

PROFESSIONAL COURT REPORTERS INC.

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ALEXANDRA LEWIN, Affirmed

EXAMINATION BY MR. MARR:

1 Q. Good morning. What's your name, ma'am?

A. Alexandra Lewin.

2 Q. Can you spell your first name?

A. A-L-E-X-A-N-D-R-A.

3 Q. And the last name is L-E-W-I-N?

A. Yes.

4 Q. All right. And where do you currently work?

A. Company or location?

5 Q. Company?

A. H&R Developments.

6 Q. Who is your employer? Whose pay cheque do you get, which company? H&R Developments? Who is writing the cheque that you get? I presume you get paid, you get a cheque?

A. It's direct deposit.

7 Q. So who is your employer? Who gives you the T4? Is it -- because I don't think there's an H&R -- the evidence so far was there's no corporation known as H&R Developments; is that right?

A. It's -- I think the pay cheque comes from Correct Management Limited.

8 Q. Correct Management? Is that an H&R company?

A. I don't know.

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9 Q. for the H&R it? All right. But you consider yourself working group of companies; is that a right way to put

A. I work for H&R Developments.

10 Q. Okay. What is H&R Developments?

A. It is a -- it's comprised of three entities, Marmelock -- I'm not sure of its full name.

11 -Q. Yes?

A. Umiak and Batise Investments Limited.

12 Q. Is that a partnership?

A. I believe it's a common-law joint venture.

13 Q. It's a joint venture?

A. M' hmm.

14 A. And what business is the joint venture in? They build houses. They own apartment

buildings. They do land development. They do industrial. ercial.

They do comm

15 Q. So all types of real estate ventures?

A. Yes.

16 Q. In Ontario? Or throughout -- beyond Ontario?

A. Certainly in Ontario. I'm not aware of -- or, nd.

sure of beyo

17 Q. I didn't hear that last bit.

A. I don't -- I can't answer that. I don't know.

18 Q. Okay. So to your knowledge what you work on

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is things in Ontario?

A. Yes.

19 Q. Okay. When did you start working for H&R
Developments?

A. In 1989.

20 Q. Okay. And what's your current position?

A. I don't have a title so I'm a manager, legal
manager, I guess.

21 Q. Okay.

A. Official title.

22 Q. Before 1989 where did you work?

A. In South Africa.

23 Q. When did you emigrate to Canada?

A. In 1989.

24 Q. Okay. What job did you have in South Africa?

A. I was a solicitor.

25 Q. Okay. So you were a member of the bar in South
Africa?

A. Yes.

26 Q. And when were you called to the bar in South Africa?

A. I don't remember.

27

Q. Approximately can you remember?

A. In the early '80's I guess.

28

law school in South Africa?

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A. Yes.

29 Q. Okay. And do they have a process like we do where you article after law school?

A. Yes.

30 Q. All right. And then after you articulated you were called to the bar?

A. Yes.

31 Q. And did you work in a firm in South Africa, or for yourself or in a bigger firm?

A. I was in a firm and then in the legal department in a bank.

32 Q. So how long did you work in a firm, approximately?

A. Approximately four years.

33 Q. Okay. And then you started working in the bank?

A.
Yes.

34 Q. • Which bank was that?

A. • Barclay's National Bank.

35 Q. • Okay.

A. • Which then became First National Bank.

36 Q. • Okay. And what offices were you work --
city were

what you ---

A. • Johannesburg.

37 Q. • Is that where you also practiced in

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practice?

A. Yes.

38 Q. And when you were in private practice what did you do? What types of law? A. Commercial law, litigation law.

39 Q. Were you an associate or a partner?

A. I was an associate.

40 Q. Okay.

A. They have different terminology. It's the equivalent of an associate.

41 Q. Okay. And so did you do -- did you do real estate work when you were an associate? Real estate solicitor's work?

A. Yes, but completely not this kind of work.

42 Q. Okay. Did you have anything when you were at -- in South Africa when you were in private practice did you do anything like condominium type work or no?

A. Sectional titles work, yes.

43 Q. I'm not familiar with that term. What does that mean?

A. It's fairly similar to this.

44 Q. Fairly similar to condominiums?

A. Yes. But of course the law is different.

45 Q. Okay. And what sort of work were you doing as -- in sectional title work?

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A. I'm preparing documentation.

46 Q. What type of documentation? For what purpose? A.
For people going to market in selling projects.

47 Q. So as -- in your private practice you were acting
for developers who were bringing projects to market?

A. Yes. And purchasers buying the units and
sectional titles.

48 Q. Okay. But in terms of the developers that were doing
the sectional title work what sort of things would you
be doing for -- you said you were preparing documents.
What types of documents?

A. You know, the procedure is so different ---

49 Q. Right.

A. --- it's hard to -- I guess disclosure
documents or sales documents.

50 Q. Okay. While the procedures are different in South
Africa do they have a process where information about the
condominium project is given to the purchasers when
they're making the decision to buy the unit? Do they have
something similar to what we have in that regard?

A. I don't remember.

51 Q. Okay. Can you give me any idea what percentage of
your practice would have been sectional

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title work?

A. One per cent.

52 Q. Okay. And real estate solicitor's work, can you give me any idea what percentage of your practice would have been that type of work? In the same range or something more?

A. Yes, one per cent.

53 Q. Okay. Then you said you went to work for the bank. What was your title with the bank?

A. I was a senior manager at the bank.

54 Q. What did a senior manager do?

A. I was a lawyer in the legal department so I worked with the various divisions in the bank. And whenever they had issues the areas that I was responsible for they referred them to me.

55 Q. Can you give me an idea what types of areas that was?

A. Project financing. Bad debts. You know, credit card debts, that kind of thing.

56 Q. In the project financing would you be assisting in the preparation of the legal documents? Mortgages, other types of legal -- guarantees, legal documentation?

A. Guarantees, yes.

57 Q. Okay. You then emigrated to Canada. You've

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never -- you're not called to the bar in Canada?

A. No.

58 Q. Okay. So is the first job you had in Canada at H&R?

A. Yes.

59 Q. Okay. In terms of your -- have you taken any educational programs here in Canada, either continuing education or continuing legal education or condominium type cases -- condominium type education or anything in Canada?

A. No.

60 Q. Okay. In South Africa you went to -- did you go to university before law school? Or is it the way we have it here where there's undergrad and then you go on to law school? Or did that not happen?

A. The law school is part of the university.

61 Q. Was there -- but did you take any post-secondary education before law school? Or you go straight to law school from high school?

A. I have a B.A L.B.

62 Q. They sort of combine it?

A. You do your bachelor of arts or an undergraduate' s degree.

63 Q. Right.

A. Then you do your bachelor of laws degree.

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64 Q. Okay. What did you do your undergraduate's degree in?

A. I majored in English and political science.

65 Q. All right. And then you went ---

A. And law, sorry.

66 Q. And then law. And did you do any other university training after law school in South Africa?

A. Admitted as a conveyancer in South Africa but never practiced as such.

67 Q. What does -- how does that work? What does that mean that you're admitted as ---

A. I'm a conveyancer authorized to do real estate transactions, register real estate transactions.

68 Q. Is that a course of study in South Africa?

A. It's a further qualification you're required to obtain to do certain real estate transactions.

69 Q. What do you have to do to obtain that qualification?

A. Study a lot and pass an exam.

70 Q. Is it classroom study or is it at home study? How does that work?

A. You can only do it once you have your -- once you're called to the bar.

71 Q. Right.

A. And then you must study further and hopefully

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you're getting experience in it at the same time at work and if you pass the exam you are admitted as a conveyancer.

72 Q. And did you ever do conveyancing work or no?

A. No.

73 Q. So what's -- okay. And anything else in terms of any educational training that -- or learning that you've done other than what you've already described for me today? Anything else in your background before today that you've done?

A. No.

74 Q. All right. So at H&R what is your job? I think you said you don't have a title but you're, I think you said, a legal manager?

A. M'hmm.

75 Q. What do you do in your job?

A. I'm a manager in the -- largely in the housing department and any legal issues get referred to me. And if I'm comfortable dealing with them myself, for example, if people are asking for changes to agreements of purchase and sale then I will review them. If I'm not comfortable I will refer them to whoever the solicitor is for the project.

76 Q. Okay. Now, when you say you're comfortable or not comfortable where have you developed -- you haven't

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had any training, I take it ---

A. M'hmm.

77 Q. --- any formal training on the condominiums and projects like the Beauclaire.

So have you received some informal training in terms of the documentation? How have you learned how to get comfortable with it?

A. With dealing with it since 1989.

78 Q. Okay. So, for example, we've seen in these productions there's -- if you turn to tab 50, for example, this is the disclosure budget and disclosure statement for the Beauclaire. I take it you're familiar with this document?

A. Yes.

79 Q. You would have seen it at the time it was being created?

A. Yes.

80 Q. Now, you assisted in the drafting of this document; is that right?

A. No. The drafting would have been done by the solicitor.

81 Q. Okay. So who did that?

A. Martin Maierovits at Minden Gross.

82 Q. Sorry. You said that faster than I could ---

MR. SCHEIN: Martin Maierovits,

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M-A-I-E-R-O-V-I-T-S.

BY MR. MARR:

83 Q. Okay. Yes?

A. And Stephen Gross.

84 Q. Stephen Gross?

A. M'hmm.

MR. MARR: And are they at your firm, Counsel?

MR. SCHEIN: Mr. Maierovits is. Mr. Gross is no longer.

MR. MARR: He was -- when did he leave?

MR. SCHEIN: I don't know when he left.

MR. MARR: I guess was it ---

MR. SCHEIN: After -- I don't know.

BY MR. MARR:

85 Q. I mean he was involved in -- well, let me ask the question a different way.

MR. SCHEIN: To the extent -- look, I don't know the extent to which he was involved. He was -- Mr. Maierovits was his junior so I imagine he played some role under Mr. Maierovits' supervision.

THE DEPONENT: Yes.

MR. MARR: All right. Well, can we find out

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when -- either when Mr. Gross left or when his involvement in this project ended?

MR. SCHEIN: No.

MR. MARR: I presume they're sort of the same dates.

MR. SCHEIN: No.

MR. MARR: Because?

MR. SCHEIN: Because it's not relevant.

REFUSAL NO. 1: To enquire as to either when Mr. Gross left or when his involvement in this project ended.

BY MR. MARR:

86 Q. Well, tell me what -- well, explain to me the process then of how tab 50 was created?

A. I would call a meeting of all the consultants involved in the project. Once I've been told the project is going to market I would call the architect, the surveyor, etc., etc., to a meeting so that the lawyer can be given the information necessary to draft these documents, or at least create a first draft which then would be reviewed again until it's finalized.

87 Q. So that -- I think we've -- I think we're talking about a meeting that some of the other witnesses

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have talked about and that was in August of 1998; does that sound right?

A. Probably.

88 Q. Okay. Would the lawyers have been at that meeting?

A. Martin Maierovits would have, for sure. Was at this meeting.

89 Q. All right. And so he was involved continuously from that point forward until it went to market and until after the deals were closed?

A. Yes.

90 Q. Okay. I'd like to pause at that point. Let's take a look at -- there's an affidavit of documents in this file that Mr. Fromm has prepared. Were you involved in gathering the documents up for your litigation counsel to prepare for this affidavit of documents?

A. Yes.

91 Q. So were you the person at H&R who -- how did the process happen? How did you gather all the documents together? Were they in one place? Did you go -- what did

you do? A. I asked the individual people who would have been involved in preparing these documents for what they had.

92 Q. Okay. So who did you ask?

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A. I don't remember.

93 Q. Well, do you know who gave you documents?

A. I know that Larry Froom would have given me documents, Jeffrey Ellis would have given me documents. The construction department would have.

94 Q. And did you get documents that you didn't send on to the lawyer or are all those documents that you received in Schedule A of the affidavit of documents?

A. All the documents I received were sent to the lawyers.

95 Q. Okay.

MR. MARR: So, Counsel, did -- was there a process where you vetted those documents and you excluded some from Schedule A?

MR. SCHEIN: Yes.

MR. MARR: And did you exclude them because they were privileged or did you exclude them because they weren't relative -- relevant ---

MR. SCHEIN: The latter ---

MR. MARR: --- in your view?

MR. SCHEIN: The lat ---

MR. MARR: Sorry? The latter?

MR. SCHEIN: Yes.

MR. MARR: Well, are you prepared to provide for me -- I take it you're not prepared to provide for

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me all the documents which the client gave to you?

MR. SCHEIN: No.

MR. MARR: And you can't offer me any assistance as to -- that will assist us or the court in determining what those -- whether those documents are relevant because you're not prepared to share with me what they are?

MR. SCHEIN: Correct.

MR. MARR: And what about the -- what about the Minden Gross files? Were -- are they all irrelevant?

MR. SCHEIN: I think we've produced from Minden Gross' files correspondence with the lawyer at Miller Thomson who dealt with the first year deficiency issue.

MR. MARR: Well ---

MR. SCHEIN: I believe there's some documents in the productions that came from Minden Gross' ---

MR. MARR: Right.

MR. SCHEIN: --- file ---

MR. MARR: And what ---

MR. SCHEIN: --- in that communication.

MR. MARR: But what about the -- yes -- and what about the doc -- what about other documents in Minden Gross' files?

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MR. SCHEIN: That's what we've produced.

MR. MARR: Well, there -- I assume -- and I've heard from this witness -- I'm not talking now, as I said, documentation between your office and the client after the claim was issued. I'm not ---

MR. SCHEIN: I understand.

MR. MARR: --- interested in that. I'm interested in what would be the solicitor's file. I take it you're taking the position that it's all privileged or some of it is privileged and some of it is irrelevant? What are you saying about the lawyers, Mr. -- how did you say his name, I'm sorry?

MR. SCHEIN: Maierovits.

MR. MARR: Maierovits. Is it all -- are you -- you've not included any of that in the affidavit of documents.

MR. SCHEIN: No, they filed -- the material that's in here having to do with the Miller Thomson situation that came from Mr. Maierovits' file.

MR. MARR: Okay. And what about the ---

MR. SCHEIN: He was the one dealing with it.

MR. MARR: What about the documentation -- the creation of the disclosure budget and the -- all

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-- and the disclosure and all of that?

MR. SCHEIN: There was nothing relevant in his files relevant to the issues in this case.

BY MR. MARR:

96 Q. And what about your end of those communications with the lawyers? Did you send that on to Mr. Schein? I assume that he'll have in his files, obviously, letters that you sent. But you should have copies of the letters that -- sorry, he'll have in his files the letters which were received in Minden but presumably you have copies of letters which were sent.

Did you then send those on to Mr. Schein and -- to prepare your affidavit of documents?

For instance, you told me you sent the disclosure budget. I assume you sent that with a document and a cover letter and you kept a file of that in your -- copy of that in your files. Did you send that on to your lawyers in -- to prepare the affidavit of documents?

A. I'm sorry. I still don't understand.

97 Q. You told -- that wasn't a very good question. Let me try again. You told me earlier that, tab 50, you wrote to the lawyers with respect to the creation of that document, correct?

A. I probably picked up the phone.

98 Q. Well, did you write them any letter or send
them any information?

A. I called a meeting of the consultants.

99 Q. Right.

A. Before the meeting I would circulate a
checklist, ask people to fill in as much information as
they have and come to the meeting and then whoever needed
further information for whatever their scope of
responsibilities all the consultants would be there and
they could ask them the questions.

100 Q. So where is that checklist?

MR. SCHEIN: Ms. Lewin has been unable to find
the original of the checklist that she circulated.
She late yesterday sent to me -- e-mailed to me a
copy of Mr. Froom's copy of that checklist but I
haven't had an opportunity to read it yet. I do
have that in the office.

And I will produce that, of course, after I've
seen it and discussed it.

BY MR. MARR:

101 Q. So when you say you found it yesterday where
did you find it? Where was it?

A. Mr. Froom had a copy as Irwin just said.

102 Q. Okay. Have you -- did you, yourself, do any

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kind of search on your computer to prepare the affidavit of documents?

A. I don't remember.

103 Q. Do you have -- did you have a folder on the computer relating to the Beauclaire project?

A. Yes.

104 Q. Okay. Have you looked at that folder to see what's in there and sent it on to the lawyers?

A. Yes. But most of it would have been printed in the hard file.

105 Q. Well, is there anything -- did you -- did you check -- have you compared what's on your computer to what's in these productions?

A. No.

106 Q. Can you do that for us and if there's anything else can you send on to your lawyer and then can your lawyer review it?

And I'm asking him to send it on but if he's not can you let me know that he's not doing that?

MR. SCHEIN: She'll check for anything else on the computer that hasn't been produced and if there is anything she'll -- I'll go through that with her and we'll produce anything further that's relevant that hasn't already been produced.

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UNDERTAKING NO. 1: To go through deponent's computer folder for the Beauclaire project and produce anything relevant that has not already been produced.

MR. MARR: All right. And obviously we had a number of other computer questions that I asked of the other witnesses. You'll review those with her, Counsel, and make sure she complies with those undertakings? They were done earlier in these discoveries.

MR. SCHEIN: Yes.

MR. MARR: Okay. Thank you.

UNDERTAKING NO. 2: To have deponent review all previous discoveries' questions regarding information stored on computers and comply with the previous undertakings.

BY MR. MARR:

107 Q. So there was this meeting and the lawyer was there. Martin was there. And then what was the next step in the process of creating tab 50?

A. The lawyers would prepare a draft which I would then circulate the disclosure statement because

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that's the general description and I don't know if I circulated the declaration. I don't remember.

108 Q. By circulate you mean among other H&R people?

A. Amongst the people who would have been at the meeting and ask them to check that the details in it are accurate.

109 Q. Are you able to tell me exactly who was at that original meeting?

A. I'd have to check.

110 Q. Can you do that and let me know?

MR. SCHEIN: We'll make best efforts.

THE DEPONENT: Yes.

UNDERTAKING NO. 3: To make best efforts to determine who was at that original meeting.

BY MR. MARR:

111 Q. Right now can you -- from your memory who can you recall?

A. The architect would have -- was there. The surveyor was there.

112 Q. Do those people have names that you can remember?

A. I'll have to check which ---

113 Q. All right. Architect, surveyor. Who else?

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A. Construction, someone from construction.

114 Q. You'd have to check who that is as well?

A. Yes.

115 Q. All right.

A. The accountants. Larry Froom would have been there.

116 Q. Sorry, is that two different people? You're not telling me -- calling Mr. Froom the accountant?

A. Yeah, Larry Froom would have been there.

117 Q. Okay. Larry Froom was in there. Who else?

A. Who do we have so far?

118 Q. We have the architect, the surveyor, the construction and Mr. Froom?

A. Of course Martin Maierovits. And someone from marketing.

119 Q. Mr. Ellis?

A. Yes. I believe so. I'll have to check.

120 Q. All right. You'll check that.

A. Yes.

121 Q. And was Mr. Cappe there?

A. I don't remember.

122 Q. Okay. Was Mr. Hofstedter there?

A. No.

123 Q. George Hofstedter I'm talking about.

A. Right.

124 Q. He wasn't there?

A. No.

125 Q. And I take it none of the other named
defendants were there?

A. No.

126 Q. Was anybody there from Norman Hill?

A. I'd have to check. I don't remember.

127 Q. We heard evidence about Dennis -- I forget
Dennis' last name.

MR. KATS: Sheldon.

BY MR. MARR:

128 Q. Dennis Sheldon. Do you know him?

A. Sheldon Dennis?

129 Q. Sheldon Dennis? Dennis Sheldon? I can't
remember now.

MR. SCHEIN: Sheldon is his first name.

BY MR. MARR:

130 Q. Sheldon Dennis. All right. Do you know
him ---

A. Yes.

131 Q. --- first of all? He worked with Mr. Cappe?

A. Yes.

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A. I don't remember.

133 Q. All right. So you said that you -- the lawyers would have sent you a draft of tab 50 and you circulated it to some people. What about the numbers?

A. Yeah, I'm sorry. When you talk about tab 50 the budget would not be prepared by the lawyers. The budget would be prepared by us.

134 Q. Okay. So was there -- who actually printed the whole of tab 50? Was that done at H&R? Who printed the packages?

A. I don't remember. It has to be put together and I don't remember who ---

135 Q. But not -- it wouldn't be the lawyers who did that?

A. I don't remember. It might have been.

136 Q. Okay. Well, is there any way of finding that out who actually prepared it? Actually printed it? Can you let me know if you can find that out?

MR. SCHEIN: We'll see what we can find out if we can ---

MR. MARR: All right.

UNDERTAKING NO. 4: To enquire and advise who actually prepared, printed out the whole of tab 50.

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BY MR. MARR:

137 Q. All right. But at some point, obviously, if we -- in my book I've numbered the pages because it's hard to follow. And if you start -- if you turn to the 11th page and there's something that says, The Residence at Beauclaire at the top, Budget Statement; do you see that?

A. Yes.

138 Q. And it's got the number \$413,000 at the bottom?

A. Yes.

139 Q. And if you take a look at that page and the pages which follow to page 19 and the last page says at the bottom -- the last page is Schedule D.

MR. SCHEIN: Yes.

BY MR. MARR:

140 Q. Okay. So those pages, that budget, did ever send that to the lawyers in this format or in a different format? Like, a -- different numbers?

A. I don't remember.

141 Q. Do the lawyers get that?

A. They would certainly see some -- I don't remember.

MR. MARR: Well, Counsel, if the lawyer's got the budget documents and the numbers I think that

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would be -- whatever, whether it's the same or different, I think that would be relevant. MR. SCHEIN: I don't.

MR. MARR: Because -- it wouldn't be relevant because why? It would be a version of the document that's at dispute in the case. How couldn't that be relevant?

MR. SCHEIN: It isn't relevant. The document was prepared by H&R. The role played by Minden Gross was simply to reproduce something sent to them --

MR. MARR: But how do we know that ---

MR. SCHEIN: --- in a format which matches the rest of the printing on this document ---

MR. MARR: But how do I know that H&R has produced the documents in the same way they are in the Minden Gross files? Maybe they've lost one version and Minden Gross has that version? Maybe there's a different number. Maybe it says \$300,000. Maybe it says \$500,000.

MR. SCHEIN: Oh, boy.

MR. MARR: How will we know that unless we see it?

MR. SCHEIN: Mr. Marr, put your fishing kit away. I'm not answering that. Whatever the

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question was around that, we're not answering.

REFUSAL NO. 2: To answer regarding how would plaintiff's counsel know that H&R has produced the documents relating to the budget in the same way they are in the Minden Gross files.

BY MR. MARR:

142 Q. You can't recall whether the numbers that were sent to the lawyers were the same as these numbers or different?

A. The lawyers would not review the numbers.

143 Q. When you say they wouldn't review, would they receive them?

A. I don't remember who put the package together.

144 Q. Right?

A. If this package includes the budget and the lawyers put it together yes they had it. If they didn't the only thing that they would have reviewed is the general notes to the budget.

145 Q. Okay. So what's your -- why is this document -- why was this document created at all at tab 50? What was the point of making that document?

A. Because you're required before you go to market with a condominium to provide a disclosure document

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including what's in here to purchasers.

146 Q. Okay. And including the budget?

A. Yes.

147 Q. The budget statement for the common expenses for the year following registration of the condominium? That's what you have to give to the purchasers under the applicable provincial legislation, that's your understanding?

A. Yes.

148 Q. Okay. And it was your job at H&R -- part of your job was to ensure that for the Beauclaire there was compliance with the disclosure requirements under the act?

A. No.

149 Q. Okay. Whose job is that?

A. The lawyers would make sure that the -- all the documents ready -- or, to comply with the act are available.

150 Q. What about the budget? Whose -- is that your job to make sure it complies with the disclosure requirements of the act or the lawyers or who?

A. It's my job to see that the budget gets prepared. Or, in other words, to issue the instruction to make sure a budget is prepared because it's a requirement for when we go to market that we have ---

151 Q. Okay. And ---

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A. --- a budget.

152 Q. Okay. Sorry, were you finished? I didn't mean to interrupt you.

A. Yes.

153 Q. And did you have any role in the numbers themselves?

A. No.

154 Q. Okay. So you'd agree with me that the actual numbers themselves are important? Would you agree with me that that ---

A. Yes.

155 Q. Okay. And it's somebody's job to make sure that the right numbers are put into the budget; is that fair to say?

It's not your job, I think you're telling me, but it's somebody's job?

A. Yes, to make sure that the budget is a reasonable, accurate budget.

156 Q. Okay. Whose job was that at H&R?

A. I would ask Larry Fromm to take care of it and then he would arrange for it to be prepared.

157 Q. Did you -- at any time before the purchasers received the budget did you have any discussions with Mr. Fromm about the numbers themselves?

A. I don't remember.

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158 Q. Were you involved in any changes to the numbers?

A. I would have been involved in the meeting to go through to see what needed to be done when we went back to market.

159 Q. You mean you're talking now about there was a time when the property was up for sale and then it changed a bit and went back to market? Is that what you mean? Or are you talking about ---

A. The property wasn't up for sale. The units were for sale and then we ---

160 Q. Okay. As I understood it at one time the units were for sale with units of a certain configuration.

Sales, I guess, weren't going that well and so the configurations changed and they were put for sale again. Is that your recollection?

A. Yes.

161 Q. Okay. And in that -- between those two events the budget was reviewed?

A. Yes.

162 Q. So was there a disclosure budget given to the first set of purchasers which was different than for the second set of purchasers?

A. It was a new document, yes.

163 Q. Okay. So there was a new disclosure document.

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A. Yes.

164 Q. Were the budget numbers themselves -- this -- say, this \$413,000 figure that we're looking at at tab 11, did that number change?

A. I don't remember.

165 Q. Okay. So one of the things that people are going to look for and I assume you're going to help us with is to try to find that first disclosure budget, is that --

-

MR. SCHEIN: Yes. We undertook that.

BY MR. MARR:

166 Q. Do you think that still exists from when you were with -- your understanding of the files, what the first group of people got?

A. I don't remember.

167 Q. All right. When you say there was a meeting -- when the configuration was changing and you were reviewing the budget who would have been at that meeting?

A. Martin Maierovits.

168 Q. So we're talking about -- we're not talking about the meeting in August. There's a second meeting. A. Much later.

169 Q. Much later.

A. No, this is before we went back to market.

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170 Q. Okay. So this -- do you know when that second meeting was?

A. I don't remember.

171 Q. Do you keep a -- do you still have a daytimer or an Outlook calendar or something like that where you would have meetings, dates of meetings and maybe notes or whatever from ---

A. I would have a note of that meeting.

172 Q. Okay. Do you have notes from the first meeting in August?

A. I have -- there's the checklist is completed setting out all the information that was received from it. From there it would just go into a preparation of documents and circulation of the document.

173 Q. But did you keep notes of that first meeting?

A. It's whatever's filled into the checklist.

174 Q. All right. And the notes of the second meeting, do you have those?

A. I have a very short summary of it.

175 Q. Okay. Can you produce that to your lawyer?

MR. SCHEIN: Yes, we'll look at that.

UNDERTAKING NO. 5: To review deponent's notes from the second meeting.

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BY MR. MARR:

176 Q. But when you -- you told me earlier that you
were gathering up the documents. Is that one of the
documents that you gave to your lawyer?

A. What documents ---

177 Q. The notes of the second meeting?

A. It's a very short note. We just asked Martin
Maierovits the question of the economic -- whether or not
to terminate the project, we had the right to, and if so,
how we had to do it and based on his advise we proceeded
and went ahead.

And then -- I forget who was at the meeting, but it
was a question of what changes had been made, again, to
notify the lawyers and the -- the other people who needed
to know ---

178 Q. Okay.

A. --- what changes had been made to the project.

179 Q. Thank you. What I -- it didn't quite answer
the question I asked you, though. What I asked you was,
that note -- when your lawyer was assisting you to prepare
the affidavit of documents for this case did you give that
note to your lawyer, the one you've just described?

A. Yes.

180 Q. Is that sitting in Mr. Schein's office right
now as far as you know?

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A. I don't remember.

181Q. Well, did you look and give -- did you look and -- look for all your notes? Have you done that already?

A. Yes.

182Q. And have you forwarded those on to your lawyer?

A. I forwarded all my files to our lawyer.

183Q. Okay. What about the -- what about your calendar, which is where I started this.

Do you have a daytimer or either a book or an electronic organizer that you keep track of your appointments?

A. Yes.

184Q. And did you have that in 1999? How did you do it in 1999?

A. I don't remember.

185Q. Would you still keep those books or would you discard them?

A. The computer records would be there.

186Q. All right. So can we search your computer records for notes or appointments relating to the Beauclaire project and can you produce those to your lawyer?

MR. SCHEIN: She'll do that.

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MR. MARR: Okay.

UNDERTAKING NO. 6: To search computer records for notes or appointments relating to the Beauclaire project.

BY MR. MARR:

187 Q. In terms of the hierarchy of H&R Developments help me understand where -- if we look at the -- maybe your lawyer could put what we call the style of cause in front of you so we can just see some of these names.

MR. SCHEIN: I don't think they call it that anymore.

MR. MARR: What do they call it?

MR. SCHEIN: Isn't it called title of proceedings now, Mr. Marr?

MR. SCHEIN: Title of proceedings. I think that's true. Well, I'm not sure, there's a ---

MR. SCHEIN: I thought I was a dinosaur, Mr. Marr. I'm not the only one, apparently.

MR. MARR: We try to hire younger people to keep me young.

MR. SCHEIN: That's a good idea.

MR. MARR: In any event they still call them defendants ---

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MR. SCHEIN: Yes.

MR. MARR: So we'll use that term.

MR. SCHEIN: That's true.

BY MR. MARR:

188 Q. I take it that -- let's sort of start at the bottom, if I can put it that way. I take it that Mr. Cappe reports to Mr. Froom; is that right?

A. No.

189 Q. Okay. So tell me where that works. Who's Mr. -- Mr. Cappe has a boss in the property department, I guess, property management side, who's that?

A. Robert Rubinstein.

190 Q. Okay. But on this Beauclaire project Mr. Rubinstein didn't have anything to do with it, did he? The Beauclaire itself?

A. Only to the extent that Mr. Cappe would have involved him.

191 Q. Okay. But you don't have any knowledge about what Mr. Rubinstein did or didn't do ---

A. No.

--- with respect to the creation of the
192 Q. budget?

A. He wouldn't, no.

193 Q. All right. And with respect to the

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Beauclaire, Mr. Cappe was reporting to Mr. Froom on the budget

itself ---

A. Yes.

194 Q. --- is that right?

A. Yes.

195 Q. Okay. And then do you report to Mr. Froom or does Mr. Froom report to you or does it not work that way?

A. It doesn't work that way. I report to George Hofstedter.

196 Q. Okay. So do you both report to George Hofstedter, you and Mr. Froom?

A. Mr. Froom is the controller for the -- for H&R Developments or ---

197 Q. Right.

A. --- whatever his title was at the time.

198 Q. I mean, who is -- I understand you're the legal manager and you're reporting to George Hofstedter?

A. Yes.

199 Q. And is he reporting to George Hofstedter?

A. On this matter he would be, yes.

200 Q. Okay. And on this matter would George have been reporting to his father Sandor?

A. No.

201 Q. Would he be reporting to anybody?

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A. No.

202 Q. Okay.

A. Unless -- no, he was the boss.

203 Q. Who was the boss?

A. George Hofstedter.

204 Q. Okay.

A. On this project.

205 Q. On this project. Okay. What, to your knowledge did Sandor do with respect to this project? A. Nothing.

206 Q. Did he ever, to your knowledge, see the disclosure budget?

A. No. He wouldn't be involved in that at all.

207 Q. Did he know -- to your knowledge did he know the project was going on?

A. Yes.

208 Q. And is your answer -- did Mr. Mandelbaum know the project was going on?

A. He would know about the project.

209 Q. Did he have anything to do with the preparation of the budget or the ---

A. Absolutely not.

210 Q. --- or reviewing it?

A. No. Absolutely not.

211 Q. What about the real estate agents? Did you

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have communications with them?

A. I don't remember.

212 Q. Okay. In these productions there's several documents which have either been called flyers or price lists. For example, there's tab 10. Have you seen documents like that?

A. Yes.

213 Q. Okay. Where was that -- where were these documents -- where was this created? Was this created at H&R?

A. Yes.

214 Q. Okay. And there's -- I think you're pointing there's something down at the bottom a computer path, I think is the right term?

A. Yes.

215 Q. Is that a computer path from the H&R computers? Where it says Microwork Beauclaire summary? A. I don't -- we -- we prepared this.

216 Q. All right. So somebody at H&R typed this up?
A. Yes.

217 Q. Okay. Who's the author of this document? Who created it?

A. I don't know.

218 Q. Was it you?

A. No.

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219 Q. Well, is there a way to find out whose hard drive this was on? It's got to have been created by some computer -- I'm assuming, based on the evidence I've heard so far that somewhere in H&R there's -- somebody sat down and typed this up?

A. Yes.

220 Q. Is there any way to find out who did the typing and then who's -- whether ---

MR. SCHEIN: Why don't we try and find out who created this document?

MR. MARR: Sure.

UNDERTAKING NO. 7: To enquire as to who created the flyer, price list type documents.

BY MR. MARR:

221 Q. What about the -- but it wasn't you?

A. No, it wasn't me.

222 Q. Did you review it before the agents got it?

A. No.

223 Q. When was the first time you would have seen documents like this? As part of the litigation?

A. I might have seen them around the office, I don't remember.

224 Q. Did you -- the number -- the 28 cents a square

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foot here, and if you look at tab 17 there's a 32 cents a square foot number. Do you know who did the calculation of that figure?

A. No.

225 Q. It wasn't you?

A. No.

226 Q. And no one gave it to you, that number?

A. I would have known it at the time we were going to market.

227 Q. Okay. So why did -- do you know why there's two numbers? Why there's 28 and then there's 32?

A. Well, this is the schedule for when we first went to market.

228 Q. Right?

A. And I -- the 32 cents is when we went back to market.

229 Q. Okay. And do you know why there was a change?

A. No.

230 Q. Do you know -- and you don't know who -- when you say you would have known it would you -- do you know who would have given you that information? You say you would have known it was 28 or 32 cents. How would you know that? Someone would have to tell you, I would presume?

A. Yes.

231 Q. And you don't know who that person was?

A. I don't remember. When you're going to market on a condominium project it's intense and a lot of stuff is happening -- there's a lot of people talking backwards and forwards.

232 Q. But it's clear that although Norman Hill's name is on the document that all the writing, the numbers, the information, they -- all that was created at H&R and just given to the real estate agents; is that right?

A. This form was created at H&R is what you asked me.

233 Q. Okay. What about the wording and the numbers? Who's responsible ---

A. I don't know.

234 Q. So you don't -- maybe H&R -- maybe Norman Hill did have some input into the writing, you don't know? A. I don't know.

235 Q. Okay. And as far as the square footage figures of 28 cents and 32 cents, did Norman Hill have anything to do with that?

A. I don't remember.

236 Q. Okay. If we turn back to tab 50, the budget. Did you, yourself, give any instructions or speak to Mr. Fromm or Mr. Cappe about taking steps to ensure that this was a proper number? I think that's the phrase you used

earlier in the discovery. Did you do anything to make sure that that happened?

A. Are you asking -- I'm not sure I understand the question.

237 Q. Well, you told me that it was somebody else's job to do the calculation?

A. Yes.

238 Q. Okay. But you had asked them to do it?

A. Yes.

239 Q. Okay. In asking them to do it did you give them any more instructions as to how they were to do it or what steps they were to take to comply with the legislation?

A. No, they were preparing a budget.

240 Q. Right. For example, you had -- you told me earlier in this discovery that you had done this sort of disclosure document prior to the Beauclaire, I take it?

A. Yes.

241 Q. How many disclosures had you been involved in before the Beauclaire?

A. Maybe four or five.

242 Q. Okay. And in any of those four or five I take it -- I'm sorry, let's go back. The experience you had on the four or five you were relying on that in helping you to make sure that you were doing this one properly? That

was part of what you brought to the process, your
experience?

243 A. Are you asking on the budget or generally?
Q. Generally ----

A. Yes.
244 Q. --- on the disclosure?

A. Yes.
245 Q. Okay. And in the four or five before the
Beauclaire had -- were you, yourself, aware of whether or
not the disclosure budget had proof to be accurate
compared to the actual first year expenses of those
projects?

A. Sorry? Was I aware of ---
246 Q. Yes. On the four or five you had there had
been disclosure budgets, right?

A. Yes.
247 Q. And then those four or five went to market and
they were sold. And there would have been expenses for the
first year, actual expenses, for the first year of the
condominium after registration of the declaration,
correct? That's the way the process works ---

A. Yes.
248 Q. --- right? Okay. Had you ever seen whether
those disclosure budgets had proof to be accurate or
inaccurate on those four or five?

A. No. But the reason I'm hesitating is on the low-rise project over here we did amend the budget prior to closing. So I'm not sure how -- when you ask me that question.

249 Q. As I understood it, Cantertrot had three, I guess, separate pieces of land that there were developed. One was some single-family homes on the west side; is that right?

A. Yes.

250 Q. West side of New Westminster?

A. Yes.

251 Q. And there was a condominium townhouse project to the south of the Beauclaire high-rise; is that right?

A. Yes.

252 Q. All right. And when you say there was an amendment to the budget before final closing that's on the townhouse developments?

A. Yes.

253 Q. And when did that one go to market?

A. Prior to the high-rise. I don't remember though.

254 Q. And when were the closings relative to when Beauclaire went to market?

A. Prior to the high-rise going to market.

256 Q. And the budget was changed between the time

the purchasers had originally signed and the final closings?

A. Yes.

256

Q. And the purchasers received new disclosure budgets?

A. Yes.

257

Q. And do you know anything about the reason for that change?

A. Yes.

258

Q. What was the reason for that change?

A. There was a number in the budget that we realized was wrong so we served amended papers which was within the ten-day rescission period, as you know.

259

Q. Yes? What was that number on that project?

A. I don't remember the actual number.

260

Q. What was the category?

A. That's what I'm saying. I don't remember. It was one of the utilities.

MR. MARR: Counsel, are you prepared to give me, on that project, I know you generally refused but on that other project are you prepared to give me the original budget and the amended budget?

MR. SCHEIN: We'll take it under advisement.

UNDER ADVISEMENT NO. 1: To produce the original

BY MR. MARR:

261 Q. To your knowledge was there any discussion on the Beauclaire about whether or not such an amendment to the budget should take place before the final closing?

A. No. You went back on the high-rise?

262 Q. I'm back on the high-rise. Did that ever come up? I know it didn't happen but that's not quite the same thing as saying it wasn't discussed. Was it ever discussed?

A. Not with me.

263 Q. Not to your knowledge?

A. Not to my knowledge.

264 Q. Did you ever see -- if you look at tab 46 there's sort of a handwritten version of the budget -- did you ever see that -- I'm not interested in what you saw in preparing for the discoveries but did you ever see that at the time or before the final budget was created?

A. No.

265 Q. Do you have any idea who prepared that?

A. No.

266 Q. Did you ever discuss any of these numbers with Mr. Cappe, yourself?

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A. No, he might ask me general questions but not numbers.

267 Q. Do you recall any general questions that he asked you or that you talked about?

A. He might ask he ---

MR. SCHEIN: Never mind what he might. Do you have a recollection of him asking you anything having to do with the preparation of this budget?

THE DEPONENT: No.

BY MR. MARR:

268 Q. Or do you have any recollection of general questions he asked you? I don't -- what your lawyer doesn't want you to do is talk about hypothetical or, he might have asked you. He wants you and I agree, I just want to know what you recall of anything that you discussed relating to the budget and with Mr. Cappe?

A. No, I don't remember.

269 Q. Don't remember anything. And what about with Mr. Danis? Did you have any ---

A. No.

270 Q. --- discussions that you recall?

A. No.

271 Q. Did you know at the time that he was working on this?

A. No.

272 Q. And just so that we're clear on something, I think we're clear on, leaving aside the deals, the original deals that were cancelled, once the deal, the units were reconfigured and people entered into agreement they all would have received the disclosure package including the budget?

A. Yes.

273 Q. And at no time did any of the purchasers of the units in the Beauclaire receive any revised budget or revised disclosure package; that's correct?

A. Yes.

274 Q. You told me about the townhouse project and the revisions to the budget. Were those revisions made as a result of any complaints by people outside of H&R?

A. No.

275 Q. So it was entirely an internal decision?

A. Yes.

276 Q. And I assume that you made that decision following some consultation with the lawyers at Minden Gross?

A. Yes.

277 Q. And without getting into the discussions with the lawyers I assume that that decision to change the disclosure budget was made because you and H&R believed

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that that was your legal requirement? You were legally required to make those changes? And that's why you made it on the townhouse project?

A. I can't -- the act requires if there's a material change ---

278 Q. Right?

A. --- you notify homeowners. It was based on our opinion, our lawyer's opinion this was a material change.

279 Q. Okay. So therefore because it was a material change you got a -- you gave out a revised budget? A. Yes.

280 Q. And you recognized that, as you said earlier, that would give the purchasers ten days to rescind? A. Yes.

281 Q. And is -- to your knowledge is that -- had that sort of process of amending the budget ever occurred on any other condominium projects with H&R?

A. Not to my -- I don't know.

282 Q. Well, to your knowledge?

A. To my knowledge, no.

283 Q. So it's ---

A. I don't know.

284 Q. But I would presume that on the time you're there you would have been someone who would have known

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about that? Wouldn't that be something as you're -- as the manager in this area that would be something you'd know about?

A. To while I was there?

285 Q. Yes, while you were there?

A. Yes.

286 Q. Okay. I'm going to show you tab 77 from the plaintiff's affidavit of documents. This is an affidavit sworn by Mr. Weinberg. You're familiar with Mr. Weinberg?

A. Yes.

287 Q. Okay. You knew that he -- once the project went into occupancy the property management of the project was given out to an outside company and that was Percel; is that ---

A. Yes.

288 Q. --- your understanding? Okay. And in his affidavit at paragraph 8, if you flip ahead he refers to a meeting in June 2002, and that you were one of the people at the meeting. Is that your recollection? Was there such a meeting?

A. There was a meeting. I don't remember the date.

289 Q. Okay. You were there, though?

A. Yes.

290 Q. Well, was the -- I'll get into the details of

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the meeting but I want to make sure we're talking about the right meeting. Was this a meeting where there was discussion about the budget and the expenses of the building?

A. No.

291 Q. Okay. So the meeting you're talking about what was discussed at that meeting?

A. We called that meeting because we were -- we had received reports that Mr. Weinberg or his staff were bad-mouthing us as the developer to the owners, to some of the owners in the project. And at the time he was managing on behalf of us so we thought this was unprofessional and unacceptable so we asked for a meeting with him to discuss it.

292 Q. Well, what -- okay. Let's follow that up. How did you hear that, first of all? Who heard it?

A. We received reports in the office and people on the site.

293 Q. Can you be more specific as to -- are there any notes or letters about the reports you were receiving? A. No, not that I remember.

294 Q. Okay. Do you recall who was reporting this to H&R? Which people?

A. Homeowners. Homeowners in the project would make comments to people, our site people or when they were

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calling customer service.

295 Q. So then there's no notes? Have you looked in the customer service files?

A. We don't have customer service files.

296 Q. You mean when a homeowner calls up to complain you don't keep a log or something about what you're doing for that customer?

I mean, if you send somebody out to fix something I assume there would be some record of that?

A. Yes.

297 Q. But you don't -- you don't just keep track of what is said? There's no log kept you're saying, the service department?

A. No. There are purchaser files and if purchasers have specific issues they would go onto the purchaser file.

298 Q. And there's nothing beyond -- when you say there's purchaser files, I mean, we've got the -- well, actually, now that I'm thinking about it, I'm not sure what we've got.

MR. SCHEIN: You've got what she's talking about.

MR. MARR: Well, let's just be -- maybe we can be clear for a moment.

We haven't spent much time in these affidavit

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of documents discussing tabs 54 onward. What are those? Are those from the H&R files?

MR. SCHEIN: Yes.

MR. MARR: So these are all the purchasers' files for -- for -- H&R has for all these individual purchasers?

MR. SCHEIN: Yes.

BY MR. MARR:

299 Q. And are you saying that any notes that the service -- or any issue the service department would have been notified about are in those files? Is that what you're trying to tell me?

Like, we've gotten -- I mean, those are -- the files we've got I don't have them here but they're closing type documents, the agreements and other types of things?

A. Yes.

300 Q. But it's not -- it's not quite what I'm -- what we're talking about now, I don't think.

MR. SCHEIN: No, that's not quite right. There is correspondence.

MR. MARR: There is some correspondence, that's true.

MR. SCHEIN: A unit owner writing ---

MR. MARR: Yes.

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MR. SCHEIN: --- a letter to say something about
some aspect of ---

BY MR. MARR:

301 Q. So, I guess I'm trying to figure out how H&R
would -- would you put everything into one file relating
to a purchaser? Is that what you're telling me?

A. A unit file, yes.

302 Q. Including the closing documents and any letters
or anything like that?

A. Yes.

303 Q. Okay. So as far as you're concerned we have all -- we
should have all that?

A. Yes.

304 Q. If there's anything that you had you produced?

A. Yes.

305 Q. All right. But you don't have any -- do you have a
recollection other than this general recollection that Mr.
Weinberg was bad-mouthing H&R you don't know who
specifically he was talking to? You can't help me ---

A. I don't remember.

306 Q. You can't help me who that -- the source of
the information was?

A. I don't remember.

307 Q. And within H&R do you have any recollection

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of, you know, so and so told me that -- I know it would be at least double hearsay but I'm trying to figure out who at H&R was the person who was the source who was telling you about this? Because I assume you didn't get calls yourself; am I right?

A. Yeah, I didn't get it myself. I don't remember which of the customer service people.

308 Q. Okay. So there's a meeting. Do you think it was in June or you're not sure?

A. I'm not sure.

309 Q. Okay. Is there some way to check that in your diary?

A. I've already looked and I don't see it in June.

310 Q. Have you looked to see if it's a different date?

A. On my computer. No.

311 Q. Could you try to, as best you can, figure out when this meeting was with Mr. Weinberg?

A. Yes.

312 Q. All right.

MR. SCHEIN: Yes.

UNDERTAKING NO. 8: To search records to find out when the meeting was with Mr. Weinberg.

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BY MR. MARR:

313 Q. At the meeting -- you were at the meeting?

A. Yes.

314 Q. Do you know who Peter is?

A. Yes.

315 Q. Was Peter at the meeting?

A. Yes.

316 Q. What's Peter's last name?

A. De Biasio.

317 Q. Who's he?

A. He's the construction manager now.

318 Q. Can you spell his name for the reporter?

A. Yes.

MR. SCHEIN: Yes. Just a sec. It's D-E capital
B-I-A-S-I-O.

MR. MARR: Okay.

BY MR. MARR:

319 Q. Was Mr. Cappe at the meeting?

A. I don't remember.

320 Q. Mr. Weinberg says he was but you don't recall?
That's doesn't refresh your memory?

A. No.

321 Q. Okay. And he said that there was somebody
else at the meeting who he didn't recall. Do you recall

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anybody else being at the meeting?

A. I don't remember.

322 Q. Okay. How long did the meeting go on for?

A. I don't remember.

323 Q. Can you -- without guessing can you give an estimate? More than half an hour? Less than half an hour?

A. I don't remember.

324 Q. Okay. In this affidavit you'll see and why don't you take a moment and read Roman numeral one to four at paragraph 8. Just before I ask you about that you had said there was some bad-mouthing going on. Do you recall specifically what Mr. Weinberg was allegedly saying that constituted this bad-mouthing?

A. No.

325 Q. What was he saying?

A. I don't remember.

326 Q. Was Mr. Weinberg accused of saying things about H&R's disclosure budget? Or you don't remember? That doesn't help you remember?

A. No.

327 Q. All right. At the meeting did Mr. Weinberg --let's go through these one at a time. Did he say something like what is at Roman numeral one?

A. I don't believe the budget was discussed at

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that meeting. I don't recall that the budget was discussed at all at that meeting.

328 Q. So that it's your recollection that none of these items Roman numerals one to four came up at the meeting?

A. Yes.

329 Q. None of them did? I just want to be clear what you're saying. When -- where you say yes you mean none of them came up at the meeting?

A. It's my recollection that none of them came up at the meeting.

330 Q. Okay. So what can you recall, if anything, about what was said at this meeting?

A. As I said, we called the meeting and asked Mr. Weinberg and I believe it was just him from Percel to please be cautious in what he said to homeowners because he was, at that time, representing us at the project and we were receiving complaints from people that he was just blaming the developer.

331 Q. Okay. And what did he say in response to that?

A. I don't remember.

332 Q. Is there anything else you said?

A. I don't remember.

333 Q. Do you recall if he admitted that he had been

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saying things about H&R?

A. No, I don't remember.

334 Q. Okay. So is there anything else you recall about what was said at this meeting?

A. No.

335 Q. Okay. If you turn to paragraph 9 it sounds like -- it sounds that you would agree, but you tell me if I've got this right -- that he was told not to speak badly of H&R or Cantertrot, that ---

A. Yes.

336 Q. That sounds accurate?

A. Yes.

337 Q. And the next sentence where he indicates that he was told, "To remind my property manager, Ms. Sharon Lilless (phon.), that she, Percel and I work for H&R."

Does that sound like something you would have said at this meeting?

A. Something like that, yes.

338 Q. Okay. And did he explain that he believed his obligation was to protect the interest of the unit owners?

A. I don't -- I don't remember him saying that.

339 Q. Well, how was it left at the end of the meeting? Was everything okay? Was it -- I'm just trying

to ---

A. I assume he -- well, I can't assume. I don't

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remember.

340 Q. Well, do you have any recollection where he said that he was going to do what you wanted or didn't say or you don't recall?

A. Mr. Marr, he worked for us at that time. I don't know what he said. But no doubt something appropriate.

341 Q. Okay. What about the next paragraph, there's reference to a letter, and that letter, if you flip forward in the tab, is Exhibit B.

Perhaps your lawyer can show you that letter. That's the letter of June the 20th.

Now, Mr. Weinberg says that he sent this letter to Mr. Cappe June the 20th. To your knowledge did such a letter come to H&R?

A. You're asking me since discovery ---

342 Q. No. In around June the 20th?

A. No.

343 Q. You never saw this letter in June of 2002?

A. No.

344 Q. And you didn't -- you never -- whether you saw it or not you knew nothing about whether -- as far as you know no such letter was ever sent or received in June 2002?

A. Correct.

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345 Q. Like, it's not addressed to you. But Mr. Cappe -- I'd suggest that Mr. Cappe, if such a letter would have come in I presume he would have either shown it to you or he would have told you about it. You're saying that neither of those things happened. He didn't show it to you and he didn't tell you about it?

A. Correct.

346 Q. And you, yourself, have, since this lawsuit started, have searched and can't find any such letter in your files at H&R?

A. Yes. I haven't seen this letter.

347 Q. To someone specifically -- I would have assumed -- it's a fairly important letter. Your lawyer's had it for some time. I assumed that someone had specifically searched the whole office to make sure that no such letter can be found in your file?

A. Mr. Cappe's offices have been searched and we have not found this letter.

348 Q. To your knowledge had Mr. Weinberg expressed to Mr. Cappe or anybody else in H&R concerns about the budget in June -- in or before June of 2002?

A. No.

349 Q. And were you aware in June 2002 that he was suggesting as it says in the letter that the budget be amended to allow for 24 hour security?

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Were you aware that that was the property manager's belief?

A. No.

350 Q. So as far as you know no one at H&R knew that the property manager believed that the building required 24 hour security?

A. I can't speak for other people. I didn't know it.

351 Q. Okay. And it's true that the building didn't have a superintendent suite as he suggests in the end of the second paragraph of the letter? That's correct, right?

A. If it was in the disclosure documents.

352 Q. Well, I don't think it ---

A. I don't remember.

MR. SCHEIN: I think, Mr. Marr, we are agreed on that point.

BY MR. MARR:

353 Q. Well, the disclosure -- you'd agree with me the disclosure document doesn't say there's no superintendent suite, it's just silent on that; is that right?

MR. SCHEIN: It doesn't make provision for a superintendent.

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THE DEPONENT: Okay. There's no super ---

MR. MARR: I know it doesn't make provision. I'm asking a slightly different question which I think is -- it doesn't say, this building has no superintendent.

MR. SCHEIN: I'm not familiar with any such clause, no.

THE DEPONENT: No.

MR. MARR: No. Okay.

BY MR. MARR:

354 Q. And what about the -- any of the promotional materials, did they discuss whether or not there was a superintendent suite? In any of the booklets or brochures or that sort of thing?

A. If it's not a feature of the building, no.

355 Q. Okay. If we turn to tab 50 and we look at the budget and we look at the last page of Schedule D. The budget, it says, was prepared August 1999; do you see that?

A. Yes.

356 Q. Okay. And the budget is -- if you look back a few pages the one I've marked 13, the first page of the budget part of the document it says the budget statement for the common expenses for the year following

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registration of the condominium.

The first page ---

MR. SCHEIN: Got it.

BY MR. MARR:

357 Q. --- with the 413 figure. So what year are we talking about when it says that? For the year following registration. What year was that? What calendar year?

MR. SCHEIN: Wasn't it a piece of two calendar years?

MR. MARR: I don't know. What -- when ---

MR. SCHEIN: Well, registration I thought we established ---

MR. MARR: Well, we know when registration was.

MR. SCHEIN: Right.

MR. MARR: But obviously at the time this was created there was a year in mind.

BY MR. MARR:

358 Q. It says the year following the registration. What was the year following registration supposed to be when they were creating the budget?

A. I don't know.

MR. SCHEIN: So you're asking when did she -- at the time in 1999 when was it expected that

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registration would take place? Because that would be the start of that year.

MR. MARR: I don't know if that's what to be expected.

BY MR. MARR:

359 Q. I'm asking what was the year that this budget was prepared for? It's for the year -- it's supposed to be -- you'd agree with me it's supposed to be the estimate for the year following registration of the condominium, right? So that has to be some year subsequent to August '99. When was that year?

A. I don't remember. I don't prepare the budget.

360 Q. Well, were you contemplating that the declaration would be registered within a year?

MR. SCHEIN: You mean within a year of this document being created?

BY MR. MARR:

361 Q. Yes?

A. Not necessarily.

362 Q. Well, what was the year that you were contemplating -- that H&R was contemplating and you were contemplating for registration of declaration?

A. I don't remember.

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363 Q. Well, in your experience how long does the sale, occupation and then registration of declaration process take?

A. It can take two to three years. Maybe longer, maybe shorter.

364 Q. And is there a point in time where you -- if it's taking longer is there a point in time where you believe it's your role to ask Mr. Froom to look at the numbers again because registration is taking longer than originally anticipated?

A. Are you asking me a general question? Or are

you ---

365 Q. Well, let's talk about the Beauclaire. Was there a point in time where you thought it was your role because the time was passing and the declaration was still not registered that someone should look at the numbers anew and make sure that nothing's changed?

A. No.

366 Q. Well, on the townhouse project how did -- can you assist me at all as to how that happened? Where would -- who would have realized that it was time to look at the numbers again? Was that you?

A. No. Somebody at the time came to me and said that they thought there was a big change requiring -- that potentially will go back to purchasers.

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367 Q. Do you recall who that was?

A. No. It was whoever. I don't know.

368 Q. Well, by looking at the documents would you maybe be able to figure out who that person was?

A. It could -- I mean, it was before this project.

369 Q. I understand. But I'm interested to know who would have done that. Could you find that out? Who would have told you that the numbers needed to be looked at again?

MR. SCHEIN: We'll take it under advisement.

UNDER ADVISEMENT NO. 2: To advise who told deponent that the numbers needed to be looked at again on the townhouse project.

BY MR. MARR:

370 Q. If you look at page 13 of this tab there's a section called miscellaneous; do you see that?

A. Yes.

371 Q. There's a statement at 3C. It says, "There are no services which are not included in the budget that the proposed declarant provides. Nor are there any expenses that the proposed declarant pays which might reasonably be expected to become a common expense at any

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subsequent time."

At any point in time before June the 28th, 2002 did that statement become untrue?

A. Not to my knowledge, no.

372 Q. And would you agree with me that -- I appreciate that it's not your job, you're telling me, to calculate the numbers, but would you agree with me that it's part of your job to make sure that the people that are calculating the numbers understand the legislative requirements with respect to the numbers?

A. The general notes you're talking about? I prepared. I would check those against the act.

373 Q. Okay. But ---

A. And then the solicitor would review it.

374 Q. Right. And the numbers themselves, you'll agree with me that there's an obligation to give, as best you can, accurate information to the purchasers, correct?

A. Yes.

375 Q. And part of your job would be to impress upon Mr. Froom and the people working under Mr. Froom that that occurred. Would you agree with me there? You're the one who understands the legislation and you're the one who's supposed to make sure that the people understand what their jobs are with respect to creating the disclosure.

A. Are you asking me if I go and ask them, are

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you preparing an accurate budget?

376 Q. Yes.

A. No.

377 Q. And why wouldn't you tell them to do that?

A. If somebody came and asked you if you're preparing a contract, are you doing -- preparing the contract the way you should be?

MR. SCHEIN: I think she means it was assumed that they would do it accurately.

THE DEPONENT: Thank you.

MR. MARR: Okay.

MR. SCHEIN: Without being specifically told.

BY MR. MARR:

378 Q. And even after this meeting with Mr. Weinberg you didn't have any concerns at all that the disclosure budget was no longer accurate?

MR. SCHEIN: I think she indicated there was no discussion about the budget at the meeting to her recollection.

BY MR. MARR:

379 Q. So I take it that you had no concerns that the disclosure budget was -- after you met with Mr. Weinberg you didn't have any concerns yourself that the disclosure

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budget was no longer accurate?

A. I had no knowledge of it.

380 Q. Okay. And after you met with Mr. Weinberg you didn't feel that you had any additional information that the purchasers should be told about?

A. No.

381 Q. The bad-mouthing that he was doing and I know you can't -- you don't seem to recall exactly what it was but did you ever look in to see whether or not there was any truth to what he was saying? I know H&R wouldn't be happy about it but whatever he was saying was it true or false?

A. I don't remember what it was but if purchasers had issues they would be dealing directly with us and we would respond appropriately in so far as the issues are concerned, whether they were construction-related or customer service-related.

382 Q. What about disclosure-related? If there were things that Mr. Weinberg was concerned about that would --that would impact on the -- that was material information, that would have to be disclosed to the purchasers wouldn't it?

A. If Mr. -- that's a very general question you're asking.

383 Q. Well, let's be less general.

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MR. SCHEIN: Well, doesn't it matter if --
whether or not Mr. Weinberg's correct?

THE DEPONENT: Thank you.

MR. SCHEIN: If he was concerned about something
that simply was wrong why would any of that -- why
would the developer feel that they had to disclose
anything?

MR. MARR: Well, let's look at that. The
information contained at paragraph 8 of his
affidavit, the one at tab 77.

BY MR. MARR:

384 Q. If that information had been conveyed to H&R, the ones
in the entire paragraph 8, is that information that in your
capacity as legal manager you would have made sure was
conveyed to the purchasers?

MR. SCHEIN: Don't answer that question.

REFUSAL NO. 3: To answer if the information in
paragraph 8 was conveyed to H&R was it in
deponent's capacity as legal manager to make sure
the information was conveyed to the purchasers.

MR. SCHEIN: You're asking her opinion as to
the impact, if any, in terms of disclosure

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requirements ---

MR. MARR: I'm ask ---

MR. SCHEIN: --- of statements made in an affidavit by Mr. Weinberg that this witness doesn't know anything about and has no recollection of ever hearing. So I don't think that's a proper question.

MR. MARR: But I think I'm entitled to explore with the witness her obligation and her job. The evidence at trial of Mr. Weinberg, presumably, will be as is in his affidavit. That's a fair assumption.

MR. SCHEIN: Let's assume that. That's ---

MR. MARR: Okay.

MR. SCHEIN: --- a fair assumption. And it seems to me that if a judge is satisfied that the statements were made then the judge will be in a position to determine whether or not the developer did or did not meet its obligation under the act in terms of dealing with those things. Okay. Whether Ms. Lewin today, sitting here, has the opinion one way or another isn't relevant.

MR. MARR: Well, I think I'm entitled to know her own view of her own duties. You're disagreeing?

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MR. SCHEIN: I disagree.

MR. MARR: Okay. And I take it the same -- the evidence will be, again, that the letter was received, the one in Exhibit B, and I'd like to know if this witness believes that that's information that should have been given to the purchasers before they made the final closings of the transaction. And you're refusing to let her answer that question; is that correct?

MR. SCHEIN: Correct.

REFUSAL NO. 4: To answer if the deponent believes the information in the letter at Exhibit B was information that should have been given to the purchasers before they made the final closings of the transaction.

BY MR. MARR:

385 Q. As the budget was being prepared there's a figure in the budget for the reserve. Are you familiar that there is a reserve in the budget?

A. Yes.

386 Q. Okay. And what's your understanding as to how that reserve is to be calculated or how it was calculated? A.
The Condominium Act prescribes it and ten per

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cent is the minimum amount that you are -- that is prescribed.

387 Q. All right. And did H&R have any concerns in your experience that historically a reserve of ten per cent proved to be inadequate?

A. Not to my knowledge.

388 Q. Are you aware that other developers have picked higher numbers? Is that something you are or were aware of?

A. I don't remember. I mean -- no.

389 Q. Has H&R ever picked a different number other than ten per cent for the reserve or is that the number you've always used in past and present?

MR. SCHEIN: Don't answer for the present.

REFUSAL NO. 5: To answer does H&R ever use a different number than ten per cent for the reserve or is that the number H&R uses in the present.

MR. SCHEIN: As of this time was that the standard that H&R was using?

THE DEPONENT: Yes.

BY MR. MARR:

390 Q. Did that change at all before June 28, 2002?

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A. No.

391 Q. And before June 28, 2002 did you have any information, from being in the industry, that that number was inadequate?

A. No.

392 Q. Okay. And did you have any information up to June 28, 2002 that within the industry there was a problem that disclosure budgets were proving to be inadequate when the actual operation of the building started? In general in the industry?

A. I'm sorry, please repeat that?

393 Q. Here, I'll try to put it in a different way. What I'm suggesting to you is that -- I want to know if before June 28, 2002 -- that's the date that the declaration was registered so that's why I'm picking that date. If -- before that date did you have any knowledge that within the industry, in the condominium industry, selling to purchasers, there were concerns that once a property went to market and was sold the disclosure budget that purchasers were getting was proving to be less than the actual operating cost in the first year after registration of declaration? Did you have any knowledge that generally in the condominium industry there was such a concern?

A. No.

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394 Q. Okay. I take it that once the declaration was registered and the condominium started being run there proved to be a deficit in the first year, you understand that?

A. Yes.

395 Q. Okay. When that process came up and there was a deficit did you, yourself, ever look into why the disclosure budget was at variance to the actual operating budget in the first year?

A. No.

396 Q. Did you take any steps to find out -- to ask anybody to do that?

A. No.

397 Q. Did you say to Mr. Cappe or Mr. Froom, you know, what happened? Why is this off?

A. No.

398 Q. Why didn't you do any of those things?

A. I'm not involved in the resolution of the first year technical audit.

399 Q. But ---

A. So I wouldn't be involved in that.

400 Q. But I guess I'm asking a more -- a different question. You were involved in the process of giving a disclosure budget in the sense that you helped -- it was part of your job to make sure that the purchasers got a

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disclosure package which included the budget, correct?

A. Yes.

401 Q. All right. And then you hear information that you're aware of that the numbers in some way were inaccurate -- sorry, your lawyer won't like that question.

The number -- the cost of operating the first year proved to be higher than in the declaration, the budget that was in the disclosure budget, that's true, they proved to be higher, correct?

A. Yes.

402 Q. Why -- I don't really want to get into the why right now. I just want to know why H&R wouldn't engage in an investigation as to why that had happened? Why you wouldn't want to know that?

MR. SCHEIN: Well, I think the question was directed to her personally, first of all.

BY MR. MARR:

403 Q. All right. Well, let's try you personally. Weren't you concerned that you had been involved in a process which had a budget which proved to be less than the actual first year operating expenses? Didn't you want to know why that had happened?

A. No.

404 Q. And I'm trying to find out why not?

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A. Because the next project that goes to market will go through the same procedure again. You prepare a budget at the time based on what the budget should be for that project. The projects are not the same.

405 Q. But looking at -- in creating the budget are you going to be looking at -- are you instructing the people preparing the budget to look at the historical accuracy of your budget-making process?

A. No.

406 Q. Why not? I don't -- why wouldn't that be part of the process of making the budget, to look at how you've done in the past?

A. Because costs change. Facilities change. It's up to whoever's preparing the budget to prepare an accurate budget.

407 Q. I understand that. But if -- I understand it's up to them to make sure it's accurate.

But I would have thought one of the factors in doing that would be to look, you know, how you've been doing in making budgets.

It's no different than any other kind of budget, isn't it? Don't you want to know historically how you've been doing at the process so that you can make sure you're doing it well?

A. No. Each project you want to prepare an

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accurate budget.

408 Q. Right. Based on information?

A. Current at the time and based on the facilities of the project at the time.

409 Q. Well, speaking of the facilities at the time what information would Mr. Cappe have received about in order to make the budget; do you know?

A. He would have received -- I don't remember the exact information.

410 Q. Do you have any knowledge of it at all about what he would have received?

A. The checklist with all the information from the consultants. Plus he would have asked questions if he needed answers.

411 Q. Questions on ---

MR. SCHEIN: Do you know these things? That this happened in this case?

THE DEPONENT: No.

MR. SCHEIN: Just tell him what you know.

THE DEPONENT: Okay.

BY MR. MARR:

412 Q. Well, is there a general process, though, that Mr. Fromm was instructed to follow -- either Mr. Fromm followed or Mr. Cappe followed in making the budgets?

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Were they supposed to look at the architectural plans, for example? Do you know?

A. I don't know.

413 Q. You didn't give any specific instructions or requests of Mr. Froom or Mr. Cappe as to what things they should look at in making the budget? That wasn't part of your job?

A. No.

414 Q. Now, in the plaintiff's productions there's the status certificates which I take it you signed?

MR. SCHEIN: Let him show you the documents.

BY MR. MARR:

415 Q. There's several, obviously. Each purchaser would get a status certificate on closing, right? That's your understanding of the process?

A. Yes.

416 Q. Okay. So, for example, if we look just at tab 24 of the plaintiff's productions which is -- I don't know why I picked it -- one of the purchaser's, it's unit 209. I'm not sure that -- I take it that on the second page at tab 24 that's your signature?

A. Yes.

417 Q. All right. So how does this process work? Do you prepare this document or do the lawyers prepare it?

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A. The lawyers prepare it.

418 Q. And then you review it and you sign it?

A. Yes.

419 Q. And then you give it back to the lawyers?

A. Yes.

420 Q. And to the best of your knowledge the information in the status certificate would be accurate?

A. Yes.

421 Q. So we'll try to read these together because we only seem to have one copy. There's a paragraph talking about the budget. Paragraph 10 says and I'm at -- I'm still at tab 24. It says, "Since the date of the budget of the corporation for the current fiscal year the common expenses for the unit have not increased."

And you signed this particular one on August the 1st, I believe?

A. They have not been increased.

422 Q. And that was accurate?

A. They had not been increased, no.

423 Q. And 12 says, "The corporation has no knowledge of any circumstances which may result in an increase in the common expenses for the unit."

Did you agree with that statement at the time you signed it?

A. Yes.

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424 Q. And that -- I assume that when I look at all the status certificates your answer -- if the statements are the same your answers will be the same that you agree that those two statements were accurate as of when you signed them?

A. Yes.

425 Q. And what about the information that Percel was giving you, did that -- does that not fit into paragraph 12 of the status certificates?

MR. SCHEIN: Didn't this witness say that she denied ever receiving that information from Mr. Weinberg?

MR. MARR: Well, that's not quite true. She said she didn't recall some of the things that were said at the meeting. That she doesn't recall there being any discussion about the budget.

BY MR. MARR:

426 Q. Are you saying there was absolutely no discussion about the budget?

A. To my recollection there was no discussion of the budget at that meeting.

427 Q. Okay. And no discussion of the budget at any time with Percel or Mr. Weinberg prior to say, August the 1st, 2002? That's your recollection?

428 A. With me?

Q. With you.

A. What was August?

429 Q. August the first is the date the status certificate was signed. The declaration was registered the 28th and then the closings obviously happened afterwards.

I don't think August -- we could make it June 28th, I don't think it matters much.

Before June 28, 2002 do you recall any information you received from Percel, Mr. Weinberg or from any source about the budget itself?

A. No.

430 Q. Beyond what was in the disclosure budget, obviously. Did you get any information at all before June 28, 2002 about the budget?

A. Not that I remember, no.

431 Q. Okay. And to your -- is it your evidence that as far as you know nobody else at H&R had any other communication with Percel or Mr. Weinberg about the budget itself?

A. Is it my ---

432 Q. As far as you know -- you told me you don't recall discussing that or getting ---

A. Right.

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433 Q. --- information. But I guess I want to be clear that -- Mr. Cappe, for example, or anybody else in H&R, do you know if they got any information about the budget or the accuracy of the budget or concerns about the budget before June 28th, 2002?

A. No.

434 Q. As far as you know nobody at H&R had those discussions about the budget with Percel ---

A. I'm not saying that. I'm saying I didn't have any discussions with ---

435 Q. Okay. But I want to ---

MR. SCHEIN: He's asking you if you know ---

BY MR. MARR:

436 Q. If Mr. Cappe, for example ---

MR. SCHEIN: --- if, for example, Mr. Cappe did? Do you know if Mr. Froom did?

THE DEPONENT: Do I know it? No.

BY MR. MARR:

437 Q. Okay. So you don't know about any discussions, if any, that H&R had with Percel or anybody else about concerns about the disclosure budget? You don't know about ---

A. I don't know about it.

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438 Q. Okay.

MR. SCHEIN: Mr. Marr, would this be a convenient time for a break?

MR. MARR: It would be an excellent time for a break.

--- BRIEF RECESS

BY MR. MARR:

439 Q. You were telling me about the townhouses. Remember we were talking about that earlier? And there had been a change in the budget. I assume that -- I didn't ask you but I kind of assumed that the change was an increase in the operating expenses of the condo ---

A. Yes.

440 Q. --- minium; is that right? Okay. And --okay. Another area that I started to ask you about and I didn't quite - - I don't think I got quite clear. Maybe it's just that I didn't make good notes. Is Mr. -- did you tell me that Mr. Froom is reporting to Mr. Hofstedter or you didn't -- on this project? I can't ---

MR. SCHEIN: She did say ---

BY MR. MARR:

441 Q. --- recall what you ---

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MR. SCHEIN: She did say that on this project Mr. Froom was reporting to George -- or was subordinate to George Hofstedter.

BY MR. MARR:

442 Q. And Mr. Cappe was reporting to Mr. Froom, correct?

A. Yes.

443 Q. And you were reporting to Mr. Hofstedter?

A. Yes.

444 Q. Okay. And we know that ---

MR. SCHEIN: Mr. George Hofstedter.

MR. MARR: Mr. George Hofstedter. Correct. Thank you, Counsel.

BY MR. MARR:

445 Q. We know that the people who were buying the units who form part of the class, they started buying in 1999. And we know that the declaration was registered in June 28, 2002.

From your knowledge were -- was the reason that it took that period of time because there was slower sales; is that fair? Were sales a bit slow?

A. I don't know.

446 Q. Were you -- you weren't aware of anything

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about that ---

A. I'm not involved in sales.

447 Q. I know you're not involved in sales but you were involved in some capacity in the project. I'm not asking that you monitor the individual sales.

But were you aware that there were some issues relating to the sales of the units?

A. You're talking now once we'd gone back to market.

448 Q. Now I'm talking, first of all, when we went back to market, yes?

A. No.

449 Q. Okay. And in the -- before you went back to market you had said there had been a meeting with the lawyer when the units were being reconfigured; is that correct?

A. When the building, I guess, was being reconfigured.

450 Q. And that was the -- and the lawyer -- you were discussing with the lawyer whether or not you could cancel those original deals; is that what the discussion was about?

A. Yes.

451 Q. And the decision was made to cancel that original set of agreements?

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A. Yes.

452 Q. And all -- I assume all those purchasers got letters cancelling the deals?

A. Yes.

453 Q. And then the property went up for sale again in the reconfigured form?

A. Yes.

454 Q. Okay. When the amended budget was sent out to the purchasers you were involved in that process, making sure the purchasers got -- on the townhouse I'm talking about now -- that the purchasers got those documents?

How would that have happened? Would you have been involved in sending them out?

A. Yes.

455 Q. And you were involved in the discussions about that decision to send out the amended disclosure budget?

A. Yes.

456 Q. Okay. And was it a factor in making the decision to send out the amended disclosure budget -- did you consider what would happen if they rescinded in the sense were the units now worth more than those townhouse purchasers had paid or less? Was that part of decision-making process?

A. I don't remember.

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457 Q. Did you have -- do you know if the prices were going up on those units compared to when those purchasers had bought on the townhouses?

A. I don't remember.

458 Q. Were there any changes in the prices of the units in the Beauclaire from the time it went to market in the reconfigured state until the final agreements of purchase and sale were entered? Did the prices change? The price list?

A. Are we back on the high-rise now?

459 Q. Now we're back on the high-rise. And from the time it was reconfigured ---

A. Right.

460 Q. --- in 1999, I assume there was a price list that was -- the real estate people had.

A. Right.

461 Q. Did at prices go up or did they stay the same the ---

A. I don't know.

462 Q. All right.

MR. MARR: We're going to get all the price lists for the Beauclaire, Counsel, as best you can? Do we have them already?

MR. SCHEIN: Yes.

MR. MARR: And there's no other one that ---

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MR. SCHEIN: Not that I'm aware of.

MR. MARR: Okay. And are you prepared to produce the price list for the townhouse project?

MR. SCHEIN: No.

REFUSAL NO. 6: To produce the price list for the townhouse project.

BY MR. MARR:

463 Q. How many units were in the townhouse project; do you recall, approximately?

A. I don't remember.

464 Q. Okay. Subject to the undertakings and refusals those are my questions. Thank you.

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I hereby certify the foregoing to be the Examination for Discovery of ALEXANDRA LEWIN, taken before me at the offices of PROFESSIONAL COURT REPORTERS INC. on the 28th day of February, 2007.

CERTIFIED CORRECT:

Susan Purchase

Shorthand Reporter

Photostatic copies of this transcript are not certified and have not been paid for unless they bear the original signature of Susan Purchase, and accordingly are in direct violation of Ontario Regulation 587/91 Courts of Justice Act, January 1, 1990.

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3	To make best efforts to determine who was at that original meeting	23
4	To enquire and advise who actually prepared, printed out the whole of tab 50	26
5	To review deponent's notes from the second meeting	34
6	To search computer records for notes or appointments relating to the Beauclaire project	37
7	To enquire as to who created the flyer, price list type documents	42
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4	To answer if the deponent believes the information in the letter at Exhibit B was information that should have been given to the purchasers before they made the final closings of the transaction	76
5	To answer does H&R ever use a different number than ten per cent for the reserve or is that the number H&R uses in the present	77
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