



# Transcript Edition



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ISSUE  
**1736**

You just like saying "Paper Caper," don't you copper?

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## Bulverde Standard

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VOL. 36 NO. 19 Issue 1736

"Baliff, get the duck tape and shut this man up!"

May 8, 2019

## Businesses To Take A New Look At The Senior Market As America Grows Older?

America's aging population – the country is growing older at the rate of ten thousand new 65-year-olds per day – has become a lucrative market for a variety of businesses, according to the Association of Mature Ameri-

can Citizens [AMAC].

The Census Bureau says that millennials have surpassed Baby Boomers as the largest segment of the U.S. population, but older Americans have more money to spend, particularly if you include the 50-plus crowd. "The researchers at Euromonitor tell us that, worldwide, Baby Boomers have amassed as much as \$15 trillion in spending power to date," reports AMAC's president Dan Weber.

So, how do senior citizens in the U.S. spend their money? "Surprisingly, there is not much of a difference between the expenditures of senior households and those of the average American household. As you might expect, the cost of health care is higher as we age, but the other basics of family spending are about the same as that of average households. An Advertising Age magazine report based on a Bureau of Labor Statistics' Consumer Expenditure Survey shows that senior households spend an average of \$40,817 compared with \$42,631 for an average household," notes Weber.

As regards the discretionary spending of seniors, Weber says that today's older Americans seek products and services that are unlike those that appealed to the elders of yesteryear

As Joseph F. Coughlin, director of the Massachusetts Institute of Technology AgeLab, put it in a recent article in the financial weekly, Barron's: "Older consumers will no longer put up with companies that address only basic physiological or safety needs. New demands in the older market are arising from higher-level drives, such as goals, aspirations, aesthetic preferences, social needs, and talents. From the consumer's perspective, products that seem to deny the importance of such considerations (for instance, by implying that the consumer is infirm) may soon find themselves foundering, not propelled by the prevailing demographic tailwinds ... The sorts of products that tomorrow's older consumers will avoid at all costs have one thing in common: They treat older people as a problem to be solved—often at the expense of their choice of home, community, accessories, fashion, activities, and, yes, fun."

In other words, says Weber, "today's seniors are active, not sedentary. They are healthier and living longer than ever before. And, they are more likely to be focused on their to-do lists than on their no-no lists. The old-school notion that you can't teach an old dog new tricks hardly describes today's mature Americans."

## Comal Appraisal District Triggers Senior Fear of "Economic Oblivion Syndrome"

Psychologists and social workers are deeply concerned about the psychological effects of unchecked government spiraling taxation stemming from appraisal values that have little contact with reality.

Seniors on a fixed income, who retired with some money in the bank are now having to rethink their financial future, thanks to dramatically increasing property assessments.

When homestead values are up 30, 40, 50 percent and higher in a single year, retired couples, especially, are cancelling trips to visit grand kids and are being forced to re-evaluate if they have enough money to make it to the end of their lives without falling into poverty.

"We can't afford to keep our homes," said one woman, who was shocked to see just how much her property assessment went up in one year. "We have a little money in the bank, but at this rate we cannot pay our taxes and still do those things we planned."

"We have no choice but to do without so that the government can waste and spend hard-earned money. I'm completely disgusted."

"It's depressing," said her husband. The Economic Oblivion Syndrome (EOS) is a growing affliction affecting seniors which comes from the fear of not having enough money set aside for retirement.

EOS is linked with depression, alcoholism and suicide.

Those suffering from the syndrome report losing hope, having trouble focusing and being generally despondent about the future.

"We worked all our lives and now we have to suffer because the appraisal district is just grabbing all the money they can for taxing districts that don't give a hoot about senior citizens," said the lady.

"They've destroyed the country and now they want to destroy us."

### Fast News

Modern day Jonah

If someone had had a video camera when the whale swallowed Jonah, we might see a scene similar to this one captured off the coast of South Africa. It seems that Rainer Schimpf was snorkeling near Port Elizabeth Harbour when a whale with its mouth wide open tried to gobble him up. Schimpf managed to extricate himself later and told Sky News: "Once you're grabbed by something that's 15 tonnes heavy and very fast in the water, you realize you're actually only that small in the middle of the ocean,"

The police let her go

Anne Brokenbrow has had a good life, always keeping on the straight and narrow. So how did this law abiding centenarian managed to wind up in hand cuffs being carried off by two of Bristol, England's finest? It was all part of a charity event organized by the Stokeleigh Care Home where Ms. Brokenbrow resides. She and her housemates were asked to reveal something they might have on their bucket list. Her wish, she explained to a reporter for Sky News, was to be ar-

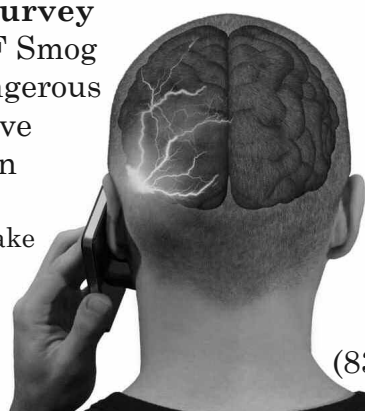
rested, explaining that she is "104 and I have never been on the wrong side of the law." She described her arrest as "very exciting."

A modern day good Samaritan

You might want to call Mike Weirsky the absent minded mega-millionaire. He purchased several lottery tickets at a local supermarket recently but was distracted and left them on the counter. He explained to reporters what happened when he showed up at the New Jersey Lottery offices to pick up his \$273 million jackpot. He said that while still at the store, "I put the tickets down, put my money away, did something with my phone and just walked away." The night the jackpot was announced Weirsky searched high and low for the tickets and finally, in desperation, he returned to the supermarket where he purchased them in the first place. And, to his surprise, the cashier had his tickets. The good Samaritan who found the tickets had returned them. Oh yeah, Weirsky opted for a lump sum payout of \$162 million.

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Hey Elected Officials: Comal County, ESDs, Cities, Comal Independent School District...

**FIRE The Out-Of-Comal Appraisal District Before We Fire You**

### PROTEST Your Property Appraisal

The deadline to protest your appraisal increase is May 15, 2019. Fill out the form on the back of your Appraisal Notice and take it to the Comal Appraisal District in person on May 14 and get it date-stamped as you turn it in.

Seek an in-person informal hearing to start. If you don't, the made-up numbers stick and you pay.

## Watch Your Weight

You are NOW LIMITED to what you can transport away in your vehicle or trailer.

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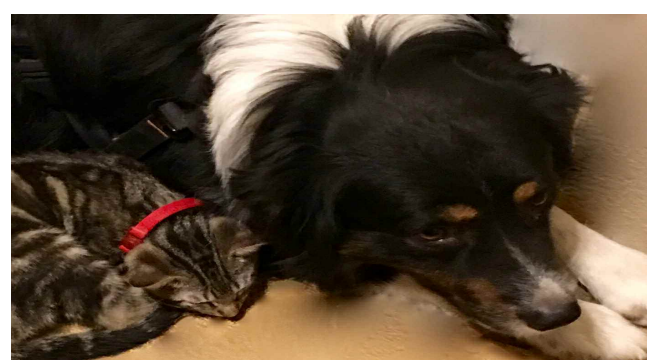
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# Mail

Send your letters to:  
dougkirk@gvtc.com

Dear Editor:

You may not be old enough to having been fortunate enough to ever see "The Wizard of Oz" and the wicked witch --

You see the majority of county and city residents are a bunch of "munchkins" living in obedience to the little king and queen elected elites---

In my case the airport is full of Munchkins who are totally in obedience to the wicked witch (airport owner) who complain about the witch behind her back --- even to me in private -- however gutless to say anything in front of her--

At least you have guts---the gut club is a small minority compared to the majority gutless club--and it is becoming worse as women obtain more political power and men being gender neutered-- As my mom used to say, the worst people in politics are a bunch of gagging women --

Regards  
Wm. Stewart--

Editor's Note:

If we don't stand up to government tyranny, who will?

Fortunately, there is a growing number of people who are sick to death of the tax and spend liberals who run our local government entities. They secretly hire the appraisal district to jack up values so that tax rates can remain under the 8% rollback cap and yet, they still generate millions of additional dollars every year.

They blame the growth for higher taxes but that is such a lie.

The more people you have paying into the pot, the less each should have to contribute in order to fill the pot.

The problem is, the pot heads keep increasing the size of the pot. They are never satisfied. They want more and more and more. Budgets don't get smaller they get bigger. Taxes are always on the way up. Values are artificially raised constantly.

## The Banshee

By Travis Kiner

The Banshee is a sort of spirit or ghost that is scary not for what it does, but for what it foretells. It was originally known as the Bean Sí which is translated as woman of the barrows, barrows being another name for a burial mound.

While the Banshee is considered a type of fairy, she is most similar to a spectre in appearance. In the United States, we think of Tinker Bell whenever we hear the word fairy, but in Europe, primarily the Eastern part but not exclusively, they are actually sinister beings in some cases. Fairies are also not limited to one creature, but a broad range of creatures including Goblins and Trolls. The Banshee is most often portrayed as a woman in flowing and tattered shawls, gowns, or simply sheets who is occasionally nearly translucent with skeletal or simply emaciated features. In other words, she is not very comforting in appearance.

The Banshee does not kill people; you need not worry of one dragging you off into the dark to devour your eyeballs or anything like that. Banshees are, for all intents and purposes, merely messengers. They come to the home of one who will soon die, and wail into the night, this is why you hear of people screaming like a Banshee. Some of the older stories have the banshee cleaning the soon to be deceased person's armor or clothing. Don't take this to mean that the Banshee chooses who will die, it doesn't, all the Banshee does is warn the family that someone will soon die. They could die from heart attack, liver failure, a gunshot, a stabbing, literally anything that could kill a person, and it is by no means the fault of the Banshee.

Despite the Banshee being of no danger, almost every movie or book starring one paints it as the villain that the hero must stop. The phrase 'don't kill the messenger' comes to mind. Its debatable whether the Banshee is bad or not, it simply depends on if one wants to know when they will die or not. The Banshee's warning does give the soon-to-be-deceased a fair warning to settle any affairs they have which seems more like a courtesy than some cruel plot. It does also remind one of their own mortality though, something we don't seem to appreciate that much. Personally I have no desire to know when I'll leave this mortal coil. Despite this, I don't consider the Banshee evil. Its warning is meant as a kind act, not a torturous one. Don't take this to mean you shouldn't be scared if you hear wailing at night, according to folklore you might be in the presence of a hundred different beasties who aren't as kind as the Banshee. Rule of thumb, dear reader, if you hear anything wailing in the dark it is best to avoid it.



## Calendar of Events

Your favorite club not here? Send us the listing!

May 7....Every Two Weeks.... Canyon Lake Area Writers (CLAW) group meets twice a month, on the first and third Tuesdays, from 4:30 pm to 6:30 pm. The location is the Tye Preston Memorial Library near the dam.

May 8.....The Canyon Lake Art Guild meets every second Wednesday of the month at the Tye Preston Library at 12:00 noon. For full information www.canyonlakeartguild.com Marilyn Brinker Chairman "Art On the Lake".

May 9... The CLPHC meets every month on the second Thurs. of the month. Motto : Party with a purpose. We are a local chapter of Parrot Heads in Paradise Inc., a non profit group whose purpose is to assist in community and environmental concerns and to provide social activities for people who are interested in the music and tropical lifestyle he personifies. Don Graves clup V.P. (830) 660-6072 cell.

May 9....The C.R.R.C. Senior Center is open Thursdays 11 a.m.- 3 p.m. Located at the C.R.R.C. Event Center, 125 Mabel Jones. Phone : 830-964-3003. Stop by for snacks, games, book clubs and day trips. Share your ideas and interests for this NEW SENIOR CENTER!

May 10...Democratic Women of Comal County meets the second Friday of each month at 10:15 am at the Tye Preston Memorial Library in Canyon Lake, Texas. Our meetings provide an opportunity to meet with like-minded people hear interesting speakers throughout the year. Please email cindysansone@live.com for more information.

May 11..The Guadalupe Valley Amateur Radio Club (GVARC) meets every Saturday at 7:30 AM at Granzin's BBQ located at 660 West San Antonio Street in New Braunfels. If you are an amateur radio operator, a HAM, or are interested in learning about amateur radio come join us for a cup of coffee and a taco! We look forward to meeting you no matter your age or experience with amateur radio. You can also visit us online at GVARC.ORG.1402.140289.

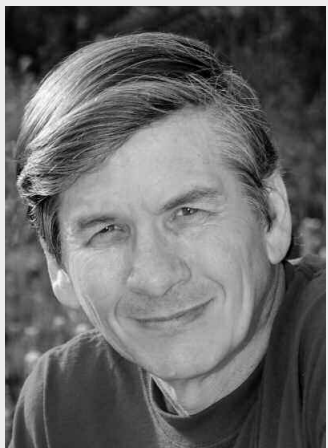
May 13...Toastmasters The Colonel Jack D. Wallace Toastmasters. Membership Drive - Col Jack Wallace Toastmasters Club. Learn to communicate better, sharpen your speaking and leadership skills. Have fun with other like minded people. We've got a great meeting place at the Bulverde/Spring Branch Library, 131 Bulverde Crossing 2nd & 4th Mondays at 6:30 pm. Come & join us! More info or to rsvp michaelalato@yahoo.com ph. 210-854-3334.

Celebrate Recovery.....A Christ Centered 12 Step Ministry dealing with Hurts, Habits & Hang-ups meets at 7 pm every week Thursday - Cowboys for Jesus hristian Fellowship, 8400 FM 32 north side of the lake.

The Solutions Group of AA meets at First Baptist church of Canyon Lake, 13085 FM 306. Noon meeting on Tuesday is open. Noon meeting on Wednesday is closed. Contact Bill 830-534-1060.

Send your group events or change to listings, or, new information to  
dougkirk@gvtc.com.

## The Editor Sez Don't Forget This Crime



By Douglas Kirk, M.S.  
Bastrop County  
Sheriff's Office:

September 17, 2018

"We have had several recent inquiries as to the legalities of drone usage. Texas Government Code sec. 423.003 OFFENSE: ILLEGAL USE OF UNMANNED

AIRCRAFT TO CAPTURE IMAGE states:

(a) A person commits an offense if the person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image.

(b) An offense under this section is a Class C misdemeanor.

Sec. 423.004. OFFENSE: POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE OF IMAGE:

(a) A person commits an offense if the person:

(1) captures an image in violation of Section 423.003; and

(2) possesses, discloses, displays, distributes, or otherwise uses that image.

(b) An offense under this section for the possession of an image is a Class C misdemeanor. An offense under this section for the disclosure, display, distribution, or other use of an image is a Class B misdemeanor.

(c) Each image a person possesses, discloses, displays, distributes, or otherwise uses in violation of this section is a separate offense.

"Therefore, you may not use a drone to take images of someone's private property without their consent."

Oh, you mean like Google Earth Satellites? They are unmanned and they are aircraft.

The Comal Appraisal District captures and uses the images to spy on property owners. Will there be prosecution in Comal County?



## Morton Falls Publishing Co.

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**Bulverde Standard  
Canyon Lake Week  
Comal County Beacon**

Mailing Address:

8831 Sagebrush, San Antonio, Texas 78127

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e-mail:

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If you enjoy this newspaper, please consider sending a donation to 8831 Sagebrush, San Antonio, Texas 78127. Thank you.

## Hill Country Bible Church

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God's Answers for Today's Issues  
We welcome believers, non-believers, those who want to believe and those who don't know what to believe!! Dr. Franklin Dale Watts [Pastor] Received his doctorate from Vanderbilt University. Pastor Dale also works as the social consultant for nine nursing homes through out south Texas.  
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9:30 Contemporary in Fellowship Hall  
10:50 Traditional in Sanctuary

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# Court Hearing Transcript Illustrates How Constitutional Rights Lost To Appraisal District

## Commentary By Douglas Kirk

Break out your magnifying glass, read between the lines and study the small print.

The case I filed against the Comal Appraisal District was done simply because I could not tolerate such a dramatic increase in appraised value on my residential homestead.

I went to an informal protest and CAD employee Brandon Voigt said he would absolutely not lower the value.

So I attended the Appraisal Review Board hearing where I was threatened that because I was uncooperative there would be consequences. (The transcript of that exchange has already been published in this newspaper.)

I also learned that the CAD used Google Earth

and a photographic image made by an unmanned satellite to "guess" at the value of my property.

Of course, using an unmanned vehicle to spy on the citizens of Texas is unlawful, and possessing images taken by unmanned vehicles is unlawful. (See: Texas Government Code Sec. 423.003 and my editorial on page 3.) But the appraisal district uses Google Earth with abandon, and, admits to its unlawful activity.

But that's okay, we don't have very good law enforcement or prosecution in Comal County--at least not when it comes to things of this sort.

It is a crime. But nobody cares.

Read carefully the following court transcript regarding a Motion to Compel filed by the CAD's attorney.

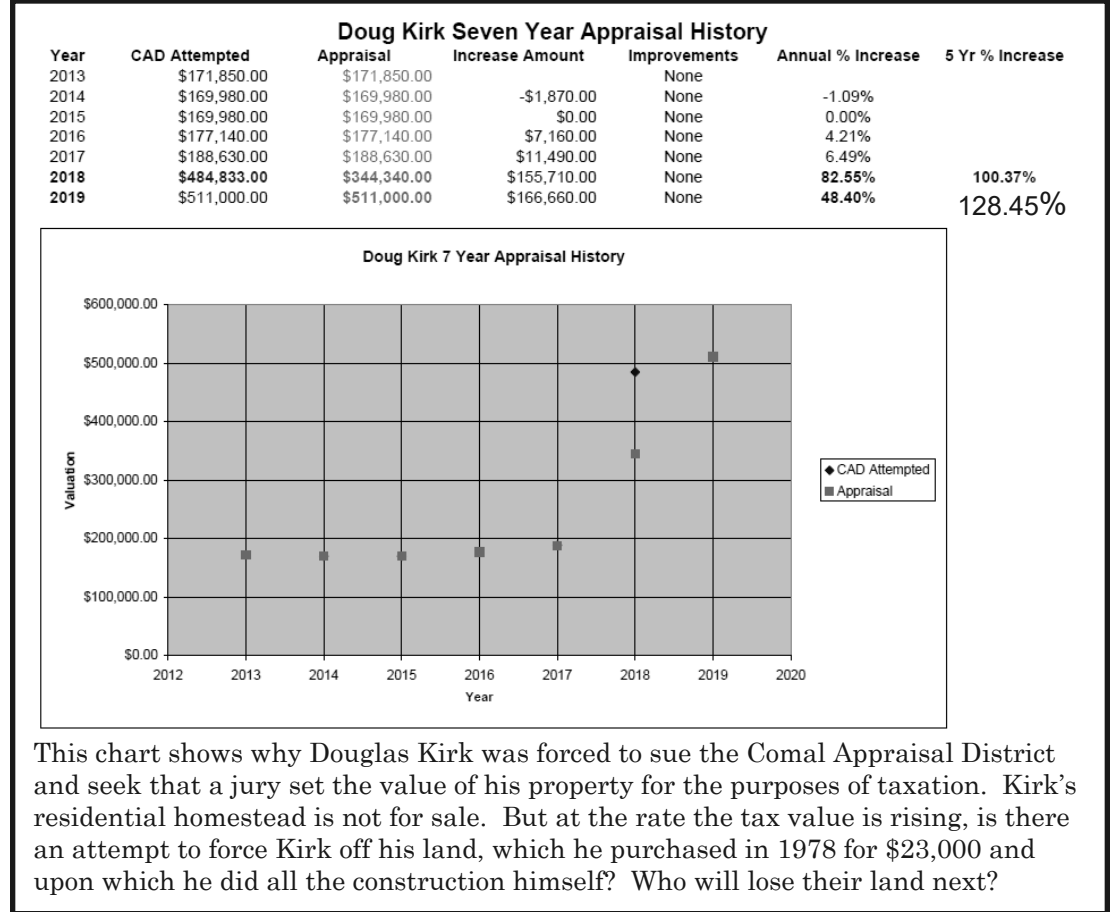
The bottom line is that the court is now forcing me to let the CAD send two appraisers and an attorney onto my property without any liability protection.

You will love how my objections were either not addressed or overturned.

The Comal Appraisal District wants to take pictures inside my kitchen, and presumably inside the bathroom, the bedroom, you name it.

Always remember the tricky bit: They make up the valuation numbers based on nothing. You protest. They don't listen to you. You sue. They come into your bedroom.

This is the government your elected officials on the school board, the city government and the Commissioners' Court want for you. They hired the CAD.



MOTION TO COMPEL  
April 18, 2019

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REPORTER'S RECORD  
VOLUME 1 OF 1 VOLUMES  
TRIAL COURT CAUSE NO. C2018-1576B

DOUGLAS KIRK } IN THE DISTRICT COURT  
vs. } COMAL COUNTY, TEXAS  
COMAL APPRAISAL DISTRICT } 207TH JUDICIAL DISTRICT

MOTION TO COMPEL

On the 18th day of April, 2019, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable Dibrell W. Waldrip, Judge Presiding, held in New Braunfels, Comal County, Texas.

Proceedings reported by computerized stenotype machine.

CINDY CUMMINGS, CSR  
OFFICIAL COURT REPORTER - 433RD DISTRICT COURT  
TEL. (830) 221-1279 FAX (830)608-2030

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April 18, 2019

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PROCEEDINGS

THE COURT: Mr. Kirk -- is there anybody that I can do something without a record, or do y'all need a record? Y'all have got actually trial on the merits scheduled, is that what that says on my docket?

MR. JAMES: No, Your Honor. It shouldn't be a trial on the merits. It's just a motion to compel.

THE COURT: Do you want it on the record?

MR. JAMES: Yes, Your Honor.

THE COURT: Okay. And y'all still think it will take 30-45 minutes?

MR. JAMES: I hope that it doesn't take that long, but it could.

THE COURT: Why don't y'all come on up and let's see what we're talking about just real quick. This is 18-1576.

MR. KIRK: Your Honor, you have earned your pay.

THE COURT: I'll keep working at it.

MR. JAMES: Your Honor, we -- we sent a request for inspection to inspect the property. This case concerns the market value of property -- residential and commercial property owned by Mr. Kirk. We need our appraiser on the property to do an inspection, to do a -- a USPAP, a Uniform

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THE COURT: Okay. Yes, sir?

MR. JAMES: Your Honor, the appraiser is Craig Zgabay. He's listed in the request for inspection. And the other person, we have one representative from the appraisal district listed and then we wanted to send one attorney.

We listed the undersigned counsel, which included four people on the signature block. We only need one attorney to go. So we're anticipating three people to -- to attend the inspection.

THE COURT: If it were just three people, if we named them, Mr. Kirk, and give you the -- the date -- or a date, will that resolve this in the future?

In other words, even 30 days from today as far as being -- I mean, written notice -- I mean, open court notice, wouldn't that be a sufficient alternative?

MR. KIRK: They're still going to have to follow the rule that says they've got to tell me the manner, the conditions and the scope. None of that is in the original notice and the rules say that it should be.

THE COURT: Well, I mean, it's going to be in person as far as manner. I'm understanding they're going to have three people present.

MR. JAMES: Our request says photographing

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Counsel for the Defendant

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Standards Professional Appraisal Practice compliant report and that would be legally and factually sufficient under the rules of evidence.

THE COURT: I usually call him Doug, but Mr. Kirk --

MR. KIRK: Yes, sir.

THE COURT: -- I mean, is there some opposition to a particular appraiser --

MR. KIRK: Sir --

THE COURT: -- or is that the issue?

MR. KIRK: Well, there's a --

THE COURT: Is it a timing issue?

MR. KIRK: It's -- it's a lot of things. Am I ready to speak?

THE COURT: Well, I mean, I'm just trying to get the gist of it, not the entirety of it.

MR. KIRK: Well, the gist of it is the notice was defective. And if you start looking at other things, look at some of the other rules from -- from Texas Civil Rules of Procedure, there's other ways to solve this problem.

And I have a witness here today that will help the understanding of that, that we can simplify things without them having to send six people onto my property and not even tell me who the inspector is.

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and videoing. We don't need a video. We can strike that. I know that there was an objection to that, but we do want to photograph it for the report. There's no other scope or conditions limiting it.

We anticipate that it will take one to two hours at the outside. Most of it is because there's a -- there's an amount of acreage that we'll have to walk the perimeter -- or the appraiser will have to walk the perimeter and so that will take a good portion of the time.

There's also -- we don't know the number of improvements exactly, somewhere around eight different improvements. So it will take a little bit of time, but we don't anticipate it taking more than two hours.

THE COURT: If we limit it to two hours and --

MR. KIRK: Sir, there's another alternative.

THE COURT: Okay.

MR. KIRK: I have a witness here in the courtroom. I'd like it put him on the stand and illustrate to you that we have already done this work. He's a --

THE COURT: But they're entitled to do it.

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VOLUME 1  
Motion to Compel

April 18, 2019

Court calls case .....4 1  
Defendant's motion to compel .....4 1

CRAIG ZGABAY Direct Cross V.Dire  
By Mr. James 11 v1 20 v1  
By Mr. Kirk 31 v1

RONALD AVERY Direct Cross V.Dire  
By Mr. Kirk 33 v1 39 v1  
By Mr. James 45 v1

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E	Appraisal documents	20 v1	20 v1

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MOTION TO COMPEL  
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And I can go through the defects -- the defects of the notice, which ought to kill it right there. But if -- but if it doesn't kill it, we've got all kinds of other arguments.

THE COURT: So which one of the 199s or 197s do we --

MR. JAMES: 196.7.

MR. KIRK: Okay. We're looking at 196.7, request a motion for entry upon property, and -- and they made a request. The rules say that they must state the time, the place, the manner, the conditions and the scope of the inspection. And the rules say that they should say who the inspector is.

And in their notice, the only thing they gave me is a time and a place. They didn't even tell me who the inspector was going to be. They said they have got -- they've got --

MR. JAMES: Your Honor --

MR. KIRK: Excuse me, can I finish?

THE COURT: Let him just --

MR. KIRK: I'm doing that for her benefit. They said they have parties who may attend, so it's like a tourist event. I need to know who the inspector is. The notice of inspection is wholly defective.

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MR. KIRK: But if you look at Rule 192.4, it starts to talk about cumulative or duplicative discovery obtainable from some other source that is more convenient, less burdensome or less expensive.

We've already done the work that their appraiser can use. In fact, they have a copy of the work. Their appraiser can examine that. All of the buildings have been measured. All of the buildings have been photographed, inside and out. There's diagrams that show where they're located on the property.

THE COURT: Okay. Let me just -- I understand you have a witness here, and I appreciate that, but I'm just trying to expedite this. By whom with what capacity did that work that you're suggesting?

MR. KIRK: This is a certified state architect -- a state certified architect. And what architects do for a living is they measure things.

THE COURT: I understand.

MR. KIRK: They're good at this.

THE COURT: But are they also the -- an appraiser with the qualifications that would allow those determinations to be admissible as an appraisal?

MR. KIRK: No, sir. He's not an appraiser, but he has done an analysis.

THE COURT: That's what I'm saying is they

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MR. JAMES: Your Honor, we -- we sent a request for inspection to inspect the property. This case concerns the market value of property -- residential and commercial property owned by Mr. Kirk.

MR. KIRK: But if you look at Rule 192.4, it starts to talk about cumulative or duplicative discovery obtainable from some other source that is more convenient, less burdensome or less expensive.

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1 don't have to accept those numbers.  
2 MR. KIRK: No, they don't. While it's --  
3 the number is like measuring the size of a building.  
4 THE COURT: In regard to then taking those  
5 numbers and comparing them for an appraisal.  
6 MR. KIRK: What will their appraiser do  
7 different than measuring the buildings? I've got the  
8 measurements. I've got the pictures. I've got the  
9 entire analysis here. What are they going to do  
10 different that they have to be on-site to do it? Why  
11 can't they use the document that we produced and do  
12 their analysis based on that?  
13 And the rules allow that. The rules allow  
14 that they -- they -- you know, we can do that in an  
15 easier, less expensive way. And the rules allow the  
16 judge to make that statement.  
17 THE COURT: Well, if they want to agree to  
18 that, that's fine; otherwise, we'll have to have a  
19 hearing after lunch. That's all I know to tell you to  
20 do.  
21 MR. JAMES: We can't agree to take it.  
22 THE COURT: Okay. Then we'll just need to  
23 take this matter up. I've got, you know, other matters.  
24 I was just seeing if there might be some impasse that we  
25 could resolve. But otherwise, we'll just -- we'll have

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1 property looking for any encroachments or what may  
2 appear to be unusual easements, anything that just looks  
3 out of the ordinary.  
4 And then with respect to the improvements,  
5 it's important to note, you know, how they're built, the  
6 condition, the -- the quality. And the condition and  
7 the quality are typically really important pieces of it  
8 because later when you compare the subject property to  
9 other properties that may have sold, you're -- you're  
10 making judgments against how this property compares to  
11 that other property with respect to its age and its  
12 condition and its quality and features and so forth.  
13 Q. How did you learn what was entailed or  
14 necessary for an inspection?  
15 A. Well, I mean, I guess through the education --  
16 there's a good bit of education required to get the  
17 designation from the Appraisal Institute, as well as  
18 nearly 30 years of experience.  
19 Q. If somebody did not have that experience, do  
20 you think that there would be things that they could  
21 possibly miss in doing an analysis of the property?  
22 A. Possibly.  
23 Q. When you inspect a property, what typical  
24 things are you looking for? I know you mentioned  
25 quality and condition. Is there anything else?

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1 Q. -- in that way? All right. Moving on to  
2 the -- to the architectural report, you mentioned that  
3 you had reviewed the -- the report. Will you describe  
4 the detail to which you've reviewed it.  
5 A. Well, I mean, I looked at it when we were here  
6 this morning. The copy that we have -- or you have has  
7 some black and white pictures. That is not very helpful  
8 actually.  
9 Q. Okay. Are you familiar with the architect -- I  
10 believe his name is Mr. Avery?  
11 A. I'm not.  
12 Q. Okay. So you don't have an opinion on his  
13 credibility?  
14 A. I don't.  
15 Q. Okay. Have you been asked or engaged to  
16 provide an opinion on the quality of Mr. Avery's report?  
17 A. No.  
18 Q. Okay. Is the report an appraisal?  
19 A. His report?  
20 Q. Yes.  
21 A. No.  
22 Q. Okay. Would it be proper under USPAP to rely  
23 on Mr. Avery's report in lieu of an inspection?  
24 A. I don't think so because what I saw from the  
25 report is that there were -- there were measurements and

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1 a hearing.  
2 MR. KIRK: All right. Thank you, sir.  
3 MR. JAMES: Thank you, Your Honor.  
4 THE COURT: I don't want to deprive  
5 anybody of a hearing.  
6 (Recess taken)  
7 THE COURT: All right. Back on the Kirk  
8 and Comal Appraisal District matter. If y'all -- so  
9 it's your motion to compel. This is 18-1576.  
10 Do you think there's anything else more we  
11 need to put on the record at this stage?  
12 MR. JAMES: Yes, Your Honor. We have our  
13 appraiser we'd like to put on the stand.  
14 THE COURT: Call him on up.  
15 If you want to, you can come over here to  
16 the witness stand. It will be easy enough. Everybody  
17 can see you there and the court reporter can hear you.  
18 Let me get you to raise your right hand.  
19 (Witness sworn)  
20 THE COURT: You may proceed.  
21 CRAIG ZGABAY,  
22 having been first duly sworn, testified as follows:  
23 DIRECT EXAMINATION  
24 BY MR. JAMES:  
25 Q. All right. Will you please state your name.

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1 A. It sort of depends a little bit on whether it's  
2 commercial or residential. So on commercial properties,  
3 you know, how they're constructed, whether it's wood  
4 frame or steel frame or concrete, is important because  
5 there are different cost categories associated with  
6 those kinds of structures.  
7 On residential you tend to focus a little  
8 bit more on just what is in demand in the market. So,  
9 you know, a house that has granite countertops and is  
10 finished out very nicely is very different from one that  
11 may have laminate countertops and hasn't been updated  
12 since 1970 or whatever.  
13 Q. Okay. And with regard to the subject property,  
14 the one that's at issue in this litigation, what types  
15 of things would you be looking for?  
16 A. Well, there -- I guess I'm not really sure even  
17 what we're looking at. I mean, the only data that --  
18 that I've been able to see is what Comal Appraisal  
19 District has on their Web site, and I've reviewed that.  
20 I did have a chance to do a cursory review of the report  
21 that -- that you had from the architect, I believe.  
22 Q. Okay. We'll come back to that. Let's go on to  
23 generally accepted appraisal methods. When I say  
24 generally accepted appraisal methods, what does that  
25 term mean to you?

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1 there were depictions of where certain improvements were  
2 on the site. But for example, what I didn't see is some  
3 professional assessment of the condition of the property  
4 or -- and I did note that there was some description of  
5 the type of materials used and the age, but that still  
6 wouldn't be sufficient to get a -- a well-rounded view  
7 of what it is you're appraising.  
8 Q. Assuming that all that information was in there  
9 and it was USPAP compliant and you did not know  
10 Mr. Avery, would you be able to rely on his report?  
11 A. If -- if all of that information was in there  
12 and it was by somebody that had appraisal training  
13 and knew how to look at property and come to a judgment  
14 of condition and quality, then yes.  
15 MR. JAMES: Okay. At this time I'll pass  
16 the witness.  
17 THE COURT: Any questions, Mr. Kirk?  
18 MR. KIRK: Your Honor, I have a question.  
19 Can we put him on re-call so that I can introduce the --  
20 the documents so that we can talk from the document? Is  
21 that okay?  
22 THE COURT: Well, I mean, there may not be  
23 any objection.  
24 I don't know, is there an objection to  
25 using this exhibit with this witness at this time?

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1 A. Craig Zgabay.  
2 Q. How are you currently employed?  
3 A. I work for myself. I have a company, Candela  
4 Property Advisors.  
5 Q. And what does your company do?  
6 A. Primarily real estate appraisal.  
7 Q. Would you please generally describe your  
8 experience as an appraiser.  
9 A. I've been appraising since 1990. I've had my  
10 MAI designation from the Appraisal Institute since 1997,  
11 I believe. I'm currently a state certified general  
12 appraiser with the State of Texas.  
13 Q. All right. You mentioned that you have an MAI  
14 and that you have a license with the State. Do you have  
15 any other licenses?  
16 A. I'm a state salesman with the State of Texas as  
17 well.  
18 Q. Okay. Do you have any other -- can you  
19 generally state your educational background as it  
20 relates to appraisal.  
21 A. Got my -- my master's in land economics and  
22 real estate in 1990 from Texas A&M, bachelor's in -- in  
23 economics -- ag economics from A&M in '88.  
24 Q. Are you required to take continuing education  
25 as part of your licenses?

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1 A. Well, it's -- it's those practices that are  
2 prescribed by the Uniform Standards of Professional  
3 Appraisal Practice or USPAP as it's called. In that  
4 document it lays out in standards one and two how you  
5 perform an appraisal and how you report it.  
6 Standard one basically lays out the  
7 process that you go through. And these are -- you know,  
8 these are minimum standards. Most appraisers,  
9 particularly those that are designated by the  
10 appraiser -- Appraisal Institute, tend to go a little  
11 bit above and beyond that.  
12 Q. Okay. Does USPAP always require an inspection?  
13 A. The answer to that is yes and no. The -- the  
14 first part of it is it -- it will say in USPAP that an  
15 inspection is not required. However, in the preamble  
16 USPAP, you have the scope of work rule and -- and it  
17 basically says that the appraiser has to do whatever is  
18 necessary to produce credible results.  
19 So from my perspective, I always like to  
20 look inside those -- the structure, walk the perimeter,  
21 because that's how I understand basically what the  
22 problem is, you know.  
23 Q. Now, for this property specifically, would  
24 USPAP require you to -- to conduct an inspection?  
25 A. In my opinion on this one, yes, because this is

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Cross-Examination by Mr. Kirk

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1 MR. JAMES: We can discuss it. I do have  
2 an objection to introducing the exhibit into the record  
3 because it has an appraisal conclusion. He's not going  
4 to be qualified as an appraiser, so we do --  
5 THE COURT: But for the purposes of  
6 cross-examination?  
7 MR. JAMES: No objection.  
8 THE COURT: Not for the truth of the  
9 matter asserted at the moment?  
10 MR. JAMES: Yes, Your Honor. That's fine.  
11 THE COURT: Why don't you just mark it as  
12 whatever you want to mark it as. You can mark it as  
13 Respondent's Exhibit 1.  
14 MR. KIRK: Okay. This is -- yeah. We  
15 call it a Exhibit E because we supplied it to them in  
16 discovery.  
17 THE COURT: Well, that's fine. We'll just  
18 use the same number.  
19 CROSS-EXAMINATION  
20 BY MR. KIRK:  
21 Q. So I'm handing that to you.  
22 THE COURT: It's just at this juncture  
23 admitted solely for the purpose of cross-examination  
24 rather than the truth of the matter asserted.  
25 Q. (BY MR. KIRK) Would you look at that document,

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1 A. I am.  
2 Q. Okay. What does that typically entail?  
3 A. It's a hundred hours of continuing ed every  
4 five years.  
5 Q. Okay.  
6 A. And I'm current on everything.  
7 Q. How -- how have you been engaged in this case?  
8 A. Well, I've been asked to come up here and talk  
9 about whether an inspection is -- is needed for an  
10 appraisal. Would you like me to tell that part?  
11 Q. We'll get there in just a minute. What -- what  
12 is the general definition of market value?  
13 A. Well, in the appraisal world, market value  
14 is -- is that price that a willing buyer and a willing  
15 seller come to under conditions requisite to a fair sale  
16 with each party acting prudently and informed and -- and  
17 in cash or terms thereto. That's the basic generally  
18 accepted definition.  
19 Q. Would a buyer in that scenario normally inspect  
20 a property prior to purchasing it?  
21 A. The buyer typically would, yeah.  
22 Q. Yeah. What -- what is entailed in an  
23 inspection?  
24 A. Typically we'll go out and measure the  
25 property. I will always walk the boundaries of the

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1 not a standard kind of, you know, typical three-bedroom,  
2 two-bath, you know, house in a subdivision. This is ten  
3 acres with some improvements, as I understand it, that  
4 may be used commercially, some that are residential. So  
5 I don't think that I would feel comfortable appraising  
6 this property without inspecting it.  
7 Q. All right. Would your report be more or less  
8 reliable if you did not conduct an inspection?  
9 A. It definitely would be less reliable if I  
10 didn't conduct the inspection.  
11 Q. Would your peers that have the -- the same  
12 educational background that are complying with USPAP  
13 conduct an inspection of this property?  
14 A. They would.  
15 Q. Okay. Could you reasonably obtain the  
16 information that you're looking for from another source?  
17 A. Possibly, if -- you know, if it was somebody  
18 that had the same experience that I did and would be  
19 looking for the same things that I do.  
20 Another appraiser that I have had some  
21 relationship with and have seen his work product in the  
22 past, in that situation I could possibly do it.  
23 Q. Are you aware of any such person in this case  
24 that you could rely upon --  
25 A. No.

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1 please, and tell me if that's different than the one you  
2 examined before.  
3 A. Well, so these pictures are in color and a  
4 little bit larger and legible. Okay. I've thumbed  
5 through it.  
6 Q. Does that appear to be the same document you  
7 looked at except it's larger and in color?  
8 A. Appears to be.  
9 MR. KIRK: Okay. I'm going to suggest  
10 that it is. We can debate that later, but it is a  
11 larger copy of the same thing that we provided to the  
12 defense.  
13 Q. (BY MR. KIRK) You said that as an appraiser,  
14 you are going to measure; is that correct?  
15 A. Correct.  
16 Q. What would you measure?  
17 A. The outside walls of all of the improvements.  
18 Q. And in that document, does it appear that  
19 somebody has already measured the outside walls of the  
20 improvements?  
21 A. It appears so. I see some square-footage  
22 calculations.  
23 Q. And do you also see the diagrams and -- on that  
24 particular page in the upper left-hand corner, are there  
25 measurements in the diagram itself?

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Q. (BY MR. KIRK) You said that as an appraiser, you are going to measure; is that correct?

A. Correct.

Q. What would you measure?

A. The outside walls of all of the improvements.

Q. And in that document, does it appear that

somebody has already measured the outside walls of the improvements?

A. It appears so. I see some square-footage calculations.

Q. And do you also see the diagrams and -- on that particular page in the upper left-hand corner, are there measurements in the diagram itself?

22

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1 A. It appears so.

2 Q. And that's on page?

3 A. Ten.

4 Q. Ten, just for the record. You indicated that

5 you would walk the boundaries. What is the purpose of

6 that?

7 A. Like I said, just to see if there are any

8 unusual easements that may be apparent, whether there

9 are any encroachments, whether the property line appears

10 to be what -- you know, what it may -- whether the

11 property line corresponds to a survey, which is another

12 document.

13 Q. Would you look in this document on page two, an

14 aerial photograph, do you see that?

15 A. I do.

16 Q. And on page three, a diagram that shows the

17 boundaries of the property, do you see that?

18 A. I do.

19 Q. Would these be the boundaries that you would

20 walk?

21 A. Yes.

22 Q. Okay. And if you go back to the previous page

23 to page two, does it appear to you that this property is

24 bounded by highways?

25 A. Yes.

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1 collection system.

2 Q. Okay. So as an appraiser when you look at a

3 structure, what else would you say typically besides

4 what's written in that paragraph? And there's

5 pictures -- there's photographs here, too. I want to

6 direct your attention to that.

7 A. I don't see anything about the kitchen. And

8 the kitchen is certainly maybe one of the more important

9 points to look for when you're inspecting a house. And

10 flooring, I don't see anything about flooring.

11 Q. If you will, turn to the next page, page number

12 five. And I'm not going to make you read all of this

13 stuff, but do you see also the word structure,

14 condition, utilities?

15 A. I do.

16 Q. What else would you add if you were appraising

17 that property other than those things? And if you want

18 to read it, you may, but we don't need to read it aloud,

19 unless you want to.

20 A. It -- it's not apparent to me whether there is

21 any central heat and air and whether there are window

22 units.

23 Q. Okay. So on page five, let me direct your

24 attention to utilities. It says, no mechanical,

25 electrical or plumbing available in the storage area.

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1 A. So -- well, I mean, the first thing is to

2 understand the appraisal problem, what it is that you're

3 appraising. And so that kind of goes to what we're

4 talking about here, inspecting it and having a good

5 record then of -- of what it is that you're appraising,

6 size, features, condition, so forth.

7 Secondly, then you have to finish going

8 through the appraisal process, which is -- well, usually

9 you will implement the sales comparison approach, which

10 is finding sales of similar properties, and then making

11 comparisons of the property that you're appraising with,

12 you know, these other properties that have sold.

13 Q. Okay. Thank you. So those items, the

14 appraisal process, the sale of comparisons, making

15 comparisons, where do you do that? Do you do that

16 on-site?

17 A. No.

18 Q. Do you need to be on-site to do that?

19 A. Not the analytical part of it, no.

20 Q. Okay. Thank you. You also said that it's less

21 reliable without inspection.

22 A. I would say so generally, yeah.

23 Q. Are you familiar with the Texas Tax Code?

24 A. No.

25 Q. Okay. So I'm not going to ask you a question,

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1 Q. Does it appear that there's any other real

2 estate encroaching or near that property?

3 A. It doesn't appear to be from this aerial photo.

4 Q. Okay. So you will agree, though, that those

5 are roads that go all the way around it?

6 A. Right.

7 Q. And do they appear to be like highways, state

8 highways, county highway? They are not labeled, but is

9 that something you could get from the Internet, what --

10 what the names of those streets are?

11 A. Yes.

12 Q. You said that you would look at the

13 improvements; is that correct?

14 A. Sure.

15 Q. You indicated that you would look at the

16 condition; is that correct?

17 A. Right.

18 Q. Describe to me what the condition would be that

19 you're looking for. What's a typical example of what

20 you're looking for?

21 A. Say in a house, you know, you would look at the

22 flooring and notice whether it appeared to be in good

23 condition or whether it had some years of wear on it.

24 Also, really important in residences would

25 be whether the bathrooms and the kitchen have been

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1 A. So am I to understand all -- all of this is

2 storage, okay.

3 Q. Yes. This description box belongs to these

4 photos and belongs to the diagram at the top of the

5 page. It's all color-coded so you can see what's what.

6 A. So the presence of heating and ventilation

7 systems wouldn't be very relevant for storage areas, but

8 it would be for the residence.

9 Q. All right. Let me ask you another question.

10 You mentioned in appraising improvements, you used the

11 word "how is it built."

12 So what do you mean by that? What do you

13 mean, how is it built? I don't know your exact words,

14 but do you understand what I'm asking?

15 A. Yeah. So whether it's a wood frame product or

16 whether wood frame and on slab or whether it's pier and

17 beam or whether in the case of commercial structures,

18 they tend to be more steel frame.

19 Q. Okay. Now, let me direct your attention back

20 to page four. In looking at those photographs, can you

21 tell the type or the how-built question, what type of

22 construction it is?

23 And I also want to call your attention to

24 the fact that the structure -- the analyst said that it

25 was CMU. Do you know what a CMU is?

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1 but I'll get that out later.

2 MR. KIRK: I pass the witness.

3 MR. JAMES: Just a couple of follow-up

4 questions, Judge.

REDIRECT EXAMINATION

6 BY MR. JAMES:

7 Q. Do you know that the descriptions in this

8 architectural report are accurate?

9 A. I don't.

10 Q. Okay. Do you know if anything is missing on

11 there that would affect the value of the property?

12 A. Well, I mean, not without studying it a bit

13 more. But like I said on the -- on page four where

14 there's the description of the home, I mean, there's --

15 I -- like on the utility section, it just says

16 electrical, plumbing and HVAC, water from pump house via

17 ground garden hose. Well, I mean, that tells me that

18 there's the presence of electrical, plumbing and HVAC,

19 but it doesn't tell me anything about whether it works,

20 whether it's sized properly and it's sufficient for the

21 home or not.

22 Q. Would your report be more credible if you were

23 able to verify the information there and then, you know,

24 discover additional information from an on-site

25 inspection?

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1 updated over the last five or ten years or so, condition

2 of the walls and ceilings and condition of the roof.

3 Q. Would you turn -- I'm sorry, would you turn to

4 page four.

5 A. Okay.

6 Q. I'm going to direct your attention to the

7 diagram that's in red. And then would you look at

8 the -- in the box below that where it's labeled home,

9 does it say the word size? Look at the box below the

10 red, bottom of the page.

11 A. Yeah.

12 Q. Does it say -- do you see the word size?

13 A. No -- oh, size, right at the top. Okay.

14 Q. Okay. Does it appear that there's measurements

15 20 feet by 30 feet?

16 A. It does.

17 Q. Is there the word front porch with some

18 measurements?

19 A. Yes.

20 Q. Is there a word that says structure?

21 A. Yes.

22 Q. Would you read that paragraph aloud, please.

23 A. Constructed of eight by eight by 16 inch

24 concrete masonry units, CMU, with fiberglass reinforced

25 stucco on exterior and no interior finish on the CMU.

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1 A. Concrete blocks.

2 Q. So can you look at the picture and compare the

3 picture with that structure description and satisfy

4 yourself that the photos reflect what's being said in

5 the description?

6 A. Let's see.

7 Q. And this is on the how-built question.

8 A. Right. Well, so I would say these -- these

9 pictures here are the only ones of the outside of the

10 structure. And I would say from those pictures, it's

11 not apparent to me. If -- if I hadn't read that these

12 were CMUs, it's pretty difficult to look at that and

13 tell for sure.

14 Q. Okay. Can you look at the photos and tell the

15 age of this building?

16 A. By looking at the photos? I would say that's

17 pretty difficult to do just from these photos.

18 Q. Okay. So if you looked at it in person, could

19 you tell how old it was?

20 A. It usually makes it easier, just because you

21 can walk around and see the different perspectives.

22 Q. But could you give me a date?

23 A. An exact date?

24 Q. Well, a year, two years?

25 A. Usually when we get there and we, you know,

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1 A. Yes.

2 MR. KIRK: All right. Pass the witness.

3 THE COURT: Anything else?

4 MR. KIRK: That's all. Thank you.

5 THE COURT: Thank you. You may step down.

6 Any other witnesses from the movant?

7 MR. JAMES: No, Your Honor.

8 THE COURT: All right. Mr. Kirk, have you

9 got anything?

10 MR. KIRK: Your Honor, if it would please

11 the Court, could I ask Ron Avery to become a witness for

12 us?

13 THE COURT: Sure.

14 You can come on up.

15 MR. KIRK: Was the previous witness sworn?

16 THE COURT: Yes.

17 MR. KIRK: So we need to swear him. I

18 didn't catch that part.

19 THE COURT: We will, yep.

20 Let me get you to raise your right hand.

21 (Witness sworn)

22 THE COURT: Thank you. You may have a

23 seat.

24

25

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1 The interior partitions are two by four studs with

2 gypsum board. The roof is concrete tiles on plywood on

3 wood roof trusses. Foundation is reinforced concrete

4 slab on grade.

5 Q. And as an appraiser, would you garner any more

6 information than that by looking at this building in

7 terms of -- in terms of structure?

8 A. I don't see anything in there about the --

9 about the roof, about the roof cover.

10 Q. Let me direct your attention to where it says,

11 roof is concrete tiles on plywood roof trusses.

12 A. Oh, concrete tiles, yes, sir.

13 Q. Tiles, yes, sir. So you do see something about

14 the roof; is that correct?

15 A. Yes.

16 Q. Let me direct your attention to the next

17 paragraph, condition. Would you read that aloud,

18 please.

19 A. Home was built by the present owner, who is not

20 a builder with experience in the building field. It is

21 unfinished and plumbing is in bad shape, bare plywood

22 floors upstairs. Tile is coming up in places downstairs

23 through the slab cracks. Stairs have open risers and no

24 finish. Wood trim is rotting. Clothes dryer is broken.

25 Barrels are intended for future roof rainwater

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1 kind of take it all in, then we'll estimate like an

2 effective age. So if something were built in 1960, for

3 example, and then renovated five years ago, maybe that

4 tends to lower its actual age to a lower effective age.

5 Q. If you looked at this structure in person,

6 could you tell what decade it was built in?

7 A. Probably could narrow it down, yeah.

8 Q. Could you tell what century it was built in?

9 A. I think so.

10 Q. Okay. That will be an interesting thing to

11 find out.

12 Now, features -- you mentioned features.

13 What kind of features are you looking for?

14 A. Well, in some homes you have intercom systems

15 or you have central vacuum systems or you have HVAC that

16 has zoned features to it, those sorts of things.

17 Q. Okay. Anything else?

18 A. Not off the top of my head.

19 Q. All right. Let me see. We may be ready.

20 You stated earlier that your goal is to do

21 whatever is necessary to produce credible results.

22 A. Right.

23 Q. Can you give me three things that you need to

24 do to make sure your results are credible from your

25 perspective?

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1 RONALD AVERY,

2 having been first duly sworn, testified as follows:

DIRECT EXAMINATION

4 BY MR. KIRK:

5 Q. Could you state your name and address for the

6 record, please.

7 A. Yes. Ronald Franklin Avery. I live at 1933

8 Montclair in Seguin, Texas.

9 Q. Are you a licensed architect in the state of

10 Texas?

11 A. Yes, I am.

12 Q. How many years have you been a licensed

13 architect?

14 A. Oh, gee, can I just tell you when I got my

15 license?

16 Q. Yes, sir.

17 A. That was in 1984. I'm not good at math on the

18 spot, so don't do that to me.

19 Q. How many -- how many years did you attend

20 college to study architecture?

21 A. I spent -- it's a five-year program to get a

22 bachelor's of architecture and then a minimum three

23 years' internship. And I spent seven years' internship

24 in the Houston area, multiple firms.

25 Q. Do architects make accurate measurements of

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Q. If he measured the wall with a tape measure or with a laser device, would his measurement be better than yours?  
 A. No, sir.  
 Q. If he asked questions about utilities and mechanicals and so on, would his results be different than yours?  
 A. No, sir.

THE COURT: Okay. I think it would just -- I mean, it's not about lying or anything else. It's -- it's the matter -- it's a judgment call. It's a judgment call necessary by an appraiser versus an architect. And even the architect couldn't have done his work without going to the site.

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1 built structures for their use in recording existing  
 2 buildings and modifying them?  
 3 A. That's one of the things they're known for,  
 4 yes.  
 5 Q. Have you measured and documented properties  
 6 before for your use as an architect?  
 7 A. Absolutely.  
 8 Q. Okay. I'm going to hand you what has been  
 9 marked as --  
 10 MR. KIRK: I'm sorry, Exhibit --  
 11 THE REPORTER: E.  
 12 MR. KIRK: So we all stuck with E,  
 13 excellent.  
 14 And I'm sorry, Judge, you never got to see  
 15 that.  
 16 Q. (BY MR. KIRK) Okay. Do you recognize this  
 17 document, Mr. Avery?  
 18 A. Yes. It looks like a blowup. I did produce  
 19 eight-and-a-half by 11 in color that I gave you earlier.  
 20 And this one I see is -- is a blow-up copy.  
 21 Q. What's the title of that document?  
 22 A. Architect's Analysis of the Property of  
 23 Mr. Douglas Kirk.  
 24 Q. Did you produce this document and apply your  
 25 architectural seal to it?

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1 A. I did.  
 2 Q. Did you make those drawings based upon the data  
 3 that you personally gathered in the field?  
 4 A. I did.  
 5 Q. Did you name the structures and color-code them  
 6 in the documents so that anyone could easily locate them  
 7 and know the size, condition, type and quality of  
 8 construction of each improvement?  
 9 A. I did.  
 10 Q. Did you also add notes about available utility,  
 11 plumbing, electrical, heating, ventilation and air  
 12 conditioning systems observed in each of the structures?  
 13 A. I did.  
 14 Q. Did you also do a site plan of the property?  
 15 A. I did.  
 16 Q. Did you take into account contour lines and  
 17 topographic information?  
 18 A. I did.  
 19 Q. Is your property analysis an accurate  
 20 description of the size, character and quality of the  
 21 property and its improvements sufficient in your  
 22 estimation for any licensed appraiser to use in  
 23 determining its value compared to other properties?  
 24 A. It is. I think it's a sufficient report for  
 25 that, yes.

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1 have seen -- I have met him at his house before to talk  
 2 about stuff in the newspaper.  
 3 Q. Okay.  
 4 A. He lives on the property, so I -- I've been out  
 5 there to see him at his home.  
 6 Q. Okay. Are you being paid for your opinion --  
 7 or were you paid for this report?  
 8 A. Yeah, he did. He paid me.  
 9 Q. What was your fee?  
 10 A. \$200.  
 11 Q. Okay. Do you own property nearby Mr. Kirk's  
 12 property?  
 13 A. No, I don't.  
 14 Q. Okay. Have you ever filed a protest with the  
 15 appraisal district?  
 16 A. Yes.  
 17 Q. Okay. What was the result of that protest?  
 18 A. Pretty good. I got one piece of property  
 19 reduced from \$60,000 to \$385.  
 20 Q. Oh, wow. That was a success.  
 21 A. The judge wanted to actually get me to help him  
 22 on his appraisal work.  
 23 Q. So you had a lawsuit as well that followed?  
 24 A. Yes, I did.  
 25 Q. You've sued the appraisal district before?

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1 A. Yes, I did.  
 2 Q. And where would we see the seal on that  
 3 document?  
 4 A. It's on the -- on the front page here.  
 5 Q. So this is already in evidence. Let's talk  
 6 about it. In February 2019, did you visit the property  
 7 the subject of your analysis?  
 8 A. I did.  
 9 THE COURT: Okay. Let me just stop you.  
 10 I mean, it -- it's his analysis. It's admitted into  
 11 evidence on a limited fashion at the moment.  
 12 MR. KIRK: Okay.  
 13 THE COURT: So I mean, if you want it --  
 14 MR. KIRK: You could just say, move along.  
 15 THE WITNESS: Limited to the issue.  
 16 MR. KIRK: Well, I'll move along -- or am  
 17 I going too slow, Your Honor?  
 18 THE COURT: No. I mean, if you want it in  
 19 other than the cross-examination of the prior witness,  
 20 we need to -- we probably need to proffer it as such.  
 21 MR. KIRK: Actually, I would like it  
 22 admitted as a document that he can testify to, so shall  
 23 we do that separately?  
 24 THE COURT: Well, that's why I'm  
 25 interrupting.

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1 MR. KIRK: I pass the witness.  
 2 CROSS-EXAMINATION  
 3 BY MR. JAMES:  
 4 Q. All right. Mr. Avery, how do you know  
 5 Mr. Kirk? How did you become familiar with him?  
 6 A. We've been friends over the years.  
 7 Q. For how long?  
 8 A. Oh, I don't know -- what, ten, 15? I don't --  
 9 I can't remember exactly when I first met him.  
 10 Q. Do you have any appraisal experience?  
 11 A. No. I'm not an appraiser. I'm familiar with  
 12 what they do. I've hired two of them myself. I mean,  
 13 I -- I kind of know what they do. I've seen the reports  
 14 they make and stuff, yes.  
 15 Q. So the last question that Mr. Kirk asked you  
 16 asked you if this report was sufficient for any  
 17 appraiser to use.  
 18 A. Yes.  
 19 Q. You know that just by -- by working  
 20 occasionally, not based on any particular training or  
 21 education?  
 22 A. Well, like I said, I have seen their work.  
 23 I've hired two of them myself on two different pieces of  
 24 property I own. I know the kind of things they do. I'm  
 25 not an appraiser. This isn't an appraisal, but it is a

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1 A. Yes. Yes.  
 2 Q. Okay. Do you have an opinion of the appraisal  
 3 district and their work?  
 4 A. An opinion of the appraisal district?  
 5 Q. Yeah. Did they do a good job? Did they do a  
 6 bad job? What's your general opinion.  
 7 A. Well, it depends on the property, you know.  
 8 Q. Okay. Generally, what -- what was your opinion  
 9 of the appraisal district then?  
 10 A. Well, sometimes they do a pretty accurate job  
 11 of what they do and sometimes they don't. It just  
 12 depends on the property.  
 13 Q. Okay. Let's see if we have anything else.  
 14 This architecture report, are there any  
 15 requirements or guidelines that govern how the report is  
 16 to be written?  
 17 A. Any guidelines? Well, yes. I mean, first of  
 18 all, you've got to document what you have. You have to  
 19 get the size of it.  
 20 Q. What gives you the authority or guidelines that  
 21 you have to follow? Is there any -- like for instance,  
 22 when Mr. Zgabay was up here, he was talking about the  
 23 Uniform Standards of Professional Appraisal Practices  
 24 that govern appraisal reporting.  
 25 A. Right.

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1 MR. KIRK: Yes, sir.  
 2 MR. JAMES: And then I have the same  
 3 objection, that it has appraisal judgments in here.  
 4 He's not been -- there's -- he's not been admitted as an  
 5 expert for appraisal purposes and he wouldn't qualify  
 6 for it. So I'm okay with him talking about it  
 7 generally, but I don't want it --  
 8 THE COURT: Yeah. As far as the  
 9 admissibility of the document, the document is  
 10 admissible but yet subject to cross-examination  
 11 regarding the credibility of the information therein.  
 12 You can cross-examine him about it.  
 13 MR. JAMES: Okay. All right.  
 14 THE COURT: I'm not taking anything within  
 15 the document, numbers otherwise, for face value.  
 16 MR. JAMES: Okay. Fair -- fair enough.  
 17 MR. KIRK: So in English that means I can  
 18 proceed?  
 19 THE COURT: Now you may proceed. I'll  
 20 admit it. This is this witness' product.  
 21 MR. KIRK: Thank you.  
 22 Q. (BY MR. KIRK) Who owns the property that that  
 23 analysis is of? I think we asked that.  
 24 A. I understand you, Douglas Kirk, does.  
 25 Q. Did you personally measure the structures that

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1 report that is sufficient for appraisal work, yes.  
 2 Q. Okay. But when you say it's sufficient for  
 3 appraisal work, that judgment is not based on any  
 4 education or any other training?  
 5 A. Well, I have a license as an architect, a  
 6 pretty good background for dealing with buildings --  
 7 Q. Yes.  
 8 A. -- and dealing with site developments, the site  
 9 work, what it takes to do that kind of stuff, yeah.  
 10 Q. Other than the architectural experience, do you  
 11 have any other -- any appraisal experience or education?  
 12 A. Yeah -- well, I mean, it's -- I've had some  
 13 very close relationships with it, yeah. I've had to  
 14 read those. We read appraisals when we develop  
 15 property. We get appraisals of property so we know how  
 16 much it costs.  
 17 Q. So you've read appraisals before?  
 18 A. I've read many appraisals.  
 19 Q. Any other thing besides reading appraisals, any  
 20 other training or education?  
 21 A. I've never performed an appraisal -- appraisal  
 22 for an appraisal. I mean, let's make that clear. I'm  
 23 not an appraiser.  
 24 Q. To that, you have value --  
 25 A. I'm not ignorant of the topic, though.

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1 Q. Is there something analogous for architecture  
 2 reporting?  
 3 A. Not really. Because like I say, they don't do  
 4 appraisal work. We do know how to document what's on  
 5 the site because we do site analysis. I mean, you could  
 6 hire an architect -- and many times when you build  
 7 buildings or design a project, you have them do what  
 8 they call site analysis. That's one of the first things  
 9 we look -- learn in school is site analysis.  
 10 So you go to the property and you -- and  
 11 you -- first of all, you look up a lot of things about  
 12 property, you know, the sun orientated, the wind --  
 13 available wind and all of that kind of stuff. You  
 14 document where trees are, like the topography of the  
 15 place; the temperatures year-round, all kinds of things.  
 16 Now, that kind of stuff is not in here.  
 17 It's not really that relevant, but it -- yeah, property  
 18 analysis can be quite extensive.  
 19 Q. Okay. Could you have completed this report  
 20 without an on-site inspection?  
 21 A. I couldn't have done this without -- yeah,  
 22 myself, I couldn't have done it without going to it.  
 23 Q. All right.  
 24 MR. JAMES: We'll pass the witness.  
 25

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1 are located on the property?  
 2 A. Yes, I did.  
 3 Q. And how did you measure that property?  
 4 A. With a tape measure that you would build  
 5 buildings with. You've seen them before. And also, I  
 6 used a -- a laser measuring device in some situations.  
 7 Q. Did you personally photograph the interior and  
 8 exterior of any structures that you wanted to?  
 9 A. Yes, I did.  
 10 Q. And do those pictures appear in the document?  
 11 A. Yes, they do.  
 12 Q. Did you prepare the analysis based upon the  
 13 data that you gathered?  
 14 A. Yes.  
 15 Q. Did anyone tell you what to do or what not to  
 16 do regarding gathering data?  
 17 A. No, they did not.  
 18 Q. Were you restricted in any way in gathering the  
 19 data?  
 20 A. No, sir.  
 21 Q. Does your property analysis accurately  
 22 represent what you saw on the property?  
 23 A. It does.  
 24 Q. Did you personally make the drawings in the  
 25 property analysis?

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1 Q. No. I understand. You have a lot of  
 2 experience.  
 3 A. Yeah. Thank you.  
 4 Q. Architects -- architects work closely with  
 5 appraisers from time to time.  
 6 A. Yes, they do. Yes.  
 7 Q. Okay. Okay. When did you first -- when were  
 8 you first on the property? When was the first time that  
 9 you visited the subject property?  
 10 A. I'm sorry, I still didn't hear that.  
 11 Q. When was the first time that you visited the  
 12 subject property?  
 13 A. First time ever?  
 14 Q. Yes, sir.  
 15 A. I don't know. I can't remember it. Like I  
 16 said, I can't remember exactly when I met him or when I  
 17 first visited the property. I bought fireworks over at  
 18 his fireworks stand that's on the property.  
 19 Q. When was that?  
 20 A. Oh, geez, a couple of years ago --  
 21 Q. Okay.  
 22 A. -- something like that.  
 23 Q. But that was probably the first time that you  
 24 were on his property?  
 25 A. No. I think he -- he does a newspaper and I

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1 REDIRECT EXAMINATION  
 2 BY MR. KIRK:  
 3 Q. Okay. First, I've got a couple of questions.  
 4 The fact that you've been to the property and you've  
 5 photographed the property and you've had full access to  
 6 the property, that led you to write this document; is  
 7 that correct?  
 8 A. Correct.  
 9 Q. Do I need to hire another architect to do the  
 10 same thing or can I trust that yours is accurate?  
 11 A. I think you could trust my work. I'll stand  
 12 behind my work. I can't imagine anybody going out there  
 13 and producing better work.  
 14 Q. If I hired an appraiser and gave him that  
 15 document, do you think he could answer the questions  
 16 that he needs --  
 17 A. He could do it.  
 18 Q. -- answered?  
 19 A. He could do a better appraisal than I could,  
 20 but using the same material.  
 21 Q. But would he need to duplicate your work --  
 22 A. No, he wouldn't.  
 23 Q. -- in order -- like if he took his camera out  
 24 and pointed it at the wall, would his camera show  
 25 something that yours did not?

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MR. KIRK: This is the Texas Tax Code, Chapter 25, Section 25.18. It's talking about periodic reappraisals. It says under Section 25.181, Identifying property to be appraised through physical inspection or by other reliable means of identification, including deeds or other legal documentation, aerial photographs,

land-based photographs, surveys, maps and property sketches.

So the Texas Tax Code is telling us, you can do an appraisal in Texas with an inspection or you can do it with all of these other things. It doesn't require you to do an inspection.

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1 A. No, sir.  
2 Q. If he measured the wall with a tape measure or  
3 with a laser device, would his measurement be better  
4 than yours?  
5 A. No, sir.  
6 Q. If he asked questions about utilities and  
7 mechanicals and so on, would his results be different  
8 than yours?  
9 A. No, sir.  
10 Q. Okay. Another question, it was pointed out  
11 that you and I are friends. This is true, is it not?  
12 A. Correct.  
13 Q. Would you jeopardize your architectural  
14 credentials, your seal, for me as a friend? Would you  
15 lie for me?  
16 A. I would not.  
17 Q. The architectural seal that you have, not  
18 everybody has one of those, do they?  
19 A. No, sir.  
20 Q. What's the importance of that seal? If you  
21 look at, say, a set of blueprints or analysis and that  
22 seal is there, what does that tell the world?  
23 A. That tells them that I stand behind the work as  
24 a professional architect, that that's an accurate record  
25 of what's on the ground there.

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1 buck --  
2 THE COURT: It's not --  
3 MR. KIRK: -- but when you trip --  
4 THE COURT: It's not just the cost basis  
5 that's important.  
6 MR. KIRK: When you trip on it, it sure  
7 hurts. There are also systems where pepper spray is  
8 released when you trip it. That's all going to have to  
9 be dismantled if -- somebody that I don't approve of  
10 being there, I have to protect their safety. I've got  
11 to go through and take all of that out. Otherwise,  
12 they're going to get hurt and then guess what, they're  
13 going to sue me.  
14 Your Honor, another point, the appraisal  
15 district appraises thousands of pieces of property every  
16 year without a physical inspection and they stand by  
17 those appraisals. They publish them. They send them to  
18 the taxpayer. The taxpayer pays based upon those  
19 appraisals. They're not physically done. Why is this  
20 so different? We've offered them a whole lot more  
21 information than they've ever seen before. Why can't  
22 they take that and make their judgment?  
23 THE COURT: I think they probably could if  
24 they wanted to, but they're not limited to that. That's  
25 the problem. There's alternate ways to do it, but

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1 offensive to order me --  
2 THE COURT: All right. Very good.  
3 THE BAILIFF: Quiet, sir. Watch your tone  
4 with the Court, please. Thank you.  
5 THE COURT: Very good. I'm not -- I'm not  
6 going to send a peace officer out there. But at the  
7 same time, if somebody needs to -- assistance, they can  
8 have some assistance. And if they want to do it on the  
9 19th of May, which is a Sunday, they can do it. My  
10 point is, they can do it that week of the 19th through  
11 the 25th with, you know, basically ten days' notice or  
12 something. Is that sufficient, with the precise day  
13 within that week, I mean, that they choose? I don't  
14 know what their schedule is. I'm not going to dictate  
15 that somebody go do it on a weekend because normally  
16 people are going to church.  
17 MR. KIRK: What length of time, sir?  
18 MR. JAMES: We can limit it to two hours.  
19 THE COURT: Two hours.  
20 MR. KIRK: And can we have the names of  
21 the people in advance so we can do a background check?  
22 THE COURT: I mean, if you must, but --  
23 yeah, we'll get you the names, just ten days in advance.  
24 MR. JAMES: We can do that.  
25 THE COURT: Just pick the date, give them

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1 Q. How did you get that seal?  
2 A. Well, I told you the background, my work. I  
3 had to study for five years, work in the offices for  
4 three years. That's when you get your -- you take  
5 exams, of course. They're quite extensive, nothing but  
6 two days of exams.  
7 Q. You've worked for David Weekley Homes?  
8 A. Yes.  
9 Q. How many homes do you think you've sealed for  
10 them in the past three years?  
11 A. I've sealed over a hundred homes.  
12 MR. KIRK: Pass the witness.  
13 THE COURT: Anything further?  
14 MR. JAMES: No other questions.  
15 THE COURT: Thank you. You can step down.  
16 Any additional witnesses?  
17 MR. KIRK: No, sir.  
18 THE COURT: Okay. I think it would  
19 just -- I mean, it's not about lying or anything else.  
20 It's -- it's the matter -- it's a judgment call. It's a  
21 judgment call necessary by an appraiser versus an  
22 architect. And even the architect couldn't have done  
23 his work without going to the site.  
24 And so the same, I think, would very much  
25 be true for an appraiser. And a judgment call is --

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1 there's not a limitation on that.  
2 MR. JAMES: Your Honor, I just -- I want  
3 to add -- I don't know what I need to respond to  
4 specifically there, but this is a de novo review. Mass  
5 appraisal standards are used on the administrative  
6 level. But once it gets to district court, the Texas  
7 Tax Code specifically states that this is a de novo  
8 review of the appraisal review board order.  
9 This case is governed by the same rules  
10 that apply to civil cases generally. We aren't confined  
11 to how it is done at the administrative level. This is  
12 a -- this is a legal proceeding. The rules of civil  
13 procedure that normally apply in this case.  
14 THE COURT: Yeah. I mean, just typically  
15 when you go from the administrative to the legal, we're  
16 ramping up, so to speak, the standards regarding  
17 authenticity, credibility, the weight to be given to all  
18 of the different types of evidence in a hypothetical  
19 situation, ergo the reason to up the quality from  
20 different methods that you have suggested, including  
21 what you have provided.  
22 I mean, I think there can be some  
23 reasonable conditions established that -- you know, that  
24 will allow for an appropriate inspection. I -- I just  
25 don't think that any taxpayer can produce their own

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1 the names.  
2 MR. JAMES: Okay. What time of the day  
3 works best for you?  
4 MR. KIRK: 1:00.  
5 THE COURT: Okay. At one p.m. on whatever  
6 date they give you notice of, the names of the people,  
7 ten days in advance of some date, the 19th through the  
8 25th.  
9 Anything else?  
10 MR. JAMES: No, Your Honor.  
11 THE COURT: I mean, as far as you -- just  
12 conditions, so to speak?  
13 MR. KIRK: Well, I -- I would have a lot  
14 of conditions. I would want them to sign a liability  
15 release so if anybody gets hurt, I'm not blamed. This  
16 property has creeks that are 16 feet deep. And if  
17 somebody falls in a creek and breaks a leg, I don't want  
18 to be responsible.  
19 THE COURT: I'm ordering it, the  
20 inspection. I mean, if there's -- there's a bit of a --  
21 you know, as an order of the Court, I think that pretty  
22 much sufficiently covers you in that regard.  
23 Anything else?  
24 MR. KIRK: I guess not. Thank you.  
25 THE COURT: Okay.

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1 because a judgment call -- it's a personal evaluation.  
2 I mean with that, I appreciate the 192.4 rule, but I  
3 still think we -- we need to probably allow for the  
4 appropriate appraisal.  
5 MR. KIRK: Your Honor, can I bring up a  
6 bit of law?  
7 THE COURT: You may.  
8 MR. KIRK: This is the Texas Tax Code,  
9 Chapter 25, Section 25.18. It's talking about periodic  
10 reappraisals. It says under Section 25.181, Identifying  
11 property to be appraised through physical inspection or  
12 by other reliable means of identification, including  
13 deeds or other legal documentation, aerial photographs,  
14 land-based photographs, surveys, maps and property  
15 sketches.  
16 So the Texas Tax Code is telling us, you  
17 can do an appraisal in Texas with an inspection or you  
18 can do it with all of these other things. It doesn't  
19 require you to do an inspection.  
20 And I would argue as we started out  
21 earlier today, 192.4, limitations on the scope of  
22 discovery, we've already done the work. I don't see  
23 that it makes any sense to literally violate my rights  
24 to say no, you cannot come on the property so that they  
25 could do something that's already been done.

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1 work, you know, and then expect the other side of  
2 litigation to accept it.  
3 I mean, this -- this will be used for your  
4 side of the equation and they're entitled to use what  
5 they want for their side and then the two can compete.  
6 That's what the purpose of litigation is. Then we'll  
7 let the fact finder decide ultimately which one they  
8 place most or more credibility in. It might be a  
9 combination of the two somewhat.  
10 And with that, I mean, I'm going to order  
11 that the inspection be allowed, Doug -- Mr. Kirk.  
12 MR. KIRK: And, Your Honor, what  
13 conditions are we going to follow?  
14 THE COURT: Three people. I mean --  
15 MR. JAMES: Can we -- can we add a  
16 potential peace officer to come with us? I'm a little  
17 bit nervous about all of the passive -- it will be the  
18 three people that we mentioned and then possibly a peace  
19 officer.  
20 THE COURT: I don't know what -- what do  
21 you mean by that? I mean, somebody on duty or  
22 something?  
23 MR. JAMES: Somebody from the sheriff's  
24 office. We'll hire an off-duty cop to come with us just  
25 to supervise so that -- so that it's a -- it's a

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1 MR. JAMES: Thank you, Your Honor.  
2 MR. KIRK: Do you need that document?  
3 THE COURT: No. You may have it. You can  
4 withdraw the exhibits.  
5 MR. KIRK: Thank you. We'll withdraw them  
6 and bring them back at trial. Thank you very much.  
7 MR. JAMES: May we be excused?  
8 THE COURT: Yes.  
9 MR. JAMES: Thank you, Your Honor.  
10 (Proceedings adjourned)  
11  
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25

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1 I feel like we ought to work something out  
2 as opposed to telling me that I have to give away all of  
3 my rights, my -- my Fourth Amendment right, my Section 9  
4 right from the Texas Constitution, the -- the right of  
5 criminal -- or noncriminal trespass, Texas Penal Code  
6 Section 30.05.  
7 I don't want anybody on my property. I've  
8 been burglarized at six -- at least six times. I have a  
9 tremendous amount of passive deterrent systems on that  
10 property. And to let somebody come on that property  
11 means I have to shut that all down. That's annoying.  
12 It's a burden. It's not necessary and it's going to  
13 cost -- frankly, it's goes to cost the appraisal  
14 district or the defendant in order for me to do all of  
15 that.  
16 THE COURT: And does that passive  
17 deterrent system add value to the property?  
18 MR. KIRK: Probably not, but it sure is  
19 annoying when you hit it. It's not something I want  
20 people walking around on the property.  
21 THE COURT: I don't know what a passive  
22 deterrent system is or is not. But if it's a security  
23 system, is that reflected in this architectural report?  
24 MR. KIRK: No, sir, it's not. It's things  
25 like trip wires. The cost of a trip wire is maybe a

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1 protected inspection and everything is clear.  
2 MR. KIRK: That's pretty offensive.  
3 THE COURT: Yeah. I'm not sure that's --  
4 when do you need to accomplish this by?  
5 MR. JAMES: We would like to do it in the  
6 next 30 days, if that's practical.  
7 THE COURT: Gotcha. Today is the 18th. I  
8 don't know what day of the week --  
9 MR. KIRK: Look for a Sunday, please.  
10 THE COURT: A Sunday?  
11 MR. KIRK: A Sunday, yes, sir.  
12 THE COURT: I'm not going to force them to  
13 do it on a Sunday, on a weekend.  
14 MR. KIRK: But you're going to force me to  
15 do it on a nonweekend. Why do they get to pick the date  
16 and I don't?  
17 And I would argue, too, they only need one  
18 person. This appraiser right here -- we'll go with this  
19 guy right here. Why do they need three people? What  
20 are they going to do, hold his camera?  
21 THE COURT: That's just as offensive.  
22 MR. KIRK: I'm sorry?  
23 THE COURT: That's just as offensive,  
24 Mr. Kirk.  
25 MR. KIRK: Sir, I think it's very

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2 COUNTY OF CONAL  
3  
4 I, Cindy Cummings, Official Court Reporter in and  
5 for the 433rd District Court of Conal, State of Texas,  
6 do hereby certify that the above and foregoing contains  
7 a true and correct transcription of all portions of  
8 evidence and other proceedings requested in writing by  
9 counsel for the parties to be included in this volume of  
10 the Reporter's Record in the above-styled and numbered  
11 cause, all of which occurred in open court or in  
12 chambers and were reported by me.  
13 GIVEN UNDER MY HAND, on this the 28th day of April,  
14 2019.  
15 /s/ Cindy Cummings  
16 Cindy Cummings, Texas CSR 3210  
17 Official Court Reporter  
18 433 Judicial District Court  
19 150 N. Seguin Street  
20 Suite 317  
21 New Braunfels, Texas 78130  
22 Tel 830-221-1279  
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May 10...Democratic Women of Comal County meets the second Friday of each month at 10:15 am at the Tye Preston Memorial Library in Canyon Lake, Texas. Our meetings provide an opportunity to meet with like-minded people hear interesting speakers throughout the year. Please email cindysansone@live.com for more information.

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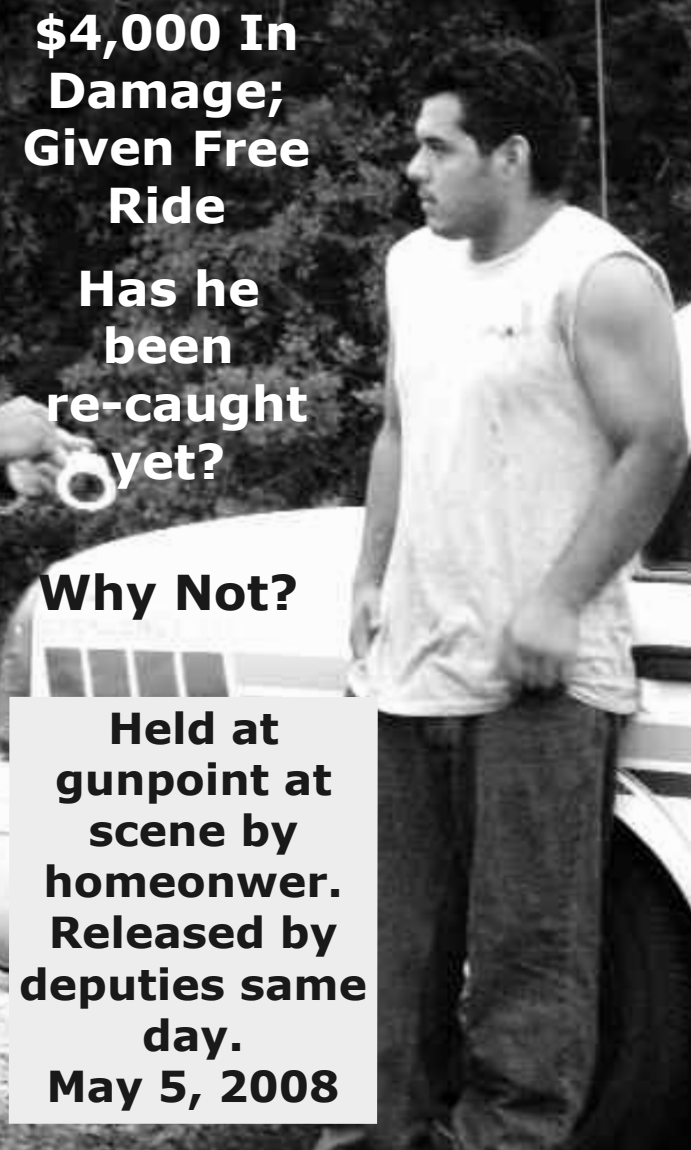
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May 8.....The Canyon Lake Art Guild meets every second Wednesday of the month at the Tye Preston Library at 12:00 noon. For full information www.canyonlakeart guild.com Marilyn Brinker Chairman "Art On the Lake".

May 9... The CLPHC meets every month on the second Thurs. of the month. Motto : Party with a purpose. We are a local chapter of Parrot Heads in Paradise Inc., a non profit group whose purpose is to assist in community and environmental concerns and to provide social activities for people who are interested in the music and tropical lifestyle he personifies. Don Graves clup V.P. (830) 660-6072 cell.

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## Businesses To Take A New Look At The Senior Market As America Grows Older?

America's aging population – the country is growing older at the rate of ten thousand new 65-year-olds per day – has become a lucrative market for a variety of businesses, according to the Association of Mature Ameri-

can Citizens [AMAC].

The Census Bureau says that millennials have surpassed Baby Boomers as the largest segment of the U.S. population, but older Americans have more money to spend, particularly if you include the 50-plus crowd. "The researchers at Euromonitor tell us that, worldwide, Baby Boomers have amassed as much as \$15 trillion in spending power to date," reports AMAC's president Dan Weber.

So, how do senior citizens in the U.S. spend their money? "Surprisingly, there is not much of a difference between the expenditures of senior households and those of the average American household. As you might expect, the cost of health care is higher as we age, but the other basics of family spending are about the same as that of average households. An Advertising Age magazine report based on a Bureau of Labor Statistics' Consumer Expenditure Survey shows that senior households spend an average of \$40,817 compared with \$42,631 for an average household," notes Weber.

As regards the discretionary spending of seniors, Weber says that today's older Americans seek products and services that are unlike those that appealed to the elders of yesteryear.

As Joseph F. Coughlin, director of the Massachusetts Institute of Technology AgeLab, put it in a recent article in the financial weekly, Barron's: "Older consumers will no longer put up with companies that address only basic physiological or safety needs. New demands in the older market are arising from higher-level drives, such as goals, aspirations, aesthetic preferences, social needs, and talents. From the consumer's perspective, products that seem to deny the importance of such considerations (for instance, by implying that the consumer is infirm) may soon find themselves foundering, not propelled by the prevailing demographic tailwinds ... The sorts of products that tomorrow's older consumers will avoid at all costs have one thing in common: They treat older people as a problem to be solved—often at the expense of their choice of home, community, accessories, fashion, activities, and, yes, fun."

In other words, says Weber, "today's seniors are active, not sedentary. They are healthier and living longer than ever before. And, they are more likely to be focused on their to-do lists than on their no-no lists. The old-school notion that you can't teach an old dog new tricks hardly describes today's mature Americans."

## Comal Appraisal District Triggers Senior Fear of "Economic Oblivion Syndrome"

Psychologists and social workers are deeply concerned about the psychological effects of unchecked government spiraling taxation stemming from appraisal values that have little contact with reality.

Seniors on a fixed income, who retired with some money in the bank are now having to rethink their financial future, thanks to dramatically increasing property assessments.

When homestead values are up 30, 40, 50 percent and higher in a single year, retired couples, especially, are cancelling trips to visit grand kids and are being forced to re-evaluate if they have enough money to make it to the end of their lives without falling into poverty.

"We can't afford to keep our homes," said one woman, who was shocked to see just how much her property assessment went up in one year. "We have a little money in the bank, but at this rate we cannot pay our taxes and still do those things we planned."

"We have no choice but to do without so that the government can waste and spend hard-earned money. I'm completely disgusted."

"It's depressing," said her husband. The Economic Oblivion Syndrome (EOS) is a growing affliction affecting seniors which comes from the fear of not having enough money set aside for retirement.

EOS is linked with depression, alcoholism and suicide.

Those suffering from the syndrome report losing hope, having trouble focusing and being generally despondent about the future.

"We worked all our lives and now we have to suffer because the appraisal district is just grabbing all the money they can for taxing districts that don't give a hoot about senior citizens," said the lady.

"They've destroyed the country and now they want to destroy us."

### Fast News

Modern day Jonah

If someone had had a video camera when the whale swallowed Jonah, we might see a scene similar to this one captured off the coast of South Africa. It seems that Rainer Schimpf was snorkeling near Port Elizabeth Harbour when a whale with its mouth wide open tried to gobble him up. Schimpf managed to extricate himself later and told Sky News: "Once you're grabbed by something that's 15 tonnes heavy and very fast in the water, you realize you're actually only that small in the middle of the ocean,"

The police let her go

Anne Brokenbrow has had a good life, always keeping on the straight and narrow. So how did this law abiding centenarian managed to wind up in hand cuffs being carried off by two of Bristol, England's finest? It was all part of a charity event organized by the Stokeleigh Care Home where Ms. Brokenbrow resides. She and her housemates were asked to reveal something they might have on their bucket list. Her wish, she explained to a reporter for Sky News, was to be ar-

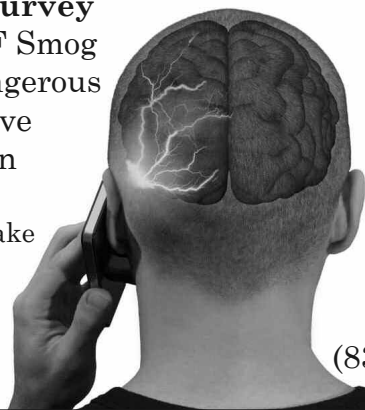
rested, explaining that she is "104 and I have never been on the wrong side of the law." She described her arrest as "very exciting."

A modern day good Samaritan

You might want to call Mike Weirsky the absent minded mega-millionaire. He purchased several lottery tickets at a local supermarket recently but was distracted and left them on the counter. He explained to reporters what happened when he showed up at the New Jersey Lottery offices to pick up his \$273 million jackpot. He said that while still at the store, "I put the tickets down, put my money away, did something with my phone and just walked away." The night the jackpot was announced Weirsky searched high and low for the tickets and finally, in desperation, he returned to the supermarket where he purchased them in the first place. And, to his surprise, the cashier had his tickets. The good Samaritan who found the tickets had returned them. Oh yeah, Weirsky opted for a lump sum payout of \$162 million.

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### PROTEST Your Property Appraisal

The deadline to protest your appraisal increase is May 15, 2019. Fill out the form on the back of your Appraisal Notice and take it to the Comal Appraisal District in person on May 14 and get it date-stamped as you turn it in.

Seek an in-person informal hearing to start. If you don't, the made-up numbers stick and you pay.

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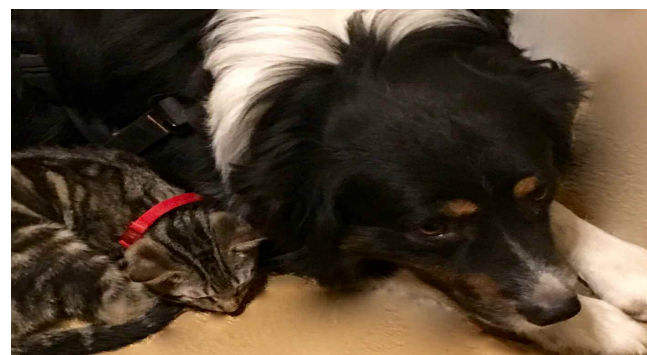
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