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By Mr. Nacol -----

## FURTHER EXAMINATION

By Ms. Morales -----

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BY Mr. Nacol -----

CREWS CERTIFIED REPORTING - 972/317-9911.  
3767 Forest Lane, Suite 124, #1110  
Dallas, Texas 75244-7100

	No.	Description	E X H I B I T S - - - - -	Page Marked
1	1	Statement, permits, miscellaneous documents		5
2	2	6/15/00 letter from Marshall to TABC		5
3	3	4/10/00 letter from TABC to Beeler		5
4	4	Ordinance 1939		5
5	5	"Relator's Second Amended Original Petition for Declaratory Judgment, injunction and Writ of Mandamus		5
6	6	Memorandum		5
7	7	"Application for a Retailer's Permit"		5
8	8	Portion of TABC Code		5
9	9	"Ordinance 1939"		5
10	10	7/27/00 letter from Rounsavall to TABC		5
11	11	Fax copy of 3/3/00 letter to Ramsey from Wortham		5
12	12	3/3/00 letter to Ramsey from Wortham		5
13	12A	3/21/00 letter to Ramsey from Wortham		58
14	13	3/17/00 letter to Ramsey from Wortham		5
15	14	5/2/00 letter to Ramsey from Wortham		5
16	15	Various sales reports and Handy Mart Income Statement		5
17	16	"Open Records Request Form"		5
18	17	3/30/00 Memo from Rounsavall to Ramsey		5
19	18	4/10/00 draft letter from Rounsavall to TABC		5
20	19	7/27/00 letter from Rounsavall to TABC		5
21				
22				
23				
24				
25				

## E X H I B I T S (Cont'd)

- - - - -

20	Fax cover sheet	5
21	"Personal Citation"	5
22	"Original Petition for Writ of Mandamus"	5
23	"Amended Notice to Take the Oral Deposition of Defendants Ramsey and Rounsavall and Subpoena Duces Tecum"	97

CERTIFIED QUESTIONSNUMBERPAGE/LINE

1	107/19
2	116/14



1 the Northern District of Texas, Dallas Division, before  
2 Susan M. Owen, a Certified Shorthand Reporter in and for the  
3 State of Texas, on the 1st day of October, A.D. 2001, in the  
4 offices of the City of Terrell, 201 East Nash Street,  
5 Terrell, Texas, between the hours of 10:05 a.m. and 2:04  
6 p.m., pursuant to the Federal Rules of Civil Procedure.

7 JOHN D. ROUNSAVALL,  
8 having been first duly sworn, testified as follows:

9 THE REPORTER: Did you want to make any kind  
10 of agreement for the record?

11 MR. NACOL: Rules.

12 MS. MORALES: Rules.

13 (Time: 10:05)

14 EXAMINATION

15 (Exhibit Nos. 1 through 22 marked)

16 QUESTIONS BY MR. NACOL:

17 Q. State your full name for the record.

18 A. John D. Rounsavall.

19 Q. And where do you reside, Mr. Rounsavall?

20 A. 9723 Ewing Lane.

21 Q. What city is that in?

22 A. It's in Terrell.

23 Q. Okay. Have you ever had your deposition taken  
24 before?

25 A. No.

1 Q. This is the first time you've ever been deposed?

2 A. Oh, I'm sorry. No, I've been deposed before.

3 Q. How many times have you been deposed before?

4 A. Twice.

5 Q. Okay. I want to make an agreement with you here  
6 today. Sometimes my questions aren't clear. If I ask you  
7 something you don't understand for any reason, if it's  
8 ambiguous or requires a "yes" or "no" to an answer -- Are  
9 you still beating your wife? -- neither "yes" no," or, "No,  
10 I never did," that type of question, or for any reason you  
11 don't really understand it when I ask it, rather than  
12 answering it, will you agree to stop me and ask me to ask it  
13 in a such fashion that you can answer?

14 A. Yes.

15 Q. All right. With that agreement, I'll ask the jury  
16 to suppose the answers you do give are your sworn answers.  
17 Fair enough?

18 A. Yes.

19 Q. You understand you're under oath?

20 A. Yes.

21 Q. And the penalty of perjury attaches to a false  
22 statement in this deposition. You understand that?

23 A. Yes.

24 Q. You understand it's a very serious crime?

25 A. Yes.

1 Q. And if you want to take a break to use the  
2 bathroom or get a coffee or whatever, just ask me, and we'll  
3 do it. We try to avoid the use of slang in depositions.  
4 There is no videotape here, so when you roll your eyes or  
5 say "uh-huh," I know what you mean, or "yeah," but on the  
6 written word, the lady taking it down to your left, it can't  
7 sometimes you can't tell if it's an affirmative or a  
8 negative. So try to say "yes, no," and use formal  
9 responses. Fair enough?

10 A. Yes.

11 Q. I'll try not to interrupt you at any time during  
12 your answer, and I'll ask you not to interrupt me until I  
13 finish asking the question so we can have a smooth record  
14 and get through this thing. Okay?

15 A. Okay.

16 Q. What's your date of birth?

17 A. February 26th, 1958.

18 Q. Your Social Security number?

19 A. 466-02-9738.

20 Q. And your driver's license number?

21 A. I do not know. I'd have to get it out.

22 Q. Okay. Fair enough.

23 A. 05174613.

24 Q. And your home phone number?

25 A. It's 972/524-3211.

1 Q. Do you have a cell phone?

2 A. Yes, I do, but I don't know the number.

3 Q. Okay. We'll leave a blank in the deposition. Can  
4 you fill that in whenever you get it?

5 A. Yes, sir. \_\_\_\_\_

6 Q. You said you'd had two prior depositions. When  
7 was the last deposition you had?

8 A. Over a year ago. I don't know the date.

9 Q. Where did you give it?

10 A. In Dallas.

11 Q. What was the cause?

12 A. The cause?

13 Q. The lawsuit, what was it for?

14 A. Nancy Price versus the City of Terrell.

15 Q. What were her claims?

16 A. I believe retaliation.

17 Q. A discrimination lawsuit?

18 A. I believe so.

19 Q. And who was representing you in that case?

20 A. Maris & Lanier.

21 Q. Are they in Dallas?

22 A. Yes, they are.

23 Q. M-a-r-r-i-s?

24 A. I do not know, sir.

25 Q. And you did give your deposition?



1 A. Yes.

2 Q. And do you have a copy of that deposition?

3 A. No, I don't -- I don't know if I do or not.

4 Q. Okay. Your lawyers do, though?

5 A. Yes, I assume they do.

6 Q. Okay. Is that case still pending?

7 A. Not to my knowledge.

8 Q. It's been resolved?

9 A. It went to federal court. I don't know --

10 Q. I'm being unfair with you. I'm breaking our rule  
11 right from the beginning. Have you paid Cindy Lanier --

12 A. Maris.

13 Q. Mary Lanier -- What's her name?

14 A. It's Marigny Lanier is her name, but it's Maris &  
15 Lanier is the --

16 Q. Her name is Marinet?

17 A. Marigny.

18 Q. Marigny?

19 A. Yes.

20 Q. How do you spell that?

21 A. I do not know, sir. I'm sorry.

22 Q. And her last name?

23 A. Lanier.

24 Q. Lanier. Well, was a family member taking the case  
25 or something, or is that just circumstance, Lanier and

1 Lanier?

2 A. I do not know, sir.

3 Q. Okay.

4 A. They are TML attorneys.

5 Q. What?

6 A. TML.

7 Q. What is that?

8 A. TML represents the city's insurance group.

9 Q. Okay. Well, Marigny doesn't represent the city's  
10 group, does she? She's suing you, right?

11 A. No.

12 Q. All right. Let's start over. Who is the  
13 plaintiff in the case?

14 A. The plaintiff?

15 Q. Yes.

16 A. I believe Nancy Price.

17 Q. Nancy Price. Okay. Thank you. Have you paid  
18 Nancy Price any money?

19 A. No.

20 Q. Has the city?

21 A. No.

22 Q. Has it gone to a jury trial?

23 A. Yes.

24 Q. What happened at the jury trial?

25 A. They ruled for the plaintiff.

1 Q. Okay. What was the verdict? How much was the  
2 verdict?

3 A. 246,000, I believe.

4 Q. And Nancy Price's claims were that the City of  
5 Terrell retaliated against her for some purpose?

6 A. I believe so.

7 Q. Just tell me in your own terms what she thinks the  
8 claims are.

9 A. Yes.

10 MS. MORALES: Objection, speculation. You  
11 can answer.

12 Q. (MR. NACOL) From whatever you know.

13 A. I believe that she filed retaliation and it went  
14 to federal court.

15 Q. Okay. Was it a sexual harassment case or  
16 discrimination case or both?

17 A. I think it was a discrimination case.

18 Q. Did she say she hadn't been promoted enough or  
19 that somebody tried to make a sexual advance toward her or  
20 something like that?

21 A. The case was -- had so many different claims that  
22 I -- Do you want to go over all of them? Is that --

23 Q. Well, were you an individual defendant?

24 A. Yes.

25 Q. Okay. And was it claimed that you did anything

1 wrong?

2 A. Yes.

3 Q. What was claimed that you did wrong? Forget all  
4 the other claims, but what was claimed that --

5 A. Retaliation.

6 Q. That you fired her because she did what?

7 A. Originally it was because of her age, race and  
8 sex, and I don't know what it ended up being.

9 Q. But it went to a jury and they awarded \$270,000?

10 A. 246,000.

11 Q. \$246,000. Okay. Is that on appeal or are y'all  
12 just going to pay it?

13 A. They appealed because the judge overturned.

14 Q. The judge gave an NOV?

15 MS. MORALES: That's a directed verdict.

16 THE WITNESS: I don't know what you call it,  
17 sir.

18 Q. (MR. NACOL): After the trial was over, your  
19 lawyers filed another motion?

20 A. They had to file something related to causal  
21 connection, and after they filed whatever they filed, the  
22 judge dismissed it.

23 Q. Okay. Do you know where Maris & Lanier office in  
24 Dallas?

25 A. They're on Central Expressway. I don't know the

1 address.

2 Q. Is it lower Central, upper of Central or --

3 A. It's near Regal Row.

4 Q. Okay. That's all I need to know. Okay. And you  
5 gave one deposition in that case?

6 A. Yes.

7 Q. Okay. And when was the second deposition you  
8 gave?

9 A. Well, that was the most recent, then the one  
10 farther back was when I worked for State Farm Insurance.

11 Q. Okay. What year, approximately?

12 A. I would say that was in '94 or '95. I can't  
13 remember.

14 Q. And just what was the -- Were you a defendant in  
15 that case?

16 A. No.

17 Q. Was that just a bad faith claim?

18 A. I don't know, sir. It was an insurance claim and --

19 Q. Were you the adjuster?

20 A. I was the estimator for State Farm.

21 Q. And you were the estimator?

22 A. Yes.

23 Q. Are you married?

24 A. Yes.

25 Q. Who are you married to?

1 A. Shanna Rounsvall.

2 Q. How long have you been married?

3 A. 27 years.

4 Q. Any kids?

5 A. Two.

6 Q. How old?

7 A. 18 and 22.

8 Q. Do they reside at home or --

9 A. One resides at home; one does not.

10 Q. Where did you go to high school?

11 A. Terrell.

12 Q. And did you go to college?

13 A. I have some college, but not --

14 Q. Where did you -- Just a general idea of what  
15 you've done in college.

16 A. Law enforcement education, Trinity Valley,  
17 formerly Henderson County Junior College.

18 Q. And how long were you there?

19 A. I was attending courses on and off for probably  
20 four or five years.

21 Q. How many hours do you have?

22 A. About 12, I guess.

23 Q. Okay. Other than your 12 hours -- Is that a  
24 junior college?

25 A. Yes, it is.

1 Q. Other than your 12 hours -- You didn't get an  
2 associate's degree there, did you?

3 A. No.

4 Q. Okay. Aside from your time you spent there, have  
5 you had any other formal education?

6 A. Yes.

7 Q. What else have you had?

8 A. Peace officer certification.

9 Q. Which department?

10 A. Terrell.

11 Q. So you went through a training program to become a  
12 police officer?

13 A. Yes, sir.

14 Q. And you graduated from that?

15 A. Yes.

16 Q. How long -- I'm sorry.

17 A. Go ahead. I'm sorry.

18 Q. I violated the rule again. That's twice in the  
19 first minute. Any other formal training?

20 A. No, but let me make a correction --

21 Q. Yeah.

22 A. -- to that statement. I went through the training  
23 at East Texas Police Academy while I was at Wills Point  
24 Police Department, and then came to Terrell.

25 Q. Well, are you saying you did not graduate from

1 East Texas Police Academy or --

2 A. I did graduate.

3 Q. Okay. But then you came to Terrell. Okay. Any  
4 other formal training?

5 A. Formal training?

6 Q. Like college, anything like that. I'm not talking  
7 about courses you might take to update continuing education.  
8 We'll get into that, but I'm talking about formal where you  
9 get a degree.

10 A. No.

11 Q. Do you have any other certifications?

12 A. No.

13 Q. Okay. Have you ever written any books, published  
14 anything?

15 A. No.

16 Q. Okay. Have you ever spoke, lectured or taught at  
17 any university or any other entity?

18 A. No.

19 Q. Do you have any formal education in municipal  
20 administration?

21 A. No.

22 Q. Do you have any other formal education in -- aside  
23 from your police work, in performing those duties required  
24 of a city attorney?

25 A. No.



1 Q. Okay. Where was your first job?

2 A. My first job?

3 Q. Well --

4 A. How far back do you wish --

5 Q. -- I don't want to know about roofing and --

6 A. Okay.

7 Q. How old are you now, sir?

8 A. I'm 43.

9 Q. Okay. From 25 forward give me just a quick  
10 rundown of your employment history.

11 A. 25 forward, Terrell Police Department --

12 Q. Okay.

13 A. -- Access Data --

14 Q. Okay.

15 A. -- K & K Computers --

16 Q. Okay.

17 A. -- State Farm Insurance --

18 Q. Okay.

19 A. -- City of Terrell.

20 Q. Okay. And how long were you with the Terrell  
21 Police Department?

22 A. I started in '82, I believe, and left in '88.

23 Q. What was your highest level of attainment in that  
24 organization?

25 A. I was administrative section chief, was my last

1 title.

2 Q. And what were your duties there?

3 A. I was in charge of communications, records, jail,  
4 warrants, court.

5 Q. Were you what we sometimes refer to in slang terms  
6 as the desk sergeant?

7 A. No.

8 Q. Okay. You were above that, or sideways?

9 A. I was somewhere in there.

10 Q. Okay. Did you ever -- Administrative section  
11 chief, is that the title given to that position?

12 A. That was the title that was given, yes.

13 Q. Did you have any as far as being lieutenant or  
14 detective or anything like that? Did you ever achieve any  
15 of that?

16 A. No.

17 Q. All right. And why did you leave the Terrell  
18 Police Department?

19 A. I went to work for Access Data.

20 Q. Okay. Did you leave on good terms with them?

21 A. Yes, I did.

22 Q. During your tenure with the Terrell Police  
23 Department, did you ever have any internal affairs  
24 investigations or grievances filed on you?

25 A. No.

1 Q. And so in '88 you went with Access Data?

2 A. Yes.

3 Q. How long did you stay with them?

4 A. Not quite a year.

5 Q. Okay. Why did you leave there?

6 A. He ran out of money.

7 Q. What did you do there?

8 A. I was a programmer.

9 Q. Okay. And where did you go in '89?

10 A. I went to the K & K Computer Services.

11 Q. And how long were you there?

12 A. I think until '93, somewhere in there.

13 Q. What did you do for them?

14 A. Programmer.

15 Q. What was your highest level of attainment there?

16 A. Programmer.

17 Q. Just the same position?

18 A. Yes.

19 Q. Okay. And why did you leave there?

20 A. More money.

21 Q. Okay. Did you leave on good terms with them?

22 A. Yes, I did.

23 Q. And State Farm you started in '93?

24 A. Yes.

25 Q. And how long were you with them?

1 A. I think until '96.

2 Q. Okay. And what did you do there?

3 A. I was an estimator.

4 Q. What did you estimate?

5 A. Auto.

6 Q. Huh?

7 A. Auto.

8 Q. So you would go out and -- If there was a car  
9 wreck, you would go out and see if the axle was busted or if  
10 a fender needed to be replaced or if there had been prior  
11 damage or estimate the cost to bring it back up to where it  
12 was before the collision?

13 A. Yes.

14 Q. Did you do any adjusting or were you just a pure  
15 estimator?

16 A. Pure estimator.

17 Q. Okay. And you left in '96?

18 A. I believe so.

19 Q. Did you leave on good terms with them?

20 A. Yes, I did.

21 Q. All right. And how did you get your job with the  
22 City of Terrell?

23 A. I applied for records officer and systems  
24 administrator.

25 Q. Records officer --

1 A. Uh-huh.

2 Q. -- and --

3 A. Systems administrator.

4 Q. What did that entail?

5 A. I took care of the computers.

6 Q. And what did that pay?

7 A. I think it started off around 30,000. I'm not  
8 sure.

9 Q. How long were you there?

10 A. Until I moved up to the city secretary, I believe.  
11 I may need to back the dates up. I think it was '94 that I  
12 was hired by the city.

13 Q. Okay.

14 A. But I'm not -- I'd have to check my records. I  
15 was there, I think, two years or a year and a half before I  
16 got moved to the city secretary.

17 Q. Okay. So you were two to two and a half years as  
18 the office systems administrator, records, and then you were  
19 moved up to city secretary?

20 A. Yes.

21 Q. Is that an elected job?

22 A. It's appointed.

23 Q. Who appoints you?

24 A. The city council.

25 Q. Okay. And that was in '99? '98?

1 A. I'd have to check the dates.

2 Q. What is your best recollection?

3 A. I think '96, somewhere in there.

4 Q. '96. So you've been the city attorney for five --  
5 city secretary for five years?

6 A. Yes. I believe that's correct.

7 Q. And what are your chores and duties as city  
8 secretary?

9 A. Let's see. I am still the records officer,  
10 systems administrator, court administrator, finance  
11 director, city secretary.

12 Q. So -- Well, you were already the records officer  
13 and system administrator. Right?

14 A. Right.

15 Q. So basically you just took on new chores of  
16 administrator and finance director and city secretary in  
17 addition to those chores?

18 A. I took on court administration.

19 Q. I'm sorry. Court -- Thank you -- court  
20 administrator, finance director and city secretary. Okay.  
21 And what additional chores did you have from those three  
22 obligations?

23 A. Management of court personnel, court operations.  
24 As finance I have the utility billing, accounts payable for  
25 the city, budgeting for the city, purchasing. And that's

1 it.

2 Q. Did you get a raise?

3 A. Did I get raise?

4 Q. Yeah.

5 A. Yes.

6 Q. What are you making now?

7 A. Right now I'm making about 53.

8 Q. Do you pick the city attorney?

9 A. No, I do not.

10 Q. Do you have any input on who the city attorney is?

11 A. No.

12 Q. Who picks the city attorney?

13 A. I'd have to check the charter, but I believe the  
14 city manager can appoint. I'm not for sure.

15 Q. Who is the city manager?

16 A. Gordon Pierce.

17 Q. How long have you worked for Mary Gayle Ramsey?

18 A. I've known her since 1988 to work in the city.

19 Q. Okay. Have there been any other city attorneys  
20 during that time you've worked with?

21 A. Greg Shumpert.

22 Q. Other than the criminal side?

23 A. No.

24 Q. Shumpert doesn't get involved in this stuff, does  
25 he?

1 A. Not to my knowledge.

2 Q. Civil stuff. He's criminal mostly?

3 A. I'm not --

4 MS. MORALES: Objection, speculation.

5 THE WITNESS: I don't know.

6 Q. (MR. NACOL) Well, you've never dealt with him  
7 from a criminal viewpoint trying to resolve some issue with  
8 the city? I mean, you've never dealt with him in a civil  
9 matter. You wouldn't call him, Greg Shumpert, to find out  
10 if an applicable law applied to a permit for alcohol, would  
11 you?

12 A. No.

13 Q. Okay. Who would you call?

14 A. He wasn't on -- He has only been on for a year, I  
15 guess. He's a criminal -- he just does municipal court  
16 cases.

17 Q. Okay. That's why I'm trying just to establish  
18 that. Okay. Do you and your wife socialize with Ms. Ramsey  
19 and her husband?

20 A. No.

21 Q. Y'all ever been out to dinner together?

22 A. The Christmas party under the former city manager  
23 is the last time I've ever seen her husband.

24 Q. Okay. Now, you've presented me today with some  
25 exhibits marked one through Exhibit -- Is it Rounsavall?



1 A. Rounsavall.

2 Q. Rounsavall?

3 A. Rounsavall.

4 Q. Rounsavall.

5 A. Yes, sir, that's correct.

6 Q. Okay. My name is Nacol, and nobody has ever  
7 pronounced mine right either, so I try not to do the same  
8 thing to others. It's Rounsavall 1 through 22. Did you  
9 bring these today with you or present them to your attorney  
10 to present here today?

11 A. These ones, yes.

12 MS. MORALES: We also provided the formal  
13 objections along with some documents, and I've indicated to  
14 Mr. Nacol that the handwritten Bates numbers are the ones  
15 that we received today, so they won't be in the responses.

16 Q. (MR. NACOL) Okay. Can you authenticate 1 through  
17 22 as business records of the city? By that I mean, do  
18 y'all keep these records as you get them in an orderly  
19 fashion? Are you custodian of those records?

20 MS. MORALES: Objection to the extent it  
21 calls for a legal conclusion.

22 MR. NACOL: I'm not asking you to opine on  
23 the law. I'm just asking are you the custodian of those  
24 records and are they the city business records.

25 MS. MORALES: Same objection.

1 MR. NACOL: If we keep these in order, it  
2 will speed things up.

3 MS. MORALES: Do them face down.

4 Q. (MR. NACOL) Let me ask you to do this. Look at  
5 all of them first, and then I'll ask you a series of  
6 questions.

7 (Pausing)

8 Let me ask you some questions. And I'll hold out to  
9 you I believe that the exhibit that you segregated, Exhibit  
10 No. 15, are the attachments and proof to a letter sent to  
11 you by Mr. Wortham trying to set out the amount of money  
12 spent on liquor in my client's business establishment. You  
13 eventually concluded, I think, it was enough to exempt him  
14 from the statute. But, regardless, are 1 through 22  
15 documents from your files that you produced here today?

16 A. 1 through 22 excluding 15.

17 Q. Okay. Where did 15 come from?

18 A. I do not know, sir.

19 Q. You've never seen 15 before?

20 A. I don't recall ever seeing dollars.

21 Q. Okay. Let me try to refresh your recollection  
22 here. Okay? At some point in time we're going to find out  
23 why you agreed eventually to approve the permit, or withdraw  
24 your objection to the permit. Okay? At that time I think  
25 you're going to find, in your words, because you felt like

1 more than 50 percent of the gross proceeds did not go to  
2 alcohol. At least that's what your affidavit says. Okay?  
3 Was attached to the letter that was sent to you, or sent to  
4 Mary Gayle -- It apparently got to you, because it was in  
5 your file -- upon which you make that decision. Does that  
6 refresh your recollection if you've ever seen it?

7 A. No, sir.

8 Q. Okay. Good. Let's set that one aside. All  
9 except Exhibit No. 15, 1 through 22, are these records kept  
10 by the city attorney in the ordinary course of business as  
11 you received them in the file relevant to these documents?

12 A. The city attorney or me?

13 Q. The city secretary. Do you keep these as --

14 A. Yes.

15 Q. -- in your file? Okay. Did you place them in the  
16 file at or near the time you received them?

17 A. As I recall.

18 Q. Okay. And are you custodian of these records?

19 A. Yes.

20 Q. Okay. And do you normally orderly keep records  
21 like this? As you get these documents, keep them in a set  
22 file so you have them all together and can review them?

23 A. Yes.

24 Q. And, once again, so the judge and jury will be  
25 perfectly clear, it is your sworn testimony to your

1 recollection today you've never Exhibit No. 15?

2 A. I do not recall seeing Exhibit 15.

3 Q. When was the first time that you ever heard the  
4 name of Mr. Beeler, to your recollection?

5 A. I believe it was when Mr. Lawson indicated he was  
6 moving.

7 Q. When what?

8 A. When he indicated he was moving.

9 Q. When Mr. Beeler indicated to you he was moving?

10 A. No, when Mr. Lawson indicated.

11 Q. Who is Mr. Lawson?

12 A. Grady Lawson.

13 Q. When was that?

14 A. I don't recall the exact time frame, sir.

15 Q. Okay.

16 A. I's been -- What? -- a year or two years ago?

17 Q. Did Mister -- where did you get that -- How did  
18 you get that information from Grady Lawson?

19 A. He came in one day and indicated that Mr. Beeler  
20 was moving from his business.

21 Q. Was it in your office?

22 A. Actually it was in the lobby.

23 Q. Y'all had a conversation in the lobby?

24 A. He just stopped to indicate that Mr. Beeler was  
25 moving out of that facility.

1 Q. Are you friends with Grady Lawson?

2 A. No, sir.

3 Q. Had you ever known him prior to that day?

4 A. I mean, I've known his name. I know who he is,  
5 but I don't know him.

6 Q. What were you doing in the lobby at that time?

7 A. I believe I was walking through from one of the  
8 offices.

9 Q. Okay. And he was just standing there and he  
10 stopped you and said, "Mr. Beeler is moving"?

11 A. There was some conversation about he's moving --  
12 Mr. Beeler is moving out of his store.

13 Q. Okay. Why would that have been a point of  
14 reference for you in the lobby of the city hall here?

15 A. Because he was concerned about his liquor license,  
16 I believe.

17 Q. Mr. Lawson was concerned about his -- You mean  
18 whose? Beeler's or his, Mister --

19 A. I assume his.

20 MS. MORALES: Objection, speculation.

21 Q. (MR. NACOL) What did you glean from his  
22 conversation with you?

23 A. He was concerned about a liquor license, and he  
24 stopped me to inquire about it, I believe.

25 Q. Okay. I'm try to avoid pronouns here so the jury

1 and judge and everybody knows really what you're saying.  
2 When you say "his," are you saying that Mister -- that from  
3 what you gleaned from his demeanor and conversation that  
4 Grady Lawson was concerned about Mr. Beeler's license or was  
5 concerned about the license at the address that Grady Lawson  
6 owned?

7 A. I believe the conversation was about the location  
8 that he owned and his license, the license of his location.

9 Q. And where was his location?

10 A. Is it 307 Ninth? Is that correct?

11 Q. I think so. 307 Ninth Street. So Grady Lawson at  
12 that time owned 307 Ninth Street, right?

13 A. He indicated he did, yes.

14 Q. Yeah. And did he indicate that they sold liquor  
15 at that address at that time?

16 A. Yes.

17 Q. And did he indicate to you at that time that the  
18 owner of the license at that time was Mr. Beeler?

19 A. Yes.

20 Q. Okay. And did he indicate to you he was concerned  
21 that if Mr. Beeler left that Mr. Grady would not have a  
22 liquor license?

23 A. I believe that was correct.

24 Q. Okay. What did you tell him?

25 A. I told him I'd have to check into it, that as far

1 as I knew Mr. Beeler had not applied.

2 Q. Now, is there any way you can refresh your  
3 recollection of when this conversation occurred?

4 A. It's been a couple of years ago, at least, sir.

5 Q. I understand that.

6 A. No, I don't have --

7 Q. When the city attorney gets a letter on something  
8 like this, a decision you ultimately, I mean -- Strike all  
9 that. Who makes the ultimate decision whether a license is  
10 granted or not in this city? If an application is made, who  
11 rules on it and signs off on it and approves it?

12 A. I sign off on it.

13 Q. Okay. Do you recall whether or not -- in doing  
14 so, do you sometimes have your city attorney review statutes  
15 and ordinances to check the propriety of the application?

16 A. Yes.

17 Q. And do you require the city attorney, in  
18 corresponding to -- with those folks that they make direct  
19 statements regarding the license in letters -- do you  
20 usually review those letters?

21 MS. MORALES: Objection, ambiguous.

22 THE WITNESS: I don't understand the question  
23 sir.

24 Q. (MR. NACOL) Okay. If Mr. Beeler was to send a  
25 letter to Mary Gayle Ramsey with regard to questions he had

1 about the license, would you look at that letter?

2 A. No.

3 Q. Okay. Why?

4 MS. MORALES: Objection, speculation.

5 THE WITNESS: I don't -- It wasn't sent to  
6 me. I don't know. I mean --

7 Q. (MR. NACOL) But you rely on the expertise of  
8 that lawyer, don't you?

9 A. Yes.

10 Q. And in doing so, you need to review her work  
11 product to do that, don't you?

12 MS. MORALES: Objection.

13 Q. (MR. NACOL) You need to review what her findings  
14 are and the correspondence between the parties, things of  
15 that nature, do you not?

16 A. No.

17 Q. In this particular case are you telling the jury  
18 you didn't receive three or four different letters that she  
19 received that were in your file?

20 A. I don't know, sir.

21 Q. Okay. Well, I don't want to trick you. I mean,  
22 I'll let you look through here. There's at least four  
23 letters in here addressed to -- There's one from Mr.  
24 Maloney on a different application. There's a carbon copy  
25 from Mary Gayle Ramsey. There's a letter to Mary Gayle



1 Ramsey from Mike Wortham dated May 2nd of 2000. How did  
2 that get in your file?

3 A. I would assume at some point this is all brought  
4 together. I don't know. I did not read that letter, so I  
5 don't know.

6 Q. You've never read the May 2nd, 2000 letter?

7 A. I don't recall reading her letters, no, sir.

8 Q. What does the letter state?

9 A. Sir?

10 Q. What does the letter state?

11 MS. MORALES: Objection, best evidence.

12 THE WITNESS: I don't know.

13 Q. (MR. NACOL) So it's your testimony under oath  
14 today that you know you didn't read Exhibit No. 14 without  
15 having looked at it?

16 A. I didn't read that letter. I don't recall reading  
17 that letter, so --

18 Q. Okay. And how about the March 17th letter to Mary  
19 Gayle Ramsey from Mike Wortham? Did you read that letter?

20 A. I don't recall --

21 MS. MORALES: Do you want him to look at it  
22 first to see if it refreshes his memory?

23 MR. NACOL: Well, yeah, that's fine.

24 MS. MORALES: I don't know if you just want  
25 to --

1 MR. NACOL I want what happened.

2 MS. MORALES: Take a look and see if you have  
3 read it and if it refreshes your memory.

4 THE WITNESS: I don't recall reading --

5 Q. (MR. NACOL) Okay.

6 A. -- Mary Gayle's letters.

7 Q. What about number -- the March 3rd letter? Do you  
8 recall reading that one?

9 A. No, sir.

10 Q. Do you recall writing any letters to Michael  
11 Wortham?

12 A. I do not write letters to Mr. Michael Wortham,  
13 sir.

14 Q. And you're absolutely sure of that fact?

15 A. I would not correspond with an attorney other than  
16 the city attorney, so --

17 Q. Would you look at what you've identified as  
18 Rounsavall Exhibit No. 8. And, if you will, is that not a  
19 letter to Mr. Beeler on your behalf?

20 A. Yes.

21 Q. And you did send Mr. Wortham a copy of that,  
22 didn't you?

23 A. Oh, yes, apparently I did.

24 Q. And here's another letter to Mr. Maloney, Texas  
25 Alcoholic Beverage Commission, and here is a -- In fact,

1 you faxed that a letter to directly to Mr. Wortham on March  
2 the 14th of 2000, didn't you -- March 14th correspondence,  
3 didn't you?

4 A. Apparently I did. I mean --

5 Q. Well, that's your signature on there, isn't it?

6 A. Yes, it is my signature on the letter.

7 Q. And we have a previous letter here. So does that  
8 refresh your recollection whether you have sent  
9 correspondence directly to Mr. Wortham?

10 A. I have sent copies of correspondence to Mr.  
11 Wortham, yes.

12 Q. Okay. What procedures -- Tell the jury exactly  
13 what the procedure is for having a permit issued to sell  
14 alcohol in Terrell. What are all the hoops that have to be  
15 jumped through properly from your perspective before you  
16 sign the permit?

17 A. The applicant must provide three copies of the  
18 TABC application form. The procedure requires that I check  
19 the map of the 1965 city limits to make sure that the  
20 applicant is within those --

21 Q. Okay.

22 A. -- boundaries, and that he or she does not have a  
23 business within 1000 foot of a school.

24 Q. All right. What else?

25 A. That's pretty much it.

1 Q. Okay. So if someone brings in an application on a  
2 TABC form with three copies and the map shows that that  
3 person is within city limits and is not within 1000 foot of  
4 a school, you grant the license?

5 A. Yes.

6 Q. Okay. Are there any other exclusions that would  
7 prevent issuance of the license?

8 A. There's a section relative to residential district  
9 as well.

10 Q. Do you check that, too?

11 A. Typically I have municipal development check that.

12 Q. But that is another requirement?

13 A. Yes.

14 Q. Another hoop to jump through. Okay. It cannot be  
15 residential, right?

16 A. I don't know the specific wording, sir. I'd have  
17 to look it up.

18 Q. Do you know of any liquor stores in residential  
19 areas in Terrell?

20 A. There's only two. I'm sorry. Liquor stores?

21 Q. Yeah. Is there -- Strike that. Have you ever  
22 granted a permit such as the one you granted to Beeler in a  
23 residential area?

24 A. The store next to him, yeah.

25 Q. Is that in a residential area?

1 A. It was the original store.

2 Q. But that's not zoned residential, is it?

3 A. I don't know.

4 Q. I'm going to suggest to you that that's zoned  
5 retail. Okay? I think your lawyer can agree that that is  
6 the case. So do you know of anybody that's ever been given  
7 a permit to sell alcohol, such as the one Beeler finally  
8 received from you, that was in a residence?

9 A. No.

10 Q. Okay. So it can't be in a residence, can it?

11 A. No.

12 Q. If it's in a residence, you won't grant it, right?

13 A. Correct.

14 Q. Any others that you left out? Any other reasons?

15 A. (Moving head side to side).

16 Q. Okay. You have to answer out.

17 A. I'm sorry. No, not that I can recall at this  
18 time.

19 Q. All right, sir. 1000 foot of a school, what kind  
20 of school does that relate to? Public school?

21 A. Public schools, I believe.

22 Q. And you're aware of that, right?

23 A. Yes.

24 Q. There's never been any ambiguity on that point,  
25 has there?

1 MS. MORALES: Objection, legal conclusion.

2 Q. (MR. NACOL) Okay. That was a no?

3 A. No, there is no ambiguity, sir.

4 Q. Okay. Now, you talked to Grady Lawson at some  
5 point -- and we'll try to get a date later -- initially,  
6 right? Did you ever receive what is marked Exhibit No. 2 in  
7 the Ramsey deposition? I want you to take a look at this  
8 and see if you have any recollection of ever receiving a  
9 copy of that or having discussed such a meeting with Mary  
10 Gayle Ramsey. Take your time and read it.

11 A. (Witness reading). The question is, sir?

12 Q. Do you recall ever either reading this letter or  
13 seeing this letter or discussing the contents of this letter  
14 with Mary Gayle Ramsey?

15 A. No.

16 Q. Okay. Were you in January of '98 the city  
17 secretary?

18 A. Yes.

19 Q. Were you aware in January of '98 that Mr. Beeler  
20 owned the Handy Mart at 307 Ninth Street?

21 A. No.

22 Q. Did you know who owned it at that time?

23 A. No.

24 Q. What is the normal procedure for when a citizen of  
25 the City of Terrell sends a letter such as this to the city

1 attorney? What's the normal procedure?

2 A. I do not know, sir.

3 Q. Okay. The City of Terrell has no procedure for  
4 its employees to review inquiries by its citizens?

5 A. Not a letter sent to the city attorney. She  
6 doesn't work on site, sir, so --

7 Q. She what?

8 A. She's not on site. She does not work in this  
9 facility.

10 Q. Okay. Do you know if she was the city attorney in  
11 January of '98?

12 A. Yes.

13 Q. Would it have been -- As a city attorney, would  
14 you require any employee that receives an inquiry from one  
15 of its citizens to review in the course of her duties?

16 MS. MORALES: Objection, ambiguous.

17 THE WITNESS: Restate the question, sir.

18 Q. (MR. NACOL) As city secretary, relying on the  
19 opinions of the city attorney in making decisions -- I  
20 mean, the buck stops with you on the decision, doesn't it?  
21 You sign the permit, don't you?

22 A. Yes.

23 Q. In making a prudent decision in that regard, do  
24 you not require the city attorney to communicate to you if a  
25 citizen of this city has a question about a permit?

1           A.    I don't require the city attorney to communicate  
2 with me, sir.

3           Q.    Okay.  If the city attorney chooses to get a  
4 letter from one of your citizens in Terrell, making inquiry  
5 in advance to try to properly make a transfer of property,  
6 you don't have any quality control to establish that you do  
7 have an opportunity to know what that citizen wants?

8                   MS. MORALES:  Objection, speculation and  
9 argumentative.

10                  THE WITNESS:  I do not --

11                  MR. NACOL:  Okay.

12                  THE WITNESS:  -- in my department, sir.

13           Q.    (MR. NACOL) So if the city attorney wants to just  
14 throw it in the trash can, she can do it, can't she?

15                   MS. MORALES:  Objection, speculation.

16                  THE WITNESS:  I do not know, sir.

17           Q.    (MR. NACOL) Okay.  If you were aware -- if --  
18 Assume this letter was sent on January the 4th of '98 and  
19 received by her, would you not -- do you not think it would  
20 be in good faith for her to consider these items as part of  
21 her chores and duties?

22                   MS. MORALES:  Objection, speculation.

23                  THE WITNESS:  I'm not a judge of what the  
24 city attorney does, sir.  I don't know.

25           Q.    (MR. NACOL) But you are a judge on your decisions



1 based on what she does, are you not?

2 MS. MORALES: Objection, ambiguous.

3 THE WITNESS: Restate that.

4 Q. (MR. NACOL) You are a judge of the propriety of  
5 your decisions in granting any permit, are you not? You  
6 have opinions on how a proper permit should be granted, do  
7 you not.

8 A. Yes.

9 Q. Okay. And do you not require those on whom you're  
10 relying to at least communicate the facts relevant to to  
11 your decision-making?

12 MS. MORALES: Objection, asked and answered.

13 Q. (MR. NACOL) Do you not rely on those on who you  
14 rely in making a prudent decision to communicate facts --  
15 relevant facts to you?

16 MS. MORALES: Same objection.

17 THE WITNESS: I rely on -- Yes.

18 Q. (MR. NACOL) Okay. Do you recall whether Mr.  
19 Beeler met with you at or about this time and asked you the  
20 same questions contained in this January 4th, '98 letter?

21 A. No.

22 Q. Are you saying you did not meet with him or you do  
23 not recall whether you did or didn't?

24 A. I only met with Mr. Beeler -- to my recollection,  
25 I only had one meeting and it was not in '98.

1 Q. When was it?

2 A. I don't know the exact date. I had someone in my  
3 office and Mr. Beeler stormed in. He was very rude, and he  
4 wanted to know about a permit -- the alcoholic beverage  
5 permit. At that time I was waiting on the municipal  
6 development folks to go out and measure the distance to his  
7 new store.

8 Q. Why?

9 A. Sir?

10 Q. Why were you waiting on them?

11 A. Because they do the measuring.

12 Q. Why was a measurement necessary?

13 A. Because the question was, he was moving to the  
14 building next door, was he within 1000 feet.

15 Q. Of what?

16 A. Of the school property or any other schools.

17 Q. But didn't you just say that only public schools  
18 were the subject of that ordinance?

19 MS. MORALES: Objection, mischaracterizes  
20 his testimony.

21 Q. (MR. NACOL) Go ahead.

22 A. I turned it over to Mr. Cole to measure, and there  
23 was a school property down the street.

24 Q. Objection, nonresponsive. Move that it be  
25 stricken. Do you recall earlier in your testimony I asked

1 you very clearly -- There was no ambiguity in your words --  
2 that a school had to be a public school. Correct?

3 A. That is correct, yes.

4 Q. And you know as we sit here today a Christian  
5 academy is not a public school, don't you?

6 A. I'm not referring to the Christian academy.

7 Q. Okay. What school are you referring?

8 A. I'm referring to school property down the street,  
9 the baseball property.

10 Q. And did the city attorney tell you that a baseball  
11 field owned by the city equals a public school?

12 MS. MORALES: Objection. I'm going to  
13 instruct the witness not to answer. That is attorney-  
14 client privilege.

15 Q. (MR. NACOL) How did you arrive at the fact that  
16 land owned by the city is a public school?

17 MS. MORALES: I instruct you not to answer to  
18 the extent that it calls for --

19 MR. NACOL: I don't want to know anything --

20 MS. MORALES: Let me finish the objection.  
21 To the extent --

22 MR. NACOL: It isn't an objection. You're  
23 tailoring the witness, telling him what to say.

24 MS. MORALES: I am doing what the rules --

25 MR. NACOL: Let suggest to you this.

1 MS. MORALES: -- permit, and allow me to  
2 finish my objection --

3 MR. NACOL: Go ahead.

4 MS. MORALES: -- Court Reporter. I object  
5 and I instruct the witness not to answer to the extent that  
6 it's going to cause you to disclose attorney-client  
7 privileged information.

8 Q. (MR. NACOL) Okay. From now on throughout this  
9 deposition, so we won't be interrupted 100 times, I want to  
10 suggest something to you. I never, ever want to know  
11 anything you talked to your lawyers about. Okay? Now, that  
12 doesn't mean if you discussed it with Beeler or Mike Wortham  
13 or anyone else and talked to your lawyers about it that's  
14 privileged. But if was an exclusive discussion with your  
15 lawyers, I don't want to hear about it if it occurred after  
16 we filed the lawsuit. Okay?

17 A. Okay.

18 Q. All right. I'm not seeking to have tainted -- I  
19 don't want tainted evidence. It wouldn't hold up on appeal  
20 anyway. I don't want it. Okay? I'm asking you why you  
21 were waiting on anybody to measure a distance between a  
22 store and a ballpark. Why would you do that?

23 A. Because it was my understanding that the ballpark  
24 is public school property.

25 Q. Which school?

1 A. Terrell Independent School District.

2 Q. Okay. It's been there for quite a while, hasn't  
3 it?

4 A. Yes, it has.

5 Q. And it's been there all through the time that Mr.  
6 O'Grady -- Mr. Grady at 307 had a permit, wasn't it?

7 A. I don't know, sir.

8 Q. Well, didn't you -- you didn't do any  
9 investigation on how 307 got their permit?

10 A. It was my understanding that the permit at 307 was  
11 issued prior to the ordinance; therefore, they could be  
12 there.

13 Q. Well, you issued another permit for 307, didn't  
14 you, before you gave Mr. Beeler his permit, did you not?

15 A. No, sir.

16 Q. You didn't? And you're positive of that fact?

17 A. I'm not for sure the exact date, but I don't  
18 recall --

19 Q. Well, you issued a permit to Mr. Humberto  
20 Rodriguez months before you gave Beeler his permit, didn't  
21 you?

22 MS. MORALES: Objection. Assumes facts not  
23 in evidence.

24 THE WITNESS: I don't know. I'd have to look  
25 and see.

1 Q. (MR. NACOL) You did issue another permit to that  
2 307 location, didn't you?

3 A. Yes, I did.

4 Q. And why did you do that?

5 A. After we discussed this with the city attorney --  
6 or after I discussed it with the city attorney --

7 MS. MORALES: To the extent you're going to  
8 disclose privileged information, I'll instruct you not to  
9 answer. If you can answer without doing so, go ahead.

10 MR. NACOL: Okay. Once again -- Let's try  
11 this again.

12 MS. MORALES: I can still make the objection,  
13 Mark. I understand your position. I understand you don't  
14 want taint, but I'm not going to let a client waive  
15 privilege. So I'm going to make the objection regardless of  
16 what you instruct the witness to answer.

17 Q. (MR. NACOL) Okay. Let's try this again, because  
18 every time I ask you a question that has any meaning in this  
19 case, she's going to say the same thing. Listen to me, I  
20 don't want to know what you talked to your lawyers about  
21 ever. That's a sacred privilege, and I don't want to know  
22 it. Okay? I just want to know, in exercising your duties  
23 as city secretary what went in -- other than conversations  
24 with your attorneys, what went into your decision-making  
25 with regard to 307 for Mr. Humberto Rodriguez? How did you

1 make a decision that that permit should be issued to him?

2 A. Discussion with the city attorney.

3 Q. Okay. Did you ever measure the distance between  
4 Mr. Rodriguez's property and the baseball field?

5 A. No.

6 Q. Why?

7 A. I don't do measurements and the store was existing  
8 prior to the ordinance.

9 Q. Well, the building was there, right?

10 A. Sir?

11 Q. The building was there prior to the ordinance,  
12 right?

13 A. I don't know that to be a fact even, sir. That's  
14 before my time.

15 Q. Well, then how can you say it was before the  
16 ordinance?

17 A. That was the understanding I was given.

18 Q. Okay. Let me ask you this question. You knew at  
19 this point that Beeler was moving next door, didn't you?

20 A. I did not know Mr. Beeler was moving until Mr.  
21 Lawson indicated that to me.

22 Q. Okay. But that was well, well before the time you  
23 issued the permit to Mr. Rodriguez, wasn't it, by a period  
24 months?

25 A. Yes.

1 Q. Okay. Why did you not measure the distance --  
2 Strike that. You knew, did you not, that Mr. Rodriguez was  
3 not Mr. Beeler? You knew that, didn't you?

4 A. Yes.

5 Q. You know they're not the same person?

6 A. Yes.

7 Q. And you knew Mr. Beeler was moving next door,  
8 correct?

9 MS. MORALES: Objection, assumes facts not in  
10 evidence.

11 Q. (MR. NACOL) At that point you'd been sued over  
12 the issue. You knew it, didn't you?

13 A. Yes.

14 Q. Okay. So you knew that whoever was applying at  
15 307 would be a new permit, didn't you?

16 A. Yes.

17 Q. Then why didn't you measure?

18 A. I turned it over to the city attorney, and, again,  
19 asked her to check it.

20 Q. And based on -- Without telling me what they  
21 said, after that discussion, you just granted Mr.  
22 Rodriguez's permit, didn't you?

23 A. Yes.

24 Q. And after the permit was granted, 119 days later  
25 you granted it -- a permit to Mr. Beeler, didn't you?



1           A.    I don't know the exact days.  Yes; we granted a  
2 permit.

3           Q.    And during that period Mr. Beeler's lawyer  
4 repeatedly sent letters to your attorney, sitting right in  
5 front of you there, explaining how much money he was losing  
6 because he had bought a business based on your previous  
7 grant of the license.  Is that not correct?

8                   MS. MORALES:  Objection, speculation.

9                   THE WITNESS:  I don't know, sir.

10          Q.    (MR. NACOL)  You granted the license seven days  
11 after the first application, didn't you, to Mr. Beeler?  It  
12 took you seven days to grant it, didn't you?

13          A.    Excuse me.  I don't --  I'm lost, sir.

14          Q.    Okay.  Well, take a look at Exhibit, from the  
15 Ramsey deposition, No. 3.  Does that refresh your  
16 recollection of when this permit was granted?

17          A.    No, sir.  That's a Texas Alcoholic Beverage  
18 Commission --

19          Q.    Well, can you read the date on it?

20          A.    10/2 of 1999.

21          Q.    Okay.  10/2 of '99.  And what is the date of  
22 Exhibit No. 4 of the Ramsey deposition for application of  
23 permit?

24                   MS. MORALES:  Objection, best evidence.

25                   THE WITNESS:  What is the date?  I don't know

1 those dates.

2 Q. (MR. NACOL) Okay.

3 A. This is January 11th of 2000, sir.

4 Q. January the 11th of 2000, correct?

5 A. Uh-huh.

6 Q. And when did he -- and he made -- That's January  
7 the 11th. All right. Keep going here. We'll write that  
8 date down. January 11 of 2000 was the application, right?  
9 Did you review that application?

10 A. Reviewed the front of it -- or the city  
11 secretary's page, because they'd actually brought that to  
12 me, I believe.

13 Q. Okay. Now, Ramsey No. 5 is a letter on City of  
14 Terrell stationery, correct?

15 A. Uh-huh.

16 Q. Tell the jury who signed that.

17 A. I did.

18 Q. Does that refresh your recollection on when you  
19 granted the application?

20 A. I'm sorry. I did not sign it. Cozette signed it  
21 for me, but --

22 Q. She had authority to do it, didn't she?

23 A. Yes.

24 Q. And what is the date on that?

25 A. That's January 11th of 2000.

1 Q. Okay. So on January the 11th of 2000 you told Mr.  
2 Beeler -- you gave Mr. Beeler a permit, correct?

3 A. Yes.

4 Q. What does a Exhibit "A" to that indicate to you?

5 A. That is a city permit.

6 Q. That's a city permit, and that is signed by you,  
7 isn't it?

8 A. Yes, it is.

9 Q. What happened January the 11th to make you change  
10 your mind and withdraw this permit?

11 A. That's when I was informed that Mr. Beeler was  
12 moving.

13 Q. Who informed you of that?

14 A. I believe Grady Lawson did.

15 Q. Was this at the same time that Grady Lawson was  
16 concerned about whether he could get his permit granted?

17 A. I believe so, yes.

18 Q. So right after you granted the permit, Grady  
19 Lawson came in and complained about his permit and you  
20 decided at that time to withdraw your approval of the first  
21 permit?

22 A. Actually Mr. Lawson's and my conversation was that  
23 I didn't recall that Mr. Beeler had come in and gotten a  
24 permit yet. It was issued in error, because I didn't  
25 realize he'd already come in and gotten it at the time.

1 Q. What was issued in error?

2 A. The original permit, because I did not know that  
3 Mr. Beeler was moving.

4 Q. Well, let's look at the application, if we can,  
5 sir. You agree with me that this is the application, will  
6 you not, Ramsey Exhibit No. 4?

7 A. Yes.

8 Q. And what is -- Under No. 4 read to the jury what  
9 the address or location is?

10 A. 305 Ninth.

11 Q. Is there any ambiguity on where 305 Ninth Street  
12 is?

13 MS. MORALES: Objection --

14 THE WITNESS: It was my understanding --

15 MS. MORALES: -- legal conclusion.

16 THE WITNESS: -- it was a change of address,  
17 sir.

18 Q. (MR. NACOL) I'm sorry. Say it again.

19 A. It was my understanding it was a change of  
20 address, not a physical location. We have -- That's a  
21 frequent occurrence in this city. For 911 people will --  
22 numbers get changed on their buildings.

23 Q. Well, but he didn't mark renewal change, did he?  
24 A renewal on the original?

25 A. No, sir.

1 Q. He said he was changing his address?

2 A. He was changing address. I didn't speak with Mr.  
3 Beeler. I didn't --

4 Q. All right. What is --

5 A. -- know --

6 Q. Okay.

7 A. -- he was moving.

8 Q. So he was moving from 307 to 305, correct?

9 A. I did not know that at the time, yes. But, yes,  
10 he was moving.

11 Q. Well, the application says it on the face of it,  
12 doesn't it?

13 MS. MORALES: Objection, asked and answered.

14 THE WITNESS: It says 305 Ninth, sir.

15 Q. (MR. NACOL) What is ambiguous about changing an  
16 address if you know he's at 307 and he's telling you he's  
17 moving to 305? What's ambiguous about that?

18 MS. MORALES: Objection, asked and answered.

19 THE WITNESS: It's a common practice in this  
20 city for addresses to change, sir.

21 Q. (MR. NACOL) But what is the basis for denying his  
22 permit if he's telling you what's he's doing appropriately,  
23 he's accurately telling you what he's doing?

24 MS. MORALES: Objection, asked and answered.

25 THE WITNESS: He did not come and tell me he

1 was physically moving, sir.

2 Q. (MR. NACOL) Do you require everybody who makes a  
3 permit to come into your office and sit down and say, "I am  
4 moving"?

5 A. No, sir.

6 Q. Do you require that?

7 A. I do not.

8 Q. Then why would you require it in this case?

9 A. Again, sir, 911 addresses frequently, and in this  
10 case that's what we thought was going on. That was just our  
11 thought process at the time. We did not know that he was  
12 moving to the facility next door.

13 Q. When you say the permit was granted in error,  
14 you're not saying it was inappropriate to grant it, are you?  
15 What error are you talking about? Tell the judge what error  
16 you're talking about.

17 A. Based on the city ordinance requiring 1000 feet  
18 distance regulation.

19 Q. These properties are right next door to each  
20 other, aren't they?

21 A. Yes, sir, they are.

22 Q. And you don't ever recall receiving this  
23 information contained in the May 3rd, 2000 letter from Mike  
24 Wortham clearly indicating the status of the application  
25 with regard to athletic fields or day care centers?

1 MS. MORALES: Objection, asked and answered.

2 THE WITNESS: No, sir, I do not.

3 Q. (MR. NACOL) So aside from not receiving this  
4 letter, you've never received any information in this  
5 regard, correct?

6 A. I don't recall receiving that information that's  
7 in that letter.

8 Q. Okay. Then what was your basis for deciding to  
9 withdraw the application?

10 MS. MORALES: Objection, asked and answered.

11 Q. (MR. NACOL) Go ahead.

12 A. The previous city secretary had indicated that  
13 there was an attempt to get a permit there before.

14 Q. Who was that?

15 A. Bobby Bishop.

16 Q. Is she still here?

17 A. And that's a he, and, no, he is retired.

18 Q. Where is he retired to?

19 A. Here in Terrell.

20 Q. Do you know his phone number?

21 A. 524-2626, I believe.

22 MS. MORALES: Bobby Bishop?

23 THE WITNESS: Was the former city secretary.

24 Q. (MR. NACOL) And what did he tell you?

25 A. That location had been denied in the past.

1 Q. Okay. And since then you've had a  
2 chance to review the records, haven't you?

3 A. I don't have any records based on that.

4 Q. In point of fact, it's never been denied, has it?

5 A. Excuse me?

6 Q. It's never been denied on that location. It's  
7 never been applied for or has been denied, has it?

8 A. I do not know, sir.

9 Q. So was Bobby working for the city at that time?

10 A. He was the city secretary at that time.

11 Q. And what was your position?

12 A. (No response).

13 Q. Okay. We're going to start over.

14 A. I'm getting very confused here.

15 Q. Me, too. Let's start over. Bobby Bishop told you  
16 that 307 had been denied before?

17 A. Yes.

18 Q. When did he tell you that?

19 A. Several years ago.

20 Q. How many years ago?

21 A. I couldn't tell you, sir.

22 Q. Five years? One year?

23 A. Over five years, I'm sure.

24 Q. Over five years. So before '97 at some  
25 conversation a previous city secretary told you that 307 had



1       been denied?

2           A.     Yes.

3           Q.     And you just happened to have that recollection at  
4       this time or -- I mean, why did that thought even come into  
5       your mind five years later?

6           A.     That was your basis for withdrawing the permit?

7                   MS. MORALES:  Objection, asked and answered.

8                   THE WITNESS:  No, that was my basis for  
9       forwarding that information to the city attorney, sir.

10          Q.     (MR. NACOL)  And you just happened to recall that  
11       after Grady came in and talked to you?

12          A.     No, I had known that for a long time.

13          Q.     Didn't you say earlier that when you talked to  
14       Grady is when your recollection came about this address and  
15       you decided to withdraw it, after you talked to Grady --

16                   MS. MORALES:  Objection, asked and answered.

17          Q.     (MR. NACOL)  -- Lawson?  Didn't you just testify  
18       to that in this deposition?

19          A.     I'm confused, sir.  You're confusing me.

20          Q.     I don't want to do that, so let's start over.  Did  
21       you either personally or did anyone on your behalf check the  
22       records to see if 307 had ever actually had an application  
23       made for a permit?

24          A.     No.

25          Q.     Have you done that since then?

1 A. No.

2 Q. You don't know today whether there was ever a  
3 permit denied or rejected or applied for or anything else at  
4 307, correct?

5 A. Correct.

6 Q. Then why is this a big concern to you if you had  
7 no evidence or prior history of it?

8 MS. MORALES: Objection, asked and answered.

9 THE WITNESS: The information that I recalled  
10 about her location was that someone had tried before to get  
11 a permit at that location. Based on that, I forwarded that  
12 had information to Mary Gayle.

13 Q. (MR. NACOL) And what did you instruct her to do?

14 A. I asked her to check with -- Well, I checked with  
15 Tim Maloney. Let's see. And I told her that there's a  
16 possible conflict. I believe I wrote her a memo.

17 Q. Did Mary Gayle Ramsey ever tell you after March  
18 the 3rd of 2000 that Mr. Beeler was going to open his store  
19 on Tuesday, March the 7th, and had to have that permit?

20 MS. MORALES: Objection, asked and answered.

21 THE WITNESS: No.

22 Q. (MR. NACOL) Okay. You know what? This is a  
23 different letter here. Mark this 12A.

24 (Exhibit No. 12A marked).

25 Have you read Mrs. Ramsey's deposition?

1 A. No.

2 Q. You didn't read it before you came here today?

3 A. No.

4 Q. Have you discussed the case with her since then?

5 A. No.

6 Q. Who hires and fires her?

7 A. Again, I would have to --

8 MS. MORALES: Objection.

9 THE WITNESS: -- check the city charter, but  
10 I think city charter, but I believe it has to be either the  
11 city manager or city council, sir.

12 Q. (MR. NACOL) Have you recommended to the city  
13 manager she be fired?

14 A. No, sir.

15 Q. Why not?

16 A. Sir, I'm the city secretary. I don't hire or fire  
17 city attorneys.

18 Q. Right. But don't you owe a duty, if someone  
19 through gross negligence involves the city in a big lawsuit,  
20 to at least report that to your superiors.

21 MS. MORALES: Objection, speculation.  
22 Assumes facts not in evidence.

23 THE WITNESS: I assume she corresponds with  
24 management.

25 Q. (MR. NACOL) Exhibit 12A, which is a Rounsavall

1 letter, an additional letter to Mrs. Ramsey from Mr. Wortham  
2 indicating that there is -- on March 21st that there is a  
3 very large discrepancy between liquor sales and total sales.  
4 Did you ever receive this information from Mary Gayle Ramsey  
5 on March 21st of 2000 or about that date?

6 A. There was a discussion about his sales at some  
7 point in time.

8 Q. How -- When did that occur?

9 A. I don't recall.

10 Q. Do you have any record that would reflect when  
11 that occurred?

12 A. No, sir.

13 Q. Prior to that, on the March the 7th another letter  
14 was sent laboriously setting out the nature of the city's  
15 position in Rounsavall No. 13. Did you ever receive that  
16 information contained in that deposition exhibit?

17 MS. MORALES: Objection, argumentative.  
18 Objection, asked and answered.

19 Q. (MR. NACOL) Let me re-ask it. Did you ever  
20 receive the information contained in 13?

21 A. No --

22 MS. MORALES: Same objections.

23 THE WITNESS: -- sir.

24 MR. NACOL: When have I ever asked that  
25 question?

1 MS. MORALES: You asked him -- you showed him  
2 all those documents and you asked him 13, 14, have you seen  
3 any of these letters that Ramsey -- that they were written  
4 to Ramsey from Michael, and he said no.

5 MR. NACOL: What did that have to do with  
6 my question?

7 MS. MORALES: You just said that.

8 MR. NACOL: No, it's not. You're just  
9 rattling. That's --

10 MS. MORALES: No, I'm not --

11 MR. NACOL: -- not what I said.

12 MS. MORALES: -- rattling.

13 MR. NACOL: I said, have you received the  
14 information --

15 MS. MORALES: You said have you discussed --

16 MR. NACOL: -- from any party --

17 MS. MORALES: Your previous question --

18 MR. NACOL: -- contained --

19 MS. MORALES: -- was have you discussed it,  
20 have you received it, have you seen it. Okay. That would  
21 incorporate have you received this information.

22 Q. (MR. NACOL) Okay. Let me ask you another  
23 question. Have you discussed any of the facts contained in  
24 Exhibit No. 13?

25 A. I would like to take a break, please.

1 Q. Sure. Anytime you want.

2 (Recess from 11:18 to 11:26)

3 Back on the record. Okay. Let me see if I can get  
4 some dates straight here. Will you agree with me the letter  
5 of inquiry -- You won't agree with that. Strike that.  
6 That the application was made on January the 2nd, 2000, will  
7 you agree with that? Here, we can go back and look at it  
8 again, if you want to.

9 MS. MORALES: This is another set if you want  
10 it. I have my set with me.

11 MR. NACOL: Yeah, that's a good idea.

12 Q. (MR. NACOL) Exhibit 4.

13 A. On January the 11th?

14 Q. Well, I think -- You'll agree with me that on  
15 January the 11th you granted the permit?

16 A. Yes.

17 Q. Okay. And you'll agree with me on March the 21st  
18 you filed an affidavit withdrawing the permit?

19 A. (No response).

20 Q. Look at Exhibit No. 7.

21 A. Okay.

22 Q. That's your letter, right?

23 A. Yes.

24 Q. That is your signature, right?

25 A. Yes.

1 Q. It's a notice of protest, right?

2 A. Yes. But it's dated March 14.

3 Q. March the 14th. Okay. Right. So you'll agree  
4 with me that's the date you withdrew it, right?

5 A. This is the date that I notified Mr. Beeler that  
6 I'm filing the notice of protest.

7 Q. And you sent a copy to Tim Maloney at the Texas  
8 Alcoholic Beverage Commission, did you not?

9 A. Yes.

10 Q. And then if you'll look at Exhibit No. 10, is that  
11 not the affidavit that you sent to Tim Maloney?

12 A. Yes.

13 Q. And that's March the 21st, isn't it?

14 A. Yes.

15 Q. Okay. Between March the 11th of 2000 and March  
16 the 21st of 2000, what did you do to come to the conclusion  
17 that your March 11th activity was inappropriate?

18 A. I discussed it with the city attorney.

19 Q. Okay. Now, if we look at your affidavit, No. 10,  
20 in that affidavit you state that you're over 18 years of age  
21 and you can make this affidavit. And you said, "The  
22 application of Handy Mart 1 submitted by Mr. Beeler does not  
23 comply with the ordinances of the City of Terrell regarding  
24 the sale of alcoholic beverages in residential areas,"  
25 correct? Tell the jury what you did to confirm that this

1 sworn statement was accurate, i.e., that Mr. Beeler was in  
2 a, quote, residential area, unquote.

3 A. I don't recall, sir. I was acting under the  
4 advice of the city attorney when I drafted this.

5 Q. If the city attorney told you to blow up the safe  
6 and take the money from ad valorem taxes, you wouldn't do  
7 it, would you?

8 A. No, sir.

9 Q. And if the city -- and you wouldn't commit fraud  
10 or lie just because the city attorney told you to do that,  
11 would you?

12 A. No, sir.

13 Q. But you knew when you signed this that that wasn't  
14 a residential area, didn't you?

15 A. No, sir, I did not. I don't recall that. I don't  
16 keep up with the zoning of the city, sir. That's not my  
17 charge.

18 Q. Didn't we discuss earlier, though, sir, that the --  
19 didn't we discuss earlier in our deposition why you had  
20 trouble with a change of address, and did you not indicate  
21 to me in this deposition that that problem was because of a  
22 grandfather clause you thought the first location had,  
23 because it was too close to a school or an athletic park  
24 owned by a school? Didn't you say that in this deposition?

25 A. I believe that's correct.



1 Q. And didn't you tell me you knew absolutely at one  
2 point that this was not a residential area?

3 A. No, I believe you corrected me on that, sir. I  
4 didn't know absolutely anything. You corrected me and said  
5 for the sake of this it is not a residential area. It's a  
6 commercial area. You said that.

7 Q. In point of fact, how long would it take you as  
8 city secretary to find out if it was in a residential area?

9 A. I'd have to ask municipal development.

10 Q. Can't you just walk down to the city and look at a  
11 map and see?

12 A. I don't have a map, sir.

13 Q. Well, the attorney -- city attorney said all you  
14 had to do was walk down and look it up. I know in Dallas or  
15 anyplace else that's all you have to do.

16 A. I did not look it up.

17 Q. But you swore under oath and filed a pleading  
18 under oath that Handy Mart No. 1 did not comply with  
19 ordinances regarding the sale of alcoholic beverages in a  
20 residential area. You didn't know that to be the case when  
21 you signed this, did you?

22 MS. MORALES: Objection, best evidence.  
23 Withdrawn.

24 THE WITNESS: I don't recall, sir.

25 Q. (MR. NACOL) In the next paragraph you say, "The

1 application for business came as a change of address," did  
2 you not?

3 A. Yes, I did.

4 Q. That's not true either, is it? If we go back and  
5 look at it, that is not what the application is, is it? The  
6 application clearly shows that this is a new applicant  
7 applying for a new license, does it not?

8 MS. MORALES: You're on four?

9 MR. NACOL: Right.

10 THE WITNESS: It came to me with the  
11 understanding, sir, that it's a change of address under my  
12 business practice that we were doing at the time.

13 Q. (MR. NACOL) But alcohol is based on the person  
14 applying, not the address per se, is it not?

15 A. I do not know, sir.

16 Q. I mean, you question whether the guy is a felon or  
17 runs guns or has a bad prior history. You can't do any of  
18 that stuff and have an alcohol permit, do you?

19 MS. MORALES: Objection --

20 THE WITNESS: I don't --

21 MS. MORALES: -- legal conclusion.

22 THE WITNESS: -- do those kind of checks, so  
23 I do not know, sir.

24 Q. (MR. NACOL) Well, what do you normally do when  
25 someone has a change of address. What do you do? How do

1 you evaluate it, whether to grant it or not?

2 A. If it's a change of just the address, such as in a  
3 911 case, sir, it's okay. The location isn't moving.

4 Q. Well, I don't follow you. Explain to me what you  
5 mean. What do you mean "the location isn't moving"?

6 A. If the physical structure didn't move, then that  
7 location, if it had a permit before, can have one now.

8 Q. Do you have to renew these annually?

9 A. Yes, sir.

10 Q. You have to file a new application every year?

11 A. Yes, sir.

12 Q. Okay. So they're good for one year?

13 A. Let me -- Can I make a correction?

14 Q. Yeah.

15 A. This form is not required every year.

16 Q. Okay. What's required every year?

17 A. They come in and renew on their own.

18 Q. So they just come and file a short form and renew  
19 something?

20 A. There is not even a form. They just come in --

21 Q. Pay their money.

22 A. -- and they pay their money and we write them a  
23 receipt and sent them a certificate.

24 Q. How can you possibly confuse that with this formal  
25 document that's used for new applications?

1           A.    Because when people change their address, they  
2 typically bring one of those documents.

3           Q.    Did you read this before you signed the permit?

4           A.    I don't read all the contents, sir.

5           Q.    Then how did you know whether it was proper to  
6 sign it or not, the permit, if you didn't even read the  
7 application?

8           A.    I do not read it in its entirety. I look at the  
9 front of it. It was a change of address. I didn't talk to  
10 the business owner. He didn't come in. Most business  
11 owners come in and talk to me. He did not. I did not see  
12 him come in any time. It was filed through my staff. It  
13 actually did not even come directly to me.

14          Q.    Well, I'm just confused as -- You thought that  
15 the business came in as a -- they were changing from one  
16 address to another, a change of address?

17          A.    Yes, sir, change of address as it relates to 911  
18 or anything of that nature.

19          Q.    What do you mean 911?

20          A.    Whenever the engineering folks change the  
21 addresses on a residential area, they may have to move all  
22 the numbers up by one in a block or they might move one  
23 number on a building.

24          Q.    So you thought it was the same building --

25          A.    The physical location --

1 Q. You thought it was the same building with a new  
2 address on the location?

3 A. Correct.

4 Q. And that's why you thought 305 was now -- 307 was  
5 now 305?

6 A. Yes.

7 Q. Well, can't you check -- wouldn't you check that  
8 with the city people to see if that was the case?

9 A. As a standard course of practice today, yes. As a  
10 standard course of practice back then, no.

11 Q. Well, under number F it says, "Does the applicant  
12 own the land and building at the proposed licensed  
13 location," and the answer is "yes." You knew the Grady  
14 owned the license on the 307 address, did you not?

15 A. I don't know that Grady owns it. I know that  
16 there is a license issued at that location.

17 Q. Didn't Grady come in -- Didn't you just testify  
18 in this deposition that he came in and discussed that with  
19 you specifically?

20 A. He wanted to know about getting this license, as  
21 well as letting me know Mr. Beeler was moving.

22 Q. Okay. So he told you Mr. Beeler was moving. And  
23 number F says that the applicant owns the land and the  
24 proposed site at 305, right?

25 MS. MORALES: Best evidence.

1 THE REPORTER: I'm sorry. I didn't hear your  
2 answer.

3 THE WITNESS: Correct.

4 Q. (MR. NACOL) Well, under No. 10 on the application  
5 it says, "State the employment for the past three years.  
6 You must indicate periods of employment." Your lawyer is  
7 pointing out to you how to answer now.

8 MS. MORALES: I'm making sure --

9 Q. (MR. NACOL) On Handy Mart No. 1 it says 307 Ninth  
10 Street, Terrell, Texas. So you had that information, didn't  
11 you?

12 A. Yes.

13 Q. You had the information when you signed the  
14 application that he was moving from 307 Ninth Street to 305  
15 Ninth Street.

16 A. Again, sir, I haven't read that document.

17 Q. But you did know, at least you had belief, when  
18 Mr. Grady came in right after this application was granted  
19 and had that conversation about his application and his  
20 concerns -- you knew that Mr. Beeler was opening a new  
21 business, didn't you?

22 A. Yes.

23 Q. And you knew that in March of 2000 -- I mean,  
24 January of 2000, didn't you?

25 A. I don't recall when I had that conversation, sir,

1 so I don't know.

2 Q. But didn't you testify that you talked to Lawson --  
3 Grady Lawson in between the time that you granted it and the  
4 time you revoked it?

5 A. Yes.

6 Q. Okay. So if that -- We know that's about seven  
7 days, correct?

8 A. I don't know the specific date, sir.

9 Q. Well, we've been over this. We'll go over it  
10 again. On January the 11th it was granted.

11 A. Okay.

12 Q. Right? And on -- I'm sorry. On January the 11th  
13 of 2000 it was granted, and then it was withdrawn March the  
14 14th, correct?

15 A. You keep saying it's withdrawn. I don't --

16 Q. When you sent an affidavit to the TABC saying this  
17 this guy's in a residence close to --

18 A. I believe I'm filing a protest, is my  
19 understanding of what I'm doing.

20 Q. And you know the result of that act, don't you?

21 A. No, sir, I do not.

22 Q. So you -- How many of these have you done in your  
23 tenure as city secretary?

24 A. How many of what, sir?

25 Q. Permits have you signed.

1 A. Several.

2 Q. Over 100?

3 A. I couldn't speculate. I'd assume, yes.

4 Q. Over 500?

5 A. I don't think there's 500.

6 Q. Between 100 and 300?

7 A. Probably.

8 Q. And you've been through this process which  
9 certifies someone to be able to get a liquor license, at  
10 least have this condition for that, from 100 to 300 times,  
11 correct?

12 A. No, sir.

13 Q. 100 to 200 times?

14 A. No, sir, that's less than 100 times for someone to  
15 get a new liquor license.

16 Q. Okay. How many times have you done a new liquor  
17 license?

18 A. Less than 100.

19 Q. In that less than 100 times, have you ever known  
20 the Texas Liquor Control Board to issue a permit when you  
21 file an affidavit stating that it was a residence and/or was  
22 close to a school? Have you ever had one that that  
23 happened?

24 A. I've never filed that with the TABC, sir, so I  
25 don't know.



1 Q. The first time?

2 A. Yes, sir.

3 Q. Did you file one of those on Grady Lawson?

4 A. No, I did not.

5 Q. Why?

6 A. I consulted the city attorney.

7 Q. Okay. So on Grady Lawson, after talking to the  
8 city attorney, you didn't do it, but with Mr. Beeler, after  
9 talking to the city did attorney, you had do it, correct?

10 A. That's correct.

11 Q. Can you tell the jury or the judge what the  
12 distinction is, why you did it for one and not the other?

13 A. These are all the same store -- We're talking  
14 about two locations, two physical locations; that are right  
15 next door to each other.

16 Q. Yes.

17 A. Mr. Lawson's case was already part of Mr. Beeler's  
18 case when it came to my discussions with the city attorney.  
19 He wanted a license. I didn't know if he could have one or  
20 not, because it was my understanding at the time he might  
21 have been grandfathered, but I later found out there's no  
22 such thing as grandfather. It's actually the location that  
23 is -- if it's in existence prior to the ordinance. I told  
24 him I don't know, I would have to refer it to the city  
25 attorney.

1 Q. That's all well and good. And now I want to know  
2 why after referring it to the city attorney it took you 119  
3 days after y'all had knowledge that there was no objection  
4 to this license to grant the license.

5 MS. MORALES: Objection --

6 THE WITNESS: Who is --

7 MS. MORALES: -- best evidence.

8 THE WITNESS: -- "y'all" and what --

9 Q. (MR. NACOL) You, the city attorney. I mean, why  
10 didn't you do it? Why didn't you sign it for 119 days from  
11 the date you were provided evidence, even under your  
12 construction of the statute, that less than half of the  
13 money was going toward the sale of alcohol in that  
14 establishment?

15 MS. MORALES: Ambiguous.

16 THE WITNESS: I provided the okay. I  
17 withdrew my protest after the city attorney told me to  
18 withdraw it.

19 Q. (MR. NACOL) Okay. So you just waited on her, and  
20 when she said to do it, you did it?

21 A. Yes, sir.

22 Q. And when did she tell you to withdraw Grady  
23 Lawson's?

24 A. I didn't file a protest on Grady Lawson, sir.

25 Q. I understand, but there is several months --

1           A.    You's confusing me.

2           Q.    There's several months between the two. That's my  
3 question. All right. From your records can you determine  
4 when you granted Grady Lawson's permit?

5           A.    I'd have to look and see.

6           Q.    I'm going to tell you it's April of 2000 is when  
7 you did it. Just assume that. If it's wrong, then  
8 everybody will throw our lawsuit out. In April of 2000, but  
9 it wasn't until July the 27th of '01 that you withdrew your  
10 objection to Mr. Beeler's application.

11          A.    Okay.

12          Q.    Now, tell the judge why from April, May, June and  
13 July, for 160 days -- I mean, for 119 days -- That's where  
14 I'm getting my number. Okay? So I'm not tricking you for  
15 that 119 days why did you preclude a man who had just bought  
16 a business next door to a competitor from having his  
17 license?

18                   MS. MORALES: And I'm going to instruct you  
19 not to answer to the extent you're going to disclose  
20 attorney-client privileged information.

21                   MR. NACOL: Well, I don't want to know  
22 anything -- Now, wait a minute. I don't want to know  
23 anything between you and your lawyer sitting here today or  
24 anybody that represented you then. But there's no privilege  
25 between you and Mary Gayle Ramsey. You're both parties in

1 this litigation.

2 MS. MORALES: They had a privilege at the  
3 time.

4 MR. NACOL: No, they don't.

5 MS. MORALES: She was acting as the city  
6 attorney.

7 MR. NACOL: Yeah, but the city is a defendant  
8 and she's a defendant. I don't think there is -- I think  
9 that's -- you can't use it as a shield in a lawsuit and as a  
10 sword --

11 MS. MORALES: And you've --

12 MR. NACOL: -- at the same time.

13 MS. MORALES: -- but you've deposed her as to  
14 the factual reasons and her factual reasons. But if they're  
15 discussing --

16 MR. NACOL: She's waived it anyway. She  
17 testified to all kinds of stuff they talked about.

18 MS. MORALES: But she is -- My main concern  
19 is discussions you may have had or Ms. Ramsey relayed to you  
20 from Jason Marshall, who was on the case before me.

21 MR. NACOL: No, I don't want to know --  
22 After the lawsuit was filed, discussions you had with those  
23 lawyers, I don't want to know. But I want to know  
24 everything you talked with Mary Gayle Ramsey up to July the  
25 27th of '01, the date it was granted. I want to know that.

1 But I don't want to know if y'all discussed what Marshall  
2 told you, because that is a privilege of the defense in the  
3 suit, but you're both being sued in this lawsuit along with  
4 the city.

5 MS. MORALES: If you were being advised  
6 legally by Mary Gayle, I'll instruct you not to answer.

7 MR. NACOL: In what respect?

8 MS. MORALES: Attorney-client privilege. At  
9 the time they still maintained an attorney-client privilege  
10 at the time of the events, if he was going to her for legal  
11 advice, confidential legal advice. Obviously the lawsuit  
12 was already filed, and I believe that --

13 MR. NACOL: So if --

14 MS. MORALES: -- it's privileged information.

15 MR. NACOL: If a black man is beaten up in  
16 the city jail and killed and murdered and the lawyers are  
17 sued and the city is sued, you can't ask the lawyer about a  
18 communication with the city?

19 MS. MORALES: That's a crime.

20 MR. NACOL: This is a 1980 --

21 MS. MORALES: That's a crime.

22 MR. NACOL: So is this. It's a 1983 civil  
23 rights suit, is what this is.

24 MS. MORALES: This is not a crime, it's not  
25 fraud, and we're not alleging that here.

1 MR. NACOL: Okay. Well, we'll take that up  
2 before Her Honor, but let's see how far we can get to the  
3 extent that your lawyer is keeping you from telling me what  
4 really happened.

5 MS. MORALES: And you can discuss anything  
6 that's outside, and I'm not keeping anything from happening,  
7 Mr. Nacol --

8 MR. NACOL: Well, all he's going to say is --

9 MS. MORALES: -- and I don't appreciate the  
10 side bar. My concern is merely to protect my client's  
11 privilege with his attorneys.

12 MR. NACOL: She waived it. She testified  
13 forever.

14 MS. MORALES: She testified to you as to  
15 facts.

16 MR. NACOL: Everything she discussed --

17 MS. MORALES: She --

18 MR. NACOL: -- with him. I asked her --

19 MS. MORALES: She --

20 MR. NACOL: -- repeatedly.

21 MS. MORALES: Tell me where she told you the  
22 advice that she gave her client. If you can point it to me  
23 and if I can see and if --

24 MR. NACOL: If she's looking up stuff, that  
25 is privileged. That's a privileged transaction. It's

1 communications or transactions. She discussed with me her  
2 thought processes, what happened. It's waived.

3 MS. MORALES: That is her. This client has  
4 not waived his privilege, nor the city's privilege, with his  
5 attorney. Okay? And the lawyer does not have the ability  
6 to waive. It's the --

7 MR. NACOL: All right. We'll --

8 MS. MORALES: -- client's privilege.

9 MR. NACOL: -- go through her deposition in a  
10 second.

11 Q. (MR. NACOL) Can you tell the judge or jury at  
12 this time why it took 119 days from the date of the granting  
13 of Grady Lawson's application to the date of withdrawal of  
14 the protest for you to make that decision?

15 A. I was waiting on the city attorney, sir.

16 Q. And what was -- what occurred or what was the  
17 basis of the final decision?

18 MS. MORALES: Now I don't have a problem.  
19 You have exhibits and everything, so I just don't want that  
20 to be --

21 THE WITNESS: What was the basis of --

22 Q. (MR. NACOL) Yeah.

23 A. I was instructed to withdraw it because apparently  
24 he'd shown the attorneys proof of his -- how much he made  
25 there.

1 Q. And you as city attorney -- I mean, as city  
2 secretary would not want to damage any citizen wrongfully in  
3 this city; would you?

4 A. No, sir.

5 Q. You don't want to do that, do you?

6 A. No, sir.

7 Q. And if somebody is starting a brand-new business  
8 and alcohol sales is a material part of that business, you  
9 would not want to intentionally delay that wrongfully, would  
10 you?

11 A. No, sir.

12 Q. Can you tell me then why Mary Gayle Ramsey, if you  
13 know, waited 119 days to tell you to issue that permit or to  
14 withdraw your objection?

15 A. No, sir.

16 Q. Did you make the decision to withdraw the January  
17 11th permit approval? Was that your decision?

18 A. Based on a conference with the city attorney.

19 Q. Okay. And did you confer with the city attorney  
20 after you talked with Grady Lawson about whether or not you  
21 should treat both of these the same or differently or how  
22 you should deal with them?

23 A. Yes.

24 Q. Okay. And what did you decide?

25 A. She was handling --



1 MS. MORALES: Wait a second. I'll instruct  
2 you not to answer to the extent --

3 Q. (MR. NACOL) Don't tell me what she said, but what  
4 did you decide?

5 MS. MORALES: Your decision is fine.

6 THE WITNESS: My decision was to leave it  
7 with the city attorney.

8 Q. (MR. NACOL) Okay. So she had complete authority.  
9 I mean, were you analyzing the things she told you, though,  
10 in making your decisions?

11 A. No, sir.

12 Q. So you just sat back and waited. When she said,  
13 "Grant it," you'd grant it, and when she said, "Don't grant  
14 it," you would not grant it?

15 A. That's correct.

16 Q. There was no discretion or thought process going  
17 through your mind. Just whatever she said, you'd do?

18 A. That's the way I handled it.

19 Q. Did anybody from Terrell Christian Academy ever  
20 call you and tell you they didn't want the liquor store  
21 there or the sale of alcohol?

22 A. Not me.

23 Q. Did anyone from any school board ever call you and  
24 tell you that?

25 A. Not to me.

1 Q. And you know that's required to be in violation  
2 under this statute, do you not?

3 MS. MORALES: Objection --

4 (MR. NACOL) You know that just from your  
5 work.

6 THE REPORTER: I'm sorry. I didn't hear your  
7 objection.

8 MS. MORALES: Legal conclusion.

9 THE WITNESS: No, sir, I don't.

10 Q. (MR. NACOL) Did the city attorney ever tell you  
11 that your statute is void on its face?

12 MS. MORALES: And I'll instruct you not to  
13 answer to the extent it's going to disclose attorney-client  
14 privilege.

15 Q. (MR. NACOL) Okay. Before the lawsuit was filed,  
16 did she ever tell you it was void on its face?

17 A. No.

18 Q. So as we sit here today, you don't know if the  
19 ordinance with regard to, quote, educational institutions  
20 that do not require a public school board to call and  
21 request that the permit not be granted is valid or invalid?

22 A. No, sir.

23 Q. How many conversations did you have with Mary  
24 Gayle Ramsey regarding the propriety of Mr. Beeler's  
25 application?

1 A. I don't recall, sir.

2 Q. More than five?

3 A. I would speculate, yes.

4 Q. More than 10?

5 A. I don't know.

6 Q. Less than five?

7 A. You asked me more than five.

8 Q. Yeah. Strike it all. How many -- approximately  
9 how many conversations did you have with him?

10 A. Five or six, seven. I don't know.

11 Q. Okay. So between January the 6th of 2000 and July  
12 the 27th you had five or six conversations with regard to  
13 this issue?

14 A. Maybe. I don't know.

15 Q. So as you sit here today, you don't know how many  
16 you had?

17 A. No, sir.

18 Q. But you specifically withdrew your certification  
19 to the Texas Liquor Control Board, did you not?

20 A. I believe so, but is there an exhibit that you can  
21 refer me to?

22 Q. We've already looked at that.

23 MS. MORALES: Are you talking about the  
24 protest?

25 MR. NACOL: Yeah.

1 MS. MORALES: Seven.

2 MR. NACOL: Yeah.

3 THE WITNESS: That's the protest. He said  
4 withdrew.

5 MS. MORALES: Oh, the withdrawal for the  
6 protest.

7 MR. NACOL: No, no.

8 MR. NACOL: Withdrawal of the initial permit.

9 MR. NACOL: Right, withdrawal of the initial  
10 permit.

11 MS. MORALES: Well, the notice.

12 THE WITNESS: Okay.

13 Q. (MR. NACOL) If you will, please go to Exhibit No.  
14 22. Tell the jury what that is.

15 A. I believe it's correspondence from me to Mary  
16 Gayle Ramsey.

17 Q. And it's a memorandum?

18 A. Yes.

19 Q. Why do you send these memoranda?

20 A. Excuse me?

21 Q. Why do you send them? What's the point of them?

22 A. It's my form of communications to the city  
23 attorney, sir.

24 Q. Okay. And what is required when they receive  
25 these?

1 MS. MORALES: Objection, speculation.

2 THE WITNESS: I don't know.

3 Q. (MR. NACOL) Do you require a response?

4 A. Do I require? Yes.

5 Q. Okay.

6 A. I request a response.

7 Q. Okay. This came through as an address change

8 only, and we're not going to -- we've haggled that out.

9 We'll let the jury decide that issue. The problem is the

10 person is moving into a location the city has previously

11 denied because of its proximity to a school property and day

12 care. What is your basis for any denial of the sale of an

13 alcoholic beverage permit with regard to day care?

14 A. I was just pointing out the fact that there was a  
15 day care around behind that building, sir.

16 Q. But there's no statute to support that complaint,  
17 is there?

18 MS. MORALES: Legal conclusion.

19 Q. (MR. NACOL) Have you ever denied any liquor  
20 permit, off-residence alcohol permit, based on day care?

21 A. No.

22 Q. Then why are you complaining about it in this  
23 memo?

24 A. I sent it to her out of concern. There was a very  
25 large day care right around the corner from the new

1 location, and I was just indicating that in this  
2 correspondence, sir --

3 Q. So you --

4 A. -- to give her a location where it's at.

5 Q. Right. And you personally don't like the idea of  
6 liquor being sold next to a day care, do you?

7 A. I don't have a problem with it, sir.

8 Q. Then why did you bring it up in here as a problem?

9 A. I just pointed it out to the city attorney that  
10 there was a day care behind it.

11 Q. But you're saying it was previously denied because  
12 of a proximity to day care. That's what you said, isn't it?

13 A. That was my understanding.

14 Q. What is your basis for even considering a denial  
15 for it being next to an entity that you know is not illegal  
16 to be next to?

17 A. I was taking the information -- what the previous  
18 city secretary had indicated to me in that location, that  
19 physical structure.

20 Q. But that had happened years before, right?

21 A. Yes, sir. I was simply giving her this  
22 information, kind of letting her know where it was. That  
23 was all.

24 Q. You also state, "The old store wants to continue  
25 to sell liquor and this location cannot." Who are you

1 referring to in "the old store"?

2 A. Mr. Lawson.

3 Q. Grady Lawson, correct.

4 A. Yes.

5 Q. Or Mr. Rodriguez, Humberto Rodriguez, right?

6 A. One of the two.

7 Q. "Want to continue." So you had had your  
8 conversation at this time that they wanted to sell, right?

9 A. Yes.

10 Q. Was that a heated conversation? Were they upset?

11 A. No.

12 Q. How can you -- What was your basis for your  
13 statement, "and this location cannot"?

14 A. Again, sir, the physical location of Mr. Beeler's  
15 new store or current store was the location that, my  
16 understanding, they could not sell liquor at that location.  
17 Even Tim Maloney said someone had indicated that he had told  
18 Mr. Beeler they couldn't sell at that location in the past  
19 for some reason. Over a year ago, so I don't know.

20 Q. But you can't show the judge or the jury any piece  
21 of paper, application, denial, protest, any piece of  
22 evidence of any kind to substantiate that claim that anybody  
23 was ever denied that location, can you?

24 A. I cannot, no.

25 Q. That's because none exist, do they?

1 A. I do not know. I cannot --

2 Q. But you know -- Have you made a search?

3 A. I have not searched for anything that far back.

4 We wouldn't have records probably that far back on  
5 applications.

6 Q. Okay. Besides Mister -- the previous city  
7 secretary, besides him, do you have any other basis for your  
8 allegation that it was ever denied before?

9 A. No.

10 Q. Who is Mr. David Mallard?

11 A. Sir?

12 Q. Who is David Mallard?

13 A. I believe he's a local attorney.

14 Q. Do you know him?

15 A. I know his name.

16 Q. You've never met him before?

17 A. I know his face when I see him, but I don't know  
18 him personally.

19 Q. Okay. Well, you were sent a copy of this letter  
20 to -- March 14th letter to Mrs. Ramsey from Mr. Mallard?

21 A. I don't know this letter.

22 Q. Was this communication ever made to you? I mean,  
23 it was in your file.

24 MS. MORALES: No, these copies were --

25 MR. NACOL: Oh, that's true.



1 MS. MORALES: -- produced for Ramsey.

2 Q. (MR. NACOL) That's true. Strike that. Strike  
3 that question. Did Mary Gayle Ramsey in March of 2000 -- on  
4 or about -- on or in March 14th of 2000 ever communicate the  
5 contents of this March 14th correspondence, Exhibit Ramsey  
6 28?

7 A. I don't recall, sir.

8 Q. So you were never told that -- If you'll look at  
9 the second page, the fourth to the last paragraph, there is  
10 a claim that we believe the city will be wrongfully causing  
11 such damage unless until the application is signed  
12 immediately. You were never given any information to  
13 reflect that allegation?

14 A. I don't recall that at all.

15 Q. But you did sign the application pretty soon after  
16 this letter, didn't you?

17 A. I don't recall the date. I'd have to look at the  
18 date I signed the application, sir.

19 Q. It would be about --

20 A. You had indicated it was --

21 Q. -- six weeks --

22 A. -- somewhere in --

23 Q. -- six weeks later. The last -- next-to-the-last  
24 paragraph says, "We hope the city will not allow any other  
25 application for any," bold, " other premises," unbold, "to

1 interfere with responsibilities as they relate to these,"  
2 bold, premises," unbold. What do you think that Mr. Mallard  
3 was trying to tell your city attorney here?

4 MS. MORALES: Objection --

5 THE WITNESS: I don't know.

6 MS. MORALES: -- speculation.

7 Q. (MR. NACOL) Well, you don't think that would  
8 relate to the conversation you had with Mr. Grady that first  
9 time?

10 MS. MORALES: Speculation.

11 THE WITNESS: I don't know, sir. I'm not the  
12 author of the letter.

13 Q. (MR. NACOL) I'm not asking you to say what's in  
14 his mind. I'm just asking you whether or not that would  
15 comport with what Mr. Grady told you in your first meeting.  
16 Doesn't that comport -- Isn't that the same thing he talked  
17 about in your first meeting?

18 A. Please define "comport," sir.

19 Q. What y'all discussed the first time you got  
20 together.

21 A. Are you asking me if it supports that?

22 Q. Yeah.

23 A. I don't know, sir.

24 Q. Is it the same topic he discussed with you?

25 A. Mr. Grady was inquiring about a license at his

1 location.

2 Q. And he did discuss the fact that --

3 A. That Mr. Beeler was moving --

4 Q. -- Mr. Beeler was moving, and he discussed the  
5 fact Mr. that Beeler was seeking a license, did he not?

6 A. Yes, and I indicated to him I didn't think he'd  
7 applied.

8 Q. And why did you do that? He'd already applied,  
9 hadn't he?

10 A. I just told him I didn't think he did. I didn't  
11 recall Mr. Beeler applying. He never did come see me. Most  
12 of these, most -- nearly 100 percent of these people who  
13 have these licenses come directly to my office, they sit  
14 down and they tell me stuff, they talk. I never saw Mr.  
15 Beeler.

16 Q. You had already granted Mr. Beeler's license when  
17 you talked to Mr. Grady?

18 A. That was what I discovered later, yes.

19 Q. Paragraph number -- I mean, Exhibit No. 25 is  
20 another memo to -- on the Ramsey deposition from you to Mary  
21 Gayle Ramsey, correct?

22 A. Yes.

23 Q. Acknowledging open records request of Mr. Wortham,  
24 right? Did she assemble and furnish the requested  
25 information to you within 10 days?

1 A. I'm sure she did.

2 Q. Did you withhold any of that information from the  
3 what was finally presented to Mr. Wortham --

4 A. No.

5 Q. -- under any theory?

6 A. No, not that I recall.

7 Q. Okay. Exhibit No. 27, this is your protest,  
8 right?

9 A. Yes.

10 Q. And you state in here that the address stipulated  
11 in the application for renewal of the license does not  
12 appear to meet the requirements of the city or the ordinance  
13 of the city ordinance, correct?

14 A. Yes.

15 Q. That wasn't true, was it?

16 A. That was true at the time that I looked at it,  
17 sir. That was my understanding.

18 Q. Okay. Because you thought the Christian private  
19 school was a public school, right?

20 A. The location had been -- My understanding was the  
21 new location had been previously denied, it was within 1000  
22 foot of the school property as well, what I thought, day  
23 care.

24 Q. Did you ever talk with Mrs. Ramsey between the  
25 time Mr. Wortham sent her the letter rebutting that issue

1 and the time you sent this denial?

2 MS. MORALES: Objection, speculation.

3 THE WITNESS: I don't recall, sir.

4 Q. (MR. NACOL) I show you what's marked Rounsavall  
5 Exhibit No. 12 that was in your file. And in the second --  
6 third paragraph recites to Mrs. Ramsey, "It has come to Mr.  
7 Beeler's attention that you have taken the position that it  
8 is unlawful to sell alcoholic beverages from the location  
9 referenced above pursuant to Ordinance 1939 of the City of  
10 Terrell because it's within 1000 feet of an athletic field  
11 and a day care facility." But we've already decided day  
12 care facility doesn't count, does it?

13 A. Correct.

14 Q. "Initially, there is no mention in the ordinance  
15 of day care centers. Further, there is a public" -- "there  
16 is no public school within 1000 feet of 305 North Ninth  
17 Street, Terrell, Texas. The athletic field is not a public  
18 school," and then it recites a Liquor Control Board lawsuit  
19 from the Texas Court of Appeals of Corpus Christi. Did your  
20 city attorney ever give you this information prior to the  
21 time you revoked?

22 A. I don't recall ever hearing that, sir.

23 Q. Don't you think you were entitled to know that, if  
24 that was the law?

25 A. Am I entitled to know that?

1 Q. Yeah.

2 A. If it was relevant to what I was doing, yes.

3 Q. Yeah. And if it is relevant and if it did hurt my  
4 client after he bought a business based on an approval that  
5 was withdrawn later. Wouldn't you want, if you could, to  
6 reduce his damages by applying the law appropriately, if you  
7 knew it?

8 MS. MORALES: Objection, argumentative.  
9 Assumes facts not in evidence.

10 THE WITNESS: I tried my best to comply with  
11 the law when I discovered the error, sir.

12 Q. (MR. NACOL) "Mr. Beeler desires to open his store  
13 for business on March the 7th" -- That's four days later --  
14 "and needs the permit to sell alcoholic beverages." Did  
15 Mary Gayle Ramsey ever tell you between March the 3rd and 11  
16 days later when you were revoked the permit in your March  
17 14th letter that a case existed that clearly establishes and  
18 athletic field is not a public school and that he was going  
19 to open his business at that time?

20 A. I don't recall that conversation, sir.

21 Q. When did she ever tell you that?

22 A. I don't recall ever having a conversation of that  
23 nature.

24 Q. Okay. So she never, ever to today's date ever  
25 told you, A, any of that recited law with regard to what an

1 athletic field is, or, B, that a business was opening based  
2 on the previous grant. She never told you either one of  
3 those, right?

4 A. I don't recall us having that conversation during  
5 that time frame. We've probably had it since.

6 Q. Okay. When did you have it last?

7 A. I don't know. I can't even recall. I'm saying we  
8 probably had that type of conversation somewhere in the  
9 past.

10 Q. Okay. Did you have the conversation before your  
11 grant of the final approval?

12 A. Not that I recall.

13 Q. The affidavit that you sent to the Liquor Control  
14 Board that we referred to earlier --

15 A. Yes.

16 Q. -- why didn't you send a copy of that to Mike  
17 Wortham?

18 A. The protest?

19 Q. (Moving head up and down).

20 A. I believe I had a phone conversation with Tim  
21 asking what I needed to do to file a protest, because I did  
22 not know.

23 Q. So you went the extra length to call the Liquor  
24 Control Board to find out exactly what you had to do to stop  
25 this license that had been granted, correct?

1 MS. MORALES: Objection, argumentative.

2 THE WITNESS: I called Tim Maloney, yes.

3 Q. (MR. NACOL) Because you wanted to make sure that  
4 that license was not granted, right?

5 MS. MORALES: Argumentative.

6 THE WITNESS: No, sir. I wanted to make sure  
7 I was following procedures.

8 Q. (MR. NACOL) You wanted to make sure you had an  
9 opportunity to examine the law before it was granted?

10 A. Sir?

11 Q. You wanted to make sure that you had an  
12 opportunity with your city attorney to follow the law before  
13 it was granted, correct?

14 A. I wanted to make sure the city attorney followed  
15 up on.

16 Q. What did you do to make sure that she followed up  
17 on these issues?

18 A. She usually reports back to me, sir. I don't -- I  
19 don't call her every day and badger her about when she's  
20 going to follow up on something.

21 Q. Well, if you had known that a man was losing  
22 hundreds of thousands of dollars that the city might be  
23 liable to pay, you would have badgered her, wouldn't you?

24 MS. MORALES: Speculation.

25 THE WITNESS: I didn't know anybody was



1 losing hundreds of thousands of dollars, sir.

2 Q. (MR. NACOL) So all these letters that we've cited --  
3 Well, at one point you knew it, that he was in business,  
4 because you withdrew your of protest based on the fact of  
5 the numbers of the sale of his liquor, didn't you?

6 A. Based on the information that she provided me. I  
7 never saw the actual numbers, sir.

8 Q. Okay. So you never looked at those numbers? You  
9 just kind of took what she said and went with it, right?

10 A. Yes, sir, I typically do that.

11 Q. Okay. That was March the 14th, that letter to the  
12 Texas Liquor Control Board, Right? On the City of Terrell  
13 stationery, right?

14 A. Yes.

15 Q. Okay. Did you between the 14th and the 17th --  
16 Strike that. Okay. What do you want to do about lunch?

17 (Recess from 12:14 to 12:32)

18 (Exhibit No. 23 marked).

19 Okay. Back on the record. No. 23 is the Amended  
20 Notice Duces Tecum, and I understand your lawyer has filed  
21 objections here today. Aside from those withheld documents  
22 under objections, have you provided everything requested in  
23 this duces tecum in your possession or subject to your  
24 dominion and control?

25 A. Yes.

1 Q. Okay.

2 Is there a log to --

3 MS. MORALES: It's attached to the back, the  
4 log. It's attached to the back of our answers.

5 Q. (MR. NACOL) Okay. You understand there were  
6 several different positions taken throughout the tenure of  
7 the denial of application, do you not? That the city took  
8 several different positions with regard to why the  
9 application should not -- the permit should not -- Strike  
10 all that. Do you not understand that between the time that  
11 the original application and request was made and the time  
12 you withdrew your protest and the permit was granted, the  
13 City of Terrell took multiple positions against granting the  
14 permit? Do you understand that?

15 A. No, sir, I do not.

16 Q. Did you understand that at one point the City of  
17 Terrell was stating that it was within 1,000 feet of an  
18 athletic field or a day care center?

19 A. Yes.

20 Q. What was the first time that Mary Gayle Ramsey  
21 ever told you that this position was valid or invalid?

22 A. I don't recall.

23 Q. Were you aware that the very first day the city  
24 took this position Mike Wortham sent a letter to the city  
25 clearly rebutting that position? Are you aware of that?

1 MS. MORALES: Objection, assumes facts not in  
2 evidence.

3 THE WITNESS: No, I was not.

4 Q. (MR. NACOL) Okay. Let's look at, first of all,  
5 Rounsavall Exhibit No. 6. Is that a memorandum from you to  
6 Mary Gayle Ramsey, the city attorney?

7 A. Yes, that is my 23rd memo.

8 Q. And you indicated that you thought that he was  
9 just changing his address on the building, and then you  
10 found out that he was moving into a different location that  
11 had been denied, right?

12 A. Correct.

13 Q. And you learned that between Grady's meeting with  
14 you and your prior knowledge from the prior city secretary --  
15 you came to that conclusion?

16 A. Yes.

17 Q. You also say, "This original location was next  
18 door and selling liquor prior to the applicant's store. The  
19 old store wants to continue to sell liquor at the location."  
20 Why did you write that to Mary Gayle?

21 MS. MORALES: Asked and answered

22 THE WITNESS: Mr. Lawson wanted to sell  
23 liquor at the -- continue to sell at the current location.

24 Q. (MR. NACOL) So you were asking her at this time  
25 to make an opinion on both?

1 A. I was asking her to tell me what to do.

2 Q. Okay.

3 A. Yes.

4 Q. That's why you said, "What's next"?

5 A. That's correct.

6 Q. And on March the -- The application was granted  
7 on March the 11th. On March the 3rd were you aware that the  
8 law firm of Nacol, Worth & Associates sent a letter to the  
9 city through its attorney that clearly -- I mean, we  
10 discussed this. But let me just go through it one time, and  
11 we'll be done. You never knew about this March 3rd letter,  
12 did you?

13 A. No, sir.

14 Q. So you never had any of the information upon which  
15 to exercise your judgment on whether it should be granted or  
16 not, did you?

17 A. I did not have that letter, so no.

18 Q. And that might have affected your opinion,  
19 wouldn't it?

20 MS. MORALES: Objection, speculation.

21 THE WITNESS: No, sir.

22 Q. (MR. NACOL) So if this letter clearly establishes  
23 a basis upon which no reasonable mind can differ that the  
24 complaint of a day care center and -- a public school  
25 athletic field and day care center could not be a bar to the

1 grant of the license, that would not have affected your  
2 opinion?

3 MS. MORALES: Objection, speculation.

4 THE WITNESS: That's not a letter to me, sir,  
5 sir.

6 Q. (MR. NACOL) No, no. I'm asking if you -- if that  
7 is what this letter does represent and that had been  
8 communicated to you, you would have acted quicker, wouldn't  
9 you?

10 MS. MORALES: Speculation.

11 THE WITNESS: No, sir.

12 Q. (MR. NACOL) You would have waited until July 27th  
13 of 2001 to grant the license no matter what the license  
14 said?

15 MS. MORALES: Speculation.

16 THE WITNESS: I waited for the city attorney,  
17 sir. Once I turn it over to her, I wait for her.

18 Q. (MR. NACOL) And you never inquired what she was  
19 doing or how long it's taking or what is your progress or  
20 anything like that?

21 A. No, sir.

22 Q. Okay. Do you require her to communicate to you  
23 material facts that could affect the city with regard to her  
24 representation?

25 A. Not to me, no, sir.

1 Q. Do you require her to communicate to anybody?

2 A. I do not require the city attorney to report to  
3 me, sir. She does not report to me directly.

4 Q. Who does she report to directly?

5 A. The city manager's office.

6 Q. And then the city manager communicates that  
7 information to you?

8 A. If he chooses to, sir. I don't know.

9 Q. Do you know if she ever communicated with the city  
10 manager?

11 A. I do not know, sir.

12 Q. But you've got to sign the permit, right?

13 A. That is correct.

14 Q. And you do that based on your best judgment, don't  
15 you, relying on those with other special skills? But in the  
16 end the buck stops with you, doesn't it?

17 A. For signing the permit, yes.

18 Q. And you don't sign it unless think it's proper, do  
19 you?

20 A. That's correct.

21 Q. And try to weigh all the factors involved before  
22 you sign it, don't you?

23 A. Yes, sir.

24 Q. And you can't weigh any factors that aren't told  
25 to you, can you?

1 A. No, sir.

2 Q. Do you not require those who are doing research  
3 for you to communicate to you what those factors are?

4 MS. MORALES: Objection, asked and answered.

5 THE WITNESS: Those people -- Regarding to  
6 who, sir? Who is doing research for me?

7 Q. (MR. NACOL) The city attorney.

8 A. She's not doing research for me, sir.

9 Q. Then why did you write on your memorandum, "What  
10 next?" What were you referring to?

11 A. I'm asking for her advice, sir.

12 Q. And her advice is basically what she learns,  
13 right? If her advice was, "Listen, I've checked this whole  
14 thing out clearly. I know the law. The first time you've  
15 to got to do is blow up the police department," would you do  
16 it?

17 MS. MORALES: Objection, speculation,  
18 argumentative.

19 Q. (MR. NACOL) Would you do it?

20 A. No, sir.

21 Q. Why?

22 A. That is not something that I consider, sir.

23 Q. That's right. Because it's not -- There's no  
24 rational basis for blowing something up to get a permit,  
25 correct?

1 MS. MORALES: Legal conclusion.

2 THE WITNESS: Sir, you're going on two  
3 different directions for me.

4 Q. (MR. NACOL) I don't think so. I asked you  
5 initially, do you weigh all the factors in deciding whether  
6 to do it, and you said, "Yes," correct?

7 A. All the factors that are presented to me at the  
8 time, yes.

9 Q. And you don't blindly follow somebody's counsel if  
10 you know it to be wrong, do you?

11 A. No, sir, I do not.

12 Q. So you do exercise some discretion, do you not?

13 A. Yes I do.

14 Q. And in doing so, it is your understanding that  
15 those upon whom you're relying will at least communicate to  
16 you critical or material facts so you can make your  
17 decision. Is that not correct?

18 MS. MORALES: Legal conclusion.

19 THE WITNESS: Yes.

20 Q. (MR. NACOL) And this fact the jury can decide if  
21 it's material or not, but No. 12 was never communicated to  
22 you, was it?

23 A. I don't recall, sir.

24 Q. Well, you'll agree with me today that whether  
25 there's an athletic field there or a day care center is



1 irrelevant to the granting of a license, would you not?

2 MS. MORALES: Legal conclusion.

3 THE WITNESS: Today, yes.

4 Q. (MR. NACOL) All right. Now, do you know if the  
5 city ever took a subsequent position that regardless of the  
6 athletic fields or day care centers that Terrell Christian  
7 Academy was a public school?

8 A. That was, again, something Mary Gayle had to make  
9 a decision on, as to whether it's considered a public school  
10 or not.

11 Q. And do you know -- Did Mary Gayle Ramsey ever  
12 communicate to you whether she had a three-way conversation  
13 between her, Michael Wortham and the Texas Liquor Control  
14 Board?

15 A. No, sir, she did not.

16 Q. Did she ever tell you that in that conversation  
17 they said that this Terrell Christian Academy was clearly  
18 not applicable to the statute? Did she ever tell you that?

19 A. No, she did not.

20 Q. Had she told you that, would that have affected  
21 your decision-making?

22 MS. MORALES: Speculation.

23 THE WITNESS: No, it would not.

24 Q. (MR. NACOL) You wouldn't have cared what the law  
25 was with regard to granting the license?

1           A.    Yes, sir, I would care what the law is, but I'm  
2 waiting for the city attorney to render her opinion as to  
3 whether I can sign that license or not, sir.

4           Q.    I understand, but that opinion you're not going to  
5 follow blindly, are you?

6           A.    I'm going to rely on the city attorney whom the  
7 city has hired.

8           Q.    I understand that, and you should. But you're not  
9 going to blindly follow anyone's opinion, are you?

10          A.    No, I don't follow opinions blindly.

11          Q.    No, that's not what you're to do, because  
12 attorneys can be wrong, can't they?

13          A.    I'm sure they can.

14          Q.    You think I'm wrong in this case, don't you?

15          A.    Sir?

16          Q.    You think I'm wrong in this case, don't you?

17          A.    I have no opinion in this case, sir.

18          Q.    Okay. So you have no opinion whether the city was  
19 practicing bad faith in denying this license or not?

20          A.    Sir, I'm not aware that the city was practicing  
21 anything in bad faith.

22          Q.    Okay. So you have an opinion that they weren't,  
23 don't you?

24          A.    My opinion is that I am not practicing anything in  
25 bad faith.

1 Q. So you think I'm wrong. Some attorneys are wrong,  
2 correct?

3 A. I am not here to sit here -- Sir, I don't know  
4 the answer that you're looking for.

5 Q. Then the city -- After that thing fell through,  
6 the city said that -- you took the position that the public  
7 school -- that now then the Christian academy doesn't count,  
8 but even though it didn't -- Strike that. Were you or were  
9 you not later at any time advised by Mary Gayle Ramsey that  
10 now the city was going to take the position that regardless  
11 of what the Liquor Control Board said, regardless of what  
12 Mike Wortham's letter said, that we had to establish that 50  
13 percent of the gross profits were not toward the sale of  
14 liquor? Was that communicated to you?

15 A. No.

16 Q. Didn't you initially make a certification and  
17 withdraw your permit based specifically on that fact?

18 A. Yes.

19 Q. Then how did you do that if it wasn't ever  
20 communicated to you?

21 A. It was communicated to me at a later point in time  
22 when Mary Gayle called me and said, "He's communicated with"

23 MS. MORALES: To the extent you can't talk  
24 about attorney-client privilege, I'll instruct you not to  
25 answer --

1 MR. NACOL: Okay.

2 MS. MORALES: -- regarding to those  
3 conversations, because it sounded like you were about to.

4 MR. NACOL: Certify that question.

5 Q. (MR. NACOL) The point of the fact is you did  
6 receive information at some point that you would have to  
7 have proof that the alcohol was not in excess of 50 percent.  
8 Is that correct?

9 A. The city attorney, yes.

10 Q. And that position was rebutted by additional proof  
11 acceptable to the city, correct?

12 MS. MORALES: Ambiguous.

13 Q. (MR. NACOL) Did not Mike Wortham send the city  
14 attorney sufficient data to establish a reasonable basis for  
15 your belief that he was not selling more than 50 percent  
16 alcohol?

17 A. I assume at some point in time he did. I do not  
18 know.

19 Q. Okay. All right. Well, you prefaced your whole  
20 opinion on that, did you not? Your whole opinion -- your  
21 whole signing of the license was based on that, wasn't it?

22 A. I put a remark to that in the license, that our  
23 attorney had received that information, sir.

24 Q. Okay.

25 A. I made that notation.

1 Q. Read Exhibit No. 1, first page of number one to  
2 the jury, if you will. Being a citizen of Terrell  
3 statement, read that to the jury.

4 A. "The applicant has certified that while the  
5 proposed premises is within 1000 feet of a public school,  
6 less than 50 percent of the gross sales excluding gasoline  
7 is from the sale of beer and wine making the city's 1000  
8 foot distance requirement inapplicable."

9 Q. Okay. Where does it say the city attorney did  
10 that?

11 A. The city attorney's office notified me, and this  
12 is one of two statements, I believe.

13 Q. But in this statement you didn't say anything  
14 about the city attorney.

15 A. Not in this one, no.

16 Q. Okay.

17 A. This one was a note to file.

18 Q. In point of fact, up to the date that you finally  
19 agreed that Mr. Beeler could have his license, you're still  
20 saying that that Christian church is a public school, aren't  
21 you?

22 MS. MORALES: Objection.

23 THE WITNESS: No, sir, I'm not saying it.

24 Q. (MR. NACOL) Well, is that your signature on  
25 Exhibit No. 1?

1 A. Yes, sir, it is.

2 Q. And doesn't it say that, "Applicant has certified  
3 that while the premises are within 1000 feet of a public  
4 school" -- Did you say that?

5 MS. MORALES: Best evidence.

6 THE WITNESS: Yes, I did.

7 Q. (MR. NACOL) And it's not, is it?

8 A. It's with 1000 feet of the school property, sir.

9 Q. But that's not a public school.

10 A. Sir --

11 MS. MORALES: Argumentative.

12 THE WITNESS: I understand that. You've made  
13 that quite clear..

14 Q. (MR. NACOL) All right. When did Mary Gayle  
15 Ramsey give you the information you relied upon to make this  
16 statement? When did she tell you that the 50 percent factor  
17 had been reached?

18 A. Sometime when I signed the application.

19 Q. How many days within the execution of this?

20 A. It was within a few days, I'm sure.

21 Q. More than 10 days?

22 A. No.

23 Q. More than three days?

24 A. When she called.

25 Q. Two or three days?

1 A. I would assume.

2 Q. So within two or three days of the time that she  
3 called you, you granted the certificate, correct?

4 A. Yes.

5 Q. And the certificate we know was granted on July  
6 27th of '01, correct?

7 A. I believe. I'd have to look at the records.

8 Q. Take a look. July the 27th.

9 A. Okay.

10 Q. And so either July 24th, 26th -- 23rd, 24th, 26th,  
11 in that range, is when she called and you said, "It's okay.  
12 Issue the permit," right?

13 A. Correct.

14 Q. Do you have any idea why this woman waited 119  
15 days to give that information?

16 A. Again, sir --

17 MS. MORALES: Speculation.

18 THE WITNESS: -- you've asked me that, and I  
19 told you no before, and I'm telling you no now. I do not  
20 know.

21 Q. (MR. NACOL) Did you talk to anybody else besides  
22 Mary Gayle Ramsey about Mr. Beeler's application or any  
23 problems related to it?

24 A. Will Cole, municipal development director.

25 Q. Okay. And who is Will Cole?

1 A. Municipal development director.

2 Q. What is that? What does he do?

3 A. He takes care of planning, zoning, construction,  
4 all things related to building permits, certificate of  
5 occupancy, et cetera.

6 Q. Okay. When did you talk to Mr. Cole?

7 A. Sir?

8 Q. When did you talk to him?

9 A. Sometime after I notified Mary Gayle about this  
10 previous deal. He had to go measure. Mary Gayle said he  
11 needed --

12 Q. So it was around January -- mid January of 2000?

13 A. Somewhere in there.

14 Q. All right. What did you say to him?

15 A. I asked him if he could go measure the distance  
16 from the new building to the school's property, which I  
17 believe he did.

18 Q. And when did he give you that result back?

19 A. I don't know. That was -- I don't know how long  
20 it took him. Somewhere during that time is when Mr. Beeler  
21 came in, so I don't know.

22 Q. Are we talking like days or weeks or --

23 A. It was within days, I'm sure. I don't recall  
24 anything taking weeks.

25 Q. So within days of January 11th of 2000, Mr. Will



1 Cole called you with the results of the measurement?

2 A. I believe he gave them to me. I don't --

3 Q. How many feet was it?

4 A. I don't recall, sir.

5 Q. Was it within 1000 feet?

6 A. I don't recall, sir. I don't recall exact  
7 measurements.

8 Q. So you don't have any idea if it --

9 A. I don't recall, because I don't have it in front  
10 of me. I don't recall.

11 Q. Where would that be?

12 A. I don't know.

13 MS. MORALES: I think -- If you don't mind  
14 me saying, I think there's a document here --

15 MR. NACOL: Okay.

16 THE WITNESS: -- that may have that.

17 MR. NACOL: All right. Go get them. Please  
18 doesn't get them out of order.

19 MS. MORALES: It's like an e-mail and it's  
20 got a whole bunch of -- list of names.

21 (Pausing)

22 Q. (MR. NACOL) Okay. Look at Ramsey Exhibit No. 24  
23 and see if that refreshes your recollection. Return receipt  
24 to John Rounsavall -- the following information. Does that  
25 refresh your recollection?

1 A. Uh-huh.

2 Q. Well, clearly each and every one of -- The  
3 Children's Depot Learning Center, Our Kids Tree House Child  
4 Care, Terrell Christian Academy and Terrell Independent  
5 School District baseball facility, Ninth and Ben Gill Park  
6 are all within 1000 feet, correct?

7 A. Yes.

8 Q. And what was the guideline you were going by?

9 A. 1000 feet.

10 Q. Then why did you grant the permit?

11 A. Which one are we talking about now?

12 Q. The second one.

13 A. To Mr. Beeler?

14 Q. Yeah.

15 A. It was based upon the information that you had me  
16 state right here, sir, in Exhibit No. 1.

17 Q. This was on March the 14th, correct? Is that an  
18 accurate --

19 A. I would have to look at it and see.

20 Q. The date, Tuesday, March 14th of 2000, in the  
21 middle -- right in the middle under Subject?

22 A. Yes.

23 Q. Do you know why it took that long, from January  
24 11th to March the 14th, to go measure that off?

25 A. No, sir, I do not.

1 Q. Okay. What else -- Did you have any other  
2 conversations with Will Cole?

3 A. No.

4 Q. Did you ask Will Cole to measure also the distance  
5 between 307 in addition to 305?

6 A. I don't believe so.

7 Q. Well, how could you take make a determination then  
8 whether the old location was within --

9 MS. MORALES: Asked and answered.

10 THE WITNESS: Sir --

11 Q. (MR. NACOL) Go ahead and answer.

12 A. The city attorney is the one who helped me make  
13 the decision on both locations.

14 Q. But you only measured one?

15 A. That's correct.

16 Q. So you never -- Because you felt like you could  
17 assume from the first measurement what the distance of the  
18 second one was?

19 A. No, sir. The old location was pre-existing, it  
20 was my understanding. It existed prior to the ordinance.

21 Q. I understand, but you also knew by this time that  
22 the holder of that permit was moving next door. Correct?

23 A. Yes.

24 Q. And you can't just -- Assuming that this  
25 grandfather thing existed, which it didn't, assuming it did,

1 it wouldn't widely apply to anybody that wanted to be on  
2 that land, would it? It would have to be grandfathered for  
3 that recipient to have lived on the land and own the  
4 property, right?

5 MS. MORALES: Legal conclusion.

6 THE WITNESS: I don't know, sir.

7 Q. (MR. NACOL) You just decided then -- Did you  
8 instruct Mr. Cole to measure one or just Mr. Beeler's?

9 A. Just Mr. Beeler's. That was the one in question,  
10 sir.

11 Q. Okay. Why wasn't the other one in question?

12 A. Because the other one existed prior to the  
13 ordinance and I also used the city attorney's advice.

14 Q. And that advice was to grant Grady's, but don't  
15 grant Beeler's?

16 MS. MORALES: And I'll instruct you not to  
17 answer to the extent it --

18 THE WITNESS: No, sir.

19 MS. MORALES: -- is privileged information.

20 MR. NACOL: Certify it. I can't see how. I  
21 mean, he's using a sword and a shield --

22 MS. MORALES: He answered you.

23 MR. NACOL: -- at the same time.

24 MS. MORALES: He answered you. You got your  
25 answer.

1 Q. (MR. NACOL) Did you have any other conversations  
2 with Will Cole after that?

3 A. Regarding?

4 Q. This property, Mr. Beeler's property --

5 A. No, I did not.

6 Q. -- 305. Obviously the 307 permit was granted well  
7 in advance of 305. You'll agree with that, right?

8 A. I assume, yes.

9 Q. Okay. When did Mary Gayle Ramsey call you and  
10 authorize 307 to be granted?

11 A. I don't recall, sir. I'd have to look.

12 Q. But you did it based on her counsel, correct?

13 A. Yes.

14 Q. How did she distinguish between 307 and 305?

15 A. By this time we've identified one is Grady  
16 Lawson's store and one is Mr. Beeler's store.

17 Q. All right.

18 A. They're distinguished. That's how we  
19 distinguished between the two.

20 Q. But you know, having done hundreds of these  
21 applications and permits, that it's not who owns the land,  
22 it's who has the permit, correct?

23 MS. MORALES: Legal conclusion. Asked and  
24 answered.

25 THE WITNESS: I do now.

1 Q. (MR. NACOL) So you didn't know at the time?

2 A. Pardon me?

3 Q. You didn't know at the time you were making these  
4 decisions that distinction?

5 A. Between --

6 Q. Ownership and owning the permit.

7 A. Correct.

8 Q. When did you learn the difference?

9 A. Oh, I don't know. It's been a while.

10 Q. Was it like after Mr. Beeler's permit was granted?

11 A. Somewhere in there, I assume, after like.

12 Q. Okay. Did you talk to anyone else about Mr.

13 Beeler's case and application for permit or Mr. Grady

14 Lawson's application for a permit other than Will Cole?

15 THE WITNESS: What's his name?

16 MS. MORALES: Jason Marshall.

17 THE WITNESS: Jason Marshall.

18 Q. (MR. NACOL) I don't want to hear what you talked  
19 to Marshall about. Anybody else?

20 A. The city attorney.

21 Q. Okay. Have you told me about every conversation  
22 you had with the city attorney prior to the date that the  
23 lawsuit was filed against the city?

24 A. Inasmuch as I can recall those conversations, yes.

25 Q. Okay. Is there any conversation that you had with

1 Mary Gayle Ramsey before the date we filed our -- and y'all  
2 were served with the lawsuit that you have not told the jury  
3 about today?

4 A. None that I can recall, sir.

5 Q. Did you talk to her paralegal or anyone else on  
6 her behalf about this application?

7 A. No.

8 Q. Did you have any conversations with anyone at the  
9 Texas Liquor Control Board?

10 A. Tim Maloney.

11 Q. Okay. How many conversations did you have with  
12 Tim Maloney?

13 A. Maybe one or two.

14 Q. Okay. When was the first one?

15 A. When we originally started filing the protest, I  
16 believe.

17 Q. But was it in January, February, March?

18 A. I can't recall the exact date. Somewhere near the  
19 time I filed the protest.

20 Q. Okay. And we know you filed the protest on March  
21 the 17th, right?

22 A. I guess. I'd have look at the document to be  
23 sure.

24 Q. So it was within a few days either way of that  
25 protest?

1 A. Prior to that, yes.

2 Q. It was prior to that, a few days prior to that?

3 A. Yes.

4 Q. All right. What did you say to him and what did  
5 he tell you in that conversation?

6 A. What we needed to file a protest, and I don't  
7 recall the exact substance of the conversation.

8 Q. Did he explain to you at that time that he felt  
9 like that your ordinance did not apply to this property?

10 A. No, he did not.

11 Q. What did he say to you? Tell me the words he  
12 said.

13 A. He told me that he had already talked to Mr.  
14 Beeler about this over a year ago and told him that there  
15 was a problem at that location.

16 Q. What problem did he say it was?

17 A. That he thought a prior application had been  
18 denied there.

19 Q. The TABC man, Tim Maloney, told him that?

20 A. Told me that, sir.

21 Q. Prior application?

22 A. He thought that they denied that location.

23 Q. And did he tell you the basis for that denial?

24 A. No, he did not.

25 Q. Did you ask him the basis for that denial?



1 A. No, I did not.

2 Q. Why?

3 A. Because I did not, sir.

4 Q. You didn't think it was important?

5 A. I did not ask him.

6 Q. Okay. What else did he say to you?

7 A. That he would have to have an affidavit, you know,  
8 from me for the protest. And I forget the exact substance  
9 of that conversation after that. I just needed the  
10 information to file it.

11 Q. He gave you the terms of the affidavit?

12 A. He didn't give me the terms. He just told me what  
13 I would have to file, an affidavit, a sworn affidavit.

14 Q. And what did he tell you the affidavit would have  
15 to state?

16 A. The reason for the protest, I believe.

17 Q. So you knew somewhere around March the 17th to  
18 stop this application you have to specifically state the  
19 specific basis for your withdrawal of your previous permit,  
20 correct?

21 A. That I was filing a protest.

22 Q. Now, at this point in time in mid March you knew  
23 Mr. Beeler was in business, didn't you?

24 A. Yes.

25 Q. And you knew that he had -- at this point in time

1 that part of that business was the sale of alcohol, correct?

2 A. Yes.

3 Q. And you knew that he couldn't sell that alcohol if  
4 you withdrew the permit, correct?

5 MS. MORALES: Legal conclusion.

6 THE WITNESS: That would be correct, but I  
7 didn't withdraw the permit.

8 Q. (MR. NACOL) But you knew that filing this protest  
9 would kill any chance he had with the TABC. You knew that,  
10 didn't you?

11 MS. MORALES: Asked and answered.

12 THE WITNESS: I did not know that it would  
13 kill any opportunity he had, sir.

14 Q. (MR. NACOL) Well --

15 A. I knew I filed a protest because it was issued in  
16 error.

17 Q. Tell the jury all the times you've filed protests  
18 with the TABC and said, "I don't care if children drink  
19 whiskey or not. We're going to let them sell that whiskey."  
20 Tell the jury how many time you've done that before.

21 MS. MORALES: Argumentative.

22 THE WITNESS: This is the only protest I've  
23 ever filed, sir.

24 Q. (MR. NACOL) But didn't you know -- wasn't the  
25 point of this to not have the TABC grant the license? That

1 was the point of the protest, wasn't it?

2 MS. MORALES: Asked and answered.

3 THE WITNESS: That we were going to -- it was  
4 being challenged because of the distance requirements, to my  
5 understanding, sir.

6 Q. (MR. NACOL) Okay. Even though on March the 14th  
7 and that was because on March the 14th you found out about  
8 the Terrell Christian Academy and the baseball field  
9 -- Right? -- being within 1000 feet?

10 A. Mr. Cole measured those and he provided that to  
11 the city attorney.

12 Q. Yeah, but you knew about that before you filed  
13 this protest?

14 A. I knew about it being within 1000 feet of a  
15 baseball --

16 Q. Yeah.

17 A. Yes.

18 Q. And that's why Exhibit 1 recites the premise is  
19 within 1000 feet of a public school, right?

20 A. Yes.

21 Q. Did you ever have any serious doubt in your mind  
22 that a baseball diamond was a public school?

23 MS. MORALES: Asked and answered.

24 THE WITNESS: No, sir.

25 Q. (MR. NACOL) All right. When did you have your

1 second conversation with Tim Maloney?

2 A. I don't recall, sir.

3 Q. Was it later?

4 A. I'm sure we've had conversations. I don't know  
5 when.

6 Q. Have you had more than two?

7 A. He files cases in the court. I've had  
8 conversations with him in the past, but as far as this case

9 Q. No. Okay. Strike that. I'm talking about on  
10 this topic, is what I'm talking about, this issue.

11 A. I don't know when --

12 Q. Okay. Was it --

13 A. -- with specifics.

14 Q. -- more than a week later?

15 A. I don't know, sir.

16 Q. What was the topic of the second conversation?

17 A. I think it was just casual conversation related to  
18 Mr. Beeler's case. I don't know.

19 Q. Casual conversation. So you just -- Did he call  
20 you or did you call him?

21 A. We were discussing some other issue that had come  
22 up. I believe I was asking him for a listing of all the  
23 alcoholic beverage permits, and he was going to direct me to  
24 the site where I could get those. And I think by this time  
25 we were already being sued, had already been to district

1 court and all that stuff.

2 Q. Did he ever discuss with you the propriety of  
3 putting on this fight against Mr. Beeler's license?

4 A. No.

5 Q. So you called -- Did you call him or did he call  
6 you the second time?

7 A. I probably called him or he -- I don't know for  
8 sure. I simply don't recall. I know at the time that this  
9 is going on we were doing other things, such as putting  
10 together our permit program.

11 Q. What is your permit program?

12 A. It's a program that I'm putting together to help  
13 me track permits.

14 Q. Is that because of some of the things that are  
15 going on in this lawsuit --

16 A. No.

17 Q. -- to avoid that in future?

18 A. No.

19 Q. Why are you doing it?

20 A. Because we don't have -- We have to rely on the  
21 citizenry to come to us and tell us when their permit is  
22 expired or the police officer has to let me know that one's  
23 expired, because we don't have a follow-up program or a  
24 billing program per se that tells us that your alcohol  
25 beverage permit has expired.

1 Q. Did you have any conversations with any other  
2 members of the TABC?

3 A. No.

4 Q. So you have not discussed this case with any other  
5 TACB (sic) representative?

6 A. No.

7 Q. Have you discussed it with any other person that  
8 you haven't told the jury about today?

9 A. No, not that I'm aware of.

10 Q. Okay. And the reason, obviously I don't want to  
11 be surprised at trial, and I'm going to object if you come  
12 up with some critical conversation that --

13 MS. MORALES: With the exception of me.

14 Q. (MR. NACOL) You can't think of any other?

15 A. (Indicating).

16 Q. I'm not talking about your lawyer I'm talking  
17 about witnesses.

18 A. None that I can recall, sir.

19 Q. Okay. How many meetings did you have with Mr.  
20 Beeler?

21 A. I only recall one, sir.

22 Q. You don't recall a second meeting with Mr. Beeler?

23 A. I'm not for sure. There is only one that sticks  
24 in my mind.

25 Q. Do you recall meeting with him in '98, in March --

1 February or March of 1998?

2 A. No, sir.

3 Q. Or a discussion with Mr. Winston Smith, his  
4 manager out there?

5 A. No, sir.

6 Q. Are you saying you did not have any conversations  
7 in '98 or you just don't recall either way?

8 A. I don't know Mr. Beeler, and I don't recall ever  
9 having a conversation with him in '98 at all.

10 Q. And, now, how many conversations have you had with  
11 Grady Lawson? You've told me about one in the hall.

12 A. I think he came in again, but I referred him to  
13 the city attorney, so --

14 Q. He what?

15 A. I think he might have come in again --

16 Q. Yes, sir.

17 A. -- and I referred him to the city attorney, so I --

18 Q. Did you have any conversation with him before you  
19 referred him to the city attorney?

20 A. I believe he was still inquiring about his permit,  
21 and I referred him to the city attorney.

22 Q. Do you have his permit here today with you?

23 A. No, sir, I don't.

24 Q. Is there any reason why we can't get that?

25 MS. MORALES: I thought we looked for it. If

1 it was responsive to your request, I know we looked for it.

2 MR. NACOL: It would be in here if it's --  
3 Look in -- It would be in this one right here, if it's in  
4 there.

5 MS. MORALES: No, I don't think -- I know  
6 it's not in here. I don't think it is, at least. He's --  
7 What? -- 307 now?

8 THE WITNESS: 747 is the --

9 Q. (MR. NACOL) Well, are these documents kept on  
10 site here?

11 A. Uh-huh.

12 Q. If we take a break for me to make a phone call,  
13 can you get his file?

14 A. Sure, if it's there.

15 Q. It will save us a deposition later. All right.  
16 Let's go on, and we'll go back to that in a second.

17 MS. MORALES: I thought we looked for it this  
18 morning.

19 THE WITNESS: I'll have to ask Cozette. She  
20 looked for it, but she didn't find it, I don't think.

21 Q. (MR. NACOL) Do you know if he talked to the city  
22 attorney after you referred him to the city attorney?

23 A. I do not know, sir.

24 Q. Did Mary Gayle Ramsey ever call you back to  
25 discuss his application with you?



1           A.    I'm sure she did, but I don't recall exactly. She  
2 would have had to have information for me regarding that.

3           Q.    Did Mike Wortham ever call?

4           A.    No, sir.

5                   MR. NACOL: Okay. We're moving along. Let's  
6 take a break. I'm going to go make a phone call. If y'all  
7 get those documents, and we may get out of here quicker.

8                   (Recess from 1:08 to 1:19)

9           Q.    (MR. NACOL) If you please, sir, at the break you  
10 were going to try and retrieve Grady Lawson's file so we  
11 could get things finished up here. You've been unable to  
12 locate it?

13           A.    I went to retrieve the 747 store file, not Grady  
14 Lawson's file.

15           Q.    The 747 store file?

16           A.    That's the name of the store.

17           Q.    747 Watering Hole, right?

18           A.    I believe something like that.

19           Q.    Do you think it might be under "water" or "hole"?

20           A.    I looked and --

21                   MS. MORALES: He looked in all of them.

22           Q.    (MR. NACOL) And you couldn't find it?

23           A.    No, sir. I'll have to wait until my secretary is  
24 back. I don't know if it's --

25           Q.    When does she get back?

1           A.    I don't know. She should be back probably in 10  
2 minutes.

3           Q.    Well, let's go through everything else, and maybe  
4 we'll close with that and get it taken care of. I don't  
5 think you want to do this any more than do I again. Again,  
6 these exhibits, No 15, you don't have any recollection of  
7 ever being given any of these documents under 15 or ever  
8 having an opportunity to review them, correct?

9           A.    I don't recall seeing those documents.

10          Q.    Exhibit No. 1, we discussed that. The second page  
11 of Exhibit No. 1 is --

12                   MS. MORALES: Just -- I'm sorry for  
13 interrupting you, but you're talking all these except the  
14 last one, aren't you? Because the last one is his  
15 affidavit.

16                   MR. NACOL: Yeah.

17                   MS. MORALES: Okay.

18          Q.    (MR. NACOL) Under City of Terrell permit, Handy  
19 Mart No. 1, is this the the permit that was issued  
20 initially, or is this the one that was finally issued?

21          A.    I'd have to look at the file to know for sure.

22          Q.    There's only -- Let's see here. I think there's  
23 only -- Let's see. Here's one. It's from 01/2000.

24          A.    That's probably the original one.

25          Q.    That's the original one, right?

1 A. Uh-huh.

2 Q. And then a second one was from September of 2000 --  
3 Right? -- to September 2001?

4 A. Uh-huh.

5 Q. Can you tell the jury if on July the 27th you made  
6 the -- you withdrew the application why it took another  
7 month and a half to get the certificate?

8 A. Why it took --

9 Q. Well, isn't it effective from September 12th?

10 A. Uh-huh.

11 Q. So he couldn't do business the rest of July or  
12 August, correct?

13 A. I don't know, sir.

14 Q. Well, is that the day that you made your final  
15 decision, was September 12th?

16 A. That's the date that that permit was issued, sir.

17 Q. Who is Joe LaBarba?

18 A. It's a permitting service out of Dallas, Texas.

19 Q. And this is the previous permit to 307 before he  
20 moved to 305?

21 A. It appears to be.

22 Q. On a memorandum from you to Cozette Moore. Tell  
23 the jury who is Cozette Moore is.

24 A. My secretary.

25 Q. And this says, "Please prepare permits for Handy

1 Mart No. 1, 307 Ninth Street, Terrell, Texas, wine and beer  
2 permit 9/8 of '98 to 9/8 of '99." That's the old permit,  
3 right?

4 A. Yes, sir.

5 Q. Here's a permit -- I mean, here's a memorandum of  
6 March 30th of 2000 from you to Mary Gayle Ramsey, right? An  
7 e-mail?

8 A. (No response).

9 Q. Tell the jury what that is.

10 A. It's an e-mail I had Cozette send to Mary Gayle.

11 Q. For what purpose?

12 A. It says, "I don't have the method to determine  
13 when the first permit was issued to Handy Mart and TABC  
14 wants the information as well."

15 Q. Who is the first permit?

16 A. I don't recall the exact --

17 Q. When you're talking about Handy Mart, is that  
18 Beeler's location?

19 A. I guess so.

20 Q. Or is that Grady Lawson's location?

21 A. Handy Mart -- I don't recall exactly. I recall  
22 that, but I don't recall what we're doing at this point.

23 Q. Well, who do you recall Handy Mart being then?

24 A. Handy Mart is Mr. Beeler..

25 Q. In the 305 location or the 307 location?

1 A. In the 307 location, I believe.

2 Q. Okay. Why on March the 30th were you even  
3 concerned with the first permit?

4 A. I don't recall, sir.

5 Q. And you say, "Can you do a Kaufman County records  
6 search to see if Mr. Lawson ever recorded d/b/a Handy Mart."  
7 Why would you want to know that?

8 A. I don't recall at the time, sir.

9 Q. Was Mr. Lawson trying to protect the name Handy  
10 Mart or trying to get the license in his name as Handy Mart?

11 A. I don't recall the exact nature of what brought  
12 that about.

13 Q. You state, "Needs letter indicating what sections  
14 of city ordinance Handy Mart is in violation of for his  
15 legal department."

16 A. I believe that's Tim Maloney needs to know that.

17 Q. That's what that was referring to?

18 A. Uh-huh.

19 Q. So Tim Maloney was concerned about whether it was  
20 a specific violation of a specific ordinance?

21 A. He's needing to know the specific section. I  
22 believe that's what my letter of protest indicates.

23 Q. Okay. You have a draft letter here under Exhibit  
24 No. 8, which is a letter to the Texas Liquor Control Board,  
25 Tim Maloney, from you, wherein you state the violation of

1 Chapter 5, Section 2, Sub C of the Terrell code, and you  
2 enclose the code and say, "The proposed establishment will  
3 be located within 300 feet of blank." Why is there a blank?

4 A. That's a draft letter, sir. I'm preparing a  
5 letter.

6 Q. So you don't know whether or not at this time it's  
7 in violation of something, but if it is, all you've got to  
8 do is plug the name in there, right?

9 A. I have to complete that letter. That was a draft  
10 that Cozette had typed and returned to me.

11 Q. This was on April the 10th, right? Approximately  
12 a month after -- Mr. Wortham had sent his letter, I think,  
13 the 17th of April to the city manager, right?

14 A. I don't know, sir.

15 Q. Well, had you been told when you did this form  
16 that there was a definite violation of 300 feet?

17 A. No, sir.

18 Q. What did the 300 feet relate to?

19 A. I don't know. I'd have to look at the completed  
20 letter.

21 Q. So you just -- Where is the completed letter?

22 MS. MORALES: Just FYI, the attorney notes  
23 draft has been withheld. And I don't know where the letter  
24 is.

25 Q. (MR. NACOL) Well, okay. Why would you prepare

1 this letter, without knowing what you're going to refer it  
2 to?

3 A. Excuse me?

4 Q. I mean, mean 300 foot of what? What statute were  
5 you referring to?

6 A. Sir, I just began this letter, so I don't recall  
7 the premise by which 300 feet was there. I don't know if  
8 she mis -- could not read my writing or what.

9 MS. MORALES: Can we take a short break? I'm  
10 just going to ask him, I want to make sure that these are  
11 attorney notes. It appears to be attorney notes. If it's  
12 not, then if it's just his handwriting --

13 MR. NACOL: Sure. Go right ahead.

14 (Recess from 1:29 to 1:30)

15 MS. MORALES: No, it's privileged. Sorry.

16 Q. (MR. NACOL) Whatever document your lawyer is  
17 withholding on privilege here that y'all went out and talked  
18 about in the hall just now, does that explain what the blank  
19 should have in it?

20 A. I didn't read what she had, so I don't know.

21 (Pausing)

22 Yes.

23 Q. Okay. And what would that number be?

24 A. That letter had --

25 MS. MORALES: Yeah.

1 THE WITNESS: -- 300 in it.

2 MS. MORALES: We're going to withhold the  
3 document and we're not going to discuss it.

4 Q. (MR. NACOL) All we've got left now is a couple of  
5 things. Let me just go over a few questions with you, if I  
6 may.

7 A. All right.

8 Q. Do you have any indemnity agreement with the city?  
9 Does the city pay you -- If I get a -- If the jury awards  
10 my client a \$500,000 verdict against you and the city, does  
11 the city pay for you or do you have to pay your own?

12 A. I don't know, sir.

13 Q. Well, that usually is a big no if don't know. You  
14 never had a written indemnity agreement or as part of your  
15 work you're not covered by --

16 A. I have a bond. I'm bonded.

17 Q. Okay. Who's your bondsman?

18 A. I don't know, sir. I'd have to go look it up.  
19 It's Western Surety.

20 Q. Western Surety. How much is it?

21 A. I think it's 25,000.

22 Q. Have you advised them of this claim?

23 A. I'm sure that TML has. I don't know.

24 Q. If they haven't, you may have a better lawsuit  
25 than I do. You understand if you do not advise your



1 bond that you may waive your right to have protection from  
2 that bond?

3 A. No, sir, I don't understand that.

4 Q. Okay. You're an employee of the city?

5 A. Yes, I am.

6 Q. And you get a W-2?

7 A. Yes, I do.

8 Q. And pension and withholding and all that kind of  
9 stuff?

10 A. Yes, sir.

11 Q. Have you ever been sued in a civil proceeding  
12 other than what we discussed earlier?

13 A. No, I have not.

14 Q. Have you ever been arrested?

15 A. No, I have not.

16 Q. Did you know Mary Gayle's father, Robert Ramsey?

17 A. No, sir.

18 Q. Never met him?

19 A. I don't recall meeting him, no.

20 Q. Did you specifically ask Mary Gayle Ramsey to  
21 review copies of the ordinances of the City of Terrell?

22 A. Did I ask her to review? Yes, I've asked her to  
23 review ordinances in the past.

24 Q. When you first asked Mary Gayle Ramsey to review  
25 the ordinances, did you refer to any specific ordinances?

1           A.    That's kind of a broad question, sir. I mean, I  
2 ask her to review all kinds of ordinances, so --

3           Q.    You tell me the ones you asked her to review.

4           A.    Permits, anything. I mean, I can't think of all  
5 the different ordinances. Debris, trash --

6           Q.    Well, no, I'm not --

7           A.    -- numerous --

8           Q.    -- asking you to speculate on all the quantity of  
9 ordinances of the city. That's not my question. Did you  
10 specifically tell her I want you to check out the ordinance  
11 on any specific area?

12          A.    No.

13          Q.    Churches or baseball fields or --

14          A.    With regard to --

15          Q.    -- residences or anything like that?

16          A.    With regard to the permit --

17          Q.    Yes.

18          A.    -- the alcohol permit?

19          Q.    The first time you talked to her and said, "Check  
20 these ordinances." Did you say, "I want you" -- for  
21 instance, did you say, "I want you to check residences, be  
22 sure this is not a residence"?

23          A.    No, sir, I sent her a correspondence.

24          Q.    Okay. You didn't specifically reference  
25 residential areas?

1 A. I don't recall, sir.

2 Q. Did Mary Gayle Ramsey ever tell you that she  
3 believed that a private school was a private school under  
4 the statute?

5 A. Not that I can recall.

6 Q. She never told you that? Okay. Do you remember  
7 when you first contacted Mary Gayle Ramsey to discuss this  
8 problem with her after the January 11th grant?

9 A. No, sir, I don't recall the specific date

10 Q. Would it have been a week or two or --

11 A. I don't recall, sir.

12 Q. Could it have been as much as a month later the  
13 first time you talked to her about it?

14 A. I don't recall.

15 Q. Would agree that Ms. Ramsey when you asked for --  
16 Would you agree with Mary Gayle Ramsey when you asked for  
17 her opinion that basically you withdrew your consent to the  
18 permit exclusively because of location differentiation  
19 without regard to -- Strike that. At one point you stated  
20 in Exhibit No. 7 that the application for renewal does not  
21 appear to meet the requirements of the city ordinance. Did  
22 you discuss this conclusion with Mrs. Ramsey before you made  
23 that statement?

24 A. Yes.

25 Q. And you're sure of that?

1           A.    I'm not absolutely positive. I'm pretty sure,  
2 because I was talking with her about this.

3           Q.    Okay. Would you agree with Mrs. Mary Gayle Ramsey  
4 that with regard to Humberto Rodriguez's application --  
5 Grady Lawson's ownership of the property, but his tenant's  
6 application that we've discussed here today, that you and  
7 her really had no in-depth conversation at all about that?

8           A.    We had some conversations. I don't know what  
9 you're defining as "in-depth."

10          Q.    You tell me how deep the conversation was.

11          A.    I didn't approve the licenses, as I explained to  
12 Mr. Lawson. He would have to contact her. She contacted  
13 me, I believe, and it was approved after that.

14          Q.    Well, do you know if Mr. Rodriguez ever even  
15 talked to Mary Gayle Ramsey about the license?

16          A.    No, I do not know.

17          Q.    I asked Mary Gayle in her deposition about, you  
18 know, these renewals, and she said, "I don't know. You'll  
19 have to ask Mr. Rounsavall. That was handled in his  
20 office." So I'm asking you -- and you may have already  
21 answered this. If you have, I'm sorry. But they don't fill  
22 out that major application unless they want a new license,  
23 correct?

24          A.    Correct.

25          Q.    If it's a renewal, they just come in, sign a form,

1 give you the money and leave, right?

2 A. In most cases, correct.

3 Q. Then how could you have been confused on that  
4 being a license if the only thing you use it for is a new  
5 original license?

6 A. Sometimes I get them; sometimes I don't. I'm just  
7 telling you that. In his case I did not understand it to be  
8 a physical location change.

9 Q. Again, why did you not send your affidavit to the  
10 Texas Alcoholic Beverage Commission to Mr. Beeler or Mr.  
11 Wortham? Why didn't you send them a copy of it?

12 A. I don't recall, sir.

13 Q. Well, the purpose of sending it was to stop  
14 certification, wasn't it?

15 A. My purpose in sending it is to file a protest  
16 because of a misunderstanding that I had on that  
17 application.

18 Q. What efforts did you make to clear up that  
19 misunderstanding over the next seven months?

20 A. I turned it over to the city attorney, sir.

21 Q. But you didn't need the city attorney to tell you  
22 that -- this understanding about whether it was a change of  
23 address or an original application. You knew that instantly  
24 when it was shown to you, didn't you?

25 A. At that time that that was presented, no.

1 Q. No, not originally. But within a week or two  
2 after you talked to the city attorney, you knew it, didn't  
3 you?

4 A. What's that?

5 Q. That, that application was an original application.

6 A. Later I knew that, yes.

7 Q. And it still took six months to approve it, right?

8 A. I guess.

9 Q. And it is your testimony under oath that you did  
10 not receive these letters from Mike Wortham, correct?

11 A. I have no recollection of those letters that are  
12 addressed to Mary Gayle.

13 Q. Then can you tell the jury why they were in your  
14 file?

15 A. This file was combined together at some point, I  
16 assume, for litigation purposes.

17 Q. Would you tell the jury why Mary Gayle would  
18 answer a question stating that she generally furnishes her  
19 clients with copies of everything she gets?

20 A. No, sir, I cannot answer that.

21 Q. In the past has she furnished you with copies of  
22 everything she gets?

23 A. Not to me personally, no, but then I'm not her  
24 client.

25 Q. Well, the city is her client, right?

1 A. That's correct.

2 Q. And you work for the city?

3 A. That's correct.

4 Q. Did you ask Mary Gayle Ramsey to do anything with  
5 regard to the Rodriguez application?

6 A. She is supposed to look at it. You refer to  
7 Rodriguez. I don't know. It's Mr. Lawson.

8 Q. Yes.

9 A. And I had her review that.

10 Q. So you did ask Mary Gayle Ramsey to perform some  
11 legal work, review the statutes, with regard to Mr.  
12 Rodriguez's application?

13 A. I don't think I asked her in those words. I said,  
14 "Mr. Lawson's tenants have provided me with an application,"  
15 and this is that questionable situation that we now have  
16 with Mr. Beeler, so I provided her those documents.

17 Q. And you gave her a memo that discussed -- You  
18 said, "What's next," right?

19 A. Correct.

20 Q. Doesn't that imply to you what do we do in both of  
21 these cases?

22 A. Yes.

23 Q. And if she said specifically that she was never  
24 asked by you to do work on the Rodriguez case, that wouldn't  
25 be an accurate statement, would it?

1 A. I do not know, sir. I don't know what she said.

2 Q. Well, you know what you said, don't you?

3 A. I know what I've said to you here today.

4 Q. If she said --

5 A. But I do not know what she said. I have not read  
6 what you're reading, sir.

7 Q. Well, if she said that, that wouldn't be true,  
8 would it?

9 A. I don't know.

10 Q. You don't know if -- whether or not you told her  
11 that or not?

12 A. I don't recall having any particular conversation  
13 with her, sir.

14 MR. NACOL: Okay. If we can get those, I  
15 think we can wrap up here. Off the record.

16 (Recess from 1:50 to 1:58)

17 Q. (MR. NACOL) All right, sir. We're winding down  
18 here. Apparently, it's my understanding that you have made  
19 a superficial search because you didn't have -- at the lunch  
20 at our 15-minute break, and your secretary now is making a  
21 search for the Rodriguez/Grady Lawson documents, for his  
22 application and any correspondence related to that, and you  
23 have been unable to locate it.

24 A. That's correct.

25 Q. And you can't locate his permit that was granted?



1 A. That's correct.

2 Q. You can't locate his application?

3 A. No.

4 Q. And -- but you're going to diligently search and  
5 try to get that information to me and we can finish up when  
6 you do?

7 A. Yes.

8 Q. Okay. But you will agree with me that you had two  
9 people -- Say Rodriguez means Grady Lawson. Okay. He's  
10 applying for the permit. You had Rodriguez and Mr. Beeler  
11 next door to each other both applying for a liquor license,  
12 correct?

13 A. Yes.

14 Q. And Mr. Beeler had already had one for many years  
15 in the location that Mr. Rodriguez was in, correct?

16 A. Yes.

17 Q. And you will agree with me that Mr. Rodriguez's  
18 was granted substantially quicker than Mr. Beeler's,  
19 correct?

20 A. Yes.

21 Q. Can you give any rational basis for the difference  
22 in that treatment?

23 A. No.

24 MR. NACOL: Pass the witness.

25 (Time: 2:00)

## 1 FURTHER EXAMINATION

2 QUESTIONS BY MS. MORALES:

3 Q. Just a quick question. You testified earlier that  
4 the reason that the initial -- or Lawson's permit was  
5 granted was because of the grandfather clause you thought  
6 you had. Did I understand that correct?

7 MR. NACOL: Objection, leading.

8 Q. (MS. MORALES) What was your initial reason for  
9 believing that the locations were different, if you even  
10 thought that?

11 A. The locations were different because 307 was a  
12 pre -- 307 was a pre-existing location prior to the  
13 enactment of the ordinance.

14 Q. And is that the reasoning you had when you issued  
15 the permit to that location?

16 A. Originally, yes.

17 Q. And originally you did not -- or why did you not  
18 initially grant the permit to Mr. Beeler at the new  
19 location?

20 A. Because it was in conflict with our city  
21 ordinance.

22 I'll pass the witness, and reserve the rest  
23 for trial.

24 (Time: 2:01)

## 25 FURTHER EXAMINATION

1 QUESTIONS BY MR. NACOL:

2 Q. You knew four days after you granted Mr. Beeler's  
3 license initially that Mr. Grady's tenant, Mr. Rodriguez,  
4 was in that location and that Mr. Beeler was in the new 305  
5 location, didn't you?

6 MS. MORALES: Assumes facts not in evidence.

7 THE WITNESS: No.

8 Q. (MR. NACOL) Didn't you say Mr. Grady Lawson came  
9 in immediately within three days after the granting of Mr.  
10 Beeler's initial license to discuss his license with you?

11 A. I didn't say when he came in. I just said he came  
12 in and he discussed it with me, and that's when I learned  
13 that Mr. Lawson was moving.

14 Q. Okay. But at that point you knew all the facts  
15 your lawyer just said. You knew they were both going to be  
16 new, original licenses, correct?

17 A. At that point.

18 Q. They were both equal, right? Both at the same  
19 location?

20 A. Both at different locations? Is that what you're  
21 saying?

22 Q. No. New licenses in each location.

23 A. Yes.

24 Q. So you knew there was not grandfathering of a new  
25 license --

1 A. Correct.

2 Q. -- under the new location. And they're right next  
3 door to each other, right?

4 A. Correct.

5 Q. So the footage and stuff is going to be very  
6 similar, correct?

7 A. Yes.

8 Q. And so you still have no rational basis for the  
9 difference in treatment, do you?

10 MS. MORALES: Objection, legal conclusion.  
11 You can answer.

12 THE WITNESS: I don't understand your  
13 question, sir.

14 Q. (MR. NACOL) Well, you said earlier -- I asked  
15 you, "Is there any rational basis in the difference in  
16 treatment," and you said, "No." I'm asking you again -- and  
17 she tried to rehabilitate you by saying you were confused up  
18 front, and I'm saying that there's no rational basis for one  
19 person getting a license in 60 days and one guy getting a  
20 license in eight months if they're identical in every way,  
21 is there?

22 MS. MORALES: Objection, legal conclusion.

23 THE WITNESS: Again, I referred them both to  
24 the city attorney, sir.

25 Q. (MR. NACOL) Okay. Did she give you any rational

1 basis for the difference?

2 A. She did not give me --

3 MS. MORALES: Objection, legal conclusion.

4 THE WITNESS: -- any information, sir.

5 MR. NACOL: Okay. Pass the witness.

6 (Time: 2:03)

7 FURTHER EXAMINATION

8 QUESTIOSN BY MS. MORALES:

9 Q. Just a couple of questions for follow-up. There  
10 was a letter -- a memorandum you wrote to -- the "What's  
11 next," memo, that's what we call it. I believe it was like  
12 February 23rd of 2000 that you sent that letter. Would it  
13 be -- Well, did you receive that letter -- or did you make  
14 that memorandum to Mary Gayle after you met with Grady  
15 Lawson?

16 MR. NACOL: Objection, leading.

17 THE WITNESS: I believe so.

18 Q. (MS. MORALES) So you had talked to Lawson by the  
19 time you wrote that memorandum?

20 MR. NACOL: Objection, leading.

21 THE WITNESS: I believe so.

22 Q. (MS. MORALES) Okay. As you sit here today, as you  
23 look back then, do you have any hatred or any kind of evil  
24 motive against Mr. Beeler?

25 MR. NACOL: Objection, leading and calls for

1 a global answer and speculation and a conclusion.

2 Q. (MS. MORALES): You can answer.

3 A. No.

4 Q. Is there anything that Mr. Beeler has ever done to  
5 you that has caused you to have any anger towards him?

6 A. No.

7 Q. And do you generally treat all the citizens of  
8 Terrell in the same manner?

9 A. Yes.

10 MS. MORALES: I'll reserve the rest for  
11 trial.

12 (Time: 2:04)

13 FURTHER EXAMINATION

14 QUESTIONS BY MR. NACOL:

15 Q. Why did he treat Mr. Beeler six months' worth  
16 difference from Grady Lawson in granting the two permits?

17 MS. MORALES: Objection, asked and answered.

18 THE WITNESS: Again, sir, I referred him to  
19 the city attorney, and I relied on her.

20 Q. (MR. NACOL) And she gave you no rational basis for  
21 the difference in their treatment, did she?

22 MS. MORALES: Objection, legal conclusion.

23 THE WITNESS: No.

24 MR. NACOL: Okay. Thank you.

25 (Deposition concluded at 2:04 p.m.)

## CHANGES AND SIGNATURE

PAGE	LINE	CHANGE	REASON
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I, JOHN D. ROUNSAVALL, have read the foregoing deposition a  
hereby affix my signature that same is true and correct,  
except as noted above.



JOHN D. ROUNSAVALL

1 THE STATE OF TEXAS )

2 Before me Cozette K. Moore, on this day personally  
3 appeared JOHN D. ROUNSAVALL, known to me (or proved to me on  
4 the oath of \_\_\_\_\_ or through \_\_\_\_\_  
5 (description of identity card or other document) to be the  
6 person whose name is subscribed to the foregoing instrument  
7 and acknowledged to me that he executed the same for the  
8 purposes and consideration therein expressed.

9 Given under my hand and seal of office this 22nd  
10 day of October, A.D., 2001.

11  
12 Cozette K. Moore  
13 Notary Public in and for the State of Texas







1 by the deponent during the 30-day period allowed are  
2 appended hereto.

3 I further certify that I am neither attorney nor counsel  
4 for, nor related to or employed by any of the parties to the  
5 action in which this deposition is taken, and further that I  
6 am not a relative or employee of any attorney or counsel  
7 employed by the parties hereto or financially interested in  
8 the action.

9 IN WITNESS WHEREOF I have hereunto set my hand on this  
10 the 17<sup>th</sup> day of October, A.D. 2001.

11  
12  
13 *Susan M. Owen*  
14 SUSAN M. OWEN, Certified Short-  
15 hand Reporter in and for the  
16 State of Texas.  
17 Certificate No. 2013  
18 Certificate expires 12/31/02  
19 3767 Forest Lane  
20 Suite 124, #1110  
21 Dallas, Texas 75244-7100  
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