



Transcript Edition



Just
25 Cents

ISSUE
1736

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

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1985

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-

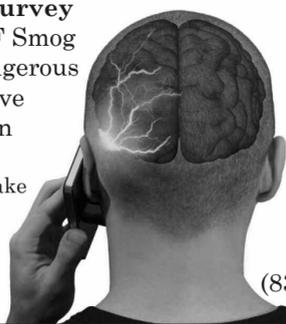
rested, explaining that she is "104 and I have never been on the wrong side of the law." She described her arrest as "very exciting."

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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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 beasts 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.

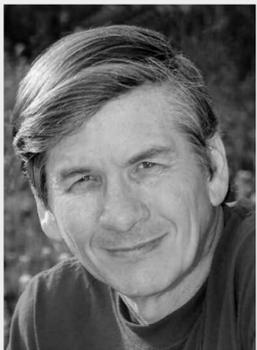
May 13...Toastmasters The Colonel Jack D. Wallace Toastmasters. Membership Drive - Col Jack Wallace Toastmasters Club. Learn to communicate better, sharpen your speaking and leadership skills. Have fun with other like minded people. We've got a great meeting place at the Bulverde/Spring Branch Library, 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?



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

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Canyon Lake, [North Side]

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Worship Services @ 10:30 AM
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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. Contact him at the Church office 830-935-2945 or his cell 210-415-2365.

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Business Roundup Rates
(Advance Pay)
Small
1.791" Wide X
1.175" Tall...\$12/Week

Medium
1.791" Wide X
2.500" Tall...\$24/Week

Medium Extra Tall
1.791" Wide X
5.125" Tall...\$48/Week

Large
3.777" Wide X
2.555" Tall...\$48/Week

REAL CHURCH
SUNDAY AT 11

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Methodist Church**
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Worship Services
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.

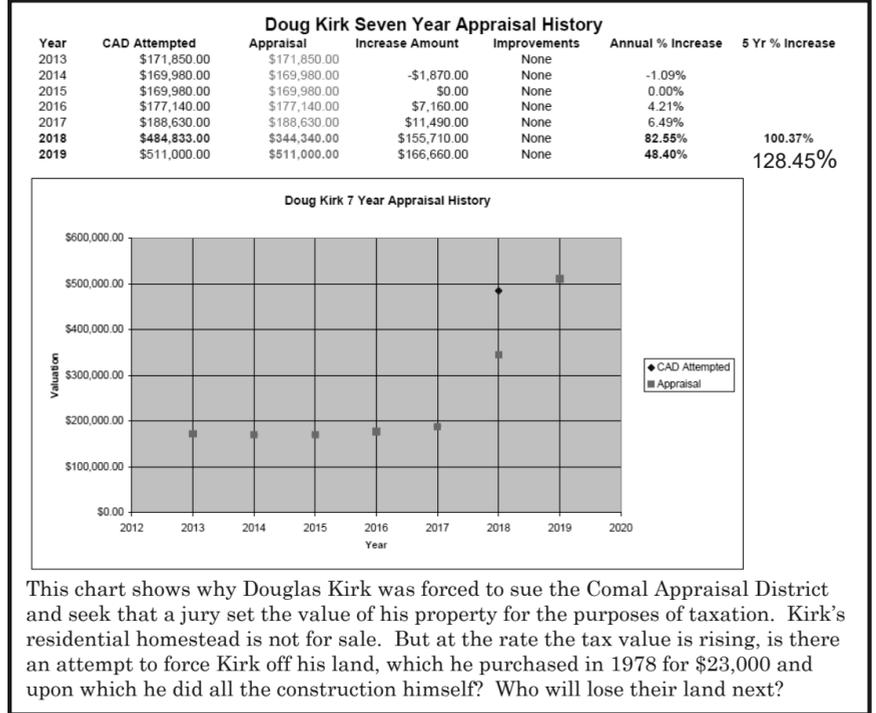
The bottom line is that the court is now forcing me to let the CAD send two appraisers and an attorney onto my property without any liability protection.

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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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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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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Motion to Compel

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By Mr. Kirk 31 v1

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EXHIBITS OFFERED BY DEFENDANT

EXHIBIT	DESCRIPTION	OFFERED	ADMITTED
E	Appraisal documents	20 v1	20 v1

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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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MOTION TO COMPEL
April 18, 2019

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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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Direct Examination by Mr. James

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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CRAIG ZGABAY - APRIL 18, 2019 18
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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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CRAIG ZGABAY - APRIL 18, 2019 11
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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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CRAIG ZGABAY - APRIL 18, 2019 15
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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 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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CRAIG ZGABAY - APRIL 18, 2019 12
Direct Examination by Mr. James

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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CRAIG ZGABAY - APRIL 18, 2019 16
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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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CRAIG ZGABAY - APRIL 18, 2019 20
Cross-Examination by Mr. Kirk

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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CRAIG ZGABAY - APRIL 18, 2019 13
Direct Examination by Mr. James

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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CRAIG ZGABAY - APRIL 18, 2019 17
Direct Examination by Mr. James

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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CRAIG ZGABAY - APRIL 18, 2019 21
Cross-Examination by Mr. Kirk

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?

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
22
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 you would walk the boundaries. What is the purpose of that?
5 A. Like I said, just to see if there are any unusual easements that may be apparent, whether there are any encroachments, whether the property line appears to be what -- you know, what it may -- whether the property line corresponds to a survey, which is another document.
6 Q. Would you look in this document on page two, an aerial photograph, do you see that?
7 A. I do.
8 Q. And on page three, a diagram that shows the boundaries of the property, do you see that?
9 A. I do.
10 Q. Would these be the boundaries that you would walk?
11 A. Yes.
12 Q. Okay. And if you go back to the previous page to page two, does it appear to you that this property is bounded by highways?
13 A. Yes.
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Cross-Examination by Mr. Kirk
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1 collection system.
2 Q. Okay. So as an appraiser when you look at a structure, what else would you say typically besides what's written in that paragraph? And there's pictures -- there's photographs here, too. I want to direct your attention to that.
3 A. I don't see anything about the kitchen. And the kitchen is certainly maybe one of the more important points to look for when you're inspecting a house. And flooring, I don't see anything about flooring.
4 Q. If you will, turn to the next page, page number five. And I'm not going to make you read all of this stuff, but do you see also the word structure, condition, utilities?
5 A. I do.
6 Q. What else would you add if you were appraising that property other than those things? And if you want to read it, you may, but we don't need to read it aloud, unless you want to.
7 A. It -- it's not apparent to me whether there is any central heat and air and whether there are window units.
8 Q. Okay. So on page five, let me direct your attention to utilities. It says, no mechanical, electrical or plumbing available in the storage area.

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
30
1 A. So -- well, I mean, the first thing is to understand the appraisal problem, what it is that you're appraising. And so that kind of goes to what we're talking about here, inspecting it and having a good record then of -- of what it is that you're appraising, size, features, condition, so forth.
2 Secondly, then you have to finish going through the appraisal process, which is -- well, usually you will implement the sales comparison approach, which is finding sales of similar properties, and then making comparisons of the property that you're appraising with, you know, these other properties that have sold.
3 Q. Okay. Thank you. So those items, the appraisal process, the sale of comparisons, making comparisons, where do you do that? Do you do that on-site?
4 A. No.
5 Q. Do you need to be on-site to do that?
6 A. Not the analytical part of it, no.
7 Q. Okay. Thank you. You also said that it's less reliable without inspection.
8 A. I would say so generally, yeah.
9 Q. Are you familiar with the Texas Tax Code?
10 A. No.
11 Q. Okay. So I'm not going to ask you a question,

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
23
1 Q. Does it appear that there's any other real estate encroaching or near that property?
2 A. It doesn't appear to be from this aerial photo.
3 Q. Okay. So you will agree, though, that those are roads that go all the way around it?
4 A. Right.
5 Q. And do they appear to be like highways, state highways, county highway? They are not labeled, but is that something you could get from the Internet, what -- what the names of those streets are?
6 A. Yes.
7 Q. You said that you would look at the improvements; is that correct?
8 A. Sure.
9 Q. You indicated that you would look at the condition; is that correct?
10 A. Right.
11 Q. Describe to me what the condition would be that you're looking for. What's a typical example of what you're looking for?
12 A. Say in a house, you know, you would look at the flooring and notice whether it appeared to be in good condition or whether it had some years of wear on it. Also, really important in residences would be whether the bathrooms and the kitchen have been

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
27
1 A. So am I to understand all -- all of this is storage, okay.
2 Q. Yes. This description box belongs to these photos and belongs to the diagram at the top of the page. It's all color-coded so you can see what's what.
3 A. So the presence of heating and ventilation systems wouldn't be very relevant for storage areas, but it would be for the residence.
4 Q. All right. Let me ask you another question. You mentioned in appraising improvements, you used the word "how is it built."
5 So what do you mean by that? What do you mean, how is it built? I don't know your exact words, but do you understand what I'm asking?
6 A. Yeah. So whether it's a wood frame product or whether wood frame and on slab or whether it's pier and beam or whether in the case of commercial structures, they tend to be more steel frame.
7 Q. Okay. Now, let me direct your attention back to page four. In looking at those photographs, can you tell the type or the how-built question, what type of construction it is?
8 And I also want to call your attention to the fact that the structure -- the analyst said that it was CMU. Do you know what a CMU is?

CRAIG ZGABAY - APRIL 18, 2019
Redirect Examination by Mr. James
31
1 but I'll get that out later.
2 MR. KIRK: I pass the witness.
3 MR. JAMES: Just a couple of follow-up questions, Judge.
4 REDIRECT EXAMINATION
5 BY MR. JAMES:
6 Q. Do you know that the descriptions in this architectural report are accurate?
7 A. I don't.
8 Q. Okay. Do you know if anything is missing on there that would affect the value of the property?
9 A. Well, I mean, not without studying it a bit more. But like I said on the -- on page four where there's the description of the home, I mean, there's -- I -- like on the utility section, it just says electrical, plumbing and HVAC, water from pump house via ground garden hose. Well, I mean, that tells me that there's the presence of electrical, plumbing and HVAC, but it doesn't tell me anything about whether it works, whether it's sized properly and it's sufficient for the home or not.
10 Q. Would your report be more credible if you were able to verify the information there and then, you know, discover additional information from an on-site inspection?

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
24
1 updated over the last five or ten years or so, condition of the walls and ceilings and condition of the roof.
2 Q. Would you turn -- I'm sorry, would you turn to page four.
3 A. Okay.
4 Q. I'm going to direct your attention to the diagram that's in red. And then would you look at the -- in the box below that where it's labeled home, does it say the word size? Look at the box below the red, bottom of the page.
5 A. Yeah.
6 Q. Does it say -- do you see the word size?
7 A. No -- oh, size, right at the top. Okay.
8 Q. Okay. Does it appear that there's measurements 20 feet by 30 feet?
9 A. It does.
10 Q. Is there the word front porch with some measurements?
11 A. Yes.
12 Q. Is there a word that says structure?
13 A. Yes.
14 Q. Would you read that paragraph aloud, please.
15 A. Constructed of eight by eight by 16 inch concrete masonry units, CMU, with fiberglass reinforced stucco on exterior and no interior finish on the CMU.

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
28
1 A. Concrete blocks.
2 Q. So can you look at the picture and compare the picture with that structure description and satisfy yourself that the photos reflect what's being said in the description?
3 A. Let's see.
4 Q. And this is on the how-built question.
5 A. Right. Well, so I would say these -- these pictures here are the only ones of the outside of the structure. And I would say from those pictures, it's not apparent to me. If -- if I hadn't read that these were CMUs, it's pretty difficult to look at that and tell for sure.
6 Q. Okay. Can you look at the photos and tell the age of this building?
7 A. By looking at the photos? I would say that's pretty difficult to do just from these photos.
8 Q. Okay. So if you looked at it in person, could you tell how old it was?
9 A. It usually makes it easier, just because you can walk around and see the different perspectives.
10 Q. But could you give me a date?
11 A. An exact date?
12 Q. Well, a year, two years?
13 A. Usually when we get there and we, you know,

RONALD AVERY - APRIL 18, 2019
Direct Examination by Mr. Kirk
32
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 got anything?
9 MR. KIRK: Your Honor, if it would please the Court, could I ask Ron Avery to become a witness for us?
10 THE COURT: Sure.
11 You can come on up.
12 MR. KIRK: Was the previous witness sworn?
13 THE COURT: Yes.
14 MR. KIRK: So we need to swear him. I didn't catch that part.
15 THE COURT: We will, yep.
16 Let me get you to raise your right hand. (Witness sworn)
17 THE COURT: Thank you. You may have a seat.

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
25
1 The interior partitions are two by four studs with gypsum board. The roof is concrete tiles on plywood on wood roof trusses. Foundation is reinforced concrete slab on grade.
2 Q. And as an appraiser, would you garner any more information than that by looking at this building in terms of -- in terms of structure?
3 A. I don't see anything in there about the -- about the roof, about the roof cover.
4 Q. Let me direct your attention to where it says, roof is concrete tiles on plywood roof trusses.
5 A. Oh, concrete tiles, yes, sir.
6 Q. Tiles, yes, sir. So you do see something about the roof; is that correct?
7 A. Yes.
8 Q. Let me direct your attention to the next paragraph, condition. Would you read that aloud, please.
9 A. Home was built by the present owner, who is not a builder with experience in the building field. It is unfinished and plumbing is in bad shape, bare plywood floors upstairs. Tile is coming up in places downstairs through the slab cracks. Stairs have open risers and no finish. Wood trim is rotting. Clothes dryer is broken. Barrels are intended for future roof rainwater

CRAIG ZGABAY - APRIL 18, 2019
Cross-Examination by Mr. Kirk
29
1 kind of take it all in, then we'll estimate like an effective age. So if something were built in 1960, for example, and then renovated five years ago, maybe that tends to lower its actual age to a lower effective age.
2 Q. If you looked at this structure in person, could you tell what decade it was built in?
3 A. Probably could narrow it down, yeah.
4 Q. Could you tell what century it was built in?
5 A. I think so.
6 Q. Okay. That will be an interesting thing to find out.
7 Now, features -- you mentioned features. What kind of features are you looking for?
8 A. Well, in some homes you have intercom systems or you have central vacuum systems or you have HVAC that has zoned features to it, those sorts of things.
9 Q. Okay. Anything else?
10 A. Not off the top of my head.
11 Q. All right. Let me see. We may be ready.
12 You stated earlier that your goal is to do whatever is necessary to produce credible results.
13 A. Right.
14 Q. Can you give me three things that you need to do to make sure your results are credible from your perspective?

RONALD AVERY - APRIL 18, 2019
Direct Examination by Mr. Kirk
33
1 RONALD AVERY,
2 having been first duly sworn, testified as follows:
3 DIRECT EXAMINATION
4 BY MR. KIRK:
5 Q. Could you state your name and address for the record, please.
6 A. Yes. Ronald Franklin Avery. I live at 1933 Montclair in Seguin, Texas.
7 Q. Are you a licensed architect in the state of Texas?
8 A. Yes, I am.
9 Q. How many years have you been a licensed architect?
10 A. Oh, gee, can I just tell you when I got my license?
11 Q. Yes, sir.
12 A. That was in 1984. I'm not good at math on the spot, so don't do that to me.
13 Q. How many -- how many years did you attend college to study architecture?
14 A. I spent -- it's a five-year program to get a bachelor's of architecture and then a minimum three years' internship. And I spent seven years' internship in the Houston area, multiple firms.
15 Q. Do architects make accurate measurements of

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.

RONALD AVERY - APRIL 18, 2019
 Direct Examination by Mr. Kirk

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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RONALD AVERY - APRIL 18, 2019
 Direct Examination by Mr. Kirk

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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RONALD AVERY - APRIL 18, 2019
 Cross-Examination by Mr. James

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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RONALD AVERY - APRIL 18, 2019
 Direct Examination by Mr. Kirk

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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RONALD AVERY - APRIL 18, 2019
 Cross-Examination by Mr. James

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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RONALD AVERY - APRIL 18, 2019
 Cross-Examination by Mr. James

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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RONALD AVERY - APRIL 18, 2019
 Direct Examination by Mr. Kirk

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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RONALD AVERY - APRIL 18, 2019
 Cross-Examination by Mr. James

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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RONALD AVERY - APRIL 18, 2019
 Cross-Examination by Mr. James

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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RONALD AVERY - APRIL 18, 2019
 Direct Examination by Mr. Kirk

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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RONALD AVERY - APRIL 18, 2019
 Cross-Examination by Mr. James

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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RONALD AVERY - APRIL 18, 2019
 Redirect Examination by Mr. Kirk

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.

46 RONALD AVERY - APRIL 18, 2019 Redirect Examination by Mr. Kirk 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. CINDY CUMMINGS, CSR OFFICIAL COURT REPORTER - 433RD DISTRICT COURT TEL. (830) 221-1279 FAX (830)608-2030

50 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

54 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

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

51 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

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

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

52 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

56 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 12 13 14 15 16 17 18 19 20 21 22 23 24 25 CINDY CUMMINGS, CSR OFFICIAL COURT REPORTER - 433RD DISTRICT COURT TEL. (830) 221-1279 FAX (830)608-2030

49 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

53 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

57 1 STATE OF TEXAS 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 23 Fax 830-608-2030 24 Expiration: 12/31/19 25 CINDY CUMMINGS, CSR OFFICIAL COURT REPORTER - 433RD DISTRICT COURT TEL. (830) 221-1279 FAX (830)608-2030



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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-

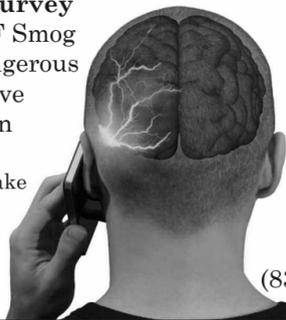
rested, explaining that she is "104 and I have never been on the wrong side of the law." She described her arrest as "very exciting."

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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