

IN THE SUPREME COURT OF OHIO

Case No. 10-2029

Original Action in Mandamus

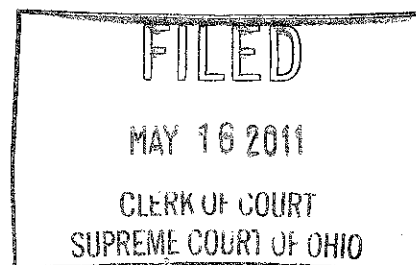
State ex rel. Data Trace Information Services, LLC, et al.,

Relators,

v.

Recorder of Cuyahoga County, Ohio,

Respondent.



**Cuyahoga County Recorder's
Submission of Evidence**

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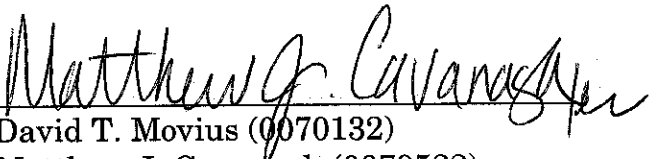
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Counsel for Relators

In accordance with Supreme Court Practice Rule 10.7, respondent Recorder of Cuyahoga County, Ohio, submits the following evidence under the affidavit of David T. Movius, Esq.:

1. Ordinance No. O2011-0012, adopted by the Cuyahoga County Council
2. Transcript of the deposition of Michael Schramm
3. Transcript of the deposition of Vanessa Davis

Respectfully submitted,



David T. Movius (0070132)

Matthew J. Cavanagh (0079522)

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Cuyahoga County Recorder

Certificate of Service

In accordance with Rule 14.2 of the Rules of Practice of the Supreme Court of Ohio, I hereby certify that on May 16, 2011, I served a copy of the foregoing ***Cuyahoga County Recorder's Submission of Evidence*** by e-mail upon the following:

David L. Marburger (0025747)
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Counsel for Respondent
Cuyahoga County Recorder

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Case No. 10-2029

Original Action in Mandamus

State ex rel. Data Trace Information Services, LLC, et al.,

Relators,

v.

Recorder of Cuyahoga County, Ohio,

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Affidavit of David T. Movius, Esq.

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Counsel for Relators

I, David T. Movius, Esq., testify as follows:

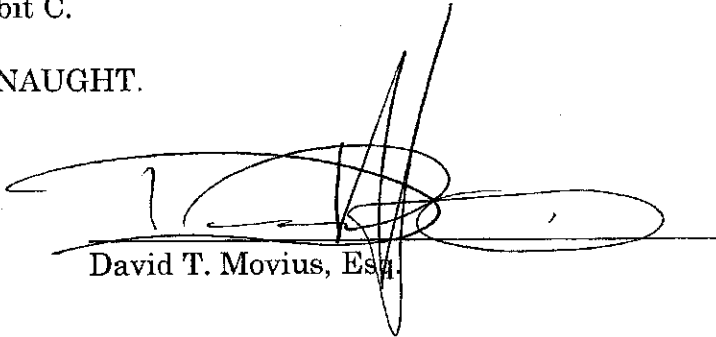
1. I am an adult person and am competent to make this affidavit, in that I am counsel of record for respondent Recorder of Cuyahoga County, Ohio, and I have personal knowledge of the facts set forth herein.

2. A true and accurate copy of Ordinance No. O2011-0012, adopted by the Cuyahoga County Council, is attached hereto as Exhibit A.

3. A true and accurate copy of the transcript of the deposition of Michael Schramm is attached hereto as Exhibit B.

4. A true and accurate copy of the transcript of the deposition of Vanessa Davis is attached hereto as Exhibit C.

FURTHER AFFIANT SAYETH NAUGHT.



David T. Movius, Esq.

Sworn to and subscribed before me and in my presence this 16th day of May, 2011.



MATTHEW J. CAVANAGH, Attorney at Law
Notary Public - State of Ohio
My Commission Has No Expiration Date.
Section 147.03 O.R.C.

Exhibit A

County Council of Cuyahoga County, Ohio

Ordinance No. O2011-0012

Sponsored by: Miller and Greenspan	An Ordinance amending the Public Records Policy for Cuyahoga County, and declaring the necessity that this Ordinance become immediately effective.
---	---

WHEREAS, Ohio Revised Code Section 149.43(E) requires that all public offices adopt a public records policy regarding the availability and maintenance of public records and proper response to public records in compliance with ORC Section 148.43(E); and

WHEREAS, the Cuyahoga County Council passed Ordinance No. O2011-0003 on January 3, 2011, which adopted a Public Records Policy for Cuyahoga County that is set to expire ninety (90) days after it became effective on January 10, 2011;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Public Records Policy. The Public Records Policy of Cuyahoga County, Ohio, adopted as Ordinance No. O2011-0003, effective January 10, 2011, is amended to read as follows:

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Public Records Policy of Cuyahoga County, Ohio

Chapter 1: Rationale

Believing that open government leads to a better-informed citizenry, greater public participation in government, better government, better public policy, and more effective use of public resources, the County Council establishes this Public Records Policy to insure the preservation and public accessibility of records relating to all functions of Cuyahoga County government. Cuyahoga County's policy in all of its functions is to strictly adhere to all of its obligations under Ohio's Public Records Law and to exceed those obligations whenever it is practical and makes sense to do so.

Chapter 2: Definitions

Section 2.1: "Committee" shall include subcommittees.

Section 2.2: "Public office" includes the following:

- (A) the office of the County Executive
- (B) the Cuyahoga County Council, including all of its committees
- (C) all departments, divisions, offices, or other organized bodies operating under the administration of the County Executive,
- (D) the Cuyahoga County Prosecuting Attorney,
- (E) all Boards, Commissions, and Advisory Councils to which the County Executive and/or the County Council appoint at least a majority of its members,
- (F) all Boards, Commissions, Advisory Councils and any similar body created by the Cuyahoga County Charter, the County Council, and/or the County Executive.

Section 2.3: As used in Section 2.2, a "similar body" must be formally organized, be on-going, and be involved in making or advising on public policy decisions.

Section 2.4: "Public record" includes any document, device, or item, regardless of physical form or characteristic, including electronic records, created or received by or coming under the jurisdiction of any public office, which serves to document the organization, functions, policies, decisions, procedures, operation, or other activities of the office. All

records which meet this definition are public records, unless exempted under section 149.43 of the Ohio Revised Code.

Section 2.5: "Electronic record" includes prepared documents such as word processing documents, spreadsheets, and graphic presentations as well as written electronic communications, including but not limited to electronic mail and text messages.

Chapter 3: Scope of Ordinance

Section 3.1: Applicability

This ordinance is hereby adopted as the public records policy, required under Section 149.43 of the Ohio Revised Code, for every public office in Cuyahoga County government, as public office is defined in Section 2.2 of this ordinance, over which the Cuyahoga County Council has legislative authority.

Chapter 4: County Records Commission

Section 4.1: Creation of County Records Commission

There is hereby created, the County Records Commission, which shall succeed and replace the current County Records Commission. The County Records Commission shall consist of the County Executive, who shall serve as chairperson, the President of County Council, the Prosecuting Attorney, the Fiscal Officer, and the Clerk of Courts of Common Pleas.

Section 4.2: Appointment of Designees

Each member of the County Records Commission shall appoint one designee, an employee of his/her office who is knowledgeable about the maintenance of public records, who shall attend meetings of the County Records Commission whenever the member is unable to do so.

Section 4.3: Powers and Duties of County Records Commission

The County Records Commission shall have all the powers and perform all the duties of County Records Commissions provided for in Section 149.38 of the Ohio Revised Code, including, but not limited to, the power to recommend applications for one-time disposal of records or proposed records retention schedules to the Ohio Historical Society.

Section 4.4: Rules and Procedures of the County Records Commission

The County Records Commission shall adopt its own rules and procedures, which shall be consistent with Section 149.38 of the Ohio Revised Code. Until such time as the County Records Commission adopts such rules, it shall operate under the rules of the prior County Records Commission that existed prior to the enactment of this ordinance.

Section 4.5: Meetings of the County Records Commission

The County Records Commission shall meet at the call of the chair as often as needed to respond to proposed records retention schedules and proposed one-time disposals of records, but shall meet a minimum of once every six (6) months.

Section 4.6: County Records Commission Action on Records Proposals

Within sixty (60) days after receiving a request for one-time disposal of records or a proposed records retention schedule from any office, the County Records Commission shall either approve the request and send it to the Ohio Historical Society for its consideration or return the request disapproved to the office that submitted it with a letter stating the reasons for disapproval.

Chapter 5: Public Records

Section 5.1: Maintenance of Public Records

All public offices within the scope of this ordinance shall organize and maintain all their public records so that they are readily available for inspection and copying in accordance with the Ohio Public Records Law and the Public Records Policy of Cuyahoga County.

Section 5.2 Maintenance of Electronic Mail

A.) All electronic mail sent or received through the Cuyahoga County Information Services Center shall be the property of Cuyahoga County. The necessity to maintain electronic mail as public records shall depend on the content of the records, not on the medium in which it is kept. It shall be the responsibility of the public records managers and each individual user to

insure that electronic mail is maintained in accordance with the records retention schedule for each office, and that records which must be kept for an extended length of time will not be placed in files where they will be automatically deleted.

- B.) Each person covered by this ordinance shall also insure that all public record electronic mail sent or received outside of the County Information Service Center system are maintained so that they are readily available for inspection and copying in accordance with the records retention schedule for each office.

Section 5.3: Designation of Countywide Public Records Manager

The County Archivist is hereby designated as the Countywide Public Records Manager and shall do the following:

- A.) Manage the public records of Cuyahoga County to insure that they are organized so as to be readily available to the public for inspection and copying and are maintained and disposed of in accordance with the records retention schedules of the various offices within Cuyahoga County government.
- B.) Assist the public records managers of the various public offices in Cuyahoga County in implementing a sound and consistent countywide public records process in accordance with this ordinance.
- C.) Assist the public offices within the scope of this ordinance in preparing and updating public records retention schedules.

Section 5.4: Designation of Deputy Countywide Public Records Manager

The County Executive shall designate one employee of the executive office staff as Deputy County Public Records Manager, who shall do the following:

- A.) Assist the Countywide Public Records Manager in the performance of his/her duties;
- B.) Maintain the public records request log provided for in Section 6.5 of this ordinance.
- C.) Work with each public office to determine what kinds of public records requests are received by that office that relate to personal or business matters, rather than governmental operations, and are not required to be included in the public records request log.

- D.) Provide a copy of Cuyahoga County's Public Records policy to each public records manager and obtain a written acknowledgement from each records manager that the policy was received,
- E.) Serve as the public records manager for the County Executive's office.

Section 5.5: Designation of Public Records Managers

- A.) Each public office shall designate a public records manager who shall be responsible for the maintenance of the public records for that office and for handling public records requests directed to that office.
- B.) For the following offices, the person designated as public records manager shall be an employee of the office who works at the principal place at which that office does business:
 - a. the County Executive, including all executive office staff
 - b. the County Council
 - c. the Law Department
 - d. the Sheriff
 - e. the Medical Examiner
 - f. the Clerk of Courts
 - g. the Department of Economic Development, which shall include the Office of Collaboration
 - h. the Information Officer
 - i. the Department of Public Works
 - j. the Department of Purchasing
 - k. the Department of Human Resources
 - l. the Fiscal Office
 - m. the Child Support Enforcement Agency
 - n. the Division of Children and Family Services
 - o. the Division of Employment and Family Services
 - p. the Division of Senior and Adult Services
 - q. the Director of Human Services, which shall include the Director's Office and all other offices in the Department of Human Services not covered by items twelve (12) through fifteen (15) above.
 - r. the Inspector General

C.) Each office not listed in Subsection B of this section shall designate a public records manager who shall be one of the following:

- a. an employee of that office or an officer of a Board, Commission, or Advisory Council,
- b. the Deputy County Public Records Manager, or
- c. an employee of Cuyahoga County, approved by the Deputy County Public Records Manager, who is the public records manager for another office with responsibilities related to those of the designating office.

Section 5.6: Public Records Manager for County Council

The Clerk of Council is hereby designated as public records manager for Cuyahoga County Council.

Section 5.7: Records Retention Schedules

Each public office shall have a records retention schedule in place, which shall specify, consistent with state law, the methods by which and the length of time that records shall be kept. For any office that has a records retention schedule in place at the time that this ordinance becomes effective, that records retention schedule shall remain in effect until it is amended according to the procedure set forth in Section 149.38 of the Ohio Revised Code. Each public office that does not have a records retention schedule in place at the time that this ordinance becomes effective shall propose a public records retention schedule to the County Records Commission, in accordance with the procedure set forth in Section 149.38 of the Ohio Revised Code, not later than June 30, 2011.

Section 5.8: Interim Transient Records Retention Schedule

Except to the extent that a different records retention schedule on transient communications is required for an office by state law, each public office that does not have a records retention schedule on transient communications in place at the time that this ordinance becomes effective shall use the transient records retention policy and schedule adopted by the County Commissioners on January 12, 2009, until such time as the office's records retention schedule on transient communications is updated, according to the procedure set forth in Section 149.38 of the Ohio Revised Code.

Section 5.9: Publication of Public Records Policy

- A.) Each public office having public office space shall prepare a poster which shall describe the public records policy of that office, explain how to obtain public records, and name the public records manager for that office. The poster shall be displayed in a conspicuous place at the office and at any branch office where the office conducts business. Each office shall post the same information and its public records retention schedule on its web-page on the county's website.
- B.) The County Executive and the Clerk of Council shall each post on their respective web-pages the full Public Records Policy of Cuyahoga County, a summary of that policy, instructions on how to obtain public records, and a list of all of the public records managers for Cuyahoga County government and their contact information, and the public records retention schedule for each office.
- C.) The manual of general policies and procedures issued to all employees shall include the county's public records policy.

Section 5.10: County Website

The County shall maintain a readily accessible website, which shall include separate pages for the County Executive, the County Council, and each department in County government. The County Executive and the Clerk of County Council shall insure that the website is regularly updated to provide current information, including the notice, agenda, minutes, and reports of all public meetings conducted by offices within the scope of this ordinance and instructions on how to obtain public records.

Chapter 6: Public Records Requests

Section 6.1: Form of Records Request

Any person requesting public records shall identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records requested. No specific language or form is required to make the request. If the records request is not sufficiently clear, the public records manager must contact the requestor for clarification, and should assist the requestor by providing

information about the manner in which the office keeps its records.

Section 6.2: Identity of Requestor Not Required

The requestor is not required to put a public records request in writing and does not need to provide his/her identity or the intended use of the records requested. The public office may request this information, particularly to aid in complying with the request, but must clearly state that providing this information is voluntary.

Section 6.3: Availability of Records

Records shall be made available promptly for inspection or copying. Public records requests shall be given priority attention in any office receiving them, but reasonable time shall be allowed to comply with requests that are large, involve records stored other than at the site where the request was made, or involving records that must be inspected for possible redaction of information exempt from the public records law. Whenever a request is received that cannot be complied with immediately, the public office shall provide the requestor a receipt acknowledging and describing the public records request and may provide an estimate as to when a response can be provided.

Section 6.4: Denial of Request and Redaction of Records

Any denial of records requested must include a written explanation, including legal authority. If part of a record requested is exempt from public records law, that part shall be redacted, and the remainder provided. Each redaction shall be accompanied by a written explanation, including legal authority.

Section 6.5: Public Records Request Log

Each office shall maintain a log of all public records requests received that relate to governmental operations and shall forward a copy of the log at the end of each week to the Deputy Countywide Records Manager, who shall maintain a countywide public records log. Each office shall, with the approval of the Deputy Countywide Public Records Manager, determine what kinds of public records requests received by that office relate to personal or business matters, rather than governmental operations; and these requests shall not be required to be included in the log. For each public records request required to be

included in the public records request log, the following information shall be provided:

- (A) the office that received the request
- (B) the date that the request was received,
- (C) the name of the requestor, if known
- (D) a brief description of what records were requested,
- (E) the date that response to the request was completed,
- (F) a brief description of any denials or redactions required.

Chapter 7: Costs of Public Records

Section 7.1: County Council to Determine Copy Costs for Public Records

Persons requesting copies of public records shall be required to pay for the cost of making copies, at a rate not to exceed the actual cost of making copies. Payment in advance may be required.

Starting in calendar year 2011, the County Council shall biannually determine and establish the copying costs for public records.

Section 7.2: Interim Copy Costs for Public Records

Except as otherwise provided by court order, the following copying costs shall apply until the County Council first determines and establishes copying costs for public records:

- A.) The charge for paper copies shall be three cents (\$.03) per page. The charge shall be waived when less than one dollar (\$1.00).
- B.) The charge for computer files downloaded to a compact disc shall be the actual cost, not to exceed \$1.26 per disc. The charge shall be waived when only one (1) disc is required to fulfill the request.
- C.) The charge for computer files downloaded to a compact disc shall be the actual cost, not to exceed \$1.26 per disc. The charge shall be waived when only one (1) disc is required to fulfill the request.
- D.) There shall be no charge for copies provided by email.

E.) Each public office shall have the discretion to waive copying costs of ten dollars (\$10.00) or less when it determines that it is practical and cost-effective to do so, provided that the public office follows a consistent policy on waiver of copying fees for all requestors.

Chapter 8: Public Records Training

All elected public officials and public records managers shall attend training on public records policy approved by the Ohio Attorney General, as provided for in Section 109.43 of the Ohio Revised Code. Each public office shall encourage other appropriate persons to receive public records training.

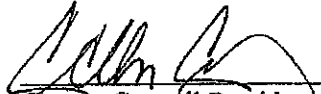
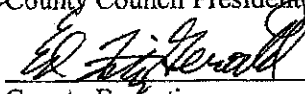
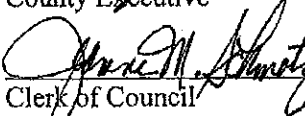
SECTION 2. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. Effective Date. It is hereby found and determined necessary for this ordinance to become immediately effective, for the reason that this ordinance provides for the usual daily and necessary operations of Cuyahoga County government in accordance with the requirements of the Cuyahoga County Charter; therefore, this ordinance, provided it received the affirmative vote of at least eight members of County Council, shall become effective immediately; otherwise it shall be in full force and effect from and immediately after the earliest time permitted by law.

On a motion by Mr. Miller, seconded by Mr. Greenspan, the foregoing Ordinance was duly enacted.

Yeas: Gallagher, Schron, Conwell, Jones, Connally, Rogers, Simon, Greenspan, Miller, Brady and Germana

Nays: None

 County Council President	<u>3/25/11</u> Date
 County Executive	<u>3/25/11</u> Date
 Clerk of Council	<u>3/22/2011</u> Date

First Reading/Referred to Committee: February 22, 2011

Committee Assigned: Rules, Charter Review, Ethics & Council Operations

Committee Report/Second Reading: March 8, 2011

Amended on the Floor: March 22, 2011

Journal CC001
March 22, 2011

Exhibit B

BEFORE THE OHIO SUPREME COURT

STATE EX REL. DATA TRACE)
 LLC, ET AL.,)
 Relator(s),)
 vs.)
) Case No. 10-2029
 RECORDER OF CUYAHOGA)
 COUNTY, OHIO,)
 Respondent(s).)
 - - - - -)

DEPOSITION OF MICHAEL SCHRAMM
 Friday, April 1, 2011

- - - - -

Deposition of MICHAEL SCHRAMM, called by the Relators
 for examination under the Ohio Rules of Civil
 Procedure, taken before me, the undersigned, Cheryl L.
 Baker, RPR, a Notary Public in and for the State of
 Ohio, at the offices of Baker Hostetler, 1900 East
 Ninth Street, Suite 3200, Cleveland, Ohio, commencing
 at 11:15 a.m. the day and date above set forth.

- - - - -

1 APPEARANCES:

2 On Behalf of the Relators:

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4 Jack Blanton, Esq.
5 Baker Hostetler
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11 On Behalf of the Respondent:

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18 dmovius@mcdonaldhopkins.com

19 On Behalf of the Deponent:

20 Peter Poulos, Esq.
21 Case Western Reserve University
22 10900 Euclid Avenue
23 Cleveland, OH 44106
24
25

1 MICHAEL SCHRAMM

2 A Witness herein, called by the Relators for
3 examination under the Ohio Rules of Civil Procedure,
4 after having been first duly sworn, as hereinafter
5 certified, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MARBURGER:

8 Q Would you state your name for the record.

9 A Michael Schramm.

10 Q Michael, I'm David Marburger. I represent two
11 companies that are in the title business. One is
12 called Data Trace Information Services, and one is
13 called Property Insight.

14 Mr. Movius here represents the Cuyahoga County
15 Recorder, whom the companies I represent have suits.
16 And with you today is Mr. Peter Poulos?

17 MR. POULOS: Correct.

18 Q And he is representing you today as an employee
19 of Case Western Reserve University?

20 A That's correct.

21 Q Okay. You're an employee of Case Western Reserve
22 University?

23 A I am.

24 Q And you are on the staff of the Center on Urban
25 Poverty and Community Development?

1 EXAMINATION INDEX

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1 A That's correct.

2 Q Is your title research associate?

3 A It is.

4 Q And do you have more to that title?

5 A It's just research associate.

6 Q Is your Center part of Case Western Reserve's
7 Mandel School of Applied Social Sciences?

8 A It is.

9 Q How long have you been an employee of Case
10 Western Reserve University?

11 A I believe since April of 2004 -- it is April of
12 2004. I think my start date was April 12th.

13 Q And have you throughout that time worked for the
14 same Center that you work for now?

15 A Yes.

16 Q And have you been a research associate since that
17 time?

18 A I have had different titles.

19 Q Our audience is likely to be 77 Justices on the
20 Ohio Supreme Court and their law clerks, so we're
21 going to talk in lay terms as much as we can, because
22 I'm trying to acquaint that audience with what you
23 do.

24 A Okay.

25 Q So in a nutshell, what do you do as the research

1 associate?

2 A The series of projects that I work on are
3 centered around helping community organizations and
4 government organizations that deal with property, such
5 as the Cleveland Building and Housing Department, the
6 County Department of Development, collect data and
7 share that data with them to help them do what they
8 need to do more efficient with government around
9 property data sources from, say, the auditor, Common
10 Pleas Court, the Recorder, the Sheriff, the Cleveland
11 Department of Building and Housing.

12 So I basically work with these various entities,
13 collect their data, synthesize it, aggregate it,
14 combine it, and then create new data based on
15 combining data to share it with other nonprofit who
16 are doing research for housing assistance or
17 foreclosure prevention or do research projects. So
18 you saw from our web site that there were several
19 research reports that we have written on the
20 foreclosure crisis in Cleveland.

21 For example, one of the projects that we have
22 done using property-based data is we have identified
23 properties that are more likely to go into
24 foreclosure. And we have shared that with the County
25 Foreclosure Prevention Office, as well as other

1 nonprofits who do foreclosure counseling, so they can
2 do outreach for counties.

3 So that's one example of some of the things we do
4 with data in our Center.

5 Q So as a research associate, in addition to
6 gathering data and assimilating data from different
7 sources, do you draw conclusions from your data that
8 you report to people outside the Center? I mean you,
9 yourself, in that job. And I'm just curious. It's
10 not because it's going to matter.

11 A In the research reports we write with the data,
12 we do draw conclusions. And, you know, we will draw
13 conclusions and share it with colleagues at national
14 conferences, and other things like that, yes.

15 Q But in the reports that you produce to other
16 non-profit organizations or others, do you report
17 conclusions or just data or both?

18 A Usually it's just the value added data from
19 taking the data, combining it with other data, and
20 then sharing it. Usually it's a -- it's sharing a
21 subset.

22 For example, would you be doing foreclosure
23 counseling on houses that one source has deemed are
24 vacant? So that's some of the value added. We're not
25 making conclusions. We're just saying hey, these

1 loans we believe are more at risk for foreclosure, and
2 these loans are more at risk, but hey, they've already
3 gone to foreclosure, so let's not share those records
4 with the non-profit that's doing the counseling. So
5 it's really --

6 Q So there's some conclusions?

7 A Yeah, there's some conclusions built into the
8 data that we're sharing with other nonprofits and
9 governments. But it's not like huge conclusions.

10 Q What you do -- you're not purely a numbers data
11 cruncher; you do some evaluative work, correct?

12 A That's right.

13 Q And so when you were able to predict what
14 mortgages must be more likely to go into foreclosure,
15 that's a value, isn't it?

16 A Yes.

17 Q And that's something you or your colleagues do?

18 A Me and my colleagues, yes.

19 Q Now, no official of any government manages the
20 Center; is that right?

21 A We're managed by two co-directors.

22 Q Neither of whom is a government official?

23 A Neither of whom is a government official.

24 Q And no official of any government supervises the
25 performance of your duties; is that correct?

1 A That's correct.

2 Q And the State of Ohio doesn't own or operate your
3 Center, does it?

4 A It does not.

5 Q And Cuyahoga County doesn't own or operate your
6 Center?

7 A It does not.

8 Q And, in fact, no governmental entity owns or
9 operates the Center on Urban Poverty and Community
10 Development; is that right?

11 A That's correct.

12 Q Your Center has a data research that people can
13 access on the Internet called NEO CANDO, correct?

14 A Yes, NEO CANDO.

15 Q And that is the Northeast Ohio Community And
16 Neighborhood Data for Organizing? That's what those
17 letters stand for?

18 A Correct.

19 Q And what do you call that? How would you
20 describe this NEO CANDO?

21 A It is -- there are other cities that operate
22 them. They're commonly called Community Data Systems
23 for Neighborhood Information Systems.

24 Q What kinds of information are available on NEO
25 CANDO?

1 A It ranges from crime statistics, census data,
 2 information from the Cuyahoga County Department of
 3 Jobs and Family Services on food stamps and other
 4 public assistance, perhaps, child abuse and neglect,
 5 property data, foreclosure information, U.S. Postal
 6 Service servicing data, et cetera, et cetera.
 7 Q I'm with you.
 8 A So it's a large domain.
 9 Q Would it be accurate to say that through NEO
 10 CANDO and through the other reports that your Center
 11 issues, that you provide data analysis to not only
 12 government agencies and not only non-profit
 13 organizations, but also to the press?
 14 A We do.
 15 Q And also to community reinvestment professionals?
 16 A We do.
 17 Q In other words, people who would re-invest
 18 capital into the community, private capital people; is
 19 that right?
 20 A If they're reading our reports or visiting our
 21 web site, they're able to access the data we provide
 22 there, yes.
 23 Q As could any member of the public; is that right?
 24 A Correct.
 25 Q And you don't charge people to at least look at

1 your data through the web site?
 2 A That's correct.
 3 Q Do you charge people to see any of your reports
 4 or data?
 5 A We have technical assistance contracts, which
 6 have us doing specialty analysis that go beyond what's
 7 available on the public web site or use data that's
 8 been considered to be confidential, such as food stamp
 9 records and child abuse records. Those in the
 10 individual record level, not in the aggregate, are
 11 considered sensitive human subject data. And a lot of
 12 the research we do with those individuals we obviously
 13 have to do it and not make the individuals available
 14 to the public.
 15 Q And to the extent that you charge people for this
 16 extra technical expertise, are you charging sometimes
 17 private organizations?
 18 A As far as I'm aware, our work with a lot of the
 19 data and these contracts, projects, are with
 20 governments and non-profits.
 21 Q By, "non-profits," you mean a non-profit
 22 corporation, non-profit organization?
 23 A Correct.
 24 Q And one of the organizations -- actually, let me
 25 -- I'm a little ahead of myself there. I guess let's

1 go to the real meat of why you're here.
 2 A Okay.
 3 Q During the year 2010 and so far in the year 2011,
 4 have you received e-mails from the Cuyahoga County
 5 Recorder's Office?
 6 A Yes.
 7 Q And those have come to you personally?
 8 A They have come to my e-mail account at Case
 9 Western Reserve University that the University
 10 provides.
 11 Q And you have seen yourself those e-mails?
 12 A Yes.
 13 Q And they come generally weekly?
 14 A Generally.
 15 Q And often even on Tuesdays?
 16 A Yes.
 17 Q And they typically have -- the regular ones that
 18 come every week typically have electronic information
 19 attached to them?
 20 A Yes.
 21 Q And that attachment is information that you have
 22 asked the County Recorder to provide to you every
 23 week. Is that true?
 24 A Yes.
 25 Q And it's routine for you to view that information

1 after you get it?
 2 A Yes.
 3 Q You've provided to the County Recorder's Office
 4 and to the counsel, me, a CD with information received
 5 by you from Cuyahoga County Recorder's Office; is that
 6 right?
 7 A That's correct.
 8 MR. MOVIUS: I'm going to
 9 object. I think I received the CD
 10 from you, not Mr. Schramm.
 11 MR. MARBURGER: All right. I
 12 guess they provided it to us to give
 13 to you, which is what we did.
 14 Let's plug in the -- not the
 15 e-mails, but the other -- you know,
 16 that CD. I suppose what we should do
 17 first is mark the CD as an Exhibit.
 18 -----
 19 (Deposition Exhibit 1 marked for
 20 identification.)
 21 -----
 22 Q Showing you this CD that we marked as Exhibit 1,
 23 can you confirm for us at least from the exterior that
 24 it is the CD that you provided to us in response to
 25 our request?

1 A Actually, I e-mailed the data to University
 2 counsel, and counsel burned the CD. So today is the
 3 first time I actually saw the CD. But the data on the
 4 CD was provided by me.
 5 Q All right. Well, let's open Exhibit 1, which
 6 we're putting into a projector on a laptop.
 7 Now that you see what's on the projector,
 8 Mr. Schramm, what can you tell us -- first of all, is
 9 what you see on the projector consistent with what you
 10 expected to produce today?
 11 A Yes.
 12 Q And tell us what we're looking at when we just
 13 look at this screen right now? (Indicating.)
 14 A We are looking at files that I received from the
 15 Recorder's Office November, December, January,
 16 February and a little bit of March. The files
 17 represent a week's worth of transactions. I get two
 18 files per week. One is a text file and one is an
 19 Excel file. And that's because the Recorder's Office
 20 was unable to provide everything that I wanted in one
 21 file, so they provided it in two files.
 22 Q On the screen we're looking at, we're looking,
 23 from top to bottom, we see a file called, "Data 2010,
 24 hyphen 12, hyphen 14, 1405 dot T X T. That is what's
 25 commonly called a text file?

1 A Correct.
 2 MR. MARBURGER: Jack, would you
 3 open that text file up, please.
 4 Q Okay. What we're now looking on at the screen
 5 after we opened -- let me go back.
 6 MR. MARBURGER: Jack, would you
 7 make that go away. Open the text
 8 file that I read, Jack, so there's
 9 not a discrepancy between what I said
 10 and what we're looking at.
 11 I think it was the 141 -- go to
 12 the top. I read from the first one.
 13 MR. BLANTON: I had it in the
 14 middle.
 15 Q Let's start over. When we look at those filings
 16 that say, "Data," those are all text files, correct?
 17 A Correct.
 18 MR. MARBURGER: So let's open
 19 the top one, Jack.
 20 Q So we're opening the top data file on that list.
 21 And what we're looking at is a recommendation of what
 22 you get from the Recorder's Office every week as a
 23 text file?
 24 A That's correct.
 25 Q And this contains -- let's close it. And now

1 let's go to the files that say WD. And we're looking
 2 at the top WD. And before you open it, all the files
 3 that say WD you also receive from the County
 4 Recorder's Office; is that right?
 5 A That's correct.
 6 Q And those are in the format of Microsoft Excel,
 7 correct?
 8 A Correct.
 9 Q And you get them as Excel files?
 10 A Yes.
 11 MR. MARBURGER: Open the top
 12 Excel file, Jack, please.
 13 Q And what we're now looking at is a replication of
 14 what you receive as an Excel file from the County
 15 Recorder's Office; is that right?
 16 A That's correct.
 17 Q Could you tell us sort of going from left to
 18 right what you understand that information to be, in a
 19 generic sense? For example, the first column, the
 20 second column, like that.
 21 A Not all of the fields in this file I use and are
 22 familiar with. The document ID, I'm assuming that
 23 that's some way to track it back to the scanned
 24 document, but I've never confirmed that. So the first
 25 column I don't use. The version column I don't use.

1 Q Okay.
 2 A The reference number corresponds to what's called
 3 the AFN, which is often a way on the Recorder's
 4 web site you can actually search for a document. It's
 5 basically stamped with a sequential number after that.
 6 Q Right.
 7 A Then there's the date stamp of the date the
 8 document was recorded. There's the document type.
 9 Q And that's under the word "abbreviation"?
 10 A That's correct.
 11 Q Okay.
 12 A Number of pages in the document is the number of
 13 pages.
 14 Q Let me go back a minute to the abbreviation. Are
 15 you generally familiar with those abbreviations, what
 16 they stand for?
 17 A I'm familiar with many of them, yes.
 18 Q So, for example, M-O-R-T would be mortgage?
 19 A Mortgage, yes.
 20 Q And R-E-L-A, do you know what that stands for?
 21 A Release assignment.
 22 Q And DEQC would be a quitclaim deed?
 23 A That's correct.
 24 Q Okay. Now, let's move on to the next thing you
 25 use, the next column you use.

1 A The L Name would be the last name for a company
 2 name if a company is doing the deed recording.
 3 Q The last name of what?
 4 A I have to --
 5 Q The last name of the person owning the property
 6 or conveying the property?
 7 A I have to look at the whole thing, because I'm --
 8 let's see. Because some of these L names are the
 9 people conveying -- or granting and some of them are
 10 the grantee. I wrote the program that extracts the
 11 data from their file years ago, so let me just
 12 familiarize myself.
 13 Q Yeah, feel free.
 14 A I'm just trying to figure out --
 15 Q And you tell Jack how you want him to scroll
 16 through for you.
 17 A Based on looking at this data, I can't determine
 18 which one is the -- the L Name versus L Name 1 are the
 19 grantors or the grantees. I would have to look back
 20 at a deed in my program to remember which one is
 21 which. But right now, I cannot recall which one is
 22 the grantor and which one is the grantee, L name
 23 versus L Name 1.
 24 Q But the L Name, based on your understanding, is
 25 the name of somebody who either had or has an interest

1 in the property?
 2 A Correct.
 3 Q All right. Let's go to the next column that you
 4 work with.
 5 A F Name would be the first name. Suffix would be
 6 a suffix as part of the name. And then there is the
 7 column L Name 2, which also looks like -- it's the
 8 same name as the -- what's in L Name 1. So I'm at a
 9 loss for being able to tell the difference between the
 10 grantors and the grantees, which is probably what I
 11 did, based on the text file, the other file that we
 12 did not open.
 13 Q I see. Are any of the other columns columns
 14 you --
 15 A I use the parcel column.
 16 Q Which column is that?
 17 A That's Column S, to relate it to a ref, and then
 18 I use the AFN column to relate it back to other
 19 recorded documents.
 20 Q And that's column V?
 21 A Column V, correct.
 22 Q And Column F, when you say, "parcel," that's the
 23 permanent parcel number assigned to a particular piece
 24 of land?
 25 A Correct.

1 Q And does that conclude the columns that you use?
 2 A Yes.
 3 Q Okay. Do you have a name for this body of
 4 information that you get as a spreadsheet in Microsoft
 5 Excel?
 6 A I just call it the Recorder data. You know,
 7 that's what we call it in our office.
 8 MR. MARBURGER: Okay. Let's
 9 go back to the data file, the text
 10 file, Jack.
 11 Q Looking at the top text file, are you able to
 12 understand what we're looking at now when we open the
 13 top text file or do you need computer software to help
 14 you?
 15 A This can be opened up into Excel so the columns
 16 line up so you can see what's in there. But based on
 17 the header row, I can tell you what's in there. I
 18 think that's good enough.
 19 Q Well, would you give us not a lot of detail, but
 20 just a categorical rundown of what data we can see in
 21 this text file.
 22 A We can see the same document ID, same FN,
 23 recorded date, the document type --
 24 Q For example, a deed, a mortgage?
 25 A A deed, a mortgage. Other information that comes

1 from here would be the grantor name, the grantee
 2 name. And if you can see, this field also has the
 3 grantor's address, which we use, and then the parcel
 4 number, and the street address of the particular
 5 property.
 6 Q And where it says, "Grantee name, grantee
 7 address," do you use those?
 8 A We use those as well.
 9 Q Anything else on here that you use?
 10 A I believe we don't use anything else on there as
 11 well.
 12 Q All right.
 13 A The text file helps us to identify the difference
 14 between the grantor and the grantee. Yeah, there is a
 15 reference AFN as well, and the reference date. We use
 16 those as well.
 17 Q Okay.
 18 MR. MARBURGER: Okay. We can
 19 exit out of that, Jack.
 20 A There was another column called "amount" at the
 21 end. We also use that.
 22 Q What's that?
 23 A The mortgage amount or the conveyance fee.
 24 And that was not on the Excel file, which is another
 25 reason we get two files.

1 Q Although some of the data on the Excel file and
 2 some of the data on the text files are the same, but
 3 there's also some additional data on one or other of
 4 the files --
 5 A Correct.
 6 Q -- that its essential twin doesn't have?
 7 A Correct.
 8 Q And is it true that you get a new set of these
 9 data every week?
 10 A Yes.
 11 Q And that's supposed to reflect transactions or
 12 recorded information that occurred since the last
 13 piece of data that you got from the Recorder's Office?
 14 A Correct.
 15 Q Now, in February of this year, your Center
 16 released a report that I think you mentioned earlier
 17 called "Stalling the Foreclosure Process, The
 18 Complexity Behind Bank Walkaways"; is that correct?
 19 A That's correct.
 20 Q And you were a co-author of that study; is that
 21 right?
 22 A Yes.
 23 Q And did you use the kind of data that we looked
 24 at today from the CD that you provided to created that
 25 report?

1 A That data was involved in that report, yes.
 2 Q So data you received from the Recorder's Office
 3 was used in that report?
 4 A Yes.
 5 Q And is it true also true that there was some
 6 interaction between your Center and the Federal
 7 Reserve Bank in Cleveland in producing that report or
 8 not, or am I thinking of a different one?
 9 A There's a different report that we co-authored
 10 with the Federal Reserve Bank. We did work with the
 11 GAO, Government Accountability Office, on this
 12 report. I mean not really -- we consulted each other,
 13 but we did not co-author it together.
 14 Q Well, I think the report I was thinking of was on
 15 the next page. This is a printout from your web
 16 site.
 17 In October of 2010, did you issue a publication
 18 sort of in conjunction with the Federal Reserve Bank
 19 of Cleveland that was about the housing crisis?
 20 A Yes.
 21 Q And did you prepare part of that report?
 22 A Yes.
 23 Q And did the Federal Reserve Bank of Cleveland
 24 work with you in preparing that report?
 25 A Our Center authored the report, and then we

1 worked about with the Federal Reserve Bank on edits
 2 and the layout, and things like that, yes.
 3 Q And did you provide to the Federal Reserve Bank
 4 of Cleveland any of the data that you had received
 5 from the Recorder's Office, such as the kind of data
 6 we saw on the CD today?
 7 A I believe that the data from the Recorder's
 8 Office was not used on the report we did with the
 9 Federal Reserve Bank.
 10 Q Was not used?
 11 A Was not used. That was primarily auditor and
 12 treasurer data.
 13 Q And the "Stalling the Foreclosure Process"
 14 report, was that the one where you predicted -- you
 15 evaluated how you might be able to predict whether a
 16 property was in danger of foreclosure?
 17 A No. That report was called, "Pathways to
 18 Foreclosure."
 19 Q Okay. Let's find "Pathways to Foreclosure."
 20 Sure. Is that later or --
 21 A That was earlier. I believe that was in 2008
 22 that that came out.
 23 Q Okay. I saw it in here as not '08, but -- it's
 24 not that big of a deal.
 25 The report about stalling the foreclosure

1 process, was that only available for people to click
 2 on on the Web or did you affirmatively send that out
 3 to people?
 4 A We probably sent it out to our list serves and
 5 other list serves that it was distributed to.
 6 Q So it was distributed only electronically or in
 7 paper?
 8 A Only electronically.
 9 Q So you affirmatively distributed it as well as
 10 made it available for people?
 11 A Correct.
 12 Q Can you give us just a brief idea as to whom you
 13 affirmatively distributed it?
 14 A When people visit the Center on Urban Poverty and
 15 Community Development's web site, they have the
 16 opportunity to sign up for the Center on Urban
 17 Poverty's list serve. When people visit NEO CANDO,
 18 the web site, they're able to sign up for that
 19 particular list serve.
 20 And then we're also a member of what's called the
 21 National Neighborhood Indicator Partnership. It's a
 22 national consortium of like NEO CANDO projects
 23 throughout the country. They have a list serve. And
 24 I believe it went out on those three list serves.
 25 Q And so the recipients on those list serves would

1 be private organizations, public agencies, private
 2 individuals, government officials?
 3 A Anybody who could have visited our web site and
 4 signed up.
 5 Q But you know from your experience that I've
 6 described the categories of people that are on that --
 7 A Yes, those are the categories of people.
 8 Q Okay. Now, the data that we have looked at on
 9 the DD and the computer screen that you get weekly
 10 from the County Recorder's Office, now we're going to
 11 talk about that.
 12 For purposes of shorthand, this may or may not be
 13 an accurate description of that data, but I need a
 14 simple way to describe it. Let's call it the
 15 grantor/grantee index.
 16 A Okay.
 17 Q Or let's call it the list of property
 18 transactions. How about that? List of recorded
 19 property transactions. Because I don't really know
 20 what to call it. But for our discussion, let's call
 21 it that, list of recorded property transactions. You
 22 have -- when did you first begin getting that list of
 23 recorded property transactions from the Recorder's
 24 Office?
 25 A It would have been September -- either the last

1 week of August or the first week of September of 2008.
 2 Q Before the summer of 2008, had you had any
 3 communications with the Cuyahoga County Recorder's
 4 Office where you asked if you could obtain the same
 5 sorts of list of recorded -- updated list of recorded
 6 property transactions?
 7 A Yes, discussions occurred.
 8 Q Would you describe those discussions for us?
 9 A I was given the name of an individual who worked
 10 at the County Recorder's Office who was participating
 11 in the Northeast Ohio Mortgage Fraud Task Force. And
 12 through some work that we had done with one of the
 13 Community Development organizations on finding --
 14 identifying mortgage fraud, we were introduced to some
 15 people who worked for the HUD office Inspector General
 16 who introduced me to somebody at the Recorder's Office
 17 who said, "Hey, you should be sharing your information
 18 with Case Western Reserve because they're doing great
 19 things with property data."
 20 Q Then what happened?
 21 A So --
 22 Q Did you express an interest to the Recorder's
 23 Office that you'd like to get that?
 24 A Yes, I expressed an interest to the Recorder's
 25 Office that I would like to get that data, yes.

1 Q To whom did you express that interest?
 2 A Mike Carrabino.
 3 Q Do you know what his position was at the
 4 Recorder's Office?
 5 A I don't know if he's still at the Recorder's
 6 Office, and I don't know what his position was, no.
 7 Q Is he TE only person with whom you communicated
 8 at the Recorder's Office about potentially obtaining
 9 that data?
 10 A Prior to when we started receiving it on --
 11 Q Prior to '08?
 12 A Prior to '08, he would be the only person that I
 13 directly communicated with about the data.
 14 Q So those communications occurred sometime between
 15 the time you joined the Center in 2004 and the summer
 16 of 2008?
 17 A They would have occurred while Pat O'Malley was
 18 still the Recorder. So when he was no longer -- they
 19 ended at a you certain point in which -- and then the
 20 conversations didn't begin again until the new
 21 Recorder.
 22 Q Okay. When the discussions occurred with Mike,
 23 when O'Malley was the recorder, did you get from the
 24 Recorder's Office the data that you asked to receive?
 25 A No.

1 Q Was any explanation given to you about what you
 2 would have to do to get that data?
 3 A Pay \$5,000 a year.
 4 Q And did you from then not get that data because
 5 you declined to pay the 5,000?
 6 A Correct.
 7 Q Did anybody from the Recorder's Office -- Mike
 8 was the only person you spoke with?
 9 A Mike was the only person.
 10 Q And by, "speaking," I mean in person, on the
 11 phone, or by e-mail?
 12 A I would say on the phone or by e-mail.
 13 Q And by, "speaking," I mean all the means of
 14 communication. So did Mike indicate to you whether
 15 anybody else received that data for the \$5,000 or did
 16 you feel that you were being discriminated against and
 17 only you would have to be paid the 5,000, only your
 18 organization?
 19 A I believe that others were paying. Mike conveyed
 20 to me that others were paying.
 21 Q Paying the 5,000?
 22 A But I don't know how much they were paying.
 23 Q Okay.
 24 A I --
 25 Q Did Mike indicate in any way to you -- did Mike

1 convey any information to you that caused you to
 2 conclude that the County would ask Case Western to pay
 3 more money for that data than anyone else was paying?
 4 A There was no indication on where the 5,000 was in
 5 relation to other people receiving the data.
 6 Q Now, sometime in 2008, the situation changed and
 7 you did receive the data that you wanted to receive
 8 from the Recorder's Office; is that right?
 9 A That's correct.
 10 Q And that's the data we've seen on the CD marked
 11 as Exhibit 1?
 12 A Correct.
 13 Q Tell us how that came about.
 14 A I believe that I sent a letter to the County
 15 Recorder, Lillian Greene, requesting the data, talking
 16 about some of the community benefits received by us
 17 having the data, how we can help out some non-profit
 18 organizations and governments use the data, and
 19 other -- I also had former County Treasurer
 20 Jim Rokakis talk to the County Recorder.
 21 Q You mean you asked Mr. Rokakis to convey your
 22 wishes to the Recorder's Office?
 23 A Correct.
 24 Q What then happened?
 25 A I had a phone conversation with the former

1 recorder, Lillian Greene, and she said to work with a
 2 gentleman named Jim Zak, to figure out what sort of
 3 information I need.
 4 Q And then what happened?
 5 A I had several conversations with Jim Zak, and
 6 started to receive the data in late August, early
 7 September of 2008.
 8 Q And did you understand Jim Zak to be the head of
 9 the information technology wing of the Recorder's
 10 Office?
 11 A Yes.
 12 Q Now, did you have any conversation with any
 13 representative of the Recorder's Office, including
 14 Lillian Greene, but anybody, about how much you would
 15 have to pay to get that data?
 16 A I believe that I asked the Recorder if we could
 17 get it for free and, as well, Jim Zak.
 18 Q I'm sorry. I couldn't hear you.
 19 A Sorry. I made sure that under their arrangement,
 20 we would get the data for free.
 21 Q Okay. Would you identify everyone who
 22 communicated to you that Case Western Reserve
 23 University would receive the data for free?
 24 A Jim Zak and Lillian Greene.
 25 Q Did either of them mention to you that the

1 Recorder's Office was providing the same lists of
 2 recorded -- updated list of recorded property
 3 transactions to any other organizations?
 4 A I'm sure I believe they did.
 5 Q And didn't you develop an understanding from what
 6 either Jim Zak or Lillian Greene told you that some
 7 business were receiving the updated lists of recorded
 8 transactions from the Recorder's Office?
 9 A Yes.
 10 Q And that those businesses were being charged a
 11 fee for that data?
 12 A Yes.
 13 Q And did you have an understanding as to why --
 14 what the rationale was that you could get could it for
 15 free when they were having to pay?
 16 A They did not provide that rationale to me.
 17 Q Didn't you develop an understanding from
 18 something that either Zak or Greene said to you that
 19 the reason those businesses were having to pay and you
 20 weren't was related to the fact or based on the fact
 21 that you're a non-profit organization and the
 22 businesses are for profit -- commercial organizations?
 23 A I think one can come to that conclusion, but I
 24 don't know if they actually said that to me.
 25 Q But whatever they said to you caused you to come

1 to that conclusion, didn't it?
 2 A Yes.
 3 Q Did at any time Lillian Greene or Mr. Zak say to
 4 you, "We think Case Western should have to pay the
 5 same fee that we charge to commercial businesses"?
 6 A Can you repeat that?
 7 Q Did at any time did Mr. Zak or Lillian Greene say
 8 to you that they thought Case Western Reserve, your
 9 Center, would have to pay a fee that would be the same
 10 as what the businesses had to pay for the same data?
 11 A No. They never were going to charge.
 12 Q Did you have any communication with Jim Zak or
 13 Lillian Greene about the circumstance that businesses
 14 were paying for the same data that you would be
 15 getting for free?
 16 A No.
 17 Q Okay. Circumstance is a dumb way to say that.
 18 A Yeah.
 19 Q Was there some discussion about hey, this is a --
 20 in a general sense where it became clear that
 21 businesses were paying a fee for the same data you'd
 22 been getting for free, and, you know, how would
 23 somebody -- how would the Recorder's Office explain
 24 that or rationalize it or justify it? To what extent,
 25 if any, was there discussion on the phone, e-mail or

1 otherwise along those lines?
 2 A I think the -- at least the viewpoint I was
 3 coming from when talking to Lillian Greene and
 4 Jim Zak is that we are providing a community benefit
 5 to the county, the city, the suburbs, and the
 6 non-profits housing communities in Cleveland.
 7 Q And, therefore --
 8 A And, therefore, we should be getting -- and we
 9 have limited means. And it's public information and
 10 you should share that with us.
 11 Q And, therefore, you would have -- because of
 12 that, you would have --
 13 A Because of that, we wouldn't have to pay.
 14 Q Okay. Now, you've worked with the data that you
 15 received from the Recorder's Office, examples of which
 16 we saw today on the CD, Exhibit 1, correct?
 17 A Correct.
 18 Q In doing so, have you ever noticed any mistakes,
 19 informational mistakes in the data that
 20 Cuyahoga County has provided to you?
 21 A I have noticed errors.
 22 Q The general nature of the kind of errors you've
 23 noticed are what?
 24 A Wrong parcel numbers being assigned to deeds or
 25 mortgages, amounts missing, either the conveyance

1 amount or mortgage amounts, names spelled wrong,
 2 unstandardized.
 3 Q Any others you can think of as examples?
 4 A Those are the primary ones that I looked for and
 5 that I'm working with.
 6 MR. MARBURGER: Okay. I don't
 7 have anything else to ask you, but
 8 Mr. Movius gets to ask you questions.
 9 MR. MOVIUS: I do have a few
 10 questions.
 11 (Brief recess taken.)
 12 -----
 13 (Deposition Exhibit 2 marked for
 14 identification.)
 15 -----
 16 BY MR. MARBURGER:
 17 Q I forgot to ask you, what's your level of formal
 18 education? What's your highest -- post-high school
 19 education?
 20 MR. MOVIUS: Are we back on
 21 the record?
 22 A I have a Master's degree.
 23 Q In what?
 24 A Geography.
 25 Q Is that from Case?

1 A That is from Syracuse University.
 2 Q That's where I went to undergrad.
 3 A Oh, really?
 4 Q Yeah. Did you go there for undergrad?
 5 A No. I went to Penn State for undergrad.
 6 Q Oh, I'm from Pittsburgh. A lot of my friends
 7 went to Penn State.
 8 A You have the accent.
 9 Q I've been trying to conceal that accent.
 10 A Let the record show, "I picked up" --
 11 Q I've been trying not -- I'm 56 years old, and
 12 I've been trying since I could speak not to have the
 13 accent. And I wanted to ask you a couple questions
 14 about it.
 15 MR. MARBURGER: This is one of
 16 the e-mails you guys produced for
 17 us. This is one that Peter produced,
 18 and I have one, too.
 19 Q And what I'm referring to on Exhibit 2 is sort of
 20 the bottom half of this e-mail. Can you confirm to us
 21 that the bottom half that starts with the words "Larry
 22 Patterson, Office of the Fiscal Officer, Recorder
 23 Division," is an e-mail that you sent to him, to
 24 Mr. Patterson, in March of 2011?
 25 A Yes, this is an e-mail I sent.

1 Q And is there anything in this e-mail -- any facts
 2 that you state here that are inaccurate, that you know
 3 of? Take your time to read this.
 4 A I will review it just because. I believe that's
 5 all information that I wrote to Mr. Patterson,
 6 correct.
 7 Q Okay. So just to confirm a couple of things. Is
 8 it true that in August of 2008, when Lillian Greene
 9 was a recorder, that you received a backlog of data on
 10 CD from Jim Zak?
 11 A Correct.
 12 Q And the date range of the data on that CD covered
 13 October 1, 2007 to August 29, 2008?
 14 A That's correct.
 15 Q And was that the same sort of list of recorded
 16 property transactions that we looked at today on the
 17 CD?
 18 A Yes.
 19 Q You say at the end of the e-mail to
 20 Mr. Patterson, "I'd like to request data from 1999 to
 21 2002." Were you requesting the same sort of thing --
 22 A Correct.
 23 Q -- the list of recorded -- and have you received
 24 that data?
 25 A No.

1 Q Have you been told you wouldn't get that data?
 2 A I haven't been told anything.
 3 Q You haven't heard?
 4 A I haven't heard anything based on that request.
 5 Q Have you followed up on that request at all?
 6 A No.
 7 Q But I assume that you intend to; is that right?
 8 A Yes.
 9 Q The only other thing I wanted to -- I had asked
 10 you when you first came here to look at this.
 11 (Indicating.) And we'll mark it as an Exhibit.
 12 -----
 13 (Deposition Exhibit 3 marked for
 14 identification.)
 15 -----
 16 MR. MARBURGER: And, David,
 17 that's one for you. (Indicating.)
 18 Q You did take a few minutes to look at what we
 19 marked as Exhibit 3; is that right, Mr. Schramm?
 20 A That's correct.
 21 Q And can you confirm for us that this large paper
 22 printout that we've marked at Exhibit 3 is an example
 23 of what one would see on paper if we printed out one
 24 of the Excel spreadsheets that the Cuyahoga County
 25 Recorder provided to you?

1 A That's correct.
 2 MR. MARBURGER: Okay. Thank
 3 you. That's it.
 4 CROSS-EXAMINATION
 5 BY MR. MOVIUS:
 6 Q Hi. My name is David Movius. And as
 7 Mr. Marburger indicated, I represent Cuyahoga County
 8 in this matter. I have just a few questions I want to
 9 follow-up with you based on questions that
 10 Mr. Marburger asked you.
 11 Since you have Exhibit 2 in front of you, I won't
 12 mark it as my own Exhibit.
 13 MR. MARBURGER: What is
 14 Exhibit 2?
 15 MR. MOVIUS: That was the March
 16 17, 2011 e-mail.
 17 Q On this e-mail, and I'm just referring to the
 18 bottom part of it now, where it's your e-mail that you
 19 identified to Mr. Patterson?
 20 A Correct.
 21 Q You reference a phone message to Mr. Patterson?
 22 A Correct.
 23 Q And what was the -- what was that phone message
 24 regarding; do you recall?
 25 A He was asking whether we started to receive the

1 data from him.
 2 Q Do you know why he was asking that?
 3 MR. MARBURGER: Object. You
 4 can still answer.
 5 A Okay. I wasn't sure.
 6 I had assumed because it was the activities that
 7 are taking place today and the article that appeared
 8 in The Plain Dealer that day.
 9 Q Is that the article that -- you refer to that
 10 article in the third paragraph of your e-mail?
 11 A Yes.
 12 Q And you say, "I am hoping that the events I read
 13 about in today's paper do not jeopardize our data
 14 relationship"?
 15 A That's correct.
 16 Q Were you contacted by anyone from The
 17 Plain Dealer regarding those events prior to that
 18 story running in The Plain Dealer?
 19 A Yes.
 20 Q Who?
 21 A If you rattle off the reporters' names --
 22 Q Laura Johnston?
 23 A Yes, it was Laura Johnston.
 24 Q Do you recall when she contacted you?
 25 A It would have been after my first contact with

1 Mr. Marburger.
 2 Q And do you recall when your first contact with
 3 Mr. Marburger was?
 4 A I know it was a Monday. I don't recall when I
 5 was contacted by Mr. Marburger.
 6 Q Other than that it was possibly a Monday?
 7 A Correct.
 8 Q And it was before Ms. Johnston contacted you?
 9 A Correct.
 10 Q How did Mr. Marburger contact you?
 11 A Telephone and e-mail.
 12 Q Do you recall how he contacted you first?
 13 A He left a voice mail on my phone first. Then I
 14 believe I received the e-mail, and then I called him
 15 back.
 16 Q Do you still have that e-mail?
 17 A I do.
 18 MR. MOVIUS: Obviously we
 19 didn't receive that, so I'm making an
 20 informal request if we can get a copy
 21 of the correspondence between
 22 Mr. Schramm and Mr. Marburger.
 23 Q What did Mr. Marburger indicate to you -- or did
 24 he indicate why he was contacting you?
 25 A It was about the fact that we received the --

1 what did you call it? The grantor/grantee index
 2 file.
 3 Q Did he say why he wanted to talk to you about
 4 that?
 5 A Because he was involved in litigation with the
 6 Recorder's Office.
 7 Q Did he give any indication who he was
 8 representing?
 9 A Yes, he did. As far as the people of the title
 10 industry in general, I don't know if he referenced the
 11 specific individuals or his client.
 12 Q Can you just recount to the best of your ability
 13 what Mr. Marburger said over the course of all your
 14 communications with him about this case?
 15 A He described just the fact that his clients are
 16 charged for various products from the Recorder's
 17 Office, and that charge has gone up. And there are
 18 some products that Case Western Reserve University
 19 gets for free.
 20 Q Did Mr. Marburger express any opinion regarding
 21 the merits of this lawsuit?
 22 A I don't think he did.
 23 Q How many times did you talk to Mr. Marburger?
 24 A Once.
 25 Q And could you describe what you communicated to

1 Mr. Marburger during that conversation?
 2 A The fact that yes, we get the data that we've
 3 seen in today's deposition, some of the things that we
 4 do with the data, and just some contact about being
 5 subpoenaed in regards to this lawsuit.
 6 Q Did you ever communicate with Mr. Marburger in
 7 writing?
 8 A The only e-mail communication in writing I had
 9 with Mr. Marburger was to make sure that he was
 10 serving the University rather than me.
 11 Q And other than the compact disk that's been
 12 marked as Exhibit 1 to your deposition, did you
 13 provide Mr. Marburger with any documents or --
 14 A No. Everything that I provided to him was
 15 through that Exhibit.
 16 Q Did Mr. Marburger indicate to you that somebody
 17 from The Plain Dealer may be contacting you as well?
 18 A I believe he did not indicate that.
 19 Q When Ms. Johnston contacted you from
 20 The Plain Dealer, did she say why she was contacting
 21 you?
 22 A I believe she did, yes.
 23 Q Do you recall what she said?
 24 A She was -- it was related to a public records
 25 story relating to the Recorder's Office, and it was

1 just to confirm whether or not we do get the data for
 2 free.
 3 Q Did she indicate how she got your name to contact
 4 you?
 5 A She may have, but I can't honestly recall.
 6 Q Do you recall if she mentioned Mr. Marburger by
 7 name?
 8 A I can't recall.
 9 Q Did she reference this lawsuit?
 10 A Yes.
 11 Q What did she say about this lawsuit, that you
 12 recall, to the best of your recollection?
 13 A That the private sector title industry was
 14 involved in litigation with the Recorder's Office, the
 15 price being charged for data.
 16 Q Did she express to you any opinions regarding the
 17 subject matter of this lawsuit?
 18 A Not that I recall.
 19 Q Did you have any written correspondence with
 20 Ms. Johnston?
 21 A Yes. I provided her with an e-mail of some of
 22 the activities that we are doing with the data.
 23 Q Just generally describing what you do with it?
 24 A Our NEO CANDO project and our research, yes.
 25 Q And that information didn't appear in the story

1 that ran in the paper, did it?
 2 A No, it did not.
 3 Q Did you provide Ms. Johnston with any other
 4 information?
 5 A No.
 6 Q Now, in your e-mail here to Mr. Patterson,
 7 Exhibit 2, on the third paragraph, again, when you say
 8 that, "I am hoping that the events I read about in
 9 today's paper do not jeopardize our data
 10 relationship," were you concerned?
 11 A I wanted to make sure that we were still able to
 12 do the things we need to for our nonprofits and
 13 constituents. I wanted to make sure that the research
 14 still takes place; that we still get the data, yes.
 15 Q And why were you -- why did the story in the
 16 newspaper cause concern to you?
 17 A Anytime you're reading about a project you're
 18 involved in in the newspaper in which there's negative
 19 light shed, or at least I interpreted it as negative
 20 light, you get concerned.
 21 Q What were you interpreting as sort of negative
 22 light?
 23 A Just being involved -- being brought into this
 24 lawsuit. I mean --
 25 Q So you obviously know Mr. Patterson was

1 referenced in that story, correct?
 2 A Correct.
 3 Q That there was an excerpt of his deposition that
 4 was re-produced in the paper?
 5 A Correct.
 6 Q Before that story ran, had Mr. Patterson been
 7 helpful to you?
 8 A Yes.
 9 Q Did you have a good working relationship with
 10 him?
 11 A Yes.
 12 Q Since that story ran, have you had a good
 13 relationship with Mr. Patterson?
 14 A This is my only correspondence with Mr. Patterson
 15 since the story has ran and his voice mail asking when
 16 we started to get the data from the Recorder's
 17 Office. But I have had no reason to contact him
 18 because the data -- I am still getting the data.
 19 There hasn't been any issues.
 20 Q Did the story in The Plain Dealer change how you
 21 thought about Mr. Patterson?
 22 MR. MARBURGER: Objection.
 23 We're not here to build a case for a
 24 plaintiff's suit against anybody.
 25 We're here to -- I mean, that is not

1 even conceivably relevant to this
 2 action, not even conceivably.
 3 Q You can answer the question.
 4 A I have never personally met Mr. Patterson. I've
 5 only corresponded with him over the phone and through
 6 e-mail in a very limited way. So I have no opinion of
 7 Mr. Patterson.
 8 Q One way or the other?
 9 A One way or the other.
 10 Q Did the story help you form an opinion of him?
 11 MR. MARBURGER: Objection.
 12 A You know, I have to meet somebody before I judge
 13 them, and work with them.
 14 -----
 15 (Defendant's Exhibit 4 marked for
 16 identification.)
 17 -----
 18 Q Take a second to flip through it.
 19 A Yeah. I'm just seeing what one this is, because
 20 they all look the same.
 21 Q Do you recognize this as a document that you
 22 prepared?
 23 A Yes, I prepared this.
 24 Q Do you know from looking at it, do you know why
 25 you prepared it?

1 A I was probably giving a talk at either a local or
 2 national conference or webinar.
 3 Q Flip towards the end of this document. There's a
 4 slide entitled, "Challenges to acquiring data."
 5 A Yes.
 6 Q I'll let you get there.
 7 A By the way, I stole that slide from our
 8 Pittsburgh National Neighborhood Indicator partners.
 9 Q Do they face similar challenges that you do in
 10 acquiring data?
 11 A Yes. And these were generic meant for a national
 12 audience. When you're creating a data system like NEO
 13 CANDO, there are some potential challenges you face.
 14 Q It says, "Champions within government are a good
 15 thing"?
 16 A Yes.
 17 Q Do you believe that?
 18 A I do.
 19 Q Can you explain what you mean by that?
 20 A Well, our former County Treasurer, Jim Rokakis,
 21 was really good at facilitating conversations with
 22 county offices about sharing data.
 23 Q So he was very helpful in that respect?
 24 A Very helpful.
 25 Q Did you ever work with the County Planning

1 Commission?
 2 A Yes.
 3 Q Paul Alsenas?
 4 A Dan Meaney specifically. I know who Paul is.
 5 Q Generally speaking, can you describe what
 6 challenges to acquiring data you face?
 7 A That I face personally?
 8 Q Yes.
 9 A Either people wanting to charge for data, people
 10 not wanting to provide it because they think it's
 11 going to take too much of their staff time, data not
 12 in a comprehensible form that can be conveyed, such as
 13 on paper record still, and cannot be conveyed
 14 electronically or the electronic database is so
 15 archaic that extract procedures cannot be written to
 16 send it out into usable formats. Figuring out who is
 17 best person to contact has been a challenge.
 18 Those are some of the challenges that I've faced
 19 since 2004 on this NEO CANDO project, yes.
 20 Q Would you consider Pat O'Malley to have been a
 21 champion within government?
 22 A I have never had a conversation with
 23 Pat O'Malley.
 24 Q Did you experience some of these types of
 25 challenges that you described when you were trying to

1 obtain data from the Recorder during Mr. O'Malley's
 2 tenure?
 3 A I was -- like I said, my only contact into the
 4 O'Malley administration was through Mike Carrabino,
 5 who was cooperative at first and then said no, we're
 6 going to have to charge you \$5,000.
 7 Q And you did not experience that problem or that
 8 challenge once Lillian Greene became Recorder; is that
 9 correct?
 10 A That's correct.
 11 Q And you're still not experiencing that same
 12 challenge now?
 13 A Correct.
 14 Q I think there's a triple negative in there.
 15 You're not experiencing any challenge obtaining
 16 data from the Recorder's Office presently, correct?
 17 A I am presently obtaining regular updates of the
 18 Recorder's data.
 19 Q Are you familiar with the Ohio Housing Trust
 20 Fund?
 21 A I probably am but don't know them by that name.
 22 Q Are you aware of any trust fund that's
 23 administered by the State of Ohio?
 24 A Is that the Ohio Housing Finance Agency? Do they
 25 administer that?

1 Q I believe so, but I can't represent that for the
 2 record. I only know them as the Ohio Housing Trust
 3 Fund. Are you aware of a group that may have that
 4 name that is a State funding source for affordable
 5 housing opportunities and expanding housing services
 6 and improving housing conditions for low-income
 7 Ohioans?
 8 A I'm assuming that's got to be the Ohio Housing
 9 Finance Agency. How would I answer this question? I
 10 don't know who I'm -- if you're talking --
 11 Q I'm assuming we're talking about the same
 12 agency.
 13 A I know that there are agencies out there like
 14 that are there for the State of Ohio, yes.
 15 Q Do you believe they serve a valuable function?
 16 MR. MARBURGER: Object.
 17 A Yes.
 18 Q And why is that?
 19 A Because they're helping neighborhood community
 20 organizations invest in neighborhoods and helping
 21 low-income people afford housing.
 22 Q So programs of that nature are beneficial to
 23 low-income people?
 24 A And beneficial to neighborhoods.
 25 Q How are they beneficial to neighborhoods?

1 A If you fix up the blighted housing in the
 2 neighborhoods, you're helping everybody who lives in
 3 that neighborhood.
 4 Q Obviously there's been a lot of publicity about
 5 the current budget cycle with the State of Ohio.
 6 Do you receive any State funds for your program?
 7 A I believe we do not. But we do receive funds
 8 from city and town governments, and I don't know where
 9 they're getting those funds.
 10 Q Okay.
 11 MR. MOVIUS: That's all I
 12 have.
 13 REDIRECT EXAMINATION
 14 BY MR. MARBURGER:
 15 Q I just have one follow-up.
 16 The Plain Dealer story that Mr. Movius asked you
 17 about and that caused you -- I don't remember how you
 18 described how you felt, but do you remember that
 19 article as reporting that Case Western Reserve
 20 University received data from the Recorder's Office
 21 for free that title companies had to pay \$7,500 for?
 22 Do you remember that story?
 23 A I believe that was in the article, yes.
 24 Q And you don't have any information to contradict
 25 that, do you?

1 A No, I do not.
 2 Q And wasn't reporting that fact, wasn't that what
 3 kind of bothered you --
 4 MR. MOVIUS: Objection.
 5 Q -- that that fact was being published?
 6 A You know, what bothered me was it took us so long
 7 to get the data. And then when we finally started to
 8 get the data, I didn't want anything to jeopardize the
 9 data relationship, because it was -- you know, it took
 10 us so long and it was such an uphill battle under
 11 O'Malley that, you know, at any moment I felt like I
 12 didn't want it to be like a walking-on-eggshell-type
 13 of environment.
 14 Q So your concern was perhaps the County would say
 15 well, you have to pay the same amount as the
 16 companies?
 17 A Correct. That was a concern of mine.
 18 MR. MARBURGER: Okay. Thank
 19 you.
 20 RECROSS-EXAMINATION
 21 BY MR. MOVIUS:
 22 Q Just to follow-up one more question or one topic.
 23 The data that we've been talking about, these
 24 indexes you received, are you aware whether those are
 25 at issue in the pending lawsuit between -- that you're

1 here for your deposition -- let me strike that.
 2 You have any knowledge of whether the data that
 3 you've been receiving from the County Recorder's
 4 Office is in any way at issue in the lawsuit that led
 5 to your subpoena?

6 MR. MARBURGER: Object.

7 A I'm not sure I understand the additional data
 8 that I get from the -- or that I don't get that the
 9 title company gets that I don't need.

10 Q You get everything you need?

11 A I get what I need and what I want.

12 Q And that's what --

13 A And examples of that is what's contained in the
 14 two files.

15 Q The index file and Excel spreadsheet file?

16 A Correct.

17 Q And so you don't know whether or not the title
 18 companies that are the Plaintiffs in this case receive
 19 additional data, correct?

20 A No. I'm aware that they receive additional data.

21 Q What data are you aware they receive?

22 A Scanned images.

23 Q How are you aware of that?

24 A Mr. Marburger.

25 Q He said that to you?

1 A Yes.

2 Q When did he say that to you?

3 A Both on the phone conversation -- during the
 4 phone conversation I had a couple weeks ago.

5 Q You said both.

6 A Then this morning in our informal conversation.

7 Q So you had an informal conversation this morning?

8 A Yes.

9 Q So what did you talk about in that conversation?

10 A Just getting ready for this deposition in the
 11 hallway before coming here.

12 Q How long did you talk to Mr. Marburger this
 13 morning?

14 A 2 or 3 minutes probably.

15 Q Anything else that you talked to Mr. Marburger
 16 about this morning?

17 A Deposition related.

18 Q So you don't obtain images from the County?

19 A I do not.

20 Q Have you ever used the County Recorder's web
 21 site?

22 A Yes.

23 Q Are you aware that there's images available --

24 A I mean, I use the images on the web site if I
 25 need to use images, yes.

1 Q How much do you pay for those images?

2 A Nothing.

3 Q They're free?

4 A They're on the web site.

5 Q And have you ever visited the County Recorder's
 6 offices?

7 A No.

8 Q So you don't know whether or not there's
 9 terminals that are available there you can view images
 10 for free, do you?

11 A I do not know that.

12 MR. MOVIUS: I have nothing
 13 else for you.

14 FURTHER REDIRECT EXAMINATION

15 BY MR. MARBURGER:

16 Q I didn't tell you that the companies I represent
 17 currently get digital images from the Recorder's
 18 Office, did I?

19 A I think it was more in general about the title
 20 industry getting images from the Recorder's Office.

21 Q You understand, don't you, that the reason this
 22 lawsuit exists is because the County was charging fees
 23 for the title companies to get digital images,

24 which --

25 A Right.

1 Q -- which the companies have refused to pay and,
 2 therefore, are foregoing those images?

3 A I was unaware of if they were foregoing or not,
 4 based on our conversation.

5 Q But nothing I said to you suggested that the
 6 companies today receive current digital images, did I?

7 A No.

8 Q Have you ever tried -- when you've accessed the
 9 County Recorder's web site, have you ever tried to
 10 download information from the web site, as opposed to
 11 just looking at it? Have you ever tried to download
 12 so you can save it?

13 A Like saving the scanned image --

14 Q Right.

15 A -- to your hard drive? Yes, I've done that.

16 Q Have you ever tried to do it for every single
 17 instrument recorded on a particular day?

18 A No.

19

20 MR. MARBURGER: Thank you.

21 FURTHER RECROSS-EXAMINATION

22 BY MR. MOVIUS:

23 Q One more question. Do you have any concern of
 24 whether or not your transcript may be quoted in the
 25 newspaper, in the media?

1 MR. MARBURGER: Object.
 2 A If it gets quoted, it gets quoted.
 3 MR. MOVIUS: Okay. Nothing
 4 further.
 5 MR. POULOS: Do you want to
 6 read it to make sure it's accurately
 7 transcribed? I don't think you need
 8 to, but it's your call.
 9 THE WITNESS: If you're
 10 fine --
 11 MR. POULOS: Waiving is fine.
 12 THE WITNESS: Okay.
 13 (Signature waived.)
 14 (Deposition concluded at 12:35 p.m.)

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1 The State of Ohio,)
) SS: CERTIFICATE
 2 County of Cuyahoga.)
 3
 4 I, Cheryl L. Baker, Notary Public within and for the
 State of Ohio, duly commissioned and qualified, do
 5 hereby certify that the within-named MICHAEL SCHRAMM,
 was by me first duly sworn to testify the truth, the
 6 whole truth, and nothing but the truth in the cause
 aforesaid; that the testimony then given by him/her
 7 was by me reduced to stenotypy in the presence of said
 witness, afterwards transcribed on a computer, and
 8 that the foregoing is a true and correct transcript of
 the testimony so given by him/her as aforesaid.

9
 I do further certify that this deposition was taken at
 10 the time and place in the foregoing caption specified
 and was completed without adjournment.

11
 I do further certify that I am not a relative,
 12 employee of, or attorney for any of the parties in the
 above-captioned action; I am not a relative or
 13 employee of an attorney for any of the parties in the
 above-captioned action; I am not financially
 14 interested in the action; I am not, nor is the court
 reporting firm with which I am affiliated, under a
 15 contract as defined in Civil Rule 28(D); nor am I
 otherwise interested in the event of this action.

16
 IN WITNESS WHEREOF I have hereunto set my hand and
 17 affixed my seal of office at Cleveland, Ohio on this
 13th day of April, 2011.

18
19
20
21

Cheryl L. Baker, Notary Public
 in and for the State of Ohio.
 My commission expires 10/10/15

22
23
24
25

Exhibit C

BEFORE THE OHIO SUPREME COURT

STATE EX REL. DATA TRACE)
 LLC, ET AL.,)
)
 Relator(s),)
)
 vs.)
)
 RECORDER OF CUYAHOGA) Case No. 10-2029
 COUNTY, OHIO,)
)
 Respondent(s).)
)
 - - - - -)
)
)

DEPOSITION OF VENESSA DAVIS
 Wednesday, May 11, 2011

- - - - -

Deposition of VENESSA DAVIS, called by the Relators
 for examination under the Ohio Rules of Civil
 Procedure, taken before me, the undersigned, Cheryl L.
 Baker, RPR, a Notary Public in and for the State of
 Ohio, at the offices of Baker Hostetler, 1900 East
 Ninth Street, Suite 3200, Cleveland, Ohio, commencing
 at 2:20 p.m. the day and date above set forth.

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Page 2

1 APPEARANCES:

2

3 On Behalf of the Relators:

4 David L. Marburger, Esq.
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7 1900 East Ninth Street
8 Cleveland, OH 44114
9 216-861-7610
10 dmarburger@bakerlaw.com

11

12 On Behalf of Cuyahoga County:

13 John F. Manley, Esq.

14

15 - - - - -

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Page 4

1 A February of 1998.

2 Q Was Pat O'Malley the Recorder?

3 A Yes.

4 Q And have you worked there were continuously since

5 February of '98?

6 A Yes.

7 Q And at all times were you in the capacity of

8 working with finance?

9 A Yes.

10 Q Were you hired as the finance director or

11 director of finance?

12 A Yes.

13 Q Do you have a degree in accounting or any

14 post-high school education?

15 A Yes. I have a degree, a bachelor in -- I'm

16 sorry. I'm nervous.

17 Q Don't be nervous.

18 A Bachelor's of Administration, BA,

19 Business administration.

20 Q And what year did you get that?

21 A I believe it was 1977.

22 Q That's when I got my college degree, in '76.

23 The role of finance director or finance

24 administrator, does it include helping to figure out

25 what the County Recorder's Office budget ought to be?

Page 3

1 VENESSA DAVIS

2 A Witness herein, called by the Defendants for

3 cross-examination under the Ohio Rules of Civil

4 Procedure, after having been first duly sworn, as

5 hereinafter certified, was examined and testified as

6 follows:

7 CROSS-EXAMINATION

8 BY MR. MARBURGER:

9 Q Would you state your name for the record,

10 please.

11 A Venessa, V-e-n-e-s-s-a, Davis.

12 MR. MARBURGER: Off the record.

13 - - - - -

14 (Exhibit 1 marked for

15 identification.)

16 - - - - -

17 Q And is your title finance director, Ms. Davis?

18 A Finance administrator.

19 Q Is there a difference? Is there somebody who is

20 finance director?

21 A No, no. When I first started, it was the

22 director of finance. And then a couple years ago they

23 changed it to finance administrator.

24 Q When did you begin working for the County

25 Recorder's Office?

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1 A No. Basically, my job is to monitor the budget

2 that we're given by the County.

3 Q And by, "the county," you mean -- back then it

4 was the Board of Commissioners?

5 A Yes, exactly.

6 Q Showing you what's been marked as Davis

7 Exhibit 1, I will tell you where I got this, and I'm

8 not -- I'm just using it more or less to see if it

9 stimulates any memory on your part, but I pulled this

10 off the Recorder's website on the 5th of January of

11 this year. When the website says, "Fees and filings,"

12 I clicked on that, and what is produced is what you

13 see here as Davis Exhibit 1. And I would ask you to

14 look through it and tell me if you -- based on the

15 knowledge that you have of the finances of the County

16 Recorder's Office, if this reflects the kinds of fees

17 that your office collects? And I don't mean to say

18 this is the exclusive universe of fees, but if this is

19 representative to you of the kinds of fees that your

20 office collects?

21 A Just looks like the fees that we charge based on

22 the Ohio Revised Code.

23 Q I'm not saying anything wrong with it, but in

24 order for me to talk to you about what you do, we have

25 to start with some common ground.

1 **A Okay.**
2 Q Now, in addition to the fees that are listed on
3 Exhibit 1, are there other sources of revenue that
4 come, let's say, during the year 2010, the past
5 year -- let me stop even with that.
6 Does your fiscal year go by the same as a
7 calendar year?
8 **A Yes.**
9 Q So during the year 2010, were there sources of
10 fees other than the fees that we see listed here in
11 Exhibit 1?
12 **MR. MANLEY:** I'm going to
13 object. You can go ahead and answer.
14 **MR. MARBURGER:** I'll tell you
15 what, let me try it a different way.
16 **MR. MANLEY:** Just because --
17 **MR. MARBURGER:** You need a
18 little foundation.
19 **MR. MANLEY:** Yeah.
20 **MR. MARBURGER:** Let's do that
21 then.
22 **MR. MANLEY:** And I think,
23 David, as she testified, her role was
24 to make sure -- was to monitor the
25 budget that she was given. And I

1 **A I just need --**
2 Q Why don't you tell me this --
3 **A What I do?**
4 Q Why don't you tell me -- let me ask you some
5 questions about what you do. Okay? In order to
6 monitor the budget, what things do you have to keep
7 track of?
8 **A The expenses; to make sure that the expenses are**
9 **within our budget.**
10 Q How do you know what the expenses are, let's say,
11 at any particular time?
12 **A Well, the auditor department has the computer**
13 **system. So I just go on-line to see what our budget**
14 **expenditures are.**
15 Q So by, "auditor," you mean a separate department;
16 the County Auditor?
17 **A The County Auditor, yes.**
18 Q So you get onto a computer system -- and I take
19 it this is a -- the County Auditor must show the
20 budgets not just for your department, but for the
21 various --
22 **A Yes, all the different departments.**
23 Q Do you report any information about expenses to
24 the County Auditor's Office?
25 **A No. They give the information to the Recorder's**

1 don't know if that includes
2 revenue --
3 Q I'll talk about the kinds of things that you do.
4 Have you since 1998 typically worked a five-day week?
5 **A Yes.**
6 Q So you're a full-time -- you've been full-time
7 the whole time?
8 **A Yes.**
9 Q And full-time the whole time in the financial end
10 of the office?
11 **A Yes.**
12 Q All right. And is there anybody in the
13 Recorder's Office other than you that keeps track of
14 finance?
15 **MR. MANLEY:** Objection.
16 Q Let me change that. Other than collecting
17 money -- you have cashiers that collect money, right?
18 **A Yes.**
19 Q And you have other people who collect money. But
20 other than people who actually physically collect the
21 money, is there anyone else who, from sort of an
22 accounting point of view, administers the finances of
23 the office?
24 **MR. MANLEY:** Objection. Go
25 ahead and answer if you can.

1 **Office.**
2 Q Do you have an understanding as somebody who has
3 worked in the financial end of the Recorder's Office
4 for more than ten years as to how information about
5 your expenses at the Recorder's Office get to the
6 Auditor's Office?
7 **A Yes.**
8 Q How is that?
9 **A Well, the biggest part of the budget is payroll,**
10 **which I do that. So every pay period you submit the**
11 **hours and they provide a report back to me. And then**
12 **there are the expenditures, which a person basically**
13 **records their expenses and submit it to the auditor,**
14 **and they will pay it and then it goes against our**
15 **budget.**
16 Q Okay. Let's zero in a little bit on the
17 payroll. The people in the Recorder's Office must
18 have to report to you the hours they work; is that
19 what they do?
20 **A Yes.**
21 Q And how often do you prepare a report of hours to
22 the Auditor's Office?
23 **A Every two weeks. Every two weeks I submit the**
24 **hours to the payroll department of the Auditor's**
25 **department.**

1 Q I'm not interested in getting into a lot of
2 detail on this, but I need to -- I have to ask you
3 some detail so I can understand it and move on to
4 something else. It's not something I particularly
5 care about, but I need to understand. Not everybody
6 is paid the same amount of money there, are they?
7 **A No.**
8 Q So do you differentiate -- when you report the
9 hours, is it for each employee or for all the
10 employees together?
11 **A Each employee is set up as far as their salary,
12 starting date. And I supply the information to the
13 payroll department so they have what their hourly rate
14 is, all information, their Social Security, name,
15 whatever. And every two weeks I will submit to them
16 the hours for each employee.**
17 Q So you differentiate amongst the employee. So if
18 Joe Smith worked 8 hours, you would say he did. If
19 Mary Marburger worked 4, you would say she did?
20 **A Yes.**
21 Q When you say you keep track of expenditures, by
22 that do you mean -- for example, I don't know if you
23 have vehicles --
24 **A No, we don't.**
25 Q But if you did, and someone had to get gas for

1 the agency vehicle, is that kind of -- the sort of
2 out-of-pocket expenditure?
3 **A If that was an expenditure, the person that does
4 the accounts payable, she'll get the invoice and
5 submit it to the Auditor.**
6 Q What you say your role in -- let's talk about an
7 expenditure I'm sure you have, which is offices
8 supplies.
9 **A Okay.**
10 Q How does that work?
11 **A Well, she would get the invoice, and she would
12 put it on the proper form, and then she would give it
13 to me, and I would make sure the account number that's
14 going to be charged is correct. And I give the form
15 back to her. And then she will get it approved by, at
16 that time the, Recorder. Then she will take it down
17 to the auditor, and they will pay it.**
18 Q Okay. And that then goes against --
19 **A Our budget, yes.**
20 Q Okay. Now, when fees, like the fees that are
21 shown in Exhibit 1, are collected by -- lets take, for
22 example, the cashier's department. Aren't they the
23 department that collects fees that are paid when you
24 actually record, say, a deed?
25 **A Yes.**

1 Q And presumably -- if I were to come in, and I'm
2 not a company but it's just me, and I said please
3 record this deed for me, you would charge me a fixed
4 amount of money. And let's say I paid that by a
5 check.
6 **A Yes.**
7 Q Do you have an understanding as to then what
8 happens to that check that I paid?
9 **A Yes.**
10 Q What happens?
11 **A The cashier will collect -- process filing the
12 fee, filing the document and the fees. So at the end
13 of the day, the computer department will tell them
14 exactly how much cash and checks there was collected
15 and how much it should be.
16 So if they collected, say, \$1,000 in fees, then
17 there should be \$1,000 in checks and cash.**
18 Q Okay. Again, not because it's crucial to the
19 lawsuit, but for me to ask useful questions, I need to
20 grasp what you're saying.
21 So when the cashier collects fees, and because
22 those are based on the number of recorded documents,
23 the number of pages or the type of recorded
24 instruments, are you saying the computer automatically
25 knows what the fees should be for that day?

1 **A Correct.**
2 Q Based on what was recorded?
3 **A Yes. What was actually entered in the computer.**
4 Q I see. So the computer department alerts the
5 cashier, here's how much money you should have
6 collected today?
7 **A Yes.**
8 Q And the cashier tries to reconcile what he or she
9 did collect with that number?
10 **A Yes.**
11 Q Assuming that the reconciling works out and the
12 numbers match, do you have an understanding of what
13 then happens to the money that was collected?
14 **A At the end of the day, the cashier will balance.
15 And once they balance, they'll take it over to the
16 bookkeeping department. And the bookkeeping
17 department will also again check their totals to make
18 sure the total number of filings -- documents that
19 should have been collected is what it is, is what the
20 total number of checks and cash is.**
21 Q And then do you have an understanding of what the
22 bookkeeping department does with the cash?
23 **A Yes. And after everybody is balanced out, they
24 lock it up in the safe. And the next morning, they
25 will reconcile it, the total number of checks and**

1 cash, and then the deposit will be made to the
2 Auditor's Department. And that's the revenue for the
3 day.
4 Q Is the bookkeeping department part of your
5 responsibilities?
6 A Yes. I supervise that department.
7 Q How many people work in that, as bookkeeping?
8 A Two people.
9 Q And do you monitor whether they're doing their
10 jobs correctly?
11 A Yes. At the end of the day, I make sure they
12 give me a report. So we see -- or they'll tell me if
13 there are any discrepancies.
14 Q Okay. So they -- amongst the things they do is
15 let you know how much revenue was taken in on a given
16 day?
17 A Yes. I have a report.
18 Q And does that report at all have any indication
19 as to what the source of the revenue was? For
20 example, fees such as those we see on Exhibit 1.
21 A Yeah, the report could do that. I mean, it could
22 tell me what's -- what the source is, is it cashier's
23 department, public information. It will tell me in
24 detail what source of revenue was collected.
25 Q Okay. And so as a result of your supervising the

1 A Is that Chicago Title?
2 Q They were Chicago Title.
3 A I'm familiar with the two names, yes.
4 Q So I know that they have what you're calling draw
5 down accounts.
6 A Yes.
7 Q So what do they do, pay you some fixed amount of
8 money periodically, and you charge against that --
9 A Basically the account --
10 Q -- fees that they generate?
11 A It's like a fee --
12 Q Like a retainer?
13 A Yes. And you -- it just makes it easier.
14 Q Yes. Because they do so much business with your
15 department?
16 A Yes.
17 Q So by way of example -- this is just to
18 illustrate -- Data Trace many pay your office \$5,000,
19 which you keep in an account attributable to Data
20 Trace. And then Data Trace is incurring fees by your
21 office, and you charge those fees, rather than have
22 Data Trace pay as it goes, you charge those fees
23 against the draw down account?
24 A Correct.
25 Q Going back then to the sources of revenue, is

1 bookkeepers, you have an understanding of where the
2 revenue generally comes from; is that right?
3 A Yes.
4 Q Other than fees -- the fees that the cashiers
5 collect, are they all -- is it 100 percent fees that
6 people pay for when they record instruments or is
7 there another way that the cashiers collect money?
8 A Yes.
9 Q Yes to which question?
10 A Yes, there's other ways. Filing documents,
11 there's title companies, and there's like what we call
12 a draw down account.
13 Q Okay. Let me phrase that as I understand it,
14 because my companies have that. Do you know that I
15 represent two companies in the title business?
16 A No, I don't.
17 Q Okay. Well, then I should tell you what's going
18 on.
19 A Please.
20 Q I represent -- have you ever heard of Data Trace?
21 A Yes.
22 Q I represent Data Trace Information Services and
23 one of its competitors, Property Insite. Are you
24 familiar with either -- you said you know Data Trace.
25 Do you know Property Insite?

1 this true: The sources of revenue, based on the
2 information that is made available you, would be fees
3 for recording instruments, which could come from a
4 draw down account, or it could come from just someone
5 who pays as they go?
6 A Yes.
7 Q Fees that are charged by the public information
8 department?
9 A Correct.
10 Q And those fees typically would be a fee for a
11 certified copy?
12 A Correct.
13 Q Or fees for any other kind of charge that you
14 charge people to give them copies of records that you
15 already have?
16 A Yes.
17 Q Other than those two sources, fees for recording
18 documents, fees for getting copies of documents, are
19 there any other sources of revenue to your office,
20 based on your experience as the finance director?
21 A The CDs.
22 Q From Data Trace or whoever paid for the CDs?
23 A Yes.
24 Q Anything else?
25 A The only other thing that I would know of if

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1 somebody -- that would be it, because -- that would be
2 you it, as far as I know.
3 Q They are getting copies of records you have or
4 actually filing something to be recorded?
5 **A Or to be certified, correct.**
6 Q So is it just -- you are a supervisor, right, and
7 you've been a supervisor since '98?
8 **A Yes.**
9 Q So you've familiarized yourself with the office's
10 goals and objectives generally. Is that true?
11 **A I know what the mission statement is.**
12 Q You generally know -- don't you sometimes have
13 conversations with people -- stop.
14 You report to the Recorder?
15 **A Right.**
16 Q And don't you generally have communications with
17 the person you report to?
18 **A Well, yeah. We want to make sure that we -- that**
19 **we abide by our budget. That was the main goal of**
20 **mine.**
21 Q All I'm trying to establish through you is that
22 by virtue of meetings or communications that you'd
23 have with the Recorder's Office, you know generally
24 what the Recorder's Office wants to try to do as being
25 the Recorder's Office?

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1 **MR. MANLEY: Objection.**
2 Q By way of example, you understand, don't you,
3 that the Recorder's Office would prefer to make
4 records available to people who want to see them as
5 opposed to not make them available?
6 **A Yes.**
7 Q And you know that the Recorder's Office would
8 like to stay within budget?
9 **A Yes.**
10 Q That's what I'm talking about. You know the
11 general direction of the Recorder's Office?
12 **A Right.**
13 Q And I have the impression, and I guess that's not
14 relevant, but the Recorder's Office wants to be
15 economically self-sufficient, doesn't it?
16 **MR. MANLEY: Objection.**
17 Q Do you need me to clarify?
18 **A Yes, please.**
19 Q You generally don't want to have to finance your
20 payroll or your other expenditures from the general
21 fund of the County. You would say rather fund your
22 payroll and expenditures from revenue that you bring
23 in. Is that true?
24 **MR. MANLEY: Objection. If you**
25 **can answer that question, go ahead.**

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1 Q I mean -- I don't mean anything wrong by it. I'm
2 just simply saying that the person other than the
3 Recorder directs the financial direction of the
4 Recorder's Office. Isn't it your understanding that
5 the Recorder's Office wants to be self-sufficient?
6 **MR. MANLEY: Objection.**
7 **A I guess.**
8 Q For example, in the year 2010, did the Recorder's
9 Office finance its payroll or other expenditures from
10 monies other than monies that it collected from people
11 using its services?
12 **A We didn't cover our Budgets from the general**
13 **fund. If we don't cover our budget from the general**
14 **fund, they have to subsidize it.**
15 Q That's all I'm getting at. Is it your
16 understanding as the person who works with the
17 finances of the agency you want to avoid having
18 subsidized by the general fund? Is that true?
19 **A All I know is that the Commissioners give us a**
20 **base budget, and they want to make sure that we**
21 **maintain that budget.**
22 Q That you don't exceed the expenditures?
23 **A Yes. Because the budget is not based upo**
24 **revenue.**
25 Q Not based on what?

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1 **A Not based upon revenue generated rated.**
2 Q In the year 2010, did the general fund subsidize
3 the Recorder's Office?
4 **A Yes.**
5 Q Do you know approximately what proportion of your
6 budget had to be subsidized?
7 **A I can't tell you right offhand.**
8 Q Can you give us an informed ballpark estimate?
9 **MR. MANLEY: Objection.**
10 Q I don't need to know exactly. All I need to know
11 is it 5-0 percent, 20 percent, 90 percent? Can you
12 give me a range?
13 **MR. MANLEY: Objection. If you**
14 **can.**
15 **A I can get it to you later. But they have to**
16 **subsidize it, because it's based upon the revenue that**
17 **we collected. And we didn't -- our budget was -- like**
18 **I say, I don't remember. I can't remember. I can**
19 **give it to you. I can call you back and give it to**
20 **you.**
21 Q Actually, I'm fine with that. You're 2010 budget
22 was 6 million dollars, right?
23 **A Right.**
24 Q And that's what you were monitoring to make sure
25 your expenditures stayed at 6 million?

1 **A Yes.**
2 Q Did they?
3 **A Yes.**
4 Q Did they fall below 6 million?
5 **A I don't think so.**
6 Q So did you hti -- you didn't hit 6 million to the
7 dollar, though?
8 **A Whatever it was, we were within our budget.**
9 Q So you were either -- either you hit 6 million or
10 you were under its. Is that what you mean to say?
11 **A Based -- maybe a little under. But we didn't go**
12 **over.**
13 Q And in keeping track with the budget and getting
14 the revenue figures that you get regularly, can you
15 tell us about how much of that 6 million was paid for
16 by revenue that your office collected other than the
17 subsidy from the general fund?
18 **A Total revenue?**
19 Q About what was your revenue did you take in for
20 2010?
21 **A I don't remember the amount, but I would say**
22 **maybe 4 million. I can go back and look. I can call**
23 **you back and tell you.**
24 Q Or you can call John.
25 **A I will call John and tell you exactly what it**

1 **don't know. I have to go back and take a look at it.**
2 **We don't generate a lot from public information. The**
3 **majority is from the cashier department.**
4 Q When you monitor the budget, do you also keep
5 track either because you're supposed to or because you
6 care about the office, either reason, do you also keep
7 track of, when you're looking at the expenses for,
8 say, a two-week period, do you also look at what your
9 revenues were for that two-week period?
10 **A Yes. I have for the whole month.**
11 Q And what you're looking to see is to what extent
12 are your expenditures coming close to your revenue?
13 **A No. I don't look at the revenue, because, I**
14 **mean, we can't. My main goal is to make sure we**
15 **don't -- we're within our budget as far as the**
16 **expenses.**
17 Q Do you have --
18 **A Because we have no control over the revenue.**
19 Q Do you have an interest in seeing to what extent
20 your expenses are being paid for by revenue?
21 **A Do I have any interest?**
22 Q Is that something you care about?
23 **A I look at it. But we have no control over it as**
24 **far as the revenue is revenue.**
25 Q You can't make more revenue come in?

1 **was.**
2 Q All right. That's great. In monitoring the
3 revenue every day for, say, the course of a fiscal
4 year, do you get a feel for what proportion of your
5 revenue comes from recording fees, such as those in
6 Exhibit 1, versus fees from the public information
7 department?
8 **A Yes.**
9 Q What?
10 **A Based upon -- the public information, there is an**
11 **average of \$300 possibly a day, maybe. And that's**
12 **just the top --**
13 Q What about from the recording fees themselves?
14 **A Based on every day or --**
15 Q Yeah.
16 **A Based on -- it's really based upon what day it**
17 **is. Like yesterday, I think we did 14,000.**
18 Q So it is fair to say that generally -- that
19 ballpark, of the revenue that you bring in that isn't
20 subsidized from the general fund, that maybe as much
21 as 90 percent is from recording fees and as little as
22 10 percent is from the public information department?
23 **MR. MANLEY: Objection. If you**
24 **can answer.**
25 **A I'm talking about maybe -- that sounds fair. I**

1 **A Exactly.**
2 **MR. MANLEY: She's an expense**
3 **side person as opposed to a revenue**
4 **side.**
5 Q But you are -- because you would prefer to guard
6 against subsidies from the general fund, you have an
7 interest in seeing your revenue is keeping up with
8 your expenses. Is that fair?
9 **A Yes.**
10 Q Now, are you aware of the state -- the state has
11 something called a Housing Trust Fund. Are you aware
12 of that?
13 **A Yes, I am.**
14 Q And that some of the revenue that your office
15 brings in is supposed to go to that Housing Trust
16 Fund. Are you aware of that?
17 **A Yes.**
18 Q And so, for example, if I came in to your public
19 information department and asked for a paper copy of a
20 deed, like my own deed, and I'm willing to pay cash
21 for that, and let's say it's like a two-page deed or
22 something, so you'll charge me -- well, if it was a
23 two-page deed, you'd charge me 4 bucks?
24 **A If it's a two-page deed, \$4.**
25 Q And some portion of that is supposed to go to the

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1 Housing Trust Fund?
2 **A Half.**
3 Q How do you keep track of --
4 **A How do I keep track of it?**
5 Q How does your office keep track of the money that
6 comes in and how much is supposed to go to the Housing
7 Trust Fund?
8 **A The computer system. Everything is programmed so
9 it automatically does it for us.**
10 Q Genevieve is the public information person?
11 **A Yes.**
12 Q Genevieve Mitchell?
13 **A Yep.**
14 Q Let's say Genevieve wanted to make a copy of a
15 memo the Recorder's Office had sent out, and she
16 wanted to make it just as an employee. Would she have
17 the same facilities to do that as she would to make me
18 a paper copy of my deed? Would she use the same
19 equipment or different equipment?
20 **A Different. It would be different equipment.**
21 Q Are you saying that the equipment that would be
22 used to make, say, a paper copy of my deed would be
23 used for no purpose by employees for their own
24 internal administrative needs?
25 **A Can I go back? I'm trying to think the procedure**

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1 **for public information.**
2 **MR. MANLEY:** Well, do you
3 want to ask maybe a foundational --
4 if she has --
5 Q Are you on the same floor as the public
6 information room?
7 **A Yes.**
8 Q And do you sometimes communicate with the people
9 in that department?
10 **A Yes.**
11 Q And do you sometimes see them as well?
12 **A Yes.**
13 Q In the course of your day, you would have -- you
14 see them doing their jobs; you are sometimes in their
15 area?
16 **A Yes.**
17 Q And so do you have an understanding from the
18 things that you've observed in the last 12 years --
19 **MR. MANLEY:** Wait for the
20 question.
21 Q Do you have an understanding of the things you've
22 observed in the past 12 years how, for example, people
23 in that department make copies for some citizen who
24 comes in and wants to see a copy of a deed?
25 **A Okay.**

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1 Q You do?
2 **A Yes.**
3 Q And do you also understand -- like if you wanted
4 to made a photocopy of some internal copy, like an
5 invoice, you have machines to do that, right?
6 **A Yes.**
7 Q And have you occasionally done that, made
8 photocopies of records that you wanted to use for your
9 own administrative purposes?
10 **A Yes.**
11 Q And do you use a photocopying machine to do that?
12 **A A copier, yes.**
13 Q Is there some mechanism that you're aware of in
14 the Recorder's Office that allows your office to know
15 whether the number of copies made on a given day was
16 for administrative internal use versus to make a copy
17 that you collected money for?
18 **MR. MANLEY:** Objection. If you
19 have personal knowledge --
20 **MR. MARBURGER:** If she has an
21 understanding.
22 Q Do you have an understanding?
23 **A I was trying to figure out, because they have
24 copiers by their desks.**
25 **MR. MANLEY:** Do you understand

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1 the question? We can have our court
2 reporter --
3 Q I could rephrase it if it's not clear. I'm not
4 trying to obfuscate. I want to get your understanding
5 of what the case is.
6 Here's what I'm getting at: I have this
7 concern. You're going to collect money from people
8 who want copies of recorded instruments. And you're
9 going to collect money from people who want copies of
10 records you have that aren't recorded instruments, or
11 at least that's a potential. And your own people are
12 going to want copies of stuff for their own use, and
13 they aren't going to have to pay, right?
14 So my question is how -- what mechanisms do you
15 have in place there, that you're aware of, that would
16 ensure -- and maybe you don't have any -- ensure that
17 the number of copies that have been made and were
18 supposed to have been paid for match?
19 **A I have no knowledge of that. I just know what
20 they should be doing.**
21 Q What should they be doing?
22 **A Any copies they make they have to charge.**
23 Q Okay. But if they make it for themselves?
24 **A They're not supposed to be making them for
25 themselves.**

1 Q Well, it isn't your understanding, is it, that
2 employees never make copies of anything for
3 themselves. I don't mean for personal --
4 **MR. MANLEY:** Let's clarify "for
5 themselves."
6 Q "For themselves," I mean for internal use.
7 **MR. MANLEY:** To do their own
8 work.
9 Q I'm not talking about making a copy of a
10 receipt.
11 **A Okay.**
12 Q I'm talking about making a copy for stuff that
13 use as administrators.
14 **A Like a report?**
15 Q Whatever it is. Whatever it is. You guys make
16 copies of things for your own internal administrative
17 use, right?
18 **A Yes.**
19 Q And you don't have to pay per page to do that,
20 right?
21 **A No.**
22 Q Does your office, to your knowledge, have a
23 mechanism in place that can keep track of whether
24 you've collected an amount of money that equals the
25 fees that -- that equals the number of copies for

1 You would -- your records would then show that
2 you made six copies of 2-page deeds for some citizen
3 and then you made another copy of another deed for an
4 administrative use. But you wouldn't have collected
5 money for the very last one, the administrative use
6 copy, would you?
7 **A I don't have any knowledge of that. I just know
8 as far as if they're making a copy, to charge. And
9 they should have a receipt for that. We'll enter it
10 into a computer and they have a receipt.**
11 Q So do you reconcile the receipts that you've
12 issued with the money that you take in?
13 **A Yes, the receipt to money.**
14 Q And is that the method that you have to try to
15 see if the number of copies that are supposed to
16 generate money, a set amount of fees, matches the
17 amount of money collected?
18 **A I just know what was entered on the computer.
19 That's what we balance to, total number of copies
20 balanced to total number of checks and cash.**
21 Q I guess what I'm getting at, if you make deeds
22 for a citizen, copies of deeds for a citizen, every
23 copy is -- you enter that into a computer if you're
24 the person making the copy. Is there some sort of
25 electronic record that you make?

1 which you can charge a fee?
2 **MR. MANLEY:** Objection.
3 Go ahead if you can answer.
4 Q By way of example, here's an illustration. Let's
5 say today the public information department made
6 copies of six 2-page deeds, right?
7 **A Okay.**
8 Q So if it was six 2-page deeds at \$2 a page, what
9 would be the fee you would expect to have been
10 collected?
11 **A \$24.**
12 Q \$24, right?
13 **A Yes.**
14 Q Now, let's suppose that yesterday somebody in
15 that department also wanted to copy some kind of
16 internal document for their own administrative work,
17 for their own use at work -- you said a report. They
18 wanted to print out a report. How is it that -- do
19 you have a mechanism that enables you to know -- let
20 me change the illustration to make it more precise.
21 Suppose for some reason your administrative
22 people printed out another copy of the same deed that
23 you provided for the citizen. All right. But it was
24 for some internal use, maybe to show somebody what it
25 looks like, or whatever it would be.

1 **A Last I know, the person making the copy would go
2 to the person who takes in the cash or check, and they
3 say this is for two-page copy. And that person will
4 enter it in the computer. And they give it back to
5 that person and give it back to the customer.**
6 Q Now, you haven't -- you happen to have a policy
7 that says -- this is something that we've stipulated
8 to in the case. Showing you what's already been
9 marked as Green Exhibit 4, and if turn to the, I
10 guess, the third page of it, do you see where you --
11 you should have your own.
12 **A Section 3?**
13 Q Yeah, here. Do you see that it says the charge
14 for paper copies of recorded documents is \$2 a page?
15 Do you see that?
16 **A Yes.**
17 Q And the charge for copies of administrative files
18 is a nickel a page, five cents?
19 **A Yes.**
20 Q Do you have an understanding as to whether you
21 have a mechanism in place in the Recorder's Office
22 that allows the person who is collecting these fees to
23 know how much of the fee was 5 cents a page versus \$2
24 a page?
25 **A My understanding, for 5 cents a page, those were**

1 the ones who come to public records. And they would
 2 come to the administration office. And they request
 3 public records, and they would say what record it is,
 4 and if it's like 10 pages, they we would charge them
 5 50 cents.
 6 Q So are you saying that if I came into your public
 7 informatio department and wanted to see a copy of your
 8 revenue report, that that public information office
 9 wouldn't provide that; I'd have to go somewhere else
 10 to get that?
 11 A To the administration office, the front office.
 12 Q Okay. And does that front office then collect
 13 the nickle a page charge?
 14 A Once the person comes in there for the records,
 15 then they would charge them 5 cents a page.
 16 Q What mechanism does your office have to know how
 17 much it should be providing to the Housing Trust Fund?
 18 A For what? For the -- well, it's programmed in
 19 the computer. There are certain documents that the
 20 State Housing ask additional fees, so it's already
 21 programmed in the computers.
 22 Q So if the computer says you just made five copies
 23 of deeds, the computer also tells you how much goes to
 24 the State Housing Trust Fund
 25 A Yes.

1 herself -- I don't mean in a non-authorized way. I
 2 mean for administrative use -- as they would to make a
 3 copy of a deed or mortgage for a citizen?
 4 A Can you explain? Are you talking for something
 5 other than public? Because my understanding, there's
 6 a copier at the desk that they will make a copy for
 7 the public. And there's a copier -- another place
 8 that is used for something other than public.
 9 Q Well, the one that's used for public, are you
 10 saying that employees never use that for internal
 11 administrative purposes?
 12 A It's connected up to the computer. I don't think
 13 they can make copies of that. It's a printer. The
 14 copier is in another aarea.
 15 Q That printer is what makes a copy of a deed,
 16 right? Because your deed is electronic?
 17 A Yes.
 18 Q And you print a copy for Joe Citizen?
 19 A Yes.
 20 Q Do you use that same printer to print copies that
 21 are used internally but not given to Joe Citizen?
 22 A I don't know.
 23 Q Are you aware of any mechanism that would
 24 prohibit use of that printer for internal
 25 administrative use as opposed to singling it out just

1 Q And part of your job includes whether the right
 2 amount gets sent to the House Trust Fund?
 3 A Yes.
 4 Q What do you look at to tell you whether the right
 5 amounts has been sent?
 6 A It's programmed in the computer. And based upon
 7 that, that gives a total.
 8 Q Okay. And so you just want to make sure the
 9 check that gets cut to the Housing Trust Fund will
 10 match what the computer tells you?
 11 A Yes.
 12 Q When you want to make copies of things, of paper
 13 for internal use, do you use the same equipment or
 14 does the public information department use the same
 15 equipment to make copies of records for internal use
 16 as it would to make copies of deeds, mortgages and the
 17 like for a citizen who wants a copy?
 18 A Can you explain that? Are you talking about
 19 publich information?
 20 Q Yeah, the public information department. So
 21 Genevieve Mitchell, for example, or one of her
 22 subordinates, wants to make a copy of a record that
 23 you have stored on a computer, any kind of record, no
 24 matter what it is, would she use the same printer or
 25 the same photocopying machine to do that for

1 for public copies?
 2 A Really, I don't know. I don't know.
 3 Q If I call you up and -- not you. Call your
 4 public information department up and say, "Can you
 5 make me a copy of a deed," do you have a mechanism set
 6 up where I can pay for that faxed copy?
 7 A I know we used to. I don't know if we still do.
 8 Q What did you used to do?
 9 A We had a draw down account.
 10 Q So you wouldn't fax copies unless there was a
 11 existing draw down account?
 12 A I don't know if they still do it, but at the
 13 time, they used to.
 14 Q Is it your understanding that sometimes your
 15 office will e-mail copies of recorded instruments to a
 16 business or a person like me?
 17 A I'm not aware of it.
 18 Q Does that mean that you're also not aware of any
 19 mechanism for collecting fees for emailing recorded
 20 instruments, or have a mechanism in place in case?
 21 A If it was in a draw down. Maybe if it's in a
 22 draw account.
 23 (Signature waived.)
 24 (Deposition concluded at 3:15 p.m.)
 25 -----

1 The State of Ohio,)
2 County of Cuyahoga.) SS: CERTIFICATE

3

4 I, Cheryl L. Baker, Notary Public within and for the
5 State of Ohio, duly commissioned and qualified, do
6 hereby certify that the within-named VENESSA DAVIS,
7 was by me first duly sworn to testify the truth, the
8 whole truth, and nothing but the truth in the cause
9 aforesaid; that the testimony then given by him/her
10 was by me reduced to stenotypy in the presence of said
11 witness, afterwards transcribed on a computer, and
12 that the foregoing is a true and correct transcript of
13 the testimony so given by him/her as aforesaid.

14 I do further certify that this deposition was taken at
15 the time and place in the foregoing caption specified
16 and was completed without adjournment.

17 I do further certify that I am not a relative,
18 employee of, or attorney for any of the parties in the
19 above-captioned action; I am not a relative or
20 employee of an attorney for any of the parties in the
21 above-captioned action; I am not financially
22 interested in the action; I am not, nor is the court
23 reporting firm with which I am affiliated, under a
24 contract as defined in Civil Rule 28(D); nor am I
25 otherwise interested in the event of this action.

IN WITNESS WHEREOF I have hereunto set my hand and
affixed my seal of office at Cleveland, Ohio on this
23rd day of February, 2011.

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Cheryl L. Baker, Notary Public
in and for the State of Ohio.

My commission expires 10/10/15