

## **Transcript of Hearing**

Date: April 13, 2023 Case: D. Munson Objection to ADU License # 149586 (ADO 23-04)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

## 1 (1 to 4)

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1	OFFICE OF ZONING AND ADMINIS	TRATIVE HEARINGS	1	A P P E A R A N C E S		
2	MONTGOMERY COUNTY,	MARYLAND	2			
3			3	ON BEHALF OF THE MONTGOMERY COUNTY	OFFICE OF	
4		x	4	ZONING AND ADMINISTRATIVE HEARINGS	5:	
5	In Re:	: Case No.	5	NANA YAA JOHNSON		
6	D. Munson Objection to ADU	: ADO 23-04	6	MONTGOMERY COUNTY OFFICE OF Z	CONING AND	
7	License #149586	:	7	ADMINISTRATIVE HEARINGS (1100	167)	
8		x	8	100 Maryland Avenue		
9			9	County Office Building		
10			10	Room 200		
11			11	Rockville, Maryland 20850		
12	HEARING		12	240.777.6660		
13	Before the Hearing Examiner	- Andrea LeWinter	13	(Present via videoconference)		
14	Conducted Virtu		14			
15	Thursday, April 13			ALSO PRESENT:		
16	9:30 a.m. ES		16	Yilma Betru - Applicant		
17	5.50 a.ill. E3		17	Ann Munson - Objector		
			18			
18				David A. Munson - Objector Austin McNamara - Housing and Comm	unity Affairs	
19			19	Austin McNamara - Housing and Comm (DHCA)	unity Andlr's	
20			20			
21			21	Juan Amenabar		
22			22	Clifton Bouma		
	Job No.: 485978		23			
	Pages: 1 - 18		24			
25	Recorded By: Socrates Matthews,	AAERT CER	25			
		2				4
		2				4
1	HEARING, held virtually.	2	1	CONTENTS		4
1 2	HEARING, held virtually.	2	1 2	C O N T E N T S	PAGE	4
	HEARING, held virtually.	2			PAGE 9	4
2	HEARING, held virtually.	2	2	TESTIMONY		4
2 3	HEARING, held virtually.	2	2 3	TESTIMONY By Mr. McNamara	9	4
2 3 4	HEARING, held virtually.	2	2 3 4	TESTIMONY By Mr. McNamara	9	4
2 3 4 5	HEARING, held virtually.	2	2 3 4 5	TESTIMONY By Mr. McNamara	9	4
2 3 4 5 6	HEARING, held virtually.	2	2 3 4 5 6	TESTIMONY By Mr. McNamara By Mr. Betru	9 11	*
2 3 4 5 6 7	HEARING, held virtually.	2	2 3 4 5 6 7	TESTIMONY By Mr. McNamara By Mr. Betru DECISION	9 11 PAGE	4
2 3 4 5 6 7 8	HEARING, held virtually.	2	2 3 4 5 6 7 8	TESTIMONY By Mr. McNamara By Mr. Betru DECISION	9 11 PAGE	4
2 4 5 7 8 9	HEARING, held virtually.	2	2 3 4 5 6 7 8 9	TESTIMONY By Mr. McNamara By Mr. Betru DECISION	9 11 PAGE	4
2 3 4 5 6 7 8 9 10	HEARING, held virtually.	2	2 3 4 5 6 7 8 9 10	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner	9 11 PAGE	4
2 3 4 5 6 7 8 9 10	HEARING, held virtually.		2 3 4 5 6 7 8 9 10 11	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	4
2 3 4 5 6 7 8 9 10 11 12	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	
2 3 4 5 6 7 8 9 10 11 12 13	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	
2 3 4 5 6 7 8 9 10 11 12 13 14	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Pursuant to agreement, before		2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	TESTIMONY By Mr. McNamara By Mr. Betru DECISION By the Hearing Examiner E X H I B I T S	9 11 PAGE	-

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1 PROCEEDINGS	1 proceedings are informal with certain formalities.
2 (Whereupon, the court reporter was duly	2 This is a remote hearing as we're all aware on the
3 sworn.)	3 Microsoft Teams platform. So some things to keep in
4 MS. LEWINTER: Ass everybody I think	4 mind with respect to being a virtual hearing.
5 is aware, simultaneous recording and that's going to	<ul><li>5 Please do not interrupt while someone else is</li></ul>
6 be our our official source but as a backup, we	<ul> <li>6 speaking unless you have an objection a formal</li> </ul>
7 use the Team's recording feature since it is	7 objection. This is because the court reporter has
8 available to us. This is a public hearing in the	8 difficulty understanding what people are saying when
9 matter of OZAH, case number ADO 2304, an objection	9 there is crosstalk. Please use the raise hand
10 filed by David and Ann Munson pursuant to Montgomery	10 feature whenever possible. As I stated initially,
11 County Regulation Section 29-26 B2. Objecting to	11 this session is being recorded, and so as I also had
12 the approval of the accessory dwelling unit at 3108	12 stated previously, just to reiterate, it is the
13 Memory Lane, which was applied to by or applied	13 recording is a backup, the primary is the court
14 for by Mr. Yilma Betru. And Mr. Betru, I apologize	14 reporter.
15 if I am not saying your name correctly.	15 What you say will be under oath and
16 MR. BETRU: No problem, you said it all	16 again recorded, you will maybe asked questions
17 right.	17 about your testimony and the proceedings will move
18 MS. LEWINTER: I said it all right?	18 forward in the following order. Any preliminary
19 MR. BETRU: Yeah.	19 motions or issues, and I do I am aware of at
20 MS. LEWINTER: All right. Feel free to	20 least one. Opening statements, again if we get to
21 correct me at any time.	21 that point by each side, but that is optional, it's
22 MR. BETRU: Okay.	22 only if you desire. The objector's case in chief,
23 MS. LEWINTER: My name is Andrea LeWinter,	23 in this case Mr. And Mrs. Munson, with the
24 and I am serving as the hearing examiner today. It	24 opportunity for cross-examination by Mr. Betru. Mr.
25 is my role to listen, take evidence, and write a	25 Betru's case in chief with the opportunity for
6	8
1 decision regarding this case. I see on the Team's	1 cross-examination by the Munson's. A presentation
2 meeting, Mr. and Mrs. Munson, Mr. Betru, and I see no	2 by Mr. McNamara, a presentation or testimony by any
3 other individuals from the community, and we do have	3 other interested parties, in this case that would be
4 Mr. Austin McNamara from DHCA present. I do see now	4 Mr. Amenabar. I apologize if again, if I said
5 a phone number, I don't know, would the person whose	5 that incorrectly, and then he could be
6 phone number ends with 15 just identify themselves?	6 cross-examined. Any rebuttal and then closing
7 MR. AMENABAR: That's Juan Amenabar from	7 statements, which again are optional.
8 3060 Memory Lane.	8 A decision will be based on the
9 MS. LEWINTER: I'm sorry, can you say	9 criteria set forth in the zoning ordinance and the
10 your name more slowly sir, I couldn't hear it?	10 final director's report of findings on the accessory
11 MR. AMENABAR: Yeah, so I'm on the phone.	11 dwelling unit license application. Please address
12 First name is Juan, J-U-A-N, last name is Amenabar,	12 all testimony only to this criteria. So I am aware
13 A-M-E-N-A-B-A-R.	13 of a motion to postpone the hearing that was
14 MS. LEWINTER: Okay. And you had	14 submitted by the Munson's attorney, Ms. Michelle
15 submitted a letter; is that correct?	15 Rosenfeld yesterday evening. Are there any other
16 MR. AMENABAR: Correct.	16 preliminary matters that someone would like to bring
17 MS. LEWINTER: Thank you. Okay. Mr.	17 to my attention?
18 Amenabar, did you have an interest I don't know	18 MR. MUNSON: None from the Munson's.
19 that we'll get to it today, but do you have an	19 MS. LEWINTER: Okay. Mr. Betru?
20 interest in testifying?	20 MR. BETRU: None.
21 MR. AMENABAR: Well, I submitted the	21 MS. LEWINTER: Okay. All right. Hearing
22 letter as testimony, I do have some remarks to the	22 none other, so Mr. And Mrs. Munson, I appreciate
23 response to that letter.	23 that Ms. Rosenfeld could not be with us today. I
24 MS. LEWINTER: Okay. So I'll take that	24 will say typically an 11th hour request from an
25 as a yes if we get to that today. All right. These	25 attorney who was just hired the day before by the

9	1	1
1 moving party is not the best circumstances, but that	1 file.	1
2 is actually really not the basis for Ms. Rosenfeld's	2 MS. LEWINTER: So given this what the	
3 request for a postponement. It is my understanding	3 Munson's are arguing at this point is that the	
4 that she is requesting the postponement primarily on	4 hearing should be postponed because it's premature.	
5 the grounds that the actual application is still	5 I think another option would be for them to withdraw	
6 outstanding, and so that this objection is in fact	6 the objection at this point and then refile if and	
7 premature, and also that she has some issues with	7 when the ADU is actually approved. Mr. Betru, do	
8 whether signage and notification has been done	8 you have any objection to postponing this hearing	
9 appropriately. Is that your understanding Mr. and	9 indefinitely until the ADU is actually finalized?	
10 Mrs. Munson?	10 MR. BETRU: Yes, I do. The attorney said	
11 MR. MUNSON: Yes.	11 that the signage is not present, and the Department	
12 MS. LEWINTER: Okay. Given that, I'm	12 of Housing requires immense time to post the sign.	
13 hoping that we can turn to Mr. McNamara. Can you	13 And I followed that procedure and after the month, I	
14 fill us in, I don't know if you've had a chance to	14 returned the signage. So I'm not involved because	
15 review Ms. Rosenfeld's submission?	15 the sign is no more present on my yard. Also, the	
16 MR. MCNAMARA: What in particular would	16 request that is submitted is at the last moment, and	
17 would you like to know?	17 I think this is should not be acceptable. The	
18 MS. LEWINTER: Well so, Ms. Rosenfeld	18 deadline was mentioned by Nana, should be 10th April	
19 basically says that the application even though	19 to submit anything.	
20 we have a final decision, the application is really	20 MS. LEWINTER: I'm sorry, I did not	
21 not there's been no final ruling on it.	21 understand the last comment you made?	
22 MR. MCNAMARA: That's correct. So	22 MR. BETRU: On the correspondences, Nana	
23 basically DHCA's standard operating procedure would	23 informed, I think everybody that any document should	
24 I have performed a preliminary inspection, I saw	24 be submitted should be the deadline should be	
25 that listed in the documents for this case. With	25 10th April, and this postpone request came just	
10	12	2
1 that we live in any interest in the annumber second in	1	
1 that preliminary inspection, the property owner is	1 yesterday.	
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4 (13 to 16)

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<ul> <li>2 has not been a final determination as to the ADU to</li> <li>3 date. And it may ultimately make sense for the</li> <li>4 Munson's to withdraw their objection and resubmit if</li> <li>2 MR. AMENABAR: Yeah, I I just</li> <li>3 just for the record, I'd just like to make a comment</li> <li>4 that the person in question responded to one of my</li> </ul>	
3 date. And it may ultimately make sense for the3 just for the record, I'd just like to make a comment4 Munson's to withdraw their objection and resubmit if4 that the person in question responded to one of my	
4 Munson's to withdraw their objection and resubmit if 4 that the person in question responded to one of my	
5 and when the ADU is actually finalized. Mr. 5 letters suggesting, you know, in no stronger terms,	
6 McNamara, have you seen an objection when everything 6 racism. I'd like to point out that I have never met	
7 is still pending, proceed? 7 this person, I don't know who what they look like	
8 MR. MCNAMARA: I I agree with your 8 or where they come from, so and I am myself an	
9 your thinking that this process is still underway, 9 immigrant, so that's kind of a ridiculous statement.	
10 the construction is still ongoing. As mentioned, 10 MS. LEWINTER: Mr	
11 the permitting services requirements have not been 11 MR. AMENABAR: Thanks.	
12 met, those permits have not been inspected or 12 MS. LEWINTER: Okay. All right. Again,	
13 finalized either. So this is still going through a13 let's let's try and keep it to the specifics of	
14 number of county offices and yet it there's 14 this particular hearing and let's try and keep it	
15 there's no way to know if the accessory dwelling 15 civil.	
16 unit will even exist because those processes are16MR. BETRU: Yeah. Can I	
17 still going on.17MS. LEWINTER: No, I'm going to stop that	
18MS. LEWINTER: Okay. Thank you. All18 there, you know, there are clearly there are	
19 right. Given that, at a minimum this will be a   19 tensions within	
20 postponement, I just want to confer I'm a little20MR. BETRU: I didn't use the word racism,	
21 because there is a time frame once an objection is 21 that is completely out of my response.	
22 filed within which a hearing is supposed to be held, 22 MS. LEWINTER: All right. Mr. Betru,	
23 it it may be procedurally necessary for the 23 thank you. I'm going to conclude the hearing for	
24 Munson's to withdraw and then resubmit. I think the 24 today and we can follow up with the parties in terms	
25 parties can communicate regarding that after we   25 of rescheduling if necessary. Thank you.	16
14 1 conclude this hearing. But for now, we will not 1 MR. AMENABAR: Thank you.	16
2 proceed today with the hearing on the merits. I'm 2 MR. BETRU: Thank you.	
3 going to find that the objection was prematurely 3 THE REPORTER: While while we're still	
4 made and either the hearing will be reset for a 4 on the record, would anyone like to order a copy of	
5 later date or the Munson's can resubmit an objection 5 the transcript?	
6 at a later date. If there are any other issues or 6 MR. MUNSON: Yes, please.	
7 matters that we need to discuss, otherwise, I think 7 THE REPORTER: I'm going to need some	
8 we can conclude for today. 8 information in a moment here then, one second.	
9 MR. MUNSON: I would just like to add, we 9 MR. MUNSON: Sure.	
10 had a survey a land survey done of our property. 10 THE REPORTER: And then Ms. LeWinter,	
11 I know that this, I might potentially be outside the 11 would you like a copy?	
12 scope of this morning's hearing, but the resident at 12 MS. LEWINTER: I believe that OZAH always	
13 3108 took the demolished concrete wall and that has 13 orders one, so that's kind of outside of my	
14 been spread onto my property line and I would like 14 THE REPORTER: Okay.	
15 to have the concrete removed. 15 MS. LEWINTER: scope to do that. I	
16 MS. LEWINTER: Mr. Munson, I am going to 16 think	
17 stop you because that is outside the purview of this 17 THE REPORTER: Ms. Johnson, would you	
18 particular issue. If you want to take that up with18 happen to know?	
19 Mr. Betru directly, the two of you can discuss that.19MS. LEWINTER: Yeah, Nana would probably	
20MR. MUNSON: Okay.20 follow up with you. Nana, can you hear us?	
21       MS. LEWINTER: Okay? All right. If         21       THE REPORTER: That's okay, I could have	
22 there are no further matters, then I will conclude 22 someone follow up at a later time.	
23 for today. And 23 MS. LEWINTER: Okay.	
24 MR. AMENABAR: Can I make one can I 24 (Off the record at 9:47 a.m.)	
25 make one comment, this is Juan Amenabar? 25	

17 CERTIFICATE OF COURT REPORTER 1 2 I, Socrates Matthews, AAERT CER, the officer 3 before whom the foregoing proceedings were taken, 4 do hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 10 11 12 Socrates matthew 13 14 15 Socrates Matthews, AAERT CER, Court Reporter 16 April 24th, 2023 17 18 19 20 21 22 23 24 25 18 CERTIFICATION OF TRANSCRIPT 1 I, Krystin Spolar, do hereby certify that 2 3 the foregoing transcript, to the best of my ability, 4 knowledge, and belief, is a true and correct 5 record of the proceedings; that said proceedings 6 were reduced to typewriting under my supervision; 7 and that I am neither counsel for, related to, nor 8 employed by any of the parties to this case and 9 have no interest, financial or otherwise, in its 10 outcome. 11 rystin Spolar 12 13 14 Krystin Spolar 15 Planet Depos, LLC 16 April 24, 2023 17 18 19 20 21 22 23 24 25

a.m.e-n-a-b-a-r         5:16, 5:18, 5:20, 6:25, 7:2, 8:12, 12:2           aaert         8:12, 8:21, 13:1           1:25, 2:14, 10:16, 13:18, 17:2, 17:15         14:21, 15:12, 19:19           ability         13:1           about         15:22           acceptable         3:15, 7:11, 9:7, 11:15           11:17         always         12:22           accessory         16:12         approve           11:17         amenabar         11:17, 12:6, 12:19           accessory         16:12         april           10:3, 10:7, 10:7, 10:3, 10:7, 10:3, 10:7, 10:4, 11:6, 11:6:12, 11:6:12, 11:6:12, 11:6:12, 11:6:12, 11:6:12, 11:6:12, 11:6:12, 11:6:12, 11:6:13, 11:25, 11:16:13, 11:25, 11:16:13, 11:25, 11:16:13, 11:23, 14:24, 14:25, 13:14, 11:3, 15:22, 15:11, 11:3         ass           add         andrea         5:4         3:17, 5:10         attention           address         3:17, 5:10         austin         3:19, 6:4           attention         3:19, 6:4         available         5:8           add         11:2, 13, 11:23, 13:1, 11:23, 13:25         any         3:19, 6:4           addinistrative         any         3:19, 6:4         available           attention         3:19, 6:4         available         5:5, 7:2, 7; 7           any         3:19, 6:4	because	a	all	А
5:20, 6:25, 7:2,       appropriate         aaert       8:12, 8:21,       13:1         1:25, 2:14,       10:16, 13:18,       appropriate         1:27, 17:15       14:21, 15:12,       13:1         ability       15:22       approval         ability       15:22       approval         acceptable       3:15, 7:11,       approved         11:17       also       12:22         acceptable       3:15, 7:11,       approved         11:17       always       12:21         accessory       16:12       11:7, 12:6,         actual       6:12, 8:4,       11:5, 11:18,         10:24, 13:15       6:21, 8:4,       11:3         actually       6:21, 8:4,       11:3         9:2, 11:7,       15:2, 15:11,       7:16         11:9, 12:21,       16:1       ass         address       ann       3:17, 5:10         adtistrative       11:5       attorney         11:9, 12:5,       16:1       asse         12:11, 12:13,       11:5       3:19, 6:4         avenue       3:17, 5:10       austin         3:10, 6:4       avenue       3:8         11:25, 13:1,       11:23,	7:7, 11:4,	8	5:16, 5:18,	
8:12, 8:21,       13:1         1:25, 2:14,       10:16, 13:18,         1:25, 2:14,       10:16, 13:18,         1:2, 17:15       15:22         abut       12:19         about       12:19         about       12:19         accesptable       3:15, 7:11,         11:17       already         12:19       approval         accessory       always         11:17       accessory         11:17       arenabar         11:17       1:6:12         accually       16:12         actual       6:11, 6:12,         actually       11:25, 17:10         actually       14:24, 14:25,         9:2, 11:7,       15:21, 7:18,         12:11, 12:13,       andrea         12:11, 12:13,       andrea         11:6, 5:9       3:17, 5:10         add       11:5         11:6, 11:7,       anyone         1:6, 11:7,       11:19         1:6, 11:7,       11:19         1:6, 11:7,       11:19         3:19       5:14, 8:4         3:19       5:14, 8:4         3:19       5:14, 8:4         3:19	11:14, 12:25,			
absolut       10:16, 13:18, 14:21, 15:12, 15:22       appropriate         17:2, 17:15       14:21, 15:12, 15:22       approval         ability       12:19       approve         about       12:19       approve         about       12:19       approve         acceptable       9:7, 71:11:15       11:7, 712:6, 22:22         acceptable       9:7, 711:15       11:7, 712:6, 22:23         acceptable       9:7, 11:15       11:7, 712:6, 22:12         10:24, 13:15       6:12, 8:4, 6:16, 6:18, 6:16, 6:18, 6:21, 8:4, 11:9, 12:21, 16:1       11:3         actually       6:21, 8:4, 11:3, 5:23       asked         9:2, 11:7, 11:9, 12:21, 16:1       15:21, 7:18, 8:11       asked         12:11, 12:13, 13:5       andrea       5:4         add       11:5       11:10       ass         add       11:5       11:10       asttorney         8:11       11:5       3:19, 6:4       available         11:9, 12:5, 13:1, 13:2, 13:5       anything       3:8       available         11:19       apologize       3:1       3:1         3:19       5:14, 8:4       5:6, 7:13       3:16         again       3:16       3:16       3:8       ased <tr< td=""><td>13:16, 13:21,</td><td></td><td></td><td></td></tr<>	13:16, 13:21,			
1.2.2, 17:2, 17:15       14:21, 15:12, 15:12, 12:19         ability       15:22         about       12:19         acceptable       3:15, 7:11, 9:7, 12:20         11:17       also         acceptable       3:15, 7:11, 9:7, 12:20         11:17       always         12:19       approve         11:17       always         12:21       approved         11:17       always         12:21       approved         11:17       always         10:24, 13:15       3:21, 6:7, 11:15         actual       6:11, 6:12, 18:16         actual       6:21, 8:4, 11:25, 17:10         actually       14:24, 14:25, 13:10, 11:3, 5:23         add       11:13, 5:23         add       11:15, 11:18, 11:3         12:19, 12:21, 13:5       andrea         3:11       andrea         14:6, 17:7, 18:8       austin         3:19, 6:4       available         5:8       avenue         3:19, 6:4       available         1:13, 13:25       applicant         3:19       5:14, 8:4         application       3:16         alin       application         <				
11:12       15:22       approval         already       12:19       approvel         12:19       12:22       approved         11:17       12:19       approved         11:17       12:19       approved         11:17       12:19       approved         11:17       12:19       approved         11:17       11:7, 12:6,       approved         11:17       11:7, 12:6,       april         11:17       11:15, 11:18,       11:25, 17:10         accusally       6:21, 8:4,       11:3         0:2, 11:7,       15:2, 15:11,       7:16         13:5       6:16, 6:18,       arguing         6:21, 8:4,       11:3       ass         add       1:13, 5:23       attention         14:9, 12:11,       11:5,       11:10         andrea       11:5       11:10         add       11:5,       11:10         11:1, 3:4, 3:7       any       5:14         adu       11:7,       11:8, 11:23,         11:9, 12:5,       11:10       ass         add       11:7,       11:10         11:19, 12:5,       11:10       3:19, 6:4         11:19, 12:5,	been			
already       already       5:12, 12:19         about       12:19       approve         7:17       3:15, 7:11,       approved         11:17       3:15, 7:11,       approved         11:17       3:15, 7:11,       approved         11:17       3:15, 7:11,       approved         11:17       already       12:22         accestable       9:7, 11:15       11:7, 12:6,         10:24, 13:15       6:17, 6:7,       11:25, 17:14         actually       6:21, 8:4,       11:3         9:2, 11:7,       15:2, 15:11,       7:16         12:11, 12:13,       14:24, 14:25,       asked         12:11, 12:13,       11:3, 5:23       attention         add       1:13, 5:23       attention         12:11, 12:13,       ann       8:17         address       3:17, 5:10       attorney         8:11       11:5       11:10         add       1:13, 13:25       any         adu       14:6, 17:7, 18:8       available         1:6, 11:7,       11:9       3:8         1:6, 11:7,       11:9       3:8         1:13, 13:25       apologize       5:8         affairs       apolog	9:8, 9:21,			-
12:19       approve         about       12:19       approve         also       12:12       approve         11:17       3:15, 7:11,       approve         11:17       always       12:22         acceptable       9:7, 11:15       11:7, 12:6,         11:17       amenabar       11:17, 12:6,         10:3, 10:7,       amenabar       11:15, 11:18,         10:24, 13:15       3:21, 6:7,       11:25, 17:10         actual       6:16, 6:18,       arguing         9:5       6:21, 8:4,       11:3         actually       14:24, 14:25,       asked         9:2, 11:7,       15:2, 15:11,       7:16         13:5       andrea       5:4         12:11, 12:13,       ann       8:17         add       11:3, 5:23       attention         8:11       antrea       5:4         11:1, 3:4, 3:7       any       3:17, 5:10         add       11:5       11:10         addinistrative       11:8, 11:23,       3:19         1:6, 11:7,       11:8, 11:23,       3:18         1:19, 12:2, 13:5       anyone       3:8         after       apologize       5:11	12:21, 13:2,			-
about       also       also       also         7:17       also       3:15, 7:11,       approved         11:17       always       11:7, 12:6,         accessory       16:12       april         5:12, 8:10,       amenabar       1:15, 11:18,         10:24, 13:15       3:21, 6:7,       11:25, 17:14         actual       6:11, 6:12,       18:16         9:5       6:21, 8:4,       11:3         actually       14:24, 14:25,       asked         9:5       6:21, 8:4,       11:3         actually       14:24, 14:25,       asked         9:5       6:21, 8:4,       11:3         actually       14:24, 14:25,       asked         9:12, 11:7,       15:2, 15:11,       7:16         13:5       andrea       5:4         add       11:13, 5:23       attention         14:9       3:17, 5:10       astin         3:11       ancher       8:14, 8:25,         11:5       11:10       austin         3:14, 8:12, 12:3,       14:6, 17:7, 18:8       available         16:4       svenue       3:8         11:9, 12:5,       13:10       5:5, 7:2, 7         affairs<	13:11, 13:12,		-	
7117       3:15, 7:11,       3:17, 7:11,         acceptable       3:15, 7:11,       9:7, 11:15       11:7, 12:6,         11:17       accessory       always       12:21         5:12, 8:10,       amenabar       11:7, 12:6,         10:3, 10:7,       3:21, 6:7,       11:25, 17:10         10:24, 13:15       6:11, 6:12,       18:16         actual       6:21, 8:4,       11:3         3:5       6:16, 6:18,       arguing         6:21, 8:4,       11:3       asked         11:9, 12:21,       15:2, 15:11,       7:16         13:5       andrea       5:4         add       1:13, 5:23       attention         14:9       3:17, 5:10       attorney         address       another       3:17         adu       11:5       11:10         1:1, 3:4, 3:7       5:21, 7:18,       3:19, 6:4         adu       11:8, 11:23,       3:19, 6:4         1:19, 12:5,       16:4       available         1:1:9       3:12       5:5, 7:2, 7         11:19       3:12       3:18         adu       11:19       3:18         1:2:15, 13:1,       applicable       5:11         <	14:14			
accespond       9:7, 11:15       11:7, 12:6,         always       16:12       april         accessory       16:12       april         10:3, 10:7,       3:21, 6:7,       11:5, 11:18,         10:24, 13:15       6:16, 6:18,       arguing         actually       6:21, 8:4,       11:3         9:5       6:16, 6:18,       arguing         actually       14:24, 14:25,       asked         9:2, 11:7,       15:2, 15:11,       7:16         11:9, 12:21,       16:1       ass         12:11, 12:13,       andrea       5:4         add       1:13, 5:23       attention         3:11       11:5, 11:19       astorney         add       1:13, 5:23       andrea         3:11       11:5       11:10         adde       3:17, 5:10       attention         add       11:8, 11:23,       11:10         add       11:8, 11:23,       3:19         adu       11:8, 11:23,       3:19         after       apologize       5:5, 7:2, 7         aftar       applicable       5:11         again       3:16       3:16         after       application       8:8     <	before			
accessory       always       12:21         accessory       16:12       april         accual       16:12       april         10:24, 13:15       3:21, 6:7,       11:25, 17:10         actual       6:16, 6:18,       arguing         0:24, 13:15       6:21, 8:4,       11:3         actual       6:16, 6:18,       arguing         0:2, 11:7,       15:2, 15:11,       7:16         13:5       andrea       5:4         acd       1:13, 5:23       attention         add       1:15, 11:10       ass         add       1:15       11:10         ann       3:17, 5:10       attention         add       1:15       11:10         add       1:2:1, 7:18,       3:19, 6:4         ats:1, 3:4, 3:7       5:21, 7:18,       3:19, 6:4         adu       1:8, 11:23,       13:19, 6:4         1:9, 12:5,       16:4       available         1:19, 12:5,       16:4       available         1:19, 12:5,       16:4       available         1:19, 12:1, 13:1,       11:19       3:12         after       applicatle       5:5, 7:2, 7         after       application       3	1:13, 2:13,			-
16:12       april         5:12, 8:10,       amenabar         10:3, 10:7,       3:21, 6:7,         10:24, 13:15       3:21, 6:7,         actual       6:11, 6:12,         9:5       6:16, 6:18,         actually       14:24, 14:25,         9:2, 11:7,       15:2, 15:11,         11:9, 12:21,       15:2, 15:11,         13:5       andrea         14:9       3:17, 5:10         address       another         3:11       11:5         addiess       another         3:11       11:5         addiess       another         3:11       11:5         addiess       3:17, 5:10         addiess       3:17, 5:10         addiess       3:17, 5:10         andiess       3:17, 5:10         attorney       8:14, 8:25,         11:5       11:10         austin       3:19, 6:4         12:1, 3:4, 3:7       any         3:2, 13:5       11:8, 11:23,         13:2, 13:5       11:19         after       apologize         13:19       5:6, 7:13         3:16       applicant         3:16				L1:17
b) 12, 8:10,       amenabar       1:15, 11:18,         10:24, 13:15       3:21, 6:7,       1:15, 11:18,         10:24, 13:15       6:11, 6:12,       18:16         actual       6:21, 8:4,       11:3         actually       6:21, 8:4,       11:3         actually       6:21, 8:4,       11:3         actually       14:24, 14:25,       asked         actually       15:2, 15:11,       7:16         add       16:1       ass         add       11:13, 5:23       attention         addreas       3:17, 5:10       attention         address       3:17, 5:10       attorney         add       1:1:5       11:10         austin       3:19, 6:4       available         1:1:1, 3:4, 3:7       any       5:8         adu       11:12, 12:13,       11:10         austin       3:19, 6:4       available         1:1:6, 11:7,       11:19       3:18         adu       11:19       3:18         12:15, 13:1,       anything       3:12         3:19       5:14, 8:4       5:5, 7:2, 7         3:19       5:14, 8:4       5:6, 7:13         again       applicant       <	8:25, 10:2, 17:3		-	accessory
10:13, 10:7,       3:21, 6:7,       11:25, 17:14         10:24, 13:15       3:21, 6:7,       11:25, 17:14         actual       6:11, 6:12,       18:16         9:5       6:21, 8:4,       11:3         actually       14:24, 14:25,       13:3         9:2, 11:7,       15:2, 15:11,       7:16         13:5       andrea       11:3         add       11:13, 5:23       asked         12:11, 12:13,       1:13, 5:23       asked         12:11, 12:13,       1:13, 5:23       attention         add       1:13, 5:23       ass         address       3:17, 5:10       antera         3:11       1:15       11:10         address       3:17, 5:10       austin         address       3:17, 5:10       austin         add       1:1:3, 1:25, 11:10       austin         1:6, 5:9       11:8, 11:23, 13:19, 6:4       available         1:6, 11:7, 11:19       anything       3:18         1:1:19, 12:2, 13:5       anything       3:12         3:19       5:14, 8:4       b2         3:19       5:14, 8:4       b2         3:19       3:16       application         3:4, 8:7, 15:12 <td>behalf</td> <td></td> <td></td> <td>5:12, 8:10,</td>	behalf			5:12, 8:10,
10:24, 13:15       3:21, 6:7,       11:25, 17:16         actual       6:11, 6:12,       18:16         actually       6:21, 8:4,       11:3         actually       14:24, 14:25,       15:2, 15:11,         actually       14:24, 14:25,       asked         actually       14:24, 14:25,       asked         actually       14:24, 14:25,       asked         actually       14:24, 14:25,       asked         actually       15:2, 15:11,       7:16         actually       15:2, 15:11,       7:16         actually       11:3, 5:23       attention         add       1:13, 5:23       attention         actually       ann       s:17       attorney         address       anther       11:10       austin         actually       any       s:14, 8:25,       11:10         add       11:8, 11:23,       11:10       austin         actually       11:13, 13:25       any       5:5, 7:2, 7         actually				10:3, 10:7,
actual       6:11, 6:12, 18:4       18:16         9:5       6:16, 6:18, 6:12, 15:10, 11:3       arguing         actually       9:2, 11:7, 12:21, 15:2, 15:11, 16:1       asked         11:9, 12:21, 15:2, 15:11, 16:1       16:1       asked         12:11, 12:13, 16:1       andrea       5:4         add       1:13, 5:23       attention         12:11, 12:13, 14:9       1:13, 5:23       attention         addreas       3:17, 5:10       attention         addiress       3:17, 5:10       attorney         add       1:1:5       11:10         add       11:5       11:10         adu       11:4, 6, 17:7, 18:8       3:19, 6:4         1:6, 11:7, 13:1, 13:25       anyone       3:8         1:1:9, 12:5, 13:1, 13:25       anything       3:8         1:1:13, 13:25       applicable       5:5, 7:2, 7         after       5:14, 8:4       5:6, 7:13         13:16       application       8:8         13:8       3:19, 9:20,       3:10, 9:23 <td></td> <td></td> <td></td> <td></td>				
9:5       6:21, 8:4, 11:3         actually       14:24, 14:25, 15:11, 16:1         9:2, 11:7, 15:2, 15:11, 16:1       asked         11:9, 12:21, 16:1       15:2, 15:11, 16:1         13:5       andrea         add       1:13, 5:23         address       ann         3:11       11:5         addinistrative       11:5         add       11:5         add       11:5         add       1:10         add       11:5         addinistrative       11:5         adu       11:5         1:6, 11:7,       11:8, 11:23,         1:9, 12:5,       11:8, 11:23,         1:9, 12:5,       16:4         anyone       3:8         adtion       11:19         affairs       apologize         3:10       5:14, 8:4         agree       3:16         agree       aplication         8:11, 9:5, 9:19, 9:20,       5:10	7:4, 7:11,	1		
actually       6:21, 8:4, 14:25, 14:24, 14:25, 15:2, 15:11, 14:24, 14:25, 15:2, 15:11, 15:2, 15:2, 15:11, 16:1       asked         13:5       add       16:1       asked         12:11, 12:13, 16:1       andrea       5:4       attention         14:9       asked       5:4       attention         address       anothea       5:4       attention         8:11       another       8:17       attorney         addinistrative       11:5       11:10       austin         1:1, 3:4, 3:7       ado       5:21, 7:18, 8:15, 11:10       austin         adu       11:5       11:10       austin         1:6, 5:9       11:8, 11:23, 13:1, 13:25       3:19       3:19         after       anyone       3:8       aware         11:13, 13:25       applicable       5:5, 7:2, 7         again       application       8:8         13:8       9:11, 9:5, 9       5:6, 7:13         based       8:11, 9:5, 9       9:19, 9:20, 0       9:19, 9:20	10:21	a		9.5
9:2, 11:7,       14:24, 14:25,       asked         11:9, 12:21,       15:2, 15:11,       7:16         13:5       andrea       5:4         add       1:13, 5:23       attention         12:11, 12:13,       andrea       5:4         add       1:13, 5:23       attention         address       ann       8:17         address       another       8:17         addinistrative       11:5       11:10         ado       5:21, 7:18,       3:19, 6:4         atc, 11:7, 11:9, 12:5,       11:8, 11:23, 13:1,       3:19, 6:4         11:6, 11:7,       anyone       3:8         12:15, 13:1,       14:6, 17:7, 18:8       avenue         aftairs       anyone       3:8         3:19       16:4       aware         aftairs       apologize       5:5, 7:2, 7         after       10:9       apologize         11:13, 13:25       applicable       5:11         again       7:16, 7:20,       3:16       based         3:14       8:11, 9:5,       9:19, 9:20,       8:8	belief	1		
11:9, 12:21,       15:2, 15:11,       7:16         13:5       add       16:1       ass         add       1:13, 5:23       attention         12:11, 12:13,       1:13, 5:23       attention         address       ann       3:17, 5:10       attention         address       another       8:17       attorney         addinistrative       11:5       11:10       austin         1:1, 3:4, 3:7       any       3:19, 6:4       available         1:6, 11:7,       1:8, 11:23,       14:6, 17:7, 18:8       available         1:6, 11:7,       11:19       3:19, 6:4       available         1:2:15, 13:1,       13:2, 13:5       14:6, 17:7, 18:8       avenue         affairs       apologize       5:5, 7:2, 7       8:12         3:19       after       10:9       apologize       5:11         again       7:16, 7:20,       3:16       applicant       5:6, 7:13         8:4, 8:7, 15:12       application       8:8       8:8         13:8       9:19, 9:20,       0:23       0:32	18:4	a		
13:5       16:1       andrea       5:4         add       1:13, 5:23       attention         12:11, 12:13,       1:13, 5:23       attention         address       3:17, 5:10       attorney         address       3:17, 5:10       attorney         administrative       11:5       11:10         addo       11:5       11:10         addo       5:21, 7:18,       3:19, 6:4         atc, 11:7,       11:8, 11:23,       3:19, 6:4         after       16:4       anyone         11:13, 13:25       anything       5:5, 7:2, 7         again       5:14, 8:4       b2         7:16, 7:20,       3:16       applicant         3:16       3:11, 9:5, 9       3:10         agree       8:11, 9:5, 9       9:19, 9:20,	believe	5	15:2, 15:11,	
addandrea5:412:11, 12:13,1:13, 5:23attention14:93:17, 5:10attentionaddress3:17, 5:10attorneyaddressanother8:14, 8:25,11:111:511:10ado11:511:10ado5:21, 7:18,3:19, 6:4adu11:8, 11:23,14:6, 17:7, 18:811:9, 12:5,16:4aware12:15, 13:1,16:4aware13:2, 13:511:193:12affairsapologize5:5, 7:2, 7again5:14, 8:45:6, 7:1311:13, 13:25applicant5:6, 7:13agree3:103:1613:89:19, 9:20,9:10, 9:22	16:12	a	16:1	
12:11, 12:13,       1:13, 5:23       attention         14:9       ann       3:17, 5:10       attorney         address       another       1:1:5       attorney         3:11       another       11:5       attorney         administrative       11:5       austin       3:19, 6:4         add       5:21, 7:18,       austin       3:19, 6:4         atention       8:2, 8:6, 8:15,       11:10       austin         adu       11:7, 11:23,       3:19, 6:4       available         11:9, 12:5,       11:8, 11:23,       5:8       avenue         11:9, 12:5,       13:1,       14:6, 17:7, 18:8       avenue         affairs       apologize       5:5, 7:2, 7       8:12         affter       10:9       apologize       5:11         again       5:14, 8:4       5:6, 7:13       5:6, 7:13         agree       3:16       applicant       3:16       8:8         13:8       9:19, 9:20,       9:10, 9:20       9:10, 9:20       9:10, 9:20	best	L.	andrea	
14:9       ann       3:17, 5:10       attorney         address       another       11:5       attorney         administrative       11:5       any       8:14, 8:25, 11:10         administrative       11:5       any       s:14, 8:25, 11:10         ado       11:5       any       s:19, 6:4         adu       11:8, 11:23, 13:25       11:8, 11:23, 13:25       s:8         11:9, 12:5, 13:1, 13:2, 13:5       11:19       3:8       avenue         after       5:14, 8:4       applicable       3:10         11:13, 13:25       application       8:11, 9:5, 9:10       8:11, 9:5, 9:10         agree       8:11, 9:5, 9:10, 9:20, 0       9:19, 9:20, 0       9:10, 9:22	9:1, 18:3	-	1:13, 5:23	
3:17, 5:10       attorney         address       another       11:5         administrative       11:5       any         1:1, 3:4, 3:7       any       11:10         ado       11:5       any         1:6, 5:9       5:21, 7:18,       3:19, 6:4         adu       11:8, 11:23,       available         1:6, 11:7,       11:8, 11:23,       5:8         adu       14:6, 17:7, 18:8       avenue         11:9, 12:5,       16:4       avenue         13:2, 13:5       11:19       apologize         3:19       5:14, 8:4       applicable         11:13, 13:25       applicant       5:6, 7:13         agree       3:16       application       8:8         13:8       9:19, 9:20,       9:19, 9:20,       9:19, 9:20,	betru		ann	
address       another       11:5       8:14, 8:25, 11:10         administrative       11:5       any       austin         11:1, 3:4, 3:7       any       austin       3:19, 6:4         ado       11:8, 11:23, 14:6, 17:7, 18:8       available       5:8         adu       11:8, 11:23, 14:6, 17:7, 18:8       available       5:8         adu       11:19, 12:5, 13:1, 13:25       anything       5:5, 7:2, 7         affairs       apologize       5:14, 8:4       aware         3:19       5:14, 8:4       b2       5:11         after       5:14, 8:4       b2       5:11         again       10:9       applicant       5:6, 7:13         3:4, 8:7, 15:12       3:16       application       8:8         13:8       8:11, 9:5, 9:19, 9:20,       9:19, 9:20,       9:19, 9:20,	3:16, 4:4,		3:17, 5:10	
3:11       11:5       any         administrative       11:5       any         11:1, 3:4, 3:7       any       11:10         ado       5:21, 7:18,       3:19, 6:4         ate       8:2, 8:6, 8:15,       3:19, 6:4         ater       14:6, 17:7, 18:8       anyone         12:15, 13:1,       16:4       aware         13:2, 13:5       11:19       3:8         after       11:19       5:5, 7:2, 7         11:13, 13:25       applicable       5:6, 7:13         again       10:9       application         7:16, 7:20,       3:16       application         8:11, 9:5,       9:19, 9:20,       0:10, 0:22	5:14, 5:16,			
administrative       any       austin         1:1, 3:4, 3:7       5:21, 7:18,         ado       5:21, 7:18,         1:6, 5:9       5:21, 7:18,         adu       1:8, 11:23,         1:6, 11:7,       11:8, 11:23,         1:6, 11:7,       14:6, 17:7, 18:8         1:9, 12:5,       16:4         12:15, 13:1,       16:4         13:2, 13:5       11:19         affairs       apologize         3:19       5:14, 8:4         after       10:9         again       3:16         7:16, 7:20,       3:16         8:4, 8:7, 15:12       3:16         agree       3:11, 9:5,         13:8       9:19, 9:20,	5:19, 5:22, 6:2,			
1:1, 3:4, 3:7       5:21, 7:18,       3:19, 6:4         ado       8:2, 8:6, 8:15,       11:8, 11:23,         1:6, 11:7,       11:8, 11:23,       14:6, 17:7, 18:8         1:9, 12:5,       14:6, 17:7, 18:8       available         12:15, 13:1,       16:4       3:8         13:2, 13:5       16:4       aware         3:19       11:19       3:12         after       11:19       3:12         11:13, 13:25       applicable       5:5, 7:2, 7         again       5:14, 8:4       3:12         7:16, 7:20,       3:16       application         3:4, 8:7, 15:12       3:16       application         3:11, 9:5,       9:19, 9:20,       0:10, 0:22	7:24, 8:19,			
add       8:2, 8:6, 8:15,         1:6, 5:9       11:8, 11:23,         adu       1:6, 11:7,         11:9, 12:5,       14:6, 17:7, 18:8         12:15, 13:1,       anyone         13:2, 13:5       11:19         affairs       apologize         3:19       5:14, 8:4         after       10:9         again       applicable         7:16, 7:20,       3:16         agree       3:1, 9:5,         13:8       9:11, 9:5,         9:19, 9:20,       9:19, 9:20,	8:20, 10:10,			1:1, 3:4, 3:7
11:0, 5:9       11:8, 11:23,       5:8         adu       14:6, 17:7, 18:8       avenue         11:9, 12:5,       16:4       aware         12:15, 13:1,       16:4       aware         13:2, 13:5       11:19       3:12         affairs       apologize       5:5, 7:2, 7         3:19       5:14, 8:4       8:12         after       5:14, 8:4       b2         11:13, 13:25       applicable       5:6, 7:13         again       3:16       backup         7:16, 7:20,       3:16       application         8:4, 8:7, 15:12       8:11, 9:5,       9:19, 9:20,         agree       9:19, 9:20,       0:10, 0:22				ado
14:6, 17:7, 18:8         1:6, 11:7,         11:9, 12:5,         12:15, 13:1,         13:2, 13:5         affairs         aspologize         5:14, 8:4         applicable         10:9         again         7:16, 7:20,         3:4, 8:7, 15:12         agree         13:8         9:19, 9:20,	10:13, 11:7,	-		1:6, 5:9
1:6, 11:7,       anyone       3:8         11:9, 12:5,       16:4       aware         12:15, 13:1,       anything       5:5, 7:2, 7         13:2, 13:5       11:19       s:12         affairs       apologize       5:5, 7:2, 7         3:19       5:14, 8:4       b2         after       10:9       applicable         11:13, 13:25       applicant       5:6, 7:13         again       3:16       based         8:4, 8:7, 15:12       application       8:8         13:8       9:19, 9:20,       0:10, 0:22	11:10, 11:22,			adu
11:9, 12:5,       anyone       3:8         12:15, 13:1,       16:4       aware         13:2, 13:5       11:19       8:12         affairs       apologize       5:5, 7:2, 7         affairs       apologize       5:5, 7:2, 7         affairs       apologize       5:14, 8:4         after       10:9       applicable         11:13, 13:25       applicant       5:6, 7:13         again       3:16       backup         7:16, 7:20,       3:16       based         8:4, 8:7, 15:12       application       8:8         13:8       9:19, 9:20,       0:10, 0:22	12:11, 12:13,	8 8		1:6, 11:7,
12:15, 13:1,       16:4       aware         13:2, 13:5       anything       5:5, 7:2, 7         affairs       apologize       5:5, 7:2, 7         3:19       apologize       5:14, 8:4         after       5:14, 8:4       b2         11:13, 13:25       applicable       5:6, 7:13         again       3:16       backup         7:16, 7:20,       3:16       based         8:4, 8:7, 15:12       3:16       based         9:13, 9:5,       9:19, 9:20,       0:10, 0:22	12:15, 12:22,		_	
13:2, 13:5       anytning       5:5, 7:2, 7         affairs       apologize       5:14, 8:4         after       5:14, 8:4       b2         11:13, 13:25       applicable       5:5, 7:12         again       10:9       b2         7:16, 7:20,       3:16       backup         8:4, 8:7, 15:12       3:16       based         agree       8:11, 9:5,       9:19, 9:20,       0:10, 0:22	14:19, 15:16,	a		
affairs       11:19       8:12         affairs       apologize       5         3:19       5:14, 8:4       b2         after       10:9       backup         11:13, 13:25       applicable       5:6, 7:13         again       3:16       based         8:4, 8:7, 15:12       application       8:8         13:8       9:19, 9:20,       0:10, 0:22	:19, 15:20, 15:22,	5		
aiter       apologize       B         after       5:14, 8:4       b2         11:13, 13:25       applicable       10:9         again       applicatle       5:6, 7:13         7:16, 7:20,       3:16       based         8:4, 8:7, 15:12       application       8:11, 9:5,         9:19, 9:20,       9:10, 9:22       0:10, 0:22	16:2		11:19	
5:14, 8:4       applicable       11:13, 13:25       again       7:16, 7:20,       8:4, 8:7, 15:12       agree       13:8       9:19, 9:20,	betru's	-	apologize	
11:13, 13:25       applicable       5:11         again       10:9       backup         7:16, 7:20,       applicant       5:6, 7:13         8:4, 8:7, 15:12       application       8:11, 9:5,         13:8       9:19, 9:20,       0:10, 0:22	7:25	1	5:14, 8:4	
again10:9backup7:16, 7:20,applicant5:6, 7:138:4, 8:7, 15:123:16basedagree8:11, 9:5,basically13:89:19, 9:20,0:10, 0:22	bouma		applicable	
again     applicant     backup       7:16, 7:20,     3:16     5:6, 7:13       3:4, 8:7, 15:12     3:16     based       agree     8:11, 9:5,     9:19, 9:20,	3:22		10:9	-
7:16, 7:20,       3:16         8:4, 8:7, 15:12       3:16         agree       8:11, 9:5,         13:8       9:19, 9:20,	bring			-
agree       application       8:8         13:8       9:19, 9:20,       9:10, 0:22	8:16			
8:11, 9:5,     9:19, 9:20,     8:8	build			
9:19, 9:20, Dasically	10:6	8		-
	building	ł		
10.1 10.25	3:9	Q		agreement
10.4, 10.25	built			2:13
applied 5:13, 12:15 9:2	10:21, 10:24			

CCCD $1222$ came15:21dropped10:13duly11:2514:1, 14:8, 14:5, 14:610:13duly12:714:12, 15:23david5:2caseconcrete3:18, 5:10dwelling1:5, 5:9, 6:1,14:13, 14:15day5:12, 8:11,7:22, 7:23,condrete3:18, 5:10dwelling7:27, 7:23,confer11:18, 11:24Ecer13:20decideeach1:5, 2:14,consistent10:87:217:2, 7:1510:11decideeachcertainconsistent10:87:217:113:109:20eithercertificatecorrectdepartment17:116:4, 16:1114:13electronicalcertificatecorrectdepos7:5518:15:21, 6:15,11:11elsecertify6:16, 9:22,depos7:5517:4, 18:212:20, 12:24,18:15ends9:14correctly7:22ends6:1516:213:20, 6:4,9:19, 13:1615:1516:213:20, 6:4,evencircumstances11:22cound10:239:146:10dhca's9:19, 13:1615:1516:213:20, 6:4,everybody's15:18counddirectlyeverybody'sclosing1:2, 3:3, 3:6,directlyeverybody's15:3count2:14, 5:2, 7:7,6:10 <t< th=""><th></th></t<>	
11:25       conclude       10:22, 13:3,       10:13         cannot       14:1, 14:8,       14:5, 14:6       5:2         case       concrete       3:18, 5:10       dwelling         1:5, 5:9, 6:1,       14:13, 14:15       day       5:2         7:22, 7:23,       conducted       8:25       10:3, 10:24, 8:11,         7:25, 8:3, 9:25,       1:14, 10:23       deadline       13:15         7:7, 18:8       confer       11:18, 11:24       E         cer       13:20       decide       each         7:27, 2:14,       consistent       10:8       7:21         7:1       construction       4:7, 6:1, 8:8,       12:10         7:1       13:10       9:20       either         certificate       copy       demolished       13:13, 14:4         17:1       16:16, 16:15,       11:11       else         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       emgloyed         chace       9:14       correctly       7:22       est         11:22       could       10:23       even         9:14       correctly       5:25       determine <td< th=""><th></th></td<>	
cannot         14:1, 14:8, 14:22, 15:23         14:5, 14:6         duly 5:2           case         concrete         3:18, 5:10         dwelling           1:5, 5:9, 6:1, 7:25, 8:3, 9:25, 1:14, 10:23         conducted         8:25         duly           1:7,7, 18:8         confer         11:18, 11:24         E           cer         13:20         decide         each           1:25, 2:14,         construction         4:7, 6:1, 8:8,         7:21           1:25, 2:14,         construction         4:7, 6:1, 8:8,         7:21           1:27, 17:15         10:11         decision         efficient           certificate         copy         demolished         13:13, 14:4           17:1         13:10         9:20         either           certification         correct         department         17:5           18:1         5:21, 6:15,         11:11         else           certify         6:16, 9:22,         depos         7:5           17:4, 18:2         correcty         7:2         ends           18:4         correcty         7:2         est           10:23         even         17:6, 18:8         ends           17:4, 18:2         correcty         12:2, 0	
12:7       14:22, 15:23       david       5:2         case       3:18, 5:10       3:18, 5:10       dwelling         11:5, 5:9, 6:1,       14:13, 14:15       day       10:3, 10:24,         7:22, 7:23,       conducted       8:25       10:3, 10:24,         7:25, 8:3, 9:25,       11:14, 10:23       deadline       13:15         cer       13:20       decide       each         17:2, 17:15       10:11       decision       efficient         certain       construction       4:7, 6:1, 8:8,       12:10         certificate       copy       demolished       13:13, 14:4         17:1       16:4, 16:11       14:13       electronicall         certification       correct       department       17:5         18:1       5:21, 6:15,       11:11       else         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       employed         chief       5:15       determine       1:16         circumstances       11:22       determine       1:16         9:1       could       10:23       even         circumstances       11:22       determine       1:16 </th <td></td>	
case         concrete         3:18, 5:10         dwelling           1:5, 5:9, 6:1,         14:13, 14:15         day         5:12, 8:11,           7:22, 7:23,         conducted         8:25         15:12, 8:11,           7:7, 18:8         confer         11:18, 11:24         E           cer         13:20         decide         each           1:25, 2:14,         consistent         10:8         7:21           17:2, 17:15         10:11         decision         efficient           certificate         copy         demolished         13:13, 14:4           17:1         13:10         9:20         either           certificate         copy         demolished         13:13, 14:4           17:1         16:4, 16:11         14:13         electronicall           certify         6:16, 9:22,         depos         7:5           17:4, 18:2         12:20, 12:24,         18:15         employed           chace         18:4         desire         17:6, 18:8           9:14         correctly         7:22         ends           circumstances         11:22         determine         1:16           15:15         16:21         3:20, 6:4,         everyody's	
1:5, 5:9, 6:1,       14:13, 14:15       day       5:12, 8:11,         7:25, 8:3, 9:25,       1:14, 10:23       deadline       13:15         17:7, 18:8       confer       11:18, 11:24       each         1:25, 2:14,       10:11       decide       each         17:2, 7:25, 8:21,       10:11       decide       each         cert       13:20       decide       each         17:2, 7:15       consistent       10:8       7:21         certificate       copy       demolished       13:13, 14:4         17:1       10:11       department       13:13, 14:4         17:1       correct       department       13:13, 14:4         17:1       16:4, 16:11       14:13       electronicall         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       employed         chace       18:4       determination       6:6         circumstances       11:22       determination       6:6         r:22, 7:25       could       10:23       9:19, 13:16         circumstances       11:22       determination       6:6         circunstances       11:22       determination	
7:22, 7:23,       i:14, 10:23       deadline       10:3, 10:24,         7:25, 8:3, 9:25,       i:14, 10:23       deadline       13:15         17:7, 18:8       confer       11:18, 11:24       each         cer       13:20       decide       each         17:2, 17:15       10:11       decision       efficient         certain       construction       4:7, 6:1, 8:8,       12:10         7:1       construction       4:7, 6:1, 8:8,       either         certificate       copy       demolished       13:13, 14:4         17:1       16:4, 16:11       14:13       electronical         certify       6:16, 9:22,       department       17:5         18:1       5:21, 6:15,       11:11       else         chance       18:4       desire       7:56         9:14       correcty       7:22       edtermination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est       11:16         0:12       10:23       9:19, 13:16       15:15       12:19       8:15         15:15       could       10:23       even       11:12       11:13         15:15       counsel       9:23       everybo	
7:25, 8:3, 9:25,       1:14, 10:23       deadline       13:15         7:7, 18:8       confer       11:18, 11:24       E         cer       13:20       decide       each         1:25, 2:14,       10:11       decision       efficient         1:25, 2:14,       10:11       decision       efficient         certain       consistent       10:8       either         certificate       copy       demolished       13:13, 14:4         17:1       16:4, 16:11       14:13       electronicall         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       employed         chief       5:15       desire       7:6, 18:8         9:14       correctly       7:22       est         circumstances       11:22       determine       6:6         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       everybody         cilifton       counsel       9:23       5:4, 11:23         directly       9:23       5:4, 11:23         coment       12:4	
The form       Confer       The form       T	
cer         13:20         decide         each           1:25, 2:14,         consistent         10:8         7:21           17:2, 17:15         10:11         decision         efficient           certain         construction         4:7, 6:1, 8:8,         12:10           7:1         13:10         9:20         either           certificate         copy         demolished         13:13, 14:4           17:1         16:4, 16:11         department         17:5           certification         correct         depos         7:5           18:1         5:21, 6:15,         11:11         else           certify         6:16, 9:22,         depos         7:5           17:4, 18:2         12:20, 12:24,         18:15         employed           chance         18:4         desire         17:6, 18:8           9:14         correspondences         12:8, 13:2         est           circumstances         11:22         determination         6:6           circustances         11:22         determine         1:16           15:15         16:21         3:20, 6:4,         evening           circustances         11:22         determine         1:16	
1:25, 2:14,       consistent       10:8       7:21         17:2, 17:15       10:11       decision       efficient         certain       construction       4:7, 6:1, 8:8,       9:20         7:1       construction       4:7, 6:1, 8:8,       9:20         certificate       copy       demolished       13:13, 14:4         17:1       16:4, 16:11       14:13       electronicall         certify       6:16, 9:22,       department       17:5         18:1       5:21, 6:15,       11:11       else         certify       6:16, 9:22,       department       17:6, 18:8         9:14       correctly       7:22       ends         chance       11:22       determination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         cistif       6:10       dhca's       everybody's         clearly       could n't       12:10       8:15         s:24       12:1, 13:14       14:19       13:6      <	
17:2, 17:15       10:11       decision       efficient         certain       13:10       9:20       either         certificate       copy       demolished       13:13, 14:4         17:1       16:4, 16:11       14:13       electronical         certification       correct       department       17:5         18:1       5:21, 6:15,       11:11       else         certify       6:16, 9:22,       18:15       employed         chance       18:4       desire       17:6, 18:8         9:14       correctly       7:22       ends         circumstances       11:22       determine       1:6         9:1       could       10:23       even         9:1       could       10:23       even         circumstances       11:22       determine       1:16         0:23       9:19, 13:16       15:5       16:21       12:19       8:15         15:15       16:21       counsel       9:23       5:4, 11:23       13:6         15:18       county       s:9, 5:11, 13:14       14:19       13:6       13:16         15:8       county       s:10       5:25       11:2, 14:25, 17:1, 13:14       14:19<	
certain         construction         4:7, 6:1, 8:8, 9:20         12:10           r:1         13:10         9:20         either           certificate         copy         demolished         13:13, 14:4           17:1         16:4, 16:11         demolished         13:13, 14:4           17:1         certification         correct         department         17:5           18:1         5:21, 6:15,         11:11         else         employed           certify         6:16, 9:22,         depos         7:5         17:6, 18:8           chance         18:4         desire         17:6, 18:8         9:14           chief         5:15         determination         6:6         6:6           7:22, 7:25         correspondences         12:8, 13:2         est           civil         8:5, 8:23,         dhca         9:19, 13:16           15:15         16:21         3:20, 6:4,         evening           civil         8:5, 8:23,         dhca         9:19, 13:16           15:15         16:21         3:20, 6:4,         evening           cisit         could         12:19         8:15           15:18         6:10         dhca's         everybody's	
7:1       13:10       9:20       either         certificate       copy       demolished       13:13, 14:4         17:1       16:4, 16:11       14:13       electronicall         certification       correct       department       17:5         18:1       5:21, 6:15,       11:11       else         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       employed         chace       18:4       desire       17:6, 18:8         9:14       correctly       7:22       ends         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         civil       8:5, 8:23,       dhca's       everybody         15:15       16:21       3:20, 6:4,       evering         clifton       12:3       3:23       5:4, 11:23         s:24       7:5       everybody       5:4, 11:23         closing       1:2, 3:3, 3:6,       3:23       5:4, 11:23         s:6       1:2, 3:3, 3:6,       3:10       5:25         11:21, 14:25,       7:13, 17:1,       14:19       13:6         15:3	
certificate         copy         demolished         13:13, 14:4           17:1         16:4, 16:11         14:13         electronical           certification         5:21, 6:15,         11:11         else           18:1         5:21, 6:15,         11:11         else           certify         6:16, 9:22,         depos         7:5           17:4, 18:2         12:20, 12:24,         18:15         employed           chance         18:4         desire         17:6, 18:8           9:14         correctly         7:22         ends           chief         5:15         determination         6:6           7:22, 7:25         11:22         determine         1:16           9:1         could         10:23         even           15:15         16:21         3:20, 6:4,         evening           15:18         couldn't         12:19         8:15           15:18         county         9:23         5:4, 11:23           15:20         12:2, 3:3, 3:6,         3:26         2:14, 5:2, 7:7,           8:6         1:2, 3:3, 3:6,         3:26         2:14, 5:2, 7:7,           8:10         5:25         evidence         5:25           11:	
17:1       16:4, 16:11       14:13       electronical         certification       correct       department       17:5         18:1       5:21, 6:15,       11:11       else         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       employed         chance       18:4       desire       17:6, 18:8         g:14       correctly       7:22       ends         chief       5:15       determination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         clasrly       couldn't       12:19       8:15         15:18       county       7:8       12:10         cosing       county       7:8       12:10         8:6       1:2, 3:3, 3:6,       directly       everybody's         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,	
Image: Second	1
18:1       5:21, 6:15,       11:11       else         certify       6:16, 9:22,       depos       7:5         17:4, 18:2       12:20, 12:24,       18:15       employed         chance       18:4       desire       17:6, 18:8         9:14       correctly       7:22       ends         chief       5:15       determination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         clearly       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       court       directly       everybody's         s:6       1:2, 3:3, 3:6,       director's       evidence         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       criteria       document       exist	±Υ
11:11       6:16, 9:22,       11:11       6:16         17:4, 18:2       12:20, 12:24,       18:15       employed         18:4       desire       17:6, 18:8         9:14       correctly       7:22       ends         12:2, 7:25       correspondences       12:8, 13:2       est         circumstances       11:12       determination       6:6         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         clearly       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         3:22       county       7:8       12:10         8:6       1:2, 3:3, 3:6,       directly       everybody's         come       3:9, 5:11, 13:14       14:19       13:6         15:8       court       discuss       examiner         15:3       riteria       document       exist         13:25       criseria       document       exist         13:25       criseria       ocut       foruments       fi:10         12:24       riteria	
12:20, 12:24,       18:15       17:4, 18:2         17:4, 18:2       18:4       desire       17:6, 18:8         9:14       correctly       7:22       ends         12:2, 7:25       correspondences       12:8, 13:2       est         11:22       determination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       8:5, 8:23,       dhca       9:19, 13:16         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       even         civil       8:5, 18:7       dhca's       everybody         clifton       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       directly       13:6         8:6       1:2, 3:7, 7;7,       8:10       5:25         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       5:25         communicate       s:9, 8:12       11:23       13:16         community	
17:4, 10:2       18:4       18:5       18:5       17:6, 18:8         chief       5:15       determination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         clearly       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         closing       12:2, 3:3, 3:6,       difficulty       everybody         s:6       1:2, 3:3, 3:6,       director's       evidence         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       5:25         13:25       criteria       document       13:16         communicate       8:9, 8:12       11:23       13:16	
9:14       correctly       7:22       ends         chief       5:15       determination       6:6         7:22, 7:25       correspondences       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         clearly       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         closing       county       7:8       12:10         8:6       1:2, 3:3, 3:6,       directly       everybody's         15:8       court       discuss       everything         15:3       court       discuss       examiner         15:3       7:15       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       13:16         community       7:04       11:23       13:16	
9.14       5:15       7:22       7:22         chief       5:15       determination       6:6         7:22, 7:25       11:22       determine       1:16         9:1       could       10:23       even         15:15       16:21       3:20, 6:4,       evening         15:15       16:21       3:20, 6:4,       evening         15:18       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         3:22       county       7:8       12:10         8:6       1:2, 3:3, 3:6,       difficulty       everybody's         come       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       criteria       document       exist         13:25       criteria       document       13:16         communicate       8:9, 8:12       11:23       13:16	
correspondences       determination       6:0         7:22, 7:25       11:22       12:8, 13:2       est         circumstances       11:22       determine       1:16         9:1       could       10:23       even         civil       8:5, 8:23,       dhca       9:19, 13:16         15:15       16:21       3:20, 6:4,       evening         clearly       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         clisifton       county       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       directly       12:10         8:6       1:2, 3:3, 17:1, 13:14       14:19       13:6         15:8       court       director's       evidence         comment       2:14, 5:2, 7:7, 8:10       5:25       5:25         11:21, 14:25, 17:15       14:7, 14:19       1:13, 4:8, 5:         13:25       criteria       document       1:123         document       1:23       13:16	
11:22       11:22       12:3, 13:2       est         circumstances       11:22       determine       1:16         9:1       8:5, 8:23,       10:23       even         civil       16:21       3:20, 6:4,       evening         15:15       16:21       3:20, 6:4,       evening         clearly       6:10       dhca's       everybody         clifton       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       severybody's       12:10         8:6       1:2, 3:3, 3:6,       directly       everything         15:8       court       director's       evidence         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       1:13, 4:8, 5:         15:3       criteria       document       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       13:16         cross-examination       documents       13:16	
civil       could       10:23       even         15:15       16:21       3:20, 6:4,       evening         clearly       couldn't       12:19       8:15         15:18       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       directly       everybody's         15:8       court       director's       evidence         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       criteria       document       1:1:23         communicate       8:9, 8:12       11:23       13:16         rcross-examination       documents       13:16	
9:1       8:5, 8:23,       10:23       even         civil       16:21       3:20, 6:4,       9:19, 13:16         clearly       6:10       dhca       9:19, 13:16         15:18       couldn't       12:19       8:15         clifton       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       7:8       12:10         8:6       1:2, 3:3, 3:6,       directly       everything         come       2:14, 5:2, 7:7,       director's       evidence         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       criteria       8:9, 8:12       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       13:16         community       7:24, 9:1       9:1       13:16	
16:21       16:21       3:20, 6:4,       evening         15:15       6:10       dhca's       everybody         15:18       counsel       9:23       5:4, 11:23         15:20       17:6, 18:7       difficulty       everybody's         15:8       county       7:8       12:10         8:6       1:2, 3:3, 3:6,       directly       everybody's         15:8       court       director's       evidence         15:3       criteria       8:9, 8:12       14:7, 14:19       13:14         13:25       cross-examination       document       11:23       13:16	
13:13       couldn't       3:20, 6:4, 12:19       eventing         15:18       6:10       dhca's       everybody         clifton       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       difficulty       everybody's         8:6       1:2, 3:3, 3:6,       directly       everything         15:8       court       director's       evidence         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         13:25       criteria       8:9, 8:12       document       exist         13:25       cross-examination       documents       13:16	
15:18       6:10       dhca's       everybody         15:18       counsel       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       directly       12:10         8:6       1:2, 3:3, 3:6,       directly       12:10         come       3:9, 5:11, 13:14       14:19       13:6         tomment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       5:25         11:21, 14:25,       7:13, 17:1,       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       exist         13:25       cross-examination       document       13:16	
13:16       counsel       one       9:23       everybody         3:22       17:6, 18:7       difficulty       9:23       5:4, 11:23         closing       17:6, 18:7       difficulty       everybody's         s:6       1:2, 3:3, 3:6,       directly       everybody's         s:6       2:9, 5:11, 13:14       directly       everybody's         15:8       court       14:19       13:6         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       criteria       8:9, 8:12       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       13:16       F	
17:6, 18:7       9:23       5:4, 11:23         3:22       17:6, 18:7       difficulty       everybody's         closing       1:2, 3:3, 3:6,       12:10       everything         8:6       1:2, 3:3, 3:6,       directly       everything         come       3:9, 5:11, 13:14       14:19       13:6         forment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       17:15       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       13:16         13:25       cross-examination       7:24 0:1       F	
closing       county       filletity       everybody s         8:6       1:2, 3:3, 3:6,       directly       everything         0:5:8       0:11:21, 13:14       14:19       13:6         1:21, 14:25,       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       0:11:21       14:25,       11:10         13:25       0:11       0:11       11:23         0:25       0:11       11:23       13:16         0:25       0:25       11:23       13:16	
1:2, 3:3, 3:6,       1:2, 10         8:6       1:2, 3:3, 3:6,         come       3:9, 5:11, 13:14         15:8       court         2:14, 5:2, 7:7,       directly         11:21, 14:25,       7:13, 17:1,         15:3       17:15         communicate       8:9, 8:12         13:25       cross-examination         community       7:24 0:1	
3:9, 5:11, 13:14       14:19       13:6         15:8       court       14:19       13:6         comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       1:13, 4:8, 5:         15:3       criteria       document       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       13:16         community       7:24 - 2:1       5:1       5:25	
15:8       court       director's       evidence         15:8       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       17:15       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       document       exist         13:25       cross-examination       11:23       13:16         community       7:24 0:1       9:1       F	
comment       2:14, 5:2, 7:7,       8:10       5:25         11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       17:15       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       11:23       document       13:16         13:25       7:24 - 9:1       7:24 - 9:1       F	
11:21, 14:25,       7:13, 17:1,       discuss       examiner         15:3       17:15       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       document       11:23         13:25       cross-examination       11:23       13:16         F       F       F	
11:21, 14:23,       17:15       17:15       14:7, 14:19       1:13, 4:8, 5:         communicate       8:9, 8:12       document       1:13, 4:8, 5:         13:25       cross-examination       11:23       13:16         community       7:24 - 9:1       F	
communicatecriteriadocumentexist13:258:9, 8:1211:2313:16community7:24 - 9:1GocumentsF	0.4
13:25       8:9, 8:12       11:23       13:16         community       7:24 0:1 <b>F</b>	:24
community cross-examination documents F	
- 7.04 0.1	
3:19, 6:3 complete 9:25 done 9:25	
crosstalk lag	
completed         crosscark         dps         10:17           10:20         7:9         12:17, 12:18,         10:17	
10:20 12:17, 12:18,	

faatuma	£11	hired	involved
feature	fully		
5:7, 7:10	10:14	8:25	11:14
feel	fundamental	hoping	issue
5:20	12:5	9:13	12:4, 14:18
file	further	hour	issues
11:1	14:22	8:24	7:19, 9:7, 14:6
filed	G	house	J
5:10, 13:22	gave	12:16	j-u-a-n
fill	12:19	housing	6:12
9:14	given	3:19, 11:12	job
final	-	I	1:23
8:10, 9:20,	9:12, 11:2,		
9:21, 10:5,	12:17, 13:19	identify	johnson
10:7, 10:22,	going	6:6	3:5, 16:17
12:8, 13:2	5:5, 12:6,	immense	juan
finalized	12:24, 13:13,	11:12	3:21, 6:7,
	13:17, 14:3,	immigrant	6:12, 14:25
11:9, 13:5,	14:16, 15:17,	15:9	К
13:13	15:23, 16:7	incorrectly	keep
financial	grant	8:5	7:3, 15:13,
17:8, 18:9	12:25	indefinitely	15:14
find	grounds	11:9	kind
14:3	9:5	individuals	10:17, 15:9,
findings	н	6:3	16:13
8:10			
first	hand	7:1	know
6:12	7:9	information	6:5, 6:18,
follow	happen	16:8	9:14, 9:17,
15:24, 16:20,	16:18		13:15, 14:11,
16:22	hear	informed	15:5, 15:7,
followed	6:10, 16:20	11:23	15:18, 16:18
11:13	hearing	initially	knowledge
following	1:12, 1:13,	7:10	18:4
7:18, 12:18	2:1, 4:8, 5:8,	inspected	krystin
foregoing	5:24, 7:2, 7:4,	13:12	18:2, 18:14
17:3, 18:3	8:13, 8:21,	inspection	L
17:3, 18:3 formal	11:4, 11:8,	9:24, 10:1,	land
	13:22, 14:1,	10:8, 10:19,	
7:6	14:2, 14:4,	10:22	14:10
formalities	14:12, 15:14,	inspector	lane
7:1	15:23	12:16	5:13, 6:8
forth	hearings	interest	last
8:9	1:1, 3:4, 3:7	6:18, 6:20,	6:12, 11:16,
forward	held	17:8, 18:9	11:21, 12:3
7:18, 12:8	2:1, 13:22	interested	later
frame		8:3	10:22, 14:5,
13:21	here		14:6, 16:22
free	16:8	interrupt	least
5:20	hereby	7:5	7:20
fulfill	17:4, 18:2	investigate	
12:7		13:1	

			9
let's	14:25, 15:3	month	8:20, 8:22
15:13, 15:14	marked	11:13	notification
letter	4:12	more	9:8
6:15, 6:22,	maryland	6:10, 11:15	number
6:23	1:2, 3:8, 3:11	morning's	5:9, 6:5, 6:6,
letters	matter	14:12	13:14
15:5	5:9, 12:18	motion	0
lewinter	matters	8:13	oath
1:13, 5:4,	8:16, 14:7,	motions	7:15
5:18, 5:20,	14:22	7:19	objecting
5:23, 6:9, 6:14,	matthews	move	5:11
6:17, 6:24,	1:25, 2:13,	7:17, 12:8	objection
8:19, 8:21,	17:2, 17:15	moving	1:6, 5:9, 7:6,
9:12, 9:18,	maybe	9:1	7:7, 9:6, 11:6,
10:10, 10:16,	7:16	munson	11:8, 12:9,
11:2, 11:20,	mcnamara	1:6, 3:17,	13:4, 13:6,
12:2, 12:12,	3:19, 4:3, 6:4,	3:18, 5:10, 6:2,	13:21, 14:3,
12:14, 12:20,	8:2, 9:13, 9:16,	7:23, 8:18,	14:5
12:24, 13:18,	9:22, 10:16,	8:22, 9:10,	objector
14:16, 14:21,	10:18, 13:6,	9:11, 14:9,	3:17, 3:18
15:1, 15:10,	13:8	14:16, 14:20,	objector's
15:12, 15:17,	meeting	16:6, 16:9	7:22
15:22, 16:10,	6:2	munson's	obtained
16:12, 16:15,	memory	8:1, 8:14,	10:21
16:19, 16:23	5:13, 6:8	8:18, 11:3,	occupied
license	mentioned	13:4, 13:24,	10:4
1:7, 8:11, 10:9	11:18, 13:10	14:5	office
licensed	merits	myself	1:1, 3:3, 3:6,
10:3, 10:25	14:2	15:8	3:9
line	met	N	officer
14:14	13:12, 15:6	name	17:2
list	michelle	5:15, 5:23,	offices
10:2	8:14	6:10, 6:12	13:14
listed	microsoft	nana	official
9:25	7:3	3:5, 11:18,	5:6
listen	might	11:22, 16:19,	okay
5:25	14:11	16:20	5:22, 6:14,
little	mind	necessary	6:17, 6:24,
13:20	7:4	13:23, 15:25	8:19, 8:21,
llc	minimum	need	9:12, 10:10,
18:15	13:19	14:7, 16:7	10:18, 13:18,
look	minute	neither	14:20, 14:21,
15:7	_ 12:3	17:6, 18:7	15:12, 16:14,
M	moment	never	16:21, 16:23
made	11:16, 16:8	15:6	once
11:21, 14:4	montgomery	none	13:21
make	1:2, 3:3, 3:6,	4:12, 8:18,	one
13:3, 14:24,	5:10		7:20, 14:24,

14:25, 15:4, 16:8, 16:13 ongoing 13:10 only 7:22, 8:12 opening 7:20 operating 9:23 opportunity 7:24, 7:25 option 11:5 optional 7:21, 8:7 order 7:18, 16:4 orders 16:13 ordinance 8:9 other 6:3, 8:3, 8:15, 8:22, 14:6 otherwise 14:7, 17:8, 18:9 out 10:17, 12:6, 15:6, 15:21 outcome 17:8, 18:10 outside 14:11, 14:17, 16:13 outstanding 9:6 owner 10:1, 10:5, 10:23 ozah 5:9, 16:12 Ρ page 4:2, 4:7 pages 1:24

parking 10:7 particular 9:16, 14:18, 15:14 parties 8:3, 13:25, 15:24, 17:7, 18:8 party 9:1 pending 12:17, 12:19, 12:20, 13:7 people 7:8 performed 9:24 period 10:6 permit 12:15, 12:17 permits 13:12 permitted 10:7 permitting 13:11 person 6:5, 15:4, 15:7 phone 6:5, 6:6, 6:11 planet 18:15 platform 7:3 please 7:5, 7:9, 8:11, 16:6 point 7:21, 11:3, 11:6, 15:6 possible 7:10 post 11:12 postpone 8:13, 11:25

postponed 11:4 postponement 9:3, 9:4, 12:25, 13:20 postponing 11:8 potentially 14:11 preliminary 7:18, 8:16, 9:24, 10:1, 10:19, 12:7 premature 9:7, 11:4, 12:25 prematurely 14:3 present 3:13, 3:15, 6:4, 11:11, 11:15 presentation 8:1, 8:2 pretty 12:4 previously 7:12 primarily 9:4 primary 7:13 probably 16:19 problem 5:16 procedurally 13:23 procedure 9:23, 11:13 proceed 13:7, 14:2 proceedings 7:1, 7:17, 17:3, 17:4, 18:5 process 10:21, 13:9 processes 13:16

proper 10:24 properly 10:6 property 10:1, 10:23, 14:10, 14:14 provided 10:2 public 5:8 pursuant 2:13, 5:10 purview 14:17 Q question 15:4 questions 7:16 quite 12:3 R racism 15:6, 15:20 raise 7:9 raises 12:4 really 9:2, 9:20 rebuttal 8:6 record 15:3, 16:4, 16:24, 18:5 recorded 1:25, 7:11, 7:16, 17:5 recording 5:5, 5:7, 7:13 reduced 18:6 refile 11:6 regard 12:9

			1
regarding	response	scope	socrates
6:1, 13:25	6:23, 15:21	14:12, 16:15	1:25, 2:13,
regulation	resubmit	second	17:2, 17:15
5:11	13:4, 13:24,	16:8	some
reiterate	14:5	section	6:22, 7:3, 9:7,
7:12	return	5:11	10:14, 16:7
related	12:17	see	someone
17:6, 18:7	returned	6:1, 6:2, 6:4	7:5, 8:16,
remarks	11:14	seems	16:22
6:22	review	12:25	someplace
remote	9:15	seen	10:13
7:2	ridiculous	13:6	something
removed	15:9	sense	12:11, 12:13
14:15	right	13:3	sorry
rental	5:17, 5:18,	services	6:9, 11:20,
10:9	5:20, 6:25,	13:11	12:12
repeats	8:21, 10:16,	serving	source
10:14	13:19, 14:21,	5:24	5:6
report	15:12, 15:22	session	speaking
8:10	rockville	7:11	7:6
reporter	3:11	set	specifics
2:14, 5:2, 7:7,	role	8:9	15:13
7:14, 16:3,	5:25	short	spolar
16:7, 16:10,	room	10:18	18:2, 18:14
16:14, 16:17,	3:10	should	spread
16:21, 17:1,	rosenfeld	11:4, 11:17,	14:14
17:15	8:15, 8:23,	11:18, 11:23,	standard
request	9:18	11:24	9:23
8:24, 9:3,	rosenfeld's	side	stated
11:16, 11:25,	9:2, 9:15	7:21	7:10, 7:12
12:3	ruling	sign	statement
requesting	9:21, 10:5,	11:12, 11:15	15:9
9:4	12:9	signage	statements
requirements	S	9:8, 11:11,	7:20, 8:7
10:2, 10:20,	said		still
12:7, 13:11	5:16, 5:18,	signature-1apgj	9:5, 10:20,
requires	8:4, 10:5,	18:11	13:7, 13:9,
11:12	10:14, 10:15,	signature-sc3	13:10, 13:13,
rescheduling	10:19, 11:10,	17:12	13:17, 16:3
15:25	17:4, 18:5	simultaneous	stop
reset	saw	5:5	14:17, 15:17
14:4	9:24	since	stronger
resident	say	5:7	15:5
14:12	6:9, 7:15, 8:24	sir	submission
respect	saying	6:10	9:15
7:4	5:15, 7:8	site	submit
responded	says	12:16	11:19
15:4	9:19	slowly	submitted
	· · · ·	6:10	6:15, 6:21,

			12
8:14, 11:16,	11:17, 11:23,	10:11	13:24
11:24	13:24, 14:7,	underway	within
suggesting	16:16	10:4, 13:9	13:22, 15:19
15:5	thinking	unit	word
supervision	13:9	5:12, 8:11,	15:20
18:6	through	10:3, 10:7,	write
supposed	13:13	10:8, 10:24,	5:25
13:22	thursday	13:16	Ŷ
sure	1:15	unless	
16:9	time	7:6	<b>yaa</b> 3 <b>:</b> 5
survey	5:21, 10:6,	until	
14:10	10:12, 11:12,	11:9	yard
sworn	12:10, 13:21,	use	11:15
5:3	16:22	5:7, 7:9,	yeah
T	today	12:10, 15:20	5:19, 6:11,
	- 5:24, 6:19,	useful	12:22, 15:1,
take	6:25, 8:23,	10:15	15:2, 15:16,
5:25, 6:24,	14:2, 14:8,	<u>v</u>	16:19
14:18	14:23, 15:24		yesterday
taken	took	via	8:15, 12:1
17:3	14:13	3:13	yilma
team's	transcript	videoconference	3:16, 5:14
5:7, 6:1	16:5, 18:1,	3:13	Z
teams	18:3	virtual	zoning
7:3	true	7:4	1:1, 3:4, 3:6,
tensions	10:17, 18:4	virtually	8:9
15:19		1:14, 2:1	
terms	<b>try</b>	visited	. 6660
15:5, 15:24	15:13, 15:14	12:16	
testifying	turn	W	- 3:12
6:20	9:13	wall	0
testimony	turns	14:13	04
4:2, 6:22,	12:6	want	1:6
7:17, 8:2, 8:12	two	13:20, 14:18	1
th	14:19	way	10
8:24, 11:18,	typewriting	13:15	11:18, 11:25
11:25, 17:16	18:6	we'll	100
thank	typically	6:19	3:8
6:17, 13:18,	8:24	- we're	11
15:23, 15:25,	U		4:4, 8:24
16:1, 16:2	ultimately		1100167
thanks	13:3	whenever	3:7
15:11	under	7:10	13
themselves	7:15, 10:25,	whereupon	1:15, 4:8
6:6	18:6	5:2	1:15, 4:8 149586
things	understand	whether	
7:3	11:21	9:8, 10:8, 13:1	1:7
think	understanding	withdraw	
5:4, 11:5,	7:8, 9:3, 9:9,	11:5, 13:4,	
J.7, II.J,	,,,,		

	13	
15		
6:6		
18		
1:24		
2		
200		
3:10		
2023		
1:15, 17:16,		
18:16		
20850		
3:11		
23		
1:6		
2304		
5:9		
24		
17:16, 18:16		
240.777		
3:12 <b>26</b>		
5:11		
29		
5:11		
3		
30		
1:16		
3060		
6:8		
3108		
5:12, 14:13		
4		
47		
16:24		
485978		
1:23		
9		
9		
1:16, 16:24		
92		
17:12		