

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

CIVIL DIVISION

MIAMI TOWNSHIP BOARD OF TRUSTEES,	*	CASE NO. 2019 CV 05444
	*	
Plaintiff,	*	
	*	JUDGE SKELTON
-vs-	*	
	*	NOTICE OF FILING OF DEPOSITION OF
DARREN POWLETTE, et al.,	*	ALEX CARLSON
	*	
Defendants.	*	

Now comes Defendant, Darren Powlette, by and through Counsel, and hereby gives
Notice of the Filing of the Deposition of Alex Carlson.

Respectfully Submitted,

/s/ Gregory S. Page
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Certificate of Service

I hereby certify that the foregoing was served upon all Counsel of Record via the Montgomery County Clerk of Courts E-Filing system on this 30th day of September 2021.

/s/Gregory S. Page
Gregory S. Page (0065264)

MIAMI TOWNSHIP BOARD OF TRUSTEES

VS

DARREN POWLETTE

CARLSON, ALEXANDER

July 08, 2021



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COMMON PLEAS COURT OF
MONTGOMERY COUNTY, OHIO

MIAMI TOWNSHIP BOARD :
OF TRUSTEES, :
Plaintiff :
-vs- : CASE NO. 2019CV05444
DARREN POWLETTE, :
ET AL., :
Defendants :

Deposition of ALEXANDER CARLSON, a
witness herein, taken by the Defendants as upon
cross-examination and pursuant to the Ohio Rules of
Civil Procedure as to the time and place and
stipulations hereinafter set forth, at the offices
of Surdyk, Dowd & Turner, 8163 Old Yankee Street,
Suite C, Dayton, Ohio at 10:05 a.m., on July 8,
2021, before Jamie S. Hurley, Court Reporter and
Notary Public within and for the State of Ohio.

* * * * *

2	4
1 QUICK REFERENCE INDEX	1 WHEREUPON:
2 WITNESS: ALEXANDER CARLSON	2 ALEXANDER CARLSON,
3 APPEARANCES: PAGE 3	3 of lawful age, a witness herein, being first duly
4	4 sworn as hereinafter certified, testified as
5 DX CX RDX RCX	5 follows:
6 BY: MR. PAGE - 4 - -	6 CROSS-EXAMINATION
7	7 BY MR. PAGE:
8 EXHIBITS	8 Q. Would you state and spell your full
9 IDENTIFIED PAGE	9 name for the record, please?
10 DEFT'S: G 77	10 A. Yes. So it's Alexander Carlson is my
11 DEFT'S: H 77	11 full legal name, A-L-E-X-A-N-D-E-R, Carlson,
12 DEFT'S: I 77	12 C-A-R-L-S-O-N.
13 DEFT'S: J 77	13 Q. Is it okay if I call you Alex?
14 DEFT'S: K 77	14 A. Please, yes, absolutely.
15 DEFT'S: L 77	15 Q. Okay. Alex, have you been deposed
16 DEFT'S: M 77	16 before?
17 DEFT'S: N 77	17 A. I don't believe I have, no.
18 INFORMATION REQUESTED	18 Q. And you've sat through a couple of
19 PAGE	19 these now, one yesterday and Mr. Powlette's last
20 BY: MR. PAGE 65	20 week, same basic rules, ground rules, guidelines
21	21 apply. The court reporter is taking down
22 * * * * *	22 everything that we say and so it's important that
23	23 we try not to speak at the same time so we have a
24	24 good, clear record. Most importantly if I ask you
25	25 a question that you don't understand or was
3	5
1 APPEARANCES	1 confusing to you please let me know.
2 ON BEHALF OF PLAINTIFF	2 I want you to answer the questions
3 Mr. Edward J. Dowd	3 as accurately as you're possibly capable of but
4 Attorney at Law	4 only those questions that are clear to you so that
5 Surdyk, Dowd & Turner	5 you can give a clear answer, okay?
6 8163 Old Yankee Street	6 A. Understood.
7 Suite C	7 Q. And you'll let me know then if I do ask
8 Dayton, Ohio 45458	8 you a question you don't understand or is
9 edowd@sdtlawyers.com	9 confusing?
10 ON BEHALF OF DEFENDANTS	10 A. Sure.
11 Mr. Gregory S. Page	11 Q. All right. Now, what is your address,
12 Attorney at Law	12 sir?
13 Gregory S. Page Co., LPA	13 A. Home address?
14 7501 Paragon Road	14 Q. Yes, home address.
15 Dayton, Ohio 45459	15 A. 1636 Grange Hall Road, Beavercreek,
16 greg@gsplaw.net	16 Ohio.
17 ALSO PRESENT	17 Q. Okay. And who lives there with you,
18 Mr. Darren Powlette	18 sir?
19 * * * * *	19 A. Myself and my wife.
20	20 Q. And what's your wife's name?
21	21 A. Samantha Carlson.
22	22 Q. All right. Is that your only marriage,
23	23 sir?
24	24 A. Uh-huh.
25	25 Q. Yes?

6 1 A. Yes. 2 Q. One of the things that I should have -- 3 A. Clear answers. 4 Q. -- is nods of the heads, things like 5 that that we can do in ordinary conversation don't 6 translate very well on the record. So verbal 7 answers, if you can. 8 A. Sure. 9 Q. Thank you. Walk me through your 10 educational background from graduation of high 11 school forward. 12 A. I graduated from Xenia High School in 13 2013 and went to The Ohio State University to study 14 City and Regional Planning, graduated with my 15 Bachelor's degree in 2017, educational history, 16 that sums that up. 17 Q. Okay. And that is a Bachelor of Arts, 18 Bachelor of Science? 19 A. Bachelor of Science in City and 20 Regional Planning. 21 Q. All right. And since obtaining your 22 Bachelor of Science in City and Regional Planning 23 have you had any additional formal education of any 24 kind? 25 A. So through continued education and	8 1 A. As the planner. 2 Q. As the planner? 3 A. Uh-huh. 4 Q. And what would the duties and 5 responsibilities of a planner for Miami Township 6 be? 7 A. So generally the planner works on 8 reviewing zoning applications, also works as a 9 zoning inspector, part of the position, generally 10 reviewing zoning commission applications, Board of 11 Zoning Appeals applications, zoning certificate 12 applications. I had a role in mapping and doing 13 other GAS database management and I should actually 14 clarify in, let's see, January, February of 2021 15 the planner position was restructured to add more 16 managerial position, managerial roles and removed 17 some of the field day-to-day zoning inspections 18 that was transferred more to a planning technician 19 role which are two newly created positions. So the 20 planner role has shifted a little bit. I just 21 wanted to clarify there's sort of two different 22 jobs under the planner title. 23 Q. So some of the like you mentioned in 24 the field responsibilities that you had when you 25 came in in August of 2017, those have been sort of
7 1 testing I certified as an American Institute 2 Certified Planner through the American Planning 3 Association. 4 Q. And when did you obtain that 5 certificate? 6 A. I obtained the certificate in, I passed 7 the test in December of 2020 and got notice of 8 approval in March of 2021. 9 Q. Okay. Any other formal education other 10 than as a certified planner after securing your 11 Bachelor of Science? 12 A. No. 13 Q. Okay. And if you would take me through 14 your work history relevant to your Bachelor of 15 Science degree in City and Regional Planning as 16 opposed to working at McDonald's or something along 17 those lines? 18 A. Sure. So starting in 2016 I was 19 employed as a zoning inspector with the City of 20 Powell in Ohio at which time after a year, roughly 21 a year I was hired in August of 2017 with Miami 22 Township and have been with Miami Township since 23 then. 24 Q. And in what role were you hired with 25 Miami Township in August of 2017?	9 1 passed along to a newly formed position at the 2 Township? 3 A. Sure. Yes. 4 Q. Okay. You have oversight of those 5 folks, I presume? 6 A. Yep. 7 Q. And yesterday I think we got the names 8 of Carli Goode and Andrew Rice. Are those the 9 technicians you're referring to? 10 A. Yes. 11 Q. And do they have, are they direct 12 reports to you or to someone else? 13 A. So they would report to me or Chris 14 Snyder who is the Assistant Township Administrator 15 and Director of Development. 16 Q. Okay. Who do you direct to directly 17 currently? 18 A. Chris Snyder. 19 Q. Chris Snyder? 20 A. Uh-huh. 21 Q. And Chris has been with the Township 22 for the entire time you have worked for the 23 Township, true? 24 A. Yes. 25 Q. Was there a time that you reported to

10 1 anyone other than Chris directly? 2 A. Yes. I did report directly to Kyle 3 Hinkelman as the Deputy Director of Community 4 Development who in turn reported to Chris Snyder. 5 Q. And so has your direct report to Chris, 6 did that change only when Kyle left or did it 7 change at some other point? 8 A. Once Kyle left, yes. 9 Q. Okay. 10 A. Yeah. That chain of command was 11 abbreviated. 12 Q. And if you would refresh my memory so 13 as when Kyle left his position with the Township? 14 A. Kyle left, I believe it was January of 15 2021. It was early this year. 16 Q. So just earlier this year? 17 A. Yeah, right. 18 Q. Okay. 19 A. Or late last year. 20 Q. Sure. 21 A. The timeline is a little fuzzy. 22 Q. Yeah. Last six, nine months, something 23 like that? 24 A. Sure. 25 Q. Okay. During the period of time that's	12 1 of a potential or I guess denied BZA request for a 2 lot split -- 3 Q. Okay. 4 A. -- for a potential chapel at 7757 Upper 5 Miamisburg. So I was aware of the property and 6 some of the potential requests that were 7 circulating. So, again, I was, I was new and some 8 of the conversations happened prior to me coming in 9 but from there we were made aware of a website and 10 a Facebook page advertising a bed and breakfast on 11 the property and ability for, I believe, the 12 wedding venue at that time. 13 So there was a separate case 14 involved with the property that was actually filed 15 with Miamisburg Court related to the bed and 16 breakfast separately but throughout that process we 17 learned of the construction of the barn on the 18 property and became aware that it was being 19 advertised as being able to be used for weddings 20 and once the first wedding was held we received, I 21 believe, a complaint at that time that the property 22 was being used as an event center, essentially 23 triggered a notice of violation to be sent. 24 Q. Okay. And so prior to issuing the 25 notice of violation did you inspect the property?
11 1 sort of relevant to the backdrop of this case, 2 anyway, you were reporting directly to Kyle? 3 A. Yes. 4 Q. Okay. And at that time you were 5 performing the function of a zoning inspector as 6 well? 7 A. Right. Right. 8 Q. And, in fact, were you the zoning 9 inspector that was involved in issuing the first, 10 in fact, only notice of violation the Township 11 issued in this case? 12 A. I was. 13 Q. Okay. All right. Let's circle back to 14 that time period. My understanding is that the 15 zoning violation or the notice of violation was 16 issued in roughly May of 2018; does that sound 17 correct? 18 A. That does sound correct. 19 Q. Okay. And what I'd like you to do 20 first is take me through all of the things you did 21 or reviewed or inspected prior to making the 22 decision to issue that NOV. 23 A. Sure. Let's see, looking back to 2017 24 trying to make sure I get all the timelines right. 25 So when I came into the Township I was made aware	13 1 A. Yes. 2 Q. And when I say inspect the property I 3 mean go back, look at the barn, look at the house, 4 look at that area of the property? 5 A. So at that time prior to issuance in 6 2018 I had not been invited to the property, no. 7 Q. Had you asked to inspect the property 8 to your recollection? 9 A. I didn't have a contact for the 10 property owner, certainly. So sort of an initial 11 potential action is a notice of violation once 12 we've been made aware through inspections and other 13 ways, whether or not that's an advertisement by a 14 property owner, a complaint that we believe was a 15 founded complaint, notice of violation, certainly 16 course of action is typical. 17 Q. Okay. And so if I understood your 18 testimony correctly prior to issuing NOV you didn't 19 even attempt to contact the property owner? 20 A. Through the notice of violation, 21 certainly. I mean, that is a form of contact with 22 the property owner. 23 Q. Well, prior to issuing the notice of 24 violation you didn't attempt to contact him? 25 A. No. No. I personally did not.

14 1 Q. Are you aware of anyone with the 2 Township who attempted to contact him prior to 3 issuing the NOV? 4 A. I'm not aware of, no. 5 Q. Did you direct anyone to reach out to 6 him prior to the NOV? 7 A. No, I did not. 8 Q. And, I mean, it's easy to determine who 9 the owner of a property is, right? 10 A. Sure. 11 Q. I mean, that's probably in Miami 12 Township database? 13 A. Sure. Yeah. 14 Q. Okay. And so you have contact 15 information for those people, true? 16 A. An address potentially. 17 Q. Sure. 18 A. Sure. 19 Q. Okay. And so it wouldn't have been 20 difficult to reach out to the property owner, 21 correct? 22 A. Through a letter, through mail, 23 certainly which, again, we did as a notice of 24 violation in the mail. 25 Q. And there are other ways that you could	16 1 of urgency? 2 A. No. He's a Township resident who 3 submitted a complaint. I personally at the time 4 never met Dave Coffey. I believe he was a trustee 5 before my time with Miami Township. 6 Q. Okay. So what did you do to 7 authenticate the allegations before issuing the 8 NOV? 9 A. I believe at the time we had 10 photographs of the property being used in, for 11 weddings and, again, had received complaints and, 12 again, had direct advertisements by the property 13 owner that the property was used as a wedding venue 14 and at that time we had photographs and collected 15 enough information to feel comfortable to send 16 notice of violation. 17 Q. Okay. Did you inquire at all as to 18 with whether this may have been just a family 19 wedding? 20 A. At the time, no. We had, again, 21 seen -- 22 Q. You saw photographs of people on the 23 property. 24 A. Photographs, sure. Right. 25 Q. That's it? You don't know if those
15 1 do it as well. I believe Chris mentioned yesterday 2 you can have warning letters? 3 A. Potentially, true. 4 Q. In this instance did you issue a 5 warning letter prior to issuing the NOV? 6 A. No, I did not. 7 Q. Were you feeling pressure from outside 8 sources to issue the NOV, members of the public, 9 former board members, trustees, things like that? 10 A. No. We received complaints from 11 members of the public and it's typical for a zoning 12 inspector to respond to those complaints. 13 Q. Who did you receive complaints from? 14 A. I believe at that time we received 15 complaints from a neighbor, Dave Coffey and a 16 neighbor, Matthew Turton. 17 Q. Okay. So Dave Coffey he is the former 18 trustee? 19 A. He was a former trustee, right. 20 Q. So one of the complainants was a former 21 trustee of Miami Township? 22 A. Sure. 23 Q. Okay. And you're suggesting then 24 despite the fact that he was a former trustee of 25 Miami Township this wasn't given some higher level	17 1 photographs could have shown members of 2 Darren Powlette's family? 3 A. Well, we'd seen the advertisement that, 4 again, that the property was useable as a wedding 5 venue. 6 Q. I get that. You connected some dots 7 but you didn't necessarily authenticate any of 8 those before you issued the NOV, correct, you 9 didn't ask Mr. Powlette, hey, was this a family 10 wedding, you know, was this someone that you knew, 11 were you went renting it out; you didn't do any of 12 that, you just jump right to and NOV, right? 13 A. Correct. 14 Q. You didn't issue a warning, correct? 15 A. Nope. 16 Q. You took the information from Dave 17 Coffey as former trustee and ran with it, right? 18 A. And the property owner. 19 Q. Okay. Well, the property owner you 20 never asked anything about, right? 21 A. No. We just saw what they had posted 22 and put on public forum -- 23 Q. On the website? 24 A. On a website or Facebook. 25 Q. I've got it. Sure. But you didn't

18 1 connect the dots that who these people who were 2 actually using property were? 3 A. And not the individuals maybe 4 photographed. 5 Q. Nor did you reach out to the owner to 6 ask or to inquire -- 7 MR. DOWD: Objection. Asked and 8 answered four times, seriously. You asked him 9 three or four times the same question. He said no, 10 he didn't reach out to him. 11 MR. PAGE: Let's go off the 12 record. 13 (WHEREUPON, discussion was held 14 off the record.) 15 BY MR. PAGE: 16 Q. So you issued the NOV. The NOV was 17 appealed to the BZA, right? 18 A. Uh-huh. 19 Q. Do you remember that? 20 A. Yes. 21 Q. There was a hearing on the BZA, 22 correct? 23 A. Yes. 24 Q. Okay. And then after the hearing there 25 was a decision rendered by the BZA?	20 1 Q. Okay. That's fair. Okay. From Alex 2 Carlson to Kyle Hinkelman, here is the first draft 3 for the Board. Let me know what you think. August 4 6, 2018. Why are you sending Kyle Hinkelman a 5 draft of the Board of Zoning Appeal Decision? Kyle 6 Hinkelman's not on the Board of Zoning Appeals. Is 7 this not an independent body? 8 A. I believe that we received a copy from 9 legal counsel of the draft from the Board of Zoning 10 Appeals and legal counsel. 11 Q. Why are you asking him, let me know 12 what you think. Why does that matter? Kyle 13 Hinkelman's not on the BZA? 14 A. I think as a direct supervisor I just 15 sent an e-mail and said if something needs 16 forwarded or sent on -- 17 Q. Well, it doesn't say please forward or 18 send on. You asked him what you think? 19 A. Sure. As a supervisor I look for 20 advice. 21 Q. But it's clear you're not on the BZA, 22 correct? 23 A. Correct. No. 24 Q. Kyle Hinkelman's not on the BZA? 25 A. Correct.
19 1 A. Correct. 2 Q. Now, did the BZA render that decision? 3 They didn't write that decision, did they? 4 A. The BZA with legal counsel wrote the 5 decision. 6 Q. Well, the BZA never wrote the decision, 7 in fact, the BZA received two different versions of 8 the decision, didn't they? 9 A. I'm not sure I understand. 10 Q. Well, there were two different versions 11 of the BZA decision that were drafted. You have an 12 e-mail that you sent to the BZA with both different 13 versions of the decision that are different 14 decisions. So who arrived at the decision, the BZA 15 or staff? 16 A. So the Board of Zoning Appeals worked 17 with legal counsel to draft a decision. 18 Q. So why is it coming from you? 19 A. I'm not exactly familiar with the 20 e-mail. I'd be happy to take a look so I know 21 exactly what it was we're talking about. 22 Q. So you don't remember sending the 23 e-mail? 24 A. I'm not sure of the specific e-mail, 25 no.	21 1 Q. Chris Snyder's not on the BZA? 2 A. Right. 3 Q. Is it the practice of Miami Township to 4 have the staff involved in the Board's 5 decisionmaker rather than just as information 6 providers? 7 A. No. I don't believe I offered any 8 opinion. 9 Q. No. You asked for Kyle for his? 10 A. I think on the receipt of the documents 11 rather than any substance within. 12 Q. Who were the Board of Zoning Appeal 13 members at that time, if you remember? 14 A. Off the top of my head, I believe Greg 15 Clatterbuck, James Hamilton, Fred Sinder, John 16 Broz. And I think we had a fifth member. Off the 17 top of my head, I can't recall who that was at the 18 time. 19 Q. Okay. Fair enough. All right. Now, 20 that decision as it is was appealed, correct? 21 A. Correct. 22 Q. To the Montgomery County Court of 23 Common Pleas? 24 A. (Witness nodding head.) 25 Q. Have you seen Judge O'Connell's

22 1 decision as it relates to that? 2 A. I have, yes. 3 Q. Okay. So you're familiar that that 4 decision had no prospective effect? 5 A. Just to be sure I understand, can you 6 restate that? 7 Q. It didn't have any effect at all on the 8 future use of the property, it only, the decision 9 was only that on May 8th, 2018 the property, the 10 court determined that Miami Township's decision 11 that the property was not being used for 12 agritourism wasn't arbitrarily? 13 A. Sure. If that's how the statement or 14 judgment was written. 15 Q. Well, you've read it? 16 A. Right. Sure. 17 Q. Right? 18 A. Right. I guess -- 19 Q. It was clear throughout that the 20 court's decision was only how the property was used 21 as of May 8th, 2018, right? 22 A. Sure. 23 Q. Okay. And that decision was issued on 24 May 30, 2019; does that sound about right? 25 A. I believe so but I don't have the date	24 1 Q. So you may not have had someone you 2 could have directed to go do something? 3 A. Sure. 4 Q. Fair enough. All right. Now, as part 5 of your educational history at Ohio State in 6 particular did you ever study under Peggy Hall? 7 A. I did not study under Peggy Hall 8 directly, no. 9 Q. Okay. Are you familiar with her? 10 A. Yes. 11 Q. Okay. Did any of your education or 12 training at Ohio State involve the newly passed 13 agritourism legislation as a planner? 14 A. I don't believe so. If I recall at the 15 time I think it was sort of as I was on my way out 16 of Ohio State, I think. 17 Q. The statute is passed in '16 and you 18 graduated it sounds like in '17 and I was just 19 curious whether there was any -- 20 A. No. Direct instruction, no. 21 Q. Okay. Have you ever spoken to Peggy 22 Hall about agritourism in general? 23 A. I have not personally, no. 24 Q. You're familiar with her involvement or 25 not familiar with her involvement in the
23 1 in front of me. 2 Q. Okay. Well, it's part of the complaint 3 that you filed, that the Township filed against 4 Mr. Powlette and Stoney Hill Rustic Weddings, LLC 5 and the date on the decision that's attached is May 6 30, 2019; did I read that correctly? 7 A. Yep. That seems right. 8 Q. Okay. And this is the case that we're 9 talking about that you've reviewed? 10 A. Yes. 11 Q. Okay. Now, from June 1, 2019 forward 12 did you communicate with Darren Powlette before the 13 subject lawsuit was filed? 14 A. I do not recall, no, a specific 15 conversation. 16 Q. Okay. Did you have any e-mail 17 communication with Mr. Powlette in that time 18 period? 19 A. I do not believe so. 20 Q. Okay. Did you direct anyone to 21 communicate with Mr. Powlette? 22 A. I did not, no. 23 Q. Did anyone at that period of time 24 report to you? 25 A. No. At that time, no.	25 1 development of agritourism statute in Ohio? 2 A. I think I've seen her name on various 3 forms or documents but I'm not exactly sure of her 4 role, no. 5 Q. Have you ever taken her seminar on the 6 subject? 7 A. I have not, no. 8 Q. Okay. Have you taken any continuing 9 education at all with the Township on the 10 application of this statute to Township activities? 11 A. I think at various plan conferences 12 there may have been sessions about agritourism 13 generally speaking but I couldn't tell you exactly 14 what conference or, you know, where. 15 Q. Okay. Is that with the Ohio Township 16 Association or is that some other organization? 17 A. That's with American Planning 18 Association or with potentially that would have 19 been the, you know, the Dayton Chapter of the 20 American Planning Association. 21 Q. Okay. Are you active in that 22 association? 23 A. Yes. Yeah. I'm certified through the 24 APA, American Planning Association. 25 Q. But, I mean, you mentioned the Dayton

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1 chapter. Are you active in that chapter, do you
 2 participate in meetings?
 3 A. We'll attend conferences that they host
 4 occasionally.
 5 Q. Okay. You're not on a board of
 6 directors or anything of that nature?
 7 A. No.
 8 Q. All right. All right. And so circling
 9 back, the lawsuit was originally filed in November
 10 of 2019. No contact with Darren, no e-mail with
 11 Darren about what activities are being engaged in
 12 onsite, right?
 13 A. I personally did not, I don't think so.
 14 Q. Are you aware of anyone at the Township
 15 that did?
 16 A. I'm not aware, no.
 17 Q. Would anyone really other than you as
 18 the zoning inspector been charged with that
 19 responsibility?
 20 A. It's a small department with some
 21 overlap but more than likely it would have been me.
 22 Q. Yeah. And then yesterday you heard
 23 Chris Snyder testify, if you were paying attention,
 24 that the decision to file the lawsuit would have
 25 been in conjunction with the zoning inspector and

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1 legal counsel?
 2 A. Sure.
 3 Q. Do you agree with that?
 4 A. Yes.
 5 Q. Okay. What involvement did you have in
 6 making the decision or recommending -- well, strike
 7 that. Did you recommend the lawsuit be filed
 8 against Mr. Powlette?
 9 A. I was involved in discussions with the
 10 department and legal counsel that there was a
 11 continuation of the initial violation sent to the
 12 property owner.
 13 Q. Okay. And this is over a year after
 14 the initial NOV, right?
 15 A. Correct.
 16 Q. Okay. Did you inquire at all as to
 17 what additional or new activities may be conducted
 18 on the property that would place it within the
 19 realm of agritourism?
 20 A. If you wouldn't mind repeating that
 21 question just so make sure I heard it correctly.
 22 (WHEREUPON, the requested portion
 23 of the record was read.)
 24 THE WITNESS: So we were aware of
 25 a number of activities that the property owner had

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1 advertised or stated that appeared to be
 2 agritourism but this was more of a continuation as
 3 the party event center that the notice of violation
 4 was initially issued for rather than having turkeys
 5 or inviting people to barns. This was more related
 6 to the party center and, you know, loud music and
 7 things like that that was part of the initial issue
 8 with the wedding barn, barn wedding venue.
 9 BY MR. PAGE:
 10 Q. Okay. So is it, I'm trying to
 11 understand your testimony. Did you conduct any new
 12 investigation into what new activities might be
 13 conducted since May 8th of 2018 through June of
 14 2019?
 15 A. Sure. Yeah. We continued --
 16 Q. Okay. What did you do specifically?
 17 A. Yeah. We continued to review the
 18 website, updated posts on the website and Facebook
 19 page and, again, had more complaints and
 20 photographs submitted by neighbors to the
 21 properties having issues with noise and, you know,
 22 volume and lights and things late at night due to
 23 the party center.
 24 Q. Now, are those complaints, were they
 25 written?

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1 A. Some were texts, some were phone calls,
 2 e-mails and I think, I believe we had provided --
 3 Q. Okay. I hadn't been provided anything
 4 since June 1 of '19 where there's been any
 5 complaint about noise or lighting or loud music
 6 late at night. Are you suggesting that you have
 7 either a text message or an e-mail since June 1 of
 8 '19 that reflects that?
 9 A. I'm not sure on the specific wording of
 10 the nature of the complaint but certainly we
 11 received phone calls and we've received, again,
 12 texts and videos of potential --
 13 MR. DOWD: You do have the text
 14 and video from Turton.
 15 MR. PAGE: Okay. I'm not sure
 16 what date that is, I'm not sure what date that is,
 17 though.
 18 MR. DOWD: Well, it would actually
 19 be a series of dates from his phone, quite frankly,
 20 is the only --
 21 MR. PAGE: Yeah. Yeah. Okay.
 22 BY MR. PAGE:
 23 Q. Is Matthew Turton, where does he live?
 24 A. He is an adjacent property owner to the
 25 north.

30 1 Q. Is he the property owner that you can 2 see his barn and horses on the back end of 7757? 3 A. Yeah. There's a pretty direct visible 4 between -- 5 Q. Okay. So that's the Turton property? 6 A. Yes. 7 Q. Okay. And do you have any idea how 8 many feet it is from the barn on Mr. Powlette's 9 property to that property line? 10 A. I have not measured, no. 11 Q. It's quite a distance, isn't it? 12 A. Potentially, sure. 13 Q. Yeah. All right. Have you ever been 14 out there at any time to investigate these 15 allegations to determine whether or not, you know, 16 what he is saying is accurate as to we can hear 17 this loud music despite the fact we're so far away, 18 have you ever been out there to investigate? 19 A. So I've been invited to the Turton 20 property and I've seen the barn from his property, 21 again, most of what I, again, not as a 24/7 22 employee of the Township where most parties are 23 held at night time, I have not been on the property 24 to see one but I've seen videos that are from the 25 same view as where Mr. Turton recorded the video	32 1 Mr. Powlette ever been cited for a noise violation 2 by the Township? 3 A. No. It was not included as a violation 4 code statute and an instant violation. 5 Q. And to your knowledge you seemed 6 familiar with something about a bed and breakfast, 7 are you aware of any citation issued by anyone in 8 Miami Township for any noise violation? 9 A. No. No. No. 10 Q. Okay. All right. So other than 11 reviewing the website and the Facebook page and 12 talking to Mr. Turton, any other investigation that 13 you did into what activities the participants of 14 these events engaged in while on the property? 15 A. As of any specific date? 16 Q. Yeah. After June 1 of 2019. 17 A. After June 1 of 2019? 18 Q. Yeah. 19 A. Beyond those things, no, those are the 20 primary sources of material. 21 Q. So you're not familiar with the regular 22 and routine engagement of visitors with the 23 alpacas? 24 A. Just through Facebook posts and things 25 like that.
31 1 where you can pretty audibly hear music and see 2 lights from the barn from his property. 3 Q. Is there a noise ordinance in Miami 4 Township? 5 A. So there is some noise ordinance in the 6 township zoning resolution more typically related 7 to loud repetitive industrial type noises rather 8 than a specific just general noise ordinance. 9 Q. So there wouldn't be a noise ordinance 10 relevant to Mr. Turton -- 11 MR. DOWD: If you know, that's 12 fine. I don't want you to speculate on whether 13 there's such an ordinance that would apply. 14 THE WITNESS: Can you repeat the 15 question? 16 BY MR. PAGE: 17 Q. Sure. I'm wondering if there is a 18 noise ordinance in the Township, after 10, after 19 11, whatever, no loud noise or if there isn't such 20 an ordinance that would apply in this circumstance 21 to Mr. Turton's complaint? 22 A. I'm not sure if there's a more general 23 that the police may enforce but as far as the 24 township zoning resolution that is the only -- 25 Q. Okay. So to your knowledge has	33 1 Q. Okay. Are you familiar with their 2 regular involvement with hay rides? 3 A. I think I've seen a photo. 4 Q. Okay. Are you familiar with their 5 regular involvement with the chickens and turkey 6 and other poultry onsite? 7 A. Well, I've seen photos and to cover all 8 of that, I guess I'm not sure of the regularity of 9 any of it. 10 Q. Sure. Because you investigate it, you 11 never asked Mr. Powlette -- 12 A. -- what the timeframe is or things like 13 that. 14 Q. Did you, after June 1 of 2019 did you 15 ever ask Mr. Powlette what activities his visitors 16 were engaged in while on property at these events? 17 A. So for most of -- 18 Q. Hang on. It's a very specific 19 question. Did you ever ask Mr. Powlette what 20 activities his visitors were engaged after June 1 21 of 2019? 22 MR. DOWD: And would you please 23 allow him to finish his answer before you cut him 24 off because you've done it a few times. 25 MR. PAGE: Well, because he was

34 1 not going to answer the question I asked. 2 MR. DOWD: Then you could have 3 took issue with that and reask it but you are 4 cutting him off as he's trying to answer some 5 questions. Give him the courtesy of allowing him 6 to finish and if its not your position that it's 7 non-responsive you can reask the question but give 8 him the opportunity to answer before cutting him 9 off. 10 BY MR. PAGE: 11 Q. Alex, I apologize if I cut you off. 12 That's certainly not my intention. Would you read 13 my question back to him, please? 14 (WHEREUPON, the requested portion 15 of the record was read.) 16 THE WITNESS: Beyond the wedding 17 specific participation I didn't inquire into what 18 else he may do on the property. 19 BY MR. PAGE: 20 Q. Did you ever inquire of Mr. Powlette 21 directly ever what his visitors were doing onsite 22 when they came to the property? 23 A. Not that I can recall through direct 24 communication, no. 25 Q. Okay.	36 1 Q. Anyone else, Kyle? 2 A. At the time Kyle Hinkelman would have 3 been with the Township. 4 Q. Anyone other than the three of you and, 5 of course, counsel? 6 A. I don't believe so. 7 Q. Okay. 8 A. I think that's the primary, I mean, 9 everything is certainly run by the Township 10 Administrator. 11 Q. Was he active in these meetings, was he 12 participating in the meetings? 13 A. No. I think it was as a department 14 taking our advice to attach administrator rather 15 than a direct role with proceeding, I guess, I 16 think we presented facts. 17 Q. Do you, in your view would Mr. Hess 18 have any information relevant to this lawsuit that 19 either you or Chris or Kyle don't have? 20 A. I don't believe so but I couldn't know. 21 Q. All right. Have you reviewed the 22 discovery requests or -- strike that. 23 Have you reviewed the discovery 24 responses the Township has provided in this case? 25 A. Yes. I did see them, yes.
35 1 MR. DOWD: Can we go off the 2 record for just a minute? 3 MR. PAGE: Sure. 4 (WHEREUPON, discussion was held 5 off the record.) 6 BY MR. PAGE: 7 Q. Yesterday Mr. Snyder testified that in 8 his view the decision to file a lawsuit was only 9 based upon collaboration between the zoning 10 inspector and legal counsel. Do you believe that 11 someone other than you with the Township were 12 involved in that decision making process? 13 A. Well, Chris Snyder, I mean, as the 14 director the department with myself -- 15 Q. Well, he said he wasn't involved if I 16 understood, I think I understood his testimony. 17 MR. DOWD: Well, he would have -- 18 THE WITNESS: I don't believe 19 that's the case. 20 BY MR. PAGE: 21 Q. You think he was involved? 22 A. I think, yeah, through advice to 23 myself -- 24 Q. Yeah. Fair enough. 25 A. -- with legal counsel.	37 1 Q. Okay. And there is some communication 2 between trustees and members of the general public 3 regarding these matters? 4 A. Sure. Members of the public can come 5 to the Board of Trustees meetings and are able to 6 directly contact Board of Trustees. 7 Q. Yeah. In fact, there's quite a few 8 e-mails from Mr. Coffey in particular. Mr. Turton 9 has some directly to a wide range of people -- 10 A. Sure. 11 Q. -- not just directly in the Township; 12 are you familiar with that? 13 A. I'm not sure if I've seen them 14 directly. 15 Q. Okay. Well, you were copied on a few 16 where they've also been sent to folks at Montgomery 17 County, folks at the fire marshall's office, things 18 along those lines? 19 A. I'm sure I have a ton of e-mails. 20 Q. All right. Let's flip to D. Let's do 21 C first, yeah. Let's do C first. Are you familiar 22 with the Ohio Department of Commerce? 23 A. I am. 24 Q. Okay. Have you ever spoken with anyone 25 at the Ohio Department of Commerce regarding the

38 1 issues that are relevant to this case, agritourism, 2 having weddings in barns on farms, things like 3 that? 4 A. No. 5 Q. Okay. Now, in Exhibit C have you seen 6 the technical bulletin propagated by the Ohio 7 Department of Commerce? 8 A. Yes. 9 Q. Okay. Have you seen it only in the 10 course of this litigation? 11 A. Yes. 12 Q. Or outside through your own independent 13 research? 14 A. As part of this case certainly. 15 Q. Okay. And the bulletin is technical 16 bulletin 20-001 from February of 2020, yes? 17 A. Yes. 18 Q. All right. And it says, fire safety at 19 agritourism facilities? 20 A. Sure. 21 Q. Okay. And then it says in the very 22 first sentence, it has become very popular to host 23 weddings events and other meetings or gatherings in 24 rustic settings. Do you know what they mean by 25 rustic settings?	40 1 between the Township's view of agritourism 2 facilities and the State of Ohio's view of 3 agritourism facilities? 4 A. Well, due to the fact that fire safety 5 is not my purview, I have not reached out to the 6 Department of Commerce. 7 Q. Okay. Well, fire safety doesn't have 8 anything to do with whether or not these are 9 agritourism facilities. 10 A. Well, to me this bulletin seems that 11 this is discussing how to have safe weddings in 12 this situation. 13 Q. Sure. 14 A. Whether or not it's proper or the 15 intent, I can't say, but you would hope that people 16 would want fire safe events if -- 17 Q. Absolutely. 18 A. Sure. 19 Q. And so what I'm, what I'm asking you 20 about, though, is whether you have reached out to 21 the Ohio Department of Commerce and said to someone 22 in that agency, hey, we don't, down in Miami 23 Township we don't think these weddings and barns 24 are agritourism but you guys are saying that you 25 think it is. What's going on? Why do we have this
39 1 A. Probably some type of agricultural or 2 farm property if I had to guess. 3 Q. Okay. And, in fact, it goes on to then 4 say, many agricultural properties are converting 5 old barns into event centers or building new barns 6 for this purpose, the purpose being to host wedding 7 events and other meetings or gatherings in rustic 8 settings. Those are the very agritourism 9 facilities these, this bulletin is discussing, are 10 they not, these old barns converted into event 11 centers and new barns? 12 A. So the bulletin is about agritourism 13 facilities, yes. 14 Q. And specifically old barns being 15 converted to event centers and new barns are the 16 agritourism facilities the only things they are 17 referencing? 18 A. Well, it's referencing that it's 19 popular to do this whether or not that it's proper, 20 I couldn't say. We feel it is not. 21 Q. Okay. And so have you, in light of the 22 fact that you've seen this in the course of this 23 litigation, have you reached out to the Ohio 24 Department of Commerce to try and figure out if 25 there's some way of resolving the apparent conflict	41 1 conflict? Did you call anyone to talk to them 2 about that? 3 A. No. I did not call and discuss fire 4 safety at weddings held in agritourism facilities. 5 Q. Okay. That wasn't any question. It 6 wasn't even close to my question. All right. 7 Would you please repeat my question to him. 8 (WHEREUPON, the requested portion 9 of the record was read.) 10 THE WITNESS: So no. I can say I 11 did not call them, no. 12 BY MR. PAGE: 13 Q. Did you e-mail anyone from the 14 Department of Commerce? 15 A. No. 16 Q. Have you talked to anyone at the State 17 of Ohio at large about these issues? 18 A. No. 19 Q. Have you e-mailed anyone at the State 20 of Ohio at large about these issues? 21 A. No. 22 Q. Okay. All right. If you would flip 23 that, move on to D, please. Do you recognize 24 Exhibit D? 25 A. Yes.

42 1 Q. Okay. And that is a declaration of 2 intent to agricultural exemption that Mr. Powlette 3 filed with the Township on October 4th, 2017? 4 A. Yes. 5 Q. All right. And at that time the 6 proposed use was viticulture and storing of 7 agricultural products, right? 8 A. That's what it says, yes. 9 Q. And flip to E. 10 A. (Witness complies with request.) 11 Q. This is the documents that were 12 submitted consistent with this declaration of 13 intent? 14 A. (Witness nodding head.) 15 Q. Yes? 16 A. Yes. 17 Q. And it's stamped zoning approved 18 October 5, 2017. What does that mean, zoning 19 approved? 20 A. So in this case it was a stamp that 21 this was filed in submission with a declaration of 22 intent form in lieu of a zoning certificate and it 23 was dated therefore. 24 Q. Okay. And so is, are you testifying 25 that this is some sort of an approval of the	44 1 Q. -- on an application of some sort? 2 A. Sure. 3 Q. All right. And so if I, if I 4 understand this right at least as of October 5th 5 the Township had significantly detailed drawings of 6 the barn that was going to be constructed onsite, 7 right? 8 A. I don't know exact timeline of when 9 those were submitted, I think -- 10 Q. Well, as by October 5th, 2017, no later 11 than that? 12 A. Okay. Sure. Yeah. That would be 13 right. 14 Q. Okay. Now, move on to F, please. 15 A. (Witness complies with request.) 16 Q. Okay. Do you recognize Exhibit F? 17 A. I do. 18 Q. And what is Exhibit F? 19 A. It appears be the Declaration of Intent 20 Agricultural Exemption form. 21 Q. And this is dated July 6th, 2018 22 submitted by Mr. Powlette for the same property, 23 7757 Upper Miamisburg Road? 24 A. Yes. 25 Q. All right. And in this declaration of
43 1 declaration of intent? 2 A. So we don't have an ability to approve 3 a declaration of intent. 4 Q. Yeah. I didn't think you did either so 5 I'm trying to figure out what zoning approved 6 means? 7 A. I didn't stamp the document. I'm not 8 exactly sure why it was stamped. 9 Q. Have you ever used that stamp? 10 A. I have. 11 Q. Under what circumstances do you use it? 12 A. Typically for zoning certificate 13 approval or for zoning case files. 14 Q. Okay. And so under what circumstances 15 would there be a zoning certificate issued as 16 opposed to the use of the declaration of intent? 17 A. So that would be where someone is 18 seeking approval for zoning rather than seeking 19 exemption from zoning. 20 Q. Okay. And so in those circumstances 21 stamping zoning approved makes sense? 22 A. Sure. 23 Q. Yeah. Because zoning is actually 24 taking an action -- 25 A. Sure.	45 1 intent the proposed use says agricultural, 2 agritourism, hay storage, turkeys, chickens, 3 viticulture? 4 A. It does. 5 Q. And so some additional uses are added 6 to the second declaration of intent? 7 A. Correct. 8 Q. And that is consistent with Miami 9 Township's requirement that if you have a change of 10 use of a property you have to resubmit? 11 A. Correct. 12 Q. All right. Now, this one is not signed 13 by the Township. To your knowledge why would this 14 not be signed by someone from the Township? 15 A. Yeah. After internal discussions in 16 the department it was decided procedurally that 17 there was no signature necessary from the Township. 18 This is a state statute, again, that allows someone 19 to declare intent. A signature was just not 20 necessary. 21 Q. And so has the Township ever changed 22 the form? 23 A. Yes. 24 Q. So now the form doesn't include Miami 25 Township staff signature lines?

46 1 A. Correct. That line was removed, right. 2 Q. Okay. And do you know when roughly 3 that was? 4 A. I believe in 2020. 5 Q. 2020. 6 MR. DOWD: Those documents are 7 probably going to be available. Alex brought them. 8 I'm just having my secretary photocopy them. 9 MR. PAGE: Okay. Great. 10 MR. DOWD: We can take a break and 11 I can see if they are ready if you want to look at 12 it. 13 MR. PAGE: Yeah. We'll get 14 through a couple more things and probably take a 15 restroom break and we can do it at that point. 16 BY MR. PAGE: 17 Q. All right. Now, outside of your legal 18 counsel who have you consulted with, if anyone, in 19 arriving at your conclusion that having a wedding 20 in a barn on a farm is not agritourism? 21 A. My direct supervisors, Kyle Hinkelman 22 and Chris Snyder. 23 Q. So just people within the Township? 24 A. Uh-huh. 25 Q. Yes?	48 1 A. Township and legal counsel. 2 Q. Okay. When did you become aware that 3 Mr. Powlette was or had planted grapevines on his 4 property? 5 A. I don't know the date when I became 6 aware. 7 MR. PAGE: Okay. All right. This 8 is probably a good time to take a quick break 9 before heading to another direction. 10 MR. DOWD: Okay. 11 (WHEREUPON, a recess was taken.) 12 BY MR. PAGE: 13 Q. Are you familiar -- well, strike that. 14 Since the notice of violation you 15 issued in May of 2018 you would agree with me that 16 neither you individually nor the Township have 17 issued any additional notice of violation to 18 Mr. Powlette regarding the property at 7757 Upper 19 Miamisburg Road? 20 A. Not to my knowledge, no. 21 Q. Okay. You would agree with me that 22 since May 8th of 2018 you have not and no one to 23 your knowledge at the Township has issued any 24 warning letter to Mr. Powlette regarding his use of 25 the property?
47 1 A. Yes. Sorry. 2 Q. Have you consulted with anyone at the 3 State of Ohio regarding that conclusion? 4 A. No. 5 Q. Have you consulted with anyone at 6 Montgomery County regarding that conclusion? 7 A. So we have had conversations with 8 Montgomery County building regulations generally 9 about the property, our conclusion, not 10 necessarily. 11 Q. Okay. Have you consulted with any 12 industry experts i.e. from, you know, the 13 Department of Agricultural to determine whether 14 your conclusion is consistent with their 15 interpretation of what agritourism is? 16 A. No. 17 Q. Have you consulted with any industry 18 experts, by way of example, the Ohio Farm Bureau to 19 determine whether your conclusion is consistent 20 with their interpretation of the statute? 21 A. No. 22 Q. Okay. Outside, and maybe this is the 23 simplest way to ask, outside of the couple of 24 people in the Township have you consulted with 25 anyone about the veracity of your conclusion?	49 1 A. I agree with you. 2 Q. Okay. And I do want to just clarify 3 from my notes all of the, what comprised your 4 investigation into the ongoing activities at the 5 site after June 1, '19; you've mentioned Facebook, 6 correct? 7 A. Uh-huh, I did. 8 Q. Okay. Website? 9 A. Yes. 10 Q. And do you know the web address or the 11 name of the website? 12 A. I believe it is changed a couple of 13 times. I'm not sure at the time what it may have 14 been. 15 Q. Okay. Discussions with Mr. Turton? 16 A. Yes. 17 Q. And you believe the videos were 18 subsequent to June 1 of 2019? 19 A. I believe they were, yes. 20 Q. Okay. Other than those things were 21 there any other actions, information, evidence that 22 you utilized in reaching the conclusion that the 23 barn was not being used for agritourism? 24 A. Again, after June -- 25 Q. Yes, sir.

50 1 A. 1st, correct. 2 Q. After June 1st, 2019? 3 A. Correct. 4 Q. Nothing else? 5 A. No. 6 Q. Oh, okay. All right. 7 A. Not to my knowledge. There may have 8 been, not that I'm aware of. That seems accurate. 9 Q. Okay. Fair enough. And have you been 10 to the property just the one time? 11 A. Yes. 12 Q. A couple months ago? 13 A. Exactly, yes. 14 MR. DOWD: Physically on the -- 15 BY MR. PAGE: 16 Q. Physically on the property, yes. 17 A. Physically on the property, correct. 18 Q. That's what I mean, present, boots on 19 ground, back by the barn, back by the house? 20 A. Correct. 21 Q. Okay. All right. Now, what in your 22 understanding, what adjustments consistent with the 23 spirit and intent of the agritourism statute would 24 Mr. Powlette need to make to have the activities 25 onsite be considered agritourism, these events?	52 1 zoning inspector has warranted a notice of 2 violation. 3 Q. Okay. But you're in a roundabout way 4 avoiding the question. 5 A. I apologize. I don't mean to do that. 6 Q. Okay. You're a zoning inspector so you 7 would know when you would or wouldn't issue a 8 violation? 9 A. Uh-huh. 10 Q. And I'm just, I mean, if your opinion 11 is that in my view there's no way, I can think of, 12 I can think of no way that this could become 13 agritourism, then fine. That's your answer. If 14 you are, if that's how you've cast this issue so be 15 it. But the BZA certainly felt like there were 16 things that could be done and I'm asking you in 17 your experience as a zoning inspector what those 18 things might be? 19 A. Yeah. I would agree that, you know, I 20 don't see a way to connect parties or events as an 21 agriculturally-related use. 22 Q. Okay. So in your opinion there's 23 nothing that can be done to have this as a 24 historical, cultural, recreational, educational, or 25 entertainment activity?
51 1 A. I'm thinking through the question. 2 Speculating, I guess I'm not sure of what would 3 quantify making an event or a party agritourism. 4 Q. Well, you're the zoning, or you have 5 been the zoning inspector? 6 A. Sure. 7 Q. Yep. You would issue the notice of 8 violation? 9 A. Right. 10 Q. Okay. The BZA has certainly indicated 11 that in their view could rise to the level of 12 agritourism in the future and if you're the zoning 13 inspector you're familiar with their activities and 14 why they do or don't issue NOVs what adjustments 15 that could be made that would cause you as a zoning 16 inspector to not issue a violation? 17 MR. DOWD: I'm going to object. 18 That's a total hypothetical. It's up to the 19 property owner to operate appropriately, not for us 20 to tell you what we think may or may not -- 21 BY MR. PAGE: 22 Q. You can answer. 23 A. I can't speak for certainly for the 24 Board of Zoning appeals but thus far what I have 25 seen on the property certainly in my opinion as	53 1 A. Agriculturally related to that -- 2 Q. Related to the agricultural uses of the 3 property, none, no way? 4 A. Not a party, no, not like an event. 5 Q. So are you familiar that they used to 6 host weddings on farms throughout Ohio history? 7 A. I'm sure lot of things have been done 8 on farms. 9 Q. Okay. And so that's a historical use 10 of a farm is to have -- 11 A. If somebody sold a car on the farm 12 that's a historical use of the farm but I don't 13 feel that that's agriculturally related. 14 Q. Well, you may or may not feel it's 15 agriculturally related. 16 A. Right. 17 Q. Okay. I appreciate that. Do you, do 18 you recognize that historically farms have hosted 19 weddings, communities have come together for 20 weddings on farms throughout Ohio's history? 21 A. That may be the case. 22 Q. Okay. If the alpacas were moved into 23 the basement of the barn and during these events 24 they visited the alpacas under and in the barn 25 rather than in the field, are you suggesting that

54 1 would not qualify? 2 MR. DOWD: Objection. Go ahead. 3 THE WITNESS: The visitation of 4 the alpacas sure may be agritourism but the other 5 things that they are doing while that is an option 6 may or may not be agritourism. 7 BY MR. PAGE: 8 Q. Okay. So is it the structure or is it 9 the property that's the issue for you? 10 A. Well, in this case certainly this 11 agricultural exemption form was, I believe, filed 12 for the barn but generally speaking also the use of 13 the property is important in issuing a violation 14 for a non-permitted use on a property. 15 Q. Okay. So if we move all the turkeys 16 and chickens into the barn in the lower level and 17 that's where the patrons interact with the turkeys 18 and chickens and learn the educational component of 19 it and how chickens are raised and how turkeys are 20 raised and how you get eggs from them and how you 21 market those eggs to members of the public and this 22 educational component of farming activity is 23 provided to these patrons in the barn does that 24 make a difference to you? 25 A. In terms of being able to then have an	56 1 A. I apologize. 2 Q. No, that's okay. 3 (WHEREUPON, the requested portion 4 of the record was read.) 5 BY MR. PAGE: 6 Q. We'll strike that question out. So 7 it's your opinion that a wedding or a celebratory 8 event in a barn on a farm will never be 9 agritourism? 10 A. I apologize, I'm thinking through the 11 phrasing of the question. I apologize. Would you 12 please read it back one more time? 13 (WHEREUPON, the requested portion 14 of the record was read.) 15 THE WITNESS: As advertised as a 16 commercial event center generally it seems that the 17 connection of a wedding is not directly 18 agriculturally related by nature or an event, a 19 graduation party is not directly agriculturally 20 related in and of itself. 21 BY MR. PAGE: 22 Q. Okay. Okay. And so you, it's your 23 opinion that regardless of the activities that the 24 patrons are engaged in on the property whether in 25 the structure or outside of the structure doesn't
55 1 event or a party? 2 Q. Correct. Where these are the people 3 who are doing both? 4 A. No different than if it was a go-kart 5 track in the barn. 6 Q. Okay. So you just absolutely 7 unequivocally, it's your opinion than having an 8 event in a barn will never be agritourism? 9 MR. DOWD: An event? I guess it 10 depends on the event. 11 BY MR. PAGE: 12 Q. A wedding or celebratory event in a 13 barn? 14 MR. DOWD: Okay. Thank you. 15 THE WITNESS: As a commercial 16 venture? 17 BY MR. PAGE: 18 Q. What's, it doesn't matter whether it's 19 for commercial purposes or not. 20 A. No. Well, if you have a friend or two 21 over, that seems, that's a pretty standard use of 22 just general property. 23 Q. Yeah. But that wouldn't be 24 agritourism. I'm asking, repeat back that 25 question.	57 1 matter? 2 A. I believe that engaging in agritourism 3 on a property does not give you carte blanche 4 approval to do any other use that you can imagine. 5 Q. Okay. What about a corn maze, a corn 6 maze has absolutely nothing to do with anything, 7 you're walking through a field of corn. How does 8 that have anything to do with agricultural? 9 A. Corn produced on an agricultural 10 property. 11 Q. So? 12 A. So no one makes weddings. Weddings are 13 an event that people come to do -- 14 Q. Well, you have to make a corn maze? 15 A. Just like go-karts -- 16 Q. How is that different, how is a corn 17 maze where people are walking through a field of 18 partially cut-down corn, how is that agriculturally 19 related just because they are on a farm? 20 A. No. The corn is grown on the property. 21 They didn't maybe just make fake corn. It's not a 22 grown corn maze that they make wood slats and you 23 walk through. It's not a clown house like a 24 carnival. It's corn grown on the property, 25 agriculturally related.

58 1 Q. That's interesting. 2 A. Pretty directly agriculturally related. 3 Q. So in that instance the fact that the 4 corn was grown on the farm is relevant to you? 5 A. It seems that an agritourism 6 participant is engaging directly with a byproduct 7 of agriculture. 8 Q. Okay. So if they are giving hay rides 9 on the hay produced on the farm that's not 10 agritourism? 11 A. That seems appropriate for agritourism. 12 Q. Okay. So the patrons who go to the 13 wedding as long as they only stay on the hay 14 ride -- 15 A. As long as they engage in agritourism. 16 Q. Okay. And you have consulted with no 17 one outside of Miami Township to arrive at this 18 hard and fast conclusion that you have reached, 19 correct? 20 A. No. Just based on reading of the state 21 statute. 22 Q. Okay. Are you familiar with the Amanda 23 Wollums matter? 24 A. Yes. Well, can you clarify I guess 25 what that entails? I'm aware of who that is.	60 1 A. Yes. 2 Q. Is that case still pending? 3 A. The case filed, no, I do not believe is 4 still pending. 5 Q. Okay. Where was that case filed? 6 A. Miamisburg Court. 7 Q. Municipal Court, also? 8 A. Yes. Yes. Do you mind if I grab a 9 water bottle? 10 Q. No. Absolutely. 11 A. Thank you. Thank you. 12 Q. You're welcome. Are you familiar with 13 any other cases currently pending regarding code or 14 zoning issues under your purview at this point in 15 time other than this one? 16 A. Zoning issues as in violations? 17 Q. Correct. 18 A. I do not believe so, no. 19 Q. Okay. Are there any properties in 20 Miami Township that are, that you're aware of that 21 are currently venting wine to your knowledge? 22 A. Not that I'm aware of. 23 Q. Now, in one of the allegations of the 24 first amended complaint specifically paragraph 14 25 says to date and this would have been as of January
59 1 Q. Were you the one responsible for 2 issuing her the notice of violation back in August 3 of 2018? 4 A. I don't know the exact timeline but I 5 believe I did issue a notice of violation to Amanda 6 Wollums. 7 Q. Are you involved in that court case or 8 is that court case still pending? 9 A. That court case is resolved. 10 Q. Okay. When did that court case 11 resolve? 12 A. I don't know the date off the top of my 13 head. 14 Q. Where was it pending? 15 A. The case was filed with Miamisburg 16 Court. 17 Q. Not Montgomery County? 18 A. No, I don't believe so. 19 Q. Are you familiar with the Austin 20 Springs Apartment matter? 21 A. Again, as pertaining to a notice of 22 violation sent to Austin -- 23 Q. Springs. 24 A. -- Springs? 25 Q. Yes.	61 1 21, 2020 the date the amended complaint was filed, 2 Defendant Powlette has not shown, advertised, nor 3 testified that he has grown a single grapevine on 4 the property. You know that that's not true, 5 right? 6 A. I'm not sure how the timeline lines up 7 on that filing. 8 Q. He's had grapevines on the property 9 since early 2019. 10 A. I'm not sure when I was made aware of 11 that. 12 Q. Okay. Well, why would this allegation 13 get made if you weren't certain of its accuracy? 14 MR. DOWD: Objection. He didn't 15 file the complaint. It's not a fair question. 16 BY MR. PAGE: 17 Q. Did you contribute to the factual 18 background of the complaint? 19 A. I provided information that I had -- 20 Q. Okay. Did you advise anyone factually 21 that Powlette had no grapevines on the property? 22 A. I'm not sure if I directly advised that 23 or not. 24 Q. Did you ever inspect the property to 25 determine whether there were growing grapes on the

62 1 property at that time? 2 A. I inspected the property and was not 3 aware of any grapes being grown on the property. 4 Q. And when you say inspected you don't 5 mean you visited the property and physically set 6 foot on it, correct? 7 A. Right. I did not, I was not invited to 8 the property to inspect. 9 Q. Did you ask to come to the property to 10 review it? 11 A. No, not at that time. 12 Q. Okay. And so when you say inspect you 13 really didn't inspect anything, right? 14 A. We did. 15 Q. Well, you looked on a website and you 16 looked on Facebook and you didn't inspect the 17 property? 18 A. And we responded to complaints and 19 photographs of events being held on the property. 20 Q. I get that. But this is a very 21 specific allegation and I'm wondering what 22 reasonable investigation to the veracity of this 23 factual allegation did you undertake before the 24 Township filed it? 25 A. Well, I didn't physically walk on the	64 1 again, viticulture is a permitted agricultural use 2 under the declaration of intent form. 3 Q. Okay. So your counsel was kind enough 4 to provide some documents that you supplied this 5 morning. I'm not going to go over all these 6 declarations of intent this morning, doesn't seem 7 necessary. But I do want to ask you a little bit 8 about this document because I believe this is the, 9 maybe the computer database that we discussed a 10 little bit with Mr. Snyder yesterday. Do you 11 recognize that, sir? 12 A. Yes. 13 Q. Okay. And what is that document? 14 A. So this is just a screenshot on a 15 computer of a property specific catalog of files 16 entered for this property, 7757 Upper Miamisburg. 17 Q. Okay. And so within the database is 18 there, is this the only information or is there 19 additional information relative to the property? 20 A. So potentially within, so this image 21 cuts that off, actually. There are essentially, 22 these are files that, you know, we may upload an 23 application form or something to that. I think 24 this was just to provide a record of kind of what 25 the general look of what this property looks like.
63 1 property. 2 Q. Did anyone else from the Township to 3 your knowledge? 4 A. No. 5 Q. You don't dispute that the property is 6 used to produce hay? 7 A. No. 8 Q. You don't dispute that the property is 9 being used for viticulture currently? 10 A. To my understanding of viticulture it 11 appears that that is what has been presented. 12 Q. Since 2019? 13 A. Yeah. Yes. Since 2019. 14 Q. And that's always been a proposed use 15 of the property that Mr. Powlette has represented 16 to the Township, true? 17 A. Correct. I believe that was 18 represented on the exemption form. 19 Q. Both exemption forms? 20 A. Correct. 21 Q. Okay. Yet despite that there's a 22 factual allegation in the complaint that was never 23 investigated by anyone from the Township to your 24 knowledge that he had no grapes on the property? 25 A. It seems that that is the case but,	65 1 MR. PAGE: Okay. And so, Ned, 2 with that background can we get a copy of anything 3 within the database that's relevant to the 7757? 4 MR. DOWD: To the extent we would 5 still have it because I don't know the records 6 retention policy and that goes back a long way. 7 MR. PAGE: Sure. Well, let's just 8 say since Mr. Powlette's on the property, so to 9 2016. 10 THE WITNESS: We can do that. 11 BY MR. PAGE: 12 Q. Did you ever receive a copy of a letter 13 from Dave Coffey regarding these issues in general? 14 A. A letter, a physical letter versus an 15 e-mail? 16 Q. A physical letter that Mr. Coffey wrote 17 and transmitted to, I understand, a number of 18 people within the Township? I don't know if you 19 were one of them or not. 20 A. I don't recall, no. 21 Q. Okay. 22 A. I'm not sure. 23 Q. Have you seen that letter since then 24 even if you weren't an original addressee? 25 A. I'm not sure if I saw the letter. It

66 1 may jog my memory but off the top of my head I 2 can't picture it. 3 Q. Okay. Is it typical in your experience 4 for a member of the general public to e-mail the 5 city administrator, copy the Township lawyer, copy 6 the director of community development, all of the 7 Township trustees, other neighbors in and around 8 Mr. Powlette's site property regarding how 9 Mr. Powlette is using the property? 10 A. I've seen complaints in a number of 11 formats, many that have included trustees, 12 administrators, my supervisors. 13 Q. Lawyers? 14 A. Sure. Complaints, yeah, coming in many 15 forms. 16 Q. And so other than Mr. Coffey who have 17 you seen submit a complaint to the Township that 18 included Mr. Dowd? 19 A. I'm not aware of any but if somebody 20 had the contact information they may. 21 Q. But you're not aware of any? 22 A. I'm not aware, no. 23 Q. Okay. Does Mr. Coffey have any formal 24 role with the Township currently? 25 A. No.	68 1 discussed any of these matters with any third 2 party? 3 A. Just generally agritourism or this, I 4 guess, this matter. 5 Q. This specific case? 6 A. Well, Mr. Turton as a complainant just 7 asking information on what the Township is doing. 8 Q. In an agricultural district in the 9 Township does the Township or any other 10 governmental authority to your knowledge advise 11 prospective purchasers of agricultural property 12 that there is no noise restriction of any type or 13 kind 24 hours a day? 14 A. I'm sorry, can you repeat that question 15 again? 16 (WHEREUPON, the requested portion 17 of the record was read.) 18 THE WITNESS: So I have not 19 advised anyone, I'm trying to make sure I phrase 20 this correctly. I've never had anyone reach out to 21 a prospective buyer to discuss noise complaints. 22 For certain I could point them at the Township 23 Zoning Resolution that has some noise regulations 24 but I have not directly discussed that with a 25 prospective buyer of property, no.
67 1 Q. Back in March of 2019 did Mr. Coffey 2 have any formal role with the Township? 3 A. No, not to my knowledge. 4 Q. To your knowledge back in March of 2019 5 did he have any informal role with the Township? 6 A. I don't believe so but I don't know 7 Mr. Coffey very well or his roles. 8 Q. Well, Mr. Coffey threatened my client 9 that he was going to go to all the, quote, movers 10 and shakers, closed quote, in Miami Township to get 11 him shut down. Were you familiar with that? 12 A. I believe I've heard that term or 13 phrase but -- 14 Q. Were you one of the movers and shakers 15 that he contacted? 16 A. I have no idea what Mr. Coffey means. 17 Q. Has he, did he ever contacted you 18 directly? 19 A. Not to my knowledge, no. 20 Q. Okay. Have you ever spoken to 21 Mr. Coffey about any of these matters at any time? 22 A. I'm not sure that I've ever spoken 23 directly to Mr. Coffey. 24 Q. Okay. Other than your legal counsel 25 and other folks within Miami Township have you	69 1 Q. And I wasn't suggesting that you did. 2 I'm asking whether you're aware of whether the 3 Township has a whole does or any other governmental 4 authority? 5 A. We don't, as far as, to my knowledge, 6 we don't have a policy to reach out to prospective 7 buyers to discuss noise complaints. 8 Q. Okay. Well, and not to discuss noise 9 complaints but to forewarn prospective buyers that, 10 hey, they can be as loud as they want all day long, 11 24/7, there's no restriction on noise in 12 agricultural district? 13 MR. DOWD: I want to back up 14 because I think that's a different question or that 15 actually is two questions there. 16 MR. PAGE: Well, I'm trying to get 17 him to say, I do or I don't know whether or not 18 someone from the Township or any other governmental 19 authority that he's aware of advises people that 20 there is no noise restriction in an agricultural 21 district in Miami Township. 22 THE WITNESS: So, again, there is 23 some, there is an article within the Miami Township 24 zoning resolution related to noise so I would not 25 advise that --

70 1 BY MR. PAGE: 2 Q. But is it, that's an industrial 3 district? 4 A. So that was an example of a case where 5 it may be more commonly applied which is a 6 consistent -- 7 Q. Okay. So are you aware of any noise 8 restriction for an agriculturally zoned property? 9 A. So that article of the zoning 10 resolution applies to all properties within Miami 11 Township -- 12 Q. Okay. 13 A. -- at large. 14 Q. What article is that, sir? 15 A. I believe that it's article 46 but I 16 can definitely get you the exact number. 17 Q. You don't need to do that. 18 A. Okay. 19 Q. I'm good enough to do that little bit 20 of research. 21 A. It's in the table of contents so that 22 should get you there. 23 Q. That makes it easier. All right. Let 24 me ask you this, if the wedding or celebratory 25 event took place on the property but not in the	72 1 a certain structure may be declared exempt where 2 other things are not. So if the declaration of 3 intent form was filed for a barn certain activities 4 may be able to be conducted there but if nothing 5 else was declared then I can't speak for that. 6 Q. Well, but that doesn't answer the real 7 question. You said it's not permitted because it's 8 not agritourism. It's, therefore, not a permitted 9 use and so if the structure doesn't matter, so if 10 the wedding takes place in the field versus the 11 barn, if that doesn't matter because neither of 12 them are agritourism in your view; is that right? 13 A. So if a use is conducted on a property 14 that is not a permitted use in the district that is 15 in violation of the zoning resolution. 16 Q. And you believe in this case it's not a 17 permitted use because it's not agritourism? 18 A. Correct. 19 Q. Okay. And so in your view it wouldn't 20 be agritourism whether the wedding took place 21 outside or in the barn, right? 22 A. Correct. 23 Q. All right. And so based on that 24 testimony, the structure itself doesn't matter, 25 right?
71 1 barn would that be something that Miami Township 2 would try to restrict? 3 A. Any land use on a property is generally 4 within the purview of zoning. 5 Q. Okay. Well, then would that be 6 something you would issue a zoning violation for in 7 your experience as a zoning inspector? 8 A. If there is improper use on a property, 9 sure. 10 Q. Well, I'm asking whether you in your 11 experience as a zoning inspector would make the 12 determination that hosting a wedding or celebratory 13 event in the field as opposed to in the barn makes 14 a difference? 15 A. No. Because that's the use of the 16 property and permitted uses apply to a property 17 rather than structures. 18 Q. Okay. So in this case a structure 19 doesn't matter, based upon that testimony the 20 structure doesn't matter regarding the agritourism, 21 it's the property as a whole that matters regarding 22 whether that's agritourism. So having it in the 23 barn or out of the barn doesn't make a difference 24 as to whether you think it's agritourism? 25 A. Well, I believe it does in cases where	73 1 A. I'm not sure if the structure doesn't 2 matter. If a structure is being used in a certain 3 way that was declared exempt where that is not the 4 case then maybe that is not a permitted structure 5 as far as it was not issued a zoning certificate, 6 it's not being used in a way that it was declared 7 to be used for. 8 Q. In your analysis of whether it's 9 agritourism or not the structure doesn't matter, 10 right? 11 A. Well, certainly if the property was 12 being used only in a way that was declared exempt 13 on the form, the structure is exempt. If it is 14 not, then the structure may not be exempt. 15 Q. Well, in this instance -- 16 A. Sure. The structure was used for 17 weddings and events in a way that was not declared 18 under the declaration was intent, therefore, the 19 structure is involved in this case but they may 20 have done weddings elsewhere on the property or 21 events elsewhere on the property. 22 Q. And your interpretation that it's not a 23 permitted use because it's not agritourism doesn't 24 depend on the structure being used or not being 25 used, right?

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1 A. The use of event center as a whole on
 2 the property whether that's in the structure or
 3 whether that's outside would likely be in violation
 4 of the zoning resolution.
 5 Q. And so to circle all the way back,
 6 again, in your analysis of whether it's agritourism
 7 or not on the property, the structure doesn't
 8 matter?
 9 MR. DOWD: Objection. I think
 10 he's already asked and answered --
 11 MR. PAGE: I don't think he's
 12 actually answered the question.
 13 MR. DOWD: Maybe he doesn't have
 14 the answer that you want but he's answered it.
 15 THE WITNESS: I believe, again, I
 16 think the structure could be tied up in the
 17 violation but, again, the use is what is in
 18 violation.
 19 BY MR. PAGE:
 20 Q. Okay.
 21 A. A violation was never issued on the
 22 barn as being not having a zoning certificate.
 23 Q. Okay. So it's --
 24 A. If that clears that up.
 25 Q. In your view you didn't issue the NOV

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1 because of the barn. You issued it because he was
 2 having weddings on a property?
 3 A. Correct. It was for the use rather
 4 than the structure.
 5 Q. Okay. All right. Is that the ongoing
 6 complaint as well that he's not using the property
 7 as a whole consistent with permitted zoning?
 8 MR. DOWD: When you say complaint
 9 is that from his perspective or from the complaint
 10 that's been filed in court?
 11 MR. PAGE: Well, he's, everyone
 12 testified that he's the one --
 13 MR. DOWD: I understand your
 14 position. We've made some legal arguments that he
 15 may be not privy to but are you talking about the
 16 complaint from his perspective or the complaint
 17 filed in the court?
 18 MR. PAGE: The complaint, well,
 19 let's go back because I do want to be clear on
 20 this.
 21 MR. DOWD: I'm just trying to ask
 22 you to clarify with what you meant by complaint.
 23 BY MR. PAGE:
 24 Q. I agree with you. So I'm going to
 25 strike that and start over so we have a clear

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1 understanding of what I'm asking.
 2 You filed a complaint or you
 3 participated in the factual background and
 4 consultation where a complaint was filed on behalf
 5 of the Township, right?
 6 A. Sure.
 7 Q. For the same activities that you issued
 8 the notice of violation for earlier?
 9 A. Correct. That use was continued from
 10 the time of the notice of violation.
 11 Q. And the notice of violation you issued
 12 was based upon Mr. Powlette's use of the property
 13 in a way you felt violated zoning?
 14 A. I believe so, yes.
 15 Q. And that is your view regarding this
 16 current complaint as well that he's using the
 17 property at large in a manner that violates zoning?
 18 A. Right. Anything, any violation issued
 19 for permitted use would apply to the property.
 20 Q. All right.
 21 A. Can I ask for a bathroom break here
 22 soon?
 23 Q. Absolutely. You're welcome to go right
 24 now. I'm going to go over my notes, talk to Darren
 25 and see if there's any other matters we need to

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1 discuss and then wrap it up.
 2 A. Sounds good. Thank you.
 3 (WHEREUPON, a recess was taken.)
 4 BY MR. PAGE:
 5 Q. Pull up Exhibit B real quick.
 6 A. Here?
 7 Q. Yeah. Have you seen that before now?
 8 A. Yes.
 9 Q. Okay. And not asking because we had a
 10 little bit of a discussion yesterday about having a
 11 30(b)(5), that means a designated witness to talk
 12 about this and I get that and we're going to do
 13 that. But did you have any input to the responses?
 14 A. Yeah. I believe I was a part of
 15 conversation about --
 16 Q. Okay. All right. Just real quick.
 17 All right. Ned, here's a stack of pictures.
 18 (WHEREUPON, Defendant's Exhibit G
 19 through N were marked for identification.)
 20 BY MR. PAGE:
 21 Q. All right. I'm going to hand you a
 22 number of photographs and we'll go through them on
 23 a one by one basis. The first is marked as Exhibit
 24 G for purposes of identification. I'll represent
 25 to you that all of these photographs contain, that

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1 we're getting ready to go through are photographs
2 taken of individuals that have participated in
3 weddings or celebratory events at the property over
4 the last couple of years. So Exhibit G, you see a
5 girl interacting with the alpaca onsite?

6 A. Yes.

7 Q. Okay. In your view, her activity her
8 interaction with the alpaca does not in any way
9 change your view that the celebratory event that
10 she was attending combined with her interaction
11 with the alpaca and her education related to the
12 alpaca does not convert that into any type of
13 agritourism activity?

14 A. Interact with the alpaca may be but,
15 no, the event does not turn that into afterwards.

16 Q. So that's your view?

17 A. Yes.

18 Q. Same with Exhibit H, we have a patron
19 at a celebratory event interacting with the alpacas
20 during the course of that event and being informed
21 about the life and lifestyle of alpacas in your
22 view has nothing to do with converting or having
23 the celebratory event being agritourism; is that
24 right?

25 A. The interaction with the alpaca seems

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1 like agritourism but what she goes and does later I
2 can't say becomes agritourism.

3 Q. Okay. So it doesn't, this interaction
4 doesn't convert the entire celebratory event into
5 an agritourism activity?

6 A. No. I don't think it lets you do
7 whatever else you want on the property.

8 Q. In your view?

9 A. In my view.

10 Q. Yes. All right. Here we have Exhibit
11 I, photograph of the hay rides being offered to
12 patrons who are onsite for celebratory events.
13 Again, this type of an activity that occurs during
14 the celebratory event doesn't change your view that
15 the celebratory event is agritourism, correct?

16 A. Correct. Yeah.

17 Q. Okay. Where husbands and wives are
18 interacting with farm animals onsite doesn't impact
19 your view that the celebratory event on the
20 property is not agritourism, right?

21 A. Right.

22 Q. Again, I'm sorry, that was Exhibit J.
23 Exhibit K, again, husbands and wife's interacting
24 with the farm animals onsite doesn't change your
25 view that the celebratory event during which they

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1 have this interaction, this agriculturally related
2 interact doesn't change your view that it's
3 agritourism, right?

4 A. I think their activity here seems
5 agriculturally related but, again, what else they
6 do --

7 Q. But they are only there for the event,
8 right?

9 MR. DOWD: Is that a fact or is
10 that a question? How --

11 BY MR. PAGE:

12 Q. They are there for the event and the
13 interaction, right?

14 MR. DOWD: You want him to assume
15 that?

16 BY MR. PAGE:

17 Q. Well, they are certainly there for the
18 interaction, you see that?

19 A. They seem to be interacting with an
20 alpaca.

21 Q. Do they appear to be a husband and
22 wife, do they appear to have attended their own
23 wedding that day?

24 A. Supposedly but, again, whether or not
25 that happens on this property, I can't say that it

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1 should allow that just carte blanche.

2 Q. And Exhibit L, the children at a
3 celebratory event engaged in the alpacas doesn't
4 change your view that the celebratory event is
5 agritourism, right?

6 A. Again, I don't think it should allow
7 someone to do whatever else they want.

8 Q. Exhibit M, same question, you see
9 interaction with the alpacas from all the family
10 members who were involved. You don't believe that
11 has anything to do with agritourism, right?

12 A. I believe interacting with --

13 Q. If they are at a celebratory event, if
14 they are able to do this?

15 A. Interacting with the alpacas sure seems
16 like agritourism but, again, what they go do, I
17 can't speak to that.

18 Q. Okay. So your view is that if they are
19 there for a celebratory event and interact with the
20 alpacas during the celebratory event the
21 interaction with the alpaca is agritourism but the
22 celebratory event isn't; is that it?

23 A. Sure.

24 Q. Okay. Well, it's to get that clear.

25 And then finally Exhibit N, same basic premise?

1 A. Sure.
 2 Q. You don't believe that despite the fact
 3 that they are at a celebratory event where this
 4 activity is agriculturally related activity takes
 5 place has, you think the celebratory event is not
 6 agritourism but the interaction with the animals
 7 is?
 8 A. No different than if they go-karted
 9 past the animals.
 10 Q. Is that correct?
 11 A. Yes. Correct.
 12 Q. All right. Thank you. That's all I've
 13 got today.
 14 MR. DOWD: Okay. We'll read.
 15 MR. PAGE: We'll order.
 16 MR. DOWD: And we'll take a copy.
 17 (WHEREUPON, deposition concluded
 18 at 12:13 p.m.)
 19 * * * * *
 20
 21

22 ALEXANDER CARLSON
 23
 24
 25

1 PLEASE USE THIS ERRATA SHEET TO MAKE ANY
 2 AND ALL CORRECTIONS, BY LISTING THE PAGE NUMBER,
 3 LINE NUMBER AND THEN A BRIEF DESCRIPTION OF THE
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1 C E R T I F I C A T E
 2
 3 STATE OF OHIO
 4 SS.
 5 COUNTY OF MONTGOMERY
 6
 7 I, Jamie S. Hurley, the undersigned, a
 8 Court Reporter, and Notary Public within and for
 9 the State of Ohio, do hereby certify that before
 10 the giving of aforesaid deposition said ALEXANDER
 11 CARLSON, was by me first duly sworn to state the
 12 truth, the whole truth, and nothing but the truth;
 13 that the foregoing is the deposition given at said
 14 time and place by said ALEXANDER CARLSON; that said
 15 deposition was taken in stenotypy by the court
 16 reporter and transcribed into typewriting under her
 17 supervision; that said transcribed deposition was
 18 submitted to the witness for his examination; the
 19 court reporter was neither a relative of nor
 20 attorney for any of the parties to this case nor
 21 relative of nor employee for any of the counsel;
 22 neither the court reporter nor the affiliated court
 23 reporting firm has a financial interest under a
 24 contract as defined in Civil Rule 28(D).
 25
 IN WITNESS WHEREOF, I hereunto set my
 hand and official seal of office this 22nd day of
 July, 2021.
Jamie S. Hurley
 JAMIE S. HURLEY
 Notary Public, State of Ohio
 My Commission Expires 6-28-25