IN THE SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF NAPA

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ORIGINAL

In re 2017-2018 NAPA COUNTY GRAND JURY INVESTIGATION.	No. 001

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REPORTER'S TRANSCRIPT OF PROCEEDINGS HAD

AT TIME OF INVESTIGATION

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Napa, California
Wednesday, February 21, 2018
9:00 O'Clock A.M.

Reported By:

KAREN R. KRONQUEST, RPR
CSR No. 7482

KAREN R. KRONQUEST, CSR No. 7482
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I N D E X

WEDNESDAY, FEBRUARY 21, 2018 9:00 O'CLOCK A.M.

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ALAN CHARLES DELL'ARIO, foreperson, 1754 Second Street, Suite D, Napa, California, 94559, conducted the investigation this day.

KAREN R. KRONQUEST, RPR, CSR No. 7482, was present and acting as an Official Shorthand Reporter for the County of Napa.

The following proceedings were then and there had, to wit:

P R O C E E D I N G S

MR. DELL'ARIO: All right. Let's call the meeting to order. We're on the record; Karen is our court reporter, so unless I say we're off the record everything is going to be reported as we're here today. The first thing I'd like to do is call the roll.

Robert Edmondson?

MR. EDMONDSON: Here.

MR. DELL'ARIO: Rob Feckner?

MR. FECKNER: Good morning.

MR. DELL'ARIO: John Flemer?

MR. FLEMER: Here.

MR. DELL'ARIO: Larry Green?

MR. GREEN: Here.

MR. DELL'ARIO: Lauren Griffiths?

MS. GRIFFITHS: Here.

MR. DELL'ARIO: Mark Limon?

MR. LIMON: Here.

MR. DELL'ARIO: John Morris?
MR. MORRIS: Here.
MR. DELL'ARIO: Kenzie Nicoll?
MS. NICOLL: Here.
MR. DELL'ARIO: Shawn Rau?
MR. RAU: Here.
MR. DELL'ARIO: Ira Schwartz?
MR. SCHWARTZ: Here.
MR. DELL'ARIO: Lorraine Shauffel?
MS. SHAUFFEL: Here.
MR. DELL'ARIO: Walter Spicer?
MR. SPICER: Here.
MR. DELL'ARIO: Kort van Bronkhorst?
MR. VAN BRONKHORST: Here.
MR. DELL'ARIO: Robert Whisten?
MR. WHISTEN: Here.
MR. DELL'ARIO: Krstyna Wulff?
MS. WULFF: Here.
And foreperson, Alan Dell'Ario is here. Not here are Gary Ettinger, who's excused and Karen Burzdak, who is recused.

We're here to inquire into the charge of misconduct in office by the Assessor John Tuteur. Unless the public hearing be ordered by the Court no person is to be present except the members of the grand jury, the witness under examination and the court reporter. If you should determine that any district or county officer is guilty of misconduct, including willful or misconduct in office, including Mr. Tuteur, we may agree to present an accusation in writing stating the offense against that officer will initiate legal action to have the officer removed from office. The accusation will be delivered to the District Attorney.

The -- we have previously discussed the subject of the offenses; namely, misconduct in office, possibly conflict -- criminal conflict of interest, and any other charges or offenses that may appear to us as the evidence is presented. Any person who's -- any member of the jury who's partial or prejudiced either as to the case or person named should retire now during the remaining course of the investigation.

Does anyone feel like they cannot fairly and honestly adjudicate these facts?

I will administer oaths to the witness. If you have questions please write them on the three by five card, deliver them to the secretary, Mr. Van Bronkhorst, and he will present them to me and I will ask them if I think they're appropriate questions to be asked.

I hope you appreciate that I have some -- have to exercise some legal judgment here because if we do return an accusation then this record will be available to the accused and these proceedings will likely be scrutinized to see that we did it properly.

The court reporter is here transcribing all of the proceedings unless I say we're off the record. She has been previously sworn to perform the reporter's duties by me yesterday under my powers granted by the Penal Code.

In your investigation you can receive no other evidence such as that is given by witnesses produced and sworn or furnished by writings, material objects or other things presented to the senses or contained in a legally admissible deposition.

We are not required to hear evidence presented that is exculpatory, but we may ask it. So among the things you may consider if something comes up that you think a question needs to be asked of a witness that possibly generates evidence that could be exculpatory, then, please, you have that right and in fact we should look at that evidence if you think so may exist.

Like any other matters, this is -- these proceedings are subject to our confidentiality provisions and we will act accordingly and so advise the witnesses. Let's go off the record.

(A discussion was had off the record.)

MR. DELL'ARIO: Hi.

MR. CRETAROLO: Hi. I'm Jon Cretarolo.

JOHN CRETAROLO,

called as a witness, was examined and testified as follows:

MR. DELL'ARIO: In your testimony before the grand jury do you swear to affirm the truth and nothing but the truth in the responses to the questions of the grand jury?

You are further admonished not to reveal anything about your testimony, either testimony by you or questions asked by members of the jury. If you reveal such matters concerning the grand jury proceeding you maybe prosecuted for contempt.

In addition, you should be aware that a grand juror may not reveal anything about a grand jury proceeding as prescribed in section 9.241 of the California Penal Code, nor may any record of this proceeding be subpoenaed by any individual or court except in the case of criminal proceedings when the records of the grand jury testimony may be produced to verify if there was perjury in testimony given before the Court.

If you believe that a question you are asked may tend to incriminate you, you would have the right under the Fifth Amendment of the United States Constitution to refuse to answer that question unless ordered by a judge. Do you understand that?

MR. CRETAROLO: Yes.

MR. DELL'ARIO: Please be seated.

THE COURT REPORTER: Could you please spell your name?

MR. CRETAROLO: First name is J-o-n, last name Cretarolo, C-r-e-t-a-r-o-l-o.

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EXAMINATION

BY MR. DELL'ARIO:

Q Mr. Cretarolo, thank you for coming. We appreciate the fact that you agreed to appear without benefit of subpoena.

Have you ever testified in court before?

A No.

Q Have you ever given testimony at deposition before?

A No.

Q By way of explanation, we are here as though we are in court; the court reporter just asked you to spell your name, is taking down the proceedings as we ask and you pose answers.

A Um-hum.

Q If there's something I ask of you that is unclear or you don't understand, please let me know. Otherwise, we don't have any way of knowing you don't understand the question.

A Okay.

Q Are you with me on that?

A Yes, thank you.

Q Would you tell us what your current job title is?

A I'm the Staff Services Manager for the Assessor/Recorder, County Clerk and Elections divisions of Napa County.

Q So do you serve all three branches of Mr.

Tuteur's office?

A Yes.

Q And prior to working in that office what was your work experience?

A I had 30 years of managerial experience with Hewlett Packard Company in Palo Alto but did a lot of roadwork in Asia Pacific and Latin America. I moved from Hewlett Packard Company in 1990 and -- '90, rather, and went to Agilent Technologies for two and a half years, where I was the manager managing 2 million square feet of office space in the bay area.

And then I took an early retirement; turns out that we had something called 911 and a total restructuring of my organization where it was outsourced and I just took the opportunity to retire. So I retired for 13 years, which was great. Moved up to Bainbridge, Washington, with my wife and took care of our grandchildren and, you know, basically come back to California.

We had visited Napa during the 10 years that we were up there and really loved the area, came here and saw the job posted that John had available and looked at it and said my gosh, this is my job. So, you know, sun and moon and stars were aligned and John and I clicked and that's three years later.

So I've been there for three years.

Q Before I forget, have you talked to anyone about your appearance today?

A No. I had an opportunity -- John made it very clear that this is -- I'm not to say anything and I said John, first of all, so -- I said John, is this kind of like the public works grand jury deal where they're just investigating the operation, et cetera, and he said I can't tell you that. And he also told me that if I had any questions I could call Susan Aultman, county counsel, if I had any questions. And I didn't do that because I figured I'd just come and chat.
Q Very well.
So you've been with the -- in this job with the assessor's office since when?
A 2015, January.
Q Are you certified by the Board of Equalization as a property tax appraiser?
A No.
Q Have you taken any courses or received credit for appraisal?
A No.
Q Do you have --
A Let me explain my job, if --
Q You may.
A So I'm Staff Services Manager. So I get involved with the assessor/recorder, county clerk and elections, but it's in terms of budgeting, human resources liaison. I guess, involved with hiring folks. I get involved with HR issues, I get involved with project management. We have instituted several large

projects and I manage those projects and a multitude of things. I do budgeting.

Right now I'm up in my ears in budgeting, both mid year budget and an annual budget, and so I don't really get involved with the assessment of properties. While I work with people who do; but --

Q Yeah, all right.

You segued into my next question.

A Sorry.

Q Is it correct, then, that you don't have any role in assessing properties?

A Correct.

Q So, for example, you wouldn't know anything about Williamson Act contracts?

A I know about it.

Q What do you know about Williamson Act contracts?

A I understand that -- I think it was in the 60s -- there was a need to preserve the agricultural nature of Napa Valley and therefore there was an act that essentially provided an incentive to property owners. As long as they preserved their property to be agricultural in nature they are able to get a reduction in their property taxes. And I think it's for a 10-year period. So I know a little bit about some of these things; I don't actually administer the ag contracts.

Q All right.

A I am somewhat familiar.

Q So you're not involved in the ag contract assessment at all; is that correct?
A I am not. Not directly.
Q And you have any involvement in the questionnaires that are periodically sent out to contract holders requesting information?
A No.
Q Are you involved in anything to do with contracts that are deemed -- or properties that are deemed to be no longer eligible for a Williamson Act contract?
A No.
Q Are you familiar with the term nonrenewal as pertains to the Williamson Act?
A I have heard the terms. John has staff meetings and, of course, it's a manager and supervisor meeting and we talk about these topics and, you know, it's discussed.
Q Have you ever been privy to any discussions among the staff concerning whether or not Williamson Act properties are being improperly valued?
A I had one interesting observation. And I'm not sure if it was Williamson, very honestly, but it was a winery.
Q Could you elaborate for us, please.
A It was actually in a -- it was a performance evaluation. And the individual being evaluated was questioning the method for a particular valuation of a

winery. And it had to do with the permitting for the winery. And if you -- I'm trying to get the details straight because it was a very unusual -- I was -- by the way, I was asked to participate as my HR liaison role with the supervisor and the employee.

And the employee brought this up as an issue of that she felt that a property-- a winery property was valued too low. And the contention was that if it had the potential of development into a winery -- and I only know this in general, but the point was the supervisor had mentioned that not only she, but her boss, the chief appraiser and John Tuteur as well as this individual and another person seen -- she is an Appraiser III, and another Appraiser III all talked about this and agreed that the property in this particular type of situation, if there wasn't a certain type of permit obtained then it should not be valued higher. And it should only be valued higher after a permit is obtained, which seems to make sense, because until that point there is no indication that it would be developed as a winery.

So I may be getting some of these details wrong and it may not specifically be the way it happened, but it had something to do with the valuation.

Q All right.

And who was the employee?

A Lisa Carlile.

Q And who was the supervisor?

A Jennifer Tydingco.

Q And who was -- you mentioned other gentleman in addition to Mr. Tuteur?

A That would be Rick Anderson, Richard Anderson. He's the chief appraiser, and then the other person -- and again this is hearsay, but the other person that I understood that was -- had been discussed this particular situation was Dan Woods. He is an Appraiser III.

So in other words there was contention from Lisa that the property was valued too low. And Jennifer said wait a minute, we have an agreement that we would value it a certain way until a permit was issued. And I'm forgetting the actual permit. It had to do with a -- I'm going to totally screw this up, but a drainage type permit that wineries need to get prior to developing the property.

Q Was the name of the owner of the property mentioned?

A No. Again, there was a little bit of a surprise -- more than a little bit of a surprise to me because it was in the middle of a performance evaluation.

Q And approximately when did this occur?

A It was about a year ago, because she just had another review. We have reviews on an annual basis.

Q So about -- it would have been Miss Carlile's 2017 review, to the best of your knowledge?

A Yep.

Q You remember you have to answer audibly so she can hear you.
A Yes, sorry.
Q It happens. It shows you're not an expert.
A Yeah.
Q Do you have any opinion as to whether or not -- well, let me back up.
A Let me just back up. I'm trying to think about the timing. I could be off on that. I think it was a year ago that the conversation occurred. Yeah, I think it was, because that's the only other time that I was actually in the room with them.
Q Are you routinely part of these performance appraisals?
A No.
Q Was -- how was it that you came to be invited to this one?
A Because Lisa had -- well, let me give you some background. Jennifer is a relatively new supervisor and she manages eight people in the appraisal staff. The interview process included Lisa Carlile, who also applied for job. Lisa did not get the job. Lisa was very -- to say mildly, very upset. And very honestly -- and can I speak honestly?
Q You can honestly -- we encourage you to do that. You've been sworn to tell the truth and, remember, that everything said in this room stays here.
A Okay.

So when this occurred actually a year and a half ago, probably, Lisa is a senior person, has a lot of experience, very smart, but just has some relationship issues with people. And Jennifer Tydingco just totally knocked the interview out of the park. There were three people: One person from another county, myself and Rick, Rick Anderson, the chief appraiser. And it was consistent. All three of us said Jennifer Tydingco was the best person in the interview process. We did scoring, everything. She was the best.

And it went -- when it was announced Lisa just went -- just totally flipped. And to the point where in my Hewlett Packard mind this was insubordination, this was bad. And she went into John's office and yelled at him and, you know, basically made a huge scene. And this didn't stop. This continued and basically Lisa was very adept at fomenting ill will among the troops. And if it's not been-- it's gotten better, but it was really bad there for a while.

So -- and I have no vested interest whatsoever, I'm an observing. She doesn't report to me, but because of my Hewlett Packard experience and managerial experience John has asked me to get involved with some HR related issues. That's why he wanted me to sit in with Lisa and Jennifer during the -- whenever they have conversations and performance evaluations.

Q Has there been a subsequent performance review?

A That was just delivered a week or so ago and it has improved. Time heals all wounds, apparently, but it has definitely improved.

Q I take it you were present during the oral part of the interview?

A No.

Q All right.

So what's the basis -- you've seen a written appraisal, then?

A Yes. And so I can tell you why I wasn't. Because during the heated conversation that I was trying to describe to you where Lisa felt that the winery property in question had been undervalued and she was yelling at the supervisor basically that she's sick and tired of having the taxpayers of Napa County not getting the right deal or whatever.

And basically Jennifer said well, it's -- and she was very emotional and yelling. And Jennifer during this review said well, I think we may consider taking away the ag property valuations from you if you're so vested and so emotional about this. And so basically Lisa said okay, I'm not going to do any more. I'm not going to do any more conflicts. And then went back to their corners and Lisa said something like okay, so I'm not doing any more; is that correct?

And I was copied -- this is an e-mail. I was copied on it, I said I believe what I heard was that you may consider taking it away, not that she is taking it away. As a matter of fact, that probably would not have been a good idea, because Lisa is critical to the ag activities. So ultimately the responsibility for ag was not taken away from Lisa, but the fact that I added my comment that I didn't think I heard Jennifer say that she's definitely taken off of it, that she would consider taking her off of it, Lisa felt that I had basically stabbed her in the back or something, and therefore she didn't want me in this next interview. And that's fine. Rick went into the next interview. So sorry if I I'm getting --

Q No, that's -- we appreciate you coming.

A Okay.

Q The jury is mostly interested in finding out what's going on, not so much with a preconceived idea of what should be going on.

A Sure.

Q Do you have any -- turning back, one of the jurors had a question. During this discussion about the agreement and the permit as relates to Williamson Act, who was the one that said there was an agreement, which person?

A I believe it was Jennifer.

Q And the agreement was, I think as you described it, that unless there were a permit of some sort, perhaps a drainage permit?

A I'm forgetting the term, but it's a standard step that one takes when one wants to develop a property into a winery. You have to take this first step and that then leads to further permitting. But until that point -- I mean, it's potential, but there's no indication it would be a winery.

Q Okay.

A Yeah.

Q Do you have any role as regards to Prop 8 properties?

A Once again, I get involved in June with the close of the roll. And that's basically some -- not in terms of valuing the Prop 8 properties, I know that it's done and it's done by the appraiser, there are certain programs that are run and then what I do is I get involved with running reports. It's a megabit system reports that summarize the value and you see a change from year to year, property values.

Q Would you tell the jurors -- because I didn't lay the foundation for this question very well, what Prop 8 is, what that means?

A Okay.

I forget when it was, maybe in the 80s, there was a state law that basically says that if there is an economic downturn and the value of one's property comes below the assessed value then Prop 8 kicks in and says you can reduce the assessed value. And -- but then over time it's reviewed and each year the appraisers take a look at it, see what the market has done and will adjust property values. And this could be incremental steps.

One of the most confusing things for people is they know that their property taxes can't go up more than 2 percent a year, but with the Prop 8 valuation it's very possible that it would go up more than 2 percent. Because if you have gone from, let's say, a 100,000 down to 50,000 and all of a sudden the market value is at a 100,000 again and it's come up, it's gonna go up more than 2 percent.

Q So just to summarize, then, Prop 8 is kind of a shorthand for the -- for properties that are assessed at some number -- some value lower than their Prop 13 value?

A Yes, that's --

Q Prop --

A Prop 13 based value, yeah.

Q Generally speaking, 13 is either the lesser of the purchase price of the property or the 1978 value; is that correct?

A Yes.

Q Are you familiar at all with Section XI properties? I think I've seen it written as Roman numeral XI. And those are properties, for the benefit of the other jurors, that are owned by governmental agencies that do not lie within the boundaries of that jurisdiction?

A Yeah. Again I do not get involved with the assessment of those.

Q Have I described it properly?

A I believe so. I'm involved in the periphery of these things and I know that those are -- that's a category I have once again the roll closed.
Q Could you take a look at tab 12 there in that binder in front of you? And I will represent to you that -- do you recognize it?
A Yeah.
Q Can you tell the jury what it is?
A This is the employee property. So this the one where they have to disclose the change in property.
Q Well, my understanding -- and this was produced to us as the conflict of interest procedure --
A Okay.
Q -- for assessing properties that are owned by assessor division employees.
A Okay, all right. I --
Q Presumably you would be affected by this policy?
A Yeah. I have seen another form that -- okay. This is the one I'm familiar with.
Q All right.
Would you refer to it by the page number in the lower right hand corner?
A This is GJ115. This is the one that an employee has to sign on an annual basis.
Q Did you participate in the development of this document or the policy that the document reflects?
A Not the development, but I basically passed it

out to appraisers for them to approve or sign on an annual basis. I think there are two forms: One the Chief Appraiser sends out and I send out one.

Q Are you still on page 114, where your hand is? No, the one before that. I'll represent to you that blackness there is a note that I've redacted.

A Okay.

Q That that -- there's nothing there in the original document.

A Okay.

Q I'm looking at the procedures and I'm directing your attention to paragraph four. Can you read that to yourself briefly and let me know when you're ready to answer a question about it?

A Generally I understand. Any work performed by an employee on an employee property must be reviewed.

Q Right.

And it says that four properties owned by the Chief Appraiser or Staff Services Manager -- that's you, right?

A Yep.

Q All work performed must be reviewed by the assessor/recorder, county clerk. Was your property assessment reviewed by Mr. Tuteur this year or at any time, to your knowledge?

A I have no idea.

Q And then reading on further it says for property owned by the assessor/recorder, county clerk --

that would be Mr. Tuteur, correct?
A Yeah.
Q All work performed must be reviewed by the Chief Appraiser and the Staff Services Manager?
A I'll be very honest, I haven't seen this.
Q Fair to say you have not reviewed any appraisals of Mr. Tuteur's property?
A No. Yes, it is fair.
Q Was there a written version of this document that existed before this one in the books that you're aware?
A I don't know.
Q I'm directing your attention to page 112, which is the first page.
A Okay.
Q And I see there next to the heading assessor division employee property, paren HED9-2016, close paren, you see that? About a third of the way down?
A I'm sorry?
Q Right in the title of the document underneath the letterhead it says -- looks like to me, I read that as revision September 2016. Do you read it the same way?
A Yeah.
Q So my question to you as to clear it up, are you aware of a prior version of this document?
A There must have been, I'm not specifically aware.

Q All right. Bear with me just a second.
Take a look at paragraph seven on page 113, please.
A Yeah.
Q Do you sit -- again this says the Staff Services Manager is responsible for the administration of this policy. And then it lists four things there that it includes. Do you do those things?
A I basically send out a form to be signed, put it in an envelope and I file it.
Q So that would be A, insuring the annual declarations are filed timely?
A Yes.
Q Evaluating all employee reportable activity. What does that mean?
A That's the -- I believe that's the other form that when there's a change of reported activity then that -- I believe that's the form that the Chief Appraiser fills out.
Q And that would be page 115, exhibit Roman numeral II to this document?
A Could be. Okay, yeah.
Q Did I get it right?
A Sound right.
Q Okay.
Do you conduct audits in paragraph 7C?
A I have not conducted audits.
Q And have you-- subparagraph D, coordinated

assessment activity, including defense of applications for changed assessments related to property owned by the Chief Appraiser?

A Assessment activity in defense of applications for changed assessment?

Q I'm asking --

A I've not been made aware of any of those.

Q Okay.

What does that mean, exactly?

A I'm not sure.

Q All right.

A Defense of applications for changed assessment. So, in other words, if the Chief Appraiser had applied to have a changed assessment then I would get involved with reviewing that.

Q Okay.

A There have been no applications for changed assessment that I'm aware of.

Q Prior to my calling this paragraph to your attention, were you aware of this paragraph?

A I guess maybe I haven't. I think I remember reading it initially, but I have, unfortunately, overlooked that.

Q So I believe you previously told me you're not aware of -- or you didn't participate in development of this document, exhibit 12?

A I'm trying to remember. I vaguely remember that there was an original form that referred to the

Assistant or the Deputy Appraiser -- Deputy Assessor when we changed the name to the Staff Services Manager.
Q Is it correct that before you became Staff Services Manager there was not a position such as Staff Services Manager?
A There was -- my predecessor was Assistant or Deputy Assessor.
Q And who was that person, to your knowledge?
A I know the name only. Steve Schellheimer, Schellhamer, I believe. I never met him.
Q Are you able to spell that for the benefit of the reporter and the jurors that are taking notes?
A I think it's S-h-e-l-h-a-m-m-e-r. That's a guess.
Q We won't hold you to that.
A All right.
Q Have you ever reviewed assessments of Mr. Tuteur's property?
A I have not.
Q So take a look at exhibit 21, page 295.
A All right.
Q Are you familiar with this document?
A Well, it looks like a business property statement, but I'm not familiar with it; so --
Q All right.
A They've obviously used the rent to determine value, partial implementation.
Q Have you ever reviewed such a document in

connection with Mr. Tuteur's property?
A No.
Q If you would take a look at, I believe, exhibit number -- page 307, I believe that's in the next exhibit following.
A Okay.
Q Have you ever seen that -- that's a screen shot, I'll represent to you. This is a document that stated in the upper right hand corner this was prepared last week. There is the date, February 14th, 2018.
Have you ever seen a similar document before as regards to Mr. Tuteur's property?
A I have occasionally looked at it, but not in terms of auditing it. So, yes, I have.
Q All right.
Do you know anything about the cell tower valuations on Mr. Tuteur's property?
A I do not. But I know he has talked about a cell tower.
Q On page -- turning back to page -- exhibit 22, page 303, it appears to be something from Mr. Tuteur or his trust to Mr. Anderson dated March 11th, 2017, consisting of two pages. Have you seen these documents before?
A No. I have not.
Q And am I correct that you report directly to Mr. Tuteur?
A Tuteur.

Q And have you ever reviewed the form of the Williamson Act contract?
A Have I reviewed the -- just a blank form?
Q Right.
A No, I haven't.
Q So you're not familiar with any of the specific terms contained in the Williamson Act contract?
A Just generalization.
Q Any more questions from the jurors? Seeing none, we thank you for your presence and we thank you for your candor, Mr. Cretarolo.
A No problem.
Q It may be necessary to recall you at some point. At the moment we don't think so but, if we do, we'll let you and Mr. Tuteur know.
A All right.
Q Again I remind you of your admonition.
A Absolutely.
Q You are not to be discussing anything we did here today.
A Understood. Thank you.
Q Thank you again.
A All right. Thanks.

(A recess was taken.)

MR. DELL'ARIO: All right. Back on the record.

JENNIFER TYDINGCO,

called as a witness was examined and testified as follows:

Good morning. I'm Chuck Dell'Ario, foreperson.

THE WITNESS: Jennifer Tydingco.

MR. DELL'ARIO: Thank you for coming.

THE WITNESS: Um-hum.

MR. DELL'ARIO: Please have a seat. Please raise your right hand and be sworn.

In your testimony before the grand jury, do you swear or affirm to tell the truth, nothing but the truth in response to the questions the jury ask?

MS. TYDANCO: I do.

MR. DELL'ARIO: You are further admonished not to reveal anything about your testimony, either testimony by you or questions asked by members of the jury. If you reveal such matters concerning the grand jury proceeding you maybe prosecuted for contempt.

In addition, you should be aware that a grand juror may not reveal anything about a grand jury proceeding as prescribed in section 9.241 of the California Penal Code, nor may any record of this proceeding be subpoenaed by any individual or court except in the case of criminal proceedings when the records of the grand jury testimony may be produced to verify if there was perjury in testimony given before the Court.

If you believe that a question you are asked may tend to incriminate you, you would have the right under the Fifth Amendment of the United States Constitution to refuse the answer that question unless ordered by a judge to do so.

Please be seated and state your name and spell your last name.

THE WITNESS: Jennifer Tydingco, T-y-d-i-n-g-c-o.

EXAMINATION

BY MR. DELL'ARIO:

Q Again, thank you for coming, Miss Tydingco. Am I pronouncing it correctly?
A Yes, you are.
Q Have you ever testified in court before?
A I don't think I have.
Q Have you ever given a deposition before?
A Yes, I have.
Q All right.

I'm not interested in the details of that, I just asked that question so that to refresh your recollection that you are here to testify under oath just as though we are in a court of law. The reporter over there is transcribing what is being said unless I say we're off the record.

For that reason, it's important that you understand my questions before you attempt to answer them. If there's something I say that's unclear or you don't understand, please let me know. You understand these rules?

A Yes, I do.
Q And you know you have to answer audibly?
A Um-hum.
Q By whom are you employed?
A Napa County.
Q And before you worked for the County where did you work?
A I worked for Valbridge Property Advisors.
Q And what -- is that a-- well, let me ask you a different question.
You are the -- what is your title with Napa County?
A Supervising Real Property Appraiser.
Q And to whom do you report?
A I report to Richard Anderson and then John Tuteur.
Q And before you came to work for the -- for Mr. Tuteur in the assessor's department, what assessment-related work did you do?
A I was -- worked as a commercial appraiser, never had -- I was not licensed. I worked at basically providing significant-- I will call it significant -- I'm trying to remember the terms in the reports, assistance in writing commercial appraisal reports.
Q And approximately how long did you do that?
A I did that for about three years. I've also had my real estate license, so that's always been in kind of the background as well. I've had my real estate

license for approximately 25 years as well.
Q And when did you first come to work for the assessor's division?
A October 2001.
Q And how long -- as I understand it, you may have had a break in service; is that correct?
A Correct.
Q And how long was your first service with the assessor?
A Approximately eight years, I believe.
Q And what year's your --
A If I can correct that. I believe it was seven years, yeah.
Q Don't let me talk over you; I have a bad habit about that.
A I think it was about seven, yeah.
Q And what was your job title and your duties?
A When I left I believe it was 2008 when I left. I left I was an Appraiser III, which handled commercial -- commercial properties, just the full gamut of everything. I think I did the Section XI properties, which are properties that are owned by another entity within the Napa County. So Vallejo, city of Vallejo has some property inside Napa County and we have to value those differently, so I did those. Ag contracts, I worked on the Mills Act properties. I kind of did a variety of all of it.
Q All right.

What is the Mills Act?
A Mills Act is a special formula we use for historical property. They're given a tax break if they agree with the city -- mostly it's to sign a contract with them and they have to keep the property historic to some extent and for that they get a property tax reduction.
Q Okay.
And you mentioned the Williamson Act as well?
A Um-hum.
Q Before I get to that, how long was your break in service at the assessor division?
A About seven years.
Q So when -- then you came back in approximately 2015?
A Yes, I did.
Q And during that interim did you have any assessment related employment?
A No.
Q Any real estate related employment?
A Yes.
Q Is that when you were using your license?
A My license and providing the significant experience or significant assistance in writing commercial appraisals.
Q Okay.
So you were doing some appraisal work?
A Yes. Oh, yeah.

Q You must have misunderstood -- oh, appraisals, not assessments.
A Yeah, they're different. They're different.
Q Thank you for straightening me out.
So what are your duties as supervising assessor -- or appraiser, excuse me.
A My duties and responsibilities are to oversee the work flow for the appraisers. I review the work that's coming in, I sometimes do my own appraisals on difficult assignments or if I have an appraiser who's falling behind on their work I'll pitch in and help out and help them get their workload back on task. And I write the annual evaluations for the appraisers.
Q You mean performance?
A Performance appraisals, yes. Performance.
Q How many appraisers?
A Seven and one Appraiser Aide.
Q Aide?
A Yeah.
Q And who are those people?
A Megan Hays is the Appraiser Aide. And then Denise Shiner is an Appraiser I. Barry May is an Appraiser II, Christy Simonson is an Appraiser II. Dorothy Lebrocquy is an Appraiser II, hopefully promoted to III. Dan Woods is an Appraiser III, Tim Eggers is an Appraiser III and Lisa Carlile is an Appraiser III.
Q So in connection with the Williamson Act, what specifically is your role in doing Williamson Act

assessments or assessment of Williamson Act restricted properties?
A My role is to oversee the -- Williamson Act we are also calling them ag contracts, so you will hear those synonymous. I --
Q Okay.
A I oversee the work that comes in, to some degree. We have two Appraiser IIIs that handle the current -- all the ag contracts and they do the processing. If there's an outstanding appeal I will review to make sure that the ag contracts were handled accordingly. In conjunction with the Chief Appraiser and the Assessor will come up with guidelines on how to process them.
I don't -- I did have to pitch in -- let's see, that was 2016. One of my Appraiser IIIs was out because his father had passed. And so we gave him additional assistance trying to get those processed for the year. So I jumped in and processed those.
Q So who were the two Appraiser IIIs that work on the ag contracts?
A Dan Woods and Lisa Carlile.
Q When you say processing, what do you mean precisely about that?
A So every year -- we have two basic kinds. We have grazing and the one that has vineyard related property. The grazing, those don't change too much, so those aren't looked at individually every single year.

But the ones with vineyards we send out the mailing to all the properties that have the vineyards, we request the vineyard information to come back from them as to what they have planted or changed in their plantings. And then we also request income and expense information from them.

So that comes back in-- mainly the Appraiser Aide usually sends out the mailing and then when they come in, Dan Woods is typically then the person who has analyzed the incremented expenses when they come in and reviews to see, you know, what they're pulling in per ton for the different varieties as well as the expenses related to the cost of farming the land.

Q So what -- are you familiar with the statutes that apply to appraise ag contract properties?

A I'm a little rusty. I am familiar with them. I've reviewed them. We had an appeal that made us look into how we process them and whether or not we were doing it accordingly. So I'm familiar, but I'm not -- I wouldn't call myself an expert.

Q All right.

Just so we're clear. When you use the word *process*, we're not talking about new contracts, we're talking about existing properties and you're evaluating for assessment purposes, either -- right?

A Both the new ones, too. So the new ones, if there's a new contract we have to -- they have to determine what the appropriate classification of the different lands are and what the different uses on the property are. So that's, yeah, usually handled -- that's usually handled as part of the process at the same time.

Q Okay, all right.

So is there like a Williamson Act or ag contract season?

A Yes. Now. We usually send the mailing in the beginning of January because that's after harvest, so we'll usually send those out in January. We wait to gather a lot of them in and I would say it's usually from probably March through May, that's kind of the ag contract processing season to where the appraisers who handle it go through and, you know, make the determinations and if there's changes to a particular property then they make the changes at that time.

Q Are you familiar with Revenue and Taxation Code section 423?

A Not specifically.

Q You understand that's the basic ag contract statute; is it not?

A Um-hum.

Q And how about section 430?

A Again, not fluently. I haven't --

Q You understand that's the winery or vineyard statute; do you have an understanding about that?

A Um-hum, no.

Q All right.

Are you familiar with Assessor Handbook 521?
A Yes, I am.
Q Is that employed in your office?
A Yes, it is.
Q Are you familiar with Rules 51 and 52, the Board of Equalization Rules 51 and 52?
A I would have to see them. I don't have all of them remembered, committed to memory anymore.
Q All right. Fair enough.
Would you agree that those sections and statutes sort of define the boundaries of the assessment discretion in evaluating ag contracts?
A I would have to look at those to make sure I know which ones you are talking about.
Q Fair enough.
Do you believe that you are the only one in the assessor's office to disregard a specific section?
A To disregard? No, I think some of them are open to interpretation and if we look to the guidelines from the State Board of Equalization and the annotation and letters to assessor and review those I don't believe we would disregard them. That's like our work bible, is the Revenue and Taxation Codes.
Q Right.
We would expect that you'd have to follow those procedures, correct?
A Um-hum.
Q Remember, you have to answer audibly.

A Oh, yes.
Q We want to make sure that we have everything clear.
What I'm thinking about -- before we forget, would the reflect that all the jurors who were previously here have been with us since the beginning? Thank you.
Have you been privy to any discussions between you and perhaps one of your Appraiser IIIs or both of your Appraiser IIIs regarding Williamson Act properties being improperly valued?
A Yeah. There's been an ongoing discussion in the office with the Appraiser IIIs not agreeing with some of the way our office has handled things.
Q Could you provide us with an example?
A There's just been tension over whether or not we should be considering vineyard land as vineyard land once it's planted, or if it's potentially vineyard land whether we should be valuing it already as vineyard land. That's been kind of a heated discussion in the office.
My Appraiser IIIs have voiced concern that people are getting too big of a tax break because of the ag contracts. I've had one of my Appraiser IIIs call it welfare for the rich.
Q You agree with that assessment?
A I don't agree with that at all. I think -- you know, the County, when they enacted the ag contracts

and when the State enacted it, it was to provide a tax benefit for property owners who agree to certain limitations on their property.

Q What limitations are imposed under an ag contract that aren't covered by the ag watershed and ag preserves design?

A They're pretty in line with each other. My understanding when I review them it seems to be that they kind of mirror each other. There's restrictions -- they kind of go hand in hand to where there's not as many or even if any -- I haven't seen a significant difference between the two in reviewing them.

Q Bear with me for just a second.

A Um-hum.

Q Would you agree for purposes of valuing land that the preferred statutory approach is to use rental information?

A Um-hum.

Q Yes?

A Yes, sorry.

Q Do I understand correctly that there is not sufficient rental information that is not being used in Napa County?

A My opinion is that we haven't done as good a job of tracking the rental information. I've asked my Appraiser IIIs to do a study and they haven't done that yet as to if we can find any winery leases or vineyard leases and start tracking them so we can have better data for market information. They have not done that yet.

They did do a study and re-categorize all the vineyard codings that we have recently and we did raise the rents on those in 2015 I think is when we raised them to mirror more of where the market is.

Q I'm going to show you my electronic version of Revenue and Taxation Code section 423 and I'm going to direct your attention to subdivision (a)(2), which starts --

A Um-hum.

Q Would you read that to yourself?

A Oh.

Q Why don't you read it out loud?

A Read it out loud?

Q You read it to yourself and then I'll read it out loud.

A Okay. I understand.

Q Is it your opinion that this is the procedure that's followed in Napa County?

A Yeah, actually, I do.

Q Okay.

For the benefit of the jurors and the record, this subdivision of section 423 provides that when sufficient rental information is not available the income shall be that which the land being valued can reasonably be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted.

A Um-hum.

Q And you would agree that section controls what is done in your office?

A Um-hum.

Q Yes?

A Yes.

Q Are you familiar with how a winery's site -- well, let me back up for a minute. As I understand it each -- well, let's back up even a little further.

A Um-hum.

Q There are two types of -- basically two types of ag contracts that the County offers, right?

A I believe there's three. There's an A, a C and an H.

Q All right.

From my understanding the C is pretty much not used?

A Yeah.

Q So the A is one for prime land; is that correct?

A That's my understanding.

Q Wineries or vineyard and what have you?

A The prime land is designated as to the soil types.

Q Okay.

And then H is what we call the grazing contracts?

A Those would be lesser soils. So the designation, you would have to look at the USGA soil maps, is my understanding, to decide whether or not it should be prime agricultural land or non prime.
Q Okay.
But the basic difference between type A contracts and type H contracts is that one's primarily -- there's a different parcel size minimum, isn't there?
A Yeah, I believe so, um-hum.
Q What is the A minimum?
A I forget which one is which, whether it's 40 or 10. I think A is probably 10 and H is probably 40.
Q Take a look at the exhibits in front of you there and turn to -- they're numbered in the lower right hand. Actually, it would be tab two. There you go, you got it?
A Two is behind three.
Q No, that's three.
A Okay.
The three, that's two.
Q Oh, I put them -- okay. That's pilot error; you're not the pilot.
Let's do the it the way I started, look at page 3. We won't worry about the tabs.
A Okay, there we go.
Q Do you recognize this document?
A Um-hum.

Q Could you tell us what it is?
A It looks like this is the general provisions for the type A contracts.
Q All right.
And I see, among other things, that type A contracts, they're within the scope, comprise of prime agricultural land zoned in the ag preserve; is that correct, is that your understanding?
A Where are you?
Q In the middle of row one. Just read row one to yourself.
A Uh-huh. Okay, um-hum. So that's prime.
Q That refreshes your recollection about your type A contracts?
A Um-hum, yeah.
Q All right.
Turn back to page 12, if you would, please. Are you familiar with paragraph VIII, the assessment provisions?
A Which ones?
Q Roman numeral VIII on the top of page 6.
A Okay.
Um-hum.
Q So as I understand it winery -- vineyards that have wineries on them essentially have four components of value; is that correct? Or tell me what the components of value for an ag contract parcel that has a winery and vineyards?

A I'm not understanding the question.
Q All right.
The buildings, for example, are assessed separately from the land, correct?
A Correct. Yeah.
Q So when I mean components, I mean there's a building component?
A Um-hum.
Q There's a land component.
A Um-hum.
Q There's the growing crop component?
A Yes.
Q And I guess there's a land under the buildings is assessed separately?
A Yes.
Q Correct?
A So when you're evaluating a site you look -- for us, we look at different zones of value. Which would be the winery site which would house what is under the winery as well as the ponds and everything associated for the production, the actual production facility for the winery.
Sometimes there's a home site. Home sites are excluded from the Williamson Act and those are valued at their base year value at the time of transfer. Then we would have a different zone for the vineyard and if there's any excess land it would be valued separately as well. The structures are valued based on their

contribution and market.

Q So how are the sites of the winery sites valued?

A We have had one person handling pretty much all the winery site evaluations for the last few years. He does, I believe, an extraction method to where he looks at the different zones of values and attributes a certain value for those sites. For winery site you would need to look into how much it cost to get that to an actual site, including the costs of going before the vetting commission, everything in order to convert it from raw land into a winery site.

And then most of the time there should be some correlation into the actual production capacity for the site. That would be normal. Napa Valley has kind of a different situation because there's a lot of intrinsic value as to where they're located. The-- what do you call the term agreement blank exposure to people being able to see them would be tied into there as well.

Q So we've -- my research has indicated there's something like an industrial rent lease rate that's used in this calculation. Where does that fit in?

A So it's my understanding how we've looked at them because there are areas that -- sometimes the values don't make any sense because we have people with a lot of money coming in from all over the world and buying places and when you add up all the numbers it doesn't make sense as to what they pay for the property.

So my understanding is because we don't have a lot of winery sites that are actually leased then we don't have that information of how much a particular site would rent for in the open market.

And if they're out there we don't have a good database of it because the people who have been in charge of valuing them, get the income and expense information haven't really tracked a lot of that information and so we don't have a big database of winery sites that are actually for lease.

So it's my understanding the way the office decided to do it was to look for an alternative location because processing of grapes for winery -- into wine is actually like an industrial function. And the same thing can be done in a warehouse in the industrial park. And so we looked at what the values were for what you could go lease a warehouse in an industrial, so we've looked at industrial leases as an alternative or as some sort of way to come up with something to value the winery sites themself. That was my understanding. I wasn't part of that decision.

Q Okay.

So --

A Well out of place.

Q I would ask you who we was.

A I say we because we as offshoots, but that decision was made before I was there.

Q So has that been revised during your tenure?

A It has not been revised. I have -- because of the -- two of the Appraiser IIIs have come to me and have voiced their frustration I've asked them to do a study. I've asked them to solicit that information so if we don't have good market data, let's get the market data. We're in the wine capitol of the world. If it's out there we should be able to find it out, and I have asked them to do a study and so far they have not.

Q Is it -- is that like you consider that insubordination?

A No, they haven't put it down as a goal and we've been busy. We're just still recovering from the earthquake, we just had the fires, it's -- when we have a small staff -- there's only seven people who are trying to handle all 43, 45,000 properties in the entire county, it's not -- has not been a high priority.

But it's something that -- like the people who are valuing our ag contracts, if they're voicing a frustration, okay, go ahead. Show me where the market data is and then we'll come up with a recommendation and take it to the chief and take it to the assessor.

Q Is the assessor -- let me ask a different question. When was the last time that the values that's being used was updated on the winery sites?

A For the winery sites?

Q Or this warehouse rate.

A You know, I honestly don't know. I know we just did the vineyard land, we just came up with new values on the vineyard land. I don't know when the last time that they did the study. So I don't have any information as to when they did a study because that's usually how you adjust them, is to do a study, to come up with what your market data is and then adjust it accordingly. I don't know when we've done a study last.

Q Well, you mentioned that you directed your Appraiser IIIs to do a study. Is that -- is that at Mr. Tuteur's behest or is that something you did on your own?

A I did on my own. As their supervisor I'm listening to them voice their frustration; I said okay, well, give me the data and we'll come up with something and we'll show where it came from.

Q Is there any -- but would you say it's known that this hasn't been done in some time?

A I would think that it's known -- I don't know when the last time it was. I don't.

Q Okay.

A But you did ask-- can I? I wouldn't consider them not doing it insubordination, it's just prioritizing what needs to get done and it just hasn't -- it's not as high on the priority list right now when we're dealing with the catastrophes we've just had.

Q Okay.

Take a look at exhibit 19, page 267, please, which I understand is a type H contract?

A 267?

Q Right.

If you look to familiar -- just look at 19 and confirm it's a property of a type H contract. And on page 267 there's an A at the top and particularly paragraph B says calculation of income. And you see the reference there to the same section 423 that we've been talking about, right?

A Um-hum.

Q And it says -- there's two subparagraphs in subsection (b). First one says for purposes of calculating the value the County shall apply either the then actual agriculture and compatible use rental income. So if rented, that's what you use, right?

A I didn't see where -- okay, right here?

Q Roman numerals I and II.

A Um-hum. Okay, I see that.

Q And so if there isn't actual rental they're supposed to use Roman numeral II, the fair market income as the economic or rental income, whichever is greater?

A Um-hum.

Q Do we do that in Napa County?

A A type H, I don't know when the last time that they did a grazing study. I believe they sent something out in '16. Again, that is what the ag contract people are supposed to be doing and I don't -- I know -- I believe on most of them we're using the minimum imputed by it.

Q Right.
That's the paragraph (b)(2)?
A Um-hum.
Q And there's a blank because this is a specimen but there is ordinarily some figure put in there, right?
A Um-hum.
Q And that figure is derived from Rule 13?
A I --
Q Have you ever heard of Rule 13?
A No.
Q Look at exhibit 18, which I believe is page 259.
A Yeah, this looks like the values that are currently in the system.
Q And you see it says Rule 13?
A Yeah, I see it, okay.
Q There's -- I looked and there's rules for -- look at exhibit 20, which starts at page 279.
A Um-hum.
Q And those are the rules -- you agree with me those are the rules for the type H contracts?
A Um-hum.
Q And do you have any reason, understanding why Rule 13 isn't part of those rules?
A I don't, I have no reason why they're not part of the rules.
Q It looks to me -- I'm looking at page 285 or page 286 and it stops at Rule 12 and there is no rule

13. Am I reading it correctly?
A Yeah, that looks correct.
Q So do you know if this Rule 13 is published in the assessor's web page or anything like that?
A I don't know.
Q When land is -- prime land --
A Um-hum.
Q -- if it's not planted but it has the potential to be a vineyard, how is that valued?
A Prime land, it depends on whether it was previously planted or not. This is one of the areas where we've gone back and forth recently in trying to come up with a good procedure on that. If it's been planted then it would be valued as vineyard land.
If it's -- the soil's been ripped and tended and has all the approvals it needs, then unless there's some reason why it couldn't be planted then we would value it as planted land or plantable. We value it as vineyard.
Q Is there some trigger point, like permit approval or something else, that moves you from one side of the line to the other?
A It depends. Lands that have never been planted -- and this is where we've waffled back and forth and have had some disputes with some of the ag contract people, is if land is, say, not valley floor where it's flat -- pretty much almost all the valley floor has already been planted, and I think there was

one last piece that just recently sold a couple of years ago or last year that had not -- was prime valley floor land that had not been planted. That one, I don't know whether it was ag contract or not. I think pretty much all the valley floor has been planted.

The trickier areas is the stuff that's off the valley floor kind of into the hillside, and lands that are there is a little bit more difficult to figure out which way to go on them. People are buying them for vineyard potential. And just because somebody put it on the market for it to be vineyard potential, if it has a slope grade greater than 5 percent it's going to be required to have an erosion control plan submitted and approved. It's not vineyard land. It's not financially feasible at that point, it's not legally permissible. So that's where we've had a contention in the office. We have an outstanding appeal on that specific issue that has caused a lot of debate in the office.

Q And the appeal being you valued it as vineyard land and the owner thinks it shouldn't be valued that highly?

A Correct. Because he didn't have approval for it to be vineyard land. There is no more approvals at that time and we went ahead and converted it -- because of right now we have it grazing or it's vineyard and we converted it before he was fully approved or he had an erosion plan that he had applied for, and but it wasn't approved. There's an appeal where, unfortunately, he was able to make his entire case basically before the Board of Supervisors and it did not look good in our office how we treated them.

Q You have a case number on that or identify who that is?

A I don't, off the top of my head. I know it's Dirk Fulton is the property owner. And there was a -- so because of that particular appeal it caused us to look into how we are handling these. I have only been a supervisor for less than two years and I've only been back in the office for -- when did I come back -- three years. So I'm kind of out of it, so I've just been trying to catch my breath on all the things that keep getting thrown at me.

This one because of that outstanding appeal became a topic. So realizing we didn't have -- I couldn't find anything in place as to our guidelines on when to do it, we came up with a decision and we've now changed our mind on that decision on which way we're gonna handle it.

Q Okay.

Are you familiar with parcel size requirements for ag contracts?

A Some, um-hum.

Q Are there -- are you aware that there may be parcels that don't qualify because they're too small?

A Yes.

Q And is there anything being done about that in terms of -- well, let me back up one more step because I got ahead of -- I'm giving you new information that is old. What do we call when somebody is not in compliance with their ag contract? A nonrenewal?

A Yeah, we can do and the County initiate, I believe, nonrenewal.

Q What's the assessor's role in that process?

A I'm not clear. I've tried to -- I'm actually not clear.

Q And who would know?

A Probably the assessor would know or -- I mean, if I dug around and found it. I haven't had to come across that.

Q Would Mr. Anderson know?

A Probably not.

Q Would there -- so -- let me see if I got this correctly. You basically don't have an understanding one way or the other what the assessor's role is in any nonrenewal proceedings?

A No, I do not.

Q So that would be, as far as you know, strictly in Mr. Tuteur's province?

A No, I'm sure it's written somewhere.

Q You just haven't looked for it?

A I haven't looked for it, no.

Q All right.

Has there been any discussions with the appraisers about nonrenewal that you were privy to?

A No.

Q So if we saw a list of properties and they indicated that they were smaller than 10 acres and had contracts, would that sort of, like, be a list where we might want to look for those non-qualifying parcels?

A So I have one I looked into. This was a property that we had a change of ownership on it and it was only 5 acres and it's under contract, and I was really confused as to why. And then after looking and looking and looking I finally found the contract and the County approved it. The County approved it when it was under 5 acres. So that -- as to why the County approved it, I don't know.

Q Are you familiar with -- have there been changes over the years as to the minimum size?

A I don't know. Because I tried to figure out why is this one even under contract. A lot of times is that there's a lot line adjustment and somehow this piece ends up on its own and it's -- but because the original contract described it as a whole we'll end up with these little chunks. And in order for them to do lot line adjustment the County has to approve the lot line adjustment, so some of that -- yeah, I've just been confused as to why some of them are covered under contract or not. But I haven't had the time to investigate them yet.

Q All right.

You mentioned something about questionnaires

early on today?
A Um-hum.
Q And there are two kinds: There are vineyard kinds and grazing kinds?
A Um-hum, correct.
Q So let's look at -- let's turn back to the front page, 22. It would be in exhibit 1. I'm looking at the bottom of page 11 and going over to the top of --
A I don't know what page.
Q Excuse me, paragraph 24, page 11. Right here.
A Okay.
Q Okay? And I apologize.
When I scanned this I got double sides, so we have blank pages in there. But continues on to page 24.
A Okay.
Q So do you have any understanding as to whether this provision is the basis for sending these questionnaires out?
A Yes.
Q All right.
And it says that the -- so in type A those -- we said those are the vineyard ones?
A Um-hum.
Q What percentage of the owners actually return their questionnaires?
A I'm not quite sure. Probably somewhere around 50 percent. I don't think we get a huge return on them.
Q And is there any follow-up on that?

A No. We -- we have spreadsheets that show who is, I believe. Dan Woods is the one who's been handling those. We have spreadsheets, I believe, that show who's returned and who hasn't.
Q Take a look at page 123. I think it's exhibit 14. Is this such a spreadsheet?
A This looks like -- this doesn't look like the one that's tracking whether they were returned or not. This just looks like the one-- oh, there we go. Yeah, I guess, the other pages.
Q Great.
It looks to me, if I'm reading this correctly, there are some total --
A A lot of them.
Q A lot of them. 500 and 41, to be exact, over on page 129. And only -- we only have returns for a hundred and five?
A That sounds about right.
Q All right.
So is there any reason that Mr. Tuteur wouldn't be aware of this?
A He's not involved in the analysis. He doesn't track the returns that come in, so he's -- this is the ag contract team, the appraiser that handles it. Whether or not they relay the information to him or not, I don't know.
Q At least it wasn't relayed through you to Mr. Tuteur?

A No.
Q Or to Mr. Anderson?
A No, sorry.
Q So do you interpret that contract as to require this information be returned?
A I interpret it as saying yes, they're supposed to do it.
Q All right.
And then let's take a look at exhibit 19, page 272. And then we have the same paragraph, 24, there in the middle, only I think this is a type H contract.
A Okay.
Q And look at page 261, it reflects this is part of the type H contract. That seems to be the same language for grazing, type H contracts, correct?
A Um-hum.
Q Yes?
A Yes.
Q And that -- and you interpret that the same way as you did the other paragraph?
A Yes, I did.
Q And what kind of -- there's some percentage of those that aren't returned as well; isn't that correct?
A No, I'm sure there is. It's probably a very low percentage.
Q Of returns?
A Correct.

Q Have you ever actually looked at a questionnaire that was returned?
A Yes, I have.
Q And have you identified any of those questions -- questionnaires that reflect that those parcels are no longer eligible because they don't have income?
A I didn't analyze it in that manner at that time.
Q Is there --
A Your question was have I have seen one, yes, I have seen them. I didn't analyze it.
Q Let's take one, for example, page 149, that would be under that's 16 -- I'm looking at this -- this information return and it's for parcel 015-160-014-00.
A Um-hum.
Q Two hundred and 80 acres. And am I reading it correctly that there's no income for this parcel?
A Based upon what the property owner submitted it does not say there's any income.
Q Now would there -- is this -- just based on this information does that property qualify for a contract?
A I'm not the one who determines whether or not they qualify through the County. That's the planning department. And -- either Planning or the ag conservation.
Q Well, does the assessor's office send these

forms to Planning?
A To Planning, no.
Q What happens to the forms?
A They are filed in our office, I believe.
Q Is there any effort made that you're aware of to call out the ones that suggest that maybe they don't have qualifying income any longer?
A I don't think there's a program in place for us to communicate that information.
Q Would that be something within your sphere of responsibility?
A It could be. There's a lot of changes going on and it could be something I can take on.
Q Do you know how frequently these are sent?
A I believe the ag -- the grazing ones, I think, are just only sent every few years, unlike the vineyard ones that are sent every year.
Q Have you ever had any discussions with Mr. Tuteur about the fact that we're getting these grazing contracts that show no income?
A I don't know that they have to have an income in order to qualify.
Q Okay.
What do you base that understanding on?
A In reviewing some of the documentation that we have for the ag contracts. I don't know that they have to have an income in order to qualify.
Q Do you know what documentation you might be

referring to?
A Like that on H.
Q Like on the contract itself?
A Yeah.
Q That would be?
A I don't know for sure that they -- I don't remember seeing that they had to have any income.
Q Well, if they don't have to have income how are we going to evaluate them? Are you just going to use that minimum imputed income?
A That's the reason we do on a lot of them.
Q Do you have an opinion one way or the other whether it's appropriate that they not have income and still get a tax benefit?
A As to why another department approved them, no.
Q All right.
A My understanding is our job is to value them accordingly; but as to who approves them, that's not our department.
Q All right.
But I'm not talking about the initial approval, I'm talking about subsequent information becomes known to the assessor's department, assessor's division; namely, that we have contract owners, contract holders who return questionnaires that report no income. If that just gets put in the file, how is Planning supposed to know about it?

A But I don't know -- for the grazing, I don't know that they're required to have an income.
Q So it's your belief the reason they're not passed on to Planning because there's no requirement that they have income?
A That could be part of it. We don't have a mechanism in place to pass it on. It's my understanding, though, it's the Board of Supervisors who if they want to cancel or rescind a contract that it's up to them.
Q Well, that probably is correct, but how is the Board of Supervisors going to know if the assessor division doesn't send the information to the planning department?
A I don't know that we're required to send it to the planning department.
Q That wasn't exactly my question. My question is is there any way for the Board to know if the assessor division doesn't send this information forward?
A I don't know.
Q All right. You may not finish today, but I'm doing my best.
Are you familiar with -- are you involved in the Prop 8 valuations?
A Yes.
Q So assuming it's not a disaster like a fire or an unnatural disaster like the 2008 property downturn --
A Right.

Q -- what would be the circumstance that someone would get a property adjustment?
A Well, they get a property reduction if their current market value is less than what the fair -- the factor to base your value is.
Q What if I came to you and I said my market value is too low, is below my Prop 13 or base year value.
A Um-hum.
Q How would you determine whether or not I was correct?
A We would research it. Usually we would look for comparable sales and determine whether or not what we felt that the fair market value of the property was.
Q All right.
What -- and you've been back since 2015?
A Um-hum, correct.
Q And are you familiar with the overall real estate residential market in the city of Napa?
A Yes, I am.
Q Would you say it's gone up, down or stayed level?
A It's pretty much gone up since I've been back.
Q Are you familiar with any situations where it hasn't gone up?
A There's a few areas where the market still hasn't come back. Overall the market has rebounded, but it didn't come back homogenous, so there's areas in

which they would have bought it in 2006 at the peak of the market. Some areas didn't come back the same and they still should be on Prop 8 because what they would be assessed for without it would be greater than what their market value is.

Q What about a property that was purchased in 2015? What circumstance would cause that to be a Prop 8 property?

A Let me think. If they bought it and then after they purchased it they found out additional information that they weren't aware of when they purchased it, then their market value -- they would all of a sudden find out that they overpaid. I had a woman call just recently who just bought a place and she overpaid.

Q What was the -- how was it that she determined that she'd overpaid? Was there something wrong with the property?

A In her circumstance, no. I had to argue with her about it. She didn't -- I didn't think that she overpaid, but she said her real estate agent told her while she was signing it that she overpaid and I said you might want to get a new real estate agent. But the competitiveness of the market, I think, is what drove hers up.

Q Would you take a look at exhibit 21, page 287? I'll represent to you this is a document that I obtained from the assessor web page.

A Um-hum.
Q Do you recognize it?
A Yeah, it looks like Prop 8 value notice.
Q Are you familiar with this property, 1523 Seminary Street?
A Not off the top of my head.
Q Can you think of a reason why there was a base year reduction for the value of that property that was -- the base year value is 828,000 and it's been reduced to 725,000?
A Without knowing more about the situation I don't -- I don't know the particulars about this property. I don't know what the base year value -- I don't know how old that is.
Q Okay.
So you don't have any recollection -- do you approve these or does somebody else do that?
A I approve some of them. Sometimes when I'm not there other people will approve them.
Q All right.
I'm going to represent to you that this is the property that belongs to Jeff Richards, Acting County Counsel. Does that refresh your recollection about this one?
A Yes.
Q Could you explain to us how it was that Mr. Richards got a reduction in value?
A He had called -- I believe we called and we

had discussed that there was some things he found out about his property. I just remember reviewing it and that he had found out some things about his property. I don't know if there was damage or something going on, but --

Q Did you look at his a permit history?

A I don't remember whether I did.

Q Did he tell you that the property had been substantially remodeled immediately before he purchased it?

A I don't recall.

Q Would you look at page 293, please? I'll represent to you that that is permit search that I ran on this parcel. You'll see that the address --

A I didn't assess this.

Q So you don't recall anything about this or how it came to be?

A No, he had -- he had called in and gave me additional information about it and so I reviewed it and reviewed the comps and agreed that it was fair to lower it.

Q Is there a file that would have those comps that you reviewed?

A There would be a file, either it would be an electronic -- we don't have, like, reports. There would be comps that are in our computer system.

Q Do you recall if Mr. Richards referenced anything about a Zillow valuation?

A I don't remember.
Q Would you -- you consider Zillow reliable information for purposes of a Prop 8 reduction?
A Not at all.
Q Okay.
Okay. Do you have any role or responsibilities with regard to evaluating Mr. Tuteur's property?
A Not directly. I believe Richard Anderson, our Chief Appraiser -- I have in the past. I have worked on his property, but not recently.
Q When was the last time you worked on his property?
A Probably 2008.
Q Okay.
Are you aware of any discussion in the office about those properties being valued incorrectly?
A I believe that there was a calculation error on one of the formulas for it.
Q And am I correct that was probably 2015 that that error came up?
A I'm not quite sure the year, I don't know.
Q As I understand it, the cell tower ag contract restricted property has to be valued on an income basis, correct?
A Correct.
Q And is separate from the land?
A Correct.

Q And if it's leased you try and figure out what the present value of the lease is at any given year?
A Correct.
Q So am I correct -- if a mistake were made in, say, 2008 in the present value calculation and that mistake was carried forward into successive years and then discovered in 2015, would that trigger an escape assessment going backwards?
A It should.
Q Would you look, for example, on the very last page, actually. We have several over there, but we'll start with the last one. Page 318.
Am I correct that this is a calculation adjusted by the described due to present value of the lease income stream?
A Correct.
Q As I'm looking through these, it looks like the error was that you can't have negative years remaining; isn't that right?
A Correct.
Q And I'm looking at 17, exists there and continues all the way up to --
A Seventeen -- what are you talking about?
Q I'm sorry, page 17.
A Yeah.
Q So just flip backwards with me through the years, 2009, page 317, and all the way to 2015, or page 310, it looks like the error must have been caught

in that year because now we have a positive value. On page 310.

A Is it --

Q Oh.

A Yeah, you had the wrong spot.

Q I did it wrong again, I apologize. That's why we have numbers at the bottom of the pages.

A This does make sense.

Q So this -- then this error now with 2015 it shows remaining years five years, correct?

A Correct.

Q And that -- is there any reason why you wouldn't go back and escape assessor's prior years to pick that up?

A No, they should have been. Dan Woods, the Appraiser III, is the one who's handled this for those years and I don't know why it wasn't corrected when he looked at them every year and why he continued the error. I don't understand.

Q Well, it's correct that even if an error is made it's on the property owner, not on the assessor, correct?

A What do you mean in that aspect?

Q In other words, if there's simply a clerical error of some type then the assessor goes back and escape assesses it anyway, even if it was the assessor's error in the first place?

A Yes.

Q Okay.

And were you privy to any discussions with Mr. Tuteur about this error?

A No. Actually, I was the one, I believe, who discovered it and I gave it to Richard Anderson, the Chief Appraiser, to take care of and I don't think he's handled it yet.

Q I see.

All right. Is there any time frame when this is supposed to be done, like statutes of limitations?

A There are. You can go back four years for escaped assessments. And as to why it wasn't taken care of, I'm not quite sure.

Q All right.

Do you have anything else you want to tell us today you think we should know to understand your testimony?

A No, no. That's about it. I think we're all just trying to juggle everything we're doing and get through the day.

Q So are we.

All right. Miss Tydingco, thank you very much for coming. We appreciate your cooperation and I will remind you you admonished not to discuss this with anyone, including Mr. Tuteur or Mr. Anderson or anyone in the office or your family.

A Okay.

Q And we will try to avoid calling you again, but we can't promise that.

A Thank you.

MR. DELL'ARIO: Off the record.

(A recess was taken.)

MR. DELL'ARIO: All right. Let's all come to order, please.

RICHARD ANDERSON,

called as a witness was examined and testified as follows:

MR. DELL'ARIO: Mr. Anderson, Chuck Dell'Ario, foreman. Sorry to keep you waiting. Please come over here.

Before you take a seat, raise your hand and be sworn. In your testimony before the grand jury, do you swear to tell the truth, the whole truth and nothing but the truth in responses to questions posed by the grand jury?

THE WITNESS: I do.

MR. DELL'ARIO: You are further admonished not to reveal anything about your testimony, either testimony by you or questions asked by members of the jury. If you reveal such matters concerning the grand jury proceeding you maybe prosecuted for contempt.

In addition, you should be aware that a grand juror may not reveal anything about a grand jury proceeding as prescribed in section 9.241 of the California Penal Code, nor may any record of this proceeding be subpoenaed by any individual or court except in the case of criminal proceedings when the records of the grand jury testimony may be produced to verify if there was perjury in testimony given before the Court.

If you believe that a question you are asked may tend to incriminate you, you would have the right under the Fifth Amendment of the United States Constitution to refuse the answer that question unless ordered by a judge.

Please be seated. State your name and spell your last name. And may the record reflect that all the jurors are present and --

Oh, excuse me. I beg your pardon. State your name and I'll do that part.

MR. ANDERSON: Richard Anderson, A-n-d-e-r-s-o-n.

EXAMINATION

BY MR. DELL'ARIO:

Q Please have a seat, Mr. Anderson. Yes, let the record reflect that Juror Shauffel has left the proceeding.

Again, thank you for coming and we apologize for the slight delay. Have you ever had -- ever testified in court before?

A Yes.

Q And have you ever participated in a deposition?

A Not that I recall.

Q All right.

So the purpose of my question is just to let you know that we are here today just as though you were in court. You have taken an oath to tell the truth; it's important that -- for that reason the reporter is taking down everything that's being said unless I say we're off the record. It's important that you understand my question before you attempt to answer it. If there's something that I say that isn't clear or you don't understand, please let me know and I'll try and make it clear. Do you understand that?

A Yes, I do.

Q And you need to answer audibly so the reporter can take down your response and my questions; you understand that?

A Yes, I do.

Q All right.

Thank you again for coming. Mr. Anderson, what is your job title, sir?

A I'm the Chief Appraiser.

Q And for Napa County?

A Yes.

Q And how long have you worked in the appraiser office?

A I have worked in the office for approximately nine years.

Q And before that where did you work?

A Several things. I was just immediately prior

I was working part time at a furniture store.
Q Are you a certified -- are you certified by the Board of Equalization as a property tax appraiser?
A I am. I have an advanced certification.
Q And how long have you been -- the supervising appraiser?
A I'm the Chief Appraiser.
Q Chief Appraiser, I beg your pardon. How long have you been the Chief Appraiser?
A Approximately two years.
Q And before that?
A I was a supervising appraiser for a very short period of time.
Q Would you describe your duties for us as the Chief Appraiser?
A My duties primarily, I manage the valuation division of the assessor's office. So I have two direct reporters, people that report direct to me. That would be the real property supervisor and business property supervisor and under them we have seven real property appraisers and two auditor appraisers on the business property division, one appraiser aide and one administrative assistant.
Q And and the property supervisor who reports to you, that's Miss Tydingco?
A Jennifer Tydingco, yes, sir.
Q And are you involved with the appraisal of ag contract properties, the Williamson Act properties?

A I oversee them. It's primarily delegated to the departments. We have two appraisers who -- senior appraisers who have been with the assessor's office for quite a while that do the primary Williamson contract appraisals. They have the most experience in the office and Jennifer is their direct supervisor. Although I am responsible for overseeing and making sure that it's implemented correctly in a way that we interpret the Revenue and Taxation Code and guidance with the Board of Equalization. As far as directly valuing properties I do not.
Q All right.
So what Revenue and Taxation Codes apply to Williamson Act property?
A You know what, I can't tell you off the top of my head. I don't memorize them. I have links in front of me and when I have to reference them I have to code three.
Q Are you familiar with section 423? I don't have it there, sir.
A No.
Q All right.
Let me -- I should have anticipated this, but I didn't. I'm going to show you my electronic copy of section 423 and bear with me. See if you --
A Um-hum.
Q Now am I correct that ag contract properties are assessed on a capitalization of income basis?

A Yes.
Q And in doing that the principal method is to use comparable rental income, isn't that right, not necessarily in our county but as a general proposition?
A Yes. In -- yes, yes.
Q And so that's kind of what's --
A We capitalize a gross potential income of the property. If I can?
Q Yes, please. Do.
A So the income that the property can generate based on highest and best use of the property, which is assumed under the Williamson contract to be the current use unless the appraiser can show that another use is not the highest and best use. And there's that rebuttable presumption that the current use is the highest and best use of the property. And that's a very important concept in appraisals, is highest and best use.

So we have to establish first that the property is being used at its highest and best use, and one component of highest and best use that we really have to look at is whether or not that use is legally permissible. And that's the first question when we're considering highest and best use. So there has been recent changes that we've made -- am I getting ahead of you?
Q No. We're all --
A I think I'm getting ahead.

Q We're all pretty much nonrenewal experts here, so anything you share with us we're welcome to hear about it.

A Okay.

We've made some recent changes in that we -- there is the rebuttable presumption that the current use, the way that the owner is using the property, is the highest and best use under the Williamson contract. We have in the past -- in the past we have looked at it -- we, being before my time because we all interpret things differently, but I should say our office has looked at it and the property and said well, it may be currently not utilized at its full maximum potential. And in that they have capitalized potential income of property that is not necessarily legally permissible yet. Property, for example, that needs a permit, an erosion control permit prior to -- prior to us taxing it as a premium plantable property.

So since -- well, let me back up again. I'm sorry, I'm getting ahead a little bit. I'm a little nervous. When we look at highest and best use and we're trying to decide whether or not the -- how much of that property should be taxed, for example, at vineyard land, premium vineyard land, if there was an erosion control permit pending in the past the assessor would pick up that and call the percentage of that land attributable to that permit as potential.

But in my interpretation of the Revenue and

Taxation Code and my years experience as an appraiser -- keep in mind I was an appraiser for quite a while longer than here. I said I worked at a furniture store, but that was when I relocated in the bay area. I was an appraiser in Southern California for many, many years.

So back to the highest and best use. What we were doing in the past in our office was if there was an erosion control permit pending we called that area of land under the permit premium vineyard land. My opinion and the changes we've made since is since this is not considered -- or not legally permissible, one of the tests of highest and best use. It's not legally permissible yet because it hasn't been permitted. It has to be legally permissible, it has to be physically possible. It has to produce the highest return on the land and the first test it fails until that permit is permitted. So the change that I've made recently was that we do not pick up that premium land or pick it up as premium and tax it as vineyard until that vineyard is approved and final.

Q Is that something as a result of an appeal or something we heard about?

A There was an appeal, yeah. There was.

Q Mr. Fulton?

A Yes, Dirk Fulton was his name. It brought it to light. It's something that I went back and forth with in the past, but this really brought it to light and we had a validity hearing for his appeal and his application was originally rejected. After the hearing we met with the deputy county counsel and discussed this and I told him my concerns, she agreed with me that it's -- it shouldn't be considered highest and best use until it meets that criteria. And I took it back to the office, discussed it with John Tuteur and we changed our policy as a result.

Q Was there -- was this a property subject to a contract?

A Yes, Williamson contract.

Q So was this about when the contract went into effect or was there already a contract in place and then this valuation issue arose?

A It was already in place and the contract was in place and one of our senior appraisers saw there was apparently an erosion control permit pending on it and then went and expanded what he considered the premium vineyard land for the purpose of taxing it under the Williamson contract.

Q We were talking -- I'm going to show you back here --

A I apologize, I got a little sidetracked.

Q That's okay.

I'm looking at section 430 of the Revenue and Taxation Code. That's your rebuttable presumption section, isn't it?

A Yes.

Q All right.

So we've looked at 423 and 430?

A Um-hum.

Q And then if you want, this is the -- I'm giving you the table of contents and it looks like -- it looks like you've got some other things here. I can't get it to work. 423 and 430 are kind of like your main ones, right?

A Um-hum.

Q All right.

Now in addition the Board of Equalization has provided some specific Williamson Act guidance in handling 521?

A I believe so. Again, I don't memorize the --

Q All right.

Are you aware that's a Williamson Act specific guidebook?

A Yes.

Q And there's -- in your office do you consider that these statutes and guidebooks are kind of the parameters of your discretion, if you will?

A I would say, they're the parameters of the Board of Supervisors discretion, because the Board does have the ability to guide the direction in which the contracts are written, or --

Q All right.

A And -- but I'm not trying to backstep your question, but, yes, it's a framework in which we have to operate.

Q Right.

I'm talking about the valuation principles, not the decision to award a Williamson Act contract in the first place. But once the one -- the Board has deemed in its wisdom to be appropriate, you're governed by these statutes and guidelines in terms of how you calculate the assessed value, correct?

A Correct. And incorporating appraisal practice in which, you know, is a lot of the Board of Equalization guidance as they'll throw something out there such as fair market value, you know. But they don't tell you how necessarily we determine fair market value. That's in our appraisal practice, our methodologies -- methodology of use.

Q Are you aware if any supervisor has instructed an employee not to follow the Revenue and Taxation Code in this specific instance?

A No.

Q You would agree that wouldn't be appropriate, right?

A Oh, no doubt. No doubt. I mean, we have to follow the Revenue and Taxation Code. That's -- you know, it's -- sometimes the interpretation of what that code says we maybe have a little disagreement. However, you know, if it's a direct we have to do this there's no gray area there at all.

Q Okay.

Are there any -- has the Board of Supervisors

promulgated any written policy that affect your appraisal process?
A Not directly.
Q How about indirectly?
When somebody says not directly, the lawyers are going to say not directly.
A Not in my tenure. I said that they're held and not in the appraisal practice, only in the way the contracts are written, so, no.
Q Okay.
Now as I understand it we have type A contracts and we have type H contracts and we have type C contracts, but but you don't do type C contracts anymore or there aren't any; is that fair?
A I believe so.
Q And to be a type A contract would you take a look at I think it's tab two, starts at page -- it looks like it start at page 20. Well, there's a lot of blank pages because I scanned it badly. Starts at page 30. Tab two, page 30.
A Okay.
Q And so these are -- you recognize these are the rules that govern type A contracts?
A Yes.
Q And it says that you have to be primarily prime land zoned AP; is that right?
A Yes.
Q That then -- if you had a hypothetical type A

contract and it contained a vineyard, contained a winery, it contained a home site, what would be the components of valuation in terms -- of determining the assessed value?

A Well, the home site would not be included, that would be taxed as the home site, the home. The underlying land from the winery would be included in the Williamson contract, as would the vineyard land. The winery itself, no.

Q And --

A And again based upon the income approach of the -- under the highest and best use of that land providing that it was legally permissible and falls under this contract.

Q So in valuing the winery building as opposed to the land it sits on, we'll call that the winery and we call the land it sits on the site; is that fair?

A Um-hum.

Q So if we're valuing the building, is that just done on an income basis or market value basis?

A Market value basis.

Q But the site is done on an income basis, correct? Capitalization of income?

A I believe so. Yes, it is. Yes. Again, I don't get involved in the nuts and bolts of valuation of this and I should have a little bit overview, but --

Q We're not here to put you on the spot.

A Okay.

Q We're just trying to find out what's going on. So take a look at page 12, exhibit 1. When I'm referring to the pages, I'm talking about the bold print in the lower right hand corner.
A Okay, 12. Okay.
Q And there on the page, paragraph Roman numeral VIII(b) talks about calculation of income and it refers to -- or paren section 423.
A Okay.
Q And would you agree that that's -- this is the agreement between the Board and the owners and this is how -- this is kind of instructions to the assessor's office on how to value that property; isn't that right?
A Yes.
Q And with respect to the -- you know, the nuts and bolts, to use your phrase of how the value of winery sites is determined?
A We're -- no. I can't tell you specifically.
Q I mean, have you heard anything about the use of an industrial lease rate for the winery sites?
A Um-hum.
Q Yes?
A We are using a capital rate of 4 percent and that 4 percent essentially translates to a multiplier of 25. So it's 25 times the one year lease rate.
Q All right.
And that 4 percent, is that something that's in one of these handbooks or rules, is that just

something that's assessor discretion, if you will?

A I wouldn't call it discretion, I would call it appraisal practice.

Q Okay.

A Looking at comparable sales and what lease rates are, what capitalization rates are and what makes sense for that particular property type. There's a lot of -- there's assessor discretion and there's appraiser judgment, and I'd say this is appraiser judgment.

Q All right.

A Based on data.

Q What data exists in your office to determine winery site value?

A We have a few actual leases, very few, and again we have -- we have capitalization rates, published rates from different data sources that we subscribe to. But we have very few leases that we can actually rely on as market data. Part of what I've been asking my appraisers to do is start requesting copies of every single lease out there, because the past practice was not -- they just didn't do it. We didn't keep a database of leases.

And to put this into perspective -- I'm not pointing fingers at anybody, but I'm telling you that time is a factor here, a huge factor, and we're extremely understaffed and that plays into this big time. If I was there to do a commercial property, it would take three or four weeks to do it. We're expected to do it in 10 to 15 minutes, so that's the level of data and time we have to work with here. We do our best and we have -- you know, I have asked the appraisers to start collecting as much of this data as possible since I've been there and we do have a few leases that support this 4 percent.

Q Is Mr. Tuteur aware of this problem, if I may be characterizing it as a problem?

A Aware of how short staffed we are?

Q Yes.

A Sure.

Q How about the fact -- we heard something about the fact -- well, let me back up because I have a tendency to introduce new information as old.

A Okay.

Q So if we were going to value a winery site we need to know the lease rate -- some lease rate, industrial lease rate?

A We should know what that market rent should be, the hypothetical market rent. In most cases it's not rent.

Q And then we would capitalize it by this 4 percent factor that you've discussed, correct?

A Um-hum.

Q And then, as I understand it there's some additional discount, discount rate that the State tells you to apply in these situations?

A And that varies from year to year.

Q So we have two variables. We have the State variable, we have a lease rate variable and we have this apparently 4 percent constant?
A And the tax rate.
Q And of course at the end the tax rate. When was the -- are those industrial lease rates, is that component of the evaluation, is that revised all the time or is that a static value that's been in place for a long time; do you know?
A Way before my time, from what I understand goes back to 20 years. And we've examined it in the past and said does it make sense. Because keep in mind, you know, these leases that -- the actual leases for winery sites are nearly unheard of. You know, we request them when we know the property is leased, but we're typically valuing owner occupied properties.
So we have to input this based on something that we consider similar in marketability. So we look at industrial building, industrial lease rates, what an investor is expecting and put the cap rates in there, but I don't think the 4 percent is too far off, no.
Q Well, I was really talking about the other value, the first -- because leases are typically done on a per square foot, value, aren't they?
A Ground lease.
A Well, yeah, it depends.
Q And so that value, as I understand it, hasn't changed; we've been using the same industrial lease

value for a long time?
A We've been using the same cap rate for a long time. There's a big difference.
Q Two different components of this variable?
A Yeah. We -- when we know of a lease of property which is transferred and it has a lease someplace or a pending lease, we extract the capitalization rate out of that and we apply that to other properties in which we estimate what the market rent should be and we apply that capitalization rate to derive a value for the subject property. So we have again very few leases to extract that actual cap rate directly from winery sales, but we use the industrial sales for cap rate and lease rates.
Q Okay.
And the lease rates are reviewed all the time; is that what you're saying?
A No, it's -- they've been -- they've been using similar lease rates for a long time, yes.
Q Is that the 20 year number you were talking about or that's the cap rate?
A That's what I've been told. That's way before my time, but the lease rates are updated by the appraisers who are working -- the senior appraisers who are working the transfers or the annual Williamson valuations every year. Do we have a formal study in place? I wish.
Q I'm a little confused because I thought you

just told me it hasn't in a long time, either the cap rate or a least rate.

A We haven't done a study in a long time and come up with an official *this is it*. But again we're going back to appraisal judgment. And your lease rate in Mt. Veeder isn't going to be the same as it is in Yountville. So we would have to do a study for every single area.

Q It's not going to be the same as Vinfolio in American Canyon?

A No. It's gonna vary from location to location, so we use the best data at the time that's available.

Q And this is a top down process, right? Mr. Tuteur's responsible overall for all of this, isn't he?

A He's responsible, as am I for knowing it.

Q But is there some deficiency in these appraisers causing this problem?

A Well, it's called time. That's the big deficiency.

Q Okay.

There's not some insubordination going on by the Appraiser IIIs?

A Yes, absolutely.

Q You do have?

A Yes, we have two Appraiser IIIs that think they should be in my position and Jennifer's position because they've been there so long. They're belligerent in every aspect trying to manage them. They disagree with any changes that we make. It's been a problem since day one. I don't think they do a bad job, I'm not gonna go there. I think they're insubordinate at times, but I think they do a good job ultimately as appraisers. They're excellent appraisers, but we have a workload.

Q I guess what I'm getting at, you talked about studies and things like that not being done.

A Um-hum.

Q Is it like somebody said do this study and they just refuse to do it or does this means really it's -- there's too much to do and that's not -- leadership hasn't said this is a priority, put this ahead of some of the other things you do?

A We've discussed doing that, but, honestly, we've been chasing our tails since I got there and trying to close the hole of several hundred appeals that we have every year. So, again, time. I have a list this high of things that need to be accomplished in our office and, you know, there's that little saying, do you want it quick or do you want it correct.

And I'm being honest here. We do the best with what we have to work with. I'm sure it's that way in every government office. It's -- we're not here to make a profit, if we were things would be much different. But this is where we are and that is our primary problem right now, is we do not have the men.

Q Is it your opinion these appraisers are not

doing their jobs?
A No, not at all. Again, I think they're both great appraisers, I think they do an excellent job in the amount of time and with the resources they have to work with. I wish I could work with their attitude. You know, again they're disappointed and have carried this on for a few years now, but that's separate in my mind from them being able to carry out their appraisal duties. I wouldn't say that at all.
Q Okay.
Would you please direct your attention to exhibit 19, page 267, which is -- is a type H contract.
A Um-hum.
Q And 267, that's the same-- has a paragraph there. Are you with me?
A Yes.
Q On the top of the page it says Roman numeral VIII assessment and in paragraph (b) we've got calculations of income. And we're back again with INT, Revenue and Taxation 423 and it says there we're supposed to use one rental income, either actual or fair rental income or two minimum imputed incomes. Am I reading that correctly?
A Yes, you are.
Q And are you aware of any effort or efforts made when you're appraising a contract encumbered by a type H par -- a parcel encumbered by the type H contract to determine fair rental income in terms of highest

capacity, capable of using -- I'm not paraphrasing it well, but I'm looking at (b)(1), small Roman numeral ii.
A Um-hum. So the minimum imputed income in most of these contracts is about $80 an acre, which is way low. So --
Q I'm just asking you to keep your voice up a little bit because the reporter has to hear.
A So your question again.
Q So my question is is it the practice simply to use the minimum imputed income and not use this fair rental income, market or economic rental income?
A We use fair rental income and that's again since we haven't been able to do a study for quite a while, a formal study, a lot of us it is appraiser judgment what that income should be. And we do have again the two appraisers who were specialists and work all year doing primarily winery appraisals. They should have a feeling as to what that is.
Q I'm sorry, Mr. Anderson. I wanted to get you back to the grazing. This is a grazing contract we're talking about here, type H contract. If you look at I think it starts at page 261.
A Okay.
Q So that the --
A So this is --
Q It says -- and do you recognize this as a grazing contract?
A I've seen type H contracts that allow grazing.

There we go. Restrictions on use of property on 263, permitted uses, agriculture, so, no, I don't recognize this as specifically a grazing contract. I think primarily a grazing contract.

Q All right.

But there is no other contracts other than type H contracts that are used for grazing; is that right?

A Not specifically for grazing that I'm aware of.

Q Isn't it correct that with regard to properties encumbered by a type H contract that your office assesses them based on the minimum imputed income, it fills in that blank, has some number inserted in at the time the contract is awarded; isn't that right?

A Possibly. Yeah, I would say most of the time. If we're talking grazing, grazing doesn't -- the income from grazing is very, very low. You don't get a lot of money for letting cows or sheep graze on your property. It's very, very low. We have very little data to -- you know, or leases in which we can research exactly how much income they're getting, so I believe you are correct and that we typically use the minimum income since that's always available.

Q All right.

Take a look at page 259. I think that's exhibit 18. Do you recognize this document, Rule 13?

A Okay.
Q This is the source of the number that goes in this minimum imputed income on page 267; isn't that right?
A Yes, if we have a contract or if we have the lease, sure.
Q Well, this isn't based on a lease. This is just some number that was derived some years ago; isn't that right?
A I haven't seen this before.
Q Okay.
And you don't have any idea of when this -- the history of this document, when it was first adopted or when it was revised or anything like that?
A I do not, no.
Q Okay.
A Perspective, grazing income and AUM, which is the one animal a month, that's a 1000-pound cow, if -- a lot of people when they're thinking about grazing they think, you know, a hundred cows on the site. One cow per nine and a half acres for a five month grazing period is typically what -- that's typically the carrying capacity. So it just helps to put in perspective as to what the income should be. You're not bringing a hundred cows onto a 2-acre -- or, I mean, a 20-acre property. You're probably bringing four for a certain period of time. So this income is going to be very low. Again -- and I haven't sane this document.

Q Are you familiar with anything called Rule 13?
A No.
Q Or how the minimum imputed income values for -- on page 267 is derived -- are derived in paragraph Roman numeral VIII (b)(ii)? Right here.
A No.
Q All right.
A Again, I haven't been involved in these decisions and we haven't reviewed it since I've been here.
Q Mr. Anderson, are you aware that there are certain minimum parcel sizes for contract properties?
A Um-hum.
Q Yes?
A Yes.
Q And as I understand it for a type A contract it's 10 acres?
A Yes.
Q And for a type H contract it's 40 acres?
A Yes.
Q Are you aware that there are -- of any properties within the county that have contracts that are smaller than those values?
A I'm not aware of any. I'm not saying there're not, but I'm not aware of any.
Q Okay.
Is that something that you concern yourself with at all?

A If there're not -- I believe there may be exceptions to the 10 and the 40 acres and there are not exceptions. Yes, I would be concerned.
Q Now while we're back here at this end of the deck let's look at exhibit 19, page 272, which is again we're back inside our type H contract.
A Okay.
Q You see paragraph Roman numeral XXIV?
A Okay, assessment valuation.
Q This is -- is it your understanding that says that if you ask the owner for information they have to give it to you; is that right?
A Yes.
Q And are you aware that the type H owners -- they're sent some kind of questionnaire every three years?
A I believe so.
Q And that was the result of -- there was some -- are you familiar with the Board of Conservation audit from 2010?
A I'm not.
Q All right.
Are you aware that there are substantial numbers of these questionnaires that are sent for type H contracts that are not returned?
A Yes.
Q And what, if anything, is done when an owner doesn't return a contract?

A It has been the policy in our office driven by Mr. Tuteur's past policy that we are not an enforcement agency; our purpose is to value their parcels and when the contract is not returned we have a -- I wish I knew the Revenue and Taxation Code facts, but I don't. I believe it's one and a half times the county average for vineyards for grazing land. But again we are not an enforcement agency and we are separate from reporting these type of nonrenewal cooperation -- I'll call it what -- with the owners.
Q Who outside the assessor's office would know of any noncooperation?
A Who outside of the assessor's office? Maybe the people that don't cooperate.
Q That's a fair assessment, but --
A Yeah, I think -- you know, people talk.
Q Well, what I'm getting at -- I'm not trying to be coy here. If the assessor's office doesn't submit this noncomplying information to Planning or to the Board or somewhere outside your office nobody else is going to know about it, are they?
A No.
Q And so to say that it's up to the Board to enforce the contract, it would be pretty hard for them if the assessor's office doesn't tell them.
A Correct.
Q And same with Planning; isn't that right?
A Correct.

Q And isn't the same thing true with the type A questionnaires that are sent annually?

A Yes.

Q And there are even smaller percentages of those returned than there are the grazing ones?

A Correct.

Q And it's possible for your office to run a report that shows who has these returned and who doesn't?

A Yes, we could compile that information in a report.

Q Let's take a look at --

A An interesting thing, if I may?

Q Sure.

A With this concept of us not being an enforcement agency in keeping the information that we receive or don't receive confidential, that actually is taught in the ag class, taught by the Board of Equalization. They have instructed the recent appraisers that have gone there and told them that that is not your job. Your job is to value the property, not act as an enforcement agency.

And in fact one of my appraisers -- one of my Appraiser IIIs, a senior appraiser, recently came back from a class and told me that. You know, again I think we should. I mean, my personal opinion I think we should be able to report them and say hey, they're not in compliance, let's do something about it. But when

my -- may I say his name?
Q Sure.
A Sam Eggers is our appraiser, he recently went to an ag class, Williamson class taught by the Board of Equalization and they specifically told him, they said you are not an enforcement agency and the information that comes into the assessor's office is confidential. and that's the same position Mr. Tuteur has held. So whether or not that's correct.
Q All right.
I'm just trying to -- we've got the Board of Supervisors who's the authority to enter into these contracts and they're the ultimate authority whether to discontinue or not renew them, right?
A (Nods head up and down.)
Q And this information that you gather through these questionnaires obviously was deemed important enough that they made a provision for it in the contract; would you agree with that?
A I do agree, yes.
Q All right.
So notwithstanding the Board of Equalization is there any way for the Board of Supervisors in this county to know that we have property owners who aren't returning these questionnaires or otherwise complying with the contracts if the assessor's office doesn't reveal that information?
A I think the -- this is the way they're going

to know today. But obviously -- but, I mean, my hands are tied.

Q All right.

A No, there is not. There is not a way for them to know, you know, unless it goes to appeal and we -- you know, as part of the appeal what the owner brings that up. But, no. And agencies don't always cooperate.

Q And that would be true if, for example, a property owner that has a type H contract for grazing returns a questionnaire and the questionnaire, if he gets points for returning the questionnaire but hopes the questionnaire shows he has no income for grazing, is that something that -- I would assume that information is not shared anywhere, either, outside your office?

A They have to show that there's no income, then we would value it as if there were income according to the contract. We use the minimum amount. So -- are you saying if they're not using the land for grazing?

Q Yeah, that's what I'm asking.

A Okay.

You said they're not showing income.

Q All right.

Let me give you an example, rather than talk in abstraction. Take a look at page 149 and I think that's under tab 16. So this one says, the neighbor's -- no income, anyway; grazed by the neighbor, not by the owner?

A Um-hum.

Q Is that -- is this property eligible for a contract?
A The contract --
Q I apologize, this is my -- these are H contracts.
A This would be an H contract. So they're not showing income, we wouldn't put the minimum income to value it.
Q But shouldn't that be the fair market value rather than income derived from capitalization of income value if they don't have any grazing going on?
A So you're asking if we should tax it by either Prop 13?
Q That's what I'm asking, yes, sir.
A The Prop 13 value rather -- no, they're under contract, Williamson contract. I mean, if we go to the H contract it says the permitted uses, permitted uses are and it names all the permitted uses. It doesn't say that they have to do this. It doesn't say they're forced to bring cows on and graze, does it? I don't read it that way. And that's been a --
Q Well, so let me see if -- let's say I buy 50 acres of land in the watershed zone, which is where I think you have to be for this. Right? And I run a couple of cows there for a year -- actually probably have to do it for three years looking backwards, because that's what the ag commissioner requires and then I take my cows out and I get tax break in perpetua for that

unless somebody nonrenews it?
A Page 261 on type H contract?
Q Um-hum.
A It outlines the purpose of the Williamson contract. And this is just how I'm reading it. And the way I read it is -- if I can go to the page 1, just the last sentence. No, I'll read the whole thing. Whereas the County having upon application by owner established a type H agricultural preserve comprised of the subject property, County and owner now desire to enter into a type H contract for the subject property for the purpose of enforceably restricting use of the subject property to agricultural uses and uses deemed compatible with agriculture as part of an overall program by County and State of California under the Act to maximize the amount of agricultural land preserved and maintained for agricultural economy in order to conserve the economic resources of State and County and insure adequate food supply for future recommends the the County and State discourage premature and unnecessarily conversion of agricultural land to other than agricultural uses and prevent loss of the value of public to open space utility of the land, County and owner mutually recognizing the subject property when so preserved for agriculture and open space constitutes an open space, constitutes an important physical, social, esthetic economic asset of County and State of California.
Now just when it defines the purpose in there

it's -- I don't see it as saying that the agricultural use has to be implemented at that time, whether it be grazing, planting, whatever. It doesn't say that. It says preserved for use. And so I -- entering under contract under this context, which is right in the contract, is designed for the purpose of presenting -- or preventing the property from being developed. It's not to force people to have cows running around on their property or whatever.

It's saying -- it's giving the property owners an incentive to keep that land open for possible future agricultural use and to prevent it from being developed. And in turn they're getting the benefit of a lower tax base which we figure by inputting the income, whether or not they're capitalizing that income.

Q Well, what does this contract -- assuming that there's no requirement of ag use once it's established, it has to have an ag use to be established, doesn't it?

Without answering that question, let me move on. Because really what I wanted to ask you was what does this contract do, then, that the AP -- excuse me, not the AP, the watershed zone not do.

A That's a good question.

Q Thank you.

A No, it's -- I mean, there's some overlap and I've been asked that if you're -- you know, we have the ag preserve, which is necessary, there has to be an ag preserve in place under the Williamson contract so there's nothing that any of the Williamson contracts do really that the ag preserve doesn't do as far as preventing building.

So again what the -- the purpose of it is to give property owners an economic incentive in preserving property. Maybe it doesn't do more than existing regulations, but that's -- you can see that in several other tax incentive based things such as the Mills Act in which a property may be located in a historic district, they can't touch it, they can't do anything about it. But if they enter it into the Mills Act saying they don't do anything with it they get a huge tax benefit.

Q Right.

We understand that, we've had others explain that to us. But what we're struggling with as a jury -- and I think I say as a jury when I say this. If they're not required to have any ag income and if they're not required to have any ag activity, even, and if they're to be in this -- have one of these contracts in the first place they have to be in the AW zone, which prevents anything like houses and what have you, what -- my question then to you is what does this Williamson Act do for the citizens of Napa County that zoning doesn't do and why should we be forgoing this tax increase?

A I think it's a double layer of assurance that the property won't be developed. That's my best answer.

Q Okay.

A In that instance it's -- we always have to look at the property as its most -- the biggest restriction that's on the property as far as what can be done with it and in this case entering into a contract may not have additional benefits the zoning doesn't have except the zoning, the use or change of the contract is returned.

Q All right. Let's change the subject just a little bit and then we'll let you get -- let you and us get to our lunches.

In 2016 did you have any occasion to review -- oh, there's one other thing I want to talk about, too. Don't forget about conflict.

In 2016 did you have occasion to look into the valuation of the cell towers on Mr. Tuteur's property?

A Yes.

Q And is it correct that there was an error in the way those were being valued?

A Yes.

Q And directing your attention to -- and Mr. Tuteur was made aware of this error?

A Yes, I informed him that there may be corrections to correct this error and it's sitting on my desk right now. My issue that I have is I've had a lot of people retire, which is why several of us were promoted quickly, and I honestly don't have anybody in the office that has a handle on valuing cell towers correctly. And I have been working with Solano County, one of the senior appraisers over there to get this done.

Q Well, let's go back through the steps, though, a little bit before we -- take a look at the very last exhibit, I think it's -- might be 24 or 23, I don't remember. It's 24.

A Twenty-four?

Q Um-hum.

A Okay.

Q And then starting from the -- we're going to start at the back and work forward because put them in order from newest to oldest. So on page 318.

A Um-hum.

Q Can you tell us what this is?

A Well, this is the calculation that was done for the cell tower under Williamson contract.

Q This is --

A I believe this is Mr. Tuteur's property.

Q I'll represent to you that it was produced to us as being for Mr. Tuteur's property.

A Okay, okay. Yeah.

Q So there's a mistake here, isn't that right, because the remaining years can't be a negative number? Up there in the left corner?

A Yeah.

Q And then as we flip forward or backward through the pages the mistake gets carried forward, 2009, 2010, 2011 and so on. And then in 2000 -- the roll for 2016 for the 2000 rate now it's got it back to five years, which is where it kind of should have been in the first place; isn't that right?

A Page 320?

Q Yes.

A Yes.

Q And this is the correction that you did; isn't that correct?

A This is a correction that I had our appraiser Dan Woods make.

Q And he used -- there was no new raw data that was used this terms of the lease when this correction was made, was there?

A Not that I recall.

Q So there wasn't any need to do any research into values or site calculations or anything like that, was there?

A On these sites the annual review of what the market rental information or that we're factoring or capitalizing.

Q And take a look -- just flip forward to the next exhibit, and then we've got -- let's look at page 307.

A Okay.

Q It looks like a screen shot that was one or something that was run last week for us.

A Okay.

Q So directing your attention to the land value, it went from -- there was a big jump between 2015 and 2016 and that reflected -- that's reflective of the correction that was made; isn't that right?

A At least partially, I believe so.

Q Okay.

And so isn't it correct at that point an escape assessment should have been issued for the prior years when the mistake hadn't been captured?

A That is correct. And again that is sitting on my desk right now and Mr. Tuteur is aware of that. I spoke to him a few months ago and told him several months ago now that that may be happening.

Q Did he say that shouldn't happen?

A No, not at all. He said do what you have to do because it's passed on to my tenant. Those were his exact words.

Q Is there a statute of limitations on it?

A It's a four year statute.

Q So four years from when? Four years from when you --

A From the date I correct it it would be four years back.

Q So the fact that it hasn't been done yet there's no time loss?

A From '15, no.

Q I guess to put it differently, Mr. Anderson, can we go back to 2010 and escape assess for that year?

A No, we can't.

Q Or '11?
A No.
Q For '12?
A No.
Q And it's your -- and you've told us that Mr. Tuteur was aware of this error at the time you corrected it in 2015?
A This -- to get our terms straight, I don't think it was a correction, because I didn't --
Q Okay.
A I mean, we valued it correctly, but it -- in our terms, something we call a correction we would call a whole correction where would you get --
Q I'm not trying to use a term of art here.
A I want to be straight. It was valued that way in 2015 and not really corrected, it was based on a --
Q Whatever it was you did in 2015 it triggered the escape assessment then and there; did it not?
A I'm still evaluating to see if that was even done incorrectly. So if it was not done correctly it should have triggered an escape assessment, to answer your question.
Q All right.
Well, for whatever reason you made a change in the value of about a hundred and $70,000 in 2015, correct?
A That's the way it calculated.
Q Right. And the change in value was because

the -- there was some error in the way that the lease income from the cell tower site was capitalized?
A Yes.
Q And that error appears in these documents, to me, to go back to 2008?
A That is a correct statement, yes.
Q Okay.
A I'm trying to figure out why.
Q All right. I want to change the subject and then we're going to go let you have your lunch and we'll have ours.
Take a look at exhibit -- it's page 112 and I think it's exhibit -- it's also exhibit 12, fancy that.
A Okay.
Q This is the assessor division employee property revision 9-212016. Are you familiar with this document?
A Yes.
Q And did you participate in its preparation?
A Yes.
Q On page 113, paragraph eight that refers to you, the Chief Appraiser?
A Yes.
Q And those are your duties under the document?
A Yes.
Q Prior to this document being prepared was there a similar previous written conflict or -- is that what we call this, employee assessor division employee

property document?

A Yes, this has been carried on and revised annually for several years.

Q So what's the first one of these of which you remember?

A The one I signed when I was hired in 2009.

Q Okay.

But that's -- okay.

A That's the first one I'm aware of.

Q We're talking about maybe something a little differently. I'm talking about this specific written guideline as opposed to the fact that there was some kind of process?

A My participation in this is distributing it to the employees and making sure they sign it. I did not write this document.

Q All right.

A My predecessor may have. I didn't. But annually we distribute this and make sure that employees are --

Q So do you -- turning back to page 113, paragraph eight. Do you insure employee property is adequately identified in the property tax system?

A Yes.

Q Do you review change reports to employee property?

A Yes.

Q Do you prepare and present the assessor's

position, et cetera, other than on your own property?
A Yes,.
Q And turning over to procedures, paragraph four. Do you review all work performed by the -- on properties owned by Mr. Tuteur? It says in the last sentence there?
A Yes.
Q So you've been the Chief Appraiser since how long?
A Approximately -- a little bit under two years.
Q Okay.
So you didn't -- so you've only been doing this for a couple of years?
A (Nods head up and down.)
Q So you weren't the Chief Appraiser at the time that this cell tower site valuation which we've been discussing?
A No.
Q And do you work with Mr. Cretarolo in doing this review?
A In?
Q In paragraph -- this paragraph four, last sentence. He's the Staff Services Assistant.
A Yes. I haven't, no. I don't -- I think we haven't really discussed.
Q He really doesn't know much about appraising, does he?
A No, he's not an appraiser.

Q All right.
A I'm questioning whether I do after today.
Q Well, I apologize for that.
A Well, that's --
Q Is there anything else you think we should know before we cut you loose for the day?
A I don't think so. I -- you know, like I said, I feel kind of ignorant that I can't answer all of the questions, but again my position is more of a management position and I hired a supervisor who is an expert on the subject. So my position or my duty is to oversee what she does, and you brought to light a lot of things that --
Q That would be Miss Tydingco?
A Tydingco, yes.
Q All right.
Mr. Anderson, thank you very much for coming today.
A Thank you.
Q I don't think we'll need to call you back, but it's possible. I would just remind you of the admonition I gave you at the start, that everything we said and did here today is to be held in strict confidence.
A Absolutely.
Q And you may not discuss it with anyone unless the judge so orders.
A All right. Thank you.

MR. DELL'ARIO: Let's have the record reflect that I have custody of the exhibits that will be taken today and they will remain in my custody until our next plenary session.

(The proceedings were concluded.)

STATE OF CALIFORNIA)
) ss:
COUNTY OF NAPA)

CERTIFICATE OF OFFICIAL REPORTER

I, KAREN R. KRONQUEST, an Official Shorthand Reporter for the County of Napa do hereby certify:

THAT on Wednesday, February 21, 2018 at the hour of 9:00 o'clock A.M. thereof, I reported in shorthand writing the proceedings had in the matter of IN RE THE 2017-2018 NAPA COUNTY GRAND JURY INVESTIGATION, No. 001.

THAT I thereafter caused my said shorthand writing to be transcribed into longhand typewriting.

THAT the foregoing pages 1 through 114 constitute and are a full, true, correct and accurate transcription of my said shorthand writing and a correct and verbatim record of the proceedings so had and taken, as aforesaid.

DATED this 13th day of March, 2018.

Karen R. Kronquest

KAREN R. KRONQUEST, CSR No. 7482
Official Shorthand Reporter
Napa, California

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