STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHARLES J. WINN AND LYNN S. WINN,

Petitioners,

vs. Case No. 25-6469

NORTH RIVER SHORES POA, INC.,
AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.
_____/

HEARING BEFORE THE HONORABLE G. W. CHISENHALL

DATE TAKEN: Tuesday, February 24, 2026

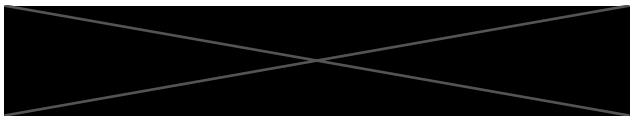
TIME: Commenced at 9:32 a.m.
Concluded at 3:52 p.m.

LOCATION: Via Zoom Conference

REPORTED BY: Doreen Mannino, Certified Reporter
For the Record Reporting, Inc.
1336 Timberlane Road, Suite 121
Tallahassee, Florida 32312

A P P E A R A N C E S

CHARLES J. WINN AND LYNN S. WINN, PRO SE PETITIONERS



On Behalf of Respondent, North River Shores POA:

JOHN W. WALLACE, ESQUIRE
Smith, Hulsey & Busey
1 Independent Drive, Suite 3300
Jacksonville, Florida 32202
(904) 359-7700
Jwallace@smithhulsey.com

On Behalf of Respondent, DEP:

CAMERON MICHAEL POLOMSKI, ESQUIRE
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399
(850) 245-2225
Cameron.polomski@floridadep.gov

ALSO PRESENT: David Weston, Association Representative; Evan Tridone, Department Representative; and Carli Frederick, Esquire

I N D E X

Opening Statements
By Mr. Wallace.....18
By Mr. Polomski.....20
By Mr. Winn.....89
Witnesses for Respondent North River Shores
MORGAN LOUDON
Direct Examination by Mr. Wallace.....28
Direct Examination by Mr. Polomski.....34
Cross-Examination by Mr. Winn.....35
Redirect Examination by Mr. Wallace.....45
Further Cross-Examination by Mr. Winn.....49
EVAN TRIDONE
Direct Examination by Mr. Wallace.....50
Direct Examination by Mr. Polomski.....54
Cross-Examination by Mr. Winn.....56
Redirect Examination by Mr. Wallace.....63
Redirect Examination by Mr. Polomski.....65
DAVID WESTON
Direct Examination by Mr. Wallace.....69
Cross-Examination by Mr. Winn.....70
ANDREW GATEWOOD
Direct Examination by Mr. Wallace.....75
Direct Examination by Mr. Polomski.....84
Cross-Examination by Mr. Winn.....85
Respondent North River Shores rests.....87
Respondent DEP rests.....87
Witnesses for Petitioner
ROBERT TORIAN
Direct Examination by Mr. Winn.....98
Proffer by Mr. Winn.....103
Cross-Examination by Mr. Wallace.....113
Cross-Examination by Mr. Polomski.....117
Further Proffer by Mr. Winn.....118
SHAUNA BANKS
Proffer by Mr. Winn.....122
Cross-Examination by Mr. Wallace.....128
Cross-Examination by Mr. Polomski.....130
Further Proffer by Mr. Winn.....131
KELLY PERELLI MINETTI
Proffer by Mr. Winn.....134
Cross-Examination by Mr. Wallace.....141
Cross-Examination by Mr. Polomski.....142
Further Proffer by Mr. Winn.....143
LYNN S. WINN PROFFER
Proffer by Mr. Winn.....146
Cross-Examination by Mr. Wallace.....153
Cross-Examination by Mr. Polomski.....156
Further Proffer by Mr. Winn.....157

Petitioner Rests.....159
DEP Rebuttal Witness
EVAN TRIDONE (Recalled)
Direct Examination by Mr. Polomski.....162
Cross-Examination by Mr. Winn.....167
Certificate of Reporter.....173

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EXHIBITS IN EVIDENCE

JOINT EXHIBITS IN EVIDENCE

No.		Page
1	Amended Petition	27
2	Prehearing Instructions	27
3	Joint Prehearing Stipulation	27
4	Petitioners' Answers to DEP's Interrogatories	68
5	Petitioners' Answers to DEP's Request for Production	68
6	Petitioners' Answers to applicant's Request for Admissions	68
7	Applicant's Motion to Strike	27
8	Petitioners' Response Order to Show Cause	27
9	10/1/25 Verification of Exemption	27
10	Existing Layout with Soil Boring Locations	27
11	Proposed Layout with Soil Boring Locations	27

NORTH RIVER SHORES EXHIBITS IN EVIDENCE

No.		Page
1	Title Determination	53
14		77
13	Photograph of Dock	79
7		82
11		83
10		84

PETITIONERS EXHIBITS IN EVIDENCE

No.		Page
6	Petitioners' Letter to DEP 9/8/25	93
12	Amended Petition	93

P R O C E E D I N G S

THE COURT: Good morning, everyone. My name is Garnett Chisenhall. I am the Administrative Law Judge assigned to hear this case, and this is case of Charles J. Winn and Lynn S. Winn versus the North River Shores POA, Incorporated and the Department of Environmental Protection, Case No. 25-6469. The time is 9:33 a.m. eastern time on February 24, 2026.

Let me take appearances from the attorneys present starting with the attorney for North River Shores Property Owners Association.

MR. WALLACE: Good morning, Judge. This is John Wallace with Smith, Hulsey & Busey on behalf of North River Shores, and with me off camera is our associate, Carli Frederick.

THE COURT: Is Ms. Frederick going to be acting as co-counsel today?

MR. WALLACE: She's just observing.

THE COURT: No problem with that. And who's appearing on behalf of Department of Environmental Protection?

MR. POLOMSKI: Cameron Polomski for Department of Environmental Protection, also general counsel.

THE COURT: Good morning, sir. So, Mr. Winn, I've seen a lot of things being filed especially amended witness list, and we'll get to all of that soon. Mr. Winn, who is going to be speaking on behalf of the Petitioners today?

MR. WINN: I am, Charles J. Winn. There is one exception I would take to Mr. Wallace's introduction in that he speaks for the North River Shores Property Owners Association. There are 525 members of our community and only 350 of the homes in the community are in the association. There are 165 that are commingled with those properties that aren't members.

THE COURT: I picked up on that in the things I've read recently. So let me go over the preliminary matters that I've identified, and then I probably will miss some, and then after we've discussed the ones I've identified then we'll discuss the ones I've missed. But let me ask right off the bat, are any of the parties going to order a transcript today?

MR. WINN: I anticipate ordering one.

THE COURT: Mr. Winn, are you aware how expensive a transcript can be?

MR. WINN: No, I'm not, sir.

THE COURT: In that case you may want to think twice about that.

MR. WINN: Yes, sir.

THE COURT: So we'll have to talk about that at the end. Will the Department or the Association be ordering the transcript?

MR. WALLACE: We haven't made that decision yet. We might, but I'm certainly aware of the cost.

THE COURT: So I will note that that's been deferred for now and I will check back in with all the parties at the end of the hearing.

Let's talk about the rule of sequestration. Mr. Winn, what that means is that other than clients, so to speak or agency representatives, if the rule of sequestration is invoked there will be only one witness in the virtual hearing room at a time. There are exceptions to that, but for the most part one witness present at one time in the hearing room so that our witnesses don't hear what that witness is saying and supposedly moulder testimony a certain way. So let me ask are any parties looking to invoke the rule today?

MR. WALLACE: We would invoke the rule Judge.

MR. WINN: I would to.

THE COURT: If one party invokes it, it's invoked for everybody. Let's go over some of the other things. I was looking at things that were filed and I was kind of curious. Mr. Wallace and Mr. Polomski, I notice the discovery responses filed were redacted and I'm just kind of curious to the reason behind that.

MR. WALLACE: That was Mr. Polomski who filed those, and I'm not sure why they would be redacted.

MR. POLOMSKI: I'm not sure either. They should not be.

THE COURT: No problem. Usually discovery responses aren't filed and I've never seen ones filed literally I could see the questions propounded, but then the answers are blacked out. But if it turns out you need them for some reason, I'll revisit that issue.

So let's move onto the next issue. I saw where on February 20th things were filed by the Winns and they wanted to add at least one more issue. I believe one of which seemed to take issue with proper notice not being given to neighboring parties that may be affected by this replacement dock and they also wanted to add more

exhibits. Mr. Winn, I'm going to have to not allow you add more issues or exhibits, anything after February 18th because the stipulation was filed on the 18th, and first of all that was the deadline and I really can't have you bring up issues and exhibits that other parties really didn't have time to prepare for.

MR. WINN: Sir, during our conference on the 17th of February I provided that information to both the counsels. Now, an issue came up concerning one of the exhibits that delayed me providing the input of the final draft of the stipulations document and that had to do with the exhibits that I entered as 8A, 8B, 8C and 8D. And in my response to the initial order of December 29th, I clearly identified the linkage of my case to the pending petition concerning North River Shores Park.

THE COURT: Mr. Winn, in addition to being untimely, I also think the exhibits are not relevant. Let me just cut to the chase on one thing. As far as I'm concerned the only issue is whether or not this dock, replacement dock satisfies the criteria and the statute and the rule for an exemption. I understand you don't

agree with me on that. And what I plan to do is at some point through whichever way you deem most appropriate I'm going to ask for information about- what you have about that criteria. Once we've exhausted that what I plan to do is give the Department and Association a standing objection and let you proffer testimony about all these other issues. I'll let you build your record. And so let's assume I issue a recommendation against you and let's assume the Department adopts that recommendation, if you so choose, then, you'll be able to take an appeal and so your information the appellate court will be able to assess whether or not I properly or erroneously excluded those issues. So they'll know exactly what you're trying to get into record. But I think stuff about other docks just is not relevant today.

MR. WINN: Well, sir, there was one exhibit that both attorneys challenged and that's my Exhibit 9, which is the actual exemption for this park.

THE COURT: I think we have that already as an exhibit. I think they may have objected to the fact that you labeled it as something the name of

the lake or the park being misidentified. I think we already got that document in the record as another exhibit. We should be fine. Okay. I think that may be one of the joint exhibits.

MR. WALLACE: I believe it's Joint Exhibit 8.

THE COURT: Yes. Well, if I'm looking at the right stip that's the response to the order to show cause. It may be 9. I think it might be Joint Exhibit 9.

MR. WALLACE: That's right, Joint Exhibit 9.

THE COURT: So, Mr. Winn, it's already one of the joint exhibits. I understand why the parties objected to your labeling, but I understand why you made that label. But again, we'll let you get all that on the record. So let's move onto some other preliminary matters. I did see where Mr. Winn dropped some witnesses and then added some other ones. I think the parties had objections to that. Let me see exactly which witness was added.

MR. WINN: Lorraine Michnor. She's agreed to be available to testify and she has some very relevant information about the lack of any notification within the community.

THE COURT: Well, speaking of notification,

I'm not sure Mr. Wallace and Mr. Polomski had specific notice of this witness testifying today. So if they object to her testifying, I'm probably going to have to grant that objection.

MR. WALLACE: Your Honor, we did lodge the objection with the filed amended exhibit list.

THE COURT: All right. Mr. Winn, what we can do, and you may have to remind me about this, at some point today you can describe for me what this witness will testify to. Again, this will be what we call proffer and I'll give the other parties a standing objection and you can describe for me what she'll testify about, and that way you'll get that information on the record and potentially preserve for an appeal. Those are the preliminary matters I have. Mr. Wallace, we'll start with you.

MR. WALLACE: I just have one, Your Honor. We have listed a wetland scientist to testify today. He is in the filed. He said that he could be available at 1:00, and so I'm hoping to basically set up something to accommodate his regular working schedule and call him at 1.

THE COURT: What is his name?

MR. WALLACE: Drew Gatewood.

THE COURT: He'll be available around 1 p.m.

MR. WALLACE: Yes, Your Honor.

THE COURT: Perhaps what we can do is we'll have to see how long your case takes. But maybe if it's still going at the lunch break we can call him at 1. We can maybe take a break at 12 o'clock.

MR. WALLACE: I anticipate that we're just going to move the joint exhibits in and then put on one witness to just basically lay the groundwork for the burden shifting and then rest and save everything for rebuttal, but hopefully we can move through that pretty quickly and Mr. Winn can move through his case pretty quickly.

THE COURT: We'll see. I will give everyone as much time they need to make their case. I know the parties said that we can get this done in one day, but if we need a second day we can certainly do that. Mr. Wallace, if your plan comes to reality then we can definitely take Mr. Gatewood out of order. Just remind me about that and don't close your record when you're done with your other witnesses. Does the Department have any issues we need to take up?

MR. POLOMSKI: I don't believe so. I believe

we covered everything. I was going to talk about potential sua sponte motion in limine concerning property rights, riparian rights and boundaries and HOA rules.

THE COURT: For the record, Mr. Polomski is frozen. We'll have him repeat what we missed. I may have neglected to mention we are doing the hearing via Zoom. So we've lost Mr. Polomski. We'll just wait for him to join back in.

Mr. Winn, while we're waiting for Mr. Polomski to rejoin us maybe be thinking about what preliminary issue you'd like to address, but we can't discuss them until he rejoins us. Hold on. We can't discuss it until he's back because that would be unfair.

MR. WINN: They do impact him directly, yes.

(A recess was taken from 9:51 a.m. to 9:58 a.m.)

THE COURT: So, Mr. Polomski, before we lost you I think you were in the middle of telling me if you had a preliminary issue we needed to take up.

MR. POLOMSKI: Yes, so it's just a question on how Your Honor, would prefer to handle things, but as far as possibly a sua sponte motion in

limine to exclude testimony concerning property rights, riparian rights or boundaries or HOA rules, but I could just lodge objections as I see fit if testimony comes up with any of those matters.

THE COURT: I think what I'd like you to do is give you and Mr. Wallace a standing objection. I'm not quite sure how the order is going to work out with Petitioner's case, but I think what I'd like to do if it's possible is see what they have to say about the exemption criteria and once we get that out of the way give you and Mr. Wallace a standing objection to everything else that comes in. That gives the Winns a chance to build their record in case they want to do an appeal down the road, and that way I don't have to make you and Mr. Wallace object to every single question.

MR. WALLACE: Judge, I think virtually all of those issues were the subject of a motion to strike that was granted in part as well.

THE COURT: Yes. I'm going to give the Winns a chance to make their record. And, you know, as I understand, it's per se irreversible error if I don't allow a party to do a proffer. So we'll go ahead and get through that reasonably

expeditiously hopefully. But if there is nothing else from Respondents, I will ask Mr. Winn if he has anything we need to take up before we take testimony?

MR. WINN: You recall from our 17th of February prehearing that I made it clear that I'm not trying to make the Department of Environmental Protection look bad. It's just that there could be some cracks in their permitting process that might need to be closed up, systematic issues. And there's one of their exhibits, Exhibit 4, which is the Martin County document that they made a determination on. And we're not asking you to make a decision on property rights. We're asking you to consider whether or not the applicants even had the authority to apply for this permit based on what that exhibit of theirs indicates.

THE COURT: I think that probably is part of the previous prima facia case. I may be mistaken about that, but we'll see how things go with the Department's case. Anything else, Mr. Winn?

MR. WINN: No, that's all. When this is over I can make a statement for the record?

THE COURT: If you're the attorney, so to speak for your side, you'll get a chance to make

an opening statement. And then I'm going to talk about proposed recommended orders today, which sort of act as a closing statement.

Mr. Winn, I do have a question for you. When it comes to your witnesses in light of your amended list of your witnesses who are still there, who is the best one for me to talk to about exemption criteria?

MR. WINN: Are you asking me?

THE COURT: Yes, sir.

MR. WINN: I would say Mr. Polomski is the general counsel of the DEP.

THE COURT: Well, he's not a witness for your side.

MR. WINN: He's a subject matter expert though.

THE COURT: But you didn't list him as a witness, and so, sir, you have to rebut their case about the exemption criteria. If none of your four witnesses can address the criteria, that's fine. That might shorten the case up some.

MR. WINN: I believe Mr. Torian has some knowledge about exemption criteria.

THE COURT: All right. So I'll direct those questions to him. Mr. Winn, is there anything

else we need to take up from your side?

MR. WINN: That's all I have, sir.

THE COURT: All right. I'm thinking through the order of presentation. Since the Respondents go first under this shifted burden of proof system we're under, let me ask Mr. Wallace, Mr. Polomski, do either one of you want to give an opening statement?

MR. WALLACE: Briefly, Judge.

THE COURT: Okay. Anytime you're ready.

MR. WALLACE: Judge, as you know I represent the North River Shores Property Owners Association. In our view, this dispute is relatively narrow and it is simply whether the proposed project meets the repair and replacement exemption found at 403.813(1)(d) and rule 62-330.0515D. The project at issue is a proposed dock that will lie within the footprint of an existing dock within one of the parks in North River Shores. Through the prehearing stipulation the Petitioners conceded or stipulated that the existing dock is still functional. That is one of the criteria for the repair and replacement exemption. Through the prehearing stipulation the Petitioners also stipulated that the dock was

lawfully permitted. That is also within 403.813(1)(d), and so those elements have been satisfied through stipulation. The remaining elements and I think the elements that are really at issue today is, one, whether fill material is used in the replacement dock; two, whether the replacement dock will be within 5 feet of the same location and larger in size than the existing dock; and, three, that no additional aquatic resources are adversely and permanently impacted by the replacement and repair. We expect that the evidence will show that the proposed dock is going to be in the exact location of the existing dock. There is a 5-foot extension of the walkway; however, we believe that the evidence will demonstrate conclusively that this extension is landward of the wetland line of this water body and therefore non-jurisdictional. And we believe the Department will testify that this portion of the dock is non-jurisdictional to the Department and is not factored into the valuation of the square footage size of the dock, et cetera.

And so with that I will call Ms. Loudon unless you'd prefer to have any opening statement from opposing side first.

THE COURT: Mr. Polomski, did you want to give an opening statement?

MR. POLOMSKI: Yes, Your Honor. Just echoing a lot of what Mr. Wallace said. This case is about replacing a dock that was originally permitted in 2013. The Florida administrative code and Florida statutes provide a way to replace a previously permitted dock without having to go through the permitting process again provided certain criteria are met. As stated rule 403.813(1)(d) of the Florida statutes and rule 62-330.0515(d) of the Florida administrative code allow for such an exemption. The parties stipulated that the existing dock was lawfully permitted. DEP staff reviewed the proposal where it found the proposed dock to be within the same footprint as the existing dock which was legally in existence. Staff reviewed and verified property ownership, submission of fees, location maps, project drawings and title determination, which showed that there were no sovereign submerged lands at the project site. The purpose of this administrative hearing is to formulate agency action. Here the record will reflect entitlement to an exemption for this dock

replacement project. Thank you.

THE COURT: Mr. Winn, so you have the option of giving an opening statement now or you can wait and give your opening statement when the Department and the Association have rested their cases. What would you like to do?

MR. WINN: I will wait until they rest their cases. And it's my understanding that the North River Shores Property Owners Association and DEP witnesses are going to be called at this time and that I'll have the opportunity to ask questions once they're through testifying.

THE COURT: Yes, sir. And let me just note I did say that one of the association witnesses will be called out of order, so we'll work that out later. But yes, you'll be able to cross-examine all of their witnesses. So with that being said, Mr. Wallace, it sounded like you have the agreement that you would present your case first. Did you want to call your first witness?

MR. WALLACE: Yes, we do. Prior to calling her however, if there is no objection --

THE COURT: Yes, you invoked the rule.

MR. WALLACE: Yes, and we have one representative for the Association on the call.

My understanding is that as the party representative he is allowed it stay.

THE COURT: He is. What is his name, sir?

MR. WALLACE: His name is David Weston.

THE COURT: I think he's already logged off.

MR. WESTON: I'm on the call, sir.

THE COURT: Mr. Weston, you can stay.

MR. POLOMSKI: Your Honor, the agency representative and our sole witness is Mr. Evan Tridone, who is here on the call.

MR. WINN: I didn't understand who Evan Tridone is.

THE COURT: He is the Department of Environmental Protection agency representative. He's basically acting as the Department in this case. Let me go down one by one. Ms. Winn, I believe she's going to testify, but she is a named party, so I believe she gets to stay. Shauna Banks and Robert Torian, they're both listed as witnesses, so I believe Ms. Banks and Mr. Torian I have to put you in the virtual waiting room. Mr. Winn, do you have their cell phone number?

MR. WINN: Yes, I do.

THE COURT: So when it comes time for them to testify, we'll probably take a short break and

give you a chance to call them and get them back into the virtual hearing room.

MR. WINN: Could I have an explanation of why Mr. Weston is still in? Is he going to be a witness later on for Mr. Wallace?

THE COURT: Mr. Weston, he's the Association rep, correct, Mr. Wallace?

MR. WALLACE: Yes, sir.

THE COURT: So, Mr. Winn, the rule of sequestration does not apply to parties and so in the Department's case that's an agency representative. The Department does have a person there present who is acting as the Department and the same thing with the Association. The Association is an entity, but in this case Mr. Weston is acting as the Association.

MR. WINN: And he will not be called as a witness, correct?

MR. WALLACE: He may be called as a witness.

MR. WINN: Then I object to his presence.

THE COURT: Again, Mr. Winn, the way the rule works is that it doesn't apply to parties, and Mr. Weston is acting as the Association. If he wasn't present then there would be no presence for the Association here today, so he gets to be here

the whole time. Same thing for Ms. Winn. Since she's a party and a witness I'm letting her stay because she is a party.

MR. WINN: But if he gets called as a witness I'll have the opportunity to question.

THE COURT: Yes, sir, you will. Mr. Wallace.

MR. WALLACE: My first witness will be Morgan Loudon of Loudon & Associates. She is the applicant's agent in this case.

THE COURT: Ma'am, please raise your right hand.

Do you swear or affirm that any testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

THE COURT: Thank you, ma'am. Mr. Wallace is going to do direct exam, and then I'll ask Mr. Polomski if he has any direct exam. And then, Mr. Winn, you can Ms. Loudon questions on cross and then Mr. Wallace and/or Mr. Polomski may have questions on redirect.

Mr. Wallace, you may proceed with your direct exam.

MR. WALLACE: Before we get into the exam, we would move Joint Exhibits 1 through 11 into the

record.

THE COURT: That is a great idea. So I do have to ask this question, because believe it or not one time I did have an objection to a joint exhibit, but are there any objections to me accepting Joint Exhibits 1 through 11 into evidence?

MR. POLOMSKI: None from the Department.

THE COURT: Mr. Winn?

MR. WINN: I have to make them at this time?

THE COURT: Yes, you do. Since they're joint I'm assuming you have no objection, but nevertheless I'll ask.

MR. WINN: Well, just for the record, I feel that the two counsel have used up a lot of my time in requesting information about an exhibit of mine that came up during our prehearing on the 17th stipulations conference, and because I didn't prioritize the way I should have and hit my points of fact and points of law I wanted inserted into the document until after the deadline the main reason for it was because I was clarifying my documents that supported the case in North Shores Park I was trying to link and those exhibits obviously aren't going to be admitted now. So I

do want to mostly Joint Exhibit D, is that the Martin County document that the DEP used to verify ownership?

THE COURT: So, Mr. Winn, it doesn't sound like you have any objections to joint exhibits, so I'm going to go ahead and admit them, but as I mentioned earlier for Joint Exhibits 4, 5 and 6 the answers to discovery requests are redacted or blacked out and Joint Exhibit 6 is the Winns' answers to the applicant's request for admissions. Joint 4 is the Petitioner's answers to DEP's interrogatories and Joint 5 is Petitioner's answers to DEP's request for production. Gentlemen, I didn't know if you wanted to at some point today file unredacted submissions or if you just want to drop 4, 5 and 6, because if they're redacted they're really no use to me.

MR. POLOMSKI: I'm asking our internal staff to get unredacted copies over to you either by filing them or through the JA.

THE COURT: Please do it by filing. It doesn't really count if you email to my JA.

MR. POLOMSKI: Yes, Your Honor.

THE COURT: I will note 4, 5 and 6 will be filed at some point later today.

MR. WINN: I spent about eight man hours on tasks associated with clarifying the status of my Exhibits 8A through 8D, and they're not going to be admitted. I just wanted to go on the record for that.

THE COURT: Understood. Understood.

MR. WINN: And I jumped through hoops to get my answers to the DEP by his deadline.

THE COURT: Understood, and it sounds like at some point today Mr. Polomski is going to have those answers filed in an unredacted format. But assuming 4, 5 and 6 are refiled later today and in unredacted format, I'm going to accept Joint Exhibits 1 through 11 into evidence.

(Joint Exhibits 1, 2, 3, 7 through 11 were admitted into evidence.)

THE COURT: Mr. Wallace, did you have anything else before you started questioning?

MR. WALLACE: No, Your Honor.

THE COURT: Anytime you're ready.

THEREUPON,

MORGAN LOUDON,

having been first duly sworn by this Court, was examined and testified upon her oath as follows:

DIRECT EXAMINATION

BY MR. WALLACE:

Q. Ms. Loudon, could you please introduce yourself?

A. Yes, my name is Morgan Loudon.

Q. What do you do for a living?

A. My business I do consulting, design and permitting work for marine-related structures.

Q. How long have you been doing that?

A. About 15 years.

Q. Prior to that what did you do for a living?

A. So my background is I worked in the civil engineering offices and my role was to design, permit large scale projects, so roadways, development and agricultural projects.

Q. Were you hired by North River Shores to apply for verification of exemption for the replacement of a dock?

A. Yes.

Q. And do you know that project as Snow Park?

A. Yes, it was introduced to me as that informally as a nickname, so I adopted the name concept for it.

Q. Did you apply for verification of exemption for Snow Park?

A. Yes, I did.

Q. I'm going to show you what is in evidence as Joint Exhibit 9. Can you see my screen?

A. Now I can.

Q. Okay. Is that large enough for you to see?

A. Zoom in slightly. Thank you.

Q. Do you recognize this as the verification of exemption for the dock that we're here on today?

A. Yes, I do.

Q. I'm going to scroll down through Joint Exhibit 9 to the exhibits attached to it. I am on page 25 of 29 of Joint Exhibit 9. Tell me what this drawing is.

A. It is an existing layout of the dock.

Q. And that is the dock that is currently in existence?

A. Yes, sir.

Q. What is the size of the terminal platform?

A. It is 8 feet by 20 feet.

Q. That is 160 square feet?

A. Yes, sir.

Q. What is the size of the existing gangway or access?

A. 6 by 20.

Q. That is 120 square feet?

A. Yes, sir.

Q. On this exhibit there are orange hashed lines that appear to me to be contours. Are those contour lines?

A. Yes, sir. So they were I was able to place them using Martin County GIS. They have topography contours, so I saved an image and inserted it into AutoCAD and was able to trace the contours.

Q. Now, is this a survey?

A. No, it is not.

Q. Have you actually been on site to observe the existing dock?

A. Yes, sir.

Q. Do these contours and the places at which they intersect the access way match what you personally observed of the contour?

A. Yes, sir.

Q. I am going to scroll to page 26 of 29. Can you describe what this exhibit is?

A. Yes, it is the proposed layout.

Q. What is the size of the terminal platform of the proposed dock?

A. It's 8 by 20.

Q. That is also 160 square feet?

A. Yes, sir.

Q. What is the size of the walkway to the

platform?

A. 6 by 25.

Q. That is 150 square feet?

A. Yes, sir.

Q. Does this proposed dock extend any further into the canal than the existing dock?

A. No, it does not.

Q. As far as the length of the access platform goes the entirety of the extension of that access platform is above or landward of the 4-foot contour line shown on this map?

A. That is correct.

Q. Are there other variations between the proposed dock and the existing dock?

A. There is. For the existing dock, the elevation maintain the same. This dock, the dock will actually ramp down slightly. There will be handrails such as the dock exists now to prevent mooring. But other than that, it's the same. It will not be impacted. There's no resources impacted. It's just an extension was the only major difference between the two.

Q. How high from the mean high water line is the proposed dock designed to be at the terminal platform?

A. As it shows 3 and a half feet.

Q. How high is the existing dock above the mean high water line?

A. I cannot tell you that because a survey was not provided to me at the time, so there is no way to really give an accurate elevation difference.

Q. As proposed is the terminal platform to be located entirely within the footprint of the existing dock?

A. Yes, sir.

Q. Going from the terminal platform landward on the access ramp is the first 20 feet of the proposed access ramp proposed to be located in exactly the same location as the existing dock's access ramp?

A. Yes, sir.

Q. Does the verification of exemption contain standard conditions for work around manatees?

A. Yes, it does.

Q. I'm now on page 20 of 29 of Joint Exhibit 9. Are these the standard manatee conditions for in water work for the proposed dock?

A. Yes, sir.

Q. Sorry for the scrolling.

A. It's okay.

Q. I want to direct your attention to page 8 of 29. It's Bates Stamped JE000063. Can you read into

the record paragraph 8?

A. It says, Mangroves, the design and construction of a Project must comply with the following (Reference: JAXBO PDCs AP.3 and AP.12.): All projects must be sited and designed to avoid or minimize impacts to mangroves. Mangrove removal must be conducted in a manner that avoids any unnecessary removal and is limited to the following instances: Removal to install up to a 4-ft-wide walkway for a dock. Removal of mangroves above the mean high water line (MHWL) provided that a tree does not have any prop roots that extend into the water below the MHWL. Mangrove trimming. Mangrove trimming refers to the removal (using hand equipment such as chainsaws and/or machetes) of lateral branches (i.e., no alteration of the trunk of the tree) in a manner that ensures survival of the tree. Projects with associated mangrove trimming waterward of the MHWL are authorized if the trimming occurs within the area where the authorized structures are placed or will be placed, removal of branches that overhang a dock or lift, which is necessary to provide temporary construction access, is conducted in a manner that avoids any unnecessary trimming. Projects proposing to remove red mangrove prop roots waterward of the MHWL are not

authorized, except for removal to install the dock walkways as described above.

Do you want me to continue?

Q. I think that's all. As proposed does the proposed dock require removal of any mangroves?

A. No, sir.

Q. Does it require trimming of any mangroves?

A. As to my knowledge, no.

Q. As proposed does the proposed dock incorporate any fill?

A. No.

MR. WALLACE: I don't have anything further for this witness at this time, Judge.

THE COURT: Mr. Polomski, do you have any direct exam?

MR. POLOMSKI: Just a couple, Your Honor.

THE COURT: Sure. Go ahead.

DIRECT EXAMINATION

BY MR. POLOMSKI:

Q. Did you fill out the application for this exemption project?

A. Yes, sir.

Q. In your career, about how many exemption applications have you completed?

A. Thousands.

Q. What is the square footage of the proposed dock in this case?

A. I believe it's 310.

Q. How does that square footage how does that compare in size with the other thousands of projects you have done?

A. It's an extremely minor amount.

MR. POLOMSKI: No further questions.

THE COURT: Mr. Winn, do you have any questions for this witness related to direct testimony?

MR. WINN: Yes, I do, Your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. WINN:

Q. Good morning.

A. Good morning.

Q. Please bear with me. I'm not an attorney. I did have some construction management experience in the military. I had a 32-year career. I was involved in the military construction program for two years. I finished the engineer officers advanced course by correspondence even though I was infantry officer, so I'm a very, very amateur engineer in terms of engineer. Now, you said you visited the site before

the application was made to DEP, correct?

A. Yes.

MR. WALLACE: Objection, mischaracterizes testimony.

THE COURT: I think she did say she visited the site.

MR. WALLACE: I don't think it was before she filled out the exemption.

THE COURT: Okay.

MR. WALLACE: That's the mischaracterization I'm referring to.

BY MR. WINN:

Q. Let me rephrase that. Did you visit the site before you filled out the exemption?

A. Yes, I did.

Q. Did you see the name *Lake Park* on the sign in the park that is the DEP registered name of that location?

MR. WALLACE: Object to relevance.

THE COURT: So I think I'm going to go ahead and grant the objection, and the reason why is because, Mr. Winn, I understand you have issue with the supposedly the wrong name being on the application, but so far I haven't seen why that really is is not a de minimis or a relevant error.

I don't see how that really impacts whether or not the dock should get the exemption or not.

MR. WINN: Well, sir, it made it difficult to track the stages of the permitting process when I was monitoring it. Three weeks before DEP issued the exemption on October 1st I wrote them a letter on September 8th, which they received, warning them of a lot of inconsistencies in the Association's actions. Part of it was misinformation on the application forms.

THE COURT: But you're here today and you did get your petition filed, so even if there was a mixup before my point is that it's been remedied. So I'm going to go ahead and grant the objection, and why don't you ask your next question?

BY MR. WINN:

Q. May I ask you why you used the nickname for the park?

MR. WALLACE: Relevancy.

THE COURT: I'll sustain that objection as well.

BY MR. WINN:

Q. On your site maps showing the existing and proposed docks did you rely on surveying instruments like a transit, and are those drawings on the current

dock and the proposed dock were they made using standard surveying instruments such as a transit majoring from a known surveyed point? Is that how the locations were determined as shown on the map? Were surveying instruments used?

A. So upon beginning the project I asked the Association if they had a property survey. They did not. I reflected back to the previous permit from 2013. Their permit was derived not by using a survey CAD file, so what I did was I created I used AutoCAD and I inserted my county aerial GIS and created the design using those methods.

Q. Well, given that that location was not even surveyed when the existing dock was installed in 2013 would it not have been appropriate to conduct a survey because that five feet exactness is very important? The new dock has to be within 5 feet of the existing dock and there is no way you can do that with certainty without an actual survey using recognized surveying instruments namely using a transit measuring from a previously surveyed known point.

MR. WALLACE: Objection. Compound question and testimony.

THE COURT: So I think I'm going to rephrase for Petitioner. I think what he's trying to ask

is why wasn't a survey necessary for this proposed project, and, ma'am, can you answer that.

THE WITNESS: Yes. Surveys are not required by DEP. It is my common practice that I obtain a property survey and order the surveyor's CAD file to base all of my designs on. In this situation, there was not one to be provided, so therefore Martin County GIS imagery I was able to insert it into CAD and basically trace where the dock is shown on aerial imagery.

BY MR. WINN:

Q. But aerial imagery is not as exact as a formal survey using a transit measuring from a known survey point, correct?

A. Yes, you are correct.

Q. And does not DEP for this type of exemption require that the footprint be substantially the same or within 5 feet? Isn't that 5-foot rule pretty tight?

A. Typically how it goes is when the contractor goes out on site and they're doing a remove and replace, your pile diameter locations are already established. So once you take a piling out you replace the new piling in its old footprint. So essentially you will be in the same footprint.

Q. Well, this has to do with the mangroves also. I noticed on your maps of the site that the mangroves locations were sketched in and those are some very healthy patches of mangroves that are on both sides of the existing dock and they even ingress to beneath the dock. I hope my pictures are still valid exhibits, but should not for exactness can you rely on aerial photograph composites for exactness within the 5 feet preciseness?

A. Typically aerial imagery can be off 2 to 5 feet, but again the opening was already established. The dock has been in existence since 2013. The proposed dock was going in its exact location excluding the 5-foot extension that resided at once.

Q. Well, but there is no way to know with certainty where the existing dock is, so should not the existing dock have been surveyed using a transit from a previously surveyed known point to get a firm benchmark to measure where the replacement dock is going to go? Wouldn't that ensure preciseness in the exact footprint or close enough to the exact footprint?

A. To ensure exact preciseness what can happen is even though the permit has been issued once Martin County has their permit issued a surveyor can come out

and stake the points and stake the dock out to ensure precise exactness.

Q. But without the precise exactness you can't be certain that the healthy mangrove patches on both sides- can you be certain that the healthy mangrove patches won't be damaged without the preciseness of a survey with a transit from a known point?

A. Yes, like I said, you can still do that and utilize a surveyor at this point of the project. Nothing has been removed. A surveyor can come out and stake out the exact points.

Q. How do we know if that exact point is within 5 feet of the existing dock?

A. It should be in the exact footprint of the existing dock, and before the dock is removed the surveyor will go out and create the points and stake it for the contractor to do his install correctly.

Q. Is this your surveyor?

A. I do not have a surveyor that I have given to them, but I can most definitely provide several options.

Q. Whose responsibility would it be to conduct this actual survey using precise measuring instruments?

A. The Association.

Q. Well, can the record show that the Association has never conducted a survey of the existing site, so that the exact location of the existing structure of the dock is known?

A. I was not provided a survey, no.

Q. Can it be a matter of the record then that the Association has no valid survey data for that point other than aerial photographs and GIS exhibits that you introduced?

THE COURT: Is that a question for her or for me?

MR. WINN: Well, she might know, but for the record, maybe Mr. Wallace needs to find out.

THE COURT: That's not really what we're doing at this point in time, but it sounds like you've established the point that there has been no survey yet.

MR. WINN: Even for the previous dock. It's a non-surveyed plot.

THE COURT: Well, I'm not going to really comment on what the testimony is so far, but I think some points have been made. We'll see if they hold up.

BY MR. WINN:

Q. Okay. I'll go onto the pilings. Now, I've

read on applications for county permits and an application association- you filled out the application and it said, remove existing docks and pilings. Is that all 12 pilings for the existing dock are going to be removed and replaced?

A. However many pilings on site were being proposed to be removed.

Q. Well, how many pilings is there, because the more pilings that get removed the greater threat to environmental damage and 12 pilings, you know, those are pretty big pilings? They're all structurally sound. Why do they have to be removed?

MR. POLOMSKI: I'll object to unsworn testimony.

THE COURT: Yes. So, Mr. Winn, when you're asking a witness questions you're just supposed to ask question. You're crossing a line into testifying and asking questions.

MR. WINN: I understand. Let me rephrase that.

THE COURT: Thank you.

BY MR. WINN:

Q. Are the 12 existing pilings structurally sound?

MR. WALLACE: Objection, relevance and

outside the scope of direct.

THE COURT: Yes, there weren't any questions on direct about the pilings. And, Mr. Winn, I guess can you- I'll just give you a chance. So how do the pilings relate to the exemption criteria?

MR. WINN: Well, at the beginning of our hearing the POA's attorney, Mr. Wallace, testified and I'm not questioning that the existing dock is a fully functional structurally sound dock, and I'm asking an expert if that's the case the pilings are part of the dock.

THE COURT: I'm going to sustain the objection. Mr. Winn, do you have any additional questions for this witness?

MR. WINN: Yes, just a couple more.

THE COURT: Okay.

BY MR. WINN:

Q. Getting back to your testimony about the height being 35 feet that's for the proposed replacement dock, you said that you didn't have the height of the current dock, did you not?

A. No, I did not, and it's 3.5 feet.

Q. 3.5 feet is the height of the proposed dock. Is that correct?

A. Yes, sir.

Q. Do you know the height of the existing dock?

A. No, I do not. That was not provided.

Q. As far as the terminal platform goes, the final replacement structure, will it include a capability for launching any type of watercraft such as kayaks or jet skis?

MR. WALLACE: Objection, relevance.

THE COURT: I'm going to overrule that one. Ma'am, you can answer.

THE WITNESS: Okay. So as the plans specifically state, the dock will be surrounded by a handrail. The handrail chosen are pickets that will prevent launching and mooring of any type of watercrafts.

MR. WINN: Those are all the questions, I have, Your Honor.

THE COURT: Mr. Wallace, any redirect?

MR. WALLACE: Yes, please.

REDIRECT EXAMINATION

BY MR. WALLACE:

Q. Ms. Loudon, do you have a survey showing the location of your front door at your house?

A. I do not.

MR. WINN: Relevance, Your Honor. I can't

use other parts. Why should Mr. Wallace be able to use Ms. Loudon's. It's not relevant.

THE COURT: I think he's trying to make a point. It's not terribly relevant, but I will overrule the objection.

BY MR. WALLACE

Q. Notwithstanding that you don't have a survey showing your front door could you replace your front door in its exact location as it exists currently?

A. Yes, I can.

Q. Do you need a survey to know the exact location of the existing dock?

A. DEP does not require a survey. It is not necessary. GIS aerial imagery can put you close enough, but where you gain the exactness is where the structure exists in real life in the field.

Q. When this dock is replaced, if it's replaced, could the contractor replacing it simply go out, remove the dock and because he's there see where it is and replace it in its exact footprint?

A. Yes, sir.

Q. The aerial data that you used, is that georeferenced?

A. It is in Martin County GIS, but not in AutoCAD. When using a surveyor's AutoCAD file they

most surveyors will insert the correct geospace location within, so you are able to be sure where it is in the correct geospace. But as the methods that were used to derive and create these plans the geospace is not correct in AutoCAD, but it doesn't matter in this situation. The dock is existing and can be and will be replaced in the exact location.

Q. You mentioned that you used existing known locations to develop your exhibit?

A. Yes.

Q. What do you mean by that?

A. So Martin County GIS they have their boundary lines that are highlighted and they're also dimensioned. So when you insert that into AutoCAD you create points and you scale off of main points such as the boundary lines and then you can recreate a boundary layout and what is actually in that imagery.

Q. With regard to the contour lines that you show on this exhibit, what are those contour lines referenced off of?

THE COURT: Just for the record, what exhibit number are you referring to?

MR. WALLACE: Excuse me. Exhibit 11, the two depictions of the existing and proposed dock.

THE COURT: Thank you.

THE WITNESS: Martin County GIS imagery, they allow you to access their digital allocation modeling's and the contours.

BY MR. WALLACE:

Q. Are the contours based on sea level?

A. No, the contours were created by however Martin County created their contours.

MR. WALLACE: I don't have anything further.

THE COURT: Mr. Polomski.

MR. POLOMSKI: No redirect by the Department.

THE COURT: Mr. Winn, what were you trying to say?

MR. WINN: I just wondered if I would have a chance to redirect on the question Mr. Wallace asked about the survey related to the house. If you were going to --

THE COURT: Sir, actually, what that would be is recross, and I think both you and Mr. Wallace have made your points to me about the survey. So I really don't want to spend anymore time on that point.

MR. WINN: Can I ask a question not related to the survey?

THE COURT: Well, usually I'm not a big fan of recross because that just, you know, we get

into re-redirect and all that. But let me hear your question.

FURTHER CROSS-EXAMINATION

BY MR. WINN:

Q. My question is if she was ever aware that the parcel known as Lake Park had no assigned status or street address according to the Martin County Property Appraiser?

THE COURT: I will allow her to answer that, and, then, Mr. Wallace, if you'd like you can do a re-redirect and then we'll cut it off right there. Ma'am, do you need that question repeated?

THE WITNESS: No, I do not. The address that is stated on the plans were exactly from what is stated on Martin County Property Appraiser website. I was aware that the parcel is unassigned, but it does have a PCN, which is also noted on the plans.

THE COURT: Mr. Wallace, did you have any re-redirect?

MR. WALLACE: No, Your Honor.

THE COURT: Unless there is an objection I'm going to go ahead and release Ms. Loudon so she can go about her day. Ma'am, thank you very much for your testimony, I do appreciate it and you are

released.

Mr. Wallace, who is your next witness?

MR. WALLACE: I will briefly call Evan Tridone.

THE COURT: Okay. I'm sorry. Is he the Department's agency representative.

MR. WALLACE: He is, Your Honor, and he is listed as one of our witnesses.

THE COURT: Yes, I see him as No. 3.

Mr. Tridone, go ahead and raise your right hand.

Do you swear or affirm that any testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

THE COURT: Mr. Wallace, anytime you're ready.

THEREUPON,

EVAN TRIDONE,

having been first duly sworn by this Court, was examined and testified upon his oath as follows:

D I R E C T E X A M I N A T I O N

BY MR. WALLACE:

Q. Good morning, Mr. Tridone. Can you tell us your position with the Department of Environmental

Protection?

A. Yes, sir. I'm an Environmental Specialist II for Southeast District.

Q. And are you aware of whether the Department performed a title determination when they considered in connection with this application?

A. Yes, a title determination was performed.

Q. Is the purpose of that title determination to determine whether the submerged lands that the dock is built upon are owned by the state?

A. Yes, that's correct.

Q. I'm going to show you what we have listed as North River Shores proposed Exhibit 1. Can you see my screen?

A. Yes, indeed.

Q. Do you recognize Exhibit 1 as the title determination associated with this project?

A. Yes, it looks like one of the ones we usually get when we get a title determination, and one of the worksheets is usually like a good summary.

Q. Okay. And can you read into the record the worksheet ID on this title determination form?

A. 138851.

Q. And is this determination statement the finding of the title determination?

A. Yes.

Q. Can you read that into the record?

A. Sure. Based on the review of records within the title and lands record section, our records indicate that the subject area appears to have been dredged from uplands; therefore, we recommend that the proprietary requirements normally applied to sovereignty lands or state owned uplands not apply to this site location to Kelly@OGCSB, December 17th, 2025.

Q. And then pages 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, are these the supporting documents that would have been used by the Department to make the title determination?

A. Yes.

MR. WALLACE: At this time I would move North River Shores Exhibit 1 into evidence.

THE COURT: Any objection to that evidence?

MR. WINN: These are Martin County Property Appraiser's Office records, right?

THE COURT: Mr. Tridone, you can answer that.

THE WITNESS: It appears a couple of those pages were, but mostly those maps that we see, like there's a couple of surveys that are in some historic maps that would be from the Division of

State Lands DEP.

MR. WINN: I have no objections.

THE COURT: So I will accept North River Shores Exhibit 1 into evidence.

(North River Shores Exhibit 1 was received in to evidence.)

BY MR. WALLACE:

Q. Mr. Tridone, does DEP require an applicant for verification of exemption to provide a survey of the uplands associated with the project?

A. No.

Q. As part of the consideration of a verification for an exemption does the Department consider structures built in uplands for purposes of determining whether the exemption applies?

A. It depends on the exemption. We have some for single family homes, but something for a dock we wouldn't consider it, no.

Q. And in the context of a dock is that because of the structures located within uplands or non-jurisdictional to the Department's determination?

A. That's correct.

MR. WALLACE: Nothing further, Your Honor.

THE COURT: Mr. Polomski, do you have any direct exam?

MR. POLOMSKI: Yes, Your Honor, just a few.

DIRECT EXAMINATION

BY MR. POLOMSKI:

Q. Mr. Tridone, if someone wants to repair a dock can you describe the typical process?

A. Sure. Typically they will get with consultants or an agent to help them with the application process. They'll do some plans, sketched up engineering plans, usually site map, existing conditions and proposed conditions, a cross section and an overhead view of each. They would fill out an exemption application and then submit that to the DEP. There's a few different ways they can submit it either through email or an online form. We would review the application, ask any follow-up questions that we may need for clarification, issue the exemption and then they would go about with the repair of the dock as verified.

Q. Okay. What is an aquatic preserve?

A. An aquatic preserve is an area deemed by the State of Florida to be protected under certain standards especially with like docking criteria or seawalls. They come up a lot. A good example of an aquatic preserve would be Biscayne Bay in Miami.

Q. How does a classification as an aquatic

preserve fit into the Department's application of rules?

A. We have a few different rules that usually come into a play. If a project is located in an aquatic preserve mostly dealing with docking standards like height or the light penetration for a dock to facilitate sea grass growth, or for seawalls we usually do not allow new seawalls past mean high water line as part of our aquatic preserve criteria.

Q. Do those rules come into play in this project?

A. No, they do not.

Q. Why not?

A. The title determination indicated that the parcel was not on state lands. In order to be an aquatic preserve, the lands, the submerged bottom has to be on state lands. So I went forward through a review without considering those aspects, because the title determination indicated that.

MR. POLOMSKI: I have no further questions for now, but I would like to preserve Mr. Tridone's testimony for potential rebuttal.

THE COURT: So, Mr. Tridone, I won't be able to release you after any cross or redirect, so sorry about that. With regard to cross, Mr. Winn,

do you have any questions for this witness?

MR. WINN: Yes, I do, Your Honor. This has to do with pages 1 through 9 of the Petitioner's exhibit particularly page 9.

THE COURT: For the record, I believe this is Association Exhibit 1, the title determination, one, correct?

MR. WINN: Yes, sir.

CROSS-EXAMINATION

BY MR. WINN:

Q. Mr. Tridone, did I get the pronunciation right?

A. Correct. It's very Italian.

Q. Yeah, my name was Winchinsky until my dad changed it when I was a kid, so I understand pronunciation. Let me just ask you one question and it's one of these things that I never previously brought up. Are you aware that Lakeside Trail, this part of North River Shores is in a hurricane flood zone?

A. No.

Q. It appears that you relied heavily upon these Martin County Property Appraiser's records to verify ownership, correct?

A. I wouldn't say heavily, but I did use them.

Q. So are you aware that that parcel has no assigned status or street address according to those property appraiser records?

A. Yes, I was aware of the lack of street address. I think I included in the letter the tax parcel ID in lieu of that.

Q. And did you consider whether the absence of an assigned address indicated that the parcel isn't treated as a developable residential lot?

MR. WALLACE: Relevance.

THE COURT: Mr. Winn, how is that question relevant to what we're here on today?

MR. WINN: It has to do with the right of the applicant to even the exception request.

THE COURT: I'm going to go ahead and overrule. Mr. Tridone, you can answer the question if you remember it.

THE WITNESS: Sure. Could you restate the question one more time, Mr. Winn?

BY MR. WINN:

Q. I just asked if you considered whether the absence of an assigned street address indicated that the parcel wasn't treated as a developable residential lot?

A. Right. So I did consider that. I believe I

communicated with Ms. Loudon on that fact. We typically, as far as the dock exemptions go, try to evaluate whether or not it will be developed for commercial purposes because there is some exclusionary stuff on the exemption rules as far as potential commercial use, but we were assured by the applicant there would be no commercial use on the property there.

Q. Getting back to page 9 of that Martin County record that you used given that the land and taxable values are all listed as zero, did you treat this parcel as having the same development rights a privately owned residential waterfront lot?

MR. WALLACE: Relevant and jurisdiction to consider this issue.

THE COURT: Go ahead, Mr. Winn. Explain to me why that question is relevant.

MR. WINN: We're not asking you to determine ownership. We're just asking you to consider whether or not the applicant even had the right or authority to do this. We're asking you to determine whether or not the applicant had the authority to do this and the status of their ownership.

MR. WALLACE: Again, I'll just this seems to

me to be a real property rights dispute issue that they're raising.

THE COURT: I mean, Mr. Winn, the Association has put forth a title determination that on its face appears to be accurate. I'm really I'm kind of at a little bit of a loss where you're trying to go here.

MR. WINN: Well, the Association essentially functions as a caretaker and not the owner having the same full authority over that parcel. They're caretakers. They maintain the facilities in these four common use areas. It's did the Association have the full development rights equal to a private residential waterfront lot, or, you know, for the purposes of applying for the DEP exception. This may be one of these cracks in the process.

THE COURT: I think that that's well outside what I'm allowed to consider today, so I'm going to sustain that objection and you can ask your next question.

BY MR. WINN:

Q. Did the applicant ever provide you with any explanation of how a parcel classified as a homeowners association common area nevertheless had full

development rights equivalent to a private residential dock? Did they ever explain that to you or try to make that argument to you?

MR. WALLACE: Objection. Relevance.

THE COURT: I'll go ahead and overrule that one, and, Mr. Tridone, you can answer if you know the answer.

THE WITNESS: I took their rights to it to be that they had claim on the property as the property's owners associations to make repairs to the dock.

BY MR. WINN:

Q. Did they represent themselves to you as having full --

A. As having authority to do so?

Q. Did they represent themselves that way to you?

A. Yes, I was working mostly through the consultant, Ms. Loudon. I didn't have any direct communications with the property owners association, but my communications indicated to me that they had the authority to go through with the application.

Q. Were you aware that this parcel is registered with the DEP as Lake Park?

MR. POLOMSKI: Objection.

MR. WALLACE: Objection, relevance.

THE COURT: I think we've already been down that particular road, and, like I said, I haven't seen anything that shows that there was a prejudice by any sort of misidentification, so again I'll sustain that objection.

BY MR. WINN:

Q. At the time this application was being reviewed with the exception were you made aware of a letter that I sent to the DEP on the 8th of September expressing my concerns about how this association had gone about the process of applying for this permit and --

MR. WALLACE: Relevance.

THE COURT: Hold on a second. We had some crosstalk there. For the record, I believe we have an objection based on relevance. I'm going to overrule that one, and, Mr. Tridone, you may restate your answer.

THE WITNESS: Yes, my coworker, Matt Field, had brought up that he had received some sort of letter talking about, because I think he had one petition in this neighborhood already that he had brought it up to me, but I didn't get the exact details.

BY MR. WINN:

Q. The related petition, was that petition related to North River Shores Park?

MR. WALLACE: Objection. Relevance.

THE COURT: I'm going to sustain that objection. I'm not here today to consider exemptions for other parks.

BY MR. WINN:

Q. So you do recall though your colleague bringing my letter of the 8th of September expressing my concerns over Lake Park to you then?

A. I remember him bringing up a letter, but I don't remember the specific contents of it.

Q. But do you remember it being from me?

A. I just remember there being a letter from somebody in this neighborhood, so I'm assuming it was you, but I don't remember the exact name associated with the letter.

Q. There were several other letters sent to the DEP. Did he show you those too?

A. No.

MR. WALLACE: Objection. Relevance.

THE COURT: He got the answer out before you objected. Mr. Winn, any other questions?

MR. WINN: I have no further questions.

THE COURT: Mr. Wallace, any redirect?

MR. WALLACE: Briefly, Your Honor. I'll share my screen one more time.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

BY MR. WALLACE:

Q. I am directing your attention to page 10 of 20 of North River Shores Exhibit 1, and I'm just going to direct you to a few parts of this exhibit. Can you see my cursor?

A. Yes. If it looks like I'm looking the other way, it's so I can read it.

Q. What's the title of this document?

A. Quitclaim deed.

Q. Can you read this?

A. Sure. This quitclaim deed executed this 24th day of May 1991 by First National Bank & Trust Company of the Treasure Coast formerly known as the First National Bank of Stuart as trustee for property owner in North River Shores and Coconut Park subdivision first party to North River Shores Property Owners Association, Incorporated, Florida, not for profit corporation, whose post office address is PO Box 2202, Stuart, Florida 34995-2202, second party.

Q. And then there is some language in here and

I've highlighted a portion of language. Could you read what I've highlighted?

A. Sure. Together with the certain tract shown as "not included" lie northerly of lot 1 block 17 section 4 and southerly from the drain easement on the its northerly side all being in section 14 North River Shores as recorded in Platt Book 3, page 78, Martin County, Florida Public records.

Q. Now I'm going to direct you to page 12.

THE COURT: One second. Is Mr. Winn still with us? There you are. Okay. All right.

MR. WALLACE:

Q. There is a stamp in the top right corner, and it starts this plat. Could you read that into the record?

A. This plat was filed for record at 2:50 p.m. this 13th day of November 1957 and dually recorded in plat book 3 on page 78.

Q. And I'm going to zoom in on this plat, and you'll see a pie shaped piece of property. Is it correct that that property is situated between a drainage easement?

A. Yes, on my left side drainage easement.

Q. And so it's right, as we read it, is it correct that it is next to lot 1 of block 17?

A. Yes.

MR. WALLACE: Nothing further, Your Honor.

THE COURT: All right. Mr. Polomski, do you have any redirect?

MR. POLOMSKI: Yes, just a few things.

REDIRECT EXAMINATION

BY MR. POLOMSKI:

Q. Mr. Tridone, what kind of application did North River Shores submit?

A. They submitted an application for the verification of exemption.

Q. And who reviewed those submittals?

A. Myself.

Q. And what were you looking for when you were reviewing those submittals?

A. I was mostly looking for information on the existing and proposed conditions of the dock, whether payment was submitted and the ownership details of the parcel.

Q. Did you review location maps?

A. Yes.

Q. Did you review project drawings?

A. Yes.

Q. Did you review the title determination?

A. I did.

Q. What information was missing from the application?

A. Nothing. I think I processed it pretty quickly.

MR. POLOMSKI: Nothing further.

THE COURT: Mr. Polomski, do you have Mr. Tridone's cell phone number?

MR. POLOMSKI: I do not, but he can provide it over to me quickly.

THE COURT: Do you have his email address?

MR. POLOMSKI: I do.

THE COURT: So you said you wanted to potentially recall him for rebuttal. What I'd like to do if that come's up, we take a recess, you email him and we'll get him back. Mr. Tridone, what I'm going to do is put you in the virtual waiting room. At some point today you may get an email from Mr. Polomski saying you're being recalled.

THE WITNESS: Sounds good. I'll keep an eye on it.

THE COURT: Thank you. So I'll put him in the waiting room.

MR. POLOMSKI: Mr. Winn, you're muted. I don't know if you're trying to speak.

MR. WINN: I wanted to ask if I could ask two follow-up questions to Mr. Polomski.

THE COURT: Again, I'm not a big fan of recross. What did you plan to ask him?

MR. WINN: It had to do with if he reviewed when he reviewed the maps if he asked the applicant if they had ever notified the owners of lot 1 and lot 9, the directly abutting residential lots.

THE COURT: Again, I think that's an issue outside of what I'm here to address. What was your other question?

MR. WINN: I wanted to ask him if, you know, this has to do with the quitclaim deed dated 1957 at a time when the Association was a mandatory association. It represented all the lots in the community. There was a major court case that my Exhibit 17 explains that resulted in 165 of us just letting our old covenant expire and never renewing the new deed restrictions. It's a key factor in the rights to access to the park.

THE COURT: I think that's one of the things I'm going to let you do some proffer testimony on later. I doubt Mr. Tridone is aware of all that.

MR. WINN: He wouldn't be the appropriate

person.

THE COURT: Yes, sir. Why don't we take a break to 11:40 eastern time. Mr. Wallace, who is going to be your next witness?

MR. WALLACE: I may have one more. I was going to think about it on the break, but it would be Dave Weston if so. Otherwise that would complete my witnesses with the exception of the scientist.

THE COURT: All right. We'll see where we are when we get back.

(A recess was taken from 11:29 a.m. to 11:40 a.m.)

THE COURT: So during the break the Department we filed your Exhibits 4, 5 and 6. They appear to be the answers to the discovery requests seem to be unredacted. Like I said, I will accept Joint Exhibits 4, 5 and 6 into evidence, and so Joint Exhibits 1 through 11 are all accepted in evidence.

(Joint Exhibits 4, 5, and 6 were admitted into evidence.)

THE COURT: Mr. Wallace, have you had a chance to think about whether or not you want to call another witness?

MR. WALLACE: Yes, it's going to be very brief. David Weston.

THE COURT: Good morning, Mr. Weston. This is Judge Chisenhall. Let me go ahead and swear you in. Please raise your right hand.

Sir, do you swear or affirm that the testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE COURT: Mr. Wallace, anytime you're ready.

THEREUPON,

DAVID WESTON,

having been first duly sworn by this Court, was examined and testified upon his oath as follows:

D I R E C T E X A M I N A T I O N

BY MR. WALLACE:

Q. Mr. Weston, can you this area on see my screen?

A. Yes, I can.

Q. Do you see this area on the screen labeled *not included*?

A. Yes.

Q. Is that the location of the proposed dock?

A. Yes.

MR. WALLACE: Nothing further.

THE COURT: Mr. Polomski, any direct from you?

MR. POLOMSKI: No, Your Honor.

THE COURT: Mr. Winn, do you have any cross exam.

MR. WINN: Yes, I do.

CROSS-EXAMINATION

BY MR. WINN:

Q. Mr. Weston, did you ever inform our community of the Association's plans for Lake Park prior to an association board meeting that was held on August 19th, 2025?

MR. WALLACE: I'm going to object as outside the scope of direct as well as relevance.

THE COURT: Yes, I'm going to have to sustain that objection. Mr. Winn, since only one question was asked we have to stick to the scope of that question.

BY MR. WINN:

Q. Getting back to the map did you ever notify or coordinate with the owners of lots 1 or 9?

MR. WALLACE: Outside the scope of direct again, Judge, as well as relevance.

MR. WINN: It pertains to the lots right next

to the park where the new structure is supposed to go in.

THE COURT: Yes, but it also pertains to that notice issue, and, like I said, I think it's untimely. I believe you raised it after the prehearing stip was filed and also I'm very skeptical about its relevance. But when you do your case in chief, like I said, I will let you put on testimony about that and I'll give the Respondents a standing objection.

BY MR. WINN:

Q. Who authorized you to apply for Lake Park DEP exception?

MR. WALLACE: Again, outside the scope of the direct.

THE COURT: I will allow that one.

BY MR. WINN:

Q. Who authorized you to apply for the Lake Park DEP exception?

A. I don't know that I understand the question.

Q. Who authorized you, the applicant, to apply for the exception to build a replacement dock in Lake Park? Who authorized you to do that?

A. The board voted on it and the board applied for it.

Q. Does that mean that your board members had the approval of this project by your association?

MR. WALLACE: Objection, outside the scope of direct. I asked a single question.

THE COURT: I'm going to sustain that one.

BY MR. WINN:

Q. Were these plans ever presented to your membership for approval?

MR. WALLACE: Objection, outside the scope.

THE COURT: Mr. Winn, I don't think this is go to be a fruitful line of questioning for you.

BY MR. WINN:

Q. Did you or I ever have a discussion about this park?

MR. WALLACE: Object to relevance and outside the scope.

THE COURT: I'll sustain that one.

Mr. Wallace, any redirect?

MR. WALLACE: No, Your Honor.

THE COURT: Mr. Polomski, any redirect?

MR. POLOMSKI: No, Your Honor.

THE COURT: Can this witness be excused?

MR. WALLACE: Subject to recall. I have his phone number.

THE COURT: Mr. Weston, thank you very much.

You may be recalled at some point later today, so please be available.

Okay. So if I recall correctly, Mr. Gatewood will be available at 1:00 p.m. It's only 11:48. Why don't we break until 1:00 p.m.

Well, Mr. Wallace, do you have any --

MR. WALLACE: No, Your Honor, Mr. Gatewood is our last witness for our preliminary case.

THE COURT: Mr. Polomski, do you plan to call anyone else for your case?

MR. POLOMSKI: No, Your Honor, just Mr. Tridone for rebuttal.

THE COURT: How long do you think Mr. Gatewood will take?

MR. WALLACE: I have probably 15 minutes of questioning for Mr. Gatewood and however long cross-examination is.

MR. WINN: Just one question about the sequestration rule. I need to contact my witnesses and inform them they need to be available after 1:00 sometime?

THE COURT: Yes, sir. I was just getting to that.

MR. WINN: Now, the sequestration rule once one of my witnesses testify can they continue to

observe the proceedings?

THE COURT: They can only do so if we all agree that they are not going to be recalled. Because if they stay, they're absolutely under no circumstances going to be able to testify today. Any other questions, sir?

MR. WINN: None for me, sir.

THE COURT: Mr. Winn, when we get done with the Respondent's case it would be very helpful if you had the cell phone numbers for your witnesses so we can have them ready to go in a reasonably expeditious manner this afternoon.

MR. WINN: That would be after 1:30?

THE COURT: Yes, that would be a very good estimate.

MR. WINN: I will do that, sir.

THE COURT: We are adjourned until 1:00 p.m. I'll see you guys in 70 minutes.

(A recess was taken from 11:50 a.m. to 1:00 p.m.)

THE COURT: All right. Good afternoon, everyone. Let's see. Mr. Wallace, I believe you were going to call Drew Gatewood. I see him in the virtual waiting room. I'll let him in.

MR. WALLACE: Okay.

THE COURT: Mr. Gatewood, I am Judge Chisenhall. I am the Administrative Law Judge assigned to this case. At this time I'm going to swear you in. If you would please rise your right hand.

Sir, do you swear or affirm that the testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE COURT: Thank you very much sir.

Mr. Wallace, anytime you're ready.

THEREUPON,

ANDREW GATEWOOD,

having been first duly sworn by this Court, was examined and testified upon his oath as follows:

D I R E C T E X A M I N A T I O N

BY MR. WALLACE:

Q. Could you tell us where you work?

A. I worked for Advanced Restoration Ecology.

Q. What do you do at Advanced Restoration Ecology?

A. I'm the president of the company. We're an environmental consulting company.

Q. As part of your duties there do you prepare wetland delineations?

A. Yes, that is correct.

Q. Do you hold any certifications for wetland delineation?

A. I have a professional wetland scientist license.

Q. How long have you been a wetland scientist?

A. About ten years.

Q. Were you asked to take some soil borings at Snow Park, the location of the dock we're here in reference to?

A. I was.

Q. I'm going to show you a series of exhibits. The first will be North River Shores Exhibit 13. I'm going to share my screen. Do you recognize this photograph?

A. I do.

Q. Did you take this photograph?

A. I did.

Q. Is that the existing dock that is the subject of the application for repair or replacement?

A. It is.

Q. About how long ago did you take this photograph?

A. Two weeks.

MR. WALLACE: At this time we would move

North River Shores Exhibit 14 into evidence.

THE COURT: Any objection?

MR. POLOMSKI: None from the Department.

THE COURT: Mr. Winn.

MR. WINN: It's very similar to one of the photos that I submitted with my Exhibit 1, and it shows that there is one board at the end that is damaged and the rest of it is functional.

THE COURT: All right. It doesn't sound like you have an objection to me accepting this exhibit into evidence though.

MR. WINN: I would accept it as evidence.

THE COURT: I'm the one that gets to accept as evidence.

MR. WINN: I'm sorry, sir. I do not object.

THE COURT: It's all right. I will accept North River Shores Exhibit 14 into evidence.

MR. WALLACE: Judge, I don't believe Petitioners lodged any objections via stipulation or filing, which I think the order required objections to be lodged to the exhibit list.

THE COURT: All right.

(North River Shores Exhibit 14 was admitted into evidence.)

BY MR. WALLACE:

Q. This is North River Shores Exhibit 13. Can you see my screen?

A. I can.

Q. Do you recognize this photograph?

A. I do.

Q. Did you take this photograph?

A. I did.

Q. What does this photograph show?

A. It shows the soil boring locations that I did.

Q. What is this device at the bottom of this photograph?

A. That's our data logger.

Q. The data logger logs GPS points?

A. It does.

Q. Did you log GPS locations for each of these three locations shown on these photographs?

A. I did.

Q. With regard to this photograph, are the spots of pink spray paint the three locations you took soil borings from?

A. They are. The top one would be the waterward, the middle is the transitional, and the one by the data logger is the upland.

MR. WALLACE: At this time I would admit

North River Shores Exhibit 13 into evidence.

THE COURT: Any objection?

MR. WINN: I have none, Your Honor.

THE COURT: I'll accept North River Shores Exhibit 13 into evidence.

(North River Shores Exhibit 13 was admitted into evidence.)

BY MR. WALLACE:

Q. The one at the bottom of the screen, where is the toe of the existing dock in relation to this point?

A. It would be right in line with it. It will be just to the left of that.

Q. When you're performing wetland delineation, what are you looking for?

A. We're looking for three things, hydrology, soils, hydra characteristics in the soils and vegetation. We have two of three and all three of these --

THE COURT: It looks like he's frozen as well. Sir, your video and audio broke up. Would you remind repeating the answer you just gave for the court reporter?

THE WITNESS: Okay. So for wetland you have to have three characteristics. You have

hydrology, soils and vegetation. For the state you need two of the three and then for the federal you need all three of those.

BY MR. WALLACE:

Q. With regard to the most waterward boring location which is at the top of this photograph, did you observe any indicators of wetlands there?

A. Yes.

Q. Which indicators?

A. I have vegetation there in the form of mangroves. I have the hydrology in the form of stripping, the soils the stripping. I didn't notice any direct hydrology other than geo location, but there was no debris lines that were there or staining or anything.

Q. With regard to the middle point which I think you characterized as the transitional, did you observe any indicators that this would be wetlands when you bored that location?

A. No, there were no indicators there.

Q. Based on there being no indicators of wetlands at that point, how would you characterize this location?

A. That would be an upland soil in an upland data point.

Q. With regard to the most landward point at the bottom of this photograph, did you observe any indicators of wetlands at that point? You broke up again. Could you repeat your answer?

A. I said, I did not, there were no indicators there.

Q. Based on your observations as to the most landward of those points, how would you characterize that location?

A. That would also be an upland point.

Q. I'm now publishing to you North River Shores proposed Exhibit 7. Do you recognize this document?

A. I do.

Q. Did you prepare this document?

A. I did.

Q. What did the three stars on this document represent?

A. Those are the locations where we did the soil borings.

Q. Were these points placed on this aerial with the GPS coordinates?

A. They were.

MR. WALLACE: At this time I would move North River Shores Exhibit 7 into evidence.

THE COURT: Any objection?

MR. POLOMSKI: None from the Department.

MR. WINN: None, Your Honor.

THE COURT: I will accept North River Shores Exhibit 7 into evidence.

(North River Shores Exhibit 7 was admitted into evidence.)

BY MR. WALLACE:

Q. I'm now going to show you North River Shores Exhibit 11. Can you identify that for me?

A. That looks like the wetland data sheet. It says, transitional plug. Never mind.

Q. Would this be the data sheet associated with the middle of the three points you took samples from?

A. Yes.

Q. Is this a form you routinely prepare when you're conducting an analysis of soils?

A. Yes.

Q. Does this form reflect your findings as to the three characteristics of wetlands?

A. It does.

Q. Is that stated in the summary findings with the three questions hydric vegetation present, hydric soil present and wetland hydrology present?

A. It does.

Q. Is this correct that none of those conditions

were observed?

A. Correct.

MR. WALLACE: At this time I would move North River Shores Exhibit 11 into evidence.

THE COURT: Any objection?

MR. POLOMSKI: None from the Department.

MR. WINN: None from the Petitioner.

THE COURT: I will accept North River Shores Exhibit 11 into evidence.

(North River Shores Exhibit 11 was admitted into evidence.)

BY MR. WALLACE:

Q. I'm now going to show you North River Shores Exhibit 10. Is this the data form for the wetland sample that was the most waterward sample you took?

A. Yes, it is.

Q. Okay. And at that most waterward point you did observe all three indicators of wetland?

A. Yes.

MR. WALLACE: At this time I would move North River Shores Exhibit 10 into evidence.

THE COURT: Any objection?

MR. POLOMSKI: None from the Department.

MR. WINN: None from the Petitioner.

THE COURT: I will accept North River Shores

Exhibit 10 into evidence.

(North River Shores Exhibit 10 was admitted into evidence.)

BY MR. WALLACE:

Q. Going back to Exhibit 14, which is the photo of the dock, can you see my cursor?

A. I can.

Q. How would you characterize the approximate 5 feet landward of the toe of this dock whether wetland or upland?

A. The 5 feet landward would be upland.

Q. That's the entire distance of that 5 feet would be upland?

A. Yes.

MR. WALLACE: I have no further questions for the witness at this time.

THE COURT: Mr. Polomski, any questions for this witness?

MR. POLOMSKI: Yes, Your Honor, just a few.

DIRECT EXAMINATION

BY MR. POLOMSKI:

Q. What is your current title at Advanced Restoration Ecology?

A. I'm the president.

Q. How long have you been president?

A. It was founded in 2016, so this is our 10th year.

Q. How would you characterize the work that you conducted at the project site?

A. I don't understand the question.

Q. Okay. What were you asked to do at the project site?

A. I was asked to do soil evaluations to determine where the wetland line would be on this area.

Q. In the span of your career, how many of these similar soil determinations and analyses have you conducted?

A. Hundreds.

MR. POLOMSKI: No further questions.

THE COURT: Mr. Winn, cross for this witness?

MR. WINN: Yes, sir.

CROSS-EXAMINATION

BY MR. WINN:

Q. Mr. Gatewood, you were hired by the North River Shores Property Owners Association. Is that correct?

A. That's correct.

Q. Who was the representative who hired you?

A. I'd have to look at our email chain because I

didn't talk to them all that much. I can get you that information, but I don't know off the top of my head what his name is.

Q. Do you recall if the individual from the Association represented himself as having the authority to hire you?

MR. WALLACE: Objection, relevance.

THE COURT: Yes, I'll sustain that objection.

BY MR. WINN:

Q. A technical question. Are you aware of the fact that this area along Lakeside Trail is hurricane flood plain or hurricane flood zone?

MR. POLOMSKI: Objection. Assumes facts not in evidence.

MR. WALLACE: And I'll object to the relevance of the question.

THE COURT: I will overrule. Sir, you can answer the question if you know.

THE WITNESS: I don't. I could look up FEMA flood maps, but it wouldn't really be relevant to what I was tasked to do out there.

BY MR. WINN:

Q. The final question I have is the data points where you did the boring did you have to rely on any survey data for precise locations?

A. No, my job is to generate the data.

Q. I see.

MR. WINN: That's all I have, Your Honor.

THE COURT: Mr. Wallace, any redirect?

MR. WALLACE: No, Your Honor.

THE COURT: Mr. Polomski, any redirect?

MR. POLOMSKI: No, Your Honor.

THE COURT: Can this witness be released?

MR. WALLACE: Yes.

THE COURT: Sir, thank you very much. You're free to go. Your testimony is over.

MR. WALLACE: At this time we would rest our case.

THE COURT: Okay.

(Respondent North River Shores rests.)

MR. WINN: I have a procedural question.

THE COURT: Let me ask Mr. Polomski. Do you have any additional you want to present?

MR. POLOMSKI: No, Your Honor.

THE COURT: So the Department rests as well?

MR. POLOMSKI: Yes, Your Honor.

(Respondent DEP rests.)

THE COURT: Mr. Winn, go ahead.

MR. WINN: Just an administrative question. When you told me to get the phone numbers to your

clerk I assumed you meant Crystal.

THE COURT: No, she does not need their phone numbers. I want you to have them so when we do your case I want you to be able to get your witnesses online relatively quickly. Now, they could be in a virtual waiting room all afternoon if they want. It might be easier for them when we finish with one witness then we take a short break, you call them.

MR. WINN: I told them to be standing by at 1:30. I've texted them. I made contact with all of them. We were going to get a determination on Lorraine Michnor.

THE COURT: Okay. If I remember correctly, the Respondents objected to her. I think she wasn't disclosed until --

MR. WALLACE: Yesterday.

THE COURT: -- yesterday. So, Mr. Wallace, Mr. Polomski, do you object to her?

MR. WALLACE: I do, Your Honor.

THE COURT: Yes, Mr. Winn, this was well after the prehearing stipulation deadline.

MR. WINN: I understand.

THE COURT: So we're not going to hear from Ms. Michnor. Mr. Winn, this is what we're going

to do. I think now is when you can give the opening statement and start your case in chief, and then after you give your opening you can call your first witness.

MR. WALLACE: Judge, I got a text from my client representative that he's in the waiting room and I just wondered if you could admit him, David Weston.

THE COURT: Sure. Mr. Winn, what was your question?

MR. WINN: This morning when we addressed my exhibits and the objections to them will I have the opportunity to go through each of my exhibits like Mr. Wallace did starting at Exhibit 1?

THE COURT: Yes, we can do that and I can give my rulings on each one. Some of them they did not object to. Do you want to go over them now or do you want to give an opening statement?

MR. WINN: I'll give my opening statement now. I'd like to begin just by introducing myself. My name is Charles J. Winn. I live at 1520 Northwest Lakeside Trail in North River Shores. I am a retired colonel in the United States Army. I trade options and I also am a self-published author. I have a background in the

military construction program for about two years, and I also had extensive exposure to planning field fortifications, which are similar to the process is similar to putting in pilings for a dock, analyzing the impacts of river crossing operations, but I'm not a subject matter expert. I'm not a professional engineer. I am not an attorney.

In our February 13th prehearing conference, I stated my concerns about potential systematic issues in the Department of Environmental Protection's permitting process that possibly need to be corrected, and one of the exhibits in question is my September 8th letter that the DEP witness confirmed was brought to his attention, and that letter specifically was focused on Lake Park, which the Respondents gave the nickname Snow Park to. And even if the enclosure in that letter, which is my 25th of August letter of support to Mr. Torian's petition, is redacted, the photographs pertain to Lake Park. There are photographs attached, so I would propose that this letter which was written to the DEP three weeks before their October 1st exception was issued to the applicant, I would move that that part of it

be considered relevant especially the concerns I raised about the lack of notification or coordinating with any of the affected residents or notifying the community. And I have mentioned that since I responded to the initial order I have raised concerns about the applicant's pattern of inaccurate misleading or false information contained on applications and misidentifying the location of Lake Park as Snow Park. It's relevant because it makes it very difficult to track on public records. Lake Park is the location that is registered with the DEP. I believe that my letter of concern that I sent to the DEP on the 12th of September provided them sufficient notification to closely examine the permit application of the applicant, the Association's permit application regarding their authority to even take out the petition. Nevertheless on the 1st of October the DEP granted the exception as they have indicated relying on Martin County Property Appraiser and Tax Assessor type documents. My petition cited the misidentification of the location and also referred to specific examples of even more serious misidentifications and misinformation they had provided on two previous applications for parks in

this community. And prior to the 12th of August when a grassroots meeting was called in Lake Park by an ad hoc committee of neighborhood residents who called themselves Save North River Shores Parks, prior to that time no one was even aware of these plans for Lake Park, and it wasn't until the association had a board meeting a week later that anybody specifically mentioned plans for this new structure in Lake Park. Now, as plaintiffs we realize that ownership is not within the realm of this court and we're not asking you to make a determination of ownership rather we're asking you to determine whether the applicants ever had the authority to apply for this exception based on the custodial nature of the title that they hold. And one of the exhibits that I've submitted is Exhibit 17 that gives a history of this community and explains how we have commingled 350 residents that are Association members and 165 of us who aren't in that document, which was a deed cited by Mr. Wallace in this morning's testimony, was prepared in 1957 prior to a critical court case that essentially resulted in the Association no longer being a mandatory association. But it did not affect the easement rights that we have as

residents of this community for those four parks. During the time of that 2000 court case the Association essentially became a voluntary association. So I hope that the relevancy of my exhibits particularly on the issues of authorization and notification of the community will be considered before you make your final decision.

Now, I would like to begin going through my exhibits or should I wait until we hear the witnesses?

THE COURT: Let's do this. I've got the Respondents' objections for exhibits. I believe that there's no objection at all to Exhibit 6. So I will accept Petitioner's Exhibit 6 into evidence.

(Petitioner's Exhibit 6 was admitted into evidence.)

MR. WINN: Now, Exhibit 9 of mine is the same as one of the joint exhibits.

THE COURT: Yes. Well, actually your 12, the amended petition, I believe there was no objection to that, we'll accept your 12. Petitioner's 12 accepted.

(Petitioner's Exhibit 12 was admitted into

evidence.)

THE COURT: So the Association objects to your 14 or does not object to your 14, but the Department does. They object to the junction photo of the navigation channel to the Saint Lucie River and Three-Mile Lake. Mr. Winn, did one of your witnesses take that photograph?

MR. WINN: I took the photograph from the dock and the relevance is that it's really a navigational issue and perhaps this is probably outside of the scope of responsibilities of the DEP, but the agency that has jurisdiction should have reviewed it. This could be a systematic problem when fish and wildlife may have been, you know, I raised the issue with the manatees and whether or not that was an aquatic resource covered by DEP. If not, is it fish and wildlife? That could be a systematic issue in the permitting process when there are more than one agencies involved with overlapping jurisdiction.

THE COURT: So I've reviewed your list of exhibits along with objections from Respondents. As I said, I will accept 6 and 12. I do agree with the Respondents on the other objections for the most part, maybe not for all the reasons. I

think I will accept your 6 and 12. And like I said, sir, when your witnesses talk about the topics that are relevant- well, let me ask you. The easiest way to do it would be for you to call your witness who you plan to ask about the exemption criteria, you get that out of the way, and then for the rest of your time you can talk about all the issues that I don't think are relevant but that you think are relevant. That might be the easiest way to handle this if you're in agreement.

MR. WINN: That sounds fair to me and I think Mr. Torian would be the subject matter expert on exemptions.

THE COURT: Okay. So what I would like to do is I would like for you to call him as your first witness and then find out. You can question him about the exemption criteria and I might chime in. And then you can ask him whatever else you want to talk about. I'll give the Respondents a standing objection at that point probably. So why don't we take a short five-minute recess. You can call Mr. Torian and we'll take his testimony.

MR. WINN: Sounds good.

THE COURT: So I'll see you all in five

minutes.

(A recess was taken from 1:36 p.m. to 1:43 p.m.)

THE COURT: Mr. Winn, are you still planning on calling Mr. Torian and Ms. Banks as witness?

MR. WINN: Yes, it would be Torian, Banks and Minetti.

THE COURT: So, Ms. Banks, since the rule was invoked when I let Mr. Torian and Ms. Banks in, it looks like they might physically be in the same space, so I might have to ask Ms. Banks to go to a different room while Mr. Torian is testifying.

MR. WINN: That's fine with me.

THE COURT: Just wanted to let you know.

Mr. Torian, can you hear me? Is Ms. Banks there with you?

MR. TORIAN: Yes, she is.

THE COURT: Ms. Banks, it's a long story, but earlier today the rule of sequestration was invoked and because of that I can't have you being in the same space with Mr. Torian while he's testifying. So if you wouldn't mind, could you go to another part of that residence while he's testifying? Thank you very much.

Mr. Torian, let me go ahead and swear you in.

Please rise your right hand.

Sir, do you swear or affirm that any testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE COURT: Thank you very much, sir.

Mr. Winn, I believe as we discussed before you're going to talk about exemption criteria with this witness, and then whatever you don't cover I might have a few questions, and then I will turn you loose to do a proffer if you will and I'll give the respondents a standing objection.

MR. WINN: Do I have to get to the exemption criteria immediately?

THE COURT: No, you can ask some preliminary questions. I'd like to know who this gentleman is, what his relationship to the case is, why he's aware of the case.

MR. WINN: Because if it wasn't for Mr. Torian, I would not know what the applicant is up to in Lake Park.

THE COURT: Yes. I'd like to hear some preliminary questions first about why he's here and all that and then the exemption criteria.

THEREUPON,

ROBERT TORIAN,

having been first duly sworn by this Court, was examined and testified upon his oath as follows:

D I R E C T E X A M I N A T I O N

BY MR. WINN:

Q. Could you please state your name, where you reside and how long you've lived there?

A. Robert Torian, 1876 Northwest Fork Road, Stuart, and been here since 2016.

Q. This is within the community of North River Shores?

A. Yes.

Q. When did you first become aware of the applicant's plan, and the applicant being North River Shores Property Owners Association, Incorporated, when did you become aware of their board of directors' plans for building docks in Lake Park?

A. I believe that was somewhere around September of 2025, I believe. I'm checking my notes here. And I only knew that because I went on the DEP website and saw they had --

MR. WALLACE: Judge, I would just lodge an objection to testifying from notes.

THE COURT: Yes. Mr. Torian, the best you can rely on your own memory. And if you do need

your memory refreshed, there is a process to go through that. But for now put away your notes. If you need your memory refreshed, then tell Mr. Winn and we'll go through the process.

THE WITNESS: I believe it was September 2025 where I saw it on the DEP website that they had applied for an exemption and were granted one.

BY MR. WINN:

Q. Was this approximately a month after you and I became acquainted?

A. Yes.

Q. Are you a member of the North River Shores Property Owners Association?

A. Yes, my family house I live in is in a trust and the property I live on is a member property of the Association.

Q. Are you a member of an organization known as Save North River Shores Park?

A. Yes.

Q. Did you ever receive any mailings or meeting notices or any kind of communications from the applicant being the Association that addressed plans for their projects in Lake Park or any other parks?

MR. WALLACE: Objection. Relevance.

MR. WINN: Well, this is Lake Park.

THE COURT: We're getting into those areas that I mentioned earlier that I don't think they're relevant to what I'm authorized to rule on. Like I said, I think at this point you go to exemption criteria. We can find out what this witness knows with regard to section 403.813(1)(d). Once we get passed that then we can get into all these other issues.

MR. WINN: That's the criteria of identical footprint, removal and replacement of an existing dock.

THE COURT: Yes, sir. Yes.

BY MR. WINN:

Q. Regarding Lake Park have you ever seen the site and seen the dock?

A. I have.

Q. And are there very heavy patches of mangroves on both sides of the dock and underneath the dock?

A. Yes, there are.

Q. Did you see any structural defects with that dock other than the board as you step onto it from the upland side?

A. I did not.

Q. How did you manage to- let me get into another question. Were you involved with the mailing

that was postmarked the 6th of August 2025 by an ad hoc community group that organized the grassroots meeting on Lake Park on August 12, 2025?

MR. WALLACE: Objection. Relevance.

THE COURT: Mr. Winn, before we get to that I'll just interject. Mr. Torian, I'm just going to cut to the chase here. For the record, I'm referencing section 43.813(1)(d). Do you know anything about whether or not fill material will be used for the replacement dock?

THE WITNESS: I do not know that.

THE COURT: Do you know anything about with regard to whether or not the new dock will be within 5 feet of the same location as the existing dock?

THE WITNESS: I've seen no survey, so I would not know that.

THE COURT: Do you know anything about whether the new dock will be larger than the existing dock?

THE WITNESS: It will be larger.

THE COURT: What's your basis for saying that?

THE WITNESS: Their plans that they submitted to DEP.

THE COURT: In what way will it be larger?

THE WITNESS: Square footage will be larger than the existing dock.

THE COURT: Is that all you know with regard to that aspect?

THE WITNESS: I believe so.

THE COURT: Do you know anything about whether any aquatic resources will be adversely and permanently impacted by the replacement dock.

MR. WALLACE: Judge, as we get into that I believe that calls for an expert opinion. I'll lodge that objection.

THE COURT: I will note the objection. For now I will say it goes to the weight that I'll allow his testimony and I will allow the witness to testify. You can answer if know anything.

THE WITNESS: There are manatees and dolphin and other aquatic species back there that will probably be impacted.

THE COURT: What's the basis for that testimony?

THE WITNESS: I live on the water and I have pictures and videos of those species there frequently.

THE COURT: You may get cross-examined on

that point, but that's all I have. So as I was saying, at this point, Mr. Winn, what I'd like to do is basically turn you loose. Mr. Wallace, Mr. Polomski, I will grant you standing objections based on relevance. And, Mr. Winn, you can go into these areas that I've already determined are not relevant to what I have to consider. Unless anyone has any objection I will go ahead and proceed that way.

MR. WALLACE: Judge, it kind of folds into the relevance objection. Also, I would like a standing objection to just a lack of jurisdiction. I think it's a similar objection.

THE COURT: Absolutely, I'll give you standing objection on that ground. Mr. Polomski, you'll probably join in that?

MR. POLOMSKI: Yes, I would.

THE COURT: So at this point we're essentially going to be proffering testimony.

And, Mr. Winn, you may ask questions now.

PROFFER BY MR. WINN:

Q. Just getting back to the permitting process, do you have any experience with the permitting process that the Department of Environmental Protection follows regarding exemptions?

A. I do.
Q. And how are you involved in the process?
A. I've permitted a few docks on my end.
Q. And when you applied for the DEP permits, did you apply for permits or exemptions?
A. Exemptions.
Q. When you applied for the exemptions did you notify other affected property owners?
A. I notified my neighbor.
Q. Did you ever undertake a similar project for an association?
A. I've never personally, no.
Q. Are you familiar with any Florida statutes or anything in the administrative code that requires the coordination by an applicant to the DEP for a permit to inform the affected property owners of their plans of this type of a project?
A. Yes.
Q. What is that?
A. It's in their exemption when you file for the exemption. When you receive it, it says you should notify all affected property owners nearby this parcel when the construction is going in place, and we were never notified.
Q. I see. We were never notified that means?

A. The Association in general, membership.

Q. The Association membership was not even and you're one of the 350 of the 525 homeowners in North River Shores who are covered by the Association?

MR. WALLACE: Sorry I didn't cover this. It's going to come up. I would also note an objection as to standing. Mr. Winn and Mrs. Winn, who are not members of the associations, to complain about notification supposedly required to the members of the association.

THE COURT: All right. I will give you a standing objection on that ground as well.

MR. WINN: I will be following this up citing four cases in case law decisions that address the easement rights of residents like us in communities like ours.

BY MR. WINN:

Q. Mr. Torian do you have any members on your street that aren't association members?

A. I'm sorry.

Q. Are any of your neighbors on your street are any of them non-association members?

A. Yes, there is a handful. Some are in. Some are not in the association.

Q. Are the people that live on the property on

the other side of North Shore Park in the association? I believe those are the Morleys?

A. They are not.

Q. They are not and they live right next to North Shore Park, the part next to your home?

A. Yes, sir.

Q. Were you involved with a mailing postmarked 6th of August 2025? There's a letter there dated the 3rd of August by an ad hoc community group that organized the grassroots meeting in Lake Park on the 12th of August 2025?

A. I was.

Q. Is this ad hoc core group now known as Save North River Shores Parks and do you perform any functions for them?

A. Yes, I do a little communication work for them.

Q. What type of communications functions do you perform for them?

A. Neighborhood mailings, social media postings, just getting information out that our board does not push out to the community.

Q. Were there any mailings ever done by the Association before you set out this mailing postmarked the 6th of August 2025?

A. No, the board has not made anyone aware of dock projects in the mail.

THE COURT: Sir, part of your testimony cut out.

THE WITNESS: Sure. The board of the association has not made any of these dock project plans aware to the membership in a mailing.

BY MR. WINN:

Q. Did you attend the August 12th, 2025 Lake Park meeting?

A. I did.

Q. What kind of a meeting was it?

A. It was a group of community members concerned about things that were happening that none of us were made aware of and that we're all financially on the hook for as well and no one was aware of it and no one was for the projects either.

Q. Approximately how many people attended?

A. Between 50 and 60 people.

Q. Could you just summarize the types of issues that you discussed? Were you the chairman of this meeting?

A. I was an organizer. I wasn't leading it by any means. Mostly it was covering the projects that were being done on our behalf without our knowledge,

but we are financially liable for and on the hook for, and no one was made aware of any of these projects.

Q. By we do you mean?

A. Association members in the community.

Q. Did any of the applicant's agents that is any of the members of the association's board of directors attend that August 12th meeting?

A. The only one that I was aware of was Timothy Newton.

Q. And what position does he hold?

A. I believe at the time this was the president of the board.

Q. Did he participate or discuss anything in this meeting?

A. He did. He came in and interjected himself and tried to take over the meeting per se while one of our members were speaking, a lady. And then he got into a back and forth with a lot of the members of the community, and then once he found out who I was he left quickly for some reason.

Q. Did he address any plans for any kind of projects in Lake Park?

A. Yes, at the time --

Q. This was right next to the dock going --

A. Yes, this was in the park 10, 20 feet away

from the dock itself. At the time it was just about North Shore Park and --

Q. I'm sorry. You referred to the time?

A. The meeting was mostly about the boat ramp dock and North Shore. He didn't address Lake Park at all. None of us at the time knew that Lake Park was going to be a project.

Q. Did he discuss any details about plans or indicate that the community had ever been informed about these plans?

A. A lot of members brought that up to him, the fact that no one was informed. He intimated that he didn't need their consent for some reason and it was full steam ahead. His words directly. That was pretty much it.

Q. He was talking about your fellow association members not people like me who aren't in the Association, correct?

A. That's right. Paying members, yes.

Q. Would you say most of the people who attended were association members?

A. Yes, as far as I'm aware a lot of people signed in on the sign in-sheet and they were association members.

Q. Now, your mailing of August 3rd- did your

mailing of August 3rd also inform the members of a board meeting scheduled for August 19th?

A. I believe so.

Q. That was a week after your August 12th meeting in Lake Park?

A. Yes.

Q. Did you attend that August 19th North River Shores Association Board of Directors meeting?

A. I did.

Q. While you were at that meeting did any Association directors specifically address Lake Park?

A. To the best of my recollection, they did not address any plans for Lake Park for that meeting.

Q. Did they make any statements about a concept for doing anything in Lake Park?

A. Not that I recall, no.

Q. Did they say anything about making that waterfront accessible I believe is the term?

A. I do remember Dave West and Tim both saying they wanted to make the parks in general more accessible to boating or tieing up boats or to boating in general, something of those words.

Q. When was the first time you became aware that the applicants actually had plans for removing and replacing the existing dock at Lake Park?

A. I believe that was when I saw their exemption granted on the DEP website. I believe I'm going to say that was September 25 I believe.

Q. How long was that after the 19th of August board meeting? It was within a few weeks of that?

A. Yes. Yes.

Q. Between that board meeting and when they made application for this Lake Park project, did they make any effort to notify the community or inform the community?

A. No substantive effort, no mailings, no large scale address at a board meeting. There wasn't an effort to inform anyone.

Q. Even association members like you? Did association members receive any mailings?

A. No. No, and they need a vote from all the membership to spend the money and to even approve of their application for a permit for exemption, which they did not do. They just did it unilaterally.

Q. Since you helped organize that August 12 Save Our North River Shores Parks meetings, have you been monitoring the public record sections of the Florida Department of Environmental Protection and the Martin County Building Department?

A. Yes.

Q. Did you discover any inconsistencies in the information that the applicant provided about projects to the DEP and what they provided on their Martin County Building Department permit applications?

A. I did. It appears that the exemption application for Lake Park through DEP was residential related at least. In the applications on the Martin County website, they applied three times for three different permits on the Martin County website for the singular dock, two of which were residential, one of which was commercial. Now, I don't know why someone would do that.

Q. Do you happen to know what type of permit the current application, the current active permit is for? Is it for a residential or a commercial dock?

A. They canceled the residential that they were granted and they went with the commercial that was granted via Martin County.

Q. So, in other words, they applied to DEP to remove and replace a dock on a lot that's designated a residential lot and then they went and they ended up applying to the Martin County Building Department for a commercial dock permit which is the permit they currently have?

A. Yes.

MR. WINN: That's all I have at this time.

THE COURT: All right. Mr. Wallace, do you want to do any cross-exam?

MR. WALLACE: Yes, I do.

CROSS-EXAMINATION

BY MR. WALLACE:

Q. Can you hear me?

A. Yes, sir.

Q. Mr. Torian, you've stated that you've applied for a couple of exemptions on your property?

A. Yes.

Q. Have you built the dock that that exemption or those exemptions were applicable to?

A. Yes.

Q. How big is your dock?

A. It's I don't know the exact square footage, I'd have to bring up my perit plans.

Q. How many slips does it have?

A. It has one slip and two lifts.

Q. Do each of those lifts and slips accommodate a power boat?

A. Yes.

Q. You mentioned earlier that you said something about the exemption somewhere stating that you should talk to your neighbors. Is that correct?

A. Yes.

Q. Can you give me the Florida statue citation for any statute that would require an applicant to provide notice to any members of any association for a dock exemption permit verification?

A. I believe it's on page 2 on the exemption that you get from the DEP that talks about notice.

Q. I think you misunderstood my question. I'm asking for a citation to the Florida statutes that require any such notification.

A. I don't have that in front of me.

Q. Are you aware of any provision within the Florida administrative code that requires an applicant to give notice for a verification of exemption to their neighbors?

A. Not offhand. I'm looking at your exemption right now.

Q. I believe you said that this notice provision is on page 2 of the exemption?

A. Yes, I'm trying to find it right now. I'm sorry. I can't find it. I'll have to look at that later.

Q. Unfortunately, we are here right now. This is my opportunity to cross-examine you. I'd like you to take as much time as possible to find the language

requiring notification in the exemption?

A. Okay. (Perusing.)

MR. WINN: Your Honor.

THE COURT: Yes, sir.

MR. WINN: I believe that a statute and provision of the Florida code --

MR. WALLACE: Objection, Judge. He can't tell the witness the answer to the question that's already been asked.

THE COURT: Yeah, Mr. Winn I think that's kind of ---

MR. WINN: I wasn't going to answer the question. I was just going to refer you to a document I submitted that might contain the answer which was my attempt to add those points of law and points of fact to the stipulation document.

THE COURT: Again, you're not the one testifying right now.

THE WITNESS: Isn't the statute 120.57 under the same area where you have the right to submit a petition if you're substantially affected by this DEP project and you don't have proper notice?

BY MR. WALLACE:

Q. Well, I mean, 120.57 is part of the administrative procedure act, but my question is where

is it specifically required to provide notice, not may provide notice, but you're required to provide notice to a neighboring property owner or anyone else aside from the Department?

A. As far as I know under 120.57 that's where the notice was listed and also your right to a administrative hearing because you're affected by this.

Q. Is it your contention that 120.57 requires an applicant to provide actual notice to any property owner or member of a homeowners association within the project area?

A. Say the homeowners association part one more time.

Q. Is it your contention that Chapter 120.57 required North River Shores to give actual notice to a member of the homeowners association?

A. I doesn't really matter if you're a member of the association. It matters if you're an affected person.

Q. So is it your contention that 120.57 requires the applicant to give actual notice to any person potentially affected by the verification for exemption?

A. It's my understanding. Now, I'm not a

lawyer, so.

Q. Are you a wetland scientist?

A. No.

Q. You're not a certified arborist?

A. No.

Q. You're not a biologist?

A. No.

MR. WALLACE: Nothing further, Judge.

THE COURT: Mr. Polomski, do you have any cross exam?

MR. POLOMSKI: Yes, just a few.

CROSS-EXAMINATION

BY MR. POLOMSKI:

Q. Mr. Torian, when I say project, I'm referring to the specific dock exemption that Mr. Winn is petitioning. Does that work for you?

A. Sure.

Q. And you understand that Mr. Winn petitioned the exemption associated with this project and that's why we're here today. Is that your understanding?

A. Yes.

Q. You hadn't petitioned this project, did you?

A. No.

Q. Your house isn't adjacent to this project, is it?

A. No, but it's in the community.

Q. In fact, your house is not even located on the canal the project is located on, is it?

A. Correct.

Q. Do you think the North River Shores Property Owners Association should provide better notice of their activities to their members?

A. Yes, because we're paying for this.

Q. Do you agree that your issues with the North River Shores Property Owners Association activities should be taken up with the North River Shores Property Owners Association?

A. Yes, and we've tried to do that, but they're unresponsive, so we're left with no other option.

MR. POLOMSKI: No further questions.

THE COURT: Mr. Winn, do you have any redirect?

MR. WINN: Last question.

R E D I R E C T E X A M I N A T I O N

BY MR. WINN:

Q. Mr. Torian, are you aware of an action taken by association members calling a special meeting for the express purpose of considering a recall of all the board of directors involved with this project?

A. Yes, sir.

Q. Does this cite specific violations made of these bylaws by these directors?

A. Yes, it does.

Q. Is this the requirement that the directors had to have these projects approved as capital projects by two thirds of their members at a meeting comprised of a supermajority super quorum of not less than 30%? Is that what you're referring to?

A. Yes, that's correct.

Q. Was there ever a special meeting held that approved these projects that you're aware of?

A. No, there was never a special meeting to approve these projects nor hire outside litigation as well.

Q. Have you received any newsletters from the Association in the last four years?

A. I don't believe so.

Q. Did you receive any last year?

A. No.

Q. Did you receive any the year before?

A. No.

Q. Did you receive any meeting notices in the mail or by email?

A. No.

MR. WINN: That's all I have, Your Honor.

THE COURT: I'll just reiterate that it's my opinion I don't have the authority to intervene or resolve the dispute between association members, but I think this ends the proffer of Mr. Torian's testimony. Mr. Winn, which witness did you want to call next?

MR. WINN: I would like to call Shauna Banks.

THE COURT: All right. So, Mr. Torian, since the rule of sequestration was invoked earlier I'm going to have to ask you to go to a separate part of your residence while Ms. Banks testifies. If you could, ask her to come to the camera.

MR. WINN: I will.

THE COURT: Thank you, sir. Mr. Winn, do you plan to ask Ms. Banks anything about the exemption criteria in rule or statute?

MR. WINN: No, I plan to ask her questions that are process oriented, the permitting process and the due diligence on the part of DEP. I believe it was established in this morning's testimony that the DEP relied heavily upon that Martin County Property Appraiser document that's mainly used for tax purpose.

THE COURT: The reason I asked that is because I think what we'll end up doing is

offering all of her testimony after I swear her in and I'll give the Respondent's a standing objection based on relevance.

Ms. Banks, thank you very much. At this time let me swear you in. Please raise your right hand.

Ma'am, do you swear or affirm that the testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: Yes.

MR. WALLACE: I would also like a standing objection on jurisdiction.

THE COURT: Yes, sir, you may have that. Mr. Polomski, do you join in that objection?

MR. POLOMSKI: Yes, Your Honor.

THE COURT: So we've go the standing objections on the record.

So we'll start the proffer of her testimony right now, Mr. Winn, and you may begin your direct exam.

THEREUPON,

SHAUNA BANKS,

having been first duly sworn by this Court, was examined and testified upon her oath as follows:

PROFFER BY MR. WINN:

Q. Could you please state your name again and where you reside?

A. Shauna Banks, 1876 Northwest Fork Road, Stuart, Florida 34994.

Q. And is that address within the community of North River Shores?

A. Yes.

Q. When did you first become aware of the applicant's plans for building docks in Lake Park and North Shore Park?

A. North Shore was September 2024 and Lake Park was September 2025.

Q. Are you a member of the North River Shores Property Owners Association?

A. Our home is held in a family trust and our property is part of the POA.

Q. Prior to March 3rd, 2025, did the Association attempt to inform the community or its members of any public meetings about plans for any of the parks?

A. No.

Q. Did you receive any mailings or meeting notices from the applicant, North River Shores Property Owners Association, that addressed plans for any of these capital projects in any of these

community parks?

A. No.

Q. How did you become aware of these plans?

A. For North Shore or Lake Park?

Q. For both?

A. North Shore was we saw a lady in the North Shore Park one afternoon in September 2024 and she had said she was hired by Dave Weston to draw up plans for a dock, and then Lake Park we discovered it on the DEP website in September of 2025.

Q. Were you involved with a mailing postmarked the 6th of August 2025 at a grassroots community meeting held at Lake Park on August 12, 2025?

A. Yes.

Q. And is this the ad hoc group that's now known as Save North River Shores Parks, and in what capacity do you function?

A. Yes, it is the group and I'm one of the people that help get information about what's going on.

Q. This is coordinating the dissemination of information?

A. Yes.

Q. How do you get this information out?

A. Website, DEP website, look up exemptions,

public records.

Q. How do you inform the members of your ad hoc committee?

A. We have a Facebook group and we also sent out a mailer.

Q. I see. That's like the one you sent out in August announcing grassroots meeting in Lake Park?

A. Yes.

Q. Are you familiar with the permitting process for applying for these exemptions for these projects?

A. Yes, pretty much.

Q. Have you participated in any appeals for any of these projects?

A. Yes.

Q. You said you monitor public websites to determine the status of these exemption applications and permit applications?

A. Yes.

Q. And can you tell me what website you looked at?

A. The DEP website, Martin County permitting website.

Q. That's the building department website of Martin County?

A. Yes.

Q. Did you notice any discrepancies between the DEP exemption for Lake Park and the permit applications that the applicant submitted to the Martin County Building Department?

A. I did notice that it went back and forth between residential, commercial, residential.

Q. Do you know what type of lot the exception was granted for by DEP?

A. The not included?

Q. The type of dock that DEP issued the exception for?

A. Repair and replace.

Q. Do you know what type of dock it was?

A. It was a fishing pier.

Q. Do you know if it was a commercial or residential structure?

A. I personally don't know. I just saw it listed as commercial and residential.

Q. You're talking about with the building department in Martin County?

A. Yes.

Q. Did you attend that August 12, 2025 meeting at Lake Park?

A. I got there when it had ended.

Q. Do you know if any of the applicant's agents,

named directors of the association board of directors members did any of them attend?

A. Tim Newton was there, the president at the time.

Q. But you said you weren't present?

A. I showed up at the end.

Q. Did you catch anything about what was discussed?

A. No, I was not there when he spoke.

Q. In September of 2025, did I transmit a letter of support to the DEP supporting an appeal associated with a petition associated with the North Shore Park petition?

A. Yes.

Q. This was a notarized sworn statement, correct?

A. Yes.

Q. Do you remember what it addressed?

A. For North Shores?

Q. For North Shores? Was it more process oriented?

A. Yes.

Q. What aspects of the process did I address in regards to the applicant's behavior?

A. That you did not know anything was going on,

nobody heard of anything.

Q. And did you attend the August 19th, 2025 board meeting?

A. I did not.

Q. In-between the August 19, 2025 board meeting and the association's annual meeting on November 18, 2025, did the Association make any effort to disclose their plans for Lake Park to at least their members if not the entire community?

A. No.

Q. Did you attend the- there were two meetings on November 18, 2025. Did you attend either of those meetings?

A. Yes.

Q. Did the applicants give any of the attendees an opportunity to provide input on these plans they have for Lake Park or any of the other parks?

A. They did not.

Q. Did they refuse, is that what you mean, they refused to receive comments from the attendees?

A. Exactly, yes.

Q. Even though they had speaking privileges as members under Robert's rules?

A. Yes.

Q. Are you aware of a recent petition calling a

special meeting of North River Shores Association members?

A. Yes.

Q. What is the purpose of that meeting?

A. To recall the board for what they have done or lack thereof, and it is also to stop all projects that were not discussed or voted upon.

MR. WINN: That's all I have. Thank you very much.

THE COURT: Mr. Wallace, any cross?

MR. WALLACE: Yes.

CROSS-EXAMINATION

BY MR. WALLACE:

Q. You testified earlier that you saw a female at one of the parks in September of 2025, correct?

A. Yes.

Q. Which park was that?

A. North Shores.

Q. Where is North Shores located?

A. It's in Fork Road.

Q. Where in relation to your property?

A. Right next to us.

Q. You said that was September 2024?

A. Yes.

Q. You mentioned also that you periodically

monitor the website for DEP. Is that the DEP Oculus website?

A. Yes, I believe so.

Q. Sorry. Was there something else?

A. My husband always pulls it up, so we check it occasionally to see what's going on.

Q. How long have you been monitoring DEP Oculus?

A. Maybe since July.

Q. Of which year?

A. 2025.

Q. When did you learn of the issuance of the verification of exemption for North Shores Park?

A. Neighbors that hired attorneys for something with the board obtained the records, and as we were going through that we noticed there was a DEP exemption for North Shore Park.

Q. And when was that?

A. That was the beginning of July.

Q. You mentioned your home is owned in a trust?

A. Yes.

Q. What's the name of that trust?

A. Handly (phonetic) Trust.

Q. Are you a trustee of that trust?

A. I am not.

Q. Who are the trustees of that trust?

A. I'm not certain.

Q. What is your relationship to Mr. Torian if any?

A. He is my fiancée.

MR. WALLACE: Nothing fourth.

THE COURT: Mr. Polomski, do you have any cross?

MR. POLOMSKI: Just a few.

CROSS-EXAMINATION

BY MR. POLOMSKI:

Q. Ms. Banks, you didn't petition this project, did you?

A. The Lake Park?

Q. Okay. So this is a hearing on the exemption that was granted that's the park that's located on Lakeside Trail.

A. Right. I did not.

Q. Your house isn't adjacent to this project, is it?

A. No.

Q. In fact, your house is not even located on the canal that this project is located on, is it?

A. No.

Q. Your issues with the property owners association's activities should be taken up with the

property owners association, right?

A. Yes.

MR. POLOMSKI: No further questions.

THE COURT: Mr. Winn, any redirect?

MR. WINN: Yes, I have one.

FURTHER PROFFER BY MR. WINN:

Q. You mentioned that in July of 2025 that was when you became aware that the Association had taken out a DEP exemption for the North Shores Park?

A. Correct.

Q. And that was about the time that you and your neighbors began organizing the North River Shores Save Our Parks ad hoc group?

A. Yes, because nobody knew about this project and we wanted to see what was going on.

Q. Prior to my receiving that mailing your group put together, had you ever had any contact with me?

A. No.

Q. And you had never met me before?

A. No.

Q. When was the first time you met me approximately?

A. Probably end of August, early September.

Q. Would that have been after the ad hoc group meeting in the park and the August board meeting?

A. Yes.

Q. And the August 19th board meeting?

A. Yes.

MR. WINN: Thank you very much.

THE COURT: Mr. Winn, can Ms. Banks and Mr. Torian be released?

MR. WINN: I don't see any need to hold them back.

THE COURT: In that case, Ms. Banks, you're free to log off.

MR. WINN: Are they authorized to watch the proceedings?

THE COURT: If they'd like to, but as I said before under no circumstances will they be allowed to testify again in the hearing if they remain.

MR. WINN: It may be in my interest not to have them monitor the proceedings from this point, right?

THE COURT: I'm sorry, can you repeat that?

MR. WINN: It may not be in the petitioners' interest to have them monitoring in case something comes up where I have to call them to redirect?

THE COURT: That's correct. That's your decision.

MR. WINN: I would prefer to have Ms. Banks

and Mr. Torian subject to recall.

THE WITNESS: Ms. Banks, in that case, you can log off.

Mr. Winn, who is your next witness?

MR. WINN: My next witness is Kelly Perelli-Minetti.

THE COURT: Okay. I see her in the waiting room. Why don't we take a five-minute break though before we start with Ms. Minetti's testimony. I'll see you all in five minutes.

(A recess was taken from 2:37 p.m. to 2:44 p.m.)

THE COURT: Ms. Minetti, please raise your right hand so I can swear you in.

Ma'am, do you swear or affirm that any testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE COURT: Mr. Winn, are you going to ask Ms. Minetti anything about the exemption criteria in section 403.1813?

MR. WINN: The technical aspects regarding the footprint?

THE COURT: Yes.

MR. WINN: No, technical questions.

THE COURT: So in that case what we're going to do is your questioning of her is going to be a proffer. Mr. Wallace and Mr. Polomski will get standing objections based on relevance. Probably jurisdiction as well, Mr. Wallace?

MR. WALLACE: Yes, sir.

THE COURT: We'll go from there. Mr. Winn, go ahead and begin your direct exam.

THEREUPON,

KELLY PERELLI-MINETTI,

having been first duly sworn by this Court, was examined and testified upon her oath as follows:

PROFFER BY MR. WINN:

Q. Sorry to keep you waiting this long, and I appreciate you standing by. Please state your name, address and how long you've lived there?

A. Kelly Perelli-Minetti. I live at 2016 Northwest Fork Road in Stuart, Florida. It's in the North River Shores Association and we've been here for about nine years.

Q. When did you first become aware of the applicant and the applicant being the North River Shores Property Owners Association Incorporated Board of Director's plans for building docks for the dock projects in Lake Park and North Shore Park?

A. The first I heard of North Shore was a letter from neighbors alerting us what was going on and I didn't hear about the Lake Park until the August board meeting.

Q. Are you referring to a mailing dated the 3rd of August 2025 and postmarked August 6, 2025 from the community grassroots movement that contained a letter expressing concerns about the applicant's plans for parks along with meeting announcement for a grassroots meeting in Lake Park?

A. Correct.

Q. And they also announced a subsequent board meeting that the Association directors were holding a week later?

A. Correct.

Q. Did you attend the meeting in Lake Park?

A. I did.

Q. Prior to that meeting did you ever receive any mailings or meeting notices, emails, any type of communications from the applicant that addressed plans for these capital projects in any of the North River Shores parks?

A. No communication.

Q. And you said that you attended the August 12th, 2025 meeting in Lake Park?

A. Yes.

Q. Did any of the applicant's agents being North River Shores Property Owners Association directors attend that August 12, 2025 meeting?

A. Yes.

Q. Do you remember who these directors were?

A. The grassroots meeting that we held at Lake Park was Tim Newton, the president.

Q. Can you remember anything he said about plans for Lake Park?

A. I don't remember word for word what he said, but basically the interpretation that I got was that the board's going to do whatever they want to do and there's nothing anybody can say about it.

Q. Were you present at the subsequent board meeting of the North River Shores Property Owners Association that was held on August 19th, 2025 a week later?

A. Yes.

Q. While at that meeting did you hear association directors make statements to the effect that we want to make Lake Park waterfront accessible?

A. Yes.

Q. Do you remember who those directors were?

A. I don't remember exactly who said it.

Q. Did you ever contact the Florida DEP expressing your concerns over the applicant's lack of transparency during the permitting process for either North Shore Park or Lake Park?

A. Yes, via email.

Q. And these were letters for both parks?

A. I believe so, yes.

Q. Did you ever get an acknowledgment from the DEP?

A. No, I did not.

Q. Have you ever experienced a hurricane during your eight years here in North River Shores?

A. Have we had hurricanes, have I physically been here during them, no, because we go on hurrication. But yes, my house has been through hurricanes.

Q. Do you pay for flood insurance?

A. Oh, yes.

Q. Would it be safe to say that these homes along the roads near the canals are hurricane flood zones?

A. They absolutely are. We get flooded every time.

Q. Are you familiar do you have any kind of a science background and do you know anything about the

roles that mangroves have?

A. I don't. I'm sorry.

Q. Were you recently elected to the North River Shores Property Owners Association Board of Directors?

A. I was.

Q. When did this occur?

A. The election happened on November 18th and I was informed by Tim that I was elected on November 21st.

Q. Why did you decide to run in that? Was that a contested election?

A. Yes, I mean, there's a lot of, you know, typically when things like this are going on there's a lot of emotions in the neighborhood, but the big reason I ran was the board was taking actions but there was no communication of any sort especially according to our bylaws, which required them to produce a newsletter that goes to all residents about all activities and that hadn't been going out for I don't remember. I mean, looking back it looked like it was years, so nobody knew what was going on. And I felt like if we could just communicate because everything at the August board meeting was the neighborhood is complaining you're not telling us about this, you're not listening to us, you're not

giving us any input, you're just doing things and spending our reserve money, which was my biggest concern is that they're spending our money that in 2025 that wasn't approved and I just wanted to make a difference and say I know I can fix the communication issues if I can get involved, so that's why I ran.

Q. You addressed communications issues. Are you referring specifically to The Scoop, the official Association newsletter?

A. Basically, yes, especially that, but any communication. We received none.

Q. Now, are you familiar with the North River Shores bylaws?

A. Yes.

Q. Do the bylaws require the board to use The Scoop as the official channel of communications to the members?

A. Yes.

Q. Within the last 12 months have the applicants ever put out any communications either through The Scoop or by email, by any type of mailing to their members or to anybody in the community?

A. They say that they sent out a survey. I've been asking for a copy of it. They say that they sent out a survey about something about amenities, but I

can't find it. I don't recall it. Now, they sent out in the fall for the annual meeting, this is for 2026 not for 2025, but they sent out the budget and the vote for the board members.

Q. Since becoming a director have you seen any records that indicate that the applicant ever received the approval of the membership that they're bylaws require them to obtain for undertaking capital projects? It's a provision in there for a 30% majority of a quorum of a membership meeting that consists of a super quorum of not less than 30% participation of the entire membership. Have you ever seen any record that that type of approval was ever obtained?

A. Not for a specific project, no.

Q. Would you consider an $18,000 project which is what is the price tag indicated on the Martin County building permit, would you consider that a capital project or maintenance?

A. Capital.

Q. Are you familiar with business organization, you know, the corporate management?

A. Yes, I mean, I run two companies so.

Q. Is a cash reserve a corporate slush fund?

A. No.

Q. What is the purpose of a cash reserve?

A. For me from my perspective, it's for emergencies.

Q. And according to the Association bylaws, if there is money in the cash reserve, that's not a piggy bank then for the directors to spend as they so choose, correct?

A. That's my interpretation, which is why I'm 100% against spending it.

MR. WINN: I have nothing further.

THE COURT: Any cross exam, Mr. Wallace?

MR. WALLACE: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. WALLACE:

Q. Are you familiar with Chapter 724 statutes?

A. Somewhat. Not severely, but go ahead.

Q. You're aware that that's the section of Florida statute that deals with homeowners associations?

A. Yes.

Q. And you're aware that the Chapter 720 Florida statutes prescribes the process for removing directors?

A. Not familiar with that, no.

Q. Okay. Are you aware of the process currently

ongoing attempting to remove directors?

A. Yes.

Q. Is your residence next door to Lake Park?

A. No.

Q. Is it on the same canal as Lake Park?

A. No.

Q. When did you become aware of the exemption that's at issue in this case?

A. I don't know the exact date. Sometime between August and probably December. Somewhere in that time frame.

Q. Has there been any legal action that is in a circuit court in the State of Florida in the last, say, five years relating to any of these issues regarding lack of notice or lack of following bylaws that you've testified concerning?

A. Not that I'm aware of.

MR. WALLACE: No further question, Judge.

THE COURT: Mr. Polomski, do you have any cross for this witness?

MR. POLOMSKI: Yes, just one question. Well, two.

CROSS-EXAMINATION

BY MR. POLOMSKI:

Q. Is it your understanding that this hearing

concerns the exemption for repair and replace of the dock at Lake Park?

A. Yes.

Q. You didn't petition this project, did you?

A. I don't recall if I petitioned this one. I know I petitioned the North Shore Park.

Q. The Lake Park you didn't petition, did you?

A. I don't believe so.

MR. POLOMSKI: No further questions.

THE COURT: Mr. Winn, do you have any redirect?

MR. WINN: Yes.

R E D I R E C T E X A M I N A T I O N

BY MR. WINN:

Q. Regarding your answer to the location of your house, even though it's not the same canal it's the same waterway, all of these canals and lakes are tributaries that go out to the Saint Lucie River, that's where the real boating is, correct?

A. Correct.

Q. And then regarding the question about when you became aware of the Lake Park petition, you recall I asked you questions I asked you questions about whether or not you ever sent a letter of support for any of these petitions to the DEP and that would have

been around September. Do you recall sending the letter of support?

A. I can't recall if it was North Shore or Lake Park. I'm against all the reserves on both, so I can't recall. I can look it up and come back to you guys with an answer on what I was sent.

Q. You mentioned the two emails. Do you recall whether one of those two emails was related to Lake Park?

A. Again, I can't recall specifically. I've been against both. I've probably sent both, but I'd have to look in my emails.

Q. Were those initiated by me, by a request from me?

A. They were initiated. I'm not sure if it was by you, Chuck, or by another neighbor.

Q. Okay.

MR. WINN: That's all I have.

THE COURT: Can Ms. Minetti be excused?

MR. WINN: I think in the best interest of the Petitioners it would be good to subject her to recall in case something comes up where she might need to clarify something.

THE COURT: Since the other parties have rested their case I really doubt that will happen.

MR. WINN: Okay. Then it's up to her.

THE COURT: It's unlikely that you'll be called back, but anything is possible I guess.

MR. WINN: If she wants to stay, that's fine with me.

THE WITNESS: I've got plenty to do. Thank you, Your Honor. Thank you, Mr. Winn.

THE COURT: You're free to log off. Mr. Winn, do you have any other witnesses you want to call?

MR. WINN: Mrs. Lynn Scott Winn.

THE COURT: All right. Ms. Winn, I think by this point you probably know the drill. Please raise your right hand.

Ma'am, do you swear or affirm that any testimony you give will be the truth, the whole truth and nothing but the truth?

THE WITNESS: I do.

THE COURT: Ma'am, you may have to move a lot closer to the microphone, so we can hear you. But she did take the oath, Madam Court Reporter.

THE COURT REPORTER: Yes.

THE COURT: Mr. Winn, do you plan to ask your wife anything about the exemption criteria in section 403.813?

MR. WINN: Nothing in regards to the footprint or technical criteria for the repair, for the removal and replacement.

THE COURT: So we'll do what we've done before. Mr. Wallace and Mr. Polomski will get a standing objection based on relevance and lack of jurisdiction. Mr. Wallace, does that work with you and Mr. Polomski?

MR. WALLACE: Yes, Your Honor.

MR. POLOMSKI: Yes, Your Honor.

THE COURT: Okay. The proffer for this witness begins now.

THEREUPON,

LYNN S. WINN,

having been first duly sworn by this Court, was examined and testified upon her oath as follows:

PROFFFER BY MR. WINN:

Q. Please state your name, address and how long you've lived here?

A. Lynn Winn, 1520 Northwest Lakeside Trail in Stuart North River Shores, moved here in October of 2000.

Q. Does your home on Lakeside Trail abut the three-mile lake waterway that Lake Park is also on?

A. Yes, it's right behind the house.

Q. Did you just pay a $1,100 annual flood insurance premium?

A. My husband did, yes.

Q. Well --

A. Yes.

Q. I wrote the check, but we?

A. Yes.

Q. Why do you think that expense is justified?

A. Even though we don't have mortgage on the house we felt because the back of the property is in a flood zone that it would be a wise thing to do because of, you know, we've seen rising waters before.

Q. Are you now or were you ever a member of the North River Shores Property Owners Association, Incorporated?

A. Yes, previously.

Q. You said previously?

A. Yes, when we moved here the property was under the Association and then once the covenants expired approximately 2005 we did not renew.

Q. Were you aware of my activities as a member of the Association?

A. Yes, as a member of the bylaws committee there was a rewrite, a total rewrite of the bylaws and you were head of that.

Q. Well, I wasn't --

A. Well, involved, highly involved in it.

Q. Would it be safe to say my involvement was with financial safeguards and election integrity processes?

A. Most definitely. Because if we hadn't signed up with the Association, we had no control over how money would be spent and what decisions would be made that would affect our property and our financial impact.

Q. You're talking about the contingency or the possibility of an out-of-control board that wouldn't follow the bylaws?

A. Yes.

Q. I see. When did you first become aware of the applicant's plans for building docks in Lake Park?

A. I forget exactly. I'll say within the last eight months I had seen something on Facebook, a post about, you know, something to do with our parks, and also we received I received a mailing, I think it was in my name, about the board's planned projects. I think they called it, you know, wanting to maintain our passive parks.

Q. Are you referring to the mailing that is dated the 3rd of August 2025 and postmarked

August 6th?

A. Right.

Q. Prior to getting that mailing did you inform me of the Facebook post that you had seen?

A. Yes.

Q. Would you say that I was pretty much ambivalent or indifferent to them at the time you informed me of the Facebook post?

A. I almost didn't even tell you because I wasn't sure.

Q. But did I show any interest of getting involved at that time?

A. No.

Q. Did I have an attitude of why are you bothering with this, leave me alone and let me do my options trading?

A. Yes.

Q. So you received that mailing that was postmarked August 6th?

A. I couldn't swear to the date, but sounds about right.

Q. Could you tell us what was in that mailing?

A. I don't remember other than this group was very concerned about the parks in the neighborhood that were passive parks that were in danger of being

turned into other than passive, like, building on them, having structures or whatnot. And I can't remember if a meeting was announced in that.

Q. You're talking about the August 12th?

A. Right.

Q. Prior to that mailing had you received any mailings such as additions of association newsletter?

A. No, we wouldn't because we're not members.

Q. But didn't we used to contribute?

A. We did.

Q. The equivalent amount of the assessment and we did receive The Scoop?

A. Well, for awhile.

MR. WALLACE: Objection. Leading.

THE WITNESS: For awhile we had a vote.

BY MR. WINN:

Q. I didn't ask you about the vote.

THE COURT: Hold on a second. Mr. Wallace does have a valid objection. Mr. Winn, a leading question is one that suggests the answer.

MR. WINN: I see.

THE COURT: Like when you say, an example would be, did I do project A, right, or I did project A, didn't I, correct. That's leading because you're suggesting the answer is yes. So

while you're doing direct exam I do need for you to ask non-leading questions.

MR. WINN: I understand, sir.

THE COURT: Thank you, sir.

BY MR. WINN:

Q. Did you attend the August 12th meeting in the park?

A. No.

Q. Did you receive any feedback from that August 12th meeting?

A. Yes.

Q. And do you remember who you received the feedback from?

A. No.

Q. Were you present at the subsequent board meeting on the 19th of August?

A. Sort of. I entered the room.

Q. No. No, the August board meeting?

A. No.

Q. Did you attend the November 18th, 2026 special meetings and board meeting, the back-to-back meeting?

A. The special meeting I thought we were allowed into, so went into the room and was told by a woman to get out because we weren't members of the association,

so I stood at the door, which they didn't close the door, so I listened to most of the meeting.

Q. Most of the first meeting?

A. Yes.

Q. Did you observe any members attempt to make comments about the park?

A. I watched some people try to ask questions and they were shut down in an abusive way.

Q. What do you mean by shut down?

A. Like, we're not going to listen to that, not relevant.

Q. So you were an observer then at the special meeting --

A. Right.

Q. -- before the annual membership meeting?

A. -- try to attend the official meeting.

Q. Prior to that November between the August meeting in the park and that November annual meeting did the association try to put out any communications about the parks by email or newsletter?

A. Not that I'm aware. I did hear a recording that was made of a meeting.

Q. But that was the August board meeting you're referring to?

MR. WALLACE: Again, leading.

THE COURT: All right. Do you want to rephrase that question, Mr. Winn?

BY MR. WINN:

Q. Did you hear a recording of the August 19th, 2026 board meeting?

A. Yes.

Q. Did you hear any directors mention anything about making Lake Park waterfront accessible?

A. Yes.

Q. Did they specifically mention any type of watercraft like kayaks?

A. I don't recall what type of watercraft was mentioned.

MR. WINN: Those are all my questions.

THE COURT: Mr. Wallace, do you have any cross?

MR. WALLACE: Briefly.

CROSS-EXAMINATION

BY MR. WALLACE:

Q. You are not currently a member of the homeowners association, correct?

A. No.

Q. Do you currently have a dock?

A. Yes.

Q. How big is your dock?

A. I have no clue.
Q. Do you have a boat slip?
A. No. Well, I don't have- it goes along the back of our property and we were finally allowed to put in a seawall several years ago because when the storms come there's a lot of erosion and we were seeing our property recede because of the high waters from the hurricanes. So we were finally allowed to put in a seawall. There was an existing dock and some of that was replaced upgraded. It's like most of the length of our property and then we had to work around the seawall. We had to work around the mangroves.
Q. You've replaced upgraded at least a portion of your dock?
A. Some boards on it and there was a piling that had to be replaced.
Q. Do you have a boat?
A. This was an old dock, really old.
Q. Do you have a boat?
A. Not now.
Q. Have you ever had a boat since you've lived at that residence?
A. We had a little boat. A couple years after we moved here we got a boat.
Q. What was it powered by?

A. A little engine.
Q. An outboard motor?
A. Yes.
Q. Isn't it true that many of the waterfront homeowners within this community have docks?
A. I don't know. There are a number of docks along the waterway behind us.
Q. Is that waterway behind you the Three-Mile Lake?
A. Yes, Three-Mile Lake.
Q. Do a number of those people have motorized boats?
A. Yes.
Q. Is it fair to say that this is a boating community?
A. It's advertised that way.
Q. You don't currently pay any assessments to the HOA?
A. When we had our boat, we paid the dues to have a boat ramp key. And then after we sold the boat, we continued to voluntarily contribute to the Association, the regular dues even though we weren't members. But then we stopped getting notices, so we stopped paying the dues until recently. Like a year or so ago Chuck wrote a check to one of the I think a

board member just as a voluntary contribution.

Q. It sounds like you don't have, the board or the HOA doesn't have any authority any longer to levy annual or special assessments against your property?

A. Correct.

MR. WALLACE: Nothing further, Your Honor.

THE COURT: Mr. Polomski, any cross exam?

MR. POLOMSKI: Yes, one question.

CROSS-EXAMINATION

BY MR. POLOMSKI:

Q. If you have issues with hearing to property owner association bylaws, aren't those issues to be brought up with the property owners association?

A. As a courtesy to our neighbors we follow the bylaws. We wouldn't put up a structure that wasn't allowed in the bylaws. We wouldn't do anything like plantings or anything that would go against the bylaws.

MR. WINN: I think my wife is referring to the covenants.

THE COURT: You could bring that up on redirect, but right now only one witness can testify at a time.

THE WITNESS: The bylaws, no, they don't really affect us. If they're not followed then

that can really mess up the whole neighborhood.

BY MR. POLOMSKI:

Q. I appreciate that answer. My question was a little bit different. I'm asking if issues of property owners association issues with their bylaws, shouldn't those issues be brought up to the property owners association?

A. Well, from what I've heard from some neighbors, they have been brought up and they have been ignored, so there's a lot of frustration that I've heard from different neighbors about them not following the bylaws.

THE COURT: Mr. Winn, any redirect?

MR. WINN: Yes.

FURTHER PROFFER BY MR. WINN:

Q. Regarding our seawall, approximately how many years did it take to get that approved?

A. It took many, many years. We were denied putting in a seawall from one of the environmental people with the county. Even though the Corps of Engineers were okay with it, but there was somebody in charge of the county that didn't want us to have it.

Q. Regarding our being financial contributors to the Association, when we gave our annual contribution did we receive the Association newsletter?

A. No.

Q. The Scoop, I'm talking about The Scoop. Did we used to receive The Scoop?

A. We did when we were members. I don't remember if we got it after that.

Q. And this is a redirect on the question about the bylaws. Have I had any involvement with the Save Our Parks Committee?

A. Not that I'm aware of.

Q. I'm talking about have I assisted Mr. Torian or Mrs. Banks?

A. Providing information to them that you have.

Q. Would that be considered subject matter expertise on the association bylaws?

A. Yes.

MR. WALLACE: Objection, Your Honor, as to characterization if someone is a subject matter expert who hasn't testified and hasn't been disclosed as an expert.

THE COURT: I'll sustain that objection. Mr. Winn, you can ask your next question.

BY MR. WINN:

Q. Do you remember what year our dock was rebuilt in conjunction with the seawall?

A. Maybe seven years ago approximately.

Q. So you're saying 2016, 2017?

A. Approximately.

MR. WINN: That's all I have of this witness.

THE COURT: All right. So, Mr. Winn, it looks like we've come to the end of your witnesses. Looks like you're going to rest your case at this point.

MR. WINN: Well, there's one issue I'd like to bring up that Mr. Wallace raised and that was the replacement of our dock. Coincidentally our dock was replaced maybe three or four years after this existing structure at Lake Park, and if no objections are made by Mr. Polomski or Mr. Wallace I would like to attach a picture of our dock showing it before the pressure washing and after the pressure washing because our dock looked just as shabby as the current dock before I did a two-hour pressure washing job and two hours later it looks like new.

THE COURT: Mr. Winn, that's just not relevant to what I have to determine in my opinion. Now, if DEP or the appellate court tell me otherwise, we might be back here, but I just don't see how it's relevant.

(Petitioner rests.)

THE COURT: Mr. Wallace, Mr. Polomski, do either one of you have any sort of rebuttal case to present?

MR. WALLACE: May I have maybe two or three minutes? I'd like to confer offline with Mr. Polomski.

THE COURT: Yes, I also want to talk about whether or not the parties want to order a transcript. Let's take a break until 3:30.

(A recess was taken from 3:22 p.m. to 3:33 p.m.)

MR. WALLACE: We will be ordering the transcript, Your Honor.

THE COURT: The North River Shores Property Owners Association has ordered a transcript, and so let me describe how we're going to proceed going forward. Once the transcript is filed I will issue a notice to the parties. In fact, you'll probably get electronic notification from DOAH's efile system when the transcript is filed, but I'm going to send one out after that which gives your precise due dates or deadlines for your proposed recommended orders. Your proposed recommended orders will be due ten days after the transcript is filed. Then, I will have 20 days to

issue my recommended order to the Department. Now, Mr. Winn, there's a format that attorneys generally file for proposed recommended orders. I do not expect you to follow that format. You're certainly very capable of doing so if you chose to, but I also allow pro se parties the option of simply writing me a letter instead of the proposed recommended order telling me why I should rule in their favor. I will issue a notice saying a transcript was ordered and I will be saying that the proposed recommended orders are due ten days after the transcript is filed and my recommended order is due 20 days after the proposed orders are filed.

Mr. Winn, do you have any questions?

MR. WINN: Can I decide whether or not I want to buy a transcript?

THE COURT: I can't tell you how to handle that. You might want to split it two or three ways. Once the transcript is filed you'll have access to it. You'll be able to see it once it's filed. I'll let you guys handle that. Any other questions?

MR. POLOMSKI: Judge, are we going into rebuttal?

THE COURT: Well, I'm sorry. I thought I asked you and Mr. Wallace if you had any rebuttal case to present.

MR. WALLACE: Yes, sir, we conferred and I think the DEP is going to put on one witness for brief rebuttal.

THE COURT: That's fine. We can do that. I've already done the closing stuff, but, Mr. Polomski, who did you want to call?

MR. POLOMSKI: I'd like to recall Mr. Tridone.

THE COURT: Mr. Polomski, you may go ahead and question him and then I guess, Mr. Wallace, if you want you can do some direct exam and, Mr. Winn, you can ask some cross.

REBUTTAL

BY MR. POLOMSKI:

Q. Mr. Tridone, are you familiar with Rule 403.813(1)(d) of the Florida statutes?

A. Yes, sir.

Q. And could you describe what that rule means in the scope of your work?

A. Sure. It describes the standards that we use for evaluating applications for the verification of exemption for docks. That one is specifically for

docks that have to be repaired and replaced in the same footprint.

Q. Is fill material anticipated to be used in this project?

A. No.

Q. Is the repair dock within 5 feet of the same location?

A. Yes.

Q. Were additional aquatic resources adversely and permanently impacted?

A. No.

Q. Is the dock technically larger in size than the original?

A. In the upland portion, yes, but nothing over water.

Q. Does the Department have jurisdiction over the upland portion where the new construction's going to be?

A. No, we do not.

Q. Are you concerned about mangroves as a result of this proposed project?

A. No, they were not part of the concerns regulatory wise.

Q. If there are any mangrove impacts in this project is the applicant required to get a permit to

remove mangroves?

A. Only if they were outside of the project footprint. Anything within the project footprint would not be required to get a permit.

Q. Are you familiar with 403.9328 of the Florida statutes?

A. Yes, Mangrove Trimming and Preservation Act.

Q. Yes. So I'll share my screen, judicial notice of our rule, is this showing the right rule?

A. Yes, but it's a little hard to read.

Q. What part of the rule would you refer to in determining whether a permit is required for alteration of mangroves?

A. I believe it is further on in the statute there, (5) at the bottom of the page.

Q. After reading No. 5 is a permit required for any mangrove alteration here?

A. No, because the activity is exempt.

Q. Does this proposed project extend further into the canal than originally permitted?

A. No.

Q. Earlier you had spoken about handrails drawn into the project plans. What is the significance of the presence of handrails?

A. The presence of handrails indicates mooring

exclusion. We typically ask for those for like high level projects, but in this case they were all around the perimeter of the dock kind of suggesting that no mooring was going to be proposed.

Q. I'll share my screen one more time. This was previously marked Joint Exhibit 9. Are you familiar with this document, Mr. Tridone?

A. Yes, it looks like the exemption letter that I wrote.

Q. We'll go down to page 7 of the PDF. It's entitled *Special Conditions For Federal Authorizations for SPGP*. Could you tell me what SPGP is?

A. It stands for State Programatic General Permit. It's essentially our agreement with the US Army Corps. The US Army Corps allows us to grant authorization on their behalf for a certain subset of projects.

Q. Who must comply with those conditions?

A. The applicant, whoever we grant the permit to.

Q. Are there any special conditions that deal with protection of manatees?

A. There is a page probably towards the bottom of the permit that deals with special conditions for in water work for Manatee protection. I forget the

exact number, but it should be towards the end of the agreement.

Q. This No. 5 my cursor is on right here, are these the conditions you're referring to?

A. Yes, and we attach the specific document for that to the permit.

Q. Okay. Do these special conditions contain any requirements for treatment of mangroves?

A. It deals with a little bit mostly within the project footprint that is permissible.

Q. That it's permissible to impact mangroves?

A. Within the project footprint, yes.

Q. Are you referring to No. 8 here?

A. Yes, sir.

Q. After reading through No. 8 do you believe the applicant had complied with these mangrove requirements?

A. Would you be able to zoom in just a tick?

Q. Yes.

A. Yes, I do believe so.

Q. On this letter A here it says, cited and designed to avoid or minimize impacts to mangroves. Has that criteria been met here?

A. Yes.

MR. POLOMSKI: I have no further questions

for Mr. Tridone.

THE COURT: Mr. Wallace, any questions?

MR. WALLACE: No, Your Honor.

THE COURT: Mr. Winn, do you have any cross exam for this witness on these points?

MR. WINN: Yes, sir.

CROSS-EXAMINATION

BY MR. WINN:

Q. This question has to do with the footprint. All of those criteria that were met were they based on the assumption that the new replacement dock will be within the same footprint of the one that's being removed and replaced?

A. Yes, the application materials indicated to me that the proposed dock will be in the same footprint as the previous one.

Q. Did you ever go out to the site before you approved the application?

A. No, we did not conduct a site inspection for this application.

Q. Nobody from the DEP went out to the site?

A. No, we did not.

Q. Now, were you aware as it was established this morning that there has never been a physical survey of that property with recognized surveying

instruments such as a transit made from a previously surveyed known point? Even the old dock there was never a record survey done of Lake Park. Were you aware of that?

A. No, I was not.

Q. So that means these drawings my understanding is that your assumption is based off of drawings that were derived from aerial photographs and maps and not a physical survey of the site?

A. My determinations were made based on I think they gave me like you said an aerial map, a location map and some engineering sketches that were provided to me by the consultant.

Q. So it is possible that that footprint, that 5-foot footprint that is shown on their site map sketches that were given to you with the application could be off because there is no physical on the ground survey?

A. I was kind of operating under the assumption that whatever they depicted would just be removed and replaced since it was in the same footprint on both pages of the application. Typically for something like this we kind of just look at kind of what they're giving us and if it ends up that they are out of rule, out of compliance after they construct it then our

compliance division will handle that.

Q. Does this mean that you assume the existing dock was already surveyed?

A. We assumed that it was permitted and constructed to that permit. I did a review of the permit that was issued I believe in 2013.

Q. That's correct.

A. I reviewed that permit and it appeared to me that it was in the same location that this was permitted previously.

Q. Are there any DEP requirements to verify these surveyed locations?

A. No, not for this exemption.

Q. And you talked about handrails to prevent moorings. Is it a complicated process to modify a dock like the proposed new structure to make it accessible for boats?

MR. WALLACE: Calls for speculation.

MR. WINN: Your Honor, he's a subject matter expert. I'm just asking if it would be a complex process to obtain a permit for modifying.

THE COURT: I'll overrule. Sir, can you answer the question?

THE WITNESS: Sure. The question was would it be a complicated process to modify the dock?

BY MR. WINN:

Q. Yes.

A. It wouldn't be a very complicated process. It just depends on what modifications were proposed. If they were very simple modifications like, you know, very small amount of square footage being added, for example, it would be relatively brief. But if they were large in scope and complex, it may take a few months up to a year.

Q. For example, if they wanted to add a platform that would give it the capability for launching watercrafts such as kayaks or jet skis, would that be a complex modification?

A. I wouldn't anticipate that, no, being --

Q. So it would be relatively easy to modify the proposed new structure to make it capable of adding a launch platform from which --

A. As far as getting that permitting done?

Q. Yes, it would be fairly simple then to modify it?

A. Getting that permit it would probably be an exemption that they would apply for for that. I would anticipate it to be relatively simple. I mean, it depends on how good their plans are and whatnot, but it's less complicated than some of the stuff we deal

with.

Q. My question is would it be relatively easy to modify the proposed new dock to make it capable for adding a platform for launching waterborne crafts such as kayaks or jet skis?

MR. WALLACE: I'll object to relevance.

THE COURT: I think it might have been asked an answered as well. So I will let the witness answer this question and let's move onto something else. Go ahead, sir.

THE WITNESS: Yes, it would be relatively easy to obtain that exemption.

MR. WINN: That's all I have, Your Honor.

THE COURT: Mr. Polomski, I believe that was the end of your rebuttal case, correct?

MR. POLOMSKI: Yes, Your Honor.

THE COURT: All right. So we've already talked about proposed recommended orders, the transcript was ordered. Does anyone have questions about anything before we log off?

MR. WALLACE: No, Your Honor.

THE COURT: Mr. Winn, anything from you?

MR. WINN: Just should we anticipate the ten-day window for our recommendation on your decision that will be triggered by the posting of

the transcript?

THE WITNESS: Yes, and I will send out a notice to the effect probably tomorrow. But when the transcript is filed with me, then I will send out a second notice stating the exact due dates. Like I say, you don't have to follow the format the attorneys follow. You can write me a letter. And if you need more time, contact Mr. Wallace, Mr. Polomski, and if they agree you can file a motion for an extension of time. If there's nothing further, the parties are free to log off.

(Hearing concluded at 3:52 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, Doreen Mannino, Court Reporter, do hereby certify that I was authorized to and did report in stenotypy and electronically the foregoing proceedings and evidence and the captioned case, and that the foregoing pages constitute a true and correct transcription of my recording thereof.

IN WITNESS WHEREOF, I have hereunto affixed my hand the 13th day of March 2026 at Tallahassee, Leon County, Florida.

Doreen Mannino
Doreen M. Mannino