows for a lean. Well we are doing something much less
12 here under 106.4 which allows penalties for violation and ugh,
13 it allows, the 107 notice that is given isn't meaningless as Mr.
14 Sanders suggest under that system because not only do we want
15 fines under the Property Maintenance Code but we want people to
16 fix their property, if possible. Ugh, and the Order tells them
17 to go do so if we have countless people maybe we need to go to a
18 Ordinance infraction proceedings and actually prosecute them,
19 that is the word used in the rule in the regulation 106.3
20 actually prosecuted as an Ordinance infraction and, and go from
21 there to, to have your means. But that is the fundamental
22 difference between 106.3 and the enforcement of an order and
23 106.4 which is a violation of a code. So there is ugh probation
24 on and there is no free pass given in the Property Maintenance
25 Code. And I want to touch on the Equal Protection there is a

1 lot going on there, but let's go right to the heart and soul of
2 it and that is under Equal protection there is different strata,
3 there is the highest level of reviews which strict scrutiny
4 which is reserved as we all remember back to law school for
5 certain protected classes. We are not way up here, we are way
6 down here on a rational basis review, the most lenient level of
7 review so lenient that the Supreme Court says and the Seventh
8 Circuit has said and the Indiana's Courts have said that under
9 rational basis review if there is any conceivable basis for a
10 distinction being drawn by a Government body, if it passed. And
11 the reason for this is in fractional basis review had any more
12 teeth than that ugh it would swallow government whole, you
13 wouldn't be able to take any action, because we would always be
14 second guessed in litigation. Ugh, so what is the rational
15 basis here, well you have two different types of landowners, two
16 different types of property owners, we have one group that
17 adamantly ugh, over and over says we want to stay in our homes,
18 we don't want to leave, we want to live here and ugh, you know
19 and with all due respect, I don't mean that as a disparagement
20 at all, they want to live in their homes, that is what we are
21 here to talk about. We have another group of landowners who are
22 telling us we are going to demolish these homes that are, we may
23 have some people living in there now but, because we are not
24 going to do a mass eviction but these folks, or when then leave,
25 these homes will be eventually be demolished. So the

1 enforcement system makes since when you have someone telling us
2 and telling us here in Court that this my home I want to live
3 here, well we need those people to comply with the Property
4 Maintenance Code, but when there are other folks who committed
5 to demolishing these homes and have no intention of living there
6 long term it makes much less since to enforce the Property
7 Maintenance Code as to the folks and to have fines as to those
8 folks. The fines gives these things, the Ordinance teeth, if
9 there is no fine there is no, there is no ugh, reason for people
10 to ugh comply with the code. If they know they are going to get
11 a free pass every time a violation is found, they will just wait
12 for the inspection and that will get us back to all the problems
13 that we have had in Pleasant Ridge that we have discussed here
14 today. So we need property owners to know that if there are
15 violations on their property it is going to be enforced, if the
16 property owners like our Plaintiffs in this case have the
17 intention of maintaining that property long term, other property
18 owners who don't have that, the need for that teeth it just
19 isn't there, those homes are going to be demolished, that is the
20 end of the story, that is more than a rational basis given this
21 record. Thank You Your Honor.

22 THE COURT: Thank you very much. Last few minutes.

23 MR ANTHONY SANDERS: Thank you Your Honor. We don't
24 dispute that violations should be fixed, this is about
25 procedure, about giving people notice, not about the substance

1 of those violations. Now one of those substance violations that
2 was just brought up for example was electrical wiring and other
3 problems in that were brought up in the Association's home that
4 were promptly fixed. Well these other homes that were sold to
5 Pleasant Ridge Redevelopment which there were violations some
6 some orders with many violations on them, none of them were
7 forced to be fixed after they were sold even though people live
8 there for months so the fire that Mr. Crandley brought up that
9 could happen from electrical wiring that could have happened in
10 one of those homes during the many months that people were
11 living there, the City didn't force them to do that. It shows
12 the reason for this is not health and safety. The reason for
13 this is full scale redevelopment, full scale redevelopment which
14 the General Assembly in its reforms after the Kelo versus City
15 of New London case was issued in 2005 said, we don't want in
16 Indiana any more if you want to take someone home for
17 redevelopment that home its self has to have a big problem.
18 Uhm, there are other tools just that fines under the Property
19 Maintenance Code for other provisions under the Unsafe Building
20 Law, you can injunctions, orders, you can have commendation if
21 the property is bad enough there all kinds of tools that cities
22 have, other than immediate fines before there is any notice.
23 Also about the Unsafe Building Law, the Unsafe Building Law
24 incorporates local ordinances in its own, in its own language
25 under, under its provisions it says something that could be

1 unsafe is something that is a building that is in violation of a
2 local ordinance, the two work hand in hand and therefore you get
3 the protections of those procedures, when the local ordinance is
4 being enforced as the city has done, all along, by incorporated,
5 by using both in tandem. The, also about the scope of Home Rule
6 powers, I mentioned this earlier but I think I will bring it up
7 again in the Home Rule Act itself, its Act itself, it says if
8 there is a constitutional or statutory provision requiring a
9 specific manor for exercising a power a unit wanting to exercise
10 that power must do so in that manner. There are other
11 regulations on local building ordinances beyond just what I,
12 what I have discussed, for example there is Indiana Code 221325
13 which says that for Class 1 and Class 2 structures like we are
14 talking about here the State Fire and Safety Commission has to
15 approve new ordinances, like the 2008 Property Maintenance Code,
16 that is a check by the State Government on municipalities. Also
17 on the, on the Equal Protection Issue the Counsel mentioned the
18 standard under Federal Law actual the standard under the Indiana
19 Constitution is a little bit higher and requires a little bit
20 more of the Government we explained this in the brief but I want
21 to direct Your Honor attention to case Paul Stieler Enterprises
22 from 2014 from the Indiana Supreme Court, which explains that
23 the roots of this, of this provision in the Indiana Constitution
24 are when government and big business get together and team up
25 against someone else and the standard under the Indiana

1 Constitution is that it is not any conceivable interest there is
2 some, some scope of reality about what the interest actually is.
3 We also say that under the Federal Constitution we argue under
4 Federal Constitution that is not permissive as, as Counsel
5 points out, but definitely under the Indiana Constitution there
6 is a narrowing and it can't be just because the City is going to
7 financially benefit from the law that it, that it escapes that
8 it is permissible, there has to be more than that. Your Honor I
9 think I have gone over my extra three minutes so I ask that you
10 issue this proposed order this narrow preliminary injunction, so
11 my clients can be safe in their homes as this case moves
12 forward.

13 THE COURT: Alright, well I thank you both, thank you
14 all for your preparation and your civility today, I think I know
15 it is very tough topic here for everybody and I appreciate the
16 wittiness answers the questions in a civil manner and the
17 attorneys behaving in the same manner. I have a lot of material
18 to look over and I will do so.

19 MR. MARK CRANDLEY: I hate to bring this up, you just
20 said you have a lot of material to look over so I hate to even
21 bring this up.

22 THE COURT: Yes yes I was about to say.

23 MR. MARK CRANDLEY: We have a proposed findings in
24 this case since it is an injunction and we will need to prepare
25 those, I spoke briefly with Mr. Sanders my proposal would be

1 that we submit them in within three weeks, if that work for Your
2 Honor.

3 THE COURT: That would be fine.

4 MR ANTHONY SANDERS: That works for us to.

5 THE COURT: Yes that will work if you both want to
6 submit proposed facts and then you mentioned citations I don't
7 know, I know there is a lot of citations in the brief but if
8 there is any other citations that you want to give me now or get
9 them to me by next Friday.

10 MR ANTHONY SANDERS: What do you mean by, additions
11 cases?

12 THE COURT: Case law, he did mention that.

13 MR. MARK CRANDLEY: I did, I appreciate that you
14 reminded me, if I may approach You Honor.

15 THE COURT: You may.

16 MR. MARK CRANDLEY: This is material I cited in the
17 brief.

18 THE COURT: So if you would like to supplement any
19 case law, citations you can do that by a week from Friday.

20 MR ANTHONY SANDERS: Would that, I say this because
21 lawyers like to talk, and we will both talk if you are not
22 careful, does that include any briefing or just citations?

23 THE COURT: No I am just saying here are some cases
24 that we would like for you to take a look at or statutory law.

25 MR ANTHONY SANDERS: Okay three weeks from today

1 proposed findings and facts and conclusions of law?

2 THE COURT: That sounds good, so I will go on the
3 clock once I get those things, okay.

4 MR ANTHONY SANDERS: Yes Your Honor.

5 THE COURT: Thank you very much.

6 (Off the record at 4:27 PM)

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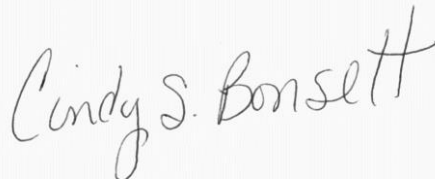
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I, Cindy S Bonsett, a court approved Court reporter , do
hereby certify that the forgoing is a correct transcript from
the official electronic sound recording of the proceedings in
the above-entitled matter, to the best of my professional skills
and abilities.

Cindy S. Bonsett,

9-29-17

A handwritten signature in black ink that reads "Cindy S. Bonsett". The signature is written in a cursive, flowing style. The first name "Cindy" is written in a larger, more prominent script, followed by "S." and then "Bonsett". The signature is placed on a light gray rectangular background.

Official Court Reporter

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