

**From:** Kristofor Swanson  
**To:** gary schmidt  
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**Subject:** Re: Board of Adjustment Hearing August 1st, 2024 Item 10 D  
**Date:** Wednesday, July 31, 2024 6:20:33 PM  
**Attachments:** [Transcript 3.txt](#)  
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To The Washoe County Board of Adjustment:

My name is Kristofor Swanson, and I am a filmmaker, media consultant and technologist. I'm working with Gary Schmidt on multiple projects, and I'm also a principal in some business activities proposed on property owned by Gary Schmidt in Gerlach. On 7/25 I made a request to receive copies of the "Record on Appeal", which is identified as exhibit H in the County staff report both for the Board of Adjustment hearing on July 8 and for the Board of Adjustment hearing now continued to August 1. Other than the automated response to my request, I still haven't received the video files or transcripts or even a response from a county employee, and I will be filing an Open Meeting Law complaint and said regards. I know Gary Schmidt has made similar efforts to obtain copies of the video files of the "Record on Appeal" or more preferably transcripts.

Mr. Schmidt was finally able to obtain some video copies and got them to me on the evening of July 30. I have created transcripts from these video files and hereby submit them for the record for the hearing scheduled for August 1, 2024. I offer a qualifier in that the quality of those videos was extremely poor and therefore the AI transcriptions being provided are not entirely precise. If better quality audio could be provided to me, I would be happy to re-run it and provide better transcripts. The transcripts are attached to this email, and I submit them to the Board of Adjustment for tomorrow's meeting.

In an effort of full disclosure, I am in the process of shooting a comprehensive documentary film on Gary Schmidt's life including trials and tribulations over the last half century in dealing with what he defines as abusive, intrusive, arrogant, oppressive overreach of corrupt government in Washoe County and elsewhere. Based upon what I've seen and documented over the last five plus years including countless interviews, I agree with him.

Documentary film aside, as previously disclosed I am involved in development plans for some of Mr. Schmidt's properties in Washoe County. I would like to see this matter cleared up and to move forward with a respectful and productive relationship between the business entities we are forming and Washoe County. I hope you agree.

Sincerely,  
Kristofor Swanson

00;00;00;00 - 00;00;24;21

Clerk

This one's for you. let me see AH20240700114640. Play 23-0127. Anyone who's testifying.

00;00;24;21 - 00;00;25;22

Judge

Please raise your right.

00;00;25;22 - 00;00;37;03

Clerk

Hand or audible. Yes. From each of you afterwards, do solemnly swear or affirm that the evidence or testimony you will give on this matter now pending, shall be the truth, the whole truth.

00;00;37;05 - 00;00;38;22

Judge

And nothing but the truth.

00;00;38;25 - 00;00;40;05

Chad Giesinger

Yes it is.

00;00;40;07 - 00;00;41;11

Judge

And good morning.

00;00;41;14 - 00;00;41;29

Gary Schmidt

Good morning.

00;00;41;29 - 00;01;03;28

Judge

Good morning everybody in person. It's nice to see everybody. It's been a while since we've done this, right. you know, and, it's a little different doing an administrative hearing in here. but welcome. I don't know if all the witnesses, I see a few other people, the raise their hands. and may I ask your name for the record?

00;01;03;28 - 00;01;07;10

Gary Schmidt

With my secretary, and she'll be a witness.

00;01;07;13 - 00;01;15;11

Judge

Okay. And we'll go through for the record. and, you know, although we all know each other, and identify ourselves. So.

00;01;15;12 - 00;01;16;20

Gary Schmidt

Sharon Anderson.

00;01;16;22 - 00;01;21;17

Judge

Anderson. Yes. Miss Anderson, welcome. Nice to meet you.

00;01;21;20 - 00;01;24;07

Gary Schmidt

I wanted to also be my wife.

00;01;24;10 - 00;01;31;28

Judge

Okay. Good to know. All right. why don't we do that quickly now, and we'll start over with Mr. Basinger.

00;01;32;01 - 00;01;35;06

Chad Giesinger

I have Jackie Singer. I'm the fighting manager for enforcement program.

00;01;35;08 - 00;01;40;08

Gary Schmidt

Brian Palmer, code enforcement. Garrett Schmidt responded.

00;01;40;11 - 00;02;09;08

Judge

Sure, Anderson, and thank you very much. All right. so what we have here is, our code enforcement case. And as I said at the outset, it is an administrative hearing. it even though we're in the courtroom, it's a little more relaxed. I decide I get to decide what is probative, material relevant, and will help me in my decision.

00;02;09;10 - 00;02;26;24

Judge

we do take turns and try not to speak over each other. So we have a good, clean record. after, all of you have the opportunity to ask questions of each other. I may ask questions. And, Mr. Schmidt, you're good. I see you moving forward. You can hear my voice. I know I have.

00;02;26;24 - 00;02;34;19

Gary Schmidt

A soft voice. It would help if you were closer to the microphone or more. Or having a loud voice, as I do.

00;02;34;24 - 00;02;43;04

Judge

Okay. All right. Well, just. You're free to jump in if you can't hear. All right. We want to make sure that you get here. Okay. Okay. Can. Is this a little bit better?

00;02;43;11 - 00;02;43;21

Gary Schmidt  
Yes.

00;02;43;26 - 00;03;05;14  
Judge

Okay. All right. Just remind me. Okay. If, if you can't hear. All right, so the county has the burden of proof by preponderance of the evidence, which means they get the first and last bite of the apple. So the county will put on their case. You have an opportunity to even though it's informal. cross-examine. And then it will be your turn.

00;03;05;16 - 00;03;10;22  
Judge

They will get the last bite of the apple because they have the burden of proof. All right. You have any questions about that?

00;03;10;25 - 00;03;32;08  
Gary Schmidt

Yes. Well, and then the question is I have an opening statement I would like to submit and read into the record. And also I would like to invoke the witness for exclusionary rule. Sure. And request that the witnesses be, leave the room and be instructed not to talk about their testimony while they're out there. Yeah. I would actually request the bailiff to be in the hall.

00;03;32;14 - 00;03;35;20  
Gary Schmidt

Sure, but they won't do that for the record.

00;03;35;23 - 00;03;50;00  
Judge

Okay. Thank you, Mr. Schmidt. You're a little ahead of me because I was going to ask about. Even though it's, informal. we often do invoke the rule of exclusion in these hearings. that's fine. As far as what the bailiff does, that's not. That's their job, not mine.

00;03;50;01 - 00;03;50;20  
Gary Schmidt

As long as they.

00;03;50;25 - 00;03;53;23  
Judge

Yeah. And I can instruct them not to deconstructed.

00;03;53;23 - 00;03;54;06  
Gary Schmidt

And I can.

00;03;54;06 - 00;03;56;16  
Judge

Put trigger.

00;03;56;19 - 00;03;58;12

Gary Schmidt

My own monitors in the.

00;03;58;15 - 00;03;59;23

Chad Giesinger

Hall, I guess, if necessary.

00;04;00;02 - 00;04;03;18

Judge

Okay. Perfect. Did you see what the bailiff just brought you? Yeah.

00;04;03;21 - 00;04;04;01

Gary Schmidt

Okay.

00;04;04;06 - 00;04;21;17

Judge

It's a it's a it's it's it. Okay, just for the record, it says here a sample of fire testimony. Okay.

00;04;21;19 - 00;04;38;17

Judge

Okay, I'm going to talk while you're doing that. Just so, And you could you could test it out. and, Mr. Basinger. Mr. Palmer, you could correct me if I'm wrong. I'm looking at the proposed order. the case involves a complaint regarding a potential violation.

00;04;38;17 - 00;04;43;26

Clerk

Of Washoe County Code. Okay.

00;04;43;28 - 00;04;47;02

Gary Schmidt

So, you know, I've been using this service.

00;04;47;02 - 00;05;15;18

Judge

To avoid scratching. Okay. Okay. One 10.3 or 6.30 five feet and 50.308 sub eight. this is in the proposed order. Okay. Perfect. So we will have a little more conversation, at the end of the hearing. Usually how this works is, as I said, we go back and forth, whether it's remote or back, a few years when we are in person.

00;05;15;21 - 00;05;36;18

Judge

these were supposed to be built to be efficient and streamlined. and so a decision usually comes out this after the hearing, after a brief recess. All right, Mr. Schmidt, if you have any questions about that. so I will probably do that. I will try to do that rather than take it under submission.

00;05;36;20 - 00;06;01;27

Judge

Are there any questions? For Mr. Schmidt? Another at the outset. And I'll try to remember at the end. either side has 30 days to appeal my decision. from the date of this decision. And like I said, I will try to make it today. So everyone's off and running, okay? Yes. Okay. Gotcha. All right.

00;06;01;29 - 00;06;13;22

Judge

All right, now, as far as opening statements, that's that's up to you. if the county starts and. Mr. Palmer, are you speaking initially? Yeah. All right, so just give me a moment here. Yes.

00;06;13;29 - 00;06;15;19

Gary Schmidt

I would like to make an opening statement.

00;06;15;25 - 00;06;33;22

Judge

Okay. And, Mr. Schmidt, you will have, like I said, the, code enforcement gets the first and last heard since the county has, the preponderance has the burden of proof. All right. And then you could decide whether you'd like to make an opening statement at the outset. Or would you rather wait for your case in chief?

00;06;33;23 - 00;06;35;06

Judge

That's your call, sir. Okay.

00;06;35;10 - 00;06;36;24

Gary Schmidt

I would like to hear now.

00;06;36;27 - 00;06;44;15

Judge

no. They get to go first since they have the burden of proof. Okay.

00;06;44;18 - 00;06;45;06

Judge

Yes, sir.

00;06;45;11 - 00;06;48;10

Gary Schmidt

Your honor, I'm sorry. I apologize. Michael Large.

00;06;48;11 - 00;06;53;08

Chad Giesinger

For the record. I'm appearing to give a special appearance on behalf of criminal Justice Court.

00;06;53;10 - 00;06;54;04  
Gary Schmidt  
for Mr. Schmidt.

00;06;54;04 - 00;07;12;22  
Chad Giesinger

Filed a motion to dismiss in this case, both against the arena Justice court, the district hearing office. And I'm making a special appearance, to address some of those allegations. I don't know if the court wants to hear that at the outset or at later on in the proceeding. I just don't in terms of expeditious resolution. I just didn't want to waste any time.

00;07;12;25 - 00;07;14;09  
Judge

All right. So you'd like to address.

00;07;14;10 - 00;07;17;05  
Chad Giesinger

What I don't whenever you're ready to do it.

00;07;17;07 - 00;07;19;08  
Judge

Okay. In your address. In a motion to dismiss.

00;07;19;08 - 00;07;19;26  
Chad Giesinger  
Yes. Mr..

00;07;19;28 - 00;07;21;26  
Gary Schmidt

Mr. Smith filed a motion to dismiss.

00;07;21;26 - 00;07;22;21  
Judge

Is this the email?

00;07;22;21 - 00;07;26;03  
Gary Schmidt

One that. This is the email.

00;07;26;05 - 00;07;39;29  
Judge

Okay. Mr. Farmer, Mr. singer, why I read this. I just I want to make sure everyone has an opportunity to respond. Okay.

00;07;40;01 - 00;07;41;18  
Gary Schmidt

And I just wanted to.

00;07;41;18 - 00;07;42;27

Chad Giesinger  
Address a couple of things. For the record.

00;07;43;01 - 00;07;48;19

Gary Schmidt

Is the Mr.. If you're on doesn't want to hear about it, having to do.

00;07;48;21 - 00;08;07;09

Judge

All right. Well, hold on let me think because this was something that came across my email and okay, you want to address it at the outset because I think I did address it as far as this going forward. But, All right. Let's just do it. Let's put it on.

00;08;07;11 - 00;08;07;20

Gary Schmidt

Okay.

00;08;07;26 - 00;08;12;27

Judge

I just and this is Mr. Smith. This. You understand what this is?

00;08;13;00 - 00;08;16;20

Gary Schmidt

Yes.

00;08;16;23 - 00;08;18;14

Gary Schmidt

That's fine.

00;08;18;17 - 00;08;19;07

Judge

Okay. Let's just.

00;08;19;08 - 00;08;49;14

Gary Schmidt

I thought the exchange of emails was irregular, and I've, placed an objection on the record of some of the testimony of Mr. Singer. and that is on the record. I believe, and I prepared to submit that, but it was my understanding that, Your Honor, if I may address Your honor and judge and pro tem, has already addressed the issue.

00;08;49;16 - 00;09;06;28

Gary Schmidt

but I think it was prejudice by, you know, pre, pre hearing, testimony, as, you know, appropriately by Mr.. Yes. In your honor. yes. In the email exchange.

00;09;07;01 - 00;09;07;11

Judge

Okay.



00;09;07;13 - 00;09;09;28

Gary Schmidt

That is my objection is on the record.

00;09;10;01 - 00;09;28;18

Judge

It is. Mr. Schmidt, thank you. and perhaps this is the time to address some of this. And before we get to the meeting, the merits of the case. No, I, I did read your email. Let's discuss this quickly beforehand. Yes, sir. Yes, sir.

00;09;28;20 - 00;09;30;06

Gary Schmidt

I have one other issue. Is one of my.

00;09;30;06 - 00;09;33;17

Chad Giesinger

Witnesses has to leave by 10:00 tonight.

00;09;33;19 - 00;09;37;24

Judge

Okay. Yeah. Okay. All right. So?

00;09;37;27 - 00;09;39;17

Gary Schmidt

So, if at all possible.

00;09;39;24 - 00;09;40;15

Judge

We will take.

00;09;40;20 - 00;09;43;02

Gary Schmidt

An informal. I'd like to put him on the stand.

00;09;43;02 - 00;09;54;09

Judge

We'll take it out of order if he has no objection. Over here. Mr. farmer's good with it. so this may be, jumping into the meat of it. Tell me your last name again.

00;09;54;10 - 00;09;55;29

Chad Giesinger

Large as in big.

00;09;56;02 - 00;10;17;03

Judge

Mr. large. All right. I heard you were going to be here. okay. What I'm going to do is allow Mr. Large to, make a response on the record as to your, email motion. it will get some of these preliminary matters out of the way, and then we'll take your witness out of order. Okay. so if you can get back to it.

00;10;17;06 - 00;10;19;16

Chad Giesinger

I apologize that.

00;10;19;18 - 00;10;22;16

Judge

It's an administrative hearing. Fortunately, we can do this. Yes.

00;10;22;18 - 00;10;25;01

Gary Schmidt

It is. If this is, the motion dismissed raises.

00;10;25;01 - 00;10;27;21

Chad Giesinger

Five issues that are directly affect the administrative hearing.

00;10;27;21 - 00;10;29;20

Gary Schmidt

Office, the Reno justice court.

00;10;29;22 - 00;10;34;16

Chad Giesinger

be sure to an agreement with the county, represent the administrative hearing office and administers that.

00;10;34;19 - 00;10;37;26

Gary Schmidt

Mr.. Schmidt's motion.

00;10;37;29 - 00;10;40;29

Chad Giesinger

Seeks dismissal on due process grounds based on.

00;10;40;29 - 00;10;44;22

Gary Schmidt

Activities of the Administrative Hearing Office, which is inappropriate under Washoe.

00;10;44;22 - 00;10;47;00

Chad Giesinger

County Code. and.

00;10;47;02 - 00;10;49;02

Kris Swanson

So the the issues.

00;10;49;02 - 00;10;51;09

Gary Schmidt

That we that are he's addressing in there are.

00;10;51;14 - 00;10;56;11

Chad Giesinger

A phone number that doesn't work, that he doesn't work, properly formatted.

00;10;56;11 - 00;11;06;12

Gary Schmidt

Exhibits. the forum, the zoom call versus in-person hearings sent the direction to the administrative hearing office and inconvenience of the.

00;11;06;12 - 00;11;07;20

Chad Giesinger

Rescheduling of an in-person.

00;11;07;20 - 00;11;12;18

Gary Schmidt

Hearing. None of those matters rise to a level of due process. Due process requires two.

00;11;12;18 - 00;11;15;08

Chad Giesinger

Things notice and an opportunity to be heard.

00;11;15;10 - 00;11;23;25

Gary Schmidt

Mr. Smith's here. So we got notice. And today's is a chance to have the in-person hearing. So he's gonna have an opportunity to be heard. Due process.

00;11;23;25 - 00;11;25;11

Chad Giesinger

Has been met in this case.

00;11;25;13 - 00;11;28;17

Gary Schmidt

Pursuant to Washoe County Code. You do have the right to.

00;11;28;19 - 00;11;30;01

Chad Giesinger

Determine the process.

00;11;30;03 - 00;11;46;04

Gary Schmidt

But only as to code enforcement activities in writing. Notice to Mr. Smith not in terms of the administrative hearing office. so, yeah, I, I don't want to I don't want to belabor the point. Do due process does not require,

00;11;46;06 - 00;11;47;14

Chad Giesinger

Our court administrator.

00;11;47;17 - 00;11;48;08  
Gary Schmidt  
To.

00;11;48;10 - 00;11;49;17  
Chad Giesinger  
Answer every phone call.

00;11;49;24 - 00;11;53;29  
Gary Schmidt  
Or to provide inconvenience or to provide Mr. Schmidt.

00;11;54;02 - 00;11;55;23  
Chad Giesinger  
Everything that he wants. That's not.

00;11;55;23 - 00;11;56;18  
Gary Schmidt  
What due process.

00;11;56;18 - 00;11;57;11  
Chad Giesinger  
Requires.

00;11;57;18 - 00;11;58;10  
Gary Schmidt  
Due process.

00;11;58;10 - 00;11;59;26  
Chad Giesinger  
Is a heightened standard.

00;11;59;29 - 00;12;11;29  
Gary Schmidt  
That it not is not. That is inconvenient for Mr. Schmidt. That is not what he wants. That's not a violation of due process. This court, or Your Honor, was very accommodating.

00;12;11;29 - 00;12;13;26  
Chad Giesinger  
By making this as a in-person hearing.

00;12;13;26 - 00;12;26;12  
Gary Schmidt  
Versus a zoom here. There's no need to do that. I don't get to sue the Nevada Supreme Court when they don't give me an oral argument on something based on due process. It's the equivalent of me not liking what the federal court orders.

00;12;26;12 - 00;12;27;13  
Chad Giesinger

And because I don't like the.

00;12;27;13 - 00;12;40;08

Gary Schmidt

Temperature of the courtroom. That's what he's saying in regards to courthouse. That's not a due process violation. And in terms of the administrative hearing office, we do the best that we can. And this is a unique circumstance because we don't have.

00;12;40;10 - 00;12;43;16

Chad Giesinger

Very many in-person hearings anymore. and perhaps.

00;12;43;16 - 00;12;45;10

Gary Schmidt

We will, based on Mr. Schmidt's.

00;12;45;10 - 00;12;46;24

Chad Giesinger

Suggestions to make some changes.

00;12;46;29 - 00;12;52;05

Gary Schmidt

As we move forward. But in terms of this hearing today, nothing in terms of the citation.

00;12;52;05 - 00;12;54;20

Chad Giesinger

Should be dismissed based on due process rights.

00;12;54;23 - 00;12;58;10

Gary Schmidt

Nothing that Mr.. Mr. Schmidt raises in his motion. has any.

00;12;58;10 - 00;12;59;29

Chad Giesinger

Merit to get on those grounds.

00;13;00;03 - 00;13;01;22

Gary Schmidt

Without some thinking too.

00;13;01;23 - 00;13;07;11

Judge

Large? Mr. Schmidt.

00;13;12;00 - 00;13;21;25

Gary Schmidt

Yes, Your Honor. the.

00;13;21;27 - 00;13;44;12

Gary Schmidt

I would like to introduce in the record, and I'm going to call the exhibit seven. I've already. I have five of tickets on the record right now. I've already identified one of my interviews later as six and written on it. So I'm going to, identify this as exhibit seven.

00;13;44;14 - 00;13;50;11

Judge

And after we do that, Mr. Schmidt, I hate jumping around like this, but if you want your witness to testify.

00;13;50;15 - 00;13;53;21

Gary Schmidt

Yeah, well, I just want to introduce it this time because it's relevant.

00;13;53;21 - 00;13;55;26

Judge

To this matter. Okay. And then, of course.

00;13;55;29 - 00;14;01;06

Gary Schmidt

I'll be brief.

00;14;01;08 - 00;14;07;11

Judge

Thank you. And we'll discuss about, the admission of the exhibits.

00;14;07;12 - 00;14;48;18

Gary Schmidt

The submittal is, on the record by either attenuate because it's just records in state law and has 278. and the legal legality or illegality of this entire process. and I may address it later, but, the, section one of the 14th amendment, provides for equal treatment under the law. And part of the arguments about the violations of due process are, disparity treatment of the respondent myself.

00;14;48;20 - 00;15;07;28

Gary Schmidt

very. Schmidt. in this matter, and other than placing. And that's the some of my comments in the response at this point in time. The rest of it's all okay.

00;15;08;01 - 00;15;27;18

Judge

Thank you, Mr. Schmidt. I was going to save some of this for, at the conclusion of the hearing, after we got through the the meat of it. but I am briefly going to address this under these circumstances. Thank you for being here. Mr. Large, and addressing it. and I will address you directly, Mr. Schmidt.

00;15;27;20 - 00;16;02;27

Judge

because. I do agree, of course. with, Mr.. Largest argument. However, we are here because I agree with you, too. And I appreciate your input. I appreciate your comments. And this program has been around since 2011. It has evolved. It has morphed, and we are always trying to make it better. and your comments provide some insight and I think there are some ballot comments.

00;16;03;00 - 00;16;31;27

Judge

as far as our procedures and process. I think everyone here honestly, would agree with that. We're here to serve the public, and the respondents and to make sure that the citizens get a fair and full and thorough trial. I'm sorry. Administrative hearing. And if that means that we had to bend over a little backwards and do something here to accommodate you, that's what we're going to do.

00;16;31;29 - 00;16;58;09

Judge

And that's why we're here. And so I do appreciate, again, your comments and we are going to consider. I am not part of the administrative office. I'm independent. And yet the hearing officers. we we also offer suggestions and, changes we think will be helpful because we're the ones facing, the public. And, we want it to be efficient as possible.

00;16;58;09 - 00;17;27;14

Judge

Initially, the hearings, were envisioned to be like chicken nuggets, you know, 15 minutes. You know, that's not what happens with some of this, whether they're dark dog parking cases. Are there, enforcement cases? people have a lot invested in and they want to be heard. You can heard Mr. Schmidt, and I appreciate it. And as far as in-person hearings, I believe there's a of course, a place for it, because not everyone is tech savvy.

00;17;27;16 - 00;17;47;15

Judge

And, even if they just don't want it. But we have to make it so it's efficient for staff, for the county, for resources also. So we're going to figure that out. That's going to be a topic of conversation. incidentally, the same thing happened with the city about the same time with your hearing someone requesting an in person and also coming off of the pandemic.

00;17;47;17 - 00;18;08;28

Judge

it's made a difference. So, I think I tried to briefly address it in my emails. It will be part of the record. those emails, and know, Mr.. Is the comment and, whatever happens in the end, it's going to be part of the record. and something we will take into consideration as we're looking at our program.

00;18;09;00 - 00;18;10;15

Gary Schmidt

Okay.

00;18;10;18 - 00;18;36;02

Judge

So thank you. and with that, I would like to ask any witnesses to, go ahead and step outside that are testifying at this time. I think we still have time. no, no, no, no, you're first up. We're taking you out of order, sir. Yeah. Okay. And, would you like to make an opening statement any way before we.

00;18;36;02 - 00;18;37;14

Gary Schmidt

Your honor.

00;18;37;17 - 00;18;43;18

Judge

Let me let me talk to Mr. Palmer for just a moment. So we could. We can cause you want to hear his testimony first. All right, we're all out.

00;18;43;20 - 00;18;48;07

Gary Schmidt

Sara downer, I requested Mr. Farmer leave the room. I present your.

00;18;48;07 - 00;18;49;03

Judge

Case. Yeah. No.

00;18;49;03 - 00;18;52;14

Gary Schmidt

His witness. So. Yeah, well, I'm going to call him witness.

00;18;52;16 - 00;18;53;05

Judge

What's up?

00;18;53;07 - 00;18;58;10

Gary Schmidt

I will be calling him as a witness so he can hear you. Can anybody hear?

00;18;58;13 - 00;19;08;02

Judge

You're presenting the case? Yeah. No, he. He can sustain Mr. Schmidt, is there there representatives of of, code enforcement if they're presenting the case?

00;19;08;04 - 00;19;11;15

Gary Schmidt

But, Your Honor, he's he's a witness. And, my understanding.

00;19;11;15 - 00;19;12;15

Judge

You want him to step.

00;19;12;15 - 00;19;17;01



Gary Schmidt

Out. Jurors. But, no, it's my honor to present to presenting the case. It's my case.

00;19;17;03 - 00;19;19;13

Judge

And he needs to hear it if he's my supervisor.

00;19;19;14 - 00;19;21;20

Gary Schmidt

Keys are long for these things, but it's my.

00;19;21;20 - 00;19;35;06

Judge

Case. Okay. All right, Mr. Proxy, let me handle it. Okay? Okay. Also, he needs to hear his testimony, and he gets to examine your witness. All right, so that's that. So he has to stay. so let's go ahead and.

00;19;35;12 - 00;19;41;05

Gary Schmidt

well, let's.

00;19;41;08 - 00;19;55;19

Gary Schmidt

And it's important, you know, I don't recognize all the faces that. Well, a lot of these people I've dealt with, you know. But this is Mr. Gelsing, they have. And Mr. Farmer is going to present the case.

00;19;55;21 - 00;19;58;06

Judge

Yes. Right. Yeah. It's SP you have.

00;19;58;06 - 00;20;01;17

Gary Schmidt

Mr. Kissinger should leave the room because he's going to be the witness.

00;20;01;20 - 00;20;04;22

Judge

and you have someone with you as well? Correct.

00;20;04;24 - 00;20;05;23

Gary Schmidt

But she's not a witness.

00;20;08;09 - 00;20;09;14

Judge

And Mr. Kissinger.

00;20;09;14 - 00;20;14;13

Chad Giesinger

I'm also presenting part of the case. Yes.

00;20;14;16 - 00;20;25;15

Judge

Okay. I'm, I'm going to overrule the objection and allow him to remain. Okay. And, we could bring your witness up and,

00;20;25;17 - 00;20;27;06

Gary Schmidt

Come on, come on. Objections on the record.

00;20;27;07 - 00;20;35;14

Judge

It's on the record, sir.

00;20;35;17 - 00;20;39;09

Judge

And I'm just going to go ahead and jump into this button.

00;20;39;12 - 00;20;42;28

Kris Swanson

No, no. Okay. The court. Okay.

00;20;43;01 - 00;20;44;09

Judge

Go ahead and state your name for the record.

00;20;44;16 - 00;20;46;00

Kris Swanson

Christopher Swanson.

00;20;46;02 - 00;20;47;08

Judge

We spent the last name.

00;20;47;10 - 00;20;48;24

Kris Swanson

S.w.a and SLN.

00;20;48;28 - 00;20;50;21

Judge

And you were just sworn.

00;20;50;24 - 00;20;51;09

Chad Giesinger

Yes.

00;20;51;11 - 00;20;52;17

Judge

And you remain under oath, correct?

00;20;52;17 - 00;20;52;26

Gary Schmidt

Yes.

00;20;53;04 - 00;21;02;04

Judge

Okay, hopefully we'll get you this in and out. Okay. All right, you guys, 20 minutes will be all right. Okay.

00;21;02;07 - 00;21;03;21

Gary Schmidt

Because you have a go ahead.

00;21;03;22 - 00;21;04;01

Judge

Go ahead.

00;21;04;08 - 00;21;05;21

Gary Schmidt

If it's this will be your copy.

00;21;05;21 - 00;21;18;26

Judge

All right. Thank you.

00;21;18;28 - 00;21;27;08

Gary Schmidt

Your honor, for the record, I will be addressing myself in third person here. So the transcripts of the record will be,

00;21;27;11 - 00;21;35;06

Judge

You will hear whatever you choose to do, Mr. Schmidt. I mean, I think it will be clear if you say I also. It's up to you.

00;21;35;09 - 00;21;37;00

Gary Schmidt

Third person. I'm more comfortable.

00;21;37;02 - 00;21;38;05

Judge

Okay, then.

00;21;38;08 - 00;21;47;18

Gary Schmidt

Mr. Swanson, are you, I Mr. Schmidt the respondent? Yes. for how long?

00;21;47;20 - 00;21;50;20

Kris Swanson

Six, seven years, I think.

00;21;50;23 - 00;21;58;29

Gary Schmidt

So. But you worked with him on, various, documentaries and, and video projects.

00;21;58;29 - 00;22;02;12

Kris Swanson

We're currently doing a documentary, and we've done several video projects in the past.

00;22;02;14 - 00;22;11;03

Gary Schmidt

It's one of those projects, having to do with, his actions against that General Improvement district. And there are a lot.

00;22;11;05 - 00;22;12;23

Kris Swanson

That's part of it. Yeah.

00;22;12;26 - 00;22;38;02

Gary Schmidt

And as you visited Gerlach, in regards to that documentary the bunch times, and prior to your acquaintance with Mr. Schmidt, where are you familiar with Gerlach? Yeah. so he, How many years back this you're familiar familiarity with of, like, built.

00;22;38;04 - 00;22;44;04

Kris Swanson

Probably close to 20.

00;22;44;06 - 00;23;05;05

Gary Schmidt

I've, submitted exhibit eight. did you look at that? And could you identify that as, part of the subject? property? Yes. This is this discussion today. and it's looks similar to you.

00;23;05;11 - 00;23;07;15

Kris Swanson

Yeah. It looks just like our my breath.

00;23;07;18 - 00;23;26;17

Gary Schmidt

Is, When's the last time you visited, girl? Oh, three weeks ago. And is this the condition of that property is. Yes. Generally speaking, it's. Yeah. I mean, like the condition of that property two months ago.

00;23;26;19 - 00;23;31;08

Kris Swanson

I probably. Yeah.

00;23;31;11 - 00;23;39;06

Gary Schmidt

The. Have you, Brought with you some photographs of Gerlach today? Oh.

00;23;39;08 - 00;23;42;01

Kris Swanson

I do have a bunch of myself. If we want to go there.

00;23;42;04 - 00;23;44;04

Judge

I think that's what's happening.

00;23;44;04 - 00;24;14;01

Gary Schmidt

Okay, okay. Well, In your region, this is the Gerlach. Have you toured the entire town and taken photographs? Yes. And, the provisions of the code sections, require certain items when stored, on property to be screened. are you familiar with that?

00;24;14;03 - 00;24;23;09

Kris Swanson

Somewhat unregistered vehicles, construction materials, allowances, appliances? Yeah. Appliances and.

00;24;23;09 - 00;24;24;12

Gary Schmidt

Rubbish.

00;24;24;14 - 00;24;25;06

Kris Swanson

Yeah.

00;24;25;08 - 00;24;37;05

Gary Schmidt

Yeah. Garbage. in your storage of Gerlach. Are there, do you see any of those materials, on your.

00;24;37;05 - 00;24;38;01

Kris Swanson

Property? No.

00;24;38;03 - 00;24;41;16

Gary Schmidt

And you see any of those materials? That's probably.

00;24;41;18 - 00;24;56;08

Kris Swanson

No, no, I mean. After Burning Man, when a bunch of bikes are dropped off on that property, there were a bunch of bikes on that property, but I wouldn't consider those to be rubbish or anything else. There were a bunch of bikes that got dropped

off and burners.

00;24;56;11 - 00;25;12;14

Gary Schmidt

in. You're talking of Gerlach. did you see any other properties that have clearly visible from the street from a public byways, building materials.

00;25;12;16 - 00;25;20;03

Kris Swanson

Building materials, unregistered vehicles, about every other house, at least every third house.

00;25;20;06 - 00;25;26;29

Gary Schmidt

and in your history in Gerlach, would you say that's been the norm for a decade or two?

00;25;27;06 - 00;25;37;12

Kris Swanson

That's the norm, just like it is in Sun Valley in East Lake. Washoe Valley, most rural areas. That's kind of the gig. That's why people live in rural areas. Well, one of the reasons.

00;25;37;14 - 00;26;05;20

Gary Schmidt

And how would you, personally rate Mr. Schmidt's property, as you know, in regards to the absence of those materials that you've already testified that that are, but, As far as the general appearance, it's it's clean. Yeah.

00;26;05;22 - 00;26;17;13

Gary Schmidt

Are you, familiar with the D.i.d? Maintenance facility building in Gerlach that is in close proximity to Mr. Spencer property.

00;26;17;15 - 00;26;21;09

Kris Swanson

Yes, I have photos and video of that.

00;26;21;12 - 00;26;25;16

Gary Schmidt

And, would you say it's,

00;26;25;19 - 00;26;29;07

Gary Schmidt

Would you say it's absent of building materials? No. Rubbish.

00;26;29;10 - 00;26;31;03

Kris Swanson

And. No, that's.

00;26;31;05 - 00;26;38;24

Gary Schmidt

How would you identify it? As far as, one of the worst properties in Galactus, I would average.

00;26;38;27 - 00;26;53;14

Kris Swanson

Probably about average. yeah. I mean, it's like I said, Gerlach is that way. People have a bit of land. They keep a lot of stuff on it. Sometimes it might not be in code compliance. I don't know why those codes apply in those areas.

00;26;53;17 - 00;27;17;10

Gary Schmidt

In filming your documentary, you've had an occasion to interview, and have discussions with members of the General Improvement District board. Yes. And members of the community. Yes. Would you say 2 or 24 here? Oh, six months.

00;27;17;12 - 00;27;26;09

Kris Swanson

We think have actual conversations with maybe ten. few words here and there and gotten familiar with more than that.

00;27;26;11 - 00;27;30;23

Gary Schmidt

And what about witness or witness to conversations like I see?

00;27;30;23 - 00;27;36;01

Kris Swanson

It may well have been a few others. So, Yeah. Yeah.

00;27;36;03 - 00;27;49;00

Gary Schmidt

Have, you, run across any individuals other than members of the Gib board that have any issues with Mr.. Mr.. Mister broken?

00;27;49;03 - 00;27;52;12

Kris Swanson

No.

00;27;52;14 - 00;28;10;04

Gary Schmidt

the, if you're a are you aware of the, litigation in general terms between Mr. Schmidt and the General Improvement District? Yes. And there's a certain hostilities there.

00;28;10;10 - 00;28;13;06

Kris Swanson

That's a big subject that'll be in the documentary. Yeah.

00;28;13;09 - 00;28;53;15

Gary Schmidt

And, so are you witness to the fact that there that certain members of the Did board are very hostile? The mission. I have video of that as well.

00;28;53;17 - 00;29;02;07

Gary Schmidt

I think I have no more questions on the street, Mr. Schmidt. I just have a quick. What's the. Yeah.

00;29;02;10 - 00;29;07;08

Judge

What's the relevance of that? What is the relevance? Members, do you have questions for the witness, Mr..

00;29;07;08 - 00;29;08;06

Chad Giesinger

Harvey, I curious way.

00;29;08;08 - 00;29;08;24

Judge

No, not.

00;29;08;26 - 00;29;14;06

Gary Schmidt

You know, special interest is, I don't know. Well, formal.

00;29;14;06 - 00;29;16;27

Chad Giesinger

Hearing. I'm just curious why. What's the relevance of that?

00;29;16;28 - 00;29;28;29

Kris Swanson

You guys, do you want me to answer that question? Yeah. Okay, so this whole thing started because the guy was given a bunch of land by the railroad quite some time.

00;29;29;05 - 00;29;32;02

Gary Schmidt

So the complaint was issued.

00;29;32;04 - 00;29;32;23

Chad Giesinger

Because of it?

00;29;32;23 - 00;29;35;04

Kris Swanson

Yeah, I know it was retaliatory.

00;29;35;07 - 00;29;46;24

Chad Giesinger

I don't when was established that he. I'd made the complaint because I have, you



know, through the Washington. That's what I'm getting at. He's kind of alluding to it's the retaliation from the GSD.

00;29;46;27 - 00;29;48;28

Gary Schmidt

But I'm not seeing where they did me.

00;29;49;00 - 00;30;08;13

Judge

Well, he'll he'll be able to to connect the dots, Mr. Farmer. I mean, if this is. Yeah, this is his case. I'm not going to do it for him. And it's, you know, if if you say that it's I'm not even going to speculate. Put words in his mouth. I know what I think it's going. We don't have any questions, but no questions for Mr. Swanson.

00;30;08;15 - 00;30;15;08

Judge

Okay. any follow up after Mr. Palmer's question and comment?

00;30;15;11 - 00;31;28;09

Gary Schmidt

Yes, I'll follow up there. And, Mr. Swanson, in your conversation with Mr. Smith and others, are you aware that, Mr. Schmidt, has asserted openly in public forums and elsewhere that, there's, a certain prejudicial and, and biased treatment of him by the General Improvement District? Yes. And are you aware of, his opinion that that same conspiracy with the, Washoe County, the Community Development Department, Dave Celerio, and other individuals, code enforcement officers that, in his opinion, they are conspiring, against him in a retaliatory manner because he has raised an issue that about an illegal attempt, the guide to go into the land development business unrelated

00;31;28;09 - 00;31;37;21

Gary Schmidt

to their primary functions and in violation of a state's statutes and that that is his opinion. Are you aware of that?

00;31;37;24 - 00;31;59;07

Kris Swanson

not only aware of it, I agree with it. I from everything that I've seen, that's exactly what's going on here. I don't know if you know that or not, but I've been following this thing from the get go. And when he first brought up the the GID issue with the the land rezoning and they're wanting to get into the real estate business, I thought he was crazy.

00;31;59;07 - 00;32;15;06

Kris Swanson

And then I when I looked into it, I realized what was really going on. And then since that time, this thing has happened, it's like, oh, okay, you point out something that they're doing wrong that is not okay. That's not in the public's best interest. And this is how they get back to you. Or one of the ways, I suppose.

00;32;15;06 - 00;32;18;11

Kris Swanson

So, yeah, that's my experience. I, I agree with that sentiment.

00;32;18;13 - 00;33;00;24

Gary Schmidt

And have you witnessed or been involved with the discussions of other people in government that may have that same opinion? yeah, yeah, yeah, yeah a lot. Yeah. And the, the, the are you aware that what has happened is that the you guys has placed an application in for a. Intensification of zoning on grid owned property with the intention of, going into the residential industrial and commercial, development business.

00;33;00;26 - 00;33;06;18

Gary Schmidt

And that's in violation of their charter and state law.

00;33;06;21 - 00;33;13;09

Kris Swanson

That appears to be exactly what's going on, where their end game is. I'm not sure, but everything leads down that happens.

00;33;13;12 - 00;33;28;13

Gary Schmidt

And are you aware that, community development, in Washoe County in general has actually funded that legal activity?

00;33;28;20 - 00;33;43;16

Kris Swanson

Yes. To the tune of I think it was a quarter million dollars.

00;33;43;18 - 00;34;19;13

Gary Schmidt

Know this is transition. You're aware that there is a, it's an election cycle, and there's 3 or 4 seats on the did board up for election in November. Yes. And you're aware that's five member board? Yes. And, do you have any inkling or knowledge that, Members of the current board are being challenged, at least in part due to their alleged or illegal activities?

00;34;19;18 - 00;34;22;15

Kris Swanson

My understanding is that's exactly why the people who are challenging,

00;34;22;17 - 00;34;29;28

Gary Schmidt

Challenging them and you've interviewed some people or had spoken to them, witness that conversations. The public public meetings?

00;34;30;00 - 00;34;35;18

Kris Swanson

Yes. And and the in person, I wouldn't call it an interview, but conversations. Yeah. Those are actually not recorded.

00;34;35;18 - 00;34;50;28

Gary Schmidt

You can you have attended that guild board meetings? Yes.

00;34;51;01 - 00;35;00;22

Gary Schmidt

Would you have anything else to offer at this time? that general,

00;35;00;24 - 00;35;24;15

Kris Swanson

I guess I would just hope that this court recognizes what's going on and understand that the system of government, people working within government can get really irritated at certain members of the public and use whatever powers they have at their disposal to derail that. And it appears to me, quite obviously, that that's what's going on here. And that's really unfortunate.

00;35;24;19 - 00;35;38;07

Kris Swanson

Yeah, I think that we should have faith in our government and in, in the people who are employed in our government and I think that's waning. So I hope that this does something to fix that.

00;35;38;10 - 00;35;39;16

Judge

Thank you. Any one.

00;35;39;17 - 00;35;40;04

Gary Schmidt

Not very much.

00;35;40;05 - 00;35;42;18

Judge

Question. Oh I'm sorry Mr..

00;35;42;20 - 00;36;09;16

Gary Schmidt

And your background have have you been involved in the political arena before and, any form of documentary or issues involving abuses, aggressive, overreach of corrupt government? Are you aware that those things sometime exist, that.

00;36;09;18 - 00;36;13;19

Kris Swanson

Yes, that is a big theme in the documentary. Yeah.

00;36;13;22 - 00;36;16;16

Gary Schmidt

and is this your first documentary?

00;36;16;19 - 00;36;18;10

Kris Swanson

No.

00;36;18;13 - 00;36;20;26

Gary Schmidt

could you are you in that business?

00;36;20;28 - 00;36;28;19

Kris Swanson

That's the. That's how I pay the bills. Yes, I do that. And as well as, you know, commercials, car dealers like me.

00;36;28;21 - 00;36;29;22

Gary Schmidt

Okay, one more question.

00;36;29;22 - 00;36;32;13

Judge

Questions? Thank you. Mr. Schmidt.

00;36;32;15 - 00;36;33;17

Chad Giesinger

You're on our second question.

00;36;33;17 - 00;36;34;27

Gary Schmidt

Is the witness.

00;36;34;29 - 00;36;39;08

Chad Giesinger

Mr. Swanson, do you understand the subject of this hearing? Why are we here today?

00;36;39;10 - 00;37;06;06

Kris Swanson

my understanding is that there's a complaint, because Gary's property. well. There's. There are two parcels, according to Washoe County. Right. There's the parcel that has the house on it with fence and then there's the the parcel that has the land that's just vacant land. But it's all connected. It's all one thing. Two parcels. Well. Right.

00;37;06;06 - 00;37;28;21

Kris Swanson

Yeah, I would do there a couple definitions of that which I imagine is about to come out there. Right. Legally it's two parcels later this year. what I don't know. anyway, at one point that was how was to find a parcel for the county was defined as one owner. Doesn't matter how many separate parcels are, as long as there's one, as long as just one owner and they're continuous, they each have their immediate

parcel.

00;37;28;26 - 00;37;30;19

Kris Swanson

I understand that, yeah, I get I.

00;37;30;19 - 00;37;37;08

Gary Schmidt

Have to the line of questioning here because it's not, the forte of The Witness, but.

00;37;37;10 - 00;37;38;10

Kris Swanson

I'm familiar enough with it.

00;37;38;10 - 00;37;50;04

Judge

If you want. Okay, so, Mr. Schmidt, it is informal. I'm going to allow it since, you open the door, for a person, it's allowed them to explore the witnesses, understanding what step find you in the in.

00;37;50;04 - 00;37;54;08

Gary Schmidt

The matter of this case. Go ahead. Yeah. Just a couple more questions. Sure.

00;37;54;10 - 00;38;01;16

Chad Giesinger

and are you aware that this very simple mechanism in which, Mr. Smith's property taxes are in compliance?

00;38;01;19 - 00;38;07;23

Kris Swanson

I believe the property is in compliance. It's just not in compliance. If you bought the property today.

00;38;07;25 - 00;38;08;29

Judge

I'm sorry, I didn't hear the list.

00;38;09;02 - 00;38;18;03

Kris Swanson

If you bought the property today, then it would be required for him to have a deed restriction. But he didn't buy the property today. So his grandfather is.

00;38;18;05 - 00;38;25;16

Chad Giesinger

And there's been allegations that D.i.d is involved in this case. You what proof do you have that deal with the complainant?

00;38;25;18 - 00;38;42;29

Kris Swanson

pretty easy to connect the dots. There's only 110 people in the town of Gerlach, and I've met most of them. and if they were out throwing flags for for code complaints, half the town would have code complaints.

00;38;43;02 - 00;38;46;03

Gary Schmidt

You know, I mean, code place. We have a great I know.

00;38;46;06 - 00;38;48;05

Judge

I know that, but make sure I could hear you.

00;38;48;07 - 00;38;52;03

Gary Schmidt

I was asking if he knew actually how many open coastal planks there were. Thank you.

00;38;52;07 - 00;38;56;14

Kris Swanson

I don't. It might be a number bigger than one. Yeah, I don't know.

00;38;56;17 - 00;38;58;11

Judge

It's. But you don't have to speculate on.

00;38;58;11 - 00;38;59;22

Gary Schmidt

Right.

00;38;59;24 - 00;39;00;25

Chad Giesinger

Okay. No further questions.

00;39;00;27 - 00;39;02;11

Judge

For you to call it.

00;39;02;11 - 00;39;07;25

Clerk

For now I'm going.

00;39;10;17 - 00;39;17;04

Gary Schmidt

Well, the.

00;39;17;07 - 00;39;18;10

Clerk

This is one of.

00;39;18;13 - 00;39;26;09

Gary Schmidt

The counties, filings of exhibits which were not very well identified or labeled for having no cover.

00;39;26;09 - 00;39;33;09

Clerk

Sheets. But just from about the third page. No.

00;39;33;11 - 00;39;51;13

Gary Schmidt

It's there. Yeah. It's just expense of, Mr. Swanson, this is the complaint, for the appeal that was filed in regards to the complaint. That's my appeal. could you read that into the record?

00;39;51;15 - 00;40;29;00

Kris Swanson

You get to work in your handwriting? Yeah. The demand for a deed restriction on the contiguous parcel for the accessory uses is inappropriate. Because the accessory use pre-date uses predates the codes requiring any deed restrictions, and are therefore grandfathered in as legal nonconforming request for appeal. Before the VOA was illegally denied. I have and I object there was a request for an additional 30 day extension that was denied only after the violation was issued and after addition, additions adjustment on the property.

00;40;29;03 - 00;40;33;28

Kris Swanson

That's it.

00;40;34;00 - 00;40;51;25

Kris Swanson

That's a lot of things.

00;40;51;28 - 00;41;51;11

Gary Schmidt

Mr. Swanson, is it safe to assume that you're not 100% familiar with all the silence that the respondent, Mr. Schmidt, has made in this matter? And as far as the, all the arguments, that he's made. Yeah, I don't, but I'm familiar generally that he's made the arguments that there's disparate treatment, it's retaliatory. against him through his properties in Gerlach and that there's a conspiracy between, community development, Washoe County in general, and the grid because they have conspired to violate the law and go into the general development business, which is absolutely in violation of, state law.

00;41;51;14 - 00;41;57;25

Kris Swanson

Whether it's a direct conspiracy where people are meeting together in a smoky back room, I can't say.

00;41;58;01 - 00;42;00;26

Gary Schmidt  
But it's so where that's what's being.

00;42;00;26 - 00;42;01;21  
Chad Giesinger  
Alleged.

00;42;01;23 - 00;42;03;18  
Kris Swanson  
That's what's being alleging.

00;42;03;21 - 00;42;04;04  
Gary Schmidt  
That that.

00;42;04;04 - 00;42;13;15  
Kris Swanson  
Worker, it it appears that at least one arm of the government is using another arm of the government to serve its purpose in this case and call that.

00;42;13;17 - 00;42;14;20  
Gary Schmidt  
And then wash.

00;42;14;22 - 00;42;20;20  
Judge  
Thank you. Mr. Schmidt. I'm going to ask you to, try not to speak over your witness, okay?

00;42;20;23 - 00;42;29;01  
Gary Schmidt  
Okay. No more questions.

00;42;29;03 - 00;42;33;18  
Judge  
I'm dying over here. Okay. Thank you for your time, Mr. Swanson. Tell me your.

00;42;33;18 - 00;42;34;27  
Kris Swanson  
First name again. Christopher.

00;42;34;27 - 00;42;37;23  
Gary Schmidt  
K r I s t o f o r .

00;42;37;26 - 00;42;42;26  
Kris Swanson  
Yeah, yeah, that's the hard one, actually. Got it.

00;42;42;28 - 00;42;44;09



Judge

Okay. Thank you for your time.

00;42;44;13 - 00;42;46;02

Gary Schmidt

You like this?

00;42;46;05 - 00;42;51;10

Judge

just go ahead and leave it there, okay? Take care of it. Nice to meet you. Have a good rest of your day and let me out of here before ten.

00;42;51;13 - 00;42;52;10

Gary Schmidt

Yeah, well done.

00;42;52;12 - 00;42;55;04

Judge

Just.

00;42;55;06 - 00;43;06;19

Judge

All right, Mr. Schmidt. So I'm going to bounce back here over to code enforcement. so we could start and and as we, as we tend to do back.

00;43;06;26 - 00;43;27;25

Gary Schmidt

So we're at the hearing for the first administrative penalty notice issue to Mr. Schmidt, who owns property at 345 Main Street, Newbury, back on September 13th, we received an anonymous complaint via the Wash to run wine service for outdoor storage violation. That complaint is, in the packet submitted to the hearing officer page three.

00;43;27;27 - 00;43;38;20

Judge

I Mr. permit we don't have our copies so I could follow along with that. Okay. Thank you. Because I don't have anything pulled up on the screen here. And I know I made a request for that.

00;43;38;27 - 00;43;44;09

Clerk

So we thanks. Perfect. Thanks.

00;43;44;12 - 00;43;48;28

Judge

All right. Better to follow along with.

00;43;49;00 - 00;43;50;20

Gary Schmidt

On September 25th.

00;43;50;27 - 00;43;52;24

Judge

Okay. You were saying which page?

00;43;52;26 - 00;43;55;00

Gary Schmidt

Yeah. The complaint. The ring complaint.

00;43;55;02 - 00;43;55;29

Judge

Page three. Gotcha.

00;43;56;00 - 00;43;58;00

Gary Schmidt

Page three of a company.

00;43;58;00 - 00;44;16;03

Judge

Service provided by the complaint. before it, before we do this quickly as a matter of housekeeping and exhibits, let's do this real fast. As far as. And you received a package, correct, Mr. Schmidt? From from code enforcement. What I just did.

00;44;16;06 - 00;44;21;05

Gary Schmidt

Yes, I received the packet previously. You did? I don't know if it's the same packet or not.

00;44;21;06 - 00;44;28;17

Judge

Same packet. Okay. And I just received a copy. can we call that, county exhibit one?

00;44;28;17 - 00;44;29;16

Gary Schmidt

County area packet?

00;44;29;23 - 00;44;33;00

Judge

Did you did you already designated it?

00;44;33;01 - 00;44;34;10

Gary Schmidt

Just the hearing packet. We provided.

00;44;34;10 - 00;44;35;20

Judge

It. Okay. The hearing officer.

00;44;35;27 - 00;44;39;12

Gary Schmidt

Okay, so we haven't done one in person in a while, usually. Perfect.

00;44;39;12 - 00;44;39;19

Judge

Yeah.

00;44;39;23 - 00;44;42;20

Gary Schmidt

That's all. Okay. Handout copy. Okay, so now it's been a while so far.

00;44;42;21 - 00;44;49;24

Judge

I see, one. Mr. Schmidt, were you numbering or littering your exhibits? Numbering. Right.

00;44;50;00 - 00;44;51;03

Gary Schmidt

number.

00;44;51;05 - 00;45;15;19

Judge

Your number. All right, so let's do county exhibit A. Okay. And, Mr. Schmidt, I do have any objections to it's admission to this now. Okay. And you could you could question it. It's up there. All right, so let's, Okay. County exhibit A is admitted. and as far as, we will do the same. Is there anything else that you have other than your packet?

00;45;15;20 - 00;45;28;29

Judge

No. Despite this, the packet and Mr. Schmidt will do the same on your side. Just so it's all in and clean. Okay. Your exhibits, you need to offer them and see where. Any objections? We're at. Seven on yours.

00;45;29;02 - 00;45;31;26

Gary Schmidt

Well, I'm at eight, but you don't have it yet.

00;45;31;28 - 00;45;36;14

Judge

That's fine. And you provide it. copies of those proposed exhibit.

00;45;36;15 - 00;45;44;23

Gary Schmidt

You have a what? You don't have a six? I'm at the next exhibit. What? We nine and six, I don't know.

00;45;45;00 - 00;45;56;24

Judge

Okay, we'll wait till the beginning of your case. And you guys object or not or

whatever. As far as whether it's ten, unless you intend to use any of these exhibits. Okay, go.

00;45;56;26 - 00;46;04;02

Gary Schmidt

On September 25th, 2023, I inspected the property and I think there are two violations. One, the outdoor storage violation.

00;46;04;05 - 00;46;13;16

Clerk

chapter 15, this two and also a, development to have been stored on a vacant lot, a lot does not have an established use, so therefore it's considered vacant.

00;46;13;18 - 00;46;17;00

Gary Schmidt

Your arm. I don't know.

00;46;17;03 - 00;46;20;03

Judge

Should I not be able to hear it? Something I like to scare them.

00;46;20;05 - 00;46;37;12

Gary Schmidt

And make a general objection that alleged violations in place. That's what we're here to determine for the alleged violations, I issued the first administrative, warning for the, violations. I alleged violation for the alleged violations.

00;46;37;17 - 00;46;40;05

Judge

thank you.

00;46;40;07 - 00;46;45;21

Gary Schmidt

October 27th. Mr. Smith emailed me requesting the extension. At that time, they made significant progress.

00;46;45;21 - 00;46;50;16

Chad Giesinger

They removed bikes. I think there's a couch. I guess you can look at. Mr.. Yes.

00;46;50;18 - 00;47;01;10

Gary Schmidt

Colorful along there. So if you look at the first administrative warning that shows, the site inspection on September 25th, see the bikes? You see the two trailers?

00;47;01;12 - 00;47;07;14

Judge

Yeah. Page 54 and five. Correct.

00;47;07;17 - 00;47;15;09

Gary Schmidt

well, the Ministry administrative warnings starts on page nine. Those those pictures after the complaint are from the complaint.

00;47;15;11 - 00;47;15;20

Judge

Okay.

00;47;15;20 - 00;47;25;27

Gary Schmidt

So is that 4 or 5? Those are, those were provided with complaints. So those were not.

00;47;26;00 - 00;47;26;25

Judge

Oh, okay.

00;47;26;27 - 00;47;35;26

Gary Schmidt

Sorry. The pictures I took a company that first administrative warning issued in September 2010. Okay. So then we see that there's two bikes and there's two.

00;47;35;28 - 00;47;39;27

Judge

recreational vehicles. Mr. Schmidt, are you hearing, Mr. Farmer? Okay, well.

00;47;39;29 - 00;47;43;05

Gary Schmidt

Sometimes he sometimes he projects, or sometimes he mumbled.

00;47;43;05 - 00;47;47;07

Judge

Something. Okay, we're going to we're going to work on that. Just so not sure he hears everything.

00;47;47;10 - 00;48;06;01

Gary Schmidt

So, October 27th, Mr. Schmidt emailed me requesting a 30 day extension. due to the progress they made by removing the bikes, I think they were at stand on one of the at the time. the extension was granted. At that time, I didn't notice. I am just going to stay. You have to file a detour.

00;48;06;01 - 00;48;06;16

Gary Schmidt

Searching for.

00;48;06;16 - 00;48;23;17

Judge

The accessory. Use. Okay, I'm. Now I'm going to ask just because you're going kind

of faster. so this is, the October 31st extension of time, page 12. Okay. Thank you.

00;48;23;20 - 00;48;52;03

Gary Schmidt

So on October 31st, I did emailed him. The first extension was granted with a December 2nd, 2023 compliance date. Significant progress was made and registered RV was still stored on the car. So that was the only issue left. I emailed him back on November 1st with a response notifying him of the extension and also relating a deed restriction that need to be filed with the recorder's office in order to store the RV or to make it parcel in lieu of removing it.

00;48;52;06 - 00;48;53;10

Judge

Where is that?

00;48;53;12 - 00;49;01;01

Chad Giesinger

That is page 31.

00;49;01;04 - 00;49;03;02

Judge

Okay. So we'll be able to between the emails.

00;49;03;02 - 00;49;08;10

Clerk

And the notices okay. All right.

00;49;08;12 - 00;49;12;28

Judge

Got it I will get the video extension wasn't going to be okay.

00;49;13;01 - 00;49;22;22

Gary Schmidt

properties re inspected on December 4th, 2023. The RV was still on the property. However, it was screened so that it resolved the outdoor storage violation.

00;49;22;25 - 00;49;24;24

Chad Giesinger

The use the code.

00;49;24;27 - 00;49;42;12

Gary Schmidt

The outdoor storage is also identified as. This is also referred to in the development as accessory. Yes sir. I know that's confusing. What kind of outdoor storage, but the nuisance portion of the violation we thought was resolved with the screening of the RV. However, the storage on the vacant parcel was not present.

00;49;42;15 - 00;49;52;13

Judge

Okay, wait one more time. So a lot of progress is being made. Yes, there is still an RV there. Correct? There was not a first notice yet. You were working with Mr. Schmidt?

00;49;52;14 - 00;49;54;13

Gary Schmidt

No, he got you. He received the first word. He got.

00;49;54;13 - 00;49;55;15

Judge

Okay, so this is after.

00;49;55;15 - 00;49;58;23

Gary Schmidt

September 25th. What is his notification of?

00;49;58;25 - 00;49;59;21

Judge

Okay. Not penalty.

00;49;59;29 - 00;50;00;22

Gary Schmidt

Right? Right.

00;50;00;29 - 00;50;01;21

Judge

Thank you.

00;50;01;24 - 00;50;02;12

Chad Giesinger

He was given.

00;50;02;12 - 00;50;22;14

Gary Schmidt

And we were inspected on the fourth. The penalty didn't go out. So December 12th plus. But I went out there and inspected on the fourth and the pictures a timestamp. so he made it clear that he was not going to file. So. Yeah. So so we're not going to grant extensions if you're not going to come in for five minutes.

00;50;22;14 - 00;50;25;01

Chad Giesinger

Kicking the can down the road. So we did get the first extension.

00;50;25;01 - 00;50;44;00

Gary Schmidt

For the significant progress he was working on. The title I understand can't registered RV is kind of tricky to remove it because it's not registered here. We're not going to tell any town or something like that. So so no distinction has been filed. So outdoor storage on a vacant lot is a violation. But he owns it right next to it.

00;50;44;00 - 00;50;55;10

Gary Schmidt

335 so since those two are adjacent, it's considered contiguous. So the county amendment saying that an accessory structure, an accessory use, or a contiguous parcel, provided you.

00;50;55;10 - 00;50;56;29

Chad Giesinger

Follow dealerships and basically say if.

00;50;56;29 - 00;51;06;11

Gary Schmidt

You sell one of the two parcels, you're correct. That is, you understand. So that's all we're at here is just either remove or file a deed restriction that.

00;51;06;11 - 00;51;06;21

Chad Giesinger

Mr..

00;51;06;21 - 00;51;29;13

Gary Schmidt

Dixon actually filled out. It's made to Mr.. Schmidt. So I mean, I we're not involved in some countywide conspiracy to get Mr. Schmidt to file a new restriction. It's that simple. we give you an extension. We worked with him. This isn't to be serious. I don't know where the complaint came from. He did a great job cleaning up all the bikes I've heard from people.

00;51;29;15 - 00;51;48;27

Gary Schmidt

the sheriff's department, about the issues with the bikes, because behind that property, I guess the post office. So the year before this got over, people had mentioned. That's why you clean it up quickly, Frank. We appreciate it. But we do have file code. Okay. It says if you want a lot of people would love to have the option to have some sort on vacant parcels, but they don't know the person next to it.

00;51;48;29 - 00;51;53;28

Gary Schmidt

So you guys have you out. I feel like an extrication. So it seems like there's like a simple resolution.

00;51;54;01 - 00;51;58;14

Judge

Okay. thank you, Mr. Palmer. I'll give you opportunity and just a suggestion.

00;51;58;14 - 00;52;00;10

Chad Giesinger

I was going to finish up with some points because.



00;52;00;10 - 00;52;25;18

Judge

Okay. And I'll give you that opportunity. We all want to talk. and I think this is the nut of this case. Of course. and I'm going to want to, I want you to address I know Mr. Schmidt well, as far as whether or not as far as it being grandfathered in this, you know, this is the argument, and, you'll be able to make it, but, I've been waiting to hear this, and,

00;52;25;21 - 00;52;27;17

Chad Giesinger

That's going to be a continuation of that.

00;52;27;17 - 00;52;49;08

Judge

But I also interested somewhere down the line about the mechanism of the restriction. how it works, how it's file, how it could be removed, easily. So what's going to happen here? Mr. Schmidt, is go has its term, and you'll be able to ask questions as well, like, when they're, when they're done. Okay.

00;52;49;11 - 00;53;00;12

Gary Schmidt

I would like to cross-examine that. and, we're something so that is part of that. There's some incomplete statements.

00;53;00;12 - 00;53;04;21

Judge

Maybe you'll have an opportunity to.

00;53;04;23 - 00;53;09;28

Chad Giesinger

Yes. Right. Man. Yeah. Man. Present. Thanks. so regarding the.

00;53;10;00 - 00;53;11;02

Judge

The it's there to witness.

00;53;11;02 - 00;53;11;08

Gary Schmidt

For.

00;53;11;13 - 00;53;16;04

Judge

It's there. It's it's codes turn there. They're taking different issues. They get to.

00;53;16;07 - 00;53;25;08

Gary Schmidt

The witnesses testified, normal procedure. What? I have an opportunity to cross-examine that witness. Cross-examine. And then they can drop.

00;53;25;11 - 00;53;40;27

Judge

The next witness. We'll do it that way. Instead of you're presenting your whole case. Well, we'll take it as Mr. Farmer as a witness, but we'll do it that way. That's fresh courtroom. Everybody okay? Can you see him, Mr. Schmidt? Or do you want me to have him up on the witness stand? no. That's fine. You can see in here.

00;53;40;29 - 00;54;09;06

Gary Schmidt

Mr. Farmer. you recall a previous, encounter, if you would. Or, with Mr. Smith at some point, maybe a couple of years ago, where you reached out to him, or he reached out to you where there was a an alleged code violation on one of his properties involving a political sign, not his own. Yes, yes.

00;54;09;08 - 00;54;35;15

Gary Schmidt

and at that time, you had discussions with Mr. Smith about it. Correct. And was, that some of that discussion was that it's not his political sign. It was placed there with permission. He wasn't aware that it was still. he would contact that party to place the political sign there. But in the meantime, he would immediately have it taken down.

00;54;35;18 - 00;54;55;06

Gary Schmidt

Is that a summation of what happened? Correct. And was that would you deem that to be quite cooperative? Absolutely. and there was no hostilities involved at that point. In fact, I kept his number from that encounter. And when I received this complaint, I reached out to him first to notify him. Because of the way he acted with the.

00;54;55;06 - 00;55;00;22

Chad Giesinger

Political side thing. I felt the next time I. Please, Mr. Schmidt, you owe me a lot of property.

00;55;00;25 - 00;55;02;11

Gary Schmidt

So next time I got a complaint.

00;55;02;11 - 00;55;03;13

Chad Giesinger

With the property of his.

00;55;03;13 - 00;55;04;10

Gary Schmidt

I had his phone number.

00;55;04;15 - 00;55;06;21

Chad Giesinger

I'm gonna reach out to him as a way to handle this one.

00;55;06;24 - 00;55;34;18

Gary Schmidt

In this case, that's what I did. So, yes, you did take care of that situation promptly without issue. But. But would you be aware at that time there wasn't any controversy between Mr. Smith and the guards potential illegal activities. They haven't begun yet. Or you were not aware of that? I have no underlying controversy. I have no where in with your standing in your life, your issues with anybody in here like I have with Mr. Swanson testify.

00;55;34;23 - 00;56;03;09

Gary Schmidt

I think I have no knowledge of that. Okay. You mentioned the, and there's some photos here of the bicycles. the, are you aware that there's bicycles? Start all over, grow up visible from the road? not that I can recall that number. That as on, you know, just bicycles. It's not something.

00;56;03;09 - 00;56;06;05

Chad Giesinger

That's when I drive to a town I'm aware of. This is. But if there's.

00;56;06;05 - 00;56;25;10

Gary Schmidt

Hundreds that I would probably notice. But no, I'm not aware. he, What is that particular code violation of a bicycle being parked or even being stored visible from time? It's not that. It's the number of bicycles.

00;56;25;10 - 00;56;28;25

Chad Giesinger

So it's it's things discarded without value is.

00;56;28;28 - 00;56;34;05

Gary Schmidt

I think anything I can impose, but it's code, right? It's the outdoor storage of the public.

00;56;34;05 - 00;56;40;17

Chad Giesinger

Nuisance code does have specific definitions for like racks, rubbish, debris. One of those is items discarded without value.

00;56;40;17 - 00;56;44;21

Gary Schmidt

So at Burning Man, when you leave a sign, say, hey, donate your bikes here and you're.

00;56;44;21 - 00;56;47;02

Chad Giesinger

Getting hundreds of people just dropping off.

00;56;47;02 - 00;56;53;06

Gary Schmidt

Bikes, throwing them as they leave town. I would consider that discarded, without.

00;56;53;06 - 00;56;56;06

Chad Giesinger

You know, value. However, I will concede that.

00;56;56;11 - 00;57;14;22

Gary Schmidt

The outdoor storage violation is a public nuisance has been corrected and we're not pursuing know. again, same question. I hope I get an answer this time. What potential code violation there was was there there.

00;57;14;24 - 00;57;16;19

Chad Giesinger

For having bicycles.

00;57;16;22 - 00;57;43;29

Gary Schmidt

Either parked for backup? Do you have any personal knowledge? What is the definition of storage versus park mechanicals? okay. So I think it's, anything within 72 hours. So is there first, the only knowledge of any of those bicycles were there in the not moved, worked on clean, you know, distributed change, for a 72 hour period.

00;57;44;02 - 00;58;05;12

Gary Schmidt

No, but they're not there now. Okay. So, yeah, I mean, we're not we're not we're not pursuing that part. I understand that, but we this is opposed to the abusive process here retaliatory. You know, so I think it's your testimony that you have no knowledge of whether those bicycles are being stored or just park that any of those bicycles did stayed at one spot for 72 hours.

00;58;05;19 - 00;58;36;12

Gary Schmidt

But there's two. Are these two that were in there? I that's not the question. Please answer the question. Do you have any knowledge on any of those bicycle were therefore being stored that is in one position for 72 hours. That's why we sent out a warning to notify you I think so section it was corrected and the list of items that needed to be screened is building materials, appliances, unregistered vehicles and rubbish.

00;58;36;12 - 00;58;37;15

Gary Schmidt

Is that correct?

00;58;37;18 - 00;58;44;03

Chad Giesinger

With a normal outdoor storage violation. But once you get a vacant parcel into

there that creates a register.

00;58;44;05 - 00;58;54;10

Judge

For both gentlemen to be here for Mr. Smith. Mr. Schmidt, I can understand if you speak over each other. Okay. Thank you.

00;58;57;29 - 00;59;04;08

Gary Schmidt

So.

00;59;04;10 - 00;59;24;27

Gary Schmidt

The bicycles were not illegally being stored because you have no evidence that they were being stored. Is that correct? Yeah. And I take issue with County because they were parked there, but I didn't issue a penalty based on the bicycles. Or you have photographs here, which my credit with court and the warrant was that there was something wrong with the bicycle being there.

00;59;24;29 - 00;59;49;01

Gary Schmidt

if there's something wrong with the bicycles being there, please cite the code violation code section that says you cannot park one bicycle or ten bicycles or 200 bicyclists. There's no one specifically says bicycle. Yeah. So there's no code issue. But yeah, it was corrected. So. So, you know, we're good with this, Mr. Farmer. You're the one. I brought it up.

00;59;49;06 - 01;00;09;07

Gary Schmidt

You're the one. What issue? Mentioned the bicycle here in testimony today. Mentioned the bicycles in the in this. And at a minimum, implied that there's some sort of violation there. So, I'm just seeing if you can justify that and I should consider abuse of process.

01;00;09;11 - 01;00;11;05

Judge

You can clarify. I said, you know, I.

01;00;11;05 - 01;00;12;13

Gary Schmidt

Never issued a penalty for the.

01;00;12;13 - 01;00;16;04

Judge

Bicycle. Okay. No. When it's when you started, you could you could clarify for I.

01;00;16;04 - 01;00;20;11

Gary Schmidt

Think the court understands. Yeah. I'll move on that.

01;00;20;14 - 01;00;21;18

Judge

We have no.

01;00;21;25 - 01;00;23;13

Gary Schmidt

Problem with the bicycles.

01;00;23;15 - 01;00;42;22

Judge

Okay. When Mr. Schmidt's done with his questions, you can clarify for me, as in bluegrass. Okay, okay. Rather than speaking over each other.

01;00;42;24 - 01;01;20;13

Gary Schmidt

you, Mr. Farmer, recall the first time you reached out to Mr. Schmidt by phone about there might be some issue on these two contiguous, units of land? Yes. and do you recall during that conversation, mentioning that the guy had filed the complaint? No, because I didn't know that yet. Because that, they're not the complaint that I received is in the area back, and it's clear a matter similar today, and it I don't know who's who.

01;01;20;17 - 01;01;34;22

Gary Schmidt

Did you know who took the call of the washer? It's late one morning. I don't think this was involved. I think this was a written complaint submitted to wash. So that's where we get the majority of the place is the washer. Can you identify a copy of that complaint is in your takes three.

01;01;34;25 - 01;01;36;24

Judge

And also in a for.

01;01;36;24 - 01;01;45;24

Gary Schmidt

The reference. so it says submitter name anonymous. And so I believe that this is a written complaint submitted to the washer 311 service. And then they.

01;01;45;26 - 01;01;49;03

Judge

Forwarded to us what is in Sanford's a anonymous.

01;01;49;05 - 01;01;51;01

Gary Schmidt

I think they just said, what happened.

01;01;51;01 - 01;01;53;18

Chad Giesinger

And it's again it's when asked for a name, the.

01;01;53;18 - 01;01;55;06

Gary Schmidt  
Person put it.

01;01;55;09 - 01;01;56;24

Judge  
Is not possible.

01;01;56;26 - 01;02;24;14

Gary Schmidt  
Okay. And yet at that time your conversation was just informal. because you know what, Mr. Smart? Is that correct? Yes, yes. Correct. But you're denying that you indicated to Mr. Smith at that time that the guide had five correct. And looking at the complaint form, under the submitter, it says. Not applicable. We're not available. But then there's an address down there.

01;02;24;16 - 01;02;46;26

Gary Schmidt  
88 54th May I want to drive through life, no matter who lives at that? I have no idea. how did that address get on this complaint? I imagine the person who submitted a typed it in under would address what is the. So your testimony that it was anonymous when there's an address of the submitted a complaint or to quite an address.

01;02;46;28 - 01;03;04;22

Gary Schmidt  
I don't know who's ever said it. It's just an I. I'm assuming I'm not familiar with the washer people online service how they receive complaints. I imagine there's some kind of electronic form and anybody who submits can put anything in their life. Why that's required. I don't know, because you haven't answered once, but I don't know his address.

01;03;04;28 - 01;03;17;15

Gary Schmidt  
I don't know if this I don't know. Why don't you think that's a little bit suspect that it's. You're testifying? It's anonymous, but there's an address in up on the complaint. No, I don't see.

01;03;17;15 - 01;03;18;12

Chad Giesinger  
I suspect is the.

01;03;18;12 - 01;03;31;09

Gary Schmidt  
Code enforcement official. We receive anonymous complaints. Yes. The complainant here means nothing to me. It's the violation on the property. But I can confirm, because usually this case is turned into, this is, a complaint with.

01;03;31;09 - 01;03;32;01

Chad Giesinger

Bad faith, and.

01;03;32;01 - 01;03;59;28

Gary Schmidt

I just don't get into it. What I can prove on property that I see is what I move forward through, because that's where I'm not responsible for who submitted it. Why do something that means nothing? Just because you submit a complaint doesn't mean a violation follows. could you talk a little bit about, the policy and. Alleged policy in Washoe County about,

01;04;00;02 - 01;04;12;17

Gary Schmidt

Enforcement by complaint only. It's my understanding that we are complaint based. I believe this is direction provided by the board of county commissioner prior to my employment wash up services.

01;04;12;17 - 01;04;18;05

Chad Giesinger

But I've been told by, my supervisor that preceded the city singer. Yes, I would go forward.

01;04;18;08 - 01;04;45;02

Gary Schmidt

Do you have any written documentation or any policies and procedures I have ever seen a written policy in regards to a complaint on time? No. Have you, in your travels? A girl actually had her testimony earlier here by Mr. Swanson. Have you noticed other, potential violations, such as building materials, appliances, unregistered vehicles on any of the properties in Burbank?

01;04;45;08 - 01;04;58;09

Gary Schmidt

I've noticed that with every neighborhood I go to see you again. I noticed that with every neighborhood, I guess, would you say it's a little more prevalent in Gerlach than in, Erica.

01;04;58;11 - 01;05;05;29

Clerk

I don't have a creekside. I because I, I would say, yeah, I guess the most recent area regulates the values. It's,

01;05;06;01 - 01;05;12;01

Gary Schmidt

I could hear your response. I said, I don't see your kids being in the most egregious area.

01;05;12;01 - 01;05;17;11

Clerk

I would say some values.

01;05;17;13 - 01;05;21;09



Judge

Based on personal observation. Okay. Yeah.

01;05;21;12 - 01;05;29;29

Gary Schmidt

Okay. But again, I, I think the complaint base also goes to, seven. I'm sorry, complaint base also probably has to do with staffing.

01;05;30;02 - 01;05;31;21

Chad Giesinger

Staffing. There's a lot of.

01;05;31;24 - 01;05;37;08

Clerk

there's no way we could.

01;05;37;10 - 01;05;43;23

Chad Giesinger

If I may, there is a policy procedure manual that we use to try and go enforcement officers, and,

01;05;43;29 - 01;05;46;02

Gary Schmidt

And we honor rejection.

01;05;46;03 - 01;05;46;10

Chad Giesinger

Yes.

01;05;46;12 - 01;05;50;24

Gary Schmidt

However, the question was of this witness, this passage. Mr..

01;05;50;24 - 01;05;52;13

Judge

Of our physician Pinkham.

01;05;52;13 - 01;05;53;13

Gary Schmidt

Speaking out of order.

01;05;53;17 - 01;05;58;02

Judge

Okay.

01;05;58;05 - 01;06;08;13

Gary Schmidt

Mr. Palmer, how often do you visit, for a sense, I would say December of 2020.

01;06;08;13 - 01;06;14;12

Clerk

Two, we started getting complaints based on properties, associated with Burning Man. So when you.

01;06;14;12 - 01;06;19;04

Gary Schmidt

Get a violation, you check it every three days. So since that time I.

01;06;19;04 - 01;06;24;17

Clerk

Was going out there once a month prior to that. It's been a long time.

01;06;24;20 - 01;06;54;10

Gary Schmidt

And how many times? Warning notices. Have you ever issued? Very likely last 12 months. well, how many properties are warnings because you're not quite sure that the warnings I could give one property, one written warning? I'd say in the past 16 months I've had about eight cases in the home. And did any of those go to citation?

01;06;54;13 - 01;06;58;23

Gary Schmidt

Yeah.

01;06;58;26 - 01;07;11;04

Gary Schmidt

And you're aware that, the respondent Mr.. Made a public records request for copies of those? I have no idea about appropriate to express their violation.

01;07;11;06 - 01;07;16;15

Clerk

I don't so that I, I.

01;07;16;18 - 01;07;18;03

Clerk

I again I.

01;07;18;05 - 01;07;19;22

Gary Schmidt

I don't fulfill records request.

01;07;19;22 - 01;07;25;26

Clerk

So I don't know what you requested.

01;07;25;29 - 01;07;47;00

Gary Schmidt

You don't recall the records request being made directly to you by email? It was to a lot of people by email. And we referred to that, that part of them anyway. And since you're the party, you have access to those records, right? That was the filings. I could look it up.

01;07;47;03 - 01;08;11;25

Judge

Mr. Schmidt, and I want you to be able to ask and be thorough. in your presentation. I also don't want to run out of time. I don't know how long we have the courtroom lunch. All right, but I want to make sure we get to, kind of the heart of the issue, too. And I know you've made arguments about, grandfathering in, and I want to make sure you have time.

01;08;11;26 - 01;08;37;13

Judge

No, sir. Alex. What's up? I want to hear that from you. So we have an opportunity to respond. And, of course, it's their term first, but it's so new for us. Okay? No, for the cross. Any we dress. So this is, as you know, your chance that you were okay for sure expanding on some of his questions. And I said you'd have a chance on your good.

01;08;37;14 - 01;08;39;14

Gary Schmidt

The crux of the matter is. Yes.

01;08;39;22 - 01;08;43;07

Chad Giesinger

Are they on the part parcel? I just want to focus on that.

01;08;43;08 - 01;08;44;04

Judge

Not, you know.

01;08;44;04 - 01;08;44;29

Gary Schmidt

Anything about.

01;08;45;03 - 01;08;45;25

Judge

I understand.

01;08;45;26 - 01;08;46;18

Chad Giesinger

Sales or.

01;08;46;18 - 01;08;47;16

Gary Schmidt

Other properties.

01;08;47;16 - 01;09;17;05

Judge

I'm here to talk and let me think for a second. To think if I have any questions about that. just to clarify, and I know we've spoken before, code, of course, is complete. Griffin. Correct, correct. You don't go out looking for problems or

issues or violations. Correct? Okay. As you get it, an anonymous complaint, such as this, you go out and investigate, is that correct?

01;09;17;05 - 01;09;29;14

Judge

Correct. If you see a violation that wasn't complained of, just happenstance because you were there, is that something that you can address on that property?

01;09;29;16 - 01;09;37;18

Gary Schmidt

Yes. Okay. Because sometimes the complainant may not know. And so it's not a good thing to bring up later and say well you never said that.

01;09;37;21 - 01;09;49;08

Judge

That's not so you're allowed even though it's complaint driven to say. Oh but look at this, there's an RV here that's not supposed to our, there's rubbish that isn't screened off even though that wasn't the original complaint.

01;09;49;08 - 01;09;50;20

Gary Schmidt

Is that right. Correct. On this thing.

01;09;50;22 - 01;09;55;29

Clerk

I know that it's a baby person and that you can't have a parcel. I mean, I know that.

01;09;56;02 - 01;10;00;20

Gary Schmidt

We don't address it, and I recognize that to not address it.

01;10;00;22 - 01;10;10;23

Judge

Okay. So, the initial complaint. What where did those the pictures of the bikes come from this.

01;10;10;23 - 01;10;11;20

Gary Schmidt

So did that.

01;10;11;22 - 01;10;13;25

Judge

With the complaint? Yeah. Okay.

01;10;13;25 - 01;10;16;11

Gary Schmidt

Did you look at the email? There's attachments.

01;10;16;13 - 01;10;24;08

Judge

Okay. And it's not your business to track down who it is. That complaint.

01;10;24;10 - 01;10;31;19

Gary Schmidt

So my personal view is it's wrong. There's a violation on the property. There's not it doesn't matter how upset the complainant is or what the relationship.

01;10;31;22 - 01;10;33;12

Judge

That's that's why it's anonymous.

01;10;33;15 - 01;10;48;07

Gary Schmidt

And you have to have the right. but again it to me it doesn't matter. So I, you you do have to complications with people that own property. They ask you complaint. I was like it doesn't matter but she's correct. It's on your property.

01;10;48;09 - 01;10;52;00

Judge

So you're not even curious that they add an address. You don't care.

01;10;52;03 - 01;10;52;21

Chad Giesinger

I mean it doesn't.

01;10;52;21 - 01;10;53;20

Gary Schmidt

Change what I supposed to.

01;10;53;20 - 01;11;23;13

Judge

Do. That's not your house. Okay. so we received it and I mean what I didn't really but you received, anonymous complaint pictures of many bicycles, which I think it's wonderful that they're donated after Burning Man. I think it's wonderful. That was cleaned up. That was way too. Did you just happen to notice about the two different parcels and you were obliged to address that?

01;11;23;16 - 01;11;25;06

Judge

How did that work?

01;11;25;09 - 01;11;30;24

Gary Schmidt

I was not aware of the, the code that allows you to the church.

01;11;30;27 - 01;11;34;01

Judge

So, I mean, how did we go from pictures of bikes?

01;11;34;03 - 01;11;37;21

Gary Schmidt

What was everything on the parcel? so there are two or.

01;11;37;24 - 01;11;47;23

Judge

And the bikes. Okay. So okay. So it's all collected as a city parcel. Okay. So did you go back to work? Look at the the maps.

01;11;47;23 - 01;11;51;25

Gary Schmidt

And go, oh yeah. You review the parcel itself. There's no.

01;11;51;27 - 01;11;56;20

Clerk

Use. So you can't have anything. Right. And then, you know, in the.

01;11;56;20 - 01;11;57;10

Gary Schmidt

Course of.

01;11;57;10 - 01;12;03;04

Chad Giesinger

Investigation, we did find the, accessory use with the destruction. And we thought that it was.

01;12;03;04 - 01;12;12;09

Clerk

Just accessory structures. That's more than the size of the garage on your parcel at the house. On the other one is a nice landmark. And we realize, okay.

01;12;12;09 - 01;12;13;26

Chad Giesinger

This is cool. So he doesn't.

01;12;13;26 - 01;12;17;00

Gary Schmidt

Have to use the RVs. He can keep the warrant.

01;12;17;05 - 01;12;35;06

Judge

Okay, I don't want to get into that yet. I just went looking at the at the process of it. So if if you go out to investigate an anonymous complaint, you see something totally that was not addressed in the anonymous complaint. you are you required to address that? I'm going to give.

01;12;35;06 - 01;12;49;25

Gary Schmidt

You an example of a common where you'll get a lot of people that have a vacant parcel out. And I will say, tell me about and they've got an RV and everything

else, so you get a complaint. Hey there, RV living well, instead of doing the fight with someone saying, hey, I'm not living out there, well, it can't be.

01;12;49;27 - 01;13;08;15

Gary Schmidt

So we just do the outdoor storage for the vacant lot storage violation in the RV. Got to go in. That creates an because they turn around and say the complainant well I can't the crew someone's living in it. And then they find out he can't have it because it's no saddle shoes. And it's like, well, you didn't say that in the first place.

01;13;08;17 - 01;13;11;03

Judge

Okay. I'm saying so they know.

01;13;11;05 - 01;13;14;13

Gary Schmidt

They know something's wrong. And you go like, yeah, you're right with that.

01;13;14;15 - 01;13;30;01

Judge

So basically anything is a truth. What you're saying once you it's brought to enforcement's attention that there's an alleged violation. Anything on that parcel is fair game. Yeah.

01;13;30;03 - 01;13;52;21

Gary Schmidt

Okay. And if you look at even look at this one, they, they make an accusation of, business without a license. I have done that. I didn't call that. So you're going out there and saying this is what's wrong. And, you know, you're generally dealing with safe and parcel storage, outdoor storage nuisance or anything. So it's not like there's a ton of little intricacies, things that we can use here.

01;13;52;24 - 01;13;53;06

Judge

Okay.

01;13;53;06 - 01;13;53;26

Gary Schmidt

It's pretty simple.

01;13;53;26 - 01;14;00;24

Judge

So and you testified that you work with Mr. Schmidt because you had a history, with him, that he was cooperative, correct?

01;14;00;28 - 01;14;17;27

Gary Schmidt

Yeah. If it's voluntary compliance, that's the idea. The idea is not to go this route. So if we can have a community conversation, maybe it was, if I had his phone

number prior to the election sign complaint, I would call him without saying that. Okay.

01;14;18;00 - 01;14;21;05

Judge

Your Honor. Yes, sir.

01;14;21;08 - 01;14;34;12

Gary Schmidt

You're making inquiries? so, of. County. and if I may, I could offer some explanation to.

01;14;34;12 - 01;14;36;28

Judge

Oh, so we asked questions of you two was sort.

01;14;37;01 - 01;14;45;28

Gary Schmidt

Of the same question. Of the process. he. There's a on file here. Yeah. My car.

01;14;45;28 - 01;15;00;05

Judge

Wait a minute, wait a second, Mr. Schmidt. I thought I was going to bounce back to you when I'm done to see if any follow up questions. because I don't get another shot. I'm also. So, you know, this help helps me understand. And which, supported decision.

01;15;00;07 - 01;15;01;15

Gary Schmidt

When I don't.

01;15;01;17 - 01;15;02;17

Judge

I'm going. Yeah.

01;15;02;17 - 01;15;05;15

Gary Schmidt

No. Attempting to cross-examine his answers to your question.

01;15;05;15 - 01;15;31;17

Judge

Well, yeah, they do the work. So is is you. I'll ask you if you have, follow up questions to tonight. Okay. absolutely. Okay. and I think, I think I've done, Yeah. We're going to do one at a time for him. Okay. we'll finish up with you and then see if there are any more questions than Mr. Biesecker will have a chance.

01;15;31;19 - 01;15;39;11

Judge

I want to make sure we've done everything we can, because we call you, Let me just think.



01;15;39;11 - 01;15;46;15

Clerk

For a second.

01;15;46;17 - 01;15;52;25

Judge

There were questions about the sources, the complaints. Does that matter at all to you?

01;15;53;00 - 01;16;09;16

Gary Schmidt

Now, I'll go ahead and just read after, that chapter 125 2022 Administrative procedures, procedures. Any person who observes a possible violation of the code name, notify the appropriate agency or department in person or by written communication. Any person.

01;16;09;19 - 01;16;12;05

Judge

And you're you don't look into that at all or under one.

01;16;12;09 - 01;16;20;21

Gary Schmidt

If it doesn't change what I'm required to do, and that's to confirm a violation on the property and correct the.

01;16;20;28 - 01;16;29;22

Judge

Complainant to the relevant. Okay, Chris, explain to me again why we, we reached out with Mr. Schmidt that you worked with him, which you didn't.

01;16;29;22 - 01;16;35;26

Gary Schmidt

And why did we? Well, we received the complaint, so I'm I'm staff but there like so we get some like the here.

01;16;35;26 - 01;16;36;19

Chad Giesinger

Like it's my area.

01;16;36;19 - 01;16;37;21

Gary Schmidt

So again.

01;16;37;24 - 01;16;40;01

Judge

You gave him the 30 day extension.

01;16;40;03 - 01;17;02;15

Gary Schmidt

Contract because he complaint. So he said he was still looking for I believe a title to register the vehicle. essentially maybe they were very good. But when they cleared out that wasn't going to happen. It's like, well, if it's going to say it needs to be restriction because the outdoor display of an RV or any, vehicle servicing with outdoor recreation is accessories.

01;17;02;17 - 01;17;14;13

Judge

You don't have programs on the property. Did I hear you correctly that you said you basically shut the door? No more trying to come into compliance. No more conversation because you thought he did.

01;17;14;13 - 01;17;31;21

Gary Schmidt

Yes. I went through the extension and when he made it clear that he wasn't going to do the deed restriction or remove, at what point was the extension for we were never getting compliance. Okay. I mean, he's at 120 days since December 4th. He's still living.

01;17;31;21 - 01;17;41;09

Judge

So that is the reason I'm sorry to interrupt. So that is the reason once, assistant said we're not going to do it, then the notices go out.

01;17;41;09 - 01;17;43;13

Gary Schmidt

Right? The point of the extension is a lot more time.

01;17;43;16 - 01;17;45;07

Judge

The compliance information.

01;17;45;14 - 01;17;46;03

Kris Swanson

You know, how can you.

01;17;46;04 - 01;17;49;10

Gary Schmidt

Compliance. Then there's no point. Okay.

01;17;49;13 - 01;17;53;15

Judge

Okay, Mr. Schmidt and you follow up questions.

01;17;53;18 - 01;18;00;27

Gary Schmidt

Well, and just to weigh in on your questions there, I can explain.

01;18;00;29 - 01;18;07;11

Judge

And then these are questions for Mr. Farmer. You'll have your time to testify when they're done. Okay.

01;18;07;13 - 01;18;09;16  
Gary Schmidt  
Any follow up questions for.

01;18;09;18 - 01;18;13;07  
Judge  
Yeah. Do you mind?

01;18;13;10 - 01;18;58;03  
Gary Schmidt  
Okay. Yeah. Isn't it true that, prior to your first contact with Mr. Smith? In regards to alleged issues on one or both of the units of. Plan that Mr. Schmidt owns there on Main Street that was contiguous for each other. you had no personal knowledge of Mike harbors? You know, opinion that was placed on the record in 1996.

01;18;58;05 - 01;19;08;13  
Gary Schmidt  
My apartment. And that you have his opinion included as an exhibit at the end of our packet that was provided by Mr..

01;19;08;15 - 01;19;13;23  
Judge  
Mr.. Schmidt, maybe this is something Mr.. Kucinich was going to address, and then you could question him.

01;19;13;25 - 01;19;15;22  
Gary Schmidt  
This is what I'm asking this farmer if he had a.

01;19;15;29 - 01;19;17;07  
Judge  
So no that's fine.

01;19;17;09 - 01;19;40;00  
Gary Schmidt  
Yeah. And you also had no knowledge of the history of contiguous park parcels being owned by one person, being treated differently, than, say, a isolated vacant lot by itself. I knew that they were contiguous party. I didn't know about the accessory use force.

01;19;40;03 - 01;19;45;09  
Clerk  
Thank you. About accessory structure. Accessory.

01;19;45;12 - 01;19;45;18  
Clerk  
Could you.

01;19;45;18 - 01;20;13;19

Gary Schmidt

Repeat that? When I was familiar with the fact that you could add accessory structures, I became this properties. Now accessory uses. Is a structure and accessories and not, by definition, candy. So the structure if you like more of a bar and garage accessory structure right in the house. Garage accessory structures accessory structure, large accessory structure where you use is displaying the work.

01;20;13;21 - 01;20;34;12

Gary Schmidt

Where are you familiar in the true that you were not familiar with it. The ordinance, adopted in August 2016 not present. And is it true that Mr. Schmidt brought to your attention that.

01;20;34;15 - 01;21;12;17

Gary Schmidt

Contiguous property is owned by the person per person, have been treated differently for decades in Washoe County? Okay, okay. Was I aware that you had a different opinion about it? No. Isn't it true that Mr. Smith made you aware? So the issue or the fact that contiguous properties owned by the same person or treated differently than single units of land can have certain privileges if you.

01;21;12;19 - 01;21;41;11

Gary Schmidt

Okay. And that was part of Mr. Smith's claim at the time that he's grandfathered in because it's two contiguous parcels and they are to be treated as is two contiguous units of land, and they are to be, as a matter of law, to be treated as one parcel, having a little bit different definition of parcel. Then they say the assessor's office uses.

01;21;41;13 - 01;21;58;27

Gary Schmidt

That was Mr. Smith's argument to do. Right. Right. And that was all foreign to you. Right. They've never heard that argument. And that's where the consultant was. Yeah. And then so you kicked it upstairs and maybe missed Mr. Gibson's or was a little more familiar with that. I would say I kicked it upstairs. It's a we talked about it.

01;21;58;29 - 01;22;27;04

Gary Schmidt

How long have you been employed? Yeah, it was your parents. I think almost 11. It's taken almost 11 years. And were you an employee prior to that? In what capacity? probation officer. And you been in code enforcement that entire 11 years? I had, you know, about six years. I take it you did not know my property.

01;22;27;06 - 01;22;56;28

Gary Schmidt

You know, Kelly. Mom. Correct? Yes. She's your superior at one level or no? Yes.

Couple steps up their secure. And if you have a chance to note that the staff report for the ordinance that was adopted on August of 2016. who's the author of that works that.

01;22;57;00 - 01;23;04;00

Gary Schmidt

If I may, Mr. Gibson Jr, are you aware who the author of the staff report what you make?

01;23;04;00 - 01;23;17;27

Judge

Because it's informal. Such per your request. We were taking it one at a time, Mr. Singer. Okay, we'll have a turn. But, Mr. Basinger, you're free to answer. Yeah, let let him ask you a question. Okay. but, Mr. Schmidt, you asked him a question.

01;23;18;04 - 01;23;49;02

Gary Schmidt

Okay. What? Mr.. Mr. Palmer, what is the current definition of a partial? Right? I don't know, something we don't know. You know what the definition of a partial land was in 2016? You know, when Mr. Schmidt, might his two units of land there on May 20th. Then you know what the definition of a parcel of land was in 2011?

01;23;49;05 - 01;23;52;04

Gary Schmidt

You know what the definition of a lot is?

01;23;52;06 - 01;24;15;22

Clerk

You know?

01;24;15;24 - 01;24;21;04

Gary Schmidt

What? The citation.

01;24;21;06 - 01;25;02;10

Gary Schmidt

It says one of the violations was why you kind of code section 110 306 35 B outdoor storage on vacant lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. Why don't you think it's important for you to know what the definition of lot is in today, in 2012, 2023, when this process started, would you think it's important that you understand the definition of those keywords and that that citation?

01;25;02;13 - 01;25;11;23

Gary Schmidt

No, it's not a word. How do you interpret whether there's a violation if you don't even know what the definitions of the terms, the key terms in that in the citation?

01;25;11;28 - 01;25;15;03

Judge

He answered your question. No, Mr. Schmidt, so you can argue you could argue that.

01;25;15;06 - 01;25;44;22

Gary Schmidt

Well, I'm asking, how can you possibly perceive that? You can cite something I said, you know, a code section without knowing the definition of the words in the citation, you think that's appropriate? And I would ask the same question rhetorically, perhaps. Well, you've already testified that, Mr. Smith about this property, 2012. and you understand the concept of grandfathering.

01;25;44;24 - 01;26;03;04

Gary Schmidt

As its acquisition? No, that that RV was not there prior to the code adoption. So we don't recognize the grandfather Dan. It's a it's been there since 2015. The I would say that that already accessory. So the outdoor display is grandfathered in because it was allowed to be there as to when they changed.

01;26;03;04 - 01;26;06;26

Chad Giesinger

The code, it was it was out previously. If I would have there okay.

01;26;06;28 - 01;26;07;16

Judge

Okay okay.

01;26;07;16 - 01;26;09;02

Chad Giesinger

Okay. Let's go there.

01;26;09;04 - 01;26;10;17

Judge

I know we're getting there.

01;26;10;17 - 01;26;50;13

Gary Schmidt

Please take your PowerPoint. so you're saying there's an issue with a particular RV. Now, part of this code section that they cited was a violation, or you state that outdoor storage of building materials. Let's just go to government materials. So if. Somebody is grandfathered in for the storage of building materials, are you saying that if he removes one, two by four and brings another a two by six in, he loses his grandfather and I going to discuss hypothetical situations?

01;26;50;16 - 01;27;16;07

Gary Schmidt

Well, are you you're saying I believe that if you're grandfathered in for the storage of a recreational vehicle, if you remove one recreational vehicle and bring another one, you lose your grandfather? I don't know I but Mr. Decent you're he's going to expand more on that situation. So I appreciate your questions. Thank you. You have no response. I don't have response that,

01;27;16;09 - 01;27;45;27

Gary Schmidt

Well, maybe you should explain what give the court your definition or your dissertation in regards to what grandfathering or basically we're talking about, grandfathered is a slang term for legal non-conforming uses. Is that correct? You brought in the grandfathering portion of that. but you make that case, I think. Mister, I'm sorry. I didn't hear that. Sorry.

01;27;45;29 - 01;28;06;18

Gary Schmidt

You've brought in the grandfathering of it. I haven't, so I'm going to defer to Mr. Senior to go over that section with the code amendment. So here I go. The defined I choose it that you don't have the option to revert back to. I'm not here to talk about the violation of property. I know the definition of grandfathered in.

01;28;06;21 - 01;28;30;02

Gary Schmidt

You're here to answer questions to the court. Yes. You can't refuse to answer a question. You can say you don't know who's right. Answer the question I don't know. You know what? You don't have a definition for grandfathering or legal nonconforming use. That's your test. One definition.

01;28;30;05 - 01;28;53;07

Gary Schmidt

In the early discussion, mainly email exchanges between yourself and Mr. Smith. Wasn't that a primary concern? Whether for you storage? I am sorry. My question. Storage on the second unit of land was grandfathered in or not. I believe that was your conversation with Mr. Easton.

01;28;53;10 - 01;29;08;00

Judge

Okay, I'm going to jump in here, Mr. Smith, because I think we're kind of being a dead horse, so to speak. and I'm going to ask a quick question, which I make, which I make and that is, when did you loop in Mr. Basinger?

01;29;08;01 - 01;29;15;00

Gary Schmidt

So we meet weekly Wednesday mornings, and we usually cover situations where, it may be unique.

01;29;15;02 - 01;29;21;04

Clerk

Or also it may rise to the level where commissioner County manager's office is contacted. So it's kind of give a heads up.

01;29;21;09 - 01;29;24;02

Gary Schmidt

Hey, we got this complaint you may hear from somebody. So that.

01;29;24;02 - 01;29;35;18

Judge

Way you. So when was Mr. Singer looped it? Just so you know, you may say. Yeah, I, I have given you quite a bit of leeway, but, there's no there, there. I think with, with Mr. Farmer.

01;29;35;20 - 01;29;41;10

Gary Schmidt

Probably in between receiving the complaint and actually issuing the.

01;29;41;12 - 01;30;04;00

Judge

Okay. So Mr. Singer's expertise in this matter was brought in early on, correct? Yeah. Okay. So, Mr. Schmidt, I believe it's been asked and answered, Mr. farmer, my my understanding is didn't know, didn't understand. And he brought in Mr. De Singh, got his expertise.

01;30;04;02 - 01;30;11;17

Gary Schmidt

And I think it's clear for the record. But I, I would like to reserve the right to recall, Mr. Farmer, but that's fine.

01;30;11;17 - 01;30;15;11

Judge

I just don't want to draw this out. He answered your questions and. Okay. Thank you.

01;30;15;12 - 01;30;18;08

Gary Schmidt

Honor, I have to understand that we're.

01;30;18;10 - 01;30;19;28

Judge

We're making a good record, Mr. Schmidt.

01;30;20;03 - 01;30;21;10

Gary Schmidt

That we were.

01;30;21;13 - 01;30;39;06

Judge

Adequate. Yes. That's what I want to you as well. I agree with you. but I think we're going nowhere with this. This part of the work for. Okay. And what I'd like to do looking at the time, and I know it could go on a little bit longer, is take a break here. is everyone okay right now?

01;30;39;08 - 01;30;40;22

Gary Schmidt

I'm fine.

01;30;40;24 - 01;30;53;03



Judge

You're fine, I feel good. It's maybe finish, coats case and then take a brief recess before you start yours. Okay. So, go ahead, Mr. Basinger.

01;30;53;06 - 01;30;59;22

Chad Giesinger

Okay. Yeah, I'll be brief. I just wanted to point out the history of the code and address this grandfathering claim.

01;30;59;22 - 01;31;01;05

Judge

Perfect.

01;31;01;08 - 01;31;28;08

Chad Giesinger

The proper term is legal. Nonconforming. And the definition of that is something that was legal at the time. It was, brought into existence of that can't go. But then the protest changed subsequently. Since then, therefore, if any use that was legal prior and there's no longer legal now. So that's why it's for nonconforming basically that locks down, that use it can't be expanded and it can't be discontinued for more than 12 months.

01;31;28;10 - 01;31;50;02

Chad Giesinger

And then it loses its legal in our common sense, however, that's not at issue with this case whatsoever. because prior to 2016, when the code was amended to actually allow someone to read to record a deed restriction and legalize having, storage on a vacant parcel, as long as it was contiguous, there was no provision in the code that allowed it at all.

01;31;50;04 - 01;31;56;17

Chad Giesinger

So if you if you turn to page 47 of the packet.

01;31;56;19 - 01;31;57;14

Chad Giesinger

Are you there?

01;31;57;16 - 01;32;09;12

Clerk

You know, you go.

01;32;09;14 - 01;32;10;29

Clerk

Yes.

01;32;11;02 - 01;32;30;23

Chad Giesinger

So on page 47 you will see the current code language that's in the code, since 2016. And you can see there main structures required. So basically that saying that

you have to have the principal use before you can have an accessory use. And then below that you'll see the addition of of a and B a is regarding agricultural buildings.

01;32;30;23 - 01;32;51;12

Chad Giesinger

That's what we're talking about here. B is the part we're talking about. The proposed accessory structure is looking at a lot a lot of the constraints, assuming structure for personal use it on the same worship at the same rate of three zone and a restriction has been filed and so forth. That's what allows you to store something currently on a vacant parcel that's contiguous ownership.

01;32;51;15 - 01;33;16;01

Chad Giesinger

We turn to the next page 48 three 2016 code. This is the excerpt from that. You'll see that there is no. So A and B underneath there. Basically it's just saying you have to have a main structure during further. If you look at the original code from 1957, that code also contemplated having to have a permissive main building prior to storage on because prior to an accessory use on a vacant parcel.

01;33;16;03 - 01;33;42;15

Chad Giesinger

And so the claim that there is some kind of non legal or not performing status here is just not factually correct. There was never an allowance and this was the county code still allow storage on a vacant parcel without a principal use prior to 2016. Now Mr. Schmidt is referenced, an old interpretation of the code that was issued by, a previous planning manager at Washington, Mike Harbord.

01;33;42;17 - 01;34;06;20

Chad Giesinger

and let's say, even if this had the force of effective law, which it does not, because it's an interpretation, if you look at that, and if you look at that interpretation, which is found on page 39, started interpretation 96 four, because it was issued in 1996, you will see that this interpretation is only in relation to the location of a detached accessory structure or detached garage.

01;34;06;23 - 01;34;32;07

Chad Giesinger

So this interpretation was saying these interpretations are for, internal use by the planning staff, so that we're consistent in how we address code provisions that may be vague or unclear. And at the time that this was issued, many people in the community were arguing that they, should be able to have a garage for parking purposes, on their adjacent parcel that they should be able to park on their adjacent parcel.

01;34;32;07 - 01;34;59;29

Chad Giesinger

That's our contiguous ownership. That's what this interpretation was, was meant to to clarify in terms of policy direction, until there could be a code clear code, provision, which ultimately ended up occurring in 2016 and superseded this,

interpretation. But even if the certification were to be in effect in re in relation to what Mr. Schmidt is arguing, it doesn't cover the storage of an RV or the floor or storage of,

01;35;00;03 - 01;35;02;05

Gary Schmidt

At all.

01;35;02;07 - 01;35;29;28

Chad Giesinger

However, the RV was brought in after 2016, and any event which is shown by the aerial photos that I provided in the package. And you can see that, in 2017, for example, on page 44, 2017 of May, no RV there. That was after the code was amended.

01;35;30;01 - 01;35;35;21

Chad Giesinger

So what they like. But in any event, none of that is relevant because out to the.

01;35;35;22 - 01;35;37;19

Gary Schmidt

Principle of research of.

01;35;37;19 - 01;35;38;28

Judge

44.

01;35;39;00 - 01;35;40;03

Chad Giesinger

Correct? Yes.

01;35;40;04 - 01;35;50;29

Gary Schmidt

Page 48 for your rights to make sure you.

01;35;51;01 - 01;35;54;00

Judge

So page 4406. May 27th.

01;35;54;03 - 01;36;21;25

Chad Giesinger

2017. Got it? Yes. And then you'll see in 2021 there are some arv's there following page. So that 2023 or some. So what we're doing here today is to see compliance with the current code, because that's what applies to the the subject at hand here. From the felony violation that was issued, we simply asked that Mr. Smith, before the street restriction, there is no harm to him or his property or values in doing so.

01;36;21;27 - 01;36;43;00

Chad Giesinger

Very simple process actually spelled out the new restriction for him, provided that

to him in an email imploring him to please just follow a simple procedure in code, or at least in principle, the matter. Mr. Schmidt, he doesn't want to do that. That's why there wasn't any further extensions. It's very easy to remove the restriction. He has control over that process.

01;36;43;03 - 01;36;46;07

Chad Giesinger

How? What the, it's recorded at the recorder's office.

01;36;46;11 - 01;36;47;15

Judge

How to remove.

01;36;47;18 - 01;37;11;15

Chad Giesinger

He goes back to the recorder's office and with, in consultation with planning, he said what would happen is he decides to sell the property at that point in time, you need to address that restriction, which says if you sell the property that you then have to to make sure it's a legal facility. So. So they would do that to remove the RV at that point, or they would have to establish a principal name use at that point.

01;37;11;15 - 01;37;35;22

Chad Giesinger

So your house or some other principal use on that parcel. And then and then the county, could agree to the, to the release of the restriction at that point. Another another alternative would be is if they didn't want to sell the property, that they just wanted to get rid of that restriction. They could also then establish the principal use a main use, and then, we'll be in agreement for the removal of that of that expression.

01;37;35;25 - 01;37;37;26

Chad Giesinger

That's pretty much that simple.

01;37;37;28 - 01;37;41;19

Judge

Can you define or describe excuse my voice.

01;37;41;22 - 01;38;07;29

Chad Giesinger

Principal use the principal uses, any of the uses that are contained in article or so yeah, article 3 or 2 of the Ross County Development Code to block uses. Those are all permanent principal uses. And it ranges everything from industrial and commercial to residential. So really just depends on the zoning. and so just because you own two contiguous parcels in the same ownership doesn't mean to do whatever you want on on it.

01;38;07;29 - 01;38;20;17

Chad Giesinger

Also, there's no zoning regulations in effect. This parcel is zoned for residential development. So the most, common principal use would be a single family block.

01;38;20;20 - 01;38;25;01

Judge

I have other questions for is there anything else at this time? No.

01;38;25;03 - 01;38;43;17

Gary Schmidt

Mr. chambers was Mr. Gibson Jr. Did you, is the court the definition of what, in the county code in 2023?

01;38;43;19 - 01;39;08;23

Chad Giesinger

Is this more or less anonymous as parcel? And it's the assessor's office, by the way, that determines that across that, scheme basically. So, an API number is called an assessment parcel number. And that's basically the parcel IP that is assigned to an individual piece of property with its own legal description, and that's for tax purposes, for property tax purposes.

01;39;08;26 - 01;39;29;23

Chad Giesinger

But lot is just a colloquialism of a parcel. And so for example, in a subdivision you'll have a series of parcel numbers, but then the developer will assign lot numbers to those parcels for the sale of those parcels. So each of these parcels has its own unique legal description. So therefore they are two separate parcels under the law.

01;39;29;25 - 01;40;00;15

Gary Schmidt

Mr. Geisinger, you sort of answered my next question. The definition of a parcel of land in 2023. But, Could you be a little more specific? Could you at least cite the provision of the code section in 2023? That is a small, precise definition of a lot and a more precise definition of parcel for. Or let me withdraw that question.

01;40;00;18 - 01;40;23;06

Gary Schmidt

did you lock up during this process year in 2023 and then that you 2024, did you ever look up the definition of a plot in the code section and or the definition of parcel of land in the code section to verify, since there was some dispute going on here that you understood it, relevant to the violation that you've been that you wish you could.

01;40;23;07 - 01;40;24;24

Gary Schmidt

County issued.

01;40;24;27 - 01;40;31;25

Chad Giesinger

There's two separate parcel numbers. I looked up the parcel in question by typing

in the parcel number into our data. That was just not the question.

01;40;31;25 - 01;40;36;20

Gary Schmidt

The question is, did you ever look up the definition of lot and the definition of parcel.

01;40;36;23 - 01;40;38;17

Judge

By, you know, one at a time.

01;40;38;17 - 01;40;43;16

Gary Schmidt

Please say yes or no, yes or no question. Okay. Yes or no?

01;40;43;19 - 01;40;49;12

Chad Giesinger

Okay. I'll say yes because I've read it before I didn't. You don't read. Look it up.

01;40;49;14 - 01;40;59;09

Gary Schmidt

So you think you're just a dissertation you just gave moments ago is, reconciles with the actual definition in the in the in the code.

01;40;59;12 - 01;41;02;03

Chad Giesinger

What we could get out of the code and I could read it to you.

01;41;02;06 - 01;41;03;27

Gary Schmidt

Mr. mayor, I think I said it quickly.

01;41;04;01 - 01;41;04;27

Judge

When you refer to.

01;41;04;29 - 01;41;06;06

Gary Schmidt

The records have been established.

01;41;06;13 - 01;41;10;27

Judge

I want to refer. I want you to specify when you say the code, there are different codes.

01;41;11;03 - 01;41;19;11

Gary Schmidt

The development code, the development Russia County development code that has a series of definitions in it. Yes, yes.

01;41;19;13 - 01;41;20;25

Chad Giesinger

Well, you're welcome to submit that as well.

01;41;21;01 - 01;41;35;08

Gary Schmidt

But this is cited again I know the definition. So I don't have to look at because well I'm asking you I think the record's clear. It's I think I recognize there. Yeah.

01;41;35;11 - 01;41;38;25

Judge

Washoe County development code is what you're.

01;41;38;27 - 01;41;42;18

Chad Giesinger

Already asked and answered. I already said the same thing.

01;41;42;20 - 01;41;43;28

Judge

They been.

01;41;44;01 - 01;41;48;25

Chad Giesinger

Blocking. This one has a parcel ID, and some people.

01;41;48;25 - 01;42;03;10

Judge

Really no know. I heard your testimony. I just wanted to understand what Mr. Schmidt was referring to. As far as, the definition of a lot and parcel and where he's finding those definitions. Yeah.

01;42;03;13 - 01;42;44;04

Gary Schmidt

we'll get into that. We have. So they're on the record. They're actually on the record. But his exhibits, which he has apparently has not read. yeah. And detail, Mr. Geisinger, are you aware of that? Mr. Schmetzer offered a compromise early on in this that, he expressed concern that a restriction was detrimental and derogatory to the property and could affect property values, but that, and, we'll get to that language a little later.

01;42;44;04 - 01;43;05;20

Gary Schmidt

But he said something to the effect that perhaps a, letter of understanding or memorandum, something that would be recorded in the recorder's office in regards to, the issues here, might be a compromise position. Do you recall that in this email?

01;43;05;22 - 01;43;14;18

Chad Giesinger

I do not recall any such email. I recall emailing you, asking you to record a deed restriction and you not responding that you would do it.

01;43;14;21 - 01;43;20;26

Gary Schmidt

Okay. I would request that the witness respond to the question and not get a whole bunch of extra dialog.

01;43;20;26 - 01;43;21;16

Chad Giesinger

I know we.

01;43;21;16 - 01;43;22;18

Gary Schmidt

Won't be here all day.

01;43;22;24 - 01;43;24;15

Chad Giesinger

I had no to me. Well, you're the one.

01;43;24;15 - 01;43;26;10

Gary Schmidt

That's okay. All right. So I just asked a second.

01;43;26;11 - 01;43;29;17

Judge

Question to answer his question.

01;43;29;19 - 01;43;30;20

Chad Giesinger

I can answer his question.

01;43;30;20 - 01;43;32;20

Gary Schmidt

I answer should be a simple yes or no.

01;43;32;27 - 01;43;36;20

Chad Giesinger

Stop talking already, please. Yes, I answered your question. I had no such email.

01;43;36;20 - 01;43;39;16

Gary Schmidt

And then you. You went in for discussion.

01;43;39;16 - 01;43;40;22

Judge

Okay.

01;43;40;24 - 01;43;46;04



Chad Giesinger  
Answer.

01;43;46;07 - 01;43;57;04

Gary Schmidt

Has it you have any experience in real estate? Commercial manager. You have any background in real estate sales?

01;43;57;07 - 01;44;00;12

Chad Giesinger

What's the relevancy, the quality?

01;44;00;14 - 01;44;04;12

Judge

Please answer the question.

01;44;04;14 - 01;44;05;06

Chad Giesinger

Restate your question.

01;44;05;06 - 01;44;17;19

Gary Schmidt

Then. Do you have any background in real estate ownership, management, sales? bought several houses.

01;44;17;21 - 01;44;26;29

Gary Schmidt

would you agree that the restrictions on property are detrimental to the value or are an issue when you go to sell a property?

01;44;27;01 - 01;44;29;04

Chad Giesinger

actually, I have the restrictions on my property.

01;44;29;06 - 01;44;31;16

Gary Schmidt

I didn't ask if you had deed restrictions on your property.

01;44;31;16 - 01;44;33;05

Chad Giesinger

I asked you if I might not agree.

01;44;33;08 - 01;44;44;13

Judge

Okay. I gentleman, as you know, I misunderstood. This is what we got into before. It's not going to happen again. All right? Please limit your questions. Let me just answer. I would your.

01;44;44;13 - 01;44;44;29

Gary Schmidt

Request.

01;44;44;29 - 01;44;47;01

Judge

I don't answer the question.

01;44;47;04 - 01;44;48;03

Gary Schmidt

You just answered.

01;44;48;07 - 01;44;53;18

Judge

I, I am Mr. Smith. Enough of this.

01;44;53;21 - 01;45;13;13

Gary Schmidt

I'll really ask the question. Are you aware that deed restrictions are a red flag when you go to sell property and may adversely affect your capacity to market the property and or the price you get for the property? Yes or no? Please. No.

01;45;13;15 - 01;45;29;23

Judge

And Mr. Singer, you'll have an opportunity and redirect to expand on that if you'd like to. You don't need to argue over here. Okay. You'll have a term.

01;45;29;25 - 01;45;35;28

Gary Schmidt

Thank you. Have an.

01;45;36;01 - 01;45;45;04

Gary Schmidt

Introduction into the record for the exhibit nine code sections defining grandfathering a few other non-conforming uses, which there seem to be some confusion about.

01;45;45;07 - 01;45;52;26

Judge

Okay. And Mr. Schmitt, I'm going to ask you, it's a section 110, but it's what what code are we looking at here? What is the county code?

01;45;52;29 - 01;45;57;15

Gary Schmidt

Code system or county development code?

01;45;57;18 - 01;46;01;11

Judge

Any objections to its admission?

01;46;01;14 - 01;46;02;11

Gary Schmidt

You know, from your,

01;46;02;17 - 01;46;04;07

Judge

Wait, wait, Mr. Smith.

01;46;04;09 - 01;46;12;16

Chad Giesinger

I don't know from which version of the government code printed this room. Could have been. Could have been an old code. Have no idea.

01;46;12;21 - 01;46;20;10

Judge

Okay, Mr. Schmidt, before I submit, we need to have more information. Do you know where you got this?

01;46;20;12 - 01;46;23;21

Gary Schmidt

more like a test that this is pulled from.

01;46;23;23 - 01;46;26;19

Chad Giesinger

The current development code.

01;46;26;21 - 01;46;32;10

Judge

Is that your testimony? That this is correct? Yes.

01;46;32;13 - 01;46;37;19

Judge

Mr. Basinger, I'll let you respond to that.

01;46;37;21 - 01;46;46;01

Chad Giesinger

Yes. That's right, that's right. I can't say if it's work or not.

01;46;46;04 - 01;46;49;16

Judge

Okay. Do you object?

01;46;49;18 - 01;46;51;06

Chad Giesinger

No. That's like we can discuss the submission.

01;46;51;06 - 01;46;52;24

Judge

Okay. Just a minute, Mr. Schmidt.

01;46;53;01 - 01;46;53;06

Gary Schmidt

What?

01;46;53;13 - 01;47;07;20

Judge

Mr. Schmidt Smith. So we're going to mark this as it's a bit noisy. I already did that for the code. Okay. You got it. And then you can take a look at it later. Question its validity. Mr.. Okay. Yeah. And it's kissing.

01;47;07;20 - 01;47;16;02

Chad Giesinger

Her her T-shirt. Yes. This was the hard states. Okay.

01;47;16;05 - 01;47;18;04

Judge

Exhibit okay. Okay. Go ahead, Mr. Schmidt.

01;47;18;04 - 01;47;30;00

Gary Schmidt

Thank you. Mr. Danger. With this, what is the current applicable to development or years of development?

01;47;30;03 - 01;47;39;19

Chad Giesinger

it was, adopted originally, I believe. And then these, just constantly amended the most recent amendment happened just a couple months ago.

01;47;39;22 - 01;47;44;27

Gary Schmidt

But the base code for the years this.

01;47;45;00 - 01;47;47;07

Clerk

Or I just said.

01;47;47;09 - 01;47;51;05

Chad Giesinger

I believe it was adopted sometime in the 50s. I have an excerpt from 1957.

01;47;51;05 - 01;48;00;04

Clerk

I don't know if that was the first one, but that was the oldest one I could find on the record that I had access to. Okay.

01;48;00;07 - 01;48;21;16

Gary Schmidt

During this process here, church, the latter 23 and this year, did you have occasion or did you, think it's appropriate to look up the current definition of in regards to, nonconforming uses?

01;48;21;19 - 01;48;30;18

Chad Giesinger

It's not relevant in this case. As I previously explained.

01;48;30;20 - 01;48;54;09

Gary Schmidt

Mr. Gibson Jr, Mr. Schmidt has made a claim of grandfather or a legal, nonconforming use, or perhaps even a legal conforming use, which goes to the definitions in the development code. But it's your testimony that that is not relevant.

01;48;54;11 - 01;49;01;19

Chad Giesinger

You can argue whatever you like, but I don't feel it's relevant in this case because, as I previously explained, it was not ever allowed.

01;49;01;21 - 01;49;39;18

Gary Schmidt

Questions you have to ask. And you, you don't think it's your own, current definition of the. looking from the exhibit nine towards the top, subsection two under 942, all starts with. Let me ask a question first. another question first, and all your photographic evidence there. yeah. Goes over almost a decade. Is that right?

01;49;39;18 - 01;49;47;10

Gary Schmidt

You have to call, historic satellite images on the subject property. Is that correct?

01;49;47;12 - 01;49;49;08

Chad Giesinger

As as evidenced in the area packet.

01;49;49;09 - 01;50;05;18

Gary Schmidt

That's correct. Yeah. And that you see, on occasion at least, what would appear to be a trailer, perhaps a recreational vehicle there and more than one instance.

01;50;05;21 - 01;50;11;23

Chad Giesinger

Yeah. I see various various things, various states of the property over time, signs of mistaken designs that had other things on it.

01;50;11;23 - 01;50;21;08

Gary Schmidt

The question is, do you notice their items from the aerial view that could be identified as a recreational vehicle or a trailer.

01;50;21;11 - 01;50;27;16

Chad Giesinger

in 2021? Yes, there appears to be. Every vehicle is 2023 and 2017. There does not

appear okay.

01;50;27;16 - 01;50;29;17

Gary Schmidt

Recreational vehicles, thank you.

01;50;29;19 - 01;50;33;12

Chad Giesinger

In 2013, there doesn't appear to be any recreational vehicles.

01;50;33;15 - 01;51;07;01

Gary Schmidt

You know the answer is true or that variation of this or or unregistered vehicle is if you, make it this Mr.. Question, sir, do you make a distinction between and a registered recreational vehicle for unregistered truck or on a registered automobile? Isn't the code section doesn't it refer to unregistered vehicles? And that includes recreational vehicles? Would that be correct?

01;51;07;04 - 01;51;13;02

Chad Giesinger

No. A recreational vehicle is just as a recreational vehicle. And whether it's registered or not doesn't matter.

01;51;13;05 - 01;51;24;14

Gary Schmidt

So you point to a section in the code that deals specifically with a unregistered recreational vehicle, as opposed to just an unregistered vehicle.

01;51;24;16 - 01;51;31;06

Chad Giesinger

And something is unregistered. It's on a piece of property. Become a junk vehicle that's under this nuisance.

01;51;31;09 - 01;51;53;11

Gary Schmidt

Fine to try and answer the question. I'm trying to simplify it for you. would you agree that a. Recreational trailer, a camper trailer is a under the code defined as the.

01;51;53;14 - 01;51;54;19

Chad Giesinger

Yes, if it's registered.

01;51;54;22 - 01;51;56;22

Judge

To answer the question.

01;51;56;25 - 01;52;11;15

Gary Schmidt

He said yes, and he says yes. And then he goes on for 15 minutes. We're going to be

here on Monday. okay. So this, what a car. Be a vehicle, yes or no?

01;52;11;17 - 01;52;12;05

Chad Giesinger

Yes.

01;52;12;07 - 01;52;20;09

Gary Schmidt

But a truck be a vehicle. If it's yes or no, it's.

01;52;20;11 - 01;52;21;13

Chad Giesinger

Okay. Yes.

01;52;21;16 - 01;52;30;26

Gary Schmidt

Okay. When a equipment trailer be a available.

01;52;30;29 - 01;52;35;18

Chad Giesinger

it's it's not under its own power. It's still a vehicle because it has to be registered. to be.

01;52;35;20 - 01;52;36;22

Gary Schmidt

Yes as a yes or no.

01;52;36;22 - 01;52;49;04

Judge

Okay, Mr. Schmidt, we're not here to do gotcha. Yeah. Mr. kissing. Yep. That's what we're here for. You. I know you'll have an opportunity to expound. Let's just get through it. Just do the and those and then you can explain.

01;52;49;06 - 01;52;50;03

Gary Schmidt

Miss it. Yes.

01;52;50;03 - 01;52;53;26

Chad Giesinger

It's not possible to answer the question yes or no because there's nuances to what.

01;52;53;26 - 01;53;00;21

Judge

Yes I agree I agree I absolutely agree. For under the code that's like the square investigation.

01;53;00;21 - 01;53;10;22

Gary Schmidt

Sir, isn't it true that under the code unregistered vehicles, which is addressed in your citation, where it says.

01;53;10;25 - 01;53;16;01

Clerk  
Yeah,

01;53;16;03 - 01;53;21;26

Clerk  
Yeah.

01;53;21;28 - 01;53;30;08

Gary Schmidt  
Well, let me go back. Withdraw that. Sir. No.

01;53;30;10 - 01;54;04;20

Gary Schmidt  
Is it not correct? Mr.. Is that under the code and under registered equipment trailer and unregistered recreational vehicle? unregistered car and unregistered truck are all basically the same thing. They're identified as vehicles, and the code defines them as joint vehicles. If they don't have current tags on it. Is that an accurate? Yes or no? Please.

01;54;04;23 - 01;54;10;02

Judge  
Is that not correct? And if you can't answer it. See, I can't answer that.

01;54;10;04 - 01;54;13;23

Gary Schmidt  
Is that correct?

01;54;13;25 - 01;54;20;05

Chad Giesinger  
Please. I'm sorry I jump around so much for you. For you asking again.

01;54;20;07 - 01;54;35;08

Gary Schmidt  
I want to ask that the witness, and introduced to the court what she's doing on the screen now. please, sir, I just found out that he's not entitled to to it for a friend in court.

01;54;35;13 - 01;54;40;19

Judge  
He's looking for a court to to bring up the code, and he could. He could, so just looking at I want.

01;54;40;19 - 01;54;46;10

Gary Schmidt  
To ask him for his personal knowledge. Now, not that we're going up. And when we do these things, we do consult code.

01;54;46;13 - 01;54;56;12



Judge

Sure. Now, Mr. Schmidt, again, this is not a gotcha research. This is.

01;54;56;14 - 01;54;58;07

Judge

He testified that it's personal. Let me.

01;54;58;07 - 01;55;02;15

Gary Schmidt

Move on. Is this.

01;55;02;17 - 01;55;09;12

Gary Schmidt

I think the record should be quicker. on exhibit nine under subsection two.

01;55;09;15 - 01;55;33;11

Judge

And Mr. Schmidt, let's not move on. Okay. you asked questions. He answered questions. Were you trying to get to his personal knowledge without referring to the code? Because you need to be clear about that. All right? I was not clear. I if I thought you were trying to elicit answers and understanding, but you were asking Mr. Kissinger if he had, with his personal understanding without referring to it.

01;55;33;11 - 01;55;38;10

Judge

I'm saying then you need to be clear about that. Okay. Is that the case?

01;55;38;16 - 01;55;38;29

Gary Schmidt

That's the.

01;55;38;29 - 01;55;52;17

Judge

Case. And then you you've asked a series of questions about his understanding. You could wrap that up without moving on. So you you have your opportunity and we can make a good record about what you're intending to do.

01;55;52;20 - 01;55;56;07

Clerk

Okay, okay. All right. So I'm ready to move on, I know.

01;55;56;12 - 01;55;57;26

Judge

Are you sure?

01;55;57;29 - 01;56;18;01

Gary Schmidt

Okay. okay. Mr.. Yes, sir. Could you read from exhibit nine, subsection two, that's 12 lines down, starts. It's such a you ceases. Yes. What's your question? I mean, you read that into the record subsection two.

01;56;18;03 - 01;56;22;27

Chad Giesinger

Why would I read it into the record? I thought you're asking because I asked no questions. Why don't you read the record.

01;56;23;00 - 01;56;25;18

Judge

Mr. Kissinger, please.

01;56;25;21 - 01;56;38;04

Chad Giesinger

Okay, okay. Yes. Such a you see, for any reason, for a period of more than 12 consecutive months. And he's like the use of such all conformity requirements for this development go to the regulatory zone, which is located.

01;56;38;06 - 01;57;14;01

Gary Schmidt

Thank you. and your photographic evidence here, they're snapshots in time. One moment on day. Do you have any evidence that there was ever a 12 month period on the subject property? In the last 12 years that there was not a 12 month period, that there was not a unregistered vehicle stored on that property?

01;57;14;04 - 01;57;19;03

Chad Giesinger

provided the evidence. And that was me in those photos, I think.

01;57;19;03 - 01;57;49;28

Gary Schmidt

Mr.. We will clear these are snapshots in time. Those are you have evidence that on some of those photographs on that particular day, there was no unregistered vehicle there, but, you don't have any do you have any evidence but continue inspections or at least more photographs where there was ever a 12 month period where there was no not an unregistered vehicle there?

01;57;50;01 - 01;57;51;08

Chad Giesinger

Asked and answered.

01;57;51;10 - 01;58;00;05

Gary Schmidt

Okay, I do. What do you see in your photographs? Virtually all your photographs, some type of vehicle.

01;58;00;08 - 01;58;17;09

Chad Giesinger

The photographs show what they show here. In 2011. It was basically vacant. In 2013. It was basically vacant. In 2017, it was basically vacant except for a car parked there. In 2021, there were recreational vehicles. That's the evidence available to me.

01;58;17;12 - 01;58;23;25

Gary Schmidt

Okay, let's back up. Let's give you those pages again and.

01;58;23;28 - 01;58;27;03

Chad Giesinger

start on page 41.

01;58;27;05 - 01;58;39;17

Clerk

You may include on page 46.

01;58;39;19 - 01;58;52;25

Gary Schmidt

Okay. 41 to show multiple vehicles and trailers with that different.

01;58;52;27 - 01;59;05;09

Chad Giesinger

Page 41 shows, in 2011 as a 2011 photo showing, stuff parked on the property line, basically. So it's hard to say if those were.

01;59;05;13 - 01;59;07;01

Judge

This is page 42. Mr..

01;59;07;04 - 01;59;09;11

Chad Giesinger

Page 4136.

01;59;09;14 - 01;59;11;06

Judge

41 says.

01;59;11;09 - 01;59;19;03

Chad Giesinger

Oh, I'm sorry. Yeah. That's because two. Yeah. With two clipped up here. Yeah. So the first to talk about it was 2011. The project was 2016.

01;59;19;05 - 01;59;37;05

Gary Schmidt

2017 I account for Mr. goods is I account for vehicles or trains on the top for because your account would be the same. Yeah. yeah. No, I didn't have any evidence that was there. Those were registered or non-registered.

01;59;37;07 - 01;59;40;07

Chad Giesinger

No knowledge of that check.

01;59;40;07 - 02;00;07;26

Gary Schmidt

Again, I don't know. Yeah. No, it's, it isn't true that if any of those is a vehicle and it's unregistered under the code, it'd be a junk vehicle and at be. And if it's there for more than 72 hours, it'd be stored. Correct. the bottom picture, there's one, two, three, four, five, six, seven, 7 or 8.

02;00;07;28 - 02;00;12;06

Gary Schmidt

What appear to be vehicles are trailers. Is that correct?

02;00;12;08 - 02;00;18;07

Chad Giesinger

correct. Most of what? You're on the property line. Yes.

02;00;18;09 - 02;00;51;29

Gary Schmidt

and you have no evidence as to whether they were registered or not, but the ones that are junk vehicles that do not on page 42, there would appear to be 1 to 1. definitely appears to be a trailer. some sort of equipment trailer. There's one, two and a partial of a recreational vehicle. that's partially on the southern, unit of land, which is the primary subject of the sheriff.

02;00;52;01 - 02;01;21;18

Gary Schmidt

And would your answer be the same that you have no knowledge of, whether they're registered or not, whether they're junk vehicles or not, and whether they've been there for 72 hours? Yeah. That's correct. page 43. there appears to be, a trailer of some sort or an unidentified object there with a green top on it. That might be a recreational vehicle, might be tiny home, might be a parked car.

02;01;21;20 - 02;01;52;29

Gary Schmidt

would that be correct? I don't know, yeah, well, that you see one object there that could be a junk vehicle or unregistered vehicle. Is that correct? Acknowledges an object there? Yes. Page 44 123 4 or 5? Six seven objects, if you would, that appear to be vehicles and that you would have no knowledge of how long they've been there, 72 hours or not, or whether they're registered or not?

02;01;53;01 - 02;02;13;02

Gary Schmidt

Correct. Page 45. There's appear to be two, recreational vehicles. Yep. Page 46 appear to be two recreational vehicles. That's correct.

02;02;13;05 - 02;02;24;16

Chad Giesinger

And vice versa.

02;02;24;18 - 02;02;30;09

Gary Schmidt

And bicycles perhaps being stored if they were there for 72 hours per mile.

02;02;30;10 - 02;02;41;17

Chad Giesinger

This is 2023 of April. We have other pictures. Yeah, most months later. The bikes there as well. I can't say if there were also an interim.

02;02;41;20 - 02;02;46;19

Gary Schmidt

I think there heard a testimony was a.

02;02;46;22 - 02;03;05;07

Gary Schmidt

You try to identified some photographs that show a vacancy or a vacant lot. But I your testimony now is there's something there that appears to be that this could be an unregistered, therefore junk vehicle on every one of your photographs.

02;03;05;09 - 02;03;14;06

Chad Giesinger

Doesn't mean a store lots vacant lot because there's an original use on it goes into vacant lot. So those might be people.

02;03;14;08 - 02;03;16;19

Gary Schmidt

It's not empty. There's something they'd store.

02;03;16;21 - 02;03;21;08

Chad Giesinger

Yeah, it doesn't have a vacancy on the code. Doesn't have to just be empty.

02;03;21;10 - 02;03;36;14

Gary Schmidt

Mr. Gibson's or we're going to be. They're going to we're going to have to continue this, the money, if we keep doing this, because this is going to take a long time. I haven't started my case yet. And if they continue to not just respond to answering the questions, we're going to be here long.

02;03;36;16 - 02;03;50;21

Judge

Let's see if we could wrap it up. I know we have to start the. So I want to get to that wrap it up with, code enforcement here. I have a couple of questions. So we get start on your case.

02;03;50;23 - 02;04;42;00

Gary Schmidt

Well, I just summarizing, Mr. Gibson, sir, can you have any definitive evidence that there was any 12 month period in the last 12 years that storage was not occurring, whether it's a recreational vehicle, whether it's an unregistered car, whether it's a registered car or a registered car. that no part for, you know, on that property? No. Would you actually assert, Mr. Gibson Jr, from your photographic evidence and from your investigation, that there has been, you know, quite a bit of

storage on that lot, which you might identify as illegal, but there's been quite a bit of storage, pretty much continuing on that lot for the last decade or so.

02;04;42;02 - 02;04;43;17

Chad Giesinger

Provided the photographs available to.

02;04;43;17 - 02;04;45;29

Gary Schmidt

Me. Thank you. I have one more question.

02;04;46;02 - 02;05;07;23

Judge

Quick question. So, Mr. Schmidt has asked and has walked us through the various iterations of what has been on the let's just call it a lot right now, okay? Yes. Okay. All right. You had cited earlier,

02;05;07;25 - 02;05;22;23

Judge

The definition of a colloquialism. Grandfather. That RV was not there before. The bright line. It is thereafter. Therefore, grandfathering does not apply. Is that correct? I understand you correctly.

02;05;22;26 - 02;05;26;05

Chad Giesinger

Correct. And in addition, the use was never allowed in any. In any event.

02;05;26;11 - 02;05;27;02

Judge

I know my own.

02;05;27;02 - 02;05;28;19

Chad Giesinger

Potential for legal nonconforming.

02;05;28;19 - 02;05;50;17

Judge

Use. Okay. And I want you to go over that again. My question is, is it specific to the vehicle, to the RV that's there now or is it, it could be a junk car that was there in 2011. It could be, you know, the RV. It could it could be different things. And then that would without going to your exception here.

02;05;50;19 - 02;06;00;13

Judge

So if it was before, he you understand what I'm asking is, is it a general or is it specific to the vehicle?

02;06;00;15 - 02;06;11;22

Chad Giesinger

Right. So, in this case, the storage is a is a, an accessory use. And so basically

it'd be it would be any type of storage.

02;06;11;24 - 02;06;28;17

Gary Schmidt

You can get that. But it's the code that we're citing is outdoor display. And it specifically says recreational vehicles, campers, items typically associated and used for outdoor recreation so that the current storage is operable. Vehicles is a commercial historically inoperable vehicles.

02;06;28;20 - 02;06;53;06

Judge

So Mr. Schmidt's point that, gee, we had stuff there over the years and there's no evidence that there was a Penske's. My boys a 12 month break. So doesn't apply. But your argument doesn't apply because there was stuff there, right? There was stuff there. We just went, oh for sure, there is stuff there all these years. And so.

02;06;53;09 - 02;06;54;01

Gary Schmidt

I'm sure argument is.

02;06;54;01 - 02;06;57;28

Chad Giesinger

Legal then and it's illegal now. That's what I'm arguing.

02;06;58;01 - 02;07;10;02

Judge

Because your argument makes sense. But if it if it if it doesn't apply just to a specific vehicle, if Mr. Schmidt's going over and say, oh, there's all this stuff there.

02;07;10;04 - 02;07;13;08

Chad Giesinger

It makes the whole thing legal too. It doesn't matter if it was an RV or if it was a car.

02;07;13;09 - 02;07;18;22

Judge

Okay, so, so so go ahead. Go ahead and make that alternate argument that right.

02;07;18;22 - 02;07;25;18

Chad Giesinger

Storage on a bacon parcel is always illegal under the code until 2016 when you can file restriction if it was under continuous ownership.

02;07;25;21 - 02;07;28;06

Judge

So even if he's right it doesn't matter.

02;07;28;07 - 02;07;29;18

Chad Giesinger

It doesn't matter.

02;07;29;20 - 02;07;34;01  
Clerk

That's my position. Yes.

02;07;34;03 - 02;07;40;00  
Judge

Okay. And again point me to that section. Not not your position but the codes positions.

02;07;40;02 - 02;07;43;09  
Chad Giesinger

So in that code history presentation I gave you earlier.

02;07;43;12 - 02;07;44;01  
Judge

Yes.

02;07;44;04 - 02;07;57;01  
Chad Giesinger

page 47 is the current code. And the following page 48 was the pre 16 code. Section 110 306 15 okay. And so the.

02;07;57;01 - 02;08;04;11  
Judge

Fact that there's been a bunch of stuff there over the years, as enumerated by Mr. Schmidt doesn't matter because specifically.

02;08;04;13 - 02;08;09;12  
Chad Giesinger

It was illegal then. Yes.

02;08;09;15 - 02;08;13;27  
Judge

And the only way to bring it into compliance is to file the restriction.

02;08;13;29 - 02;08;21;22  
Chad Giesinger

Now, you could have done that not prior to 2016. Okay. No, we would have done we just what say you got to get rid of. Go get them out of there. Okay.

02;08;21;22 - 02;08;26;04  
Judge

So it doesn't matter that all that stuff was there. You're arguing correct over the years. Yeah.

02;08;26;06 - 02;08;34;17  
Chad Giesinger

It doesn't. There is no legal nonconforming argument to be made here because there



was no valid you conforming to the prior to 2016.

02;08;34;20 - 02;08;38;24

Judge

Yeah. Thank you for the clarification. People want Mr. Schmidt.

02;08;38;24 - 02;09;09;18

Gary Schmidt

Give them a, offer regards to that. I don't disagree that we're down to an argument that, whether storage. I think, you know, an offer of proof that storage has occurred on that property for a long time. The issue may be whether it was legal or not. At the time, Mr. Schmidt purchased the property or and or at the time the code section changed in 2016.

02;09;09;20 - 02;09;29;17

Gary Schmidt

If legal storage occurred during that time period. Offered through such grandfathered in. If legal storage didn't occur during that time period, then it cannot. It's not a non-conforming legal use.

02;09;29;20 - 02;09;32;27

Judge

The same code is saying it was never legal.

02;09;33;00 - 02;09;48;25

Gary Schmidt

Yeah, I understand and right he is wrong and that's what we're hearing it okay. Yes that's the point. We're getting there. Although we are establishing a clear record also which will have a long life, I assure you, Your honor, the, good.

02;09;48;25 - 02;09;49;23

Judge

To hear.

02;09;49;25 - 02;10;09;02

Gary Schmidt

It goes to the issue of abuse of process, you know, retaliatory actions, etc.. Okay. yeah. I would just also add that even his opinions or his statements that he says he's just, you know.

02;10;09;04 - 02;10;10;23

Judge

do you have any more questions for.

02;10;10;23 - 02;10;19;24

Gary Schmidt

Throwing out the term a lot and parcel that he doesn't even that he's not even able to define? And Mr. Smith do have that, you know, quite opportunity serious.

02;10;19;29 - 02;10;22;16

Judge

Okay, sir. You'll have that opportunity to make that argument okay.

02;10;22;19 - 02;10;24;23

Gary Schmidt

It's just his record and it's in my record.

02;10;24;24 - 02;10;26;10

Judge

Okay. You have that.

02;10;26;12 - 02;10;27;13

Gary Schmidt

He hasn't read.

02;10;27;15 - 02;10;44;25

Judge

My question to you now is, do you have any other questions? Because that was their case and this is your opportunity to. And otherwise we're done. It will be your turn. And I think we have a visitor here. We need to acknowledge if you would, identify yourself for the record, please. I think I know who you are, but.

02;10;44;27 - 02;11;02;17

Clerk

Yeah, I think you. I'm Kelly Mullin. I'm a planning and building division director, and I just want to, if you don't mind, I would like to put on the record I actually attended here today to observe the process as I oversee the division, the code enforcement team that was happy to answer questions. I know that Mr. Smith has some questions for me.

02;11;02;19 - 02;11;09;04

Clerk

I do need to leave here at 130, and I just wanted to point that out. So in case the timing is important.

02;11;09;06 - 02;11;11;13

Judge

I think the timing is important. Okay. Let's.

02;11;11;19 - 02;11;14;28

Gary Schmidt

We just came back in the room. I have been there through all of this.

02;11;15;00 - 02;11;19;04

Judge

She walked in a couple minutes ago. I were letting you finish that for asking. All right.

02;11;19;06 - 02;11;21;03

Gary Schmidt

Finish. I can call Miss Mullen.

02;11;21;06 - 02;11;26;10

Judge

Okay. You're done with Mr. Shaker. You're done with your process?

02;11;26;12 - 02;11;29;00

Gary Schmidt

Yes. I reserve the right to recall.

02;11;29;03 - 02;11;54;06

Judge

Okay, we'll see how that goes right now, Miss Mullen, go ahead and step up, if you would, please. And we'll see what you the. Yeah. So everyone can see there's no room down here and I'll swear you I'll saw you quickly. Thank you for getting my attention.

02;11;54;08 - 02;12;08;06

Judge

And if it's where you put that, you raise your right hand. You saw me, sir. Testimony and evidence. You're about to present the whole truth and nothing but the truth I do. I can't go.

02;12;08;08 - 02;12;15;21

Judge

Thank you.

02;12;15;23 - 02;12;26;22

Judge

And I'll ask you, what was it? I know you just identified yourself. I don't know what's been recording. Would pick it up. Would you identify yourself again, please? Certainly. Kelly Mullen, Planning and Building Division director for Washoe County.

02;12;26;25 - 02;12;56;01

Clerk

Thank you, Mr..

02;12;56;03 - 02;13;01;16

Judge

And again, we're taking this witness out of order because of time constraints.

02;13;01;18 - 02;13;15;28

Gary Schmidt

Take me a second to reorganize since we're taking the witness out.

02;13;16;00 - 02;13;33;28

Gary Schmidt

I would request that the witness have, my exhibits, original, especially my original by the Jones and the county submittals are available to American. So if directly referring to them.

02;13;34;00 - 02;13;37;18

Judge

I do have a copy of the packet provided by the county, but I do not.

02;13;37;18 - 02;13;44;20

Clerk

Have a copy of this. And I have no right.

02;13;44;24 - 02;13;51;02

Judge

To meet all of the exhibits. Mr. Schmidt, all of your Tibbetts are specifically.

02;13;51;04 - 02;14;01;05

Clerk

I have 8979789 with is interest. Yeah. What what exhibits would you like to be.

02;14;01;05 - 02;14;04;18

Judge

Handed to, miss Lawrence? All of them.

02;14;04;20 - 02;14;14;07

Gary Schmidt

You know. Well, I we can go one at a time. We'll start with exhibit one. Okay. Which is a staff report board meeting August 9th, 2016. Now hold.

02;14;14;07 - 02;14;18;28

Judge

On. We're going to need to display.

02;14;19;01 - 02;14;24;25

Judge

Print evidence.

02;14;24;28 - 02;14;28;13

Judge

Do you have copies then the rest to have copies of submitted them.

02;14;28;20 - 02;14;33;16

Gary Schmidt

I know I asked hard copies available, but that's okay. I submitted hard copies.

02;14;33;18 - 02;14;41;04

Judge

Originals that are scanned in the.

02;14;41;06 - 02;14;43;19

Judge

Appropriate genome. No problem.

02;14;43;21 - 02;14;47;25

Gary Schmidt

If you have to reprint everything I've submitted in hard copies.

02;14;47;27 - 02;14;51;13

Judge

I have no idea what happened to the hard copies.

02;14;51;15 - 02;15;02;03

Gary Schmidt

Please note that for the record, that my original exhibits had disappeared.

02;15;02;05 - 02;15;04;05

Clerk

I can start with the question.

02;15;04;08 - 02;15;05;01

Judge

Are you okay with that.

02;15;05;01 - 02;15;09;12

Gary Schmidt

Without the tiff? Yeah, okay. She'll move it. Thank you.

02;15;09;15 - 02;15;13;11

Judge

I have 70 point right here, and I just want to stand up.

02;15;13;11 - 02;15;49;10

Gary Schmidt

So the without looking at the exhibit, do you recall in 2016, that's one of the August 9th, the code section. that was adopted by the county commission that addressed the general issue of the definition of a parcel of land. The definition of what? And uses accessory built structures and accessory uses on two adjacent units of land owned by the same person.

02;15;49;15 - 02;15;51;07

Gary Schmidt

Does that ring any bells with you?

02;15;51;09 - 02;16;15;20

Judge

I recollect that there were some definitions that were included as part of the code amendment that occurred in 2016, associated with associated with. When there are two adjacent properties that are owned by the same property owner. I'm not entirely certain. the relevance for the discussion today, because of the because of the fact that, that was in 2016.

02;16;15;20 - 02;16;35;27

Gary Schmidt

We'll get to there. Okay. do you recall as part of that, report, there was a, memorandum of opinion by Mike Harper that was published and became part of the code in 1996 that dealt with the same subject matter.

02;16;35;29 - 02;16;54;04

Judge

I believe you may be referring to what's called an interpretation. It is not part of the code. but helps to supplement the code that that would have gone away, with the code amendment. And that was, that was actually specific to garages and structures, just to be clear, not uses.

02;16;54;07 - 02;17;08;20

Gary Schmidt

But it also addressed definitions. Is that correct? I would have thought that might apply to other things like usage I would have to look at. And you don't recall that there were references in that interpretation. The users also.

02;17;08;23 - 02;17;18;13

Judge

Let me take a look at that is which exhibit in your packet.

02;17;18;16 - 02;17;23;00

Judge

Actually it's in code standards to make things simpler.

02;17;23;03 - 02;17;24;18

Kris Swanson

Sure. She's got a page.

02;17;24;18 - 02;17;26;23

Gary Schmidt

Number for that given.

02;17;26;24 - 02;17;31;07

Chad Giesinger

Number 39 in the packet okay. Thank you. Yeah.

02;17;31;10 - 02;17;45;14

Judge

Okay. That helps. what exhibit is that is yours, Mr. Schmidt? It doesn't matter. Okay. She has in front of her.

02;17;45;17 - 02;17;51;15

Gary Schmidt

You know, you know who, was the author of the staff report for that project?

02;17;51;18 - 02;17;55;25

Judge

for that code amendment. That was when I was a planner for the department. yes.

02;17;55;25 - 02;18;01;10

Gary Schmidt

And with you should be intimately knowledgeable, at least by recall. And looking at your own staff, report.

02;18;01;16 - 02;18;04;26

Judge

To the to the extent possible from eight years ago. Yes.

02;18;04;29 - 02;18;09;20

Gary Schmidt

Okay.

02;18;09;23 - 02;18;30;18

Judge

Let me try working at you said eight years ago. I'm sorry. So the code amendment I had processed, eight years ago. Yes. So this is so in 1986, the staff report for the code amendment that went into effect in 2016. I was not the author for that interpretation. the one from 1996.

02;18;30;18 - 02;18;31;15

Gary Schmidt

That would have been.

02;18;31;17 - 02;18;37;22

Judge

That was my code. Right. So what pages are looking at? We are looking at 1996.

02;18;37;24 - 02;18;39;25

Gary Schmidt

I can't hear the time up.

02;18;39;27 - 02;18;45;03

Judge

I'm sorry. I'm trying to find specifically what you're referring to.

02;18;45;05 - 02;18;50;08

Gary Schmidt

Well, it's, it's right to that one. And it's.

02;18;50;10 - 02;18;53;17

Judge

I thought it was the interpretation 96 four, which is.

02;18;53;17 - 02;18;55;16

Gary Schmidt

Oh, that's a part of the agenda.

02;18;55;18 - 02;18;58;05

Judge

But that doesn't make sense. With eight years ago.

02;18;58;07 - 02;19;04;06

Gary Schmidt

We'll get to that. It's,

02;19;04;08 - 02;19;32;14

Judge

So, just to be clear, Your Honor, I might be able to add a little bit of participation on that. That, that code amendment in 2016 would have superseded and replaced the interpretation. Again, interpretation is not part of the code, but an addendum to and that interpretation, would have been replaced by that code amendment. So the code amendment or excuse me notation was from 1996.

02;19;32;16 - 02;19;51;01

Gary Schmidt

And so going to the staff report and the bottom of page one, summary, you see where it says clarify and codify the contents of interpretation, 9490 6.4 you see that?

02;19;51;04 - 02;19;52;12

Judge

I see what you're referring to. Yes.

02;19;52;17 - 02;20;26;25

Gary Schmidt

And let's move forward. Now, next page on background, where it says background. In general, the government code does not allow accessory structures or accessory or uses on parcels. No, the word parcel. And note the date and time of the staff report, which was August 9th, 2016. Actually, that's the board meeting. The staff report was July 15th, 2016.

02;20;26;25 - 02;20;30;27

Gary Schmidt

Is that correct?

02;20;30;29 - 02;20;35;16

Judge

it looks like the the date that it was written was July 15th. And yes, the board was.

02;20;35;16 - 02;20;36;09

Gary Schmidt

So at the time.

02;20;36;12 - 02;20;38;25

Judge

August 9th.

02;20;38;28 - 02;21;11;06

Gary Schmidt



In background, you said that the code does not allow accessory structures or uses on parcels without an existing main structure. And then reading continued, it says, except under a few specific circumstances, can I recall can you, explain those circumstances? Yes. Yes or no? When I was looking at the documents, it's just yes or no. Do you recall?

02;21;11;11 - 02;21;14;13

Judge

So as identified in the staff report, it's.

02;21;14;16 - 02;21;22;08

Gary Schmidt

Small, and I'm not asking you to read the document. I'm asking for your recall. So please look up from the documents.

02;21;22;11 - 02;21;29;22

Judge

So the exceptions would be that interpretation that is listed in the staff report.

02;21;29;25 - 02;22;12;05

Gary Schmidt

Okay, okay. And then it goes on to say one of these circumstances is when an accessory structure is placed on a vacant parcel adjacent to another vacant parcel with an established principal use, and both parcels are under the same ownership. would you acknowledge for the court that from your firsthand knowledge that on the subject matter we have here, that if you have the firsthand knowledge that on July 15th, 2016, both I want to call it the northern and the southern unit of land owned by Mr. Schmidt.

02;22;12;05 - 02;22;24;11

Gary Schmidt

We're owned by Mr. Schmidt at that time. So they were contiguous, and they were under the same ownership. In July of 16, 2016. Would you, somehow first look up for a second?

02;22;24;17 - 02;22;26;03

Judge

So I'm I'm sorry.

02;22;26;03 - 02;22;29;26

Gary Schmidt

I'm under your recall right now, so I'd ask you not to refer to the document.

02;22;29;27 - 02;22;36;03

Judge

I, I would not have been aware of what property that you owned in 2016.

02;22;36;05 - 02;22;48;14

Gary Schmidt

Okay, if I might have a, offer of proof from exhibit five if the court would

indulge me just as.

02;22;48;17 - 02;22;53;13

Judge

Just let's say we have the exhibits figured out.

02;22;53;15 - 02;22;59;26

Gary Schmidt

It's the assessor records sheets that show that I bought the two properties at the same time. For one price.

02;22;59;26 - 02;23;00;17

Judge

Question.

02;23;00;20 - 02;23;06;06

Gary Schmidt

In 2012, I can offer, you know, okay, frame one auction.

02;23;06;13 - 02;23;07;06

Judge

Go ahead.

02;23;07;08 - 02;23;36;21

Gary Schmidt

and that prior to that, they were owned by the same party together for they bought with one price. And prior to that, going back three decades, they were owned by the they were contiguous owned by the same person from 2012 on. It's me. That's right. Sorry, I have to use third. and prior to that, for 5 or 6 years, they're owned by another party and prior to that, or 15 or 20 years or owned by another person.

02;23;36;21 - 02;24;16;09

Gary Schmidt

But I would offer proof that the census records, which are on the, have been submitted to the court two months ago, or thereabouts, show that those two properties have been owned by the same person, purchased together for one price. Since there was any development prior to that. They were they were undeveloped parcels. so, contrary to some other testimony here today, the word use does come up in the staff report and we'll get to the, the, interpretation later.

02;24;16;09 - 02;24;35;14

Gary Schmidt

We're going to work our way to it. and further on, it says, it says the, and the next to the last paragraph, it says development Code amendment seeks to codify and clarify the content of interpretation. 96.4.

02;24;35;21 - 02;24;39;06

Judge

And, Mr. Schmidt, I'd like you to clarify what you're looking at. Reading the report is.

02;24;39;11 - 02;24;52;25

Gary Schmidt

This is page three, two of my exhibit number one. I mean, exhibit number. yeah, it's exhibit number one.

02;24;52;27 - 02;25;02;29

Judge

Okay. Hold on. I think you have it here. Okay.

02;25;03;02 - 02;25;10;10

Clerk

Okay. Yeah. This is the one I didn't think you.

02;25;10;13 - 02;25;34;07

Gary Schmidt

I do I my original submission at. And so if I may, your honor, some of these documents have their own page number, but I have a my for what was required of me and not the county. I have page numbers circled in the bottom right hand corner as a reference to the page within. There's other page numbers.

02;25;34;09 - 02;25;35;10

Judge

Okay, I just wanted to.

02;25;35;10 - 02;25;37;19

Gary Schmidt

Make sure I talk about my page two.

02;25;37;19 - 02;25;42;13

Judge

It that she was looking at what you were referring to. Yeah.

02;25;42;16 - 02;26;34;11

Gary Schmidt

And it says interpretation 96.4, which is Mr. Harper's interpretation. as well put in has to be put in place mechanisms to prevent that potential for code non-conformist violation situation identified above. So would it be correct, to paraphrase that this is. Not created entirely new law, it says reading the two and it's to codify and clarify. So it so it is placing in law what was in law by interpretation from Mr. Harper.

02;26;34;13 - 02;26;51;11

Gary Schmidt

And if from your recollection, Mr. Harper's interpretation did create new law, he interpreted what is it had existed before that and was ongoing. Right. And clarified, is it correct?

02;26;51;13 - 02;27;18;10

Judge

So, just to be just to be clear, that interpretation was specific to detached accessory garages and structures. It was not applicable to uses. And so this code amendment, discussed accessory structures, detached garages and uses. And so it is broader than what you were. You're speaking of.

02;27;22;03 - 02;27;35;17

Gary Schmidt

By your recollection, teacher, can I please, wasn't the real issue there? Definitions, definitions of the word lot and definitions of the partial. Do you recall that? Just yes or no.

02;27;35;19 - 02;27;36;23

Judge

So definition.

02;27;36;28 - 02;27;39;00

Gary Schmidt

Gist? Yes, sir. Definite yes. Yes or.

02;27;39;00 - 02;27;44;18

Judge

No please. Definition changes were included as part of that code amendment. Yes.

02;27;44;20 - 02;28;13;07

Gary Schmidt

So and would it not be fair to say that those old definitions might there have some bearing on uses, accessory uses as well as accessory structures because whatever the definitions were at that time would apply universally. Is that correct?

02;28;13;10 - 02;28;20;12

Judge

And I'm I guess I'm not a yes or no. I'm not understanding your question, Mr. Schmidt. We're on a short leash time leash with Mr. Hall, and so.

02;28;20;15 - 02;28;21;25

Gary Schmidt

We're not going to make it.

02;28;21;28 - 02;28;28;19

Judge

I'm not sure if that's, to the witness stand now.

02;28;28;21 - 02;28;36;28

Gary Schmidt

My recollection, you recall at the time, July 15th, when you drafted this. What? The definition of a parcel of land was.

02;28;37;00 - 02;28;38;12

Judge

I would have to go back and read it.

02;28;38;14 - 02;28;42;05

Gary Schmidt

So the answer is no. Do you recall what the definition of a lot was?

02;28;42;07 - 02;28;43;16

Judge

Same. I would have to go back and read it.

02;28;43;17 - 02;29;01;20

Gary Schmidt

Do you recall whether there was any change effective on the signing of this document, which is August 9th? I believe your staff report with July 15th. on August 9th. Do you recall whether there's any changes to the definition of what?

02;29;01;22 - 02;29;03;10

Judge

I would have to go back and take a look.

02;29;03;10 - 02;29;09;02

Gary Schmidt

Do you recall whether there was any changes to the definition of a parcel of land?

02;29;09;05 - 02;29;11;02

Judge

Again, I would I would have to go back and.

02;29;11;02 - 02;29;18;23

Gary Schmidt

Take a look at, well, you and could you describe to the court what your current position is that community development.

02;29;18;28 - 02;29;20;24

Judge

Planning and Building Division director.

02;29;20;26 - 02;29;28;02

Gary Schmidt

Okay. So needless to say you moved up a little bit since July of 2016.

02;29;28;04 - 02;29;29;24

Judge

Indeed. Okay.

02;29;29;26 - 02;30;08;01

Gary Schmidt

So you have a position of responsibility and authority, much more that when you were a planner, but ironically, you were the planner on this project. So would you agree that, property owned by Mr. Smith, which I think the court everybody acknowledges, he at the time had two contiguous parcels. owned by himself. And that

storage occurred on both of them during up until that time period and beyond.

02;30;08;03 - 02;30;47;01

Gary Schmidt

So if what would apply to determine what we're trying to determine here is whether that was legal conforming storage prior to the passage of this new ordinance. Would you agree? And you're a professional witness here, that if there was a legal, conforming use of storage, well, I don't want those contiguous parcels. In July 2016 that became illegal as a result of this.

02;30;47;03 - 02;30;53;11

Gary Schmidt

Those uses would be grandfathered in and they would be legal non-conforming uses. Is that not that correct?

02;30;53;14 - 02;30;57;19

Judge

I think it's important to note here, because there may be you may be operating from a mission.

02;30;57;20 - 02;30;59;14

Gary Schmidt

Please, you and Mr. Smith.

02;30;59;18 - 02;31;30;11

Judge

I want to hear her answer, and I'm going to ask the same question. So I'm going to give her some latitude here to answer questions. I want to hear your testimony. Okay. So go. so I feel like you may be misunderstanding what what the code allowed prior to 2016. so as far back as I am aware that, uses on a vacant parcel, where there is no principal use, there is no principal structure that that has not been allowed.

02;31;30;13 - 02;32;01;18

Judge

And I may, if I may finish by what this parcel. Okay. By what definition? Let me finish. So, so as far back as I can remember in including prior to 2016, and I believe in the packet that was provided by the county, it went back even to the 50s. that the code did not allow for uses on a piece of property unless there was a principal use or principal structure already established on that property.

02;32;01;21 - 02;32;28;00

Judge

And as you saw in the staff report and mentioned, it back in 2016, that the only exceptions at that time were based on an interpretation that allowed for accessory structures or accessory garages that were placed on an adjacent parcel that, excuse me, that was placed on a parcel that had not, or a piece of property that had not been developed.

02;32;28;03 - 02;33;00;07

Judge

if it was if it was vacant, it was still allowed only if the properties were owned by the same property owner. and then in 2016, the, the regulations were changed that allowed for accessory structures and for accessory uses to be on an adjacent vacant piece of property, as long as both properties were under the same ownership and had the same zoning prior to that, that was not a permitted use.

02;33;00;09 - 02;33;32;08

Judge

Okay. And I'm going to ask a question because Mr. Schmidt, had come through, I had, in addition to years of, vehicles or his or trailers or whatever, so that they've always been there. And so it should be grandfathered. That would not be accurate because because the code did not allow for storage or other uses like that on a vacant piece of property, and it only would have been under the circumstances that were identified by that interpretation.

02;33;32;11 - 02;34;01;16

Judge

And the thing that I wanted to add to my last statement was that when that code change occurred back in 2016, that allowance was only made for accessory uses or accessory structures to be able to be on that adjacent vacant property, with the recordation of a deed restriction. which is a key piece as well. So an accessory use or an accessory structure has probably a specific definition that does not include an RV, which is.

02;34;01;16 - 02;34;26;06

Judge

But where is that correct? if you just have and I would probably defer to our code enforcement team if I get these, if I get the description incorrect. but you know, if you've got, say, you're storing a, an RV on the adjacent property, that the use could be considered potentially storage storage of vehicles for that office or secondary or an accessory use.

02;34;26;14 - 02;34;27;10

Judge

It could be.

02;34;27;12 - 02;34;32;24

Gary Schmidt

I couldn't hear that testimony. could you repeat that one louder?

02;34;32;27 - 02;35;01;22

Judge

So storing storing an RV, say, if it was for the property adjacent, that could theoretically be considered an accessory use. And again, the accessory uses are only allowed and have only been allowed on a property if there is an established principal use or principal structure. I think the important part to note there is, you know, you've got a principal use or principal structure, and then that would allow for an accessory use or accessory structure that goes along with the principal one.

02;35;01;29 - 02;35;05;19

Judge

So if the property is vacant doesn't have that principal use.

02;35;05;22 - 02;35;10;25

Clerk

You can't have that accessory use. Does that help?

02;35;10;27 - 02;35;13;02

Judge

It sounds like all roads in here.

02;35;13;05 - 02;35;14;07

Gary Schmidt

I appreciate, Your Honor.

02;35;14;11 - 02;35;17;06

Judge

Yes.

02;35;17;09 - 02;35;51;16

Gary Schmidt

for the record, I would like to know an object that we're witnesses are throwing. Turns out here randomly, like vacant and lots and parcel and storage property. what we're dealing with here is a matter of law. And what we have to hone in on is the definitions of those terms and be consistent. and if I might,

02;35;51;18 - 02;36;18;01

Gary Schmidt

Offer I don't. It's page 15 of the, petitioner exhibits at the top. It says this is just getting to the core of the issue. It says outdoor storage on vacant lots. No outdoor storage shall occur on a vacant parcel without an existing principal use. That's what you're saying, correct?

02;36;18;03 - 02;36;33;15

Gary Schmidt

Correct. And that hasn't changed, right? To your knowledge, that was the same in 16 and in 23 and probably in 12. So Mr. Schmidt, Kurt, use the properties.

02;36;33;17 - 02;36;54;02

Judge

So that particular code provision from 306 3530 5BI would certainly want to go back and check to see if that particular provision had changed. But in general, just the idea of not allowing for an accessory use without an existing principal use or structure that has been in place for now.

02;36;54;02 - 02;37;05;16

Gary Schmidt

So would you agree that, if that's the case and you're familiar with what's going



on here, right. you're familiar with the issues before us?

02;37;05;18 - 02;37;07;02

Judge

generally speaking, yes.

02;37;07;04 - 02;37;26;25

Gary Schmidt

So would you agree that it's, the court order to establish or determine that, there on Mr. Schmidt's?

02;37;26;28 - 02;38;03;14

Gary Schmidt

Properties in general. I'm going to define it as units of land, because if you go to. We'll get to it in a minute. But go to your staff report. And the ordinance that was adopted, they used the term units of land. A p here is used throughout contiguous units of land. and if I may jump around a little bit and go to, the interpretation, you go to question.

02;38;03;17 - 02;38;15;15

Gary Schmidt

Yeah, yeah. I said buildings.

02;38;15;17 - 02;38;47;24

Gary Schmidt

And that pulling it out right now. But I, I believe it refers to units of land. And in the interpretation I and I will get to it in, in the here staff report and it's the code that was adopted. So would you agree that if the court determines that and July 15th that, Mr. Schmidt had. On his.

02;38;47;26 - 02;39;03;20

Gary Schmidt

Partial. a principal use then the accessory use of storage would be legal conforming.

02;39;03;22 - 02;39;16;15

Judge

and and I'm I'm sorry, I just going back to the prior statements about, a principal use is required on the property. My understanding is the property where the RV is at for this case, that that is is vacant.

02;39;16;16 - 02;39;38;29

Gary Schmidt

You're that you're not focusing on the question would you agree this the court determines that in July of 2015, Mr. Schmidt had a principal use on his on a parcel as defined in 2015.

02;39;39;01 - 02;39;40;15

Judge

Of a home.

02;39;40;17 - 02;39;56;24

Gary Schmidt

Then accessory uses of storage would be allowed on that parcel. So it's not just come. I mean this if you have a principal use on a parcel, you're allowed accessory use of storage is not that that's the correct.

02;39;57;02 - 02;40;04;23

Judge

If you have a if you have a principal use or a principal structure established on a piece of property, then the accessory uses would be allowed.

02;40;04;25 - 02;40;13;17

Gary Schmidt

Doesn't say you see anything here says piece of property. I'm going to the code section. Code section says other storage on vacant lots. It does talk.

02;40;13;17 - 02;40;14;21

Judge

About lots.

02;40;14;23 - 02;40;43;04

Gary Schmidt

About vacant lot. No outdoor storage shall occur on a vacant parcel without an existing principal use. So if we established that the only that there is on Mr. Schmidt's parcel. Parcel of land. He has a principal use of a home, then he's allowed legal storage as an accessory. Use.

02;40;43;06 - 02;40;49;01

Judge

I'll just go back to I'll just go back to saying that if there was a principal use or principal structure on the property.

02;40;49;03 - 02;40;52;27

Gary Schmidt

Well, you could there's no property in here. We're talking about.

02;40;52;29 - 02;41;25;08

Judge

Literally letter answer. Well and, and I just and I and I and I and I just want to be clear again I'll, I'll repeat that prior to 2016, there was not an ability to have to have uses on a vacant piece of property. And that the, the interpretation that allowed for some exceptions was very specific. It was only for accessory structures and for detached garages.

02;41;25;08 - 02;41;48;20

Judge

And that is it. It was not for any uses. So I will say it feels like, you know, we're going kind of around and around here. But I want to be clear that that was the only exception, from that interpretation was simply for accessory structures

and accessory garages. It was not for uses. So until 2016 that that would not be something that would be allowed.

02;41;48;20 - 02;42;26;26

Judge

And that was, you know, that provision that getting adopted actually allowed moving forward for property owners who owned two pieces of property next to each other that if it had the same zoning on it, and if they recorded a deed restriction that would allow for them to have those accessory uses on the adjacent parcel. And it's a pretty you know, I will say that it is a pretty simple process that that deed restriction essentially just says, hey, before I sell one of these pieces of property, I'm going to get rid of or resolve any non says that may be created by selling one of the pieces of property individually.

02;42;26;26 - 02;42;33;08

Judge

You can and you can resolve that issue in lots of different ways. I think that there are restrictions.

02;42;33;10 - 02;42;41;00

Gary Schmidt

It's not answering the question that she wishes to testify and be called by the petitioner again.

02;42;41;03 - 02;42;41;26

Judge

And she said, yeah, we're going.

02;42;41;26 - 02;42;42;20

Gary Schmidt

To be here a long time.

02;42;42;21 - 02;42;51;13

Judge

Okay. This is yes, she's expounding, and elaborating because she's not answering my question. in the same manner.

02;42;51;18 - 02;42;58;15

Gary Schmidt

I'm going to try one more time. All right. Here's the code section. Well, let me go here. What's your definition of property?

02;42;58;17 - 02;43;01;29

Judge

I want to take a look. An article 902 from the development code.

02;43;02;02 - 02;43;03;27

Gary Schmidt

You think there's one in her property?

02;43;03;29 - 02;43;09;16

Judge

I would have to take a look. But generally. Generally speaking, property parcel lot.

02;43;09;16 - 02;43;34;04

Gary Schmidt

Withdrawn. That's wrong. You don't know. You don't have the definition of property. Again we're going to focus on the citation. This is a matter of law. We're dealing here. Outdoor storage on vacant lots. No indoor storage shall occur on a vacant parcel without an existing principal use. What was it? Was there. What was the definition of a parcel of land in the code?

02;43;34;04 - 02;43;58;27

Gary Schmidt

In July of 2016? Without looking, do you know? I would have to look. Okay, well, let me refer you to,

02;43;59;00 - 02;44;04;06

Gary Schmidt

Page nine of my exhibit at the bottom of the page.

02;44;04;08 - 02;44;06;23

Judge

Which is exhibit nine, page nine.

02;44;06;23 - 02;44;26;03

Gary Schmidt

Exhibit one, page nine. My page number. It's actually page three of five of the staff report. I know of the ordinance itself, but page nine of my exhibit.

02;44;26;06 - 02;44;58;29

Gary Schmidt

Where it talks about has a definition of a lot and parcel and how they're changed in August of 2016. And, Miss Mullen, I might ask the court to are you familiar with the concept of when you're changing statutes or other things of there's a line out for what used to be there that is being removed, and there's a bold for what is being added.

02;44;59;01 - 02;45;30;20

Gary Schmidt

So to read what the existing law is in this case definition, you ignore the bold and you read what remains and you read the line out. So may I read for you, parcel of land. This is from your staff report presented to the county commission when they adopted the ordinance. And it says it in essence, says the definition of parcel of land at the time was parcel.

02;45;30;21 - 02;45;46;07

Gary Schmidt

Land means any units or contiguous units of land in the possession of or recorded

as a property of one person. Now, if I may have passed.

02;45;46;09 - 02;46;17;08

Clerk

This number here. The ten.

02;46;17;11 - 02;46;22;00

Judge

Do you want to look? Yes.

02;46;22;03 - 02;46;31;26

Clerk

I think you.

02;46;31;29 - 02;46;55;10

Gary Schmidt

Go back to your staff report. we're. It clearly states, but it's actually not in the staff report. It's the draft of the new ordinance for it talks about I can find within your staff report also that changes the definition.

02;46;55;13 - 02;47;02;01

Judge

Mr. Schmidt, I'm going to let you ask this question, and then we need to fix up what we're we're going here with time in the break.

02;47;02;01 - 02;47;04;23

Gary Schmidt

Okay. What? This is.

02;47;04;25 - 02;47;06;22

Judge

No, that's what we're going to do after.

02;47;06;23 - 02;47;08;21

Gary Schmidt

This is a sweet spot.

02;47;08;24 - 02;47;11;07

Judge

I don't want to interrupt you. I just want to give a heads up to everybody.

02;47;11;07 - 02;47;53;07

Gary Schmidt

So in reading that for yourself. So the definition of parcel land is prior to this ordinance was parcel land means any contiguous units of land, in the possession of that didn't have to be or recorded as a property of one person. You're going to be leasing the second piece of property in your possession. and as you look at the that's it, I just, submitted there and to the north, if you would.

02;47;53;10 - 02;48;33;05

Gary Schmidt

Is a unit of land number one to the south, if you would, as a unit of land number two, they are different parcel numbers by the assessor's definition of a parcel. That's different than the definition in the code section at this time. As a parcel of this. So parcel of land, I submit to you the witness that when you change your opinion of all this dissertation or babble that that we've heard here about, you know, whether previously that was there was a legal use or not, when you look read the definition, you're all it comes from your own staff report.

02;48;33;05 - 02;48;52;24

Gary Schmidt

It was attached to your staff report and it's in your staff report. Yeah. Wouldn't you agree that by this definition of parcel land, there's two contiguous units of land owned by the same person, so they're identified as a parcel, and you.

02;48;52;27 - 02;48;56;26

Judge

I would not agree. It was not agree.

02;48;56;28 - 02;49;06;28

Gary Schmidt

Do you have it's a clear language of the definition of parcel. What what is wrong with the my assertion.

02;49;07;00 - 02;49;36;10

Judge

So I, I if if we get into the kind of academic description and definition they're illegal, I think that it would be I think that it would be important to also look up what the definition of unit or contiguous units of land. I think that that could probably be or potentially be interpreted in different ways. Certainly. I think that that code change of this definition help to add clarity to how it was being used.

02;49;36;10 - 02;49;58;22

Judge

If I recollect correctly, it was being used as by parcel, you know, a parcel of land being a parcel with a parcel number. then that's something that that added clarity to how it was being used. So again, eight years later, taking a look at this, that's the response that I can give you.

02;49;58;25 - 02;50;13;25

Gary Schmidt

Well, do you have an offer of proof of a definition of unit of land other than that, you know, the,

02;50;13;28 - 02;50;19;27

Gary Schmidt

Common. You know, what's your type definition? I mean, you.

02;50;20;00 - 02;50;37;13

Judge

Again, I think that it would be important to to look up if that is defined and how it's defined. Mr. Schmitt, I'm going to ask you to, I know you're making a record. I would like you to make your point with this questioning. So Miss Mullins can respond to that for a minute.

02;50;37;15 - 02;50;38;22

Gary Schmidt

No.

02;50;38;24 - 02;50;41;13

Judge

Yes. What did you ask? Five more minutes?

02;50;41;17 - 02;50;43;01

Gary Schmidt

Yeah. Are you asking me to?

02;50;43;03 - 02;50;48;04

Judge

I would like you to, to make your point with this questioning. So we need to have an opportunity for a response.

02;50;48;05 - 02;51;15;12

Gary Schmidt

My point is that in 2000 and July 2015, as well as in 2012, when I purchased the property, the definition of parcel of land means any unit or contiguous units in the possession of or recorded in the property as one person. That's what that is. That's one parcel. That was one parcel in 2005. The code, the codes definition of parcel.

02;51;15;12 - 02;51;17;21

Judge

Okay, just to be clear. And if.

02;51;17;23 - 02;51;18;11

Gary Schmidt

You go back.

02;51;18;11 - 02;51;31;03

Judge

To let me ask you quick, quickly, okay. So is your argument that these provisions don't apply to you and the what that these provisions don't apply to you because of the Dec?

02;51;31;04 - 02;51;55;07

Gary Schmidt

Not sure what provisions you're talking about. right. Well, let me finish my argument. It says here I've got storage on vacant lots and we have we can go to that definition. And you look at a lot of other lot says me and say this is part or

parcel of land. So basically a lot is synonymous with parcel of land.

02;51;55;10 - 02;52;03;01

Gary Schmidt

A lot is a distinct parcel of land. There is a distinct parcel of land by the definition of parcel of land.

02;52;03;02 - 02;52;04;04

Judge

Therefore.

02;52;04;06 - 02;52;44;27

Gary Schmidt

Therefore, the I have a primary use on my parcel lands. It's a home in a garage and therefore I have storage on that parcel of land on either one of the contiguous units of land, or either one of the parcels as defined by the assessor's office. That's a different definition. and in 20 16th August, the county changed their definition to conform with the assessor's office from 2016, if you read the strikeouts from 2016 on, the definition of personal allowance is a unit of land that's got a parcel number assigned by the assessor's office.

02;52;45;02 - 02;53;17;22

Gary Schmidt

So this is not from 2016. this is not a parcel. It becomes two parcels. However, the accessory use of storage was well established for three decades under the previous definition. Regardless of Mr. Harper's interpretation, that's only relevant because he brought two to the attention of, people in community development. They weren't complying with the law, as you just demonstrated here today.

02;53;17;28 - 02;53;42;08

Gary Schmidt

They shoot from the hip and they don't even refer even in this, if they don't go and read the definitions, they don't go and read the laws. They can't tell you what grandfathering is. I mean, there's yes. So it's systemically abusive. However that's to be addressed elsewhere. So the point is that this in 2016, prior to this adoption, that's a parcel of land.

02;53;42;13 - 02;53;56;21

Gary Schmidt

It's got an accessory. You as it's got a principal use of a house, it's got the accessory uses. And therefore admittedly, when this passed in August of 2016, those.

02;53;56;23 - 02;53;57;16

Judge

Legally.

02;53;57;16 - 02;54;13;20

Gary Schmidt



Established uses prior to that became legal non-conforming uses. And they can continue as long as they're not interrupted by a 12 month period, which there's undisputed testimony here. They haven't been interrupted.

02;54;13;20 - 02;54;16;15

Judge

And that is your argument. Yeah. I mean, that's.

02;54;16;18 - 02;54;42;12

Gary Schmidt

And they said, no, it's so blatant. And this is what I wanted some additional time to try and but to explain to these public servants here, I mean, which one of the two words public or servant they don't understand? I'm not sure, Mr. Smith. I guess staff there's no would not listen. They would not even look up the definitions I repeated in my emails.

02;54;42;15 - 02;54;57;29

Judge

Mr. Schmidt, thank you. I want her to respond, and I wanted to also say you need to behave civilly and respectfully of each other. All right, all right. Please do not call names or cast aspersions, and we'll just move on from that, okay?

02;54;58;04 - 02;55;00;02

Gary Schmidt

You know, there's a there's a second.

02;55;00;06 - 02;55;01;18

Judge

Okay. No, we're not going to the First.

02;55;01;18 - 02;55;05;13

Gary Schmidt

Amendment in this country. we're not just in the courtroom.

02;55;05;13 - 02;55;06;21

Judge

We're going to disrespect now.

02;55;06;21 - 02;55;07;04

Gary Schmidt

Speaking.

02;55;07;04 - 02;55;32;26

Judge

The truth. Yes, but we are calling names and and we are all done this morning. Would you please respond? And that's his argument. There was a lot that was mentioned there. Just a couple of things. I would say another point that I might bring up is that, you know, the definition there was related to parcel of land, a phrase that is distinct from what's in the code, where it says vacant parcel does not identify as parcel of land.

02;55;32;28 - 02;55;57;23

Judge

And certainly, since not being in the room, not quite sure what has already been discussed with, from the planning manager or the code enforcement officer. but but I will say to that, my involvement in this, case has been somewhat peripheral. Peripheral? certainly, you know, defer to our experts, to the planning manager and the code enforcement officer.

02;55;57;25 - 02;56;17;04

Judge

so do apologize if not necessarily having, easy responses to some of those questions because I haven't, you know, was not aware of what they were going to be and not able to research those. but hopefully some the information provided was okay. So as far as the response to the heart of Mr. Schmidt's argument, you defer to Mr. Biesecker.

02;56;17;11 - 02;57;02;13

Judge

So I would just repeat essentially what, what I had stated earlier that, that until 2016, accessory uses were not, were not allowed on vacant properties. without that principle, primary established use or structure on the property itself. that is something that, you know, was remedied in 2016. It is an easy remedy where that deed restriction does it's essentially just acknowledging, that prior to sale of one of the properties that the non-conforming will be remedied either through removing whatever the non-conforming is doing, a boundary line adjustment, reversion to acreage, lots of different potential opportunities.

02;57;02;15 - 02;57;21;23

Judge

But it is a very, easy, fast, non onerous remedy just to make sure that that there won't be issues in the future. Search. Schmidt I believe the saying is it doesn't even apply, so it's not necessary which which would I would disagree with. So okay.

02;57;21;25 - 02;57;28;08

Judge

Are we good here? And I know you you would have more questions if you could, Mr. Schmidt, but I think we did. Well.

02;57;28;10 - 02;57;28;24

Gary Schmidt

Your Honor.

02;57;29;01 - 02;57;30;17

Judge

And I think we need to take a break.

02;57;30;19 - 02;57;54;28

Gary Schmidt

I would move for some dismissal of this. Fine. Based upon the evidence presented.

it's clear on the record what the definition of partial was at the time. It's been well established at that use. Whether it was legal or not of storage was continuing. The only thing we're trying to establish, whether it was legal prior to the adoption of this new ordinance, I think it's been clearly established.

02;57;54;28 - 02;58;21;17

Gary Schmidt

Now, regardless of that, I don't know that be unsubstantiated, testimony of how they treated things. And I may offer a little story for the court because zero short, about 20 years ago, I walked into the county offices and said, hey, you're overcharging for public works. You're charging \$0.50 a page. So I said, it's public records. Law doesn't allow that.

02;58;21;20 - 02;58;45;29

Gary Schmidt

Well, we've been charging \$0.50 a page for 40 years. A year and a half later, they were charging \$0.04 because they've been violating this public records statute, which I'm an expert in, self-taught expert. I've I've sued the county numerous times and got denials, both public records, successfully. I just sued the girl and general for my district for did not have access to.

02;58;45;29 - 02;58;48;17

Judge

Her and and Mr. Schmidt. So my point is okay, I.

02;58;48;22 - 02;58;54;10

Gary Schmidt

Guess they didn't do it in that way. Doesn't mean that was legal. Oh their interpretation Whispering okay.

02;58;54;16 - 02;59;00;18

Judge

And I and I would love to hear your story some time. This is not that time.

02;59;00;21 - 02;59;22;21

Gary Schmidt

well I'm sure I awesome. I go for a summary dismissal and based on that, the evidence is clear on its face that, using the definition that was appropriate at the time and reading the code section that there was a there was a primary use and therefore storage on both of these units of land or that parcel was legal at the time.

02;59;22;23 - 02;59;42;23

Gary Schmidt

So you've had testimony has acknowledged that the issue was whether or not storage was legal at that time. And, and so I think the evidence is clear right now that it was legal. So therefore the case should be summarily dismissed. As of right now, we can all go to lunch.

02;59;42;26 - 03;00;10;29

Judge

Right. And usually when that happens, that's at the end of your case. I would like to allow, the county to respond to your motion. again, this is an administrative hearing. It's informal. Right. And so we don't get a lot of these, but certainly the county has an opportunity to respond. You may choose who responds to this, motion for summary dismissal.

03;00;11;02 - 03;00;15;04

Judge

Based on on his argument, is it you, Mr. Singer or Mr. Reynolds?

03;00;15;04 - 03;00;30;05

Chad Giesinger

Sure. It'll be, we disagree with the motion. We, would argue it should be, a rule and, sufficient evidence and cases. Both parties have made their cases. And for them, the evidence, and they're ready to receive a decision.

03;00;30;07 - 03;00;40;19

Judge

and I appreciate that. That's cursory. However, I would like someone to respond to his, the meat of his argument. I have these conversations. These provisions don't apply.

03;00;40;19 - 03;00;42;04

Chad Giesinger

His never responded to that over.

03;00;42;04 - 03;00;47;14

Clerk

And over again during this hearing. We disagree with his protection.

03;00;47;16 - 03;00;51;00

Chad Giesinger

We present what we think is the law.

03;00;51;03 - 03;01;16;07

Judge

Okay. I'd like to hear a little bit more about because we've been through a lot since then. do you have anything specifically? it's basically what we've heard is that it does apply and. yes. I, I haven't heard this before, so that's why I told them to get to it. do you want to respond or not to that specific argument?

03;01;16;09 - 03;01;22;10

Judge

I would defer to to Mr. Gibson, missing Mr. Farmer for the facts of the specific case.

03;01;22;13 - 03;01;26;19

Chad Giesinger

They had two separate partial numbers when you bought them. They're two separate

parcels.

03;01;26;21 - 03;01;45;02

Judge

So that's Okay. We're. Do you have any follow up questions for response? I do not okay. We're going to take a break, Mr. Schmidt. we've been at it for three hours. We're going to take a break. we'll be back. We could shoot for five. I doubt that works, but let's shoot for five and wrap this up.

03;01;45;02 - 03;01;59;17

Judge

Okay. I'm going to deny the motion for summary dismissal. And, we'll wrap this up when we get back, okay? Are you done with your case? You're done because you made a motion for summary dismissal.

03;01;59;17 - 03;02;00;06

Gary Schmidt

Couple hours.

03;02;00;07 - 03;02;15;14

Judge

Here. No. Yes. A motion for summary dismissal comes at the end of the case. So again, a motion for summary dismissal comes at the end of the case. And chief. Mr.. Mike. Yeah. we don't have a couple of hours.

03;02;15;16 - 03;02;16;26

Gary Schmidt

No motion.

03;02;16;28 - 03;02;33;18

Judge

And what do you I want you to put on your case. I want you to make a record. I'm not going to cut you off. I know everyone's tired and hungry, and we've been at it for a while. So you've made your case? It's a pretty simple case. What else do you have to add?

03;02;33;20 - 03;02;43;08

Gary Schmidt

Well, there's other issues here. Like, the appeal is also, on the basis of,

03;02;43;10 - 03;02;48;25

Judge

Summary. Okay. We're going to wrap this up. Let's take a break, folks. I want these.

03;02;48;26 - 03;02;55;22

Gary Schmidt

Either the right to appeal to the Board of Adjustment. That's in the appeal. Okay. The street, three portions of the appeal.

03;02;55;26 - 03;02;59;16

Judge

Okay. And that may not be germane to this issue that I'm saying.

03;02;59;19 - 03;03;00;26

Gary Schmidt

It's not determined.

03;03;00;28 - 03;03;02;00

Judge

Off the record to.

03;03;02;00 - 03;03;07;16

Gary Schmidt

This issue. Okay. But it needs to get on the record because then we shouldn't even be here. Okay.

03;03;07;18 - 03;03;08;29

Judge

We'll take break, everyone.

03;03;09;00 - 03;03;22;06

Clerk

We're case number one. You see H202400001I feel like 2307 back on the.

03;03;22;06 - 03;03;43;23

Judge

Record after a long overdue break. I think we're about ready to wrap this up. I want to address, Mr. Schmidt, I know you have things to talk about. Other things like, you requested a hearing in front of the Board of Adjustment. I do not have the authority or jurisdiction to address this. That's something we're going to have to do in another venue.

03;03;43;25 - 03;04;13;26

Judge

And I know there are other grievances that you have that may be more appropriate in another venue. My focus is very narrow, and it's whether or not there's been a violation of these, these, code provisions. I do have some discretion on, when I make a decision, but I can't get into whether or not, you know, you should have been allowed to, make your presentation in front of the board, but just that that's not something we're going to spend time on today.

03;04;13;28 - 03;04;22;02

Judge

what? And when, what else? And I know you have a lot to talk about it, but I've read what you've written. what else would you like to present?

03;04;22;04 - 03;05;02;18

Gary Schmidt

Well, I think the Board of Adjustment is relevant. It's on my appeal that I filed

before this body, and it's tangentially relevant because I was granted a 30 day extension, and then I requested another 30 day extension on December 4th. And in that dialog, in the email exchange, You know, and I said it's not granted, I wish to appeal that decision before the Board of Adjustment, which is by legal authority.

03;05;02;18 - 03;05;30;28

Gary Schmidt

I can do, if I might just, Briefly read into the record and bear with me, because I think I can dispense with this board of adjustment stuff, which could take an hour or two all by itself. But, if I get some, offer approved submissions here before we're going to focus down, then we don't have to.

03;05;30;28 - 03;06;19;21

Gary Schmidt

But I would like to read into the record and submit it. But the board is the state statute. for the Board of Adjustment says in part, any person aggrieved, by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning code, clearly did me there was a decision made by an officer in the administration of the zoning code not to grant me a 30 day extension, and I put that application in and it was sent back to me.

03;06;19;24 - 03;06;52;02

Gary Schmidt

So if we can dispense with the issue of there was it in that period, there was one panel of screening on this recreational vehicle which they took a picture up, put it on a record, and, and the and it said that it was not properly screened while the screening was off to the side, because I was doing some work there and was actually he was changing the screening to be color consistent, you know, and doing some work to it.

03;06;52;04 - 03;07;21;08

Gary Schmidt

But, if we can all agree that that issue goes away and it's the only issue before this court here today is whether or not there was a legal, conforming use of storage prior to, you know, August of 2016, and that incidental alleged violation. And that's time I received I asked for the extension on December 4th.

03;07;21;11 - 03;07;46;03

Gary Schmidt

They apparently took a picture that afternoon. I the emails will show that, on the that there was a meeting, in the hallway after county commission meeting where Mitch Moreland was there and had a conversation. She said sort things, and I asked her, you need to look into this. And I told her what the issues were and I haven't gotten through the yet, and nobody's really looked at it.

03;07;46;05 - 03;08;19;19

Gary Schmidt

But, the, if that issue, then what happened was, I shared another email, I think on

the 20th, on the 19th, I got an email saying that, I was going to be cited on the 20th. I responded, say, well, what happened to my request for an extension? I haven't even answered it. And then I go to my mailbox and I have this not going to be cited.

03;08;19;19 - 03;08;46;23

Gary Schmidt

I was cited on the 12th. So while I had a request for an extension and I received the citation, and it was based on an old picture because that screening was up at that point in time. So it goes on with, you know, process if you would. but it's that issue of this if everybody can acknowledge it's now properly screened, the only issue is whether or not the grandfathering of the use in general.

03;08;46;25 - 03;08;57;27

Gary Schmidt

And I can, you know, not I'm satisfied with not addressing all the failings and the denial.

03;08;58;00 - 03;08;59;02

Code Enforcement

of my rights to.

03;08;59;02 - 03;09;09;04

Gary Schmidt

Appeal, because my, my assertion is that that denial of the extension was appealed to the board of the judge. Okay. And I can go.

03;09;09;04 - 03;09;09;15

Judge

To the board.

03;09;09;15 - 03;09;10;13

Gary Schmidt

Okay. That was.

03;09;10;13 - 03;09;18;17

Judge

Denied. Mr.. Mr.. Schmidt, I get your point. the code I.

03;09;18;19 - 03;09;39;01

Code Enforcement

I can respond to as stated. So, for chapter 125, the enforcement official may extend this time frame at the official discretion to provide additional time to complete acts required to comply with the code. So it's my discretion to offer an extension. I didn't give you the first one. the second extension? He asked Chad on the fourth.

03;09;39;04 - 03;09;54;26

Code Enforcement

The complaint date was the 12th. It was actually you accurate when I was there. And



like I previously indicated, he wouldn't have got it because he didn't want to follow that. Yeah, he would like a 30 day extension to either move the RV or file new restriction. I'd be happy to grant to you right now, I don't think it's gonna be the case.

03;09;54;28 - 03;10;04;07

Code Enforcement

as far as the screen, we've already conceded the outdoor storage violations program 50. The chapter 50 cases have. We've already made that clear.

03;10;04;10 - 03;10;17;11

Judge

It's in. Let me ask you first, Mr. Premier, because I have a copy of the proposed order that's included, and that includes, WCC 5308. So that is no longer in place, right?

03;10;17;11 - 03;10;22;26

Code Enforcement

So when I said it, I didn't feel it was proper screening in consultation with Chad because I was like, no, that's great. We're good at that.

03;10;23;02 - 03;10;23;13

Judge

Okay.

03;10;23;13 - 03;10;28;17

Code Enforcement

So so that I just leave and you can you can dismiss that question, okay. It's all about the deed restriction.

03;10;28;18 - 03;10;29;14

Judge

There you go, Mr. Schmidt.

03;10;29;14 - 03;10;30;22

Gary Schmidt

So that's.

03;10;30;27 - 03;10;35;12

Judge

That. Okay. That checks that box. Mr. Farmer, just what.

03;10;35;13 - 03;10;38;00

Gary Schmidt

I would like to discuss it here, but there's.

03;10;38;00 - 03;10;41;14

Judge

So much we could talk about. Right? I know it's,

03;10;41;16 - 03;10;44;23

Gary Schmidt

It's it's that we define for. Yes, a decade and a half.

03;10;44;26 - 03;11;05;02

Judge

And there are other again, if I had one and I could take care of everything at once, I would do it good. I can't, I don't have that authority. so we're, back to 110. We are six £0.35. Mr. Farmer just threw out an offer of a 30 day extension there. I don't know if you'd be interested in that if that were the case.

03;11;05;09 - 03;11;05;17

Judge

I mean.

03;11;05;17 - 03;11;09;08

Gary Schmidt

That's no, I mean, the issue is here, I don't I don't, you.

03;11;09;11 - 03;11;31;07

Judge

Know, listen to me. Yeah. Okay. Because I could do things I could order. Maybe I can make a decision. And when I step out of here in ten minutes, one way or the other, either, so I can appeal that we have an amazing record. I could order mediation. I could, order status, hearings, to see if you're conforming or not.

03;11;31;07 - 03;11;55;14

Judge

There. I have some tools at my discretion. He just offer 30 days right now. If that was the case, I would not reach a decision today. I would set up, after all this. Yes. After all this. if you were, interested in that, I would set up a status hearing and I would not fill out an order.

03;11;55;16 - 03;11;58;17

Judge

that's what he just did. You need to respond to that.

03;11;58;19 - 03;12;01;10

Gary Schmidt

Your honor. It's. The evidence is clear on the record.

03;12;01;10 - 03;12;01;24

Code Enforcement

That.

03;12;01;26 - 03;12;02;21

Judge

You're not.

03;12;02;23 - 03;12;10;21

Gary Schmidt

Performing. You okay? No, no, there's no reason for that issue has to be settled, either here or at the Board of Adjustment or at the county commission.

03;12;10;23 - 03;12;26;09

Judge

I, I don't disagree with you, but that what's on my plate today is, is very narrow. And he made an offer to you. I need to know whether you're interested or you rejected.

03;12;26;12 - 03;12;27;19

Gary Schmidt

It so.

03;12;27;21 - 03;12;28;25

Judge

I I we.

03;12;28;27 - 03;12;30;13

Gary Schmidt

Waste of the court's time.

03;12;30;16 - 03;12;35;05

Judge

Well, I may agree with that too, but there it is. He made the offer to you.

03;12;35;06 - 03;12;46;27

Gary Schmidt

Be back here in 30 days arguing the same thing. I am not going to file a restriction. And that's it. Nevada State Supreme Court tells me I must, and I.

03;12;46;29 - 03;12;55;25

Judge

Okay, so so no thank you, sir. No thank you to the 30 day extension which. No.

03;12;55;27 - 03;13;11;16

Code Enforcement

No. Okay. We also agree that you cannot guarantee next door to this property with the different parcel number 071281-023 35 Main Street. The one that has the establishes late. Because that's the contiguous parcel.

03;13;11;16 - 03;13;14;28

Judge

The one I want to I want to follow this so he can move.

03;13;15;04 - 03;13;17;03

Code Enforcement

See this. See this. We talked about this is the continuum.

03;13;17;03 - 03;13;18;07

Judge

What age are we looking at.

03;13;18;07 - 03;13;25;12

Code Enforcement

If you at the front page. All right. So the one north of it with the cars stored in the house ends in oh two.

03;13;25;19 - 03;13;26;07

Judge

Yes.

03;13;26;09 - 03;13;33;20

Code Enforcement

That's the contiguous parcel. That's the parcel. That's 335 Main Street that has the establish use with the single family dwelling.

03;13;33;22 - 03;13;34;09

Gary Schmidt

He can move the.

03;13;34;09 - 03;13;49;01

Code Enforcement

RV right there. In fact, he's moved a lot of the bikes over there. They got a six foot fence so he can have the outdoor storage of the nuisance code one because the six foot fence resolves that. So that passes, right? Because he moved everything over there. It has six a fence. It has the allowed access reasons. Right.

03;13;49;02 - 03;13;50;00

Code Enforcement

So he can go.

03;13;50;02 - 03;13;51;14

Judge

There and no deed restriction.

03;13;51;14 - 03;13;51;25

Code Enforcement

Right.

03;13;52;01 - 03;14;09;10

Judge

All right. So there are other options. So you reject it. The 30 day extension at this point, you could move an RV over to your other parcel. You'd be done. Which doesn't mean your, your your quest would be over of Mr. Schmidt, as far as trying to.

03;14;09;12 - 03;14;09;20

Gary Schmidt

Merge.

03;14;09;25 - 03;14;10;20

Judge

The fix, which is.

03;14;10;20 - 03;14;16;11

Gary Schmidt

Not to the point. What the why we're here, I understand that I can also sell all my property and move to Texas, but that's not.

03;14;16;11 - 03;14;18;25

Judge

Right. I just there there are options.

03;14;18;25 - 03;14;20;16

Gary Schmidt

Not in the interest of justice.

03;14;20;19 - 03;14;33;02

Judge

Or the rule of law. What I'm saying is, it doesn't mean you'd have to, stop trying to clarify this. The the any of those appeals would, you know, if you wanted it to go?

03;14;33;03 - 03;14;38;26

Gary Schmidt

It's this process, this snowball starting down the hill. Okay. Going to be stopped.

03;14;38;28 - 03;14;43;01

Judge

Okay. So you don't want to you don't want to accept that offer of moving to your other parts?

03;14;43;03 - 03;14;53;03

Gary Schmidt

Well, I could make an offer that they could withdraw the, their complaints and acknowledge that I have legal, non-conforming use. That's my offer.

03;14;53;05 - 03;14;54;27

Judge

Okay? I just want to make sure you understand.

03;14;54;29 - 03;15;05;00

Gary Schmidt

Make it further, and I will pledge here not to sue them. Those two individually. It's. That's my all.

03;15;05;02 - 03;15;14;26

Judge

Okay, so, you know, we're going to go to decision today there. Okay. Thank you.

From.

03;15;14;29 - 03;15;38;28

Judge

All right. So, we disposed of a few issues there, Mr. Schmidt, of, matters that are, as I say above my pay grade. is there anything else with this issue? I think I've got it. I understand the issues. I think we made a good record. Is there anything else that you need?

03;15;39;00 - 03;15;40;28

Gary Schmidt

Yeah, I have a whole case to present here.

03;15;41;00 - 03;15;57;16

Judge

Well, the Board of Adjustment was one which I can address. That doesn't mean that you can't pursue it. just because I can't fix it for you. What's another issue?

03;15;57;18 - 03;16;32;02

Gary Schmidt

The repeated referrals to the applicable definition. And, I'll have to just go through it here. and give my testimony. I just basically got substantiate the evidence I've already given that there are more references there.

03;16;32;04 - 03;16;34;03

Gary Schmidt

And I appreciate.

03;16;34;05 - 03;16;39;23

Judge

I was going to ask you what else other than that, I want to know what I'm looking at here for staff and and.

03;16;39;23 - 03;16;41;05

Gary Schmidt

Resources.

03;16;41;08 - 03;16;45;16

Judge

What else are we looking at? So you're going to go through some definitions now to support. Yes.

03;16;45;21 - 03;16;50;17

Gary Schmidt

There's a there's other references in here that support.

03;16;50;23 - 03;16;53;12

Judge

You know what else I could do. My hours and I could just do this.

03;16;53;14 - 03;16;54;14

Gary Schmidt

This is one person.

03;16;54;16 - 03;17;07;06

Judge

You know what else I can do is I could order briefing. I could order a briefing. So we are, that you could brief it, before I reach a decision? I have the authority and discretion to order.

03;17;07;08 - 03;17;09;00

Gary Schmidt

well, I would like to complete my case.

03;17;09;00 - 03;17;09;20

Judge

Yeah.

03;17;09;23 - 03;17;14;21

Gary Schmidt

So I'll go through as quick as I can with absolute discretion.

03;17;14;26 - 03;17;15;09

Judge

Okay.

03;17;15;14 - 03;17;15;24

Gary Schmidt

A lot of.

03;17;15;24 - 03;17;25;28

Judge

Things. Okay? Okay.

03;17;26;00 - 03;17;30;04

Judge

Let me ask, is this.

03;17;30;06 - 03;17;49;07

Gary Schmidt

For the record, Derek Schmidt is giving testimony today on page 39 of the petitioner's exhibit, which is the interpretation, by Mark Harper.

03;17;49;10 - 03;18;01;24

Gary Schmidt

In 1996, Let me say that I knew my Carver.

03;18;01;27 - 03;18;27;18

Gary Schmidt

Quite well. And I was involved in this interpretation. And part of the reason this

interpretation was created, because I brought up the issue to the county, as I brought up numerous issues over decades, a half a century where they were basically just doing something because that's the way we do it. So that's just the way it is. My mind's made up.

03;18;27;18 - 03;18;56;11

Gary Schmidt

Don't confuse us with facts. You know, this fall in line and you know, follow the sheep in front of you. and I make one reference to it as far as Kobe Bryant cross. And this was another one. I was the longtime owner of the Reindeer Lodge Reindeer Lodges on five parcels of property. This one mailbox, 9000 Melrose Highway, the mailboxes five miles down the road because I half a century ago.

03;18;56;14 - 03;19;25;13

Gary Schmidt

Yeah. They when I bought those last, they didn't deliver mail past the tree line. and I brought this issue up because they challenged me about my business license. It's a similar issue that. Well, with your business license says 9000 Mountain Ridge Highway. They look at the census records and, you know, there's one main parcel here, and that's where the building was.

03;19;25;13 - 03;19;48;03

Gary Schmidt

And so you don't have any accessory uses. Other I have snowmobile rentals, I have horseback riding, I have softball games, I have flea markets all license active. You know, grandfathered activities. Some of them, and by septic system is on a different parcel by leech line, actually one on a parcel, not even mine. It went under the neighbors parcel.

03;19;48;10 - 03;19;53;19

Judge

Actually, I, I very interested. I wrote the reindeer Lodge, but we have to get to it. Okay.

03;19;53;19 - 03;20;28;15

Gary Schmidt

Oh, my point is, I'm intimately familiar with this installation. I was involved, I was a big part of why it was drafted. And it says right in here, granted, this address accessory structures because I had. Accessory buildings. Yeah. If I had my septic system and my propane tank was on a different deal, and that raised the issue. And so my carport got involved in this.

03;20;28;17 - 03;20;56;25

Gary Schmidt

And he looked at the wall, he read the definitions and lost it. You know, I think he might have known ahead of time, but he wasn't aware of the issue. And he read, yeah, a parcel is to continue to center while ownership. I have five contiguous parcels at the Reindeer Lodge, and all those complaints about that business license went away because of this, because the point of this, and some other issues came up.



03;20;56;25 - 03;21;21;04

Gary Schmidt

The garages, people had two pieces of property, two units of land side by side under the same ownership, and they built their house on one. And the house required a garage, and they built the garage on the other, and it was allowed to do uncommonly. There's all over the county, but somebody brought the issue up.

03;21;21;04 - 03;21;21;27

Code Enforcement

So you can't do.

03;21;21;27 - 03;21;53;29

Gary Schmidt

That because it says outdoor storage on. They got no out there. Storage shall occur on a vacant parcel with an existing use. That's what they cite here. But there's a similar citation that that you cannot build an accessory structure on a separate parcel of land, that the parcel land you cannot build a garage on a parcel of land without a primary use.

03;21;54;03 - 03;22;35;21

Gary Schmidt

It's the same argument. and that was a heavy argument. There were some people involved. You talked about a lot of money, you know, 30, 40, \$50,000 structure here. We're just talking about stuff that are more so. And so this this addressed that. But the underlying principle is the same because in here on the one, two, three and within the fourth paragraph it says parcel land is defined as any unit or contiguous units of land in the possession or recorded as the property of one person.

03;22;35;23 - 03;23;06;19

Judge

So I ask you a question in the middle. Yes, of your presentation, Mr. Schmidt, because Miss Mullins was pretty clear that, yes, this was the interpretation, but it was it doesn't apply anymore because of the 2016 amendment. So we could look at the, you know, Mr. Harper's interpretation forever. But why, if it doesn't apply anymore? Is that correct, gentlemen?

03;23;06;19 - 03;23;31;01

Gary Schmidt

Over here. But he's just pointing out the definition that was relevant to when I bought the land. Okay, I we should legal uses. I establish legal usage because the definition of parcel was here and the definition didn't change. It says on a parcel, unless you have a primary use. On my personal land, I have a primary use. So the storage was a legal use.

03;23;31;03 - 03;24;21;16

Gary Schmidt

So, had I, bought these properties, had there been no storage on unit number one? Prior to 2016. Then they adopted the code section and then I started the storage.

You could do that. You could do it, but you'd have to file a deed restriction. Or another example, if I only owned unit two of land and 2020, I bought unit one of land, then I'd have to file a deed restriction because these the provisions of having to file a deed restriction only became relevant to a new issue.

03;24;21;17 - 03;24;33;15

Gary Schmidt

You can't there's no ex post ex post facto application here. e again and I was

03;24;33;17 - 03;25;01;10

Gary Schmidt

I think I submitted for the record that the definition of grandfathered is that, I've already established a legal use. I'm search under this definition. the definition clearly up until 2015, that that was a parcel of land. And the code section at that time says that the parcel must have its primary use. I have a primary use on that parcel of land.

03;25;01;12 - 03;25;32;17

Gary Schmidt

So that's legal storage. So once they change the code, it becomes legal nonconforming. It's no longer conforming because I haven't found the dealership, but it's still legal as long as it doesn't stop for a 12 month period. That's a standard grandfathering rules. And I think the petitioner has acknowledged that. Have I established a legal use of storage prior to 2016?

03;25;32;19 - 03;25;39;08

Gary Schmidt

There have been arguments. The whole question is whether I established the legal use prior to that.

03;25;39;12 - 03;25;42;19

Judge

And then we'll ask you, Mr. Kissinger, to respond to this correctly.

03;25;42;21 - 03;25;44;01

Gary Schmidt

I just I it's a quick question.

03;25;44;04 - 03;25;52;05

Code Enforcement

What primary use to establish on that parcel. And I'm talking about the house. Right. That means.

03;25;52;10 - 03;25;52;26

Gary Schmidt

The house right.

03;25;52;26 - 03;26;13;12

Code Enforcement

There. You said okay. You say establish the primary use on 335 Main Street. No

parcel seven one dash, 21 dash. Okay, so you didn't establish a primary use on 345 Main Street? No. Stand that you own properties, but they're both recorded separately. They both have the same addresses and they're only partially.

03;26;13;20 - 03;26;23;01

Gary Schmidt

Yeah. No, this is informal, but I'll continue because hopefully I can get through to somebody here. Yeah, but the thing is it's a parcel. The code section.

03;26;23;02 - 03;26;23;29

Judge

Okay. So it's not the.

03;26;23;29 - 03;26;25;13

Gary Schmidt

Primary use on the parcel that's.

03;26;25;13 - 03;26;33;16

Code Enforcement

On the right. We're not sure a penalty for that parcel. We didn't. The primary use is on 335 main John. 345.

03;26;33;17 - 03;26;39;09

Judge

I think that's clear. I think what Mr. Schmidt is saying is the definitions of lots and parcels.

03;26;39;11 - 03;26;42;01

Gary Schmidt

Change in the nature he provided.

03;26;42;01 - 03;26;53;09

Code Enforcement

A partial definition starts with dot dot, dot any. And it's a continuous use that we're in possession of recorded as a property. But as to the separate operations there's two separate addresses, two separate parcels.

03;26;53;09 - 03;26;54;05

Gary Schmidt

Because the fields house.

03;26;54;06 - 03;26;57;24

Judge

Next to each other. And you're saying it should be interpreted as the same and it has to.

03;26;57;24 - 03;27;01;29

Gary Schmidt

Quote, it's irrelevant what the addresses are or what the assessor's parcel.

03;27;01;29 - 03;27;03;04

Judge

Numbers are. I just want to make.

03;27;03;04 - 03;27;32;22

Gary Schmidt

Sure to you is units of land defined as one portion. And that's basically the principle. This establishes this interpretation. He's saying the same thing. He's talking about purposes. Right. Yes. But and and the, it's clear if you read this interpretation that there's been some testimony here that, prior to 2016, you couldn't build a garage on this contiguous unit of land.

03;27;32;24 - 03;27;48;07

Gary Schmidt

That you had common ownership to, etc., that the garage and house have to be on the same assessor's parcel number. And that's not true with this? No. It's saying that you can't do it. You couldn't do it up until that point and you could continue to do it.

03;27;48;07 - 03;27;50;08

Judge

Okay. Response.

03;27;50;13 - 03;28;07;01

Code Enforcement

What I said is use a use and the storage is a use. The interpretation only referred to a garage. And so that is correct. There we were allowing people to build a garage, ironically to you as part of the same ownership but not uses. And that's what we do at the moment when.

03;28;07;07 - 03;28;09;22

Judge

You're testing and we have a use a garage. Yes.

03;28;09;25 - 03;28;16;14

Code Enforcement

Because exactly. And if you have standalone storage, by the way, that's becomes a commercial use.

03;28;16;16 - 03;28;20;05

Judge

What is this anyway? It's so this is just an RV park, sir.

03;28;20;12 - 03;28;37;00

Code Enforcement

No, it's just it's just the RV. It's just an RV now. Right. But the code basically says the RV is associated with recreational use. It doesn't say you can establish if you get the parking lot right. That's stories about vehicles that bother commercial for that. But since it is an RV doesn't have.

03;28;37;00 - 03;28;39;02

Gary Schmidt

To have an RV grade, it just.

03;28;39;02 - 03;28;50;20

Judge

Has to be researched, right? No, I know we're circling back, right? Yeah. but I think Mr. Schmidt's point is it's the definition of a lot to you is the point.

03;28;50;22 - 03;28;51;24

Code Enforcement

We just disagree.

03;28;51;26 - 03;28;58;12

Judge

And that's what I'd like you to, to address. So my understanding to get down to it is I'm ready to get down to it. Mr.. No. You're fine.

03;28;58;14 - 03;29;22;15

Gary Schmidt

I acknowledge that this interpretation deals principally with structures, and we're not dealing with a structure. All right. I'm using it in evidence because it documents the definition at the time. Part of the definition at the time is relevant to other things, like the establishment of the legal use of storage.

03;29;22;15 - 03;29;23;28

Judge

The definition of which.

03;29;24;02 - 03;29;40;01

Gary Schmidt

A parcel of land of a person, the definition of parcel land. That's the important, relevant part of this is he points out, and I also can submit to the evidence here.

03;29;40;03 - 03;29;41;24

Code Enforcement

May be beneficial for the.

03;29;41;24 - 03;29;44;03

Gary Schmidt

Court to know also the culture at.

03;29;44;05 - 03;29;48;28

Judge

The clinic, because I really want to get to this now, Mr. Schmidt. So I'm going to ping pong back and forth. Go ahead. Mr..

03;29;48;28 - 03;29;50;18

Gary Schmidt

History. Okay. So I'm let's.

03;29;50;18 - 03;29;51;23

Judge

See. Wait one second.

03;29;51;26 - 03;29;52;28

Gary Schmidt

I'm right here is the.

03;29;52;28 - 03;30;26;19

Code Enforcement

Context in which these definitions existed. At the time, the assessor's office had a procedure whereby you could claim that you could combine two parcels into one, and then they would put a dotted line between the two because they wanted to be assessed as one parcel. Okay. They didn't want to pay taxes on two separate parcels. So at one point in time, back in the day, you would see an ATM map that had one parcel and a dotted line through the middle, and they would say one half was a lot, one one half was lot two.

03;30;26;21 - 03;30;52;00

Code Enforcement

And so some of this language was memorializing that reality at the time. But but it was still one parcel, was still one legal parcel with a parcel number and one address. Then they could remove that dotted line at a certain point and make it two crossings without having to go through the subdivision of the process. The assessor no longer does that, but that's just to give you some background on the context of this discussion of lots and contiguous ness and so on.

03;30;52;03 - 03;31;11;15

Code Enforcement

But the bottom line is, is that this is a parcel is a distinct it has its own identification number. You're paying property taxes the whole time on these parcels for both parcels. Correct. So so they've been to separate parcels.

03;31;11;17 - 03;31;12;19

Code Enforcement

And I.

03;31;12;22 - 03;31;12;27

Judge

Yeah.

03;31;12;28 - 03;31;15;20

Gary Schmidt

Mr. Williams here we go again.

03;31;15;22 - 03;31;16;03

Judge

Okay.

03;31;16;08 - 03;31;18;25

Gary Schmidt

We're talking apples and oranges okay.

03;31;18;25 - 03;31;24;00

Judge

Mr. Schmidt, do we have two tins? Is this a new Newton? Just to keep things clear.

03;31;24;02 - 03;31;25;15

Gary Schmidt

This is a new what?

03;31;25;17 - 03;31;27;28

Judge

I think we only have an exhibit ten.

03;31;28;00 - 03;31;30;09

Gary Schmidt

That's an exhibit for me.

03;31;30;11 - 03;31;32;09

Judge

This is it. So this would be 11. It would.

03;31;32;09 - 03;31;36;09

Gary Schmidt

Be one. I have ten and 11. They're different.

03;31;36;11 - 03;31;39;24

Judge

Hold on, Mr. Schmidt. I think you might have done a ten.

03;31;39;27 - 03;31;41;21

Code Enforcement

At one point for purchasing.

03;31;41;24 - 03;31;46;29

Judge

Yes. Okay. We already have an exhibit ten for me. So it's an 11 and 12.

03;31;47;01 - 03;31;49;07

Gary Schmidt

Okay. Have we just.

03;31;49;09 - 03;31;57;06

Judge

Yeah. So this is new. This is 12. Okay.

03;31;57;09 - 03;32;16;00

Gary Schmidt

Yeah. If I continue what's the assessor? How he defines a parcel. It's totally irrelevant here. What the center does is totally irrelevant. We're talking about the developer because Nevada read revised statutes. Each section has definitions and they conflict with each other. You use the.

03;32;16;00 - 03;32;16;28

Judge  
Definition.

03;32;17;00 - 03;32;32;26

Gary Schmidt  
In the body of law. You're you're dealing with all that stuff is all relevant. and what I have here is excerpts from the development code from 2023. and let's see over here.

03;32;32;26 - 03;32;40;26

Clerk  
Two and, it's right right here.

03;32;40;29 - 03;32;56;16

Gary Schmidt  
Here's my similar to this, I might I might again, this is the same. This changes. So excuse me. This will be Marcos scratch one. You said did you remember this.

03;32;56;18 - 03;32;58;28

Judge  
First one, I guess I assume you have no objection.

03;32;59;01 - 03;33;06;13

Gary Schmidt  
Given the 211 stuff. So let's see. This is okay. Yeah. 16.

03;33;06;16 - 03;33;09;26

Clerk  
Which?

03;33;09;28 - 03;33;23;13

Clerk  
Yeah. That's the two trees. And, this was the 12.

03;33;23;16 - 03;33;35;10

Gary Schmidt  
I may correct here and here, but actually 2011 should be the 12 and 2011 should be 2023.

03;33;35;13 - 03;33;48;06

Clerk  
Correct. So if you want to go ahead and ask 1120, 20.

03;33;48;08 - 03;33;55;02



Clerk

Is that right? This is.

03;33;55;04 - 03;33;58;23

Judge

Special you say so you have no objection to this okay.

03;33;58;23 - 03;34;05;12

Clerk

That'll be it. And there's a case to date. Got it.

03;34;05;15 - 03;34;07;28

Clerk

Yeah. So I mean.

03;34;08;00 - 03;34;32;24

Gary Schmidt

These are the developed code which other parties should have looked into the merits of the definitions. And if you look at the definition in 2023, all those arguments make sense because it says, parcel land. Parcel land means any units.

03;34;32;27 - 03;34;36;22

Gary Schmidt

You know. Yeah. You know what I mean. You have that state.

03;34;36;23 - 03;34;44;07

Clerk

And that's your own. And again, it's not there. Yeah. I don't have the.

03;34;44;10 - 03;34;54;18

Gary Schmidt

Versus 2020.

03;34;54;21 - 03;35;05;07

Gary Schmidt

Yeah. Personal land means any unit or contiguous units of land assigned a single parcel. Now.

03;35;05;09 - 03;35;09;26

Judge

What are you waiting for, Mr. Schmidt?

03;35;09;29 - 03;35;44;01

Gary Schmidt

That's the definition. And 2016. Let's talk about parcel. It just says, parcel land. Parcel land means any of or contiguous units of land in the possession of or recorded as the property of up to one person. There's no necessarily it doesn't address parcel numbers. Again, it's this. And if you look at Mr. Harbor's interpretation, he supports it.

03;35;44;04 - 03;36;18;10

Gary Schmidt

He's talking about structures now uses. But it's the same principle at that time up until 2016. The development code, like it or not, and have knowledge of it or not. And even those people, many people didn't. This came up because people weren't. People were making assumptions. They were going out there telling people they can't build their garage on that, on the unit, the land next to the other one, because it has to be on the same parcel number.

03;36;18;12 - 03;36;43;02

Gary Schmidt

It didn't. And the same principle applies to uses. This is up until 16. This is a parcel of land in the development code. The subsequent say something else. The state legislature. Different provisions. Say something else. A realtor may say something else. It's a common language you're saying. So some of the law has meaning, has words. I mean, the rule of law has effect and this is it.

03;36;43;04 - 03;37;17;18

Gary Schmidt

And that was the right to the came to the forefront. And 96 because and I was involved in it at the time and then from anytime from and eventually in 16 and it's 20 years later the county Cook County commission addressing this. But from the time period from 2006 1896 to 2016, if you had two contiguous pieces of land in your possession and to build your house on one of them and their garage on the other.

03;37;17;18 - 03;37;21;11

Judge

So you're saying it doesn't matter? Separate AP ends. It's all one parcel.

03;37;21;11 - 03;37;23;28

Gary Schmidt

And so it's defined, doesn't have time.

03;37;24;04 - 03;37;39;10

Judge

All that stuff is that it's totally okay. So I got to make sure that's it. You're saying it doesn't matter if you pay taxes. They have different apms. Yeah. Two contiguous pieces of land would be considered parcel. Their for what they're applying doesn't apply. You could go, okay, well.

03;37;39;10 - 03;37;49;28

Gary Schmidt

That's a law. You can go to Utah. I mean okay, that stuff is in Rome okay. You have you go there when you have no definition in code. Okay. You have a definition in code. That's what you have to use.

03;37;49;28 - 03;37;51;06

Judge

I am just okay.

03;37;51;08 - 03;37;56;16

Code Enforcement

This morning in the citizen testimony. This here that we don't need to go into circles.

03;37;56;21 - 03;38;10;16

Judge

I went, okay, now I'd like you to respond because this is his testimony. This is his turn. Yeah, yeah, I know you did preemptively, but now I'd like to hear a direct response to Mr. Kissinger. You're like an encyclopedia. And, Yeah.

03;38;10;21 - 03;38;36;00

Code Enforcement

Okay. Yeah, I understand the technical arguments. Thank you. And I'm willing to concede perhaps the definition prior to 2016 wasn't clear as it should have been. And that's why there was the need for interpretation. Right. And that interpretation that only applies to accessory structure of a garage. And that and the reasoning behind that was actually tied to the parking requirement to have a garage that was single family home, which you acknowledged earlier in this testimony, never really uses that.

03;38;36;07 - 03;39;01;03

Code Enforcement

That's all I can tell you. I've been work for the garage for 23 years, and we've never treated to parcels with separate parcel numbers as one piece of land, like, for example, setbacks, like there's other parts of the codes that apply to this situation other than, you know, what can be allowed as a use. You wouldn't consider these two parcels when someone came to build something as one complete unit for the purpose of setbacks, you would have setbacks.

03;39;01;03 - 03;39;12;28

Code Enforcement

For each parcel, you would have a minimum lot size for each lot, because you wouldn't have a legal lot unless you did that. And so I really I really think it's, it's it's a road really. I mean there's two sir.

03;39;12;28 - 03;39;13;27

Gary Schmidt

What do you do. You.

03;39;13;27 - 03;39;24;03

Judge

It's simple to Mr. Schmidt, there have been all these interpretations, you know, or misinterpretations, legal definitions of lots of parcels of contiguous pieces of land.

03;39;24;06 - 03;39;24;20

Code Enforcement

And then you.

03;39;24;20 - 03;39;25;22

Judge

Understand his argument.

03;39;25;22 - 03;39;44;13

Code Enforcement

Right? I understand his argument. But even if you buy that argument and you go to the grandfathering section, how does he prove that nothing, sits there for 12 months? I've got photos from 2011 to 2019. Burden. I showed it was not show, there was nothing there. So even if you went down that road, he he also can't prove that it didn't cease for a year.

03;39;44;15 - 03;40;07;10

Code Enforcement

But not that argument. But okay, so so the development code was someone ambiguous about what a parcel of land is, but that the legal definition of a parcel is established by the subdivision laws in the assessor's office, and whether it being taxed separately, if he's if he didn't pay, if he's paying taxes for just one of those parcels, and the assessor is saying, oh, you don't have to pay taxes on the other one, then I would buy that.

03;40;07;12 - 03;40;23;27

Code Enforcement

That's you. I mean, did the development code say whatever, 1 or 2 about a parcel of land that you have today? Legal ownership is legal ownership. And in a legal description is a legal description. Okay.

03;40;23;29 - 03;40;27;09

Judge

Okay. yes. They do have the burden of proof.

03;40;27;11 - 03;40;56;01

Gary Schmidt

They have the burden of proof. Yes. And the and additionally. I don't think it's ambiguous at all. It isn't is ambiguous. I didn't draft the code ladies or their predecessors. So you make it to be interpreted in my favor. Not that this is notice to me and everybody else when you buy property, if you change the interpretation in midstream, that's a taking.

03;40;56;03 - 03;40;56;26

Gary Schmidt

You cannot do.

03;40;56;26 - 03;40;59;09

Judge

That. Is it change midstream.

03;40;59;09 - 03;41;08;19

Gary Schmidt

So he acknowledged that it's ambiguous. That's all we need. If it's ambiguous, it's

interpreted in my favor. and.

03;41;08;21 - 03;41;23;14

Judge

Okay, so so you made your point as far as this this issue, you made your point. The good I do have other exhibits that you want in the record, and I think it's, quite something. Right.

03;41;23;16 - 03;41;30;29

Clerk

So.

03;41;31;01 - 03;41;37;09

Clerk

Get back to my.

03;41;37;12 - 03;41;40;01

Judge

And so, so I want you to have.

03;41;40;01 - 03;42;08;16

Gary Schmidt

All your we have a at least acknowledge at a minimum. And because I don't think it's ambiguous, I think it's it's clear, and, did you say you I think I think that, Mr. Harbor's interpretation supports that in that, it's, Mr. Harper, if you read this, it's not saying it's ambiguous.

03;42;08;18 - 03;42;10;21

Judge

Okay, I understand he is saying that.

03;42;10;21 - 03;42;14;16

Gary Schmidt

The county has failed. All right? It fails. So?

03;42;14;23 - 03;42;23;09

Judge

So the county is saying it does. It's not even applicable. It's saying it's not a quote, cultures or situations. The interpret it's for uses.

03;42;23;12 - 03;42;25;01

Gary Schmidt

No, it's not a definition.

03;42;25;03 - 03;42;26;07

Judge

It's defunct.

03;42;26;09 - 03;42;56;08

Gary Schmidt

It's it's all of the definition okay. The definition is applicable. I had to buy admission here and testimony continuous storage used. And during that time period up until 2016 and beyond. And so it was legal storage right there. Code section and their definition. You can't go any other place for a definition if they have a definition in the code.

03;42;56;10 - 03;43;15;16

Gary Schmidt

So that's as clear as can be established on that basic one eight principle, the law that's in a code section or in a body of law, if they have a definition, you can't go elsewhere for the definition. So we have the definition. And that's an.

03;43;15;16 - 03;43;16;22

Judge

Issue. We have two definitions.

03;43;16;22 - 03;43;17;13

Gary Schmidt

Let me point out.

03;43;17;13 - 03;43;20;20

Judge

That wait where are you looking at with what's right.

03;43;20;20 - 03;43;23;02

Gary Schmidt

There in 16. You know, it's you.

03;43;23;02 - 03;43;25;23

Judge

Know, so you're looking at Mr. Harper's definition.

03;43;25;26 - 03;43;57;02

Gary Schmidt

No, he's taking it out of code. And I've giving it to you in two in the exhibit. 12. That's the code section definition of, and that's from the code section. And, and part of it in 2016 six is exactly what he used. That's what he used. He's just he's not making that up for now. Out of out of thin air.

03;43;57;04 - 03;44;04;05

Gary Schmidt

He's citing the code.

03;44;04;08 - 03;44;04;19

Judge

Okay.

03;44;04;24 - 03;44;11;03

Gary Schmidt

He's citing the code right there. 110 902 15 that was partial land.

03;44;11;05 - 03;44;17;18

Clerk

And that's,

03;44;17;21 - 03;44;43;25

Gary Schmidt

That was the definition. And that's what we draw from him. Is that acknowledgment that that's the definition at that time. And I think we have testimony here from his mom. And, you know, that that definition didn't change how August of 2016, 20 years later, so so that's the relevant there. Okay. Definition. 16 1718 1920.

03;44;43;29 - 03;45;07;04

Judge

So, okay, I see it, Mr. Schmidt. I'm going to ask Mr. Basinger now looking at his exhibit 12, which is dated April of 2016. This is not Mr. Harper's or anything like that. Right. it's an entire parcel of land right across Oklahoma. It's any unit or contiguous units of land in the possession or recorded as the property of one person.

03;45;07;06 - 03;45;15;05

Judge

Right. So then going to 110 3 or 635.

03;45;15;08 - 03;45;25;18

Judge

And I continue by extension, no outdoor storage will occur on a vacant parcel without an existing principal use. Does that apply.

03;45;25;21 - 03;45;32;19

Code Enforcement

For, say, parcel lands or parcel?

03;45;32;21 - 03;45;35;01

Judge

And there's a distinction.

03;45;35;04 - 03;45;54;05

Code Enforcement

Apparently there's two different definitions in the code at the time. So yeah, there's a distinction. I'm just telling you that the way we've always implement regulations was for a parcel number. So now a developer can come in and have a bunch of different parcels and develop them all at one point and all at one time. And that's kind of what that started about there.

03;45;54;05 - 03;46;03;02

Code Enforcement

But it's there now. It doesn't mean that all those five different parcels or one parcel.

03;46;03;05 - 03;46;04;21  
Gary Schmidt  
Can continue, Your Honor.

03;46;04;23 - 03;46;17;16  
Code Enforcement

But any then I would just offer that. I believe that this property didn't have storage on it all the time, and it probably. And it didn't cease for the 12 months based on available was no offer. If you and if you accepted that argument and you can't prove otherwise either. He asked for.

03;46;17;18 - 03;46;19;03  
Judge  
Speculation on both sides.

03;46;19;03 - 03;46;39;19  
Code Enforcement

Yeah. I mean vehicle storage is what they use. It's for the RV that there's a specific definition for outdoor display for RV. The RV does not come up here. So after, so after 2017. So it wasn't like that RV or a RV has been on that property since 2011 and it's not vehicle storage. Again, we don't like vehicle storage.

03;46;39;19 - 03;46;54;26  
Code Enforcement

Again. There's definitions of that. And he did. It's not a garage. accessory use or to find use as I have vehicles on my property. It's this outdoor display that refers to recreational boats, motorcycles, personal watercraft, that that RV.

03;46;54;28 - 03;46;59;06  
Judge

That this argument that it should be considered one parcel.

03;46;59;09 - 03;47;15;22  
Code Enforcement

but it's not. If you were deciding to if he decided to build a proper house. So you can't have two houses on one person, are you getting a special use permit? He decided to build a house on 345. Maybe he wouldn't have to get a special use permit because it's two separate parcels. Two separate addresses? two single family dwellings on one person.

03;47;15;25 - 03;47;18;29  
Judge

Gotcha. All right, let's get the rest of it.

03;47;19;02 - 03;47;22;13  
Gary Schmidt

I admit that there might be some conflict, confusion.

03;47;22;15 - 03;47;23;07  
Judge



And ambiguity.

03;47;23;07 - 03;47;36;23

Gary Schmidt

Here. Obviously, there was an issue, but, I helped review and I was involved in, these other issues. Just because that's the way they did it. They charge \$0.50 for a single page for 30 years.

03;47;36;23 - 03;47;37;18

Judge

The way we've always been a.

03;47;37;18 - 03;47;40;25

Gary Schmidt

Legal standard. That's the way we've always done it. It's in the hands. Legal.

03;47;40;27 - 03;47;42;29

Judge

Yeah. Gotcha.

03;47;43;02 - 03;47;57;03

Gary Schmidt

and again, I would point out that, there are some changes. I mean, the law changed in 2016, and among other things that if you,

03;47;57;05 - 03;48;02;00

Clerk

Go to my house on a unit of land.

03;48;02;03 - 03;48;32;03

Gary Schmidt

And you buy the new the land next to it, maybe you ask the same person or whatever, and there's been no uses established on that unit of land. It was, by the generic definition, unoccupied, vacant. You can't establish a storage use on there without filing the restriction. You could still do it. Yeah. To five right now there's another change in 2000 which says sets us apart in 2000.

03;48;32;06 - 03;48;41;13

Gary Schmidt

Well, how the government works this they know there's an issue in 96. Okay. They didn't address it for two decades.

03;48;41;14 - 03;48;44;07

Judge

And Mr. Schmidt, you've made your point. Okay.

03;48;44;14 - 03;49;17;21

Gary Schmidt

Well, okay. Well, let me continue with them pointing out that it's any unit of contiguous, any unit or contiguous units of land in the possession or of or

recorded as a private contiguous unit. You can have ten units, you know, farm property that stretches three miles and you can store your tractor on the very end. One, because you have a primary use with the farmhouse, it can be two miles apart as long as they're contiguous units.

03;49;17;23 - 03;49;42;24

Gary Schmidt

And it says recorded as property. It says in the possession of or recorded. You don't even have to own that property. You can Lisa. You can have a BLM lease, a grazing right on it, and you can put your farmhouse here and you can put your, your, your store, your tractor in the next county. Maybe it depends on the county, but I mean farm even start ten miles away.

03;49;42;27 - 03;50;23;05

Gary Schmidt

So there is some other issues there. They corrected that or changed that in 2016. Also when they adopted the law in 2016, it's no longer says contiguous units. It's contiguous unit. So you can't have a series of units of land. And it also no longer says in your possession, it says it's owned by you. So they restricted it a little bit, you know, there and so they started addressing some things that they should address 20 years earlier because it was acknowledged there was some issue there.

03;50;23;07 - 03;50;49;17

Gary Schmidt

And, you know, there is an issue with yeah, I support what happened. There's an issue if you allow someone to build a house on one unit of land. And sorry about my farm, it'll start. and you build your garage on the next one legally, which you could do up until 2016. No restrictions. So now you go sell the block that has a garage.

03;50;49;17 - 03;51;18;23

Gary Schmidt

Then you have two problems. Number one is you've got a house that requires a garage because it's is say it's a house that requires a garage. So that becomes illegal maybe. Or it becomes non-conforming for sure, and maybe illegal. And then someone buys the other with the garage on it. So what do you do now? You tell the guy that's got the block that has a house, the garage only has to tear it down.

03;51;18;25 - 03;51;43;16

Gary Schmidt

And you say you sold that to two different people, and you tell the guy that's got the house, he has to build the garage, and then you get into all kinds of litigations. So I support the concept that clarify that when it comes to structures. But, you know, there's no need for a deed restriction because I have two contiguous pieces of property and I have a primary use.

03;51;43;16 - 03;52;19;23

Gary Schmidt

I want a house and have some storage on the contiguous piece, which at the time where my picture is, it is just the way that I lost it, which is was one parcel. So

even without filing the deed restriction, if I sell unit one, this is got some stuff on it. Now guess what I'm not. Granted the new owners are not grandfathered in because they're not owned by the same people anymore.

03;52;19;26 - 03;52;24;24

Gary Schmidt

So as a matter of law.

03;52;24;26 - 03;52;51;25

Gary Schmidt

This enters in here, buys the other property or Brian buys the other property. The other unit one, he can't store anything on there. You no need to do the intersection when it comes to storage, because as a matter of law, you know, it's it's now a illegal. It is. It's an illegal activity because you is you split the sheets.

03;52;51;25 - 03;53;18;00

Gary Schmidt

So they're not owned by the two people. So you can no longer. And I acknowledge that, that if I sell that property, the next guy can show anything on it. And you're not going to get into a lot of litigation there anyway because it's just a little storage stuff, you know, then it becomes similar to other issues in Gerlach and Sun Valley, etc., where people just own a piece of property, a unit of land and they put a lot of stuff on there.

03;53;18;02 - 03;53;40;20

Gary Schmidt

They can't do that. Well, if I were to sell this unit one, it'd be the same. It just me. That person would just want to. You do that. And he has so far. So the deed restriction it it's huge. It's meaningless. Only thing it does is, you know, put a red flag up. If I tried to tell my friend, well, what's this?

03;53;40;20 - 03;54;04;10

Gary Schmidt

You know that now or you know, etc. and the, the title company's got to pull it up and all that stuff, and it's a matter of principle. It's a matter of principle, the rule of law, the definition is this is the person. The definition is it was established, there was storage on there, and there's been no offer of proof of that storage of a recreational vehicle or a junk car or anything else.

03;54;04;10 - 03;54;32;19

Gary Schmidt

It's different than storage of two by fours or an appliance or bicycles. I mean, there's some references here. Bicycles don't have to be screen junk vehicles, which is what an unlicensed recreational vehicle, car, truck or anything is a junk vehicle by the code. And they can be stored there. Even now they just have to be screened. So the issue came up that true that the vehicle I have there have to be a recreational vehicle.

03;54;32;22 - 03;54;55;14

Gary Schmidt

I've got the title somewhere. But you know, the plates going off the thing, I'm searching for it. So in the meantime the investor copied him. I said, well, I'll just I'll screen. It looks fine. I'll leave screening there forever. If I find the title, I'm still going to leave it screen because I have one of the most. If you look at the pictures, what are the more attractive pieces of property in broad?

03;54;55;16 - 03;55;03;28

Gary Schmidt

and I like to screening. I might have done that as an issue anyway, might not screen the back or all around, but, you know, visible from the street, some.

03;55;03;28 - 03;55;05;24

Judge

Of the screen of the RV you're talking about.

03;55;05;27 - 03;55;08;15

Gary Schmidt

Yeah, yeah. Some of the pictures they took, which.

03;55;08;15 - 03;55;08;26

Judge

Is the.

03;55;09;00 - 03;55;29;08

Gary Schmidt

One that I took from the parking lot of the post office, and, I am not going to. Introduce into evidence, the, and I won't spend much time on this. Where are we at 13. Yes.

03;55;29;10 - 03;55;37;27

Clerk

And I'm not.

03;55;37;29 - 03;55;38;25

Clerk

And I guess just.

03;55;38;27 - 03;55;43;28

Gary Schmidt

As quickly as possible.

03;55;44;00 - 03;55;49;07

Clerk

And I'm going to at the same time.

03;55;49;09 - 03;55;57;21

Gary Schmidt

File a complaint and open court here. This is the picture of the girl at General Improvement District maintenance building.

03;55;57;27 - 03;55;58;29  
Code Enforcement  
Objection.

03;55;59;01 - 03;56;00;20  
Judge  
Okay. Hold on, Mr. Schmidt.

03;56;00;22 - 03;56;06;13  
Code Enforcement  
Hold on. I'm not talking about other properties you can contact. Well, I should be on my file. I should probably not go look at doing.

03;56;06;14 - 03;56;11;22  
Gary Schmidt  
But it's not the place her. Well, I've introduced it into evidence and it goes to dispatch.

03;56;11;24 - 03;56;12;13  
Code Enforcement  
Okay.

03;56;12;15 - 03;56;18;10  
Gary Schmidt  
Okay. Constant neighborhood standard. Okay. And it goes to now I'll introduce.

03;56;18;13 - 03;56;19;24  
Judge  
Okay. Wait wait, wait. Mr. Schmidt.

03;56;19;29 - 03;56;22;11  
Gary Schmidt  
14.

03;56;22;14 - 03;56;26;06  
Judge  
Okay.

03;56;26;08 - 03;56;58;27  
Judge  
I agree, as far as Mr. Schmidt, it is that is the guide. And you could file a complaint. I am going to admit it. I'm going to admit it and just give it away. Brian. There you go. I'm going to admit it. It will be part of the record, I think. Is it? Wait. Which was? I could consider it as much as what it was I want, but it's it will be part of the report as far as what else is going there, but, I'm not necessarily going to consider comparing.

03;56;58;29 - 03;57;01;15  
Gary Schmidt

If I may refer to exhibit 14.

03;57;01;20 - 03;57;02;08

Judge

Yeah.

03;57;02;11 - 03;57;04;23

Gary Schmidt

Which is enforcement procedures.

03;57;04;25 - 03;57;06;09

Judge

what what is this?

03;57;06;11 - 03;57;10;11

Gary Schmidt

it's other development. It's 110 nine, 1015 of development code.

03;57;10;14 - 03;57;12;13

Judge

Okay. Thank you.

03;57;12;16 - 03;57;18;28

Gary Schmidt

Going down to the that the emphasis was added, I think.

03;57;19;01 - 03;57;24;12

Gary Schmidt

Oral complaints may be made anonymously.

03;57;24;14 - 03;57;28;18

Judge

Okay. Well, let me let me read something. How about I read it to myself quickly?

03;57;28;25 - 03;57;35;29

Clerk

Okay. If I make.

03;57;36;01 - 03;57;42;09

Judge

Okay.

03;57;42;11 - 03;57;45;27

Gary Schmidt

We're ready. Okay.

03;57;46;00 - 03;57;46;22

Judge

And the issue.

03;57;46;22 - 03;57;53;06

Gary Schmidt

Is the 13 minute.

03;57;53;08 - 03;58;18;02

Gary Schmidt

There's been testimony here, and I have made various public records request. And this is policy that, again, is ignored. it says clearly here, county employees who observe or become aware of possible violations of the development regulations shall discuss the possible violation with the Director of Community development, which we have here today, and the director, services, the building, etc..

03;58;18;05 - 03;58;44;19

Gary Schmidt

it's county jail and their designee who may direct enforcement action. So I did a public request and I got no response back. Zero of anybody ever reporting a violation or an apparent violation in their normal travels around like in Gerlach. You'd have to bring at least 50 parcels in units of land in as potential violations. Certainly violations could there.

03;58;44;21 - 03;58;51;04

Gary Schmidt

And if by comparison it that's just that you did and you see the pictures of my property which were.

03;58;51;07 - 03;58;55;04

Judge

Okay and I'm not sure. Yeah I'm not. So I let it in the record.

03;58;55;05 - 03;59;00;25

Clerk

But yeah.

03;59;00;27 - 03;59;01;18

Clerk

And while I'm.

03;59;01;18 - 03;59;33;27

Gary Schmidt

On the record, I would like to make our official complaint about the Didn't properties, the ones cited here for code enforcement action. and I expect a report within a reasonable period of time and copies of that the investigation. okay. Continue back to this. There exhibits going back to page 34.

03;59;33;29 - 03;59;36;07

Clerk

So, part of the reason that I.

03;59;36;07 - 04;00;02;17

Gary Schmidt

Requested the extension, in the first, second, third, fourth paragraph, I read it in the record. I have not received all public records I requested related to this matter. And in fact, I have not had time to fully review the records. I just recently received. If you're not in agreement that there is full compliance at this time, please grant an additional extension of a minimum of 30 days.

04;00;02;19 - 04;00;22;01

Gary Schmidt

So that was another basis for requesting that extension. So as quickly as I can, well, on page 32, there's evidence of cooperation. I think it's been acknowledged. So I'll go by that.

04;00;22;04 - 04;00;42;23

Gary Schmidt

Ten on page 30 is my offer of a compromise. So, I say, however, I say the property has had a combined use, far before the deed restriction revision was added to the code.

04;00;42;25 - 04;01;10;29

Gary Schmidt

By Mike Harper. That's an action. There was an added 1060 and some 20 years ago. And therefore grandfathering is under the older provision that did not require a deed restriction. We have to substantial. But then I go on to say, however, a simple deed restriction, since we are not dealing with accessory structures at this time, only accessory uses is not a big issue, even though the property is grandfathered in without it.

04;01;11;01 - 04;01;41;06

Gary Schmidt

Maybe just a memorandum of understanding will make you happy in that regards. that a memorandum of understanding that I know that my uses are my use of storage is grandfathered in on that contiguous piece of property. But if I ever. So I know that grandfathering doesn't transfer to a new owner, because if you don't meet the criteria of.

04;01;41;08 - 04;02;14;00

Gary Schmidt

You know, common ownership of the contiguous properties that they're needed, it's actually that's just an application of law. But I was willing to sign a memorandum that I understand that portion of the law and that wouldn't be as detrimental or restrictive or, as would be the red flag on the property. page 29. That is an email, from me on November 7th, where I'm raising these issues.

04;02;14;00 - 04;02;45;13

Gary Schmidt

I raised the issue with the Board of Adjustment. I raised the issue of the grandfathering. make another public records request. going back now, here's, here's the Holy grail, if you would, on page 27, which is what we're here for and I don't I once may have convinced the court, but I don't think I've convinced it, Mr. Kissinger yet.



04;02;45;15 - 04;03;16;15

Gary Schmidt

I think he's partway there, where it says in the third paragraph, it says to me, in fact, prior to this section of code being added, that allowed an accessory use to the established contiguous property under the same ownership, with record for a federation of a deed restriction. No accessory uses were allowed on any parcel without first established use, regardless of ownership.

04;03;16;17 - 04;03;44;25

Gary Schmidt

Well, go back to the same thing. What's your definition of parcel? That's that's just the definition of parcel. In July of 2016 and in 2012 and in 1996 there's the definition of parcel. So this is a categorically false statement. And I tried several times to point that out, to no avail. and that says.

04;03;44;28 - 04;04;11;10

Gary Schmidt

It says this is not possible, that you have to establish a legal, non-conforming story cuz it wasn't allowed by previous code. It also have by this code there's my partial by the code definition. Now they may not like that that definition. And, Harper might not even like that definition, but Harper was at least to the point he acknowledges that's the law.

04;04;11;17 - 04;04;29;21

Gary Schmidt

Just because you don't like a law or definition within the law, doesn't mean you can ignore it and make your own up. It's just, this is so fundamental here, and I'm really passionate about it. And I apologize for it because sometimes I get a little loud. I am hard of hearing, so I probably don't care how loud I get.

04;04;29;24 - 04;05;10;04

Gary Schmidt

So I apologize that. But I'm very passionate about this as you could probably see. going further back, or on there, and on page 26, I state on November 14th. You know that, In 1957, 57, I went back to researchers in the 57 northern section you cited from 2013 claims are dictate that a primary use has to be on the same assessor's parcel as the accessory uses therein.

04;05;10;06 - 04;05;45;04

Gary Schmidt

I define that there's no evidence whatsoever that the primary use has to be on the same assessor parcel. It has to be on the same parcel as defined by the county code. The county, and that goes way back to 1957, actually back in 1957. They don't even say they don't even say it has to be on the same parcel, this parcel early on, I couldn't get into the 60s and 70s.

04;05;45;04 - 04;06;25;06

Gary Schmidt

I couldn't find that. But originally you couldn't have accessory uses unless you

had a primary use. That's all it said. It didn't have to on the same parcel in the same neighborhood. it it was, you know, to what was it? Maybe a little deficient or vague. That's got to be interpreted in that against the person that that drafted.

04;06;25;08 - 04;06;50;20

Gary Schmidt

And then again, on page 24, I point out, prior to the mid 1990s, there was no requirement whatsoever that, I can determine I've done the most research here for sure. and or by my recollection, required a secondary use or secondary accessory building. Anyone use or building for that matter, to be on the same numbered parcel and Mr. Primer the same point.

04;06;50;20 - 04;06;54;02

Gary Schmidt

But what I'm pointing is I pointed out time and time again.

04;06;54;05 - 04;06;55;01

Judge

Right.

04;06;55;03 - 04;07;02;13

Gary Schmidt

Now, I'll be done. Sure, I may.

04;07;02;15 - 04;07;25;06

Gary Schmidt

Well.

04;07;25;09 - 04;07;36;21

Gary Schmidt

So, Your Honor, I think that, there's only only so many times I could say yes and repeated. But it's so clear.

04;07;36;24 - 04;07;42;28

Clerk

As a matter of law, that.

04;07;43;01 - 04;08;12;07

Gary Schmidt

When there's a definition readily available in a code section, in a statute within the body itself. that's the definition to be used now, maybe the people that put that definition in there didn't have foresight. maybe they did. Maybe they thought it was reasonable. But actually, I think it's pretty reasonable, especially I think it's more reasonable when it comes to use uses is the structures I've made, my arguments that I see.

04;08;12;07 - 04;08;33;03

Gary Schmidt

There's some issue with the structure, because someone that buys a piece of property with a garage on it is not going to like the county. Come along, tell them

they have to tear it down or build a house. And you don't want that sort of litigation, but you don't have the issue with uses. It's just some stuff.

04;08;33;03 - 04;08;53;15

Gary Schmidt

There's not a cost factor involved there. You just move this to move the stuff off. but so I support the corrections that were made. But, I just think that by any reason other than that, there is my partial. There's.

04;08;53;18 - 04;08;56;06

Judge

Okay, there's my primary and and Mr..

04;08;56;08 - 04;09;21;08

Gary Schmidt

As grandfathered in how if I ever and there's been an offer of proof the proof is to the contrary. It's been every indication including my testimony that storage there has been continuous. I don't think there's been ten days without something on that property that let alone a year. the the I just a vehicle parked there for more than 72 hours of storage.

04;09;21;10 - 04;09;45;03

Gary Schmidt

there's vehicles all over that property. Some of them weren't probably weren't registered. but, I'm not sure how long they were there. And they may have been in violation because they weren't screened. That's not before you here today. Half the fleet residences in Gerlach have unregistered vehicles, not screen. So that's not the issue. The issue is clear.

04;09;45;05 - 04;09;59;25

Gary Schmidt

One last time, the definition of parcel, it's this and storage. And so the citation is.

04;09;59;27 - 04;10;02;27

Clerk

not relevant. okay.

04;10;02;29 - 04;10;35;08

Gary Schmidt

Not applicable. You have to use that definition of parcel, in which case I have the principal use on that parcel. well established to use a storage. The storage could continue until such time as I sell one of the that they don't have common ownership or tell such time as storage stops for a one year period. I think I have a one of the more attractive pieces of property.

04;10;35;11 - 04;10;36;14

Gary Schmidt

Okay, Mr. Schmidt.

04;10;36;14 - 04;10;46;22

Judge

I really think we're a rehash of things now. I wanted to allow you your time for closing. You made your point. Thank you, thank you. Last bite of the apple.

04;10;46;25 - 04;11;08;15

Code Enforcement

We've had. Two separate parcels. The use wasn't grandfathered in because that use was acquired prior to 2016. They made it the code to allow that use at that time for his own testimony that they changed the definition. And the RV in question arrived after they did that. So, I agree with him too. We don't want to say problems.

04;11;08;15 - 04;11;32;09

Code Enforcement

That's why the county, Board of County Commissioners decided to adopt this code to require the new restriction to prevent issues down the line of someone yourself when, the parcels, if there's continuous am I write code? I don't know that code enforcement on the books. For some reason, they decided to put this on the books. My job is to enforce it, not to, negotiated, mediate what can and can't be.

04;11;32;11 - 04;11;51;26

Code Enforcement

My job is to enforce what the elected officials have adopted. And in this case, I have. It is a two simple solution. So the next door or decide to keep restrictions, let's say we provide because it's not some big conspiracy where I have to get Mr. Schmidt a very simple process. I get it, it's a matter of principle and I get that.

04;11;51;29 - 04;12;15;11

Code Enforcement

But, you know, I, for my other cases I have where we're just like, everything's got to go, you know, it's. And this one is pretty, pretty simple solution in my case. You know, I'll just finish with, the concern about a red flag coming up on your your title that could easily be avoided if he, if he decides he wants to sell the property, you could you can move the RV off of there.

04;12;15;11 - 04;12;20;05

Code Enforcement

Prior to that. And then we would remove the restriction part. It was the year for sale.

04;12;20;08 - 04;12;24;03

Judge

Which we discussed at the outset here. That was my question is what does it mean?

04;12;24;08 - 04;12;25;26

Code Enforcement

Not necessarily. Yeah.

04;12;25;28 - 04;12;44;29

Judge

Right. And so we're back to the this is Mr. Schmidt. You know, it's a matter of principle. And also the thing. Right, is that as far as definitions, so this is the point. We haven't been together again in person for Walmart. We're done for demonstrate they get the last bite of the apple. So we're done. Mr.. Thank you.

04;12;45;01 - 04;13;07;28

Judge

I believe we have all our exhibits in order. I used to step away for a few minutes, consider it and, do the order. I think it's called more convenient if I leave than if you leave. So, that's what I'm going to do. And I have a lot of stuff here. if you just give me a couple of minutes, the other thing I could do is do it, and we can get it to you.

04;13;07;28 - 04;13;17;29

Judge

And everyone wants to take off, and I'll wait a few minutes. But that is our practice is to render a decision. if you're okay waiting a few more minutes, that's what I'll do.

04;13;18;01 - 04;13;19;04

Code Enforcement

Yeah. You could.

04;13;19;06 - 04;13;23;29

Judge

you could without doing a fiscal policy. All right. Thank you.

04;13;24;02 - 04;13;28;22

Clerk

Just give me a couple minutes.

04;13;28;25 - 04;13;32;01

Judge

Jotting down notes and stuff along the way so it shouldn't take too.

04;13;32;01 - 04;13;35;03

Judge

Well, I can.

04;13;35;05 - 04;13;47;10

Clerk

Okay. We are back on the record for to 2024 00001 WB I'll play 230127.

04;13;47;13 - 04;14;09;02

Judge

Thank you very much. couple of preliminary comments. And first, Mr. Schmidt, I want you to know I did read what you wrote, what you, what came through. and I want to address a couple of, a couple of things. I think we already touched on the Board of Adjustment issue. that's something I'd be interested in seeing how it's resolved.

04;14;09;04 - 04;14;35;20

Judge

You know, I, it's it's not a piece of the puzzle for me. I also want you to know, because you made reference to, those who were against you because you had filed litigation against Washoe County and all that, that none of us here have any knowledge of this. I know you, probably your name, too.

04;14;35;20 - 04;15;03;01

Judge

Reindeer lodge. and I respect the work that you've done. and some of what you outlined. bringing, possible, matters that may be big, to light and trying to get them corrected. So it's quite the opposite as far as the perception. And you should know that. Okay. Thank, And it's with some respect that I say that.

04;15;03;07 - 04;15;34;26

Judge

Thank you. And in this case as well. And was no one being else being a lawyer, in this room. I respect the work that you have done. It was extensive. we got there, and we have taken a while, and we have, you know, also that these are some of our longer cases. They're scheduled for an hour, just so you know, and, the county and I'd like to commend the staff at you, Justice Court and put that on the record, because they bent over backwards to make that work for us and to accommodate your request.

04;15;34;28 - 04;15;59;25

Judge

And hopefully that will lay the groundwork, for others who are uncomfortable, with technology. I agree with you personally, as far as, being given, talent and being put in a little conference room. I don't think that's ideal. And, so we will have these discussions and we will improve our process. with signage and things like that.

04;15;59;27 - 04;16;45;19

Judge

it doesn't happen overnight, and we don't flip switches, but, we are our aware, and we want to keep getting there. Yeah. In serving the public. so I know there was a lot of, discussion about, conspiracy and retaliation. likewise. I know, code enforcement is diligent, and I know that, that the enforcement officers, before I even get a glimpse of this thing, try to work with those, that may have crept over some of our laws and our and our definitions, and try and help them come into compliance.

04;16;45;21 - 04;16;49;18

Judge

and that they.

04;16;49;21 - 04;17;05;22

Judge

Really try to work with them and give them time. I know by the time I see it,

there's a lot of history there and trying to work with people coming into compliance. But they have a job. It's their job. And they don't go out looking, for infractions. It falls into their lap and then they have to do their job.

04;17;05;22 - 04;17;24;28

Judge

And there's so much discretion that they have. And I acknowledge that. I made the comment probably like Swift, like, Mr. Basinger. Right. He's an encyclopedia on these things. I believe that as well. And I respect that as well. And I go to him. and I know it's, adversarial, and I take it with a grain of salt.

04;17;25;00 - 04;17;52;05

Judge

but I listen, and, and I learn this is not my field of expertise. So I spent some time, with what was said to me. I do look at things. I don't reach a decision. I probably vacillate a little bit because you're very convincing. on both sides. my main focus, Mr. Schmidt, is that you get a full and fair hearing and that due process is afforded to you or any other citizen.

04;17;52;07 - 04;18;10;02

Judge

that appears before me in a and appears before us as a group. my colleagues. That is our goal. And, if that means we're going to go for hours, that means we're going to go for hours, because whatever happens as I'm going through this, I know you have the right to appeal. I will remind both of you again.

04;18;10;02 - 04;18;31;15

Judge

You've got 30 days from the day I made my decision, to appeal. I hope you get some recourse on some of these other issues I, I see and addressing my comments now to the matter at hand. It seems like things were working for a while, and, there was good communication and things I didn't know before.

04;18;31;17 - 04;18;56;01

Judge

Mr. Farmer had, favorable impression. And was that, you know, that you could work together, and there was communication until there wasn't. And there's a point. And, is that, pervasive? Is that a conspiracy? I don't believe it was, either. I think it was a point that he reached that he had to just move forward. I think there is a fundamental difference of opinion as to interpretation.

04;18;56;03 - 04;19;16;11

Judge

This is not a difficult case. This is a simple case, and I refer to it. You know, there's there's a nut. There's a part of it. and that's what is my part of it is deciding that what gets blown up. And you're right in you, I believe maybe, Mr. Singer might even agree with you with some things as far as interpretations.

04;19;16;11 - 04;20;00;21

Judge

And this is, is bad. And yet it does come down to a simple matter. so with the notes I dropped down is in, which is, you know, this is what I listen for. this respondent received due process. Was there an infraction? I know it's not that simple, but those are my two main things. Mr. Schmidt received an extension, and until there was testimony that was not, refuted, that, extensions were offered until Mr. Schmidt indicated that he was like he had a fundamental problem, with compliance and with the interpretation.

04;20;00;21 - 04;20;19;02

Judge

And so there wasn't going to be compliance. That's why it's a simple the right it's, you know, the deed restriction. And it's a matter of principle to you, Mr. Schmidt. or moving the RV. Yeah. And you weren't interested in doing that. And you have your good reasons for that. But you weren't interested at that point. Mr. farmer had to move forward.

04;20;19;02 - 04;20;19;20

Judge

And.

04;20;19;22 - 04;20;50;28

Judge

Do his job for the county. I find that, you know, after a walk down memory lane, definitions, history, practice. what is personal? What are contiguous slots? these are good examples, Mr. Schmidt, that you get that you give. And I'd be. I mean, that would be like a law review article as far as there are 50 contiguous slots and, you know, the barn is down the, the, the tractors at the other end or something like that.

04;20;51;00 - 04;21;14;10

Judge

but and I appreciate your passion about the whole of what I do. However fine you received due process and there is an infraction, in the most simple definition. the in may say the path of least resistance. I would love to brief this. We've already blown it up enough and and see if there is some clarification.

04;21;14;10 - 04;21;33;15

Judge

So this doesn't happen again. Is there some clarification of definitions. So no one has to go through what I mean? It was a pleasure listening to you all, but I know that you probably would have preferred to spend your four a half hours on a Friday in a different way, and we all have work to do. however, it was necessary to hear you, Mr. Schmidt.

04;21;33;21 - 04;21;55;19

Judge

And so, there was a good and clear record, no matter what was going to happen. I have, you know, the appreciate that it was, you know, wasn't grandfathered and or legal non conformance. I do agree that there were two accidents in two separate parcels. I'm going to come here. Oh. I'm sorry, I really couldn't hear me.



04;21;55;21 - 04;21;57;08

Gary Schmidt

I'm having a hard time hearing.

04;21;57;11 - 04;22;10;09

Judge

Okay, I'll try to speak up more. I thought it was. I'm. I'm finding in favor of the county. I feel that their burden, and that due process was up for it, and we're.

04;22;10;13 - 04;22;13;21

Gary Schmidt

All that. I just heard the word grandfathering, and I didn't hear.

04;22;13;24 - 04;22;35;17

Judge

Oh, I just said that it's it wasn't. It was, helpful, just to hear from his motion as well, although I think, probably Mr. Singer is in the firmer, more intimately aware with this, with this case. let's see if I had anything else. I kept jotting down, two. I just wanted to see how it was.

04;22;35;17 - 04;23;05;18

Judge

Reviewed it to aprns two separate parcels. legal definition of, a lot in a parcel. the 1996 interpretation doesn't apply. so I find that was that was proven, although I know you used it as a definition of lots and parcels. I think there's something to talk about. Look into here. However, that's my finding. So what that means, is, it is \$100 fine.

04;23;05;18 - 04;23;37;23

Judge

A \$50 administrative fee. pit, would give you. What are we, the this today? till the end of April. again, you can appeal with a 30 days of today. and I believe that is that if there are any other, negotiations, even after my order, you know, or any other. If there's something else you want to do.

04;23;37;26 - 04;23;44;18

Judge

I have jurisdiction. I have continuing jurisdiction. Mr. Basinger? Yes.

04;23;44;21 - 04;23;53;24

Chad Giesinger

Discipline of verification on the appeal period. the next stage would be the Board of Adjustment. And that's actually a 20 day window. The 30 days is if he wants to petition to court.

04;23;53;27 - 04;23;55;22

Judge

Right? Yeah. Okay. 30 days.

04;23;55;25 - 04;23;57;07

Chad Giesinger

So either he could do either or.

04;23;57;08 - 04;24;00;20

Judge

Okay. Thank you. Yeah. There you go.

04;24;00;22 - 04;24;06;07

Gary Schmidt

I want to request, specific findings of that in the order.

04;24;06;09 - 04;24;28;03

Judge

And I will show you what, I will try to do that. I have some room to do that. And, I will take that under submission in that matter. I will not, hand over a decision today. And so this clock doesn't start ticking today because that will give me a little more time to be more specific in my order.

04;24;28;05 - 04;24;29;04

Judge

Okay.

04;24;29;06 - 04;24;31;27

Gary Schmidt

Yes. And so the appeal period will start.

04;24;32;00 - 04;24;32;11

Judge

When you.

04;24;32;18 - 04;24;46;03

Gary Schmidt

Know it comes out. So when I your request findings of facts in regards to the definitions and then apply in regards to the findings of fact in your class, see the grandfathering form. No. Okay.

04;24;46;05 - 04;25;06;11

Judge

Nonconforming. Yeah. And I'm not going to I, I'm not going to get into a lot of the details. I'll fill out my order. I'll, I'll, and my findings are we have a thorough record which you will be able to request in attendance. And, we'll get this to you as soon as you can. Okay. And hopefully by Monday, if I'm not doing it today, I can work on that on the weekend.

04;25;06;13 - 04;25;07;27

Judge

Okay.

04;25;08;00 - 04;25;12;01

Gary Schmidt

So we're we're guessing that the written order will come up sometime next week.

04;25;12;03 - 04;25;26;27

Judge

Yes. One more thing. We actually have a, an order that we use as a standard, and it's sort of a. But if there's some room for me to write, if I feel I need additional space, I will take additional space.

04;25;27;00 - 04;25;31;01

Gary Schmidt

But, I got emailed out.

04;25;31;04 - 04;25;41;06

Judge

Yes, I will send it to you. I don't understand orders. I'll send it to you in your distributed system. Is that okay? Okay. Is email okay?

04;25;41;13 - 04;25;45;10

Gary Schmidt

Yeah. Well, I hard copy. May I also. Oh, we could do that.

04;25;45;13 - 04;26;03;18

Chad Giesinger

Okay. I'm not sure if this is an appeal, but we just. We have to have every hearing. if it doesn't come into compliance, are you putting a compliance? you know, by the DEA or whatever you're planning to order? That doesn't happen. So we can enforce to the property compliance or. So what is it that any kind.

04;26;03;18 - 04;26;10;29

Clerk

Of compliance wise that you, determine what you want us to do next, continue enforcement, go to the.

04;26;10;29 - 04;26;15;05

Chad Giesinger

Same warning or reconvene. What is how would you like to handle it?

04;26;15;08 - 04;26;23;14

Judge

That's there now. My understanding is it's it's you continue the process.

04;26;23;17 - 04;26;36;18

Chad Giesinger

It's every hearing officer is different. Yeah. That's that's why it's not a set. So it's a reason. So I'm saying this for convenience. I'm saying a criminal that's now. Right, right. It's do. Yeah. So that's why the records want to.

04;26;36;18 - 04;26;39;28

Judge

Just want to see we're not there yet, are we. You know she was second.

04;26;40;00 - 04;26;42;13

Chad Giesinger

Right. So the next step for us would be a second.

04;26;42;16 - 04;26;44;26

Judge

I would like to allow him time. Right.

04;26;44;29 - 04;26;58;03

Chad Giesinger

Right. So it's usually we give a timeframe. You say be defined by the state again. But if that weren't to happen, you know, we had to pass it to do that in order to reconvene some hearing officer to say we'll just pick up where.

04;26;58;03 - 04;27;05;22

Clerk

You left off in terms of enforcement procedure. This case of a second warning followed Guy, second penalty that is okay.

04;27;05;29 - 04;27;09;02

Judge

And the time frame on that would not would be more up to you.

04;27;09;02 - 04;27;16;11

Chad Giesinger

But we would start. So if you said he had 30 days to file the deed restriction or remove the RV, I would go after 30 days because.

04;27;16;11 - 04;27;19;10

Judge

Why is he done? Okay. The second. Okay.

04;27;19;12 - 04;27;25;06

Gary Schmidt

Your honor, I would unders I understand, or I would request that,

04;27;25;08 - 04;27;43;27

Chad Giesinger

You stay the order during the appeal. If the officers were saying if you were not to appeal, and I know you are, but in case something it didn't happen. We always wanted in order to what to do next. Right. So if he didn't appeal. Right. So obviously you send that message.

04;27;44;00 - 04;28;05;13

Judge

Yes. And if we didn't get that appeal. Right, right. Yeah. And I find I find that they are reasonable remedies. But I know that you are not inclined to do that. And I understand the reasons why. I will give you plenty of time. It will be stayed

automatically, pending your appeal. Okay. And I also will probably, build in some time anyway.

04;28;05;13 - 04;28;07;24

Chad Giesinger

Right. If we got no reason to deal with it.

04;28;07;26 - 04;28;09;13

Judge

Yeah.

04;28;09;15 - 04;28;17;17

Gary Schmidt

Okay. I was able to offer that the other side is unreasonable in their defiance with the following. The clear idea of what? Oh.

04;28;17;19 - 04;28;20;11

Judge

Okay. Well, we're not characterized.

04;28;20;11 - 04;28;22;06

Gary Schmidt

Who's being not reasonable or unreasonable?

04;28;22;08 - 04;28;43;21

Judge

I don't think anyone characterized, any. I don't think there was any remarks. In fact, there were only, positive words. there is nothing said about being unreasonable. Mr. Schmidt. Okay. but we're trying to figure out the specifics, so it's clear, as far as what you are to do and what they are to do. That's all we were discussing.

04;28;43;27 - 04;28;48;17

Judge

Okay. No. No one thinks you were being unreasonable.

04;28;48;20 - 04;28;54;06

Chad Giesinger

No one said that. My request. I read every hearing for every year I make that request.

04;28;54;09 - 04;28;57;19

Judge

Okeydoke. All right. Nice to meet you.

04;28;57;21 - 04;28;58;22

Gary Schmidt

Thank you.

04;28;58;24 - 04;29;18;01

Judge

So, just for the record, you signed. So I got an order. Okay. And I will take care of that. Yeah, I know, I know where you support that. Yeah, I know. I'll take care of it and I'll get back to you. Yeah. It's, I'll spend a little extra time on this side on this. Okay. Have a good weekend, everyone.

04;29;18;02 - 04;29;25;27

Judge

Thank you. All right. Thank you for your patience and for.

00;00;02;00 - 00;00;13;06

Clerk

We're case number one. You see H2024000001I feel like 2307 back on the.

00;00;13;06 - 00;00;34;23

Judge

Record after a long overdue break. I think we're about ready to wrap this up. I want to address, Mr. Schmidt, I know you have things to talk about. Other things like, you requested a hearing in front of the Board of Adjustment. I do not have the authority or jurisdiction to address this. That's something we're going to have to do in another venue.

00;00;34;25 - 00;01;04;26

Judge

And I know there are other grievances that you have that may be more appropriate in another venue. My focus is very narrow, and it's whether or not there's been a violation of these, these, code provisions. I do have some discretion on, when I make a decision, but I can't get into whether or not, you know, you should have been allowed to, make your presentation in front of the board, but just that that's not something we're going to spend time on today.

00;01;04;28 - 00;01;13;02

Judge

what? And when, what else? And I know you have a lot to talk about it, but I've read what you've written. what else would you like to present?

00;01;13;04 - 00;01;53;16

Gary Schmidt

Well, I think the Board of Adjustment is relevant. It's on my appeal that I filed before this body, and it's tangentially relevant because I was granted a 30 day extension, and then I requested another 30 day extension on December 4th. And in that dialog, in the email exchange, You know, and I said it's not granted, I wish to appeal that decision before the Board of Adjustment, which is by legal authority.

00;01;53;16 - 00;02;21;28

Gary Schmidt

I can do, if I might just, Briefly read into the record and bear with me, because I think I can dispense with this board of adjustment stuff, which could take an hour or two all by itself. But, if I get some, offer approved submissions here before we're going to focus down, then we don't have to.

00;02;21;28 - 00;03;10;21

Gary Schmidt

But I would like to read into the record and submit it. But the board is the state statute. for the Board of Adjustment says in part, any person aggrieved, by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning code, clearly did me there was a decision made by an officer in the administration of the zoning code not to grant me a 30 day extension, and I put that application in and it was

sent back to me.

00;03;10;24 - 00;03;43;02

Gary Schmidt

So if we can dispense with the issue of there was it in that period, there was one panel of screening on this recreational vehicle which they took a picture up, put it on a record, and, and the and it said that it was not properly screened while the screening was off to the side, because I was doing some work there and was actually he was changing the screening to be color consistent, you know, and doing some work to it.

00;03;43;04 - 00;04;12;08

Gary Schmidt

But, if we can all agree that that issue goes away and it's the only issue before this court here today is whether or not there was a legal, conforming use of storage prior to, you know, August of 2016, and that incidental alleged violation. And that's time I received I asked for the extension on December 4th.

00;04;12;11 - 00;04;37;03

Gary Schmidt

They apparently took a picture that afternoon. I the emails will show that, on the that there was a meeting, in the hallway after county commission meeting where Mitch Moreland was there and had a conversation. She said sort things, and I asked her, you need to look into this. And I told her what the issues were and I haven't gotten through the yet, and nobody's really looked at it.

00;04;37;05 - 00;05;10;19

Gary Schmidt

But, the, if that issue, then what happened was, I shared another email, I think on the 20th, on the 19th, I got an email saying that, I was going to be cited on the 20th. I responded, say, well, what happened to my request for an extension? I haven't even answered it. And then I go to my mailbox and I have this not going to be cited.

00;05;10;19 - 00;05;37;23

Gary Schmidt

I was cited on the 12th. So while I had a request for an extension and I received the citation, and it was based on an old picture because that screening was up at that point in time. So it goes on with, you know, process if you would. but it's that issue of this if everybody can acknowledge it's now properly screened, the only issue is whether or not the grandfathering of the use in general.

00;05;37;25 - 00;05;48;27

Gary Schmidt

And I can, you know, not I'm satisfied with not addressing all the failings and the denial.

00;05;49;00 - 00;05;50;02

Code Enforcement

of my rights to.



00;05;50;02 - 00;06;00;04

Gary Schmidt

Appeal, because my, my assertion is that that denial of the extension was appealed to the board of the judge. Okay. And I can go.

00;06;00;04 - 00;06;00;15

Judge

To the board.

00;06;00;15 - 00;06;01;13

Gary Schmidt

Okay. That was.

00;06;01;13 - 00;06;09;17

Judge

Denied. Mr.. Mr.. Schmidt, I get your point. the code I.

00;06;09;19 - 00;06;30;01

Code Enforcement

I can respond to as stated. So, for chapter 125, the enforcement official may extend this time frame at the official discretion to provide additional time to complete acts required to comply with the code. So it's my discretion to offer an extension. I didn't give you the first one. the second extension? He asked Chad on the fourth.

00;06;30;04 - 00;06;45;26

Code Enforcement

The complaint date was the 12th. It was actually you accurate when I was there. And like I previously indicated, he wouldn't have got it because he didn't want to follow that. Yeah, he would like a 30 day extension to either move the RV or file new restriction. I'd be happy to grant to you right now, I don't think it's gonna be the case.

00;06;45;28 - 00;06;55;07

Code Enforcement

as far as the screen, we've already conceded the outdoor storage violations program 50. The chapter 50 cases have. We've already made that clear.

00;06;55;10 - 00;07;08;13

Judge

It's in. Let me ask you first, Mr. Premier, because I have a copy of the proposed order that's included, and that includes, WCC 5308. So that is no longer in place, right?

00;07;08;13 - 00;07;13;28

Code Enforcement

So when I said it, I didn't feel it was proper screening in consultation with Chad because I was like, no, that's great. We're good at that.

00;07;14;04 - 00;07;14;15

Judge

Okay.

00;07;14;15 - 00;07;19;19

Code Enforcement

So so that I just leave and you can you can dismiss that question, okay. It's all about the deed restriction.

00;07;19;20 - 00;07;20;16

Judge

There you go, Mr. Schmidt.

00;07;20;16 - 00;07;21;24

Gary Schmidt

So that's.

00;07;21;29 - 00;07;26;14

Judge

That. Okay. That checks that box. Mr. Farmer, just what.

00;07;26;15 - 00;07;29;02

Gary Schmidt

I would like to discuss it here, but there's.

00;07;29;02 - 00;07;32;16

Judge

So much we could talk about. Right? I know it's,

00;07;32;18 - 00;07;35;25

Gary Schmidt

It's it's that we define for. Yes, a decade and a half.

00;07;35;28 - 00;07;56;02

Judge

And there are other again, if I had one and I could take care of everything at once, I would do it good. I can't, I don't have that authority. so we're, back to 110. We are six £0.35. Mr. Farmer just threw out an offer of a 30 day extension there. I don't know if you'd be interested in that if that were the case.

00;07;56;09 - 00;07;56;17

Judge

I mean.

00;07;56;17 - 00;08;00;10

Gary Schmidt

That's no, I mean, the issue is here, I don't I don't, you.

00;08;00;13 - 00;08;22;09

Judge

Know, listen to me. Yeah. Okay. Because I could do things I could order. Maybe I can make a decision. And when I step out of here in ten minutes, one way or the other, either, so I can appeal that we have an amazing record. I could order mediation. I could, order status, hearings, to see if you're conforming or not.

00;08;22;09 - 00;08;46;16

Judge

There. I have some tools at my discretion. He just offer 30 days right now. If that was the case, I would not reach a decision today. I would set up, after all this. Yes. After all this. if you were, interested in that, I would set up a status hearing and I would not fill out an order.

00;08;46;18 - 00;08;49;19

Judge

that's what he just did. You need to respond to that.

00;08;49;21 - 00;08;52;10

Gary Schmidt

Your honor. It's. The evidence is clear on the record.

00;08;52;10 - 00;08;52;24

Code Enforcement

That.

00;08;52;26 - 00;08;53;21

Judge

You're not.

00;08;53;23 - 00;09;01;23

Gary Schmidt

Performing. You okay? No, no, there's no reason for that issue has to be settled, either here or at the Board of Adjustment or at the county commission.

00;09;01;25 - 00;09;17;11

Judge

I, I don't disagree with you, but that what's on my plate today is, is very narrow. And he made an offer to you. I need to know whether you're interested or you rejected.

00;09;17;14 - 00;09;18;21

Gary Schmidt

It so.

00;09;18;23 - 00;09;19;27

Judge

I I we.

00;09;19;29 - 00;09;21;15

Gary Schmidt

Waste of the court's time.

00;09;21;18 - 00;09;26;07

Judge

Well, I may agree with that too, but there it is. He made the offer to you.

00;09;26;08 - 00;09;37;29

Gary Schmidt

Be back here in 30 days arguing the same thing. I am not going to file a restriction. And that's it. Nevada State Supreme Court tells me I must, and I.

00;09;38;01 - 00;09;46;27

Judge

Okay, so so no thank you, sir. No thank you to the 30 day extension which. No.

00;09;46;29 - 00;10;02;16

Code Enforcement

No. Okay. We also agree that you cannot guarantee next door to this property with the different parcel number 071281-023 35 Main Street. The one that has the establishes late. Because that's the contiguous parcel.

00;10;02;16 - 00;10;05;28

Judge

The one I want to I want to follow this so he can move.

00;10;06;04 - 00;10;08;03

Code Enforcement

See this. See this. We talked about this is the continuum.

00;10;08;03 - 00;10;09;07

Judge

What age are we looking at.

00;10;09;07 - 00;10;16;12

Code Enforcement

If you at the front page. All right. So the one north of it with the cars stored in the house ends in oh two.

00;10;16;19 - 00;10;17;07

Judge

Yes.

00;10;17;09 - 00;10;24;20

Code Enforcement

That's the contiguous parcel. That's the parcel. That's 335 Main Street that has the establish use with the single family dwelling.

00;10;24;22 - 00;10;25;09

Gary Schmidt

He can move the.

00;10;25;09 - 00;10;40;01

Code Enforcement

RV right there. In fact, he's moved a lot of the bikes over there. They got a six foot fence so he can have the outdoor storage of the nuisance code one because the six foot fence resolves that. So that passes, right? Because he moved everything over there. It has six a fence. It has the allowed access reasons. Right.

00;10;40;02 - 00;10;41;00

Code Enforcement

So he can go.

00;10;41;02 - 00;10;42;14

Judge

There and no deed restriction.

00;10;42;14 - 00;10;42;25

Code Enforcement

Right.

00;10;43;01 - 00;11;00;10

Judge

All right. So there are other options. So you reject it. The 30 day extension at this point, you could move an RV over to your other parcel. You'd be done. Which doesn't mean your, your your quest would be over of Mr. Schmidt, as far as trying to.

00;11;00;12 - 00;11;00;20

Gary Schmidt

Merge.

00;11;00;25 - 00;11;01;20

Judge

The fix, which is.

00;11;01;20 - 00;11;07;11

Gary Schmidt

Not to the point. What the why we're here, I understand that I can also sell all my property and move to Texas, but that's not.

00;11;07;11 - 00;11;09;25

Judge

Right. I just there there are options.

00;11;09;25 - 00;11;11;16

Gary Schmidt

Not in the interest of justice.

00;11;11;19 - 00;11;24;02

Judge

Or the rule of law. What I'm saying is, it doesn't mean you'd have to, stop trying

to clarify this. The the any of those appeals would, you know, if you wanted it to go?

00;11;24;03 - 00;11;29;26

Gary Schmidt

It's this process, this snowball starting down the hill. Okay. Going to be stopped.

00;11;29;28 - 00;11;34;01

Judge

Okay. So you don't want to you don't want to accept that offer of moving to your other parts?

00;11;34;03 - 00;11;44;03

Gary Schmidt

Well, I could make an offer that they could withdraw the, their complaints and acknowledge that I have legal, non-conforming use. That's my offer.

00;11;44;05 - 00;11;45;27

Judge

Okay? I just want to make sure you understand.

00;11;45;29 - 00;11;55;28

Gary Schmidt

Make it further, and I will pledge here not to sue them. Those two individually. It's. That's my all.

00;11;56;00 - 00;12;05;26

Judge

Okay, so, you know, we're going to go to decision today there. Okay. Thank you. From.

00;12;05;29 - 00;12;29;28

Judge

All right. So, we disposed of a few issues there, Mr. Schmidt, of, matters that are, as I say above my pay grade. is there anything else with this issue? I think I've got it. I understand the issues. I think we made a good record. Is there anything else that you need?

00;12;30;00 - 00;12;31;28

Gary Schmidt

Yeah, I have a whole case to present here.

00;12;32;00 - 00;12;48;16

Judge

Well, the Board of Adjustment was one which I can address. That doesn't mean that you can't pursue it. just because I can't fix it for you. What's another issue?

00;12;48;18 - 00;13;23;02

Gary Schmidt

The repeated referrals to the applicable definition. And, I'll have to just go

through it here. and give my testimony. I just basically got substantiate the evidence I've already given that there are more references there.

00;13;23;04 - 00;13;25;03

Gary Schmidt  
And I appreciate.

00;13;25;05 - 00;13;30;23

Judge  
I was going to ask you what else other than that, I want to know what I'm looking at here for staff and and.

00;13;30;23 - 00;13;32;05

Gary Schmidt  
Resources.

00;13;32;08 - 00;13;36;16

Judge  
What else are we looking at? So you're going to go through some definitions now to support. Yes.

00;13;36;21 - 00;13;41;17

Gary Schmidt  
There's a there's other references in here that support.

00;13;41;23 - 00;13;44;12

Judge  
You know what else I could do. My hours and I could just do this.

00;13;44;14 - 00;13;45;14

Gary Schmidt  
This is one person.

00;13;45;16 - 00;13;58;04

Judge  
You know what else I can do is I could order briefing. I could order a briefing. So we are, that you could brief it, before I reach a decision? I have the authority and discretion to order.

00;13;58;06 - 00;13;59;28

Gary Schmidt  
well, I would like to complete my case.

00;13;59;28 - 00;14;00;20

Judge  
Yeah.

00;14;00;23 - 00;14;05;21

Gary Schmidt  
So I'll go through as quick as I can with absolute discretion.

00;14;05;26 - 00;14;06;09

Judge

Okay.

00;14;06;14 - 00;14;06;24

Gary Schmidt

A lot of.

00;14;06;24 - 00;14;16;28

Judge

Things. Okay? Okay.

00;14;17;00 - 00;14;21;04

Judge

Let me ask, is this.

00;14;21;06 - 00;14;40;07

Gary Schmidt

For the record, Derek Schmidt is giving testimony today on page 39 of the petitioner's exhibit, which is the interpretation, by Mark Harper.

00;14;40;10 - 00;14;52;22

Gary Schmidt

In 1996, Let me say that I knew my Carver.

00;14;52;25 - 00;15;18;18

Gary Schmidt

Quite well. And I was involved in this interpretation. And part of the reason this interpretation was created, because I brought up the issue to the county, as I brought up numerous issues over decades, a half a century where they were basically just doing something because that's the way we do it. So that's just the way it is. My mind's made up.

00;15;18;18 - 00;15;47;11

Gary Schmidt

Don't confuse us with facts. You know, this fall in line and you know, follow the sheep in front of you. and I make one reference to it as far as Kobe Bryant cross. And this was another one. I was the longtime owner of the Reindeer Lodge Reindeer Lodges on five parcels of property. This one mailbox, 9000 Melrose Highway, the mailboxes five miles down the road because I half a century ago.

00;15;47;14 - 00;16;16;13

Gary Schmidt

Yeah. They when I bought those last, they didn't deliver mail past the tree line. and I brought this issue up because they challenged me about my business license. It's a similar issue that. Well, with your business license says 9000 Mountain Ridge Highway. They look at the census records and, you know, there's one main parcel here, and that's where the building was.



00;16;16;13 - 00;16;39;03

Gary Schmidt

And so you don't have any accessory uses. Other I have snowmobile rentals, I have horseback riding, I have softball games, I have flea markets all license active. You know, grandfathered activities. Some of them, and by septic system is on a different parcel by leech line, actually one on a parcel, not even mine. It went under the neighbors parcel.

00;16;39;10 - 00;16;44;19

Judge

Actually, I, I very interested. I wrote the reindeer Lodge, but we have to get to it. Okay.

00;16;44;19 - 00;17;19;17

Gary Schmidt

Oh, my point is, I'm intimately familiar with this installation. I was involved, I was a big part of why it was drafted. And it says right in here, granted, this address accessory structures because I had. Accessory buildings. Yeah. If I had my septic system and my propane tank was on a different deal, and that raised the issue. And so my carport got involved in this.

00;17;19;19 - 00;17;47;27

Gary Schmidt

And he looked at the wall, he read the definitions and lost it. You know, I think he might have known ahead of time, but he wasn't aware of the issue. And he read, yeah, a parcel is to continue to center while ownership. I have five contiguous parcels at the Reindeer Lodge, and all those complaints about that business license went away because of this, because the point of this, and some other issues came up.

00;17;47;27 - 00;18;12;06

Gary Schmidt

The garages, people had two pieces of property, two units of land side by side under the same ownership, and they built their house on one. And the house required a garage, and they built the garage on the other, and it was allowed to do uncommonly. There's all over the county, but somebody brought the issue up.

00;18;12;06 - 00;18;12;29

Code Enforcement

So you can't do.

00;18;12;29 - 00;18;45;01

Gary Schmidt

That because it says outdoor storage on. They got no out there. Storage shall occur on a vacant parcel with an existing use. That's what they cite here. But there's a similar citation that that you cannot build an accessory structure on a separate parcel of land, that the parcel land you cannot build a garage on a parcel of land without a primary use.

00;18;45;05 - 00;19;26;23

Gary Schmidt

It's the same argument. and that was a heavy argument. There were some people involved. You talked about a lot of money, you know, 30, 40, \$50,000 structure here. We're just talking about stuff that are more so. And so this this addressed that. But the underlying principle is the same because in here on the one, two, three and within the fourth paragraph it says parcel land is defined as any unit or contiguous units of land in the possession or recorded as the property of one person.

00;19;26;25 - 00;19;57;19

Judge

So I ask you a question in the middle. Yes, of your presentation, Mr. Schmidt, because Miss Mullins was pretty clear that, yes, this was the interpretation, but it was it doesn't apply anymore because of the 2016 amendment. So we could look at the, you know, Mr. Harper's interpretation forever. But why, if it doesn't apply anymore? Is that correct, gentlemen?

00;19;57;19 - 00;20;22;01

Gary Schmidt

Over here. But he's just pointing out the definition that was relevant to when I bought the land. Okay, I we should legal uses. I establish legal usage because the definition of parcel was here and the definition didn't change. It says on a parcel, unless you have a primary use. On my personal land, I have a primary use. So the storage was a legal use.

00;20;22;03 - 00;21;12;16

Gary Schmidt

So, had I, bought these properties, had there been no storage on unit number one? Prior to 2016. Then they adopted the code section and then I started the storage. You could do that. You could do it, but you'd have to file a deed restriction. Or another example, if I only owned unit two of land and 2020, I bought unit one of land, then I'd have to file a deed restriction because these the provisions of having to file a deed restriction only became relevant to a new issue.

00;21;12;17 - 00;21;24;15

Gary Schmidt

You can't there's no ex post ex post facto application here. e again and I was

00;21;24;17 - 00;21;52;08

Gary Schmidt

I think I submitted for the record that the definition of grandfathered is that, I've already established a legal use. I'm search under this definition. the definition clearly up until 2015, that that was a parcel of land. And the code section at that time says that the parcel must have its primary use. I have a primary use on that parcel of land.

00;21;52;10 - 00;22;23;17

Gary Schmidt

So that's legal storage. So once they change the code, it becomes legal nonconforming. It's no longer conforming because I haven't found the dealership,

but it's still legal as long as it doesn't stop for a 12 month period. That's a standard grandfathering rules. And I think the petitioner has acknowledged that. Have I established a legal use of storage prior to 2016?

00;22;23;19 - 00;22;30;08

Gary Schmidt

There have been arguments. The whole question is whether I established the legal use prior to that.

00;22;30;12 - 00;22;33;19

Judge

And then we'll ask you, Mr. Kissinger, to respond to this correctly.

00;22;33;21 - 00;22;35;01

Gary Schmidt

I just I it's a quick question.

00;22;35;04 - 00;22;43;05

Code Enforcement

What primary use to establish on that parcel. And I'm talking about the house. Right. That means.

00;22;43;10 - 00;22;43;26

Gary Schmidt

The house right.

00;22;43;26 - 00;23;04;12

Code Enforcement

There. You said okay. You say establish the primary use on 335 Main Street. No parcel seven one dash, 21 dash. Okay, so you didn't establish a primary use on 345 Main Street? No. Stand that you own properties, but they're both recorded separately. They both have the same addresses and they're only partially.

00;23;04;20 - 00;23;14;01

Gary Schmidt

Yeah. No, this is informal, but I'll continue because hopefully I can get through to somebody here. Yeah, but the thing is it's a parcel. The code section.

00;23;14;02 - 00;23;14;29

Judge

Okay. So it's not the.

00;23;14;29 - 00;23;16;13

Gary Schmidt

Primary use on the parcel that's.

00;23;16;13 - 00;23;24;16

Code Enforcement

On the right. We're not sure a penalty for that parcel. We didn't. The primary use is on 335 main John. 345.

00;23;24;17 - 00;23;30;09

Judge

I think that's clear. I think what Mr. Schmidt is saying is the definitions of lots and parcels.

00;23;30;11 - 00;23;33;01

Gary Schmidt

Change in the nature he provided.

00;23;33;01 - 00;23;44;09

Code Enforcement

A partial definition starts with dot dot, dot any. And it's a continuous use that we're in possession of recorded as a property. But as to the separate operations there's two separate addresses, two separate parcels.

00;23;44;09 - 00;23;45;05

Gary Schmidt

Because the fields house.

00;23;45;06 - 00;23;48;24

Judge

Next to each other. And you're saying it should be interpreted as the same and it has to.

00;23;48;24 - 00;23;52;27

Gary Schmidt

Quote, it's irrelevant what the addresses are or what the assessor's parcel.

00;23;52;27 - 00;23;54;02

Judge

Numbers are. I just want to make.

00;23;54;02 - 00;24;23;22

Gary Schmidt

Sure to you is units of land defined as one portion. And that's basically the principle. This establishes this interpretation. He's saying the same thing. He's talking about purposes. Right. Yes. But and and the, it's clear if you read this interpretation that there's been some testimony here that, prior to 2016, you couldn't build a garage on this contiguous unit of land.

00;24;23;24 - 00;24;39;07

Gary Schmidt

That you had common ownership to, etc., that the garage and house have to be on the same assessor's parcel number. And that's not true with this? No. It's saying that you can't do it. You couldn't do it up until that point and you could continue to do it.

00;24;39;07 - 00;24;41;08

Judge

Okay. Response.

00;24;41;13 - 00;24;57;29

Code Enforcement

What I said is use a use and the storage is a use. The interpretation only referred to a garage. And so that is correct. There we were allowing people to build a garage, ironically to you as part of the same ownership but not uses. And that's what we do at the moment when.

00;24;58;05 - 00;25;00;22

Judge

You're testing and we have a use a garage. Yes.

00;25;00;25 - 00;25;07;14

Code Enforcement

Because exactly. And if you have standalone storage, by the way, that's becomes a commercial use.

00;25;07;16 - 00;25;11;05

Judge

What is this anyway? It's so this is just an RV park, sir.

00;25;11;12 - 00;25;28;00

Code Enforcement

No, it's just it's just the RV. It's just an RV now. Right. But the code basically says the RV is associated with recreational use. It doesn't say you can establish if you get the parking lot right. That's stories about vehicles that bother commercial for that. But since it is an RV doesn't have.

00;25;28;00 - 00;25;30;02

Gary Schmidt

To have an RV grade, it just.

00;25;30;02 - 00;25;41;20

Judge

Has to be researched, right? No, I know we're circling back, right? Yeah. but I think Mr. Schmidt's point is it's the definition of a lot to you is the point.

00;25;41;22 - 00;25;42;24

Code Enforcement

We just disagree.

00;25;42;26 - 00;25;49;12

Judge

And that's what I'd like you to, to address. So my understanding to get down to it is I'm ready to get down to it. Mr.. No. You're fine.

00;25;49;14 - 00;26;13;15

Gary Schmidt

I acknowledge that this interpretation deals principally with structures, and we're

not dealing with a structure. All right. I'm using it in evidence because it documents the definition at the time. Part of the definition at the time is relevant to other things, like the establishment of the legal use of storage.

00;26;13;15 - 00;26;14;28

Judge

The definition of which.

00;26;15;02 - 00;26;31;01

Gary Schmidt

A parcel of land of a person, the definition of parcel land. That's the important, relevant part of this is he points out, and I also can submit to the evidence here.

00;26;31;03 - 00;26;32;24

Code Enforcement

May be beneficial for the.

00;26;32;24 - 00;26;35;03

Gary Schmidt

Court to know also the culture at.

00;26;35;05 - 00;26;39;28

Judge

The clinic, because I really want to get to this now, Mr. Schmidt. So I'm going to ping pong back and forth. Go ahead. Mr..

00;26;39;28 - 00;26;41;18

Gary Schmidt

History. Okay. So I'm let's.

00;26;41;18 - 00;26;42;23

Judge

See. Wait one second.

00;26;42;26 - 00;26;43;28

Gary Schmidt

I'm right here is the.

00;26;43;28 - 00;27;17;21

Code Enforcement

Context in which these definitions existed. At the time, the assessor's office had a procedure whereby you could claim that you could combine two parcels into one, and then they would put a dotted line between the two because they wanted to be assessed as one parcel. Okay. They didn't want to pay taxes on two separate parcels. So at one point in time, back in the day, you would see an ATM map that had one parcel and a dotted line through the middle, and they would say one half was a lot, one one half was lot two.

00;27;17;23 - 00;27;43;02

Code Enforcement

And so some of this language was memorializing that reality at the time. But but it was still one parcel, was still one legal parcel with a parcel number and one address. Then they could remove that dotted line at a certain point and make it two crossings without having to go through the subdivision of the process. The assessor no longer does that, but that's just to give you some background on the context of this discussion of lots and contiguous ness and so on.

00;27;43;05 - 00;28;02;17

Code Enforcement

But the bottom line is, is that this is a parcel is a distinct it has its own identification number. You're paying property taxes the whole time on these parcels for both parcels. Correct. So so they've been to separate parcels.

00;28;02;19 - 00;28;03;21

Code Enforcement

And I.

00;28;03;24 - 00;28;03;29

Judge

Yeah.

00;28;04;00 - 00;28;06;22

Gary Schmidt

Mr. Williams here we go again.

00;28;06;24 - 00;28;07;05

Judge

Okay.

00;28;07;10 - 00;28;09;27

Gary Schmidt

We're talking apples and oranges okay.

00;28;09;27 - 00;28;15;02

Judge

Mr. Schmidt, do we have two tins? Is this a new Newton? Just to keep things clear.

00;28;15;04 - 00;28;16;17

Gary Schmidt

This is a new what?

00;28;16;19 - 00;28;19;00

Judge

I think we only have an exhibit ten.

00;28;19;02 - 00;28;21;11

Gary Schmidt

That's an exhibit for me.

00;28;21;13 - 00;28;23;11

Judge

This is it. So this would be 11. It would.

00;28;23;11 - 00;28;27;11

Gary Schmidt

Be one. I have ten and 11. They're different.

00;28;27;13 - 00;28;30;26

Judge

Hold on, Mr. Schmidt. I think you might have done a ten.

00;28;30;29 - 00;28;32;23

Code Enforcement

At one point for purchasing.

00;28;32;26 - 00;28;38;01

Judge

Yes. Okay. We already have an exhibit ten for me. So it's an 11 and 12.

00;28;38;03 - 00;28;40;09

Gary Schmidt

Okay. Have we just.

00;28;40;11 - 00;28;48;08

Judge

Yeah. So this is new. This is 12. Okay.

00;28;48;11 - 00;29;07;02

Gary Schmidt

Yeah. If I continue what's the assessor? How he defines a parcel. It's totally irrelevant here. What the center does is totally irrelevant. We're talking about the developer because Nevada read revised statutes. Each section has definitions and they conflict with each other. You use the.

00;29;07;02 - 00;29;08;00

Judge

Definition.

00;29;08;02 - 00;29;23;28

Gary Schmidt

In the body of law. You're you're dealing with all that stuff is all relevant. and what I have here is excerpts from the development code from 2023. and let's see over here.

00;29;23;28 - 00;29;31;28

Clerk

Two and, it's right right here.

00;29;32;01 - 00;29;47;18

Gary Schmidt



Here's my similar to this, I might I might again, this is the same. This changes. So excuse me. This will be Marcos scratch one. You said did you remember this.

00;29;47;20 - 00;29;50;00

Judge

First one, I guess I assume you have no objection.

00;29;50;03 - 00;29;57;13

Gary Schmidt

Given the 211 stuff. So let's see. This is okay. Yeah. 16.

00;29;57;16 - 00;30;00;26

Clerk

Which?

00;30;00;28 - 00;30;14;13

Clerk

Yeah. That's the two trees. And, this was the 12.

00;30;14;16 - 00;30;26;10

Gary Schmidt

I may correct here and here, but actually 2011 should be the 12 and 2011 should be 2023.

00;30;26;13 - 00;30;39;06

Clerk

Correct. So if you want to go ahead and ask 1120, 20.

00;30;39;08 - 00;30;46;02

Clerk

Is that right? This is.

00;30;46;04 - 00;30;49;23

Judge

Special you say so you have no objection to this okay.

00;30;49;23 - 00;30;56;10

Clerk

That'll be it. And there's a case to date. Got it.

00;30;56;13 - 00;30;58;26

Clerk

Yeah. So I mean.

00;30;58;28 - 00;31;23;24

Gary Schmidt

These are the developed code which other parties should have looked into the merits of the definitions. And if you look at the definition in 2023, all those arguments make sense because it says, parcel land. Parcel land means any units.

00;31;23;27 - 00;31;27;22

Gary Schmidt

You know. Yeah. You know what I mean. You have that state.

00;31;27;23 - 00;31;35;07

Clerk

And that's your own. And again, it's not there. Yeah. I don't have the.

00;31;35;10 - 00;31;45;18

Gary Schmidt

Versus 2020.

00;31;45;21 - 00;31;56;05

Gary Schmidt

Yeah. Personal land means any unit or contiguous units of land assigned a single parcel. Now.

00;31;56;07 - 00;32;00;26

Judge

What are you waiting for, Mr. Schmidt?

00;32;00;29 - 00;32;35;01

Gary Schmidt

That's the definition. And 2016. Let's talk about parcel. It just says, parcel land. Parcel land means any of or contiguous units of land in the possession of or recorded as the property of up to one person. There's no necessarily it doesn't address parcel numbers. Again, it's this. And if you look at Mr. Harbor's interpretation, he supports it.

00;32;35;04 - 00;33;09;10

Gary Schmidt

He's talking about structures now uses. But it's the same principle at that time up until 2016. The development code, like it or not, and have knowledge of it or not. And even those people, many people didn't. This came up because people weren't. People were making assumptions. They were going out there telling people they can't build their garage on that, on the unit, the land next to the other one, because it has to be on the same parcel number.

00;33;09;12 - 00;33;34;02

Gary Schmidt

It didn't. And the same principle applies to uses. This is up until 16. This is a parcel of land in the development code. The subsequent say something else. The state legislature. Different provisions. Say something else. A realtor may say something else. It's a common language you're saying. So some of the law has meaning, has words. I mean, the rule of law has effect and this is it.

00;33;34;04 - 00;34;08;18

Gary Schmidt

And that was the right to the came to the forefront. And 96 because and I was involved in it at the time and then from anytime from and eventually in 16 and it's

20 years later the county Cook County commission addressing this. But from the time period from 2006 1896 to 2016, if you had two contiguous pieces of land in your possession and to build your house on one of them and their garage on the other.

00;34;08;18 - 00;34;12;11

Judge

So you're saying it doesn't matter? Separate AP ends. It's all one parcel.

00;34;12;11 - 00;34;14;28

Gary Schmidt

And so it's defined, doesn't have time.

00;34;15;04 - 00;34;30;10

Judge

All that stuff is that it's totally okay. So I got to make sure that's it. You're saying it doesn't matter if you pay taxes. They have different apms. Yeah. Two contiguous pieces of land would be considered parcel. Their for what they're applying doesn't apply. You could go, okay, well.

00;34;30;10 - 00;34;40;28

Gary Schmidt

That's a law. You can go to Utah. I mean okay, that stuff is in Rome okay. You have you go there when you have no definition in code. Okay. You have a definition in code. That's what you have to use.

00;34;40;28 - 00;34;42;06

Judge

I am just okay.

00;34;42;08 - 00;34;47;16

Code Enforcement

This morning in the citizen testimony. This here that we don't need to go into circles.

00;34;47;21 - 00;35;01;16

Judge

I went, okay, now I'd like you to respond because this is his testimony. This is his turn. Yeah, yeah, I know you did preemptively, but now I'd like to hear a direct response to Mr. Kissinger. You're like an encyclopedia. And, Yeah.

00;35;01;21 - 00;35;27;00

Code Enforcement

Okay. Yeah, I understand the technical arguments. Thank you. And I'm willing to concede perhaps the definition prior to 2016 wasn't clear as it should have been. And that's why there was the need for interpretation. Right. And that interpretation that only applies to accessory structure of a garage. And that and the reasoning behind that was actually tied to the parking requirement to have a garage that was single family home, which you acknowledged earlier in this testimony, never really uses that.

00;35;27;07 - 00;35;52;01

Code Enforcement

That's all I can tell you. I've been work for the garage for 23 years, and we've never treated to parcels with separate parcel numbers as one piece of land, like, for example, setbacks, like there's other parts of the codes that apply to this situation other than, you know, what can be allowed as a use. You wouldn't consider these two parcels when someone came to build something as one complete unit for the purpose of setbacks, you would have setbacks.

00;35;52;01 - 00;36;03;28

Code Enforcement

For each parcel, you would have a minimum lot size for each lot, because you wouldn't have a legal lot unless you did that. And so I really I really think it's, it's it's a road really. I mean there's two sir.

00;36;03;28 - 00;36;04;27

Gary Schmidt

What do you do. You.

00;36;04;27 - 00;36;15;03

Judge

It's simple to Mr. Schmidt, there have been all these interpretations, you know, or misinterpretations, legal definitions of lots of parcels of contiguous pieces of land.

00;36;15;06 - 00;36;15;20

Code Enforcement

And then you.

00;36;15;20 - 00;36;16;22

Judge

Understand his argument.

00;36;16;22 - 00;36;35;13

Code Enforcement

Right? I understand his argument. But even if you buy that argument and you go to the grandfathering section, how does he prove that nothing, sits there for 12 months? I've got photos from 2011 to 2019. Burden. I showed it was not show, there was nothing there. So even if you went down that road, he he also can't prove that it didn't cease for a year.

00;36;35;15 - 00;36;58;10

Code Enforcement

But not that argument. But okay, so so the development code was someone ambiguous about what a parcel of land is, but that the legal definition of a parcel is established by the subdivision laws in the assessor's office, and whether it being taxed separately, if he's if he didn't pay, if he's paying taxes for just one of those parcels, and the assessor is saying, oh, you don't have to pay taxes on the other one, then I would buy that.

00;36;58;12 - 00;37;14;29

Code Enforcement

That's you. I mean, did the development code say whatever, 1 or 2 about a parcel of land that you have today? Legal ownership is legal ownership. And in a legal description is a legal description. Okay.

00;37;15;01 - 00;37;18;11

Judge

Okay. yes. They do have the burden of proof.

00;37;18;13 - 00;37;47;03

Gary Schmidt

They have the burden of proof. Yes. And the and additionally. I don't think it's ambiguous at all. It isn't is ambiguous. I didn't draft the code ladies or their predecessors. So you make it to be interpreted in my favor. Not that this is notice to me and everybody else when you buy property, if you change the interpretation in midstream, that's a taking.

00;37;47;05 - 00;37;47;28

Gary Schmidt

You cannot do.

00;37;47;28 - 00;37;50;11

Judge

That. Is it change midstream.

00;37;50;11 - 00;37;59;19

Gary Schmidt

So he acknowledged that it's ambiguous. That's all we need. If it's ambiguous, it's interpreted in my favor. and.

00;37;59;21 - 00;38;14;16

Judge

Okay, so so you made your point as far as this this issue, you made your point. The good I do have other exhibits that you want in the record, and I think it's, quite something. Right.

00;38;14;18 - 00;38;22;01

Clerk

So.

00;38;22;03 - 00;38;28;11

Clerk

Get back to my.

00;38;28;14 - 00;38;31;03

Judge

And so, so I want you to have.

00;38;31;03 - 00;38;59;16

Gary Schmidt

All your we have a at least acknowledge at a minimum. And because I don't think it's ambiguous, I think it's it's clear, and, did you say you I think I think that, Mr. Harbor's interpretation supports that in that, it's, Mr. Harper, if you read this, it's not saying it's ambiguous.

00;38;59;18 - 00;39;01;23

Judge

Okay, I understand he is saying that.

00;39;01;23 - 00;39;05;18

Gary Schmidt

The county has failed. All right? It fails. So?

00;39;05;25 - 00;39;14;11

Judge

So the county is saying it does. It's not even applicable. It's saying it's not a quote, cultures or situations. The interpret it's for uses.

00;39;14;14 - 00;39;16;03

Gary Schmidt

No, it's not a definition.

00;39;16;05 - 00;39;17;09

Judge

It's defunct.

00;39;17;11 - 00;39;47;10

Gary Schmidt

It's it's all of the definition okay. The definition is applicable. I had to buy admission here and testimony continuous storage used. And during that time period up until 2016 and beyond. And so it was legal storage right there. Code section and their definition. You can't go any other place for a definition if they have a definition in the code.

00;39;47;12 - 00;40;06;16

Gary Schmidt

So that's as clear as can be established on that basic one eight principle, the law that's in a code section or in a body of law, if they have a definition, you can't go elsewhere for the definition. So we have the definition. And that's an.

00;40;06;16 - 00;40;07;22

Judge

Issue. We have two definitions.

00;40;07;22 - 00;40;08;13

Gary Schmidt

Let me point out.

00;40;08;13 - 00;40;11;20

Judge

That wait where are you looking at with what's right.

00;40;11;20 - 00;40;14;02

Gary Schmidt

There in 16. You know, it's you.

00;40;14;02 - 00;40;16;23

Judge

Know, so you're looking at Mr. Harper's definition.

00;40;16;26 - 00;40;48;02

Gary Schmidt

No, he's taking it out of code. And I've giving it to you in two in the exhibit. 12. That's the code section definition of, and that's from the code section. And, and part of it in 2016 six is exactly what he used. That's what he used. He's just he's not making that up for now. Out of out of thin air.

00;40;48;04 - 00;40;55;03

Gary Schmidt

He's citing the code.

00;40;55;06 - 00;40;55;17

Judge

Okay.

00;40;55;22 - 00;41;02;03

Gary Schmidt

He's citing the code right there. 110 902 15 that was partial land.

00;41;02;05 - 00;41;08;18

Clerk

And that's,

00;41;08;21 - 00;41;34;25

Gary Schmidt

That was the definition. And that's what we draw from him. Is that acknowledgment that that's the definition at that time. And I think we have testimony here from his mom. And, you know, that that definition didn't change how August of 2016, 20 years later, so so that's the relevant there. Okay. Definition. 16 1718 1920.

00;41;34;29 - 00;41;58;02

Judge

So, okay, I see it, Mr. Schmidt. I'm going to ask Mr. Basinger now looking at his exhibit 12, which is dated April of 2016. This is not Mr. Harper's or anything like that. Right. it's an entire parcel of land right across Oklahoma. It's any unit or contiguous units of land in the possession or recorded as the property of one person.

00;41;58;04 - 00;42;06;05

Judge

Right. So then going to 110 3 or 635.

00;42;06;08 - 00;42;16;18

Judge

And I continue by extension, no outdoor storage will occur on a vacant parcel without an existing principal use. Does that apply.

00;42;16;21 - 00;42;23;19

Code Enforcement

For, say, parcel lands or parcel?

00;42;23;21 - 00;42;26;01

Judge

And there's a distinction.

00;42;26;04 - 00;42;45;05

Code Enforcement

Apparently there's two different definitions in the code at the time. So yeah, there's a distinction. I'm just telling you that the way we've always implement regulations was for a parcel number. So now a developer can come in and have a bunch of different parcels and develop them all at one point and all at one time. And that's kind of what that started about there.

00;42;45;05 - 00;42;54;00

Code Enforcement

But it's there now. It doesn't mean that all those five different parcels or one parcel.

00;42;54;03 - 00;42;55;19

Gary Schmidt

Can continue, Your Honor.

00;42;55;21 - 00;43;08;16

Code Enforcement

But any then I would just offer that. I believe that this property didn't have storage on it all the time, and it probably. And it didn't cease for the 12 months based on available was no offer. If you and if you accepted that argument and you can't prove otherwise either. He asked for.

00;43;08;18 - 00;43;10;03

Judge

Speculation on both sides.

00;43;10;03 - 00;43;30;19

Code Enforcement

Yeah. I mean vehicle storage is what they use. It's for the RV that there's a specific definition for outdoor display for RV. The RV does not come up here. So after, so after 2017. So it wasn't like that RV or a RV has been on that property since 2011 and it's not vehicle storage. Again, we don't like vehicle storage.



00;43;30;19 - 00;43;45;26

Code Enforcement

Again. There's definitions of that. And he did. It's not a garage. accessory use or to find use as I have vehicles on my property. It's this outdoor display that refers to recreational boats, motorcycles, personal watercraft, that that RV.

00;43;45;28 - 00;43;50;06

Judge

That this argument that it should be considered one parcel.

00;43;50;09 - 00;44;06;22

Code Enforcement

but it's not. If you were deciding to if he decided to build a proper house. So you can't have two houses on one person, are you getting a special use permit? He decided to build a house on 345. Maybe he wouldn't have to get a special use permit because it's two separate parcels. Two separate addresses? two single family dwellings on one person.

00;44;06;25 - 00;44;09;29

Judge

Gotcha. All right, let's get the rest of it.

00;44;10;02 - 00;44;13;13

Gary Schmidt

I admit that there might be some conflict, confusion.

00;44;13;15 - 00;44;14;07

Judge

And ambiguity.

00;44;14;07 - 00;44;27;23

Gary Schmidt

Here. Obviously, there was an issue, but, I helped review and I was involved in, these other issues. Just because that's the way they did it. They charge \$0.50 for a single page for 30 years.

00;44;27;23 - 00;44;28;18

Judge

The way we've always been a.

00;44;28;18 - 00;44;31;25

Gary Schmidt

Legal standard. That's the way we've always done it. It's in the hands. Legal.

00;44;31;27 - 00;44;33;29

Judge

Yeah. Gotcha.

00;44;34;02 - 00;44;48;03

Gary Schmidt

and again, I would point out that, there are some changes. I mean, the law changed in 2016, and among other things that if you,

00;44;48;05 - 00;44;52;28

Clerk

Go to my house on a unit of land.

00;44;53;01 - 00;45;23;03

Gary Schmidt

And you buy the new the land next to it, maybe you ask the same person or whatever, and there's been no uses established on that unit of land. It was, by the generic definition, unoccupied, vacant. You can't establish a storage use on there without filing the restriction. You could still do it. Yeah. To five right now there's another change in 2000 which says sets us apart in 2000.

00;45;23;06 - 00;45;32;13

Gary Schmidt

Well, how the government works this they know there's an issue in 96. Okay. They didn't address it for two decades.

00;45;32;14 - 00;45;35;07

Judge

And Mr. Schmidt, you've made your point. Okay.

00;45;35;14 - 00;46;08;21

Gary Schmidt

Well, okay. Well, let me continue with them pointing out that it's any unit of contiguous, any unit or contiguous units of land in the possession or of or recorded as a private contiguous unit. You can have ten units, you know, farm property that stretches three miles and you can store your tractor on the very end. One, because you have a primary use with the farmhouse, it can be two miles apart as long as they're contiguous units.

00;46;08;23 - 00;46;33;24

Gary Schmidt

And it says recorded as property. It says in the possession of or recorded. You don't even have to own that property. You can Lisa. You can have a BLM lease, a grazing right on it, and you can put your farmhouse here and you can put your, your, your store, your tractor in the next county. Maybe it depends on the county, but I mean farm even start ten miles away.

00;46;33;27 - 00;47;14;07

Gary Schmidt

So there is some other issues there. They corrected that or changed that in 2016. Also when they adopted the law in 2016, it's no longer says contiguous units. It's contiguous unit. So you can't have a series of units of land. And it also no longer says in your possession, it says it's owned by you. So they restricted it a little bit, you know, there and so they started addressing some things that they should address 20 years earlier because it was acknowledged there was some issue there.

00;47;14;09 - 00;47;40;19

Gary Schmidt

And, you know, there is an issue with yeah, I support what happened. There's an issue if you allow someone to build a house on one unit of land. And sorry about my farm, it'll start. and you build your garage on the next one legally, which you could do up until 2016. No restrictions. So now you go sell the block that has a garage.

00;47;40;19 - 00;48;09;25

Gary Schmidt

Then you have two problems. Number one is you've got a house that requires a garage because it's is say it's a house that requires a garage. So that becomes illegal maybe. Or it becomes non-conforming for sure, and maybe illegal. And then someone buys the other with the garage on it. So what do you do now? You tell the guy that's got the block that has a house, the garage only has to tear it down.

00;48;09;27 - 00;48;34;18

Gary Schmidt

And you say you sold that to two different people, and you tell the guy that's got the house, he has to build the garage, and then you get into all kinds of litigations. So I support the concept that clarify that when it comes to structures. But, you know, there's no need for a deed restriction because I have two contiguous pieces of property and I have a primary use.

00;48;34;18 - 00;49;10;25

Gary Schmidt

I want a house and have some storage on the contiguous piece, which at the time where my picture is, it is just the way that I lost it, which is was one parcel. So even without filing the deed restriction, if I sell unit one, this is got some stuff on it. Now guess what I'm not. Granted the new owners are not grandfathered in because they're not owned by the same people anymore.

00;49;10;28 - 00;49;15;26

Gary Schmidt

So as a matter of law.

00;49;15;28 - 00;49;42;27

Gary Schmidt

This enters in here, buys the other property or Brian buys the other property. The other unit one, he can't store anything on there. You no need to do the intersection when it comes to storage, because as a matter of law, you know, it's it's now a illegal. It is. It's an illegal activity because you is you split the sheets.

00;49;42;27 - 00;50;09;00

Gary Schmidt

So they're not owned by the two people. So you can no longer. And I acknowledge that, that if I sell that property, the next guy can show anything on it. And you're not going to get into a lot of litigation there anyway because it's just a

little storage stuff, you know, then it becomes similar to other issues in Gerlach and Sun Valley, etc., where people just own a piece of property, a unit of land and they put a lot of stuff on there.

00;50;09;02 - 00;50;31;20

Gary Schmidt

They can't do that. Well, if I were to sell this unit one, it'd be the same. It just me. That person would just want to. You do that. And he has so far. So the deed restriction it it's huge. It's meaningless. Only thing it does is, you know, put a red flag up. If I tried to tell my friend, well, what's this?

00;50;31;20 - 00;50;55;08

Gary Schmidt

You know that now or you know, etc. and the, the title company's got to pull it up and all that stuff, and it's a matter of principle. It's a matter of principle, the rule of law, the definition is this is the person. The definition is it was established, there was storage on there, and there's been no offer of proof of that storage of a recreational vehicle or a junk car or anything else.

00;50;55;08 - 00;51;23;19

Gary Schmidt

It's different than storage of two by fours or an appliance or bicycles. I mean, there's some references here. Bicycles don't have to be screen junk vehicles, which is what an unlicensed recreational vehicle, car, truck or anything is a junk vehicle by the code. And they can be stored there. Even now they just have to be screened. So the issue came up that true that the vehicle I have there have to be a recreational vehicle.

00;51;23;22 - 00;51;46;14

Gary Schmidt

I've got the title somewhere. But you know, the plates going off the thing, I'm searching for it. So in the meantime the investor copied him. I said, well, I'll just I'll screen. It looks fine. I'll leave screening there forever. If I find the title, I'm still going to leave it screen because I have one of the most. If you look at the pictures, what are the more attractive pieces of property in broad?

00;51;46;16 - 00;51;54;26

Gary Schmidt

and I like to screening. I might have done that as an issue anyway, might not screen the back or all around, but, you know, visible from the street, some.

00;51;54;26 - 00;51;56;22

Judge

Of the screen of the RV you're talking about.

00;51;56;25 - 00;51;59;13

Gary Schmidt

Yeah, yeah. Some of the pictures they took, which.

00;51;59;13 - 00;51;59;24

Judge  
Is the.

00;51;59;28 - 00;52;20;08

Gary Schmidt

One that I took from the parking lot of the post office, and, I am not going to. Introduce into evidence, the, and I won't spend much time on this. Where are we at 13. Yes.

00;52;20;10 - 00;52;28;27

Clerk

And I'm not.

00;52;28;29 - 00;52;29;25

Clerk

And I guess just.

00;52;29;27 - 00;52;34;28

Gary Schmidt

As quickly as possible.

00;52;35;00 - 00;52;40;07

Clerk

And I'm going to at the same time.

00;52;40;09 - 00;52;48;21

Gary Schmidt

File a complaint and open court here. This is the picture of the girl at General Improvement District maintenance building.

00;52;48;27 - 00;52;49;29

Code Enforcement

Objection.

00;52;50;01 - 00;52;51;18

Judge

Okay. Hold on, Mr. Schmidt.

00;52;51;20 - 00;52;57;11

Code Enforcement

Hold on. I'm not talking about other properties you can contact. Well, I should be on my file. I should probably not go look at doing.

00;52;57;12 - 00;53;02;22

Gary Schmidt

But it's not the place her. Well, I've introduced it into evidence and it goes to dispatch.

00;53;02;24 - 00;53;03;13

Code Enforcement

Okay.

00;53;03;15 - 00;53;09;10

Gary Schmidt

Okay. Constant neighborhood standard. Okay. And it goes to now I'll introduce.

00;53;09;13 - 00;53;10;24

Judge

Okay. Wait wait, wait. Mr. Schmidt.

00;53;10;29 - 00;53;13;11

Gary Schmidt

14.

00;53;13;14 - 00;53;17;06

Judge

Okay.

00;53;17;08 - 00;53;49;27

Judge

I agree, as far as Mr. Schmidt, it is that is the guide. And you could file a complaint. I am going to admit it. I'm going to admit it and just give it away. Brian. There you go. I'm going to admit it. It will be part of the record, I think. Is it? Wait. Which was? I could consider it as much as what it was I want, but it's it will be part of the report as far as what else is going there, but, I'm not necessarily going to consider comparing.

00;53;49;29 - 00;53;52;13

Gary Schmidt

If I may refer to exhibit 14.

00;53;52;18 - 00;53;53;06

Judge

Yeah.

00;53;53;09 - 00;53;55;21

Gary Schmidt

Which is enforcement procedures.

00;53;55;23 - 00;53;57;07

Judge

what what is this?

00;53;57;09 - 00;54;01;11

Gary Schmidt

it's other development. It's 110 nine, 1015 of development code.

00;54;01;14 - 00;54;03;13

Judge

Okay. Thank you.

00;54;03;16 - 00;54;09;28

Gary Schmidt

Going down to the that the emphasis was added, I think.

00;54;10;01 - 00;54;15;12

Gary Schmidt

Oral complaints may be made anonymously.

00;54;15;14 - 00;54;19;18

Judge

Okay. Well, let me let me read something. How about I read it to myself quickly?

00;54;19;25 - 00;54;26;29

Clerk

Okay. If I make.

00;54;27;01 - 00;54;33;09

Judge

Okay.

00;54;33;11 - 00;54;36;27

Gary Schmidt

We're ready. Okay.

00;54;37;00 - 00;54;37;22

Judge

And the issue.

00;54;37;22 - 00;54;44;06

Gary Schmidt

Is the 13 minute.

00;54;44;08 - 00;55;09;02

Gary Schmidt

There's been testimony here, and I have made various public records request. And this is policy that, again, is ignored. it says clearly here, county employees who observe or become aware of possible violations of the development regulations shall discuss the possible violation with the Director of Community development, which we have here today, and the director, services, the building, etc..

00;55;09;05 - 00;55;35;19

Gary Schmidt

it's county jail and their designee who may direct enforcement action. So I did a public request and I got no response back. Zero of anybody ever reporting a violation or an apparent violation in their normal travels around like in Gerlach. You'd have to bring at least 50 parcels in units of land in as potential violations. Certainly violations could there.

00;55;35;21 - 00;55;42;04

Gary Schmidt

And if by comparison it that's just that you did and you see the pictures of my property which were.

00;55;42;07 - 00;55;46;04

Judge

Okay and I'm not sure. Yeah I'm not. So I let it in the record.

00;55;46;05 - 00;55;51;23

Clerk

But yeah.

00;55;51;25 - 00;55;52;16

Clerk

And while I'm.

00;55;52;16 - 00;56;24;27

Gary Schmidt

On the record, I would like to make our official complaint about the Didn't properties, the ones cited here for code enforcement action. and I expect a report within a reasonable period of time and copies of that the investigation. okay. Continue back to this. There exhibits going back to page 34.

00;56;24;29 - 00;56;27;07

Clerk

So, part of the reason that I.

00;56;27;07 - 00;56;53;17

Gary Schmidt

Requested the extension, in the first, second, third, fourth paragraph, I read it in the record. I have not received all public records I requested related to this matter. And in fact, I have not had time to fully review the records. I just recently received. If you're not in agreement that there is full compliance at this time, please grant an additional extension of a minimum of 30 days.

00;56;53;19 - 00;57;13;03

Gary Schmidt

So that was another basis for requesting that extension. So as quickly as I can, well, on page 32, there's evidence of cooperation. I think it's been acknowledged. So I'll go by that.

00;57;13;06 - 00;57;33;25

Gary Schmidt

Ten on page 30 is my offer of a compromise. So, I say, however, I say the property has had a combined use, far before the deed restriction revision was added to the code.

00;57;33;27 - 00;58;02;01

Gary Schmidt

By Mike Harper. That's an action. There was an added 1060 and some 20 years ago.



And therefore grandfathering is under the older provision that did not require a deed restriction. We have to substantial. But then I go on to say, however, a simple deed restriction, since we are not dealing with accessory structures at this time, only accessory uses is not a big issue, even though the property is grandfathered in without it.

00;58;02;03 - 00;58;32;08

Gary Schmidt

Maybe just a memorandum of understanding will make you happy in that regards. that a memorandum of understanding that I know that my uses are my use of storage is grandfathered in on that contiguous piece of property. But if I ever. So I know that grandfathering doesn't transfer to a new owner, because if you don't meet the criteria of.

00;58;32;10 - 00;59;05;02

Gary Schmidt

You know, common ownership of the contiguous properties that they're needed, it's actually that's just an application of law. But I was willing to sign a memorandum that I understand that portion of the law and that wouldn't be as detrimental or restrictive or, as would be the red flag on the property. page 29. That is an email, from me on November 7th, where I'm raising these issues.

00;59;05;02 - 00;59;36;15

Gary Schmidt

I raised the issue with the Board of Adjustment. I raised the issue of the grandfathering. make another public records request. going back now, here's, here's the Holy grail, if you would, on page 27, which is what we're here for and I don't I once may have convinced the court, but I don't think I've convinced it, Mr. Kissinger yet.

00;59;36;17 - 01;00;07;15

Gary Schmidt

I think he's partway there, where it says in the third paragraph, it says to me, in fact, prior to this section of code being added, that allowed an accessory use to the established contiguous property under the same ownership, with record for a federation of a deed restriction. No accessory uses were allowed on any parcel without first established use, regardless of ownership.

01;00;07;17 - 01;00;35;25

Gary Schmidt

Well, go back to the same thing. What's your definition of parcel? That's that's just the definition of parcel. In July of 2016 and in 2012 and in 1996 there's the definition of parcel. So this is a categorically false statement. And I tried several times to point that out, to no avail. and that says.

01;00;35;28 - 01;01;02;10

Gary Schmidt

It says this is not possible, that you have to establish a legal, non-conforming story cuz it wasn't allowed by previous code. It also have by this code there's my partial by the code definition. Now they may not like that that definition. And,

Harper might not even like that definition, but Harper was at least to the point he acknowledges that's the law.

01;01;02;17 - 01;01;20;21

Gary Schmidt

Just because you don't like a law or definition within the law, doesn't mean you can ignore it and make your own up. It's just, this is so fundamental here, and I'm really passionate about it. And I apologize for it because sometimes I get a little loud. I am hard of hearing, so I probably don't care how loud I get.

01;01;20;24 - 01;02;01;04

Gary Schmidt

So I apologize that. But I'm very passionate about this as you could probably see. going further back, or on there, and on page 26, I state on November 14th. You know that, In 1957, 57, I went back to researchers in the 57 northern section you cited from 2013 claims are dictate that a primary use has to be on the same assessor's parcel as the accessory uses therein.

01;02;01;06 - 01;02;36;04

Gary Schmidt

I define that there's no evidence whatsoever that the primary use has to be on the same assessor parcel. It has to be on the same parcel as defined by the county code. The county, and that goes way back to 1957, actually back in 1957. They don't even say they don't even say it has to be on the same parcel, this parcel early on, I couldn't get into the 60s and 70s.

01;02;36;04 - 01;03;16;06

Gary Schmidt

I couldn't find that. But originally you couldn't have accessory uses unless you had a primary use. That's all it said. It didn't have to on the same parcel in the same neighborhood. it it was, you know, to what was it? Maybe a little deficient or vague. That's got to be interpreted in that against the person that that drafted.

01;03;16;08 - 01;03;41;20

Gary Schmidt

And then again, on page 24, I point out, prior to the mid 1990s, there was no requirement whatsoever that, I can determine I've done the most research here for sure. and or by my recollection, required a secondary use or secondary accessory building. Anyone use or building for that matter, to be on the same numbered parcel and Mr. Primer the same point.

01;03;41;20 - 01;03;45;02

Gary Schmidt

But what I'm pointing is I pointed out time and time again.

01;03;45;05 - 01;03;46;01

Judge

Right.

01;03;46;03 - 01;03;53;11

Gary Schmidt  
Now, I'll be done. Sure, I may.

01;03;53;13 - 01;04;16;06  
Gary Schmidt  
Well.

01;04;16;09 - 01;04;27;21  
Gary Schmidt  
So, Your Honor, I think that, there's only only so many times I could say yes and repeated. But it's so clear.

01;04;27;24 - 01;04;33;28  
Clerk  
As a matter of law, that.

01;04;34;01 - 01;05;03;07  
Gary Schmidt  
When there's a definition readily available in a code section, in a statute within the body itself. that's the definition to be used now, maybe the people that put that definition in there didn't have foresight. maybe they did. Maybe they thought it was reasonable. But actually, I think it's pretty reasonable, especially I think it's more reasonable when it comes to use uses is the structures I've made, my arguments that I see.

01;05;03;07 - 01;05;24;03  
Gary Schmidt  
There's some issue with the structure, because someone that buys a piece of property with a garage on it is not going to like the county. Come along, tell them they have to tear it down or build a house. And you don't want that sort of litigation, but you don't have the issue with uses. It's just some stuff.

01;05;24;03 - 01;05;44;15  
Gary Schmidt  
There's not a cost factor involved there. You just move this to move the stuff off. but so I support the corrections that were made. But, I just think that by any reason other than that, there is my partial. There's.

01;05;44;18 - 01;05;47;06  
Judge  
Okay, there's my primary and and Mr..

01;05;47;08 - 01;06;12;08  
Gary Schmidt  
As grandfathered in how if I ever and there's been an offer of proof the proof is to the contrary. It's been every indication including my testimony that storage there has been continuous. I don't think there's been ten days without something on that property that let alone a year. the the I just a vehicle parked there for more than 72 hours of storage.

01;06;12;10 - 01;06;36;03

Gary Schmidt

there's vehicles all over that property. Some of them weren't probably weren't registered. but, I'm not sure how long they were there. And they may have been in violation because they weren't screened. That's not before you here today. Half the fleet residences in Gerlach have unregistered vehicles, not screen. So that's not the issue. The issue is clear.

01;06;36;05 - 01;06;50;25

Gary Schmidt

One last time, the definition of parcel, it's this and storage. And so the citation is.

01;06;50;27 - 01;06;53;27

Clerk

not relevant. okay.

01;06;53;29 - 01;07;26;10

Gary Schmidt

Not applicable. You have to use that definition of parcel, in which case I have the principal use on that parcel. well established to use a storage. The storage could continue until such time as I sell one of the that they don't have common ownership or tell such time as storage stops for a one year period. I think I have a one of the more attractive pieces of property.

01;07;26;13 - 01;07;27;16

Gary Schmidt

Okay, Mr. Schmidt.

01;07;27;16 - 01;07;37;24

Judge

I really think we're a rehash of things now. I wanted to allow you your time for closing. You made your point. Thank you, thank you. Last bite of the apple.

01;07;37;27 - 01;07;59;15

Code Enforcement

We've had. Two separate parcels. The use wasn't grandfathered in because that use was acquired prior to 2016. They made it the code to allow that use at that time for his own testimony that they changed the definition. And the RV in question arrived after they did that. So, I agree with him too. We don't want to say problems.

01;07;59;15 - 01;08;23;11

Code Enforcement

That's why the county, Board of County Commissioners decided to adopt this code to require the new restriction to prevent issues down the line of someone yourself when, the parcels, if there's continuous am I write code? I don't know that code enforcement on the books. For some reason, they decided to put this on the books. My job is to enforce it, not to, negotiated, mediate what can and can't be.

01;08;23;13 - 01;08;42;28

Code Enforcement

My job is to enforce what the elected officials have adopted. And in this case, I have. It is a two simple solution. So the next door or decide to keep restrictions, let's say we provide because it's not some big conspiracy where I have to get Mr. Schmidt a very simple process. I get it, it's a matter of principle and I get that.

01;08;43;01 - 01;09;06;13

Code Enforcement

But, you know, I, for my other cases I have where we're just like, everything's got to go, you know, it's. And this one is pretty, pretty simple solution in my case. You know, I'll just finish with, the concern about a red flag coming up on your your title that could easily be avoided if he, if he decides he wants to sell the property, you could you can move the RV off of there.

01;09;06;13 - 01;09;11;07

Code Enforcement

Prior to that. And then we would remove the restriction part. It was the year for sale.

01;09;11;10 - 01;09;15;05

Judge

Which we discussed at the outset here. That was my question is what does it mean?

01;09;15;10 - 01;09;16;28

Code Enforcement

Not necessarily. Yeah.

01;09;17;00 - 01;09;36;01

Judge

Right. And so we're back to the this is Mr. Schmidt. You know, it's a matter of principle. And also the thing. Right, is that as far as definitions, so this is the point. We haven't been together again in person for Walmart. We're done for demonstrate they get the last bite of the apple. So we're done. Mr.. Thank you.

01;09;36;03 - 01;09;58;28

Judge

I believe we have all our exhibits in order. I used to step away for a few minutes, consider it and, do the order. I think it's called more convenient if I leave than if you leave. So, that's what I'm going to do. And I have a lot of stuff here. if you just give me a couple of minutes, the other thing I could do is do it, and we can get it to you.

01;09;58;28 - 01;10;08;29

Judge

And everyone wants to take off, and I'll wait a few minutes. But that is our practice is to render a decision. if you're okay waiting a few more minutes, that's what I'll do.

01;10;09;01 - 01;10;10;04

Code Enforcement  
Yeah. You could.

01;10;10;06 - 01;10;14;29

Judge

you could without doing a fiscal policy. All right. Thank you.

01;10;15;02 - 01;10;19;22

Clerk

Just give me a couple minutes.

01;10;19;25 - 01;10;22;27

Judge

Jotting down notes and stuff along the way so it shouldn't take too.

00;00;00;05 - 00;00;03;02

Judge

Well, I can.

00;00;03;04 - 00;00;15;09

Clerk

Okay. We are back on the record for to 2024 00001 WB I'll play 230127.

00;00;15;12 - 00;00;36;29

Judge

Thank you very much. couple of preliminary comments. And first, Mr. Schmidt, I want you to know I did read what you wrote, what you, what came through. and I want to address a couple of, a couple of things. I think we already touched on the Board of Adjustment issue. that's something I'd be interested in seeing how it's resolved.

00;00;37;01 - 00;01;03;19

Judge

You know, I, it's it's not a piece of the puzzle for me. I also want you to know, because you made reference to, those who were against you because you had filed litigation against Washoe County and all that, that none of us here have any knowledge of this. I know you, probably your name, too.

00;01;03;19 - 00;01;30;28

Judge

Reindeer lodge. and I respect the work that you've done. and some of what you outlined. bringing, possible, matters that may be big, to light and trying to get them corrected. So it's quite the opposite as far as the perception. And you should know that. Okay. Thank, And it's with some respect that I say that.

00;01;31;04 - 00;02;02;25

Judge

Thank you. And in this case as well. And was no one being else being a lawyer, in this room. I respect the work that you have done. It was extensive. we got there, and we have taken a while, and we have, you know, also that these are some of our longer cases. They're scheduled for an hour, just so you know, and, the county and I'd like to commend the staff at you, Justice Court and put that on the record, because they bent over backwards to make that work for us and to accommodate your request.

00;02;02;27 - 00;02;27;24

Judge

And hopefully that will lay the groundwork, for others who are uncomfortable, with technology. I agree with you personally, as far as, being given, talent and being put in a little conference room. I don't think that's ideal. And, so we will have these discussions and we will improve our process. with signage and things like that.

00;02;27;26 - 00;03;13;18

Judge

it doesn't happen overnight, and we don't flip switches, but, we are our aware, and

we want to keep getting there. Yeah. In serving the public. so I know there was a lot of, discussion about, conspiracy and retaliation. likewise. I know, code enforcement is diligent, and I know that, that the enforcement officers, before I even get a glimpse of this thing, try to work with those, that may have crept over some of our laws and our and our definitions, and try and help them come into compliance.

00;03;13;20 - 00;03;17;17

Judge

and that they.

00;03;17;20 - 00;03;33;19

Judge

Really try to work with them and give them time. I know by the time I see it, there's a lot of history there and trying to work with people coming into compliance. But they have a job. It's their job. And they don't go out looking, for infractions. It falls into their lap and then they have to do their job.

00;03;33;19 - 00;03;52;25

Judge

And there's so much discretion that they have. And I acknowledge that. I made the comment probably like Swift, like, Mr. Basinger. Right. He's an encyclopedia on these things. I believe that as well. And I respect that as well. And I go to him. and I know it's, adversarial, and I take it with a grain of salt.

00;03;52;27 - 00;04;20;04

Judge

but I listen, and, and I learn this is not my field of expertise. So I spent some time, with what was said to me. I do look at things. I don't reach a decision. I probably vacillate a little bit because you're very convincing. on both sides. my main focus, Mr. Schmidt, is that you get a full and fair hearing and that due process is afforded to you or any other citizen.

00;04;20;06 - 00;04;37;29

Judge

that appears before me in a and appears before us as a group. my colleagues. That is our goal. And, if that means we're going to go for hours, that means we're going to go for hours, because whatever happens as I'm going through this, I know you have the right to appeal. I will remind both of you again.

00;04;37;29 - 00;04;59;12

Judge

You've got 30 days from the day I made my decision, to appeal. I hope you get some recourse on some of these other issues I, I see and addressing my comments now to the matter at hand. It seems like things were working for a while, and, there was good communication and things I didn't know before.

00;04;59;14 - 00;05;24;00

Judge

Mr. Farmer had, favorable impression. And was that, you know, that you could work



together, and there was communication until there wasn't. And there's a point. And, is that, pervasive? Is that a conspiracy? I don't believe it was, either. I think it was a point that he reached that he had to just move forward. I think there is a fundamental difference of opinion as to interpretation.

00;05;24;02 - 00;05;44;08

Judge

This is not a difficult case. This is a simple case, and I refer to it. You know, there's there's a nut. There's a part of it. and that's what is my part of it is deciding that what gets blown up. And you're right in you, I believe maybe, Mr. Singer might even agree with you with some things as far as interpretations.

00;05;44;08 - 00;06;28;20

Judge

And this is, is bad. And yet it does come down to a simple matter. so with the notes I dropped down is in, which is, you know, this is what I listen for. this respondent received due process. Was there an infraction? I know it's not that simple, but those are my two main things. Mr. Schmidt received an extension, and until there was testimony that was not, refuted, that, extensions were offered until Mr. Schmidt indicated that he was like he had a fundamental problem, with compliance and with the interpretation.

00;06;28;20 - 00;06;47;01

Judge

And so there wasn't going to be compliance. That's why it's a simple the right it's, you know, the deed restriction. And it's a matter of principle to you, Mr. Schmidt. or moving the RV. Yeah. And you weren't interested in doing that. And you have your good reasons for that. But you weren't interested at that point. Mr. farmer had to move forward.

00;06;47;01 - 00;06;47;19

Judge

And.

00;06;47;21 - 00;07;18;29

Judge

Do his job for the county. I find that, you know, after a walk down memory lane, definitions, history, practice. what is personal? What are contiguous slots? these are good examples, Mr. Schmidt, that you get that you give. And I'd be. I mean, that would be like a law review article as far as there are 50 contiguous slots and, you know, the barn is down the, the, the tractors at the other end or something like that.

00;07;19;01 - 00;07;42;09

Judge

but and I appreciate your passion about the whole of what I do. However fine you received due process and there is an infraction, in the most simple definition. the in may say the path of least resistance. I would love to brief this. We've already blown it up enough and and see if there is some clarification.

00;07;42;09 - 00;08;01;16

Judge

So this doesn't happen again. Is there some clarification of definitions. So no one has to go through what I mean? It was a pleasure listening to you all, but I know that you probably would have preferred to spend your four a half hours on a Friday in a different way, and we all have work to do. however, it was necessary to hear you, Mr. Schmidt.

00;08;01;22 - 00;08;23;20

Judge

And so, there was a good and clear record, no matter what was going to happen. I have, you know, the appreciate that it was, you know, wasn't grandfathered and or legal non conformance. I do agree that there were two accidents in two separate parcels. I'm going to come here. Oh. I'm sorry, I really couldn't hear me.

00;08;23;22 - 00;08;25;09

Gary Schmidt

I'm having a hard time hearing.

00;08;25;12 - 00;08;38;08

Judge

Okay, I'll try to speak up more. I thought it was. I'm. I'm finding in favor of the county. I feel that their burden, and that due process was up for it, and we're.

00;08;38;12 - 00;08;41;20

Gary Schmidt

All that. I just heard the word grandfathering, and I didn't hear.

00;08;41;23 - 00;09;03;18

Judge

Oh, I just said that it's it wasn't. It was, helpful, just to hear from his motion as well, although I think, probably Mr. Singer is in the firmer, more intimately aware with this, with this case. let's see if I had anything else. I kept jotting down, two. I just wanted to see how it was.

00;09;03;18 - 00;09;33;17

Judge

Reviewed it to aprns two separate parcels. legal definition of, a lot in a parcel. the 1996 interpretation doesn't apply. so I find that was that was proven, although I know you used it as a definition of lots and parcels. I think there's something to talk about. Look into here. However, that's my finding. So what that means, is, it is \$100 fine.

00;09;33;17 - 00;10;05;22

Judge

A \$50 administrative fee. pit, would give you. What are we, the this today? till the end of April. again, you can appeal with a 30 days of today. and I believe that is that if there are any other, negotiations, even after my order, you know, or any other. If there's something else you want to do.

00;10;05;25 - 00;10;12;17

Judge

I have jurisdiction. I have continuing jurisdiction. Mr. Basinger? Yes.

00;10;12;20 - 00;10;21;23

Chad Giesinger

Discipline of verification on the appeal period. the next stage would be the Board of Adjustment. And that's actually a 20 day window. The 30 days is if he wants to petition to court.

00;10;21;26 - 00;10;23;21

Judge

Right? Yeah. Okay. 30 days.

00;10;23;24 - 00;10;25;06

Chad Giesinger

So either he could do either or.

00;10;25;07 - 00;10;28;17

Judge

Okay. Thank you. Yeah. There you go.

00;10;28;19 - 00;10;34;04

Gary Schmidt

I want to request, specific findings of that in the order.

00;10;34;06 - 00;10;56;00

Judge

And I will show you what, I will try to do that. I have some room to do that. And, I will take that under submission in that matter. I will not, hand over a decision today. And so this clock doesn't start ticking today because that will give me a little more time to be more specific in my order.

00;10;56;02 - 00;10;57;01

Judge

Okay.

00;10;57;03 - 00;10;59;24

Gary Schmidt

Yes. And so the appeal period will start.

00;10;59;27 - 00;11;00;10

Judge

When you.

00;11;00;17 - 00;11;14;02

Gary Schmidt

Know it comes out. So when I your request findings of facts in regards to the definitions and then apply in regards to the findings of fact in your class, see the grandfathering form. No. Okay.

00;11;14;04 - 00;11;34;08

Judge

Nonconforming. Yeah. And I'm not going to I, I'm not going to get into a lot of the details. I'll fill out my order. I'll, I'll, and my findings are we have a thorough record which you will be able to request in attendance. And, we'll get this to you as soon as you can. Okay. And hopefully by Monday, if I'm not doing it today, I can work on that on the weekend.

00;11;34;10 - 00;11;35;24

Judge

Okay.

00;11;35;27 - 00;11;39;28

Gary Schmidt

So we're we're guessing that the written order will come up sometime next week.

00;11;40;00 - 00;11;54;24

Judge

Yes. One more thing. We actually have a, an order that we use as a standard, and it's sort of a. But if there's some room for me to write, if I feel I need additional space, I will take additional space.

00;11;54;27 - 00;11;58;28

Gary Schmidt

But, I got emailed out.

00;11;59;01 - 00;12;09;05

Judge

Yes, I will send it to you. I don't understand orders. I'll send it to you in your distributed system. Is that okay? Okay. Is email okay?

00;12;09;12 - 00;12;13;09

Gary Schmidt

Yeah. Well, I hard copy. May I also. Oh, we could do that.

00;12;13;12 - 00;12;31;15

Chad Giesinger

Okay. I'm not sure if this is an appeal, but we just. We have to have every hearing. if it doesn't come into compliance, are you putting a compliance? you know, by the DEA or whatever you're planning to order? That doesn't happen. So we can enforce to the property compliance or. So what is it that any kind.

00;12;31;15 - 00;12;38;26

Clerk

Of compliance wise that you, determine what you want us to do next, continue enforcement, go to the.

00;12;38;26 - 00;12;43;02

Chad Giesinger

Same warning or reconvene. What is how would you like to handle it?

00;12;43;05 - 00;12;51;11

Judge

That's there now. My understanding is it's it's you continue the process.

00;12;51;14 - 00;13;04;17

Chad Giesinger

It's every hearing officer is different. Yeah. That's that's why it's not a set. So it's a reason. So I'm saying this for convenience. I'm saying a criminal that's now. Right, right. It's do. Yeah. So that's why the records want to.

00;13;04;17 - 00;13;07;27

Judge

Just want to see we're not there yet, are we. You know she was second.

00;13;07;29 - 00;13;10;12

Chad Giesinger

Right. So the next step for us would be a second.

00;13;10;15 - 00;13;12;25

Judge

I would like to allow him time. Right.

00;13;12;28 - 00;13;26;02

Chad Giesinger

Right. So it's usually we give a timeframe. You say be defined by the state again. But if that weren't to happen, you know, we had to pass it to do that in order to reconvene some hearing officer to say we'll just pick up where.

00;13;26;02 - 00;13;33;19

Clerk

You left off in terms of enforcement procedure. This case of a second warning followed Guy, second penalty that is okay.

00;13;33;26 - 00;13;36;29

Judge

And the time frame on that would not would be more up to you.

00;13;36;29 - 00;13;44;08

Chad Giesinger

But we would start. So if you said he had 30 days to file the deed restriction or remove the RV, I would go after 30 days because.

00;13;44;08 - 00;13;47;07

Judge

Why is he done? Okay. The second. Okay.

00;13;47;09 - 00;13;53;03

Gary Schmidt

Your honor, I would unders I understand, or I would request that,

00;13;53;05 - 00;14;11;26

Chad Giesinger

You stay the order during the appeal. If the officers were saying if you were not to appeal, and I know you are, but in case something it didn't happen. We always wanted in order to what to do next. Right. So if he didn't appeal. Right. So obviously you send that message.

00;14;11;29 - 00;14;33;10

Judge

Yes. And if we didn't get that appeal. Right, right. Yeah. And I find I find that they are reasonable remedies. But I know that you are not inclined to do that. And I understand the reasons why. I will give you plenty of time. It will be stayed automatically, pending your appeal. Okay. And I also will probably, build in some time anyway.

00;14;33;10 - 00;14;35;21

Chad Giesinger

Right. If we got no reason to deal with it.

00;14;35;23 - 00;14;37;10

Judge

Yeah.

00;14;37;12 - 00;14;45;14

Gary Schmidt

Okay. I was able to offer that the other side is unreasonable in their defiance with the following. The clear idea of what? Oh.

00;14;45;16 - 00;14;48;08

Judge

Okay. Well, we're not characterized.

00;14;48;08 - 00;14;50;03

Gary Schmidt

Who's being not reasonable or unreasonable?

00;14;50;05 - 00;15;11;20

Judge

I don't think anyone characterized, any. I don't think there was any remarks. In fact, there were only, positive words. there is nothing said about being unreasonable. Mr. Schmidt. Okay. but we're trying to figure out the specifics, so it's clear, as far as what you are to do and what they are to do. That's all we were discussing.

00;15;11;26 - 00;15;16;16

Judge

Okay. No. No one thinks you were being unreasonable.

00;15;16;19 - 00;15;22;05

Chad Giesinger

No one said that. My request. I read every hearing for every year I make that request.

00;15;22;08 - 00;15;25;18

Judge

Okeydoke. All right. Nice to meet you.

00;15;25;20 - 00;15;26;21

Gary Schmidt

Thank you.

00;15;26;23 - 00;15;45;28

Judge

So, just for the record, you signed. So I got an order. Okay. And I will take care of that. Yeah, I know, I know where you support that. Yeah, I know. I'll take care of it and I'll get back to you. Yeah. It's, I'll spend a little extra time on this side on this. Okay. Have a good weekend, everyone.

00;15;45;29 - 00;15;48;16

Judge

Thank you. All right. Thank you for your patience and for.