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ONTARIO HUMAN RIGHTS COMMISSION

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IN THE MATTER OF the Human Rights  
Code S.O. 1981, c. 53, as amended;

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AND IN THE MATTER OF the Complaint  
of Chippheng Hom dated December 20,  
1989 alleging discrimination on the  
right to equal treatment in  
accommodation and freedom from  
harassment by the landlord on the  
basis of ancestry, race, place of  
origin, ethnic origin and race  
reprisal by Elijah Elieff and  
Elieff Investments Ltd.

\*\*\*\*\*

15

B E F O R E :

AJIT JOHN

Chairperson

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HELD AT: Radisson Hotel,  
London, Ontario.

DATE: August 31, 1993

VOLUME: 9

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APPEARANCES:

Geri Sanson Counsel for the Commission

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Robert Metz appearing as agent for Elijah  
Elieff and Elieff Investments Ltd.

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--- Upon commencing at 10:05 a.m.

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**THE CHAIRPERSON:** Okay. Are we ready to proceed?

First, are there any preliminary matters?

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**MR. METZ:** Yes. Mr. Elieff has just brought to my attention and asked if it would be all right if we could continue without him tomorrow for two hours?

**THE CHAIRPERSON:** Continue without ---

15

**MR. METZ:** Without his presence. He has an appointment between eight and 12 in the morning with About Town where he's training, driver training for a job.

20

**THE CHAIRPERSON:** Yes, that's fine, as long as he's content to have you here. If he's content to have you as his representative here that's fine.

**MR. METZ:** That's okay?

**MR. ELIEFF:** Sure.

25

**MR. METZ:** So he will join us again at noon ---

**MR. ELIEFF:** Twelve-thirty (12:30) or one o'clock.

30

**THE CHAIRPERSON:** Fine.

**MR. METZ:** --- or 12:30. Well, I guess



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after the lunch break.

5

**THE CHAIRPERSON:** We may not need to go into tomorrow if we hear from Commission's reply witnesses today, this afternoon.

**MR. METZ:** Oh, I see, so we might be finished earlier.

10

**THE CHAIRPERSON:** We might be finished today.

**MR. METZ:** Okay. Well, just so that you know.

**THE CHAIRPERSON:** Okay. Thank you.

15

**MS. SANSON:** The Commission has one brief matter. Yesterday I made reference to a concern that the board had in the transcript, and I've found the pages. It's the February 5th, 1993 and it's pages 482 to 485.

20

**THE CHAIRPERSON:** Just give me a minute here. Four eighty-two (482), yes.

25

**MS. SANSON:** I don't wish to deal with this any further, but just to provide you with the passage of where the concern was raised in reference to the question about the Commission's process and whether or not an endeavour to attempt settlement had taken place.

30

**THE CHAIRPERSON:** Thank you.

And did you want any further comment of





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it?

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10  
**MS. SANSON:** Perhaps if you -- if indeed you have the opportunity to review it, I think it deals with three pages and then goes into the other reference that I made yesterday at page 46. So there are three or four pages dealing with it, and I had asked for some more specific direction as to whether -- how to address the concern with respect to the principles of equity and whether or not they had been violated in any way, and you had asked for ---

15  
**THE CHAIRPERSON:** Submissions on that?

**MS. SANSON:** Yes.

**THE CHAIRPERSON:** All right. In one of the breaks today I'll look at it.

**MS. SANSON:** Thank you.

20  
**THE CHAIRPERSON:** Let me just make a note of it.

Ms. Sanson, I wonder if you would just check with Ms. Hom about the 27th and 28th of September.

25  
**MS. SANSON:** Yes, that's fine.

**THE CHAIRPERSON:** Okay. Just for the record I would like to confirm that the dates set for argument are Monday and Tuesday, September 27th and 28th, 30  
1993. That will be held here in London. The Registrar of the board will send out letters confirming this. And



1 I've asked them to notify the translating agency for that.

5 All right. Any other matters before we proceed?

MR. ELIEFF: Do I get subpoenaed for this? For those two days will I get subpoenaed like ---

THE CHAIRPERSON: No.

10 MR. ELIEFF: --- in writing that I have to be here so I can show it to my employer?

THE CHAIRPERSON: No. You don't -- these will be days for legal argument ---

15 MR. ELIEFF: Yes, but ---

THE CHAIRPERSON: --- there will be no witnesses or anything. Both sides will summarize all the evidence and make an argument, so it will really be Mr. Metz making his argument, Ms. Sanson making her argument. There will be no witnesses. All the evidence is likely to be finished today.

20 MR. ELIEFF: Just for the purpose of my employer that I have to be here two days.

THE CHAIRPERSON: If you would like to be here ---

30 MR. ELIEFF: Because I'll be just new working, new starter there. I don't want to be fired. If I can't get from the board that I have to attend



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811

E. ELIEFF, cr-ex.  
(Sanson)

that's all, a letter.

MR. METZ: I think all he wants is a  
letter requesting ---

5

MR. ELIEFF: Just for that reason.

THE CHAIRPERSON: Okay.

MR. ELIEFF: So I can show that I have to  
be ---

10

THE CHAIRPERSON: Well, you will be  
receiving a notification from the board ---

MR. ELIEFF: Yes, that's all I need.

MR. METZ: Okay.

15

THE CHAIRPERSON: Okay.

All right. Then if we're ready to  
continue with cross-examination? Mr. Elieff, would you  
like to sit there.

20

Ms. Sanson.

MS. SANSON: Thank you.

25

ELIJAH ELIEFF, Resumed:

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

30

Q. Mr. Elieff, some of these questions  
may sound like it's information that's already public  
knowledge, but I would like your answers for the record.

Who owns 105 and 95 Cheyenne?



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E. ELIEFF, cr-ex.  
(Sanson)

A. My company, Elieff Investments.

Q. And who is the President of that corporation?

5

A. Myself.

Q. Okay. Are there any other executive officers to this corporation?

0

A. My wife is supposed to be as a secretary.

Q. Anyone else?

A. And that's all, as far as I know.

5

Q. Does Elieff Investments own other properties?

A. No.

0

Q. Do you own any other apartment buildings?

A. No.

Q. Who is the landlord for 95 and 105 Cheyenne?

5

A. Elieff Investments.

Q. Who's the personal landlord?

A. Elieff Investments is the name of it.

Q. Who are the assistants for looking after the building?

10

A. It was me mainly responsible to doing my best with the help of my family. And superintendents



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E. ELIEFF, cr-ex.  
(Sanson)

and others, who all gave up.

Q. Now, let's just detail who your superintendents were and for how long.

5

A. In the beginning the person who I inherited as superintendent was Glenn Allbright.

Q. And how long was he a super for?

10

A. I don't know exactly for sure. I don't know.

Q. Roughly?

A. A year or two, I don't know.

15

Q. Who else?

**THE CHAIRPERSON:** A year or two from the time you first owned the building?

**MR. ELIEFF:** I just don't care about those dates.

20

**THE CHAIRPERSON:** It doesn't have to be absolutely accurate, but just if you can -- if you can perhaps remember the year, even the year when ---

25

**THE WITNESS:** I can't. I can't even remember the year, because I'm so upset about it, the whole thing. So you can say, you know, a year or two. I don't know.

30

**BY MS. SANSON:**

Q. Who else did you have for a



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E. ELIEFF, cr-ex.  
(Sanson)

superintendent?

A. Then, because he went wild ---

5

Q. Who did you have next as a superintendent, Mr. Elieff?

A. After he left I -- for a long time I couldn't get superintendent because they ---

10

Q. How long?

A. The new tenants that I was bringing in was creating problem for any others who they don't want to become superintendents, and I was trying to get some of these Vietnamese or Cambodian tenants as superintendents, but they were not ready yet at the time. So it took me a long time for me to ---

15

THE CHAIRPERSON: Did you and you're family ---

20

THE WITNESS: --- try and keep it up myself and my family without superintendent.

THE CHAIRPERSON: Did you ---

25

THE WITNESS: And then later on I had this Mike Sucur and his wife.

BY MS. SANSON:

30

Q. And when was that? What year was Mike Sucur and his wife?

A. I don't remember that. He already



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815

E. ELIEFF, cr-ex.  
(Sansou)

said what was it, I just don't know.

THE CHAIRPERSON: So you're saying, then,  
that there was a ---

5

THE WITNESS: For a long time, yes.

THE CHAIRPERSON: --- there was a gap ---

THE WITNESS: Oh, yes.

10

THE CHAIRPERSON: --- between Mr.  
Allbright and Mr. Sucur?

15

THE WITNESS: I was looking to get, I  
couldn't. There were a few who were kind of saying to me  
"Let me try", and many just didn't work because they  
wouldn't undertake.

THE CHAIRPERSON: Okay.

20

THE WITNESS: And by many reasons, you  
know. Some say just too much work around, and I was, you  
know, I'm going -- like saying that I could afford the  
prices many have said, or I will become -- you're like  
"Give me this, this, this", so that took me a long time  
trying to keep it up myself and my family, and until we  
arrived with ---

25

THE CHAIRPERSON: Mr. Sucur.

THE WITNESS: --- Sucur and Irina to  
undertake.

30

THE CHAIRPERSON: All right.

THE WITNESS: And how long there I also



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E. ELIEFF, cr-ex.  
(Sanson)

can't remember. They did their best and, as you know,  
they gave up too.

THE CHAIRPERSON: Okay.

5

BY MS. SANSON:

Q. How long did you operate the sub  
shop?

10

A. The sub shop. We bought it in '86,  
June I think, and we formed a numbered company. I was  
the owner there. And that numbered company was 705039  
Ontario Incorporation.

15

Q. When did you close down the sub shop?

A. That company with its restaurant was  
very prosperous until you -- that side of the people  
ruined it up.

20

THE CHAIRPERSON: When did it close down?

THE WITNESS: It was forced to close at  
the end of January this year.

THE CHAIRPERSON: This year?

25

THE WITNESS: Yes. There was not enough  
money to pay rent so we had to give it up.

THE CHAIRPERSON: Okay.

30

BY MS. SANSON:

Q. And while the sub shop was open you



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E. ELIEFF, cr-ex.  
(Sanson)

worked there full time?

A. I work everywhere as much as I could work, at the shop, at the buildings, everywhere.

5

Q. I'm asking you about the sub shop, how long were you working there full time?

A. I don't know what you mean "full time". Sometimes I've been working ---

10

Q. How long were you open, Mr. Elieff?

A. I've been working there ---

Q. What time did you open in the morning the sub shop?

15

A. Any time I wanted to.

Q. What time?

A. Eight, nine, 10.

Q. In the morning?

20

A. Whenever ---

Q. And how late did you stay open?

A. Again, any time I felt I had to go, there's no business. So I would close any time, nine, 10, 11.

25

Q. So roughly 12 hours a day you operated the sub shop?

A. Not all the time. Not all the time. But most of the time I was there.

30

Q. Most of the time you were at the sub



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shop?

A. Yes.

5

Q. Okay. Let's go back to your superintendents, any other superintendents that you had hired, other than the Sucurs?

10

A. I never professionally hired anyone like, you know, in agreement, written or whatever. I was -- I went through many, trying to get them around and telling them "See. Check the place. See what's going wrong here and then you will" ---

15

Q. Did you pay anyone to do that?

A. I've been having people who tried, you know, but mostly ---

20

Q. Did you pay anyone to do that?

A. Not as superintendents.

Q. Mr. Elieff, would you please answer my questions.

25

A. No. No, not as superintendents.

Okay.

Q. Did you hire -- did you pay anyone

---

A. No one as superintendent.

30

Q. --- to look after your property? No one as superintendent?

A. No one as superintendent. They all



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E. ELIEFF, cr-ex.  
(Sansou)

were trying to start with doing some clean-up jobs, stuff like that, but not as superintendents.

5

Q. Okay.

A. First I ---

Q. Who did you hire to do a clean up job?

10

A. Some clean up, cleaning up jobs I was -- I had a bunch of them but they all gave up.

Q. Well, we've heard about John Pipe, was there anyone else that you paid money to?

15

A. John Pipe tried to ---

Q. That was for a very brief period?

A. I don't know. I don't think it was for brief, it was a few months or so.

20

Q. M'hm.

A. He just -- you heard him what he said, he couldn't keep up. He gave up.

25

Q. I'm asking you about anyone else who worked in clean up, that you paid to clean up the buildings.

A. I paid Linda Thomas sometime, I don't know what year it was, and she gave up too.

30

Q. Anyone else?

A. Then I had Maria, who was ---

Q. Maria who?



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E. ELIEFF, cr-ex.  
(Sanson)

A. Mover, Maria Mover.

Q. She was a tenant?

5

A. She was tenant and she was doing some  
clean up, even today -- until today she's doing just ---

Q. Did you pay her to do clean up?

A. Just voluntarily trying to clean up.

10

Q. Mr. Elieff, did you pay her to do  
clean up around your building?

A. To whom, Maria? I gave her a few  
things, yes.

15

Q. How come we didn't hear that from  
Marie when she gave her evidence?

A. I don't know.

Q. Why didn't you ask her that?

20

A. I don't know. I only gave her in my  
way, you know, I gave her a few subs, gave her -- that's  
what she wanted, you know, she said I'll do it  
voluntarily just for the heck of what's going on,  
something to do, and she was appreciating just, you know,  
25 here and there coming by, take a sub or stuff like that,  
but that's all. So even today she's keep picking garbage  
around, taking from there -- garbage area over the  
streets, you know, and never ask me for anything. And I  
30 never told her to do it, she is the kind of person just  
can't stand what's been going on.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. She can't stand the mess, Mr. Elieff?

A. That's what she's been telling me all  
the time.

5

Q. And you don't have anyone there that  
you pay to clean up the mess, is that right?

A. Right now I've got nothing there,  
it's ---

10

Q. You haven't had anyone there for a  
long time, isn't that true?

A. Sure, for a long time I've been  
scrutinized and, you know ---

15

Q. That's a reason for not looking after  
your buildings ---

A. Oh sure, all give up.

20

Q. --- because there's a hearing going  
on?

A. Of course. We all gived up. I gived  
up, everybody gave up.

25

Q. So you don't have to meet your  
obligations as the landlord anymore?

A. Nobody can. Can you?

Q. I'm not a landlord, Mr. Elieff and  
I'm asking you the questions.

30

A. I gave up.

Q. And when I ask you questions I would



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E. ELIEFF, cr-ex.  
(Sanson)

like answers to those questions ---

A. Well, I gave up.

Q. --- I don't want questions to me.

5

A. I told you, they all gaved up and I gaved up, so what do you want.

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: Yes.

10

THE CHAIRPERSON: --- if you can just try and ---

THE WITNESS: I just told her, you know.

THE CHAIRPERSON: Just try and answer the specific question that's put to you ---

15

THE WITNESS: I gaved up.

THE CHAIRPERSON: --- it will be -- cross-examination will go smoothly.

20

THE WITNESS: Sure, yes.

THE CHAIRPERSON: Thank you.

THE WITNESS: What else you want I can say, you know? That's the truth. And it's whose fault? That's the big question.

25

THE CHAIRPERSON: Mr. Elieff, just wait for the questions and then answer them. Answer the questions directly.

30

THE WITNESS: Sure.

THE CHAIRPERSON: Try not to wander off



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E. ELIEFF, cr-ex.  
(Sanson)

into comments about other areas that haven't been asked in the question, or haven't been referred to in the question.

5

THE WITNESS: Yes.

THE CHAIRPERSON: This way the cross-examination will go a lot more smoothly.

THE WITNESS: No problem.

10

THE CHAIRPERSON: All right?

Go ahead, Ms. Sanson.

BY MS. SANSON:

15

Q. As owner of the buildings what do you see your responsibilities as being?

A. I know what my responsibilities were, but ---

20

Q. Tell me what they are.

A. My responsibilities were that if my company was the owner of those two buildings and was supposed to do its best it could for the buildings and the tenants and the area and everything else, but wasn't able to do it.

25

Q. I'm asking you what you understand your responsibilities to be, not whether or not you could do it.

30

A. I already told you about my



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E. ELIEFF, cr-ex.  
(Sanson)

responsibilities.

5

Q. What are your responsibilities as a  
landlord? Can you identify some of those  
responsibilities?

A. Well, to ---

10

Q. For example, to pay the heat, to pay  
the hydro ---

A. To tell the ---

Q. --- to keep the buildings in repair?  
Do you see those as being your responsibilities?

15

A. To tell the tenants ---

Q. Answer, please.

A. Well, let me tell my way.

THE CHAIRPERSON: All right, just ---

20

BY MS. SANSON:

Q. I would like an answer to that  
question.

25

A. You cannot ---

Q. Do you see as your responsibility as  
a landlord to pay the heat, the hydro, and to keep the  
building in repair? Do you see that as your  
responsibility?

30

A. Sure. I was doing this in the  
beginning.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Just answer ---

5

THE WITNESS: Yes, that's my responsibility. I was doing it in the beginning, until those that you're defending came around and screwed everything up.

10

THE CHAIRPERSON: All right. Mr. Elieff, can you think of other responsibilities as a landlord that you have, apart from paying the heat, hydro ---

15

THE WITNESS: Many responsibilities. I have to pay all the bills, I have to rent non-discriminately, and I have to tell the tenants what's right for what is -- what is the way of the house, the house order, and I couldn't make it. Nobody gave a damn.

20

THE CHAIRPERSON: So you see as part of your responsibilities ---

25

THE WITNESS: It was part of my responsibilities to tell the tenants, which I did continuously, and nobody listened to me. And what ---

30

BY MS. SANSON:

Q. Did you ever communicate with the tenants in a language that was their own?

A. Always very perfectly. I told ---

Q. In English? Did you communicate with your tenants ---



1

A. In English, in sign language, in any way.

5

Q. Did you ever draft any ---

A. You know, we understood each other.

Q. --- notices in Cambodian or Vietnamese?

10

A. We understood each other, don't worry. That's not -- problem not understood, you know. Keep the place in the shape that it's supposed to be kept, and never was kept.

15

Q. Oh, and so it was the Cambodian and Vietnamese people who were responsible for that?

A. All the tenants.

Q. All the tenants.

20

A. All the tenants, I don't care whoever came -- wherever they came from.

Q. Well, we've heard in your evidence

---

25

A. Okay?

Q. --- that it was the Canadians who wrecked the properties and that the ---

A. Canadian. Yes, Canadians wreck, right.

30

Q. And we heard yesterday ---

A. We're not talking about -- we're not





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A. No.

Q. --- responsibility to keep the place  
clean?

5

A. Not the way they've been doing it.  
Not the way they've been doing it.

Q. I'm asking you ---

10

A. They keep throwing garbage all over  
the place, so what do you want?

MR. METZ: I believe he answered your  
question.

15

MS. SANSON: No, he did not.

THE CHAIRPERSON: Let me ---

MR. METZ: He said no.

THE WITNESS: Yes, I did. Not the way  
they are doing it.

20

THE CHAIRPERSON: Mr. Elieff -- Mr. Elieff

---

THE WITNESS: I'm not -- I'm not feeling  
responsible to keep up with so much mess that's been  
going on.

25

THE CHAIRPERSON: Mr. Elieff, listen to  
me. The question is very simple ---

30

THE WITNESS: Yes, she wants me to say  
yes, it's my responsibility, they can keep throwing  
garbage, they can mess all over the place, and I have to



1

pay for some -- it's not -- I cannot do that.

THE CHAIRPERSON: Mr. Elieff, we're ---

THE WITNESS: I gaved up.

5

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: Oh, you take care of the place now, it's in your hands, and Susan's hands and the bank's hands, the place now.

10

THE CHAIRPERSON: Mr. Elieff, would you please listen to me.

THE WITNESS: No.

THE CHAIRPERSON: The question ---

15

THE WITNESS: Terrible.

THE CHAIRPERSON: --- that's being asked right now ---

THE WITNESS: Yes.

20

THE CHAIRPERSON: --- is ---

THE WITNESS: But she's not listening to my answer.

THE CHAIRPERSON: Well, I don't think you're answering the questions directly.

25

THE WITNESS: Yes, I am, sir.

THE CHAIRPERSON: Let me try and explain. Questions at the moment concern your responsibilities as a landlord ---

30

THE WITNESS: Yes.





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E. ELIEFF, cr-ex.  
(Sanson)

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THE CHAIRPERSON: --- and the most recent question by Ms. Sanson is a fairly simple one and you can answer yes or no, and that is; was it your responsibility to keep the apartment building clean?

10

THE WITNESS: No, not mine. Not mine. Those who live there. I do not live there to be that responsible for it. This 21st century we're all smarter than that. Some place can be kept clean for months.

THE CHAIRPERSON: Okay. You've answered the question, that's fine.

15

BY MS. SANSON:

Q. Do you see it as your responsibility as a landlord to keep the place in good repair?

20

A. Not the way it was been built and the way the tenants been knocking it apart.

Q. Do you see it as your responsibility as a landlord to keep the building ---

25

A. That's my answer, not the way the tenant ---

Q. --- in good repair?

A. Not the way that it's been going on.

30

Q. So you don't see it as your responsibility to keep the place in repair?

A. The way they've been going on, no, no



way.

Q. Who are "they", Mr. Elieff?

A. No way.

Q. Who are "they", Mr. Elieff?

A. Those who live there, from the start

to the end.

Q. From 1984 through 1993?

A. Yes.

Q. You've always had bad tenants?

A. Yes.

Q. It's always been the tenant's fault,

is that right?

A. It's been bad there all the time, bad tenants all the time.

Q. Never the landlord's fault, is that right?

A. Yes.

Q. Never the landlord's fault?

A. And city's fault too, because they allow buildings like to be operated.

Q. So you have no responsibility for keeping that place in good repair, is that right?

A. Not in that -- not in this kind of -- not overall.

Q. You have no responsibility, isn't



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E. ELIEFF, cr-ex.  
(Sanson)

that right? You see yourself as having no responsibility as keeping that building in good repair?

5

A. You don't understand what I'm saying.

Q. Is that right?

A. You don't understand what I'm saying.

Q. Answer me, please.

10

**THE CHAIRPERSON:** Mr. Elieff, just answer the question.

**THE WITNESS:** It's my responsibility to keep it fair if the tenants and the surrounding people in the area are helping it out, and they were not.

15

**BY MS. SANSON:**

20

Q. I would like to know what your responsibilities as a landlord are. Do you see your responsibility as a landlord to keep the building in good repair, to make repairs? Do you see that as your responsibility?

25

A. That's what I've been doing for all those years, because I felt I was responsible. But now I see that no matter how I felt responsible it didn't work, because people like you won't help me out.

30

**THE CHAIRPERSON:** Ms. Sanson, I think he's

---

**THE WITNESS:** You won't help me out.



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833

E. ELIEFF, cr-ex.  
(Sansou)

THE CHAIRPERSON: --- given an answer to  
the repair issue. I'm not putting words in the witness's  
mouth, but I think he has said he does and he doesn't.

5

MR. METZ: If I may clarify? I believe  
he's saying that it's his responsibility if the tenants  
honour their responsibility. I think that's the intent  
of his ---

10

THE CHAIRPERSON: Those aren't his words  
---

MR. METZ: No.

15

THE CHAIRPERSON: --- and I don't accept  
that as evidence, but I think we've heard enough on this  
particular question and we can move on.

MS. SANSON: I'm going to be referring to  
this yellow book.

20

THE CHAIRPERSON: The exhibit book?

MS. SANSON: Yes. And the reference is  
---

25

MR. METZ: If I just may make a comment on  
this book ---

THE CHAIRPERSON: Yes.

30

MR. METZ: --- which was just slipped to  
me yesterday afternoon? I haven't had a chance to look  
at it, so we are certainly not prepared for any arguments  
that may be presented in here.



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834

E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Well, let's take it one document at a time ---

5

MR. METZ: Okay.

THE CHAIRPERSON: --- if you need time to examine it we'll break for five or 10 minutes and -- let's just move along.

10

MR. METZ: Okay.

15

MS. SANSON: These documents were provided at the beginning of the day. These documents are all documents, most of which are documents that were authored or came into Mr. Elieff's hands, that I will put through Mr. Elieff. There's no reason that there should be a lack of familiarity with these documents.

20

THE CHAIRPERSON: Let's just look at it one document at a time, shall we?

25

MS. SANSON: And with respect to one of the documents, my friend had a copy of 36 some time ago, that's public available information; and Tab 37 is also public available information. I'm going to be referring to Tab 50.

30

BY MS. SANSON:

Q. Now, Mr. Elieff, when you first received a human rights complaint you were asked to fill out a questionnaire, is this a copy of that questionnaire



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E. ELIEFF, cr-ex.  
(Sanson)

that you filled out in response to the complaint? Is that your writing?

5

A. M'hm.

THE CHAIRPERSON: Please answer yes or not for the reporter?

THE WITNESS: Yes.

10

MS. SANSON: I would like to have this document marked as Exhibit No. 50.

15

THE CHAIRPERSON: Fifty (50)? All right, we'll mark this as Exhibit 50. It is a Respondent Questionnaire dated January the 20th. No. Is that right, January the 20th, 1990, and the witness has identified his signature on page 11.

20

--- EXHIBIT NO. 50: Respondent Questionnaire dated January 20, 1990 and signed by Mr. Elieff on page 11.

25

BY MS. SANSON:

Q. I'm going to ask you to read through your response to the complaint, beginning at the second page.

30

A. "The allegations in complaint No. 20-177S ..."

whatever

"... are discosty and not true.



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836

E. ELIEFF, cr-ex.  
(Sansou)

5

Because I am good person, good new  
Canadian, good Buisnes man, good  
father etc. I am renting out my  
appartments to any one including  
Cambodians or Vietnamise as The  
Complainant is puting it.  
we did not force her in ..."

10

We're talking about this ---

**THE CHAIRPERSON:** Just read what's  
written.

15

**THE WITNESS:**

"... she asked for one bedro  
apportment and we gave her Apt.  
17-105 Then she asked to get a 2  
bedrooms one she got it.

20

She sed she is Cambodian I say I am  
an Macedonian Co we are all Imigrants  
Then How can I be no good person. I  
only am working hard to take care of  
my companys properties.

25

A cockroaches are to be talked  
abought Then befour I started to  
rent my apartments to The Oriental  
people ..."

30

The way Jack Buchart put it, that's how I found this



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837

E. ELIEFF, cr-ex.  
(Sanson)

word.

5

"... There was not one cockroach  
after I started to rent to Them  
cockroaches were ..."

standing or

"... floating my buildings co we paid  
Twice ..."

10

I believe

"... \$800.00 to exterminate Them but  
probably we wont be susesful. There  
were 2-3 Tenants refusing to be  
sprayed why?"

15

And I'm asking why.

**THE CHAIRPERSON:** Yes.

20

**THE WITNESS:** And then:

"Health Dept. sed They bring ..."

The Health Department told me:

25

"... They bring The cockroaches in  
The bulk food home. Co never mind  
what she sed I only follow what  
Health Dept. is telling me.

30

What Documents you want call Midlesex  
Health Unit and They will tell you  
about The cockroaches ..."

problems, what I meant.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Yes.

THE WITNESS:

"... or A-1 Pest Control."

5

which I had in.

"This is non cence me hirding Them  
They are hirding me with The Terrible  
smell when They cook and with co much  
garbuage all over."

10

That's true.

"What about My rights as Human and  
as forainer etc."

15

"I have nothing against These peop  
or any other ethnics ..."

groups

" ... I am one of them."

20

"There is no need for any  
documentations Come over lets meet  
together at my building and you will  
se for your selfs how good lanlord I  
am."

25

"Me and my family came over from  
Macedonia 20 years ago

30

We are only Trying to be sucesifull  
Canadians.

By nature we The Macedonians are The



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839

E. ELIEFF, cr-ex.  
(Sanson)

friendies people on earth."

"Unlike" or "like", I don't know what this is here.

Oh:

5

"We like Cambodians Vietnamis you  
name ..."

or any other

"... Them we like Them."

10

Which I mean me and my family. We like them, we always  
did, but if we didn't like what they've been doing, and  
others have been doing, that's what I'm fighting for.

15

**THE CHAIRPERSON:** That's all right. Let  
Ms. Sanson ask the questions.

**BY MS. SANSON:**

20

Q. So you agree with me, Mr. Elieff,  
even in your response to the complaint you blame the  
Cambodian people for hurting you with terrible smells  
when they cook and with so much garbage all over the  
place.

25

A. Sure. I mean, that ---

Q. You blame them.

30

A. I'm not blaming or -- they're blaming  
me, I'm blaming them, what the heck, you know. If we  
have to start to blame each other, let's blame each other  
then.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. And you agree with me there's no mention of Susan Eagle in response to the complaint, that she's in any way responsible for this?

5

A. I didn't know that she has been behind this, I found out later on.

Q. And there's no mention of the London Free Press as ---

10

A. Yes, I wonder that too.

Q. --- a response to this complaint?

A. I wonder that too, even until now. Why? I wonder why.

15

Q. And indeed you said there were documents necessary in this human rights complaint?

A. No, to me it was just a bunch of garbage, trying -- someone trying to throw at me.

20

Q. And you told us to go to the health department, not to get any information from you?

A. After me seeing that they were all so unreasonable, and continuously, so I got pissed off.

25

Q. So you told the Commission to contact the health department?

A. I just didn't co-operate with them, I just say, you know, I give it -- send it back to them. I've got nothing to do with that, because it's all in a wrong way.

30



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841

E. ELIEFF, cr-ex.  
(Sanson)

Q. Did you ever spray for roaches once you received the human rights complaint from Chippeng Hom? Did you take her complaint seriously?

5

A. Who? What? What you're talking about Pan Man? There's no such a thing Pan. We've been -- we've been -- we here, like you pay pest control who was taking care, and tenants was supposed to check with them if they got the problems, they all knew that, you know.

10

**THE CHAIRPERSON:** Mr. Elieff, I think the question was, after you received the complaint from the Human Rights Commission ---

15

**THE WITNESS:** M'hm.

**THE CHAIRPERSON:** --- did you spray for cockroaches? It's just a simple question.

20

**THE WITNESS:** No, no. This has got nothing to do with spraying cockroaches, spraying cockroaches was -- I was forced by the health department. I was fighting them about it too. I say there was no cockroaches, cockroaches came with all those -- as I filled this kind of tenants in, let them get the necessary money and pay for what they brought to me.

25

30

**BY MS. SANSON:**

Q. Did you blame Chippeng for the



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E. ELIEFF, cr-ex.  
(Sanson)

roaches?

A. I blamed those kind of tenants because they brought the cockroaches.

5

Q. Do you blame Chippheng Hom for bringing the cockroaches?

A. No, she's just Susan Eagle's dummy here who came and took the -- undertook this position.

10

Q. So even though she had a complaint against you ---

A. I say she -- I say ---

15

Q. --- that you refused to spray for cockroaches, you still did nothing, is that right?

A. I say -- I say shame ---

Q. Please answer my question.

20

THE CHAIRPERSON: Just the simple question.

THE WITNESS: I say shame to her because I was so nice to her, gave her anything she wanted to get.

25

THE CHAIRPERSON: Mr. Elieff ---

BY MS. SANSON:

30

Q. If you were so nice to her why didn't you spray for roaches when you got a complaint?

A. What complaint? Where?

Q. You got a human rights complaint, one



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E. ELIEFF, cr-ex.  
(Sanson)

complaint that complained about the cockroaches saying  
you did nothing. What did you do when you got the  
complaint?

5

A. Well, what are you talking about?  
This has nothing to do with the Human Rights. There was  
health department who was with me in fight about it.  
What you're talking Human Rights?

10

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: I rejected them.

THE CHAIRPERSON: --- the question ---

THE WITNESS: There's nothing to me.

15

THE CHAIRPERSON: Mr. Elieff, the question  
is fairly straightforward.

20

THE WITNESS: You know, we tell people  
like her "Keep the place clean, here is "A" Pest Control,  
contact them", and then in general way we spray them  
twice, and they are still not dead. Nobody can kill  
cockroaches.

25

BY MS. SANSON:

Q. So Chippeng Hom ---

A. What are you talking about?

30

Q. --- complains about roaches and you  
do nothing, is that right?

A. I don't know if I did or not. I



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844

E. ELIEFF, cr-ex.  
(Sanson)

think my son did something. I don't know.

5

Q. You did nothing? As a landlord you did nothing, isn't that right?

A. I did a lot. I did a lot.

Q. You didn't spray for roaches ---

A. Yes, twice.

10

Q. --- isn't that right?

A. We sprayed twice.

Q. No. I'm asking you at the time of the complaint.

15

A. I don't -- I don't remember at the time of the complaint. We're talking a general situation on what was going on.

Q. No, I'm asking you a specific question.

20

A. What?

Q. You did not spray the apartment, even after you received Chippeng Hom's human rights complaint, isn't that right?

25

A. I don't remember none of that.

**THE CHAIRPERSON:** Let's move on.

30

**THE WITNESS:** But she was taking care of -- she's been always taking care of by then, by my son I think. He was spraying her.



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845

E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

5

Q. But you didn't see it as your responsibility to make sure the place was sprayed, even though she complained about it to the Human Rights Commission?

10

A. Yes. I was -- I was told by my son that he did it, and that's all. What more do you want me to do? And then ---

Q. I thought you just said you didn't remember. Which is it?

15

A. What? I don't -- I remember -- but he testified that he did it, and he said he tried to help her out. But that's not -- that was most of the responsibilities was hers, because she knew that was "A" Pest Control. She was pressing health department to having general spray up, so everything was done. But did it help?

20

Q. How would she know if you didn't tell here, Mr. Elieff? Did you go to her and tell her after you got the human rights complaint that she could dial a number and they'd come and fix it for her?

25

A. Oh she knew that long time ago.

30

Q. Did you do that?

A. Yes, she knew that.

Q. Did you? I'm asking you a question.



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E. ELIEFF, cr-ex.  
(Sanson)

A. Yes, I did.

Q. Did you go and talk to her and tell  
her about A-1? That's your evidence ---

5

A. I told her ---

Q. --- that you went and talked to her

---

MR. METZ: Yes.

10

BY MS. SANSON:

Q. --- after the human rights complaint  
was made?

15

A. I told her in the beginning when I  
rent the place to everybody, "Here is 'A' Pest Control,  
you got problems contact them."

Q. That isn't the question I asked you.

20

A. Well, that's what she got, like  
everybody else.

Q. After you received the human rights  
complaint did you go and speak to Chippeng Hom about how  
she could call A-1 Pest Control to fix the roach problem?  
Did you go and do that?

25

A. No, I didn't.

Q. Thank you.

30

A. Why should I?

THE CHAIRPERSON: Let's, Mr. Elieff ---



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E. ELIEFF, cr-ex.  
(Sanson)

THE WITNESS: Who is she for me to go there about it?

5

THE CHAIRPERSON: Your answers are fine, just yes or no is fine to the question.

10

THE WITNESS: They want to blame me for the cockroaches that they brought. It's not fair, you know that.

THE CHAIRPERSON: Let's move on with the questioning.

THE WITNESS: That's for the record.

15

THE CHAIRPERSON: Mr. Elieff, just wait for the question, please.

BY MS. SANSON:

20

Q. Mr. Elieff, I'd like to ask you some questions about the tenant trust fund and the redirection of the rents to the trust fund. Wouldn't you agree with me that the reason that the trust fund was created was because you hadn't paid your utility bills in December of '92 and the heat was about to go off?

25

A. I don't know what was the reason for creating the trust fund, they didn't -- everything that Eagle's been doing through the courts I was ---

30

Q. I'm not asking about what Eagle's been doing.



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848

E. ELIEFF, cr-ex.  
(Sanson)

A. I was to ---

Q. I'm asking you a very specific  
question, and I would like ---

5

A. I was supposed to be ---

Q. --- an answer.

A. I was supposed to be told before this  
was going to happen and nobody told me about it, they  
just did the way they wanted to do it, and continuously  
doing what they want to do.

10

Q. Mr. Elieff, that is not true.

A. It is true.

15

Q. You received a letter.

A. It is true.

Q. Did you tell the tenants that the ---

**THE CHAIRPERSON:** Excuse me a minute. Ms.  
Sanson, just in order to put the question in context  
could you give me a brief thumbnail sketch of how the  
tenant trust fund came to be and then put the question?

20

**THE WITNESS:** They took it to the court  
and never told me about it.

25

**THE CHAIRPERSON:** Let me just -- let me  
just hear through the question, please.

30

**BY MS. SANSON:**

Q. Mr. Elieff, in December of 1992 isn't



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E. ELIEFF, cr-ex.  
(Sanson)

5

it true that the tenants received a notice that the heat was going to be cut off because of your outstanding payments on the utilities? You agree with me? Did you receive notice from the utility company ---

A. I did.

10

Q. --- that those utilities were going to be shut off?

A. Yes, I did receive that, assuming that they received it.

THE CHAIRPERSON: Okay.

15

BY MS. SANSON:

Q. Did you make any efforts to pay that?

20

A. There was no money. I have made efforts, there was no money to keep up with.

Q. Why wasn't there any money, Mr. Elieff?

25

A. Because Eagle was taking the tenants away from my buildings.

Q. And when did this happen, Mr. Elieff?

30

A. She's continuously getting them out. Anyone I was trying to bring in she tried to get him out again, and that's how I was -- that's what she managed to win her war. Her battle, but not the war, the war is still going to be fight.



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E. ELIEFF, cr-ex.  
(Sanson)

5

Q. Mr. Elieff, I'm going to put it to you that you have made -- you have earned quite a lot of money on those properties from the time that you've owned them through the rents that you've received, and there have been several years when you -- you yourself have said there have been not more than five apartments that haven't been rented at a time.

10

A. We will fight this is a second ---

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: --- phase of the courts.

15

BY MS. SANSON:

Q. Isn't that true? You made quite a lot of money from those apartments?

20

A. No, I didn't.

Q. You deny that you earned good rents on those apartments?

A. Whatever I made was not fair for the investment that I did and the work that I put in.

25

Q. Well, Mr. Elieff, your bills on your expenses don't add up to a whole lot, so there was lots of money left over. You were able to pay your utilities in the past and there was money left over from those rental incomes, do you agree with me?

30

A. I don't know.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. You don't know whether you were making some money off those properties?

5

A. I was making ---

Q. You don't know how much money you were spending?

10

A. I was making -- I was spending, that's got nothing to do with what people like Eagle and others were doing to get things down as they did finishing it off.

15

THE CHAIRPERSON: Mr. Elieff, were you -- did you ---

THE WITNESS: Why am I not able now to make money as I used to?

20

BY MS. SANSON:

Q. Could it be because the apartments are in such poor shape ---

A. Oh, yes.

25

Q. --- that nobody wants to rent them? Could that be a reason, Mr. Elieff? Do you agree with me?

A. And ---

30

Q. Please answer that question.

A. And who did it? Who made them that way?



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Please answer my question.

A. After you answer mine. Who made them?

5

THE CHAIRPERSON: Mr. Elieff, it isn't Ms. Sanson's ---

10

THE WITNESS: I don't know if it is or not. You -- then who is responsible? Who made them that way, people who don't live there or those who do live there?

15

BY MS. SANSON:

Q. Mr. Elieff, wouldn't you agree with me that people would not want to rent those buildings because they're in such poor shape?

20

A. No, the buildings are not ---

Q. You wouldn't agree? You deny that?

A. The buildings are not in poor shape.

Q. Your apartments are in such good shape ---

25

A. No.

Q. --- that people would want to rent them?

30

A. Buildings were in good shape, but they were slowly dragged down.

Q. I'm talking about right now.



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E. ELIEFF, cr-ex.  
(Sanson)

A. Oh, right now I don't know. I don't know, I'm not ---

5

Q. That's because you've abandoned ---

A. I'm not -- I'm not responsible.

Q. --- taking any responsibility for them, isn't that true? You've completely abandoned your obligations as a landlord?

10

A. No. I got from the bank that they take over, and they take over.

Q. No, the bank hasn't taken over Mr. Elieff.

15

A. Well, that's what they told me, they take it over, and so Eagle and the bank, they've got the money now, everything.

20

Q. Mr. Elieff, let's back up, and I want an answer to my question.

A. M'hm. What do you want?

Q. Isn't it true that your buildings are in terrible shape because you've abandoned them?

25

A. No, not because of that.

Q. You deny that?

A. That's not because of that. It's not ---

30

Q. So they've just gotten into bad shape on their own?



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E. ELIEFF, cr-ex.  
(Sanson)

A. No.

Q. No one around to look after them ---

A. No.

5

Q. --- isn't that right?

A. No. The people ---

Q. There's no one around to look after  
them, isn't that right?

10

A. What are you talking about?

Q. Well, you said you've given up,  
you're not looking after them.

A. They ---

15

Q. You're the landlord.

A. I was force -- everything was forced  
by these kind of people, they ruined everything down, the  
people who live there ---

20

Q. Please answer my question, Mr.  
Elieff. You've abandoned the buildings, is that right?

A. No, I'm not abandoned the buildings.

25

Q. You're not looking after them  
anymore, isn't that right?

A. I got no control over to look them  
after.

30

Q. You said you gave up looking after  
them, isn't that right?

A. Lots of people did and I did, and I



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E. ELIEFF, cr-ex.  
(Sanson)

was forced to. I was forced to give up.

THE CHAIRPERSON: Ms. Sanson ---

THE WITNESS: And I ---

5

THE CHAIRPERSON: Mr. Elieff.

I think we have the witness's ---

THE WITNESS: And ---

10

THE CHAIRPERSON: Just a minute, Mr.  
Elieff.

15

We have the witness's answer on the reason for the condition of the apartments, and we appear to be going around in circles. He has given his comment about his own responsibility in the matter and the tenant's responsibility in this matter of disrepair, and he has said it more than once so I think we can assume that he will give the same answer. Perhaps we can move on.

20

MS. SANSON: I'm not sure what that answer is. I would like to have Mr. Elieff repeat it or at least have the record read back.

25

THE CHAIRPERSON: Okay.

Mr. Elieff, I'm going to ask you two questions. Do you believe that the apartments are in poor condition? The apartments that cannot be rented are in poor condition?

30

THE WITNESS: This is one question? This is many questions into one, so it's tough to answer.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Let me rephrase the question. It just requires a yes or no answer.

5

THE WITNESS: No. Not to me it doesn't require yes or no.

THE CHAIRPERSON: Do you believe ---

10

THE WITNESS: It's a complex question, it's not just one answer. There are many answers to that question. Sorry.

15

THE CHAIRPERSON: I'll repeat the question. Do you believe that the apartments that you are unable to rent are in poor condition, physical condition?

THE WITNESS: Right now?

THE CHAIRPERSON: Yes.

20

THE WITNESS: Right now they are in terrible condition.

THE CHAIRPERSON: Okay.

25

Now, my second question is this: who is responsible for those apartments getting into that condition?

30

THE WITNESS: Okay, I'll tell you. All the tenants, Susan Eagle, the London Free Press, and City Hall, and Health Department too, and others.

THE CHAIRPERSON: I'm just rephrasing questions that have been put to you many times this



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E. ELIEFF, cr-ex.  
(Sanson)

morning. Do you believe you had any responsibility to maintain those apartments? Do you believe you had any responsibility to maintain those apartments?

5

THE WITNESS: Of course I do. I always had responsibility and I was doing my responsibility and I could not do my responsibility because of this gang of four.

10

THE CHAIRPERSON: Okay.

Ms. Sanson, I think we should move on.

15

BY MS. SANSON:

Q. The document I am referring to now is found at Tab 39 of the yellow book of documents.

THE CHAIRPERSON: Thirty-nine (39)?

20

MS. SANSON: Yes.

25

BY MS. SANSON:

Q. And it's the third page from the back of those documents. I'm going to read out a letter dated December 4th, 1992 addressed to Mr. Elieff.

30

"This is to advise you that the Cheyenne Community Tenant's Board met to discuss the notice received from the PUC that informed the tenants at 105 and 95 Cheyenne Ave. that



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E. ELIEFF, cr-ex.  
(Sanson)

electricity would be cut off on  
December 14, 1992 if the PUC bill  
remained unpaid.

5

Another concern that was also  
addressed was that there has been no  
heat provided for the tenants of 105  
Cheyenne Ave. The Tenant's Board  
believes this to be a contravention  
of the lease. We invited  
representatives from the PUC, the  
Middlesex-London Health Unit, and the  
London City Council to be present.  
We also invited a lawyer to give us  
legal advice.

10

15

The Tenant's Board decided to take  
the following actions:

20

- 1) to create a Tenant's Trust Fund;
- 2) to encourage tenants to pay their  
rent into this fund;
- 3) to make an application to court to  
order that trust fund monies be  
used to pay the PUC bill;
- 4) to make arrangements with the PUC  
to use rent monies to pay the PUC  
bill.

25

30



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E. ELIEFF, cr-ex.  
(Sansou)

5

To this end we have already collected the December rent from four tenants and set up a Tenant Trust Fund. The tenants who have redirected their rent are:

10

Muoi Van Dang ... 105 Cheyenne ...  
Chippeng Hom ... 105 Cheyenne ...  
Preap Touch ... 105 Cheyenne ...  
Sang Yuk ... 95 Cheyenne ...

15

We are providing you with these names so that you are aware that these tenants have not simply withheld their rent.

20

We have made arrangements to have legal assistance in making an application to court. We have also consulted with the PUC and advised the utility of our willingness to redirect rents to pay the outstanding bill. In addition, we are asking the London City Council to monitor this situation to ensure that tenants at 105 and 95 Cheyenne Ave. do not lose electricity because of your negligence in paying the bill.

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E. ELIEFF, cr-ex.  
(Sanson)

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The Tenant's Board is aware that, as landlord, you have an obligation to provide safe, decent housing for your tenants. This obligation is outlined both in the lease and under the Landlord and Tenant Act. We are, sadly, aware that you have not provided this and that we must go to court to ensure that this obligation is met. If you have any further questions regarding our action, please contact me at 434-7173."

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Did you receive this letter, Mr. Elieff?

A. I don't remember.

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Q. You don't remember ---

A. No.

Q. --- whether you received it?

A. If they went to court, why I wasn't

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there at the court?

Q. I don't know, why weren't you?

A. I'm asking you. Why didn't ---

Q. I'm asking you. You answer the

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questions.

THE CHAIRPERSON: Mr. Elieff, are you

saying you did not receive that letter?



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E. ELIEFF, cr-ex.  
(Sanson)

THE WITNESS: I don't remember.

BY MS. SANSON:

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Q. It was just in December.

A. Maybe it was.

Q. You don't remember?

A. I don't remember seeing it.

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THE CHAIRPERSON: All right.

BY MS. SANSON:

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Q. And then again, it would have been included in the court application. You were the one who tried to evict ---

A. I ---

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Q. --- Pheng Hom. Do you remember that application?

A. Well, that's how I wonder. I say they've been doing this and without my knowledge, without me being at the court for this kind of ---

25

Q. Wasn't it your knowledge -- in your knowledge? Didn't you start eviction proceedings against Pheng Hom?

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A. That was before. That was before, but this is after. And Eagle has done this together without my knowledge, gone through the courts and got



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E. ELIEFF, cr-ex.  
(Sanson)

orders and I didn't even know. So I gave up on the courts, I gave up on everybody.

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Q. So you don't recall receiving this letter?

A. I don't.

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Q. And you don't recall receiving any court documents, even though you were the one who started the proceeding?

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A. Oh yes, those, I know I received those, but I was surprised to see in them Susan Eagle's other actions.

20

THE CHAIRPERSON: This action in Ontario Court (General Division) is dated 13th of January, 1993, and it has as the Applicant Elieff Investments ---

THE WITNESS: Yes, yes, that ---

THE CHAIRPERSON: --- and the Respondent is Pheng) Hom.

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THE WITNESS: Yes, because she won't pay the rent increase and I thought I can get my rent increase that my company is entitled of, and that's the action. But with that, with those papers I received something Eagle's been doing other than that, you know, including with this. You know, she's got probably good connections in the courts and she does things without me

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E. ELIEFF, cr-ex.  
(Sansen)

knowing about it or being present to argue about it.

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THE CHAIRPERSON: All right. Let's just answer the questions that Ms. Sansen's going to put to you on this.

THE WITNESS: That's what I just answered.

THE CHAIRPERSON: Go ahead, Ms. Sansen.

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BY MS. SANSON:

Q. Mr. Elieff, is this the eviction that you initiated against Pheng Hom after the human rights hearing began?

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It's found at Tab 38.

THE CHAIRPERSON: Tab 38, okay.

THE WITNESS: Eviction for what?

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BY MS. SANSON:

Q. Kick her out of the apartment, Mr. Elieff.

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A. Well, you talk to Brenda now, she was doing these papers. I served the first notice and after that she takes care. I don't know what was ---

THE CHAIRPERSON: Mr. Elieff, are you saying that ---

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THE WITNESS: --- signing tenant's agreement and ---



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Mr. Elieff, did you have  
a lawyer or an agent ---

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THE WITNESS: M'hm.

THE CHAIRPERSON: --- do this for you?

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THE WITNESS: Yes. I got agent, yes,  
that's Brenda Trineer. You ask her about these things.  
But all I'm saying is a lot Susan Eagle has done that  
---

BY MS. SANSON:

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Q. Mr. Elieff ---

A. --- without me knowing about.

Q. --- did you not ask your agent to  
initiate eviction proceedings against Chippheng Hom ---

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A. I tried ---

Q. --- after the hearing started?

A. I don't know if it was after or  
before, I don't know about that. All I know is I was  
surprised to see Eagle doing something else in the  
meantime.

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Q. Please just answer my question, Mr.  
Elieff.

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A. Yes, but everything is so ---

Q. Is this the proceeding? Is this the  
court document relating to that eviction proceeding?



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E. ELIEFF, cr-ex.  
(Sanson)

A. I don't know. You ask this worker of mine, she can tell you about it. I'm not -- that's why I hire her to do these things.

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Q. Did you ask her to take proceedings again Chippeng Hom to evict her? Did you ask her to do that?

10

A. I don't see here the one that I been made up. But Chippeng won't pay the rent increase so I ask this woman to take action, that's all. Understand? So you ask her about what it is you want to know.

15

THE CHAIRPERSON: Ms. Sanson, ---

THE WITNESS: I don't know.

THE CHAIRPERSON: --- the affidavit is the agent's affidavit.

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MS. SANSON: Okay.

THE WITNESS: I don't know.

BY MS. SANSON:

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Q. Did you receive a copy of this document, Mr. Elieff?

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A. I've received many copies, but I don't -- I trusting to her to do the job, so I cannot recall exactly this copy or that copy. I've been receiving countless copies, so I don't know.

Q. And you agree with me that you asked







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E. ELIEFF, cr-ex.  
(Sanson)

her to initiate proceedings against Chippeng Hom?

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A. Because she won't honour the rent increase, that's why I asked her to take this actions. But too many ---

Q. And that happened after ---

A. Too many tricks around.

10

Q. --- the human rights hearing began, isn't that right?

A. I don't know. I don't recall, I don't know.

15

Q. You don't recall?

A. No.

Q. Well, let's take a look at what the date is.

20

A. I don't know.

**THE CHAIRPERSON:** December 23rd, 1992.

**THE WITNESS:** I don't know. I tell you, I don't know any -- too much -- I can't recall too much about it.

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**BY MS. SANSON:**

Q. It was for ---

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A. All I know is she was ---

Q. Non-payment of rent on December 4th, 1992, that's why.



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E. ELIEFF, cr-ex.  
(Sanson)

A. I don't -- I told you, ask her what it's all about because she -- you know, she does these things. I don't know.

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Q. Well, you can, I think, answer questions. You were the one who knew what it was all about in order to ask her to evict her.

10

A. There were too many problems with her and others like her so I don't recall that.

Q. So you had lots of problems with Chippheng, is that your evidence?

15

A. Yes. Yes, because she's helping this kind of false accusations around, so she's giving me hard times too I guess.

20

Q. I'm going to ask parties to turn up the November 16th transcript, 1992, beginning at page 13.

Now, at the beginning of the proceeding, Mr. Elieff, your evidence was ---

MR. METZ: Page what?

MS. SANSON: Page 13.

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THE CHAIRPERSON: Page 13.

BY MS. SANSON:

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Q. "What I would like to say is that I did all my best for this tenant. Generally she came to me and she



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E. ELIEFF, cr-ex.  
(Sanson)

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said, 'Mr. Elieff, I need one bedroom apartment just for two of us. I don't care who goes to where.' I showed her apartment 17."

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And then you said:

"Generally I did everything that she asked me to do for her. She wanted one bedroom, she wanted two bedroom, she got everything she asked me for in the past, and even until this past few days. As I went to collect November rent she was short \$26.00

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And that I assume is the amount of the rental increase, is that correct?

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A. M'hm.

Q. Right.

"I said 'Good, make it next month'. I keep all the times ..."

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A. No, I ---

Q. This is your evidence, I want you to hear it.

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A. M'hm.

Q. "I keep all the times and it has been surprising, I wonder who give her this idea for all this nonsense,



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E. ELIEFF, cr-ex.  
(Sanson)

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which I will prove it is all lies and nonsense. So outside way, whatever is accusing here is outside way to me and I will prove it with all my papers and everything."

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So back when the hearing started you said you've treated Chippeng very nicely, and indeed when she withheld that rent increase, the \$26.00, you said "That's okay, don't worry about it." After the proceedings started you agree with me what you did then was you took proceedings to evict her.

15

20

A. Because next month she said she would, she won't, and that's what I told my Brenda Trineer to take action. I told her I was nice, believe -- trusting and believing her as she said "Mr. Elieff, I cannot pay this rent increase at this time, but next time I'll pay it with the next month's rent", and that's until then, sure, I was -- I don't know, and I had no -- there was no problem. But then when she next, in the following month refused to pay that money or any other increasing money, and that's why I took action, asked her to take action.

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Q. Isn't it true, Mr. ---

A. And she won. This woman won that.

She just won't pay.



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E. ELIEFF, cr-ex.  
(Sansen)

Q. And she won that in the courts, is that right?

5

A. I mean she won through the help of Eagle and I was just hopeless.

Q. And not because you're overcharging her rent, Mr. Elieff?

10

A. It doesn't matter what the reason is, the reason is ---

Q. It doesn't matter that you were overcharging her rent?

15

A. It doesn't matter if I was overcharging or not, that's not the ---

Q. Well, it certainly matters to me and I'd like to hear your answer.

20

A. You know, I ---

Q. Weren't you overcharging her rent?

A. What I was charging ---

Q. Weren't you found to have been overcharging her rent?

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A. What I was charging I was charging, that's ---

Q. Answer my question.

30

A. Yes.

Q. Weren't you found to have been overcharging her in rent?



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E. ELIEFF, cr-ex.  
(Sanson)

A. I don't agree, that's another thing  
which I don't agree with this charging, overcharging or  
undercharging, okay, that's ---

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Q. You may not agree with it, but ---

A. You know, that's not what we're here  
to argue.

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THE CHAIRPERSON: Ms. Sanson, is there a  
---

THE WITNESS: We're here to argue about  
this shit, accusations.

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THE CHAIRPERSON: --- ruling of the  
landlord tenant ---

MS. SANSON: There's a rent review order,  
and you can find that at the green book. There's a  
series of rent review orders ---

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THE CHAIRPERSON: I think I can take  
judicial notice of those.

MS. SANSON: --- at Tab 8 of the green  
book.

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THE CHAIRPERSON: Tab 8.

MS. SANSON: I would prefer not to mark  
those as an exhibit now, I will do that when ---

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THE CHAIRPERSON: All right.

MS. SANSON: --- the experts come to give  
their evidence in reply.



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E. ELIEFF, cr-ex.  
(Sanson)

**THE CHAIRPERSON:** Okay. I think on the issue of whether there was an overcharging I can accept what the Rent Review Board has decided.

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**MS. SANSON:** There's also the court's ruling with respect to the current issue.

**THE CHAIRPERSON:** Yes.

10

BY MS. SANSON:

Q. And you agree with me, Mr. Elieff, that that order is found at Tab 40?

15

**THE CHAIRPERSON:** It's an Order of Mr. Justice Browne of the Ontario Court (General Division), dated Monday the 1st day of March, 1993.

**MS. SANSON:** And I would like to file that as an exhibit at this time.

20

**THE CHAIRPERSON:** Now, if you file this exhibit will that -- is the next exhibit number 40?

**MS. SANSON:** There's 39, 40 and 41 ---

**THE CHAIRPERSON:** All right.

25

**MS. SANSON:** --- are all documents which relate to the ---

**THE CHAIRPERSON:** Just for identification purposes, 39 is the ---

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**MS. SANSON:** I'm sorry, 38, 39.

**THE CHAIRPERSON:** Let's back up here.



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E. ELIEFF, cr-ex.  
(Sanson)

Exhibit 38 is the is the Application under the Landlord and Tenant Act, Form 7, filed in Ontario Court (General Division and dated December 23rd, 1992.

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--- EXHIBIT NO. 38: Ontario Court (General Division), Form 7, Landlord and Tenant Act, Application to Ontario Court (General Division), Affidavit of Kelly Walton dated December 23, 1992.

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THE CHAIRPERSON: Exhibit 39 is the Ontario Court (General Division) action 8051/92 between Elieff Investments and Pheng Hom.

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--- EXHIBIT NO. 39: Action 8051/92 in the Ontario Court (General Division) between Elieff Investments and Pheng Hom.

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THE CHAIRPERSON: And Exhibit 40 is the Order of The Honourable Mr. Justice E. Browne, with an "E" at the end of Browne, court file number 8051/92, and it's dated Monday the 1st day of March, 1993.

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--- EXHIBIT NO. 40: Ontario Court (General Division) Order of The Honourable Mr. Justice E. Browne dated March 1, 1993.

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THE CHAIRPERSON: Exhibit 41 are two letters of the complainant, Chippheng Hom, to Mr. Elieff,



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E. ELIEFF, cr-ex.  
(Sanson)

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dated respectively May 6th, 1993 and May 20th, 1993. Also included in that exhibit is a letter from Cynthia Harper, Staff Lawyer of the Neighbourhood Legal Services to Mr. Elieff, and that bears the date June 24th, 1993. All right.

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--- EXHIBIT NO. 41: Two letters to Mr. Elieff from Chippheng Hom, one dated May 6, 1993 and one dated May 20, 1993; and a letter from Cynthia A. Harper, Staff Lawyer, Neighbourhood Legal Services to Mr. Elieff, Elieff Investments, dated June 14, 1993.

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**MS. SANSON:** Perhaps we can just al with these letters found at Tab 41. I haven't gone through them, but I'd just like to check if I have any further questions related to them.

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BY MS. SANSON:

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Q. Would you agree with me, Mr. Elieff, that you didn't show up for the hearing of this matter?

**THE CHAIRPERSON:** Which matter are you talking about?

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**MS. SANSON:** The proceeding to evict Pheng Hom.



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

Q. You didn't show up for the hearing?

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A. It was kind of confusion and misunderstanding and I missed the date.

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Q. Have you taken any steps to have the results of the Order, which is found at Tab 40, have you taken any steps to have that Order changed? Have you gone back to court and explained that there was a mix up?

A. Talk to my worker here. I left it

---

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Q. I'd like to know what you did.

A. That's what I did.

Q. Have you ---

A. That's what I did. That's what I did, I left it ---

20

Q. Did you speak to your worker?

A. Yes, I told -- I told her to see what she can do, if she can or she can't do. I just -- I gaved up.

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Q. I'm referring to Tab 41. Is this a letter that you've seen, Mr. Elieff, it's dated May 6th, it's addressed to you from Chippeng Hom? I believe the handwriting is that of Susan Eagle's.

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A. No, I don't remember ---

Q. You've never seen that?



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E. ELIEFF, cr-ex.  
(Sanson)

A. No.

Q. You've never seen that letter?

A. M'hm.

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Q. Have you seen this letter, the May  
20th letter addressed to you?

A. I believe I've seen this, yes.

10

Q. Did you take any action to make the  
repairs, Mr. Elieff?

A. No, I didn't, because when I was  
trying to evict I couldn't get her co-operation and I  
gave up.

15

Q. What did you do, Mr. Elieff?

A. I went after many days and no co-  
operation. She is not home I was told, and she would say  
come another day, and I gave it up.

20

Q. You spoke to her about -- Chippheng  
Hom, you spoke to her about this repair?

A. Once to her, many times to her  
children, the little one, "Mommy's not home"; the older  
one ---

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Q. Did you speak to Chippheng?

A. No.

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Q. Did you speak to Chippheng about this  
repair?

A. I couldn't get her. I just ---



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E. ELIEFF, cr-ex.  
(Sanson)

Q. You couldn't get her?

A. I couldn't get her around to do the  
job.

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Q. Did you speak with Chippeng? You  
just said you spoke with her.

A. Once, yes.

Q. And what did you say to her?

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A. I said "Can I fix it up", she said  
"Not now, another day", so I come next day and she's not  
home; come next day. I couldn't get, you know, fair co-  
operation and I gave up. Is that a fair answer, I gave  
up.

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Q. And what about this letter, the  
letter from Neighbourhood Legal Services dated June 24,  
1993?

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A. Everything I was getting from  
Neighbourhood Services I was just tearing it in the  
garbage, I wouldn't even care what they're saying.  
Understand?

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MR. METZ: If I may interrupt?

THE CHAIRPERSON: Yes.

MR. METZ: All this evidence being  
presented is 1993.

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THE WITNESS: That's what I did with them.

MR. METZ: I think that the complaint was



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E. ELIEFF, cr-ex.  
(Sanson)

filed in 1989 and I just don't see the relevance of a lot of this.

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MS. SANSON: I'm going to ask for the witness to be excluded and I would be prepared to make submissions on that.

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THE CHAIRPERSON: Yes, I think it's an issue worth carrying out once and for all.

I'd like, Mr. Elieff, could you step out of the room for a minute?

THE WITNESS: Okay.

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THE CHAIRPERSON: Thanks.

(WITNESS WITHDRAWS)

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THE CHAIRPERSON: A question has been asked by Mr. Metz, as representative for the respondent, wondering why it is that the board is willing to receive evidence concerning the actions of the respondent after the date that the complaint was filed, or the alleged infringement referred to in the complaint, and I'd like to hear from counsel on that.

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MS. SANSON: Mr. Metz, do you have any further submissions that you would like to make?

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MR. METZ: With respect to the evidence that you're presenting now?



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**THE CHAIRPERSON:** Yes.

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**MR. METZ:** Well, I've just seen it now for the first time, it's all 1993 evidence and I don't see that a relevant to the 1989 complaint. I believe what this board should be concerning itself with is the conditions of the building on or about 1989.

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It seems that the law of causality here is completely being ignored, that we're trying to take a given perceived consequence, such as a broken apartment or an unrentable apartment and saying that that is the cause of further things, without investigating what caused the broken apartment and the series of events that led up to that. To me that's what this issue is all about. To me, so far all the evidence we've been listening to this morning is quite irrelevant.

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**THE CHAIRPERSON:** Ms. Sanson?

**MS. SANSON:** Thank you.

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Some time ago the Commission made a motion to add reprisal as a ground to this complaint, and the reprisal allegations involved what actions or what has happened to Chippheng Hom since the human rights proceedings began, so in that regard they're of primary relevance as to what has transpired since these proceedings began is completely relevant to the allegation of reprisal as a separate ground of

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discrimination.

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With respect to the other arguments about relevance, we have now spent in excess of two days of hearing evidence in-chief from Mr. Elieff touching on all years, and documents throughout all years, before the filing of the complaint and since the filing of the complaint, in support of his defence that indeed he was a good landlord and that he did what he could but, you know, the problem was really the tenants, and that has been his defence of the complaint, at least in these proceedings throughout. And to that extent any questions in regard to the issues raised by Mr. Elieff's case in-chief are certainly relevant.

**THE CHAIRPERSON:** Go ahead.

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**MS. SANSON:** There are two main issues that deal with the complaint itself, and one is the comments that Mr. Elieff is alleged to have made with respect to the complainant, Chippheng Hom, and also comments that he made publicly as one component of the alleged discrimination. The other component is his treatment of Chippheng Hom, and other Cambodian tenants, as a landlord.

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**MR. METZ:** May I reply?

**THE CHAIRPERSON:** Sure.

**MR. METZ:** First of all, I wish to rem



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the board that we did object to the addition of reprisal as grounds for the complaint and requested that it be treated, if it were going to be added, as a separate complaint, totally independent and separate from the current complaint that we were already working on. That was, by your own decision, refused, so it's just to make that on the record that we have objected to this from the beginning.

I would suggest as well that all the documents we filed for the all the years, including Mr. Elieff's financial records from 1984 to 1992 were at the request of Ms. Sanson, and I don't think there's anything in those documents, or anything pertaining to any financial information whatsoever, that it has anything to do with proving whether someone discriminates or is in any way prejudiced towards people. I don't think a person's financial situation is indicative of that in any way, shape or form.

**THE CHAIRPERSON:** Mr. Metz, if the argument being made is that, not just in comments allegedly made by Mr. Elieff, but in behaviour and treatment of tenants as a landlord, the landlord in this case may have discriminated against a certain group on the grounds of racial or ethnic origin, then behaviour is important. And one way of looking at whether



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infringement has taken place is to examine the pattern of behaviour, even after 1989, and argue that that pattern was the same before 1989. That cuts both ways and you can use it as a defence as well, and you have.

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If I understand the evidence that was put in in-chief, it was basically that he's been a good landlord and done his best and paid large sums of money to maintain the property. Well, to me that sounds like an argument that the present -- or the pattern shown after 1989 was one that you'd like the board to believe existed before 1989, before the complaint was lodged. So in that respect behaviour is relevant.

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**MR. METZ:** I believe as well that what is relevant is the sequence of events since 1989. We are to assume here that Mr. Elieff is constantly in control of his behaviour in the sense of being able to financially provide what is deemed necessary by this board or others when he does not have the resources to do so. I mean, responsibility ends at a certain point, and I think it ends when someone's ability to be responsible, regardless of the circumstances, is ended in that regard.

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**THE CHAIRPERSON:** Well, I'd say that that's ---

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**MS. SANSON:** There's no evidence of Mr. Elieff's lack of financial ability to meet his bills



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they come due, and indeed the evidence that's in is to the contrary, and to even hear that kind of comment without any evidence I would -- I'm going to object to that.

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**MR. METZ:** Well, I think the issue is one of responsibility again. Mr. Elieff is being held as the only person responsible for the condition of his buildings, as if we are to assume that he went around trashed his apartment buildings, as if we are to assume that he threw the garbage around on his property. I think that assumption in itself is prejudicial and weighs heavily against Mr. Elieff in a very unfair way.

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**THE CHAIRPERSON:** Well, no doubt you'll be making this argument on the days set aside for argument.

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But just moving back a bit, just to the issue of what is relevant in cross-examination, it is relevant, in my view, that we ask the witnesses, in this case the landlord, questions about what went on since 1989, because for both sides of this dispute it is a relevant issue because it speaks to the pattern of behaviour as a landlord in relation to his tenants. And you can draw conclusions from that one way or the other, and you will be on argument.

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**MR. METZ:** Yes. I would suggest, though, that that pattern has strongly been affected by the



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sequence of events, which is what Mr. Elieff is consistently referring to, and which is what Ms. Sanson is consistently objecting to, and I think that if Mr. Elieff wishes to give evidence to that effect he should be allowed to do so, and his answers should be taken more in context of how they're intended.

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**THE CHAIRPERSON:** Well, in all fairness, Mr. Metz, in the brief time that we've heard from the witness today, he has given the kind of answer that you're suggesting he's given, but it's fair to ask the question in different ways, because that's how in cross-examination you test what the witness is saying. So yes he has been equivocal, he has tried to explain over and over again why it is that he hasn't done certain things, and I've accepted that at times and sort of cut off questioning on that line, and I'll continue to do that at each step of the way when I feel that he's answered the question as much as he can and that the Commission has a fair response to the question put to the witness.

So if I can just summarize what we've discussed here, yes, the issue of reprisal is important; yes, the behaviour of the landlord, insofar as it relates to the treatment of landlord of a tenant, is important for actions after 1989, after the date of the complaint. So that is relevant. And, finally, that it is open



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counsel, and to yourself as agent, to raise many of the issues that you've raised in argument, that is how you would like the board to interpret the evidence.

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MR. METZ: I understand, yes.

THE CHAIRPERSON: Is there anything else we need to deal with before we get Mr. Elieff back?

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MS. SANSON: No. I'm just wondering whether it might be an appropriate time to have a break.

THE CHAIRPERSON: Oh yes, sorry. We've been thoroughly engrossed in this. We'll take a 10-minute break.

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MR. METZ: Okay.

THE CHAIRPERSON: Ten (10) minutes, fine.

--- Upon recessing at 11:32 p.m.

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E. ELIEFF, cr-ex.  
(Sanson)

--- Upon resuming at 11:47 a.m.

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ELIJAH ELIEFF, Resumed:

THE CHAIRPERSON: Okay. We can resume cross-examination.

10

MS. SANSON: Thank you.

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

15

Q. Mr. Elieff, were there any other tenants that were paying into the trust fund that you took eviction proceedings against?

20

A. From the time that you start asking this question and the earlier until now, as I said, I gave it up and I just wouldn't care to worry about it anymore, so I don't know.

25

A. I don't know.

Q. Now, we went through a list of people in that December letter about who was paying into the trust fund, and that's ---

30

A. I never paid attention about it, and I still don't.

Q. --- Tab 41.



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E. ELIEFF, cr-ex.  
(Sanson)

A. Never pay attention, I tell you.

5

Q. Okay. Have you taken eviction proceedings against Muoi Van Dang, one of the tenants who paid into the trust fund?

A. I don't remember nothing.

Q. You don't remember?

10

A. No, because I stopped press -- pushing myself to worry about this nonsense.

Q. But you remember taking eviction proceedings against Chippheng at the same time?

15

A. Of course, she is the star, all the trouble that she is causing ---

Q. So you remember that same time ---

A. --- in co-operation with Eagle.

20

Q. Okay. We're dealing with the same time, you remember that, isn't that right?

A. Yes. I cannot -- I have to remember her for the rest of my life, but others I don't remember. I don't care anymore.

25

Q. I'll put to you, Mr. Elieff, you haven't taken eviction proceedings against anyone else who was paying into the trust fund ---

30

A. I just don't -- I just don't ---

Q. --- isn't that true?

A. I just don't know. Probably is, I



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E. ELIEFF, cr-ex.  
(Sanson)

don't remember. I don't remember taking any actions.

THE CHAIRPERSON: Mr. Elieff, let me ask  
the question slightly different, same question.

5

THE WITNESS: M'hm.

THE CHAIRPERSON: Have you instructed your  
agent to take eviction proceedings against anybody else  
other than Chippheng Hom?

10

THE WITNESS: I believe not, because they  
are -- every time I try for rent they say "I pay to Eagle  
to pay to the trust fund". I did not take -- I don't  
remember taking any actions to anybody.

15

THE CHAIRPERSON: Okay. Thank you.

THE WITNESS: M'hm.

BY MS. SANSON:

20

Q. We've heard some reference to you,  
that the bank has put your building under a power of  
sale, does that mean you haven't paid your mortgage?

25

A. I don't understand that very much  
either, because I left most of that to be taken care of  
in the future. So I don't know what the bank is doing  
and what it's not doing, I don't know.

30

Q. Okay. Let's talk about what you're  
doing.

A. This ---



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E. ELIEFF, cr-ex.  
(Sanson)

Q. You've abandoned the buildings?

A. I'm not doing nothing. I can't do  
nothing.

5

Q. You can't do nothing?

A. Nothing.

Q. Why is that?

10

A. And if I have to answer you why is  
that it's going to take me one year to tell you.

THE CHAIRPERSON: Have you left the  
building?

15

THE WITNESS: I have not left the  
building, but I just lost control of it, you know.

**BY MS. SANSON:**

20

Q. But how did you lose control? Have  
the buildings been sold?

A. For because ---

Q. Have the buildings been sold?

25

A. --- what's been done to me and my  
companies and ---

Q. Have the buildings been sold, Mr.  
Elieff?

30

A. I don't know. Ask the bank, they've  
got them now. You ask them.

Q. They don't -- the bank doesn't have



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E. ELIEFF, cr-ex.  
(Sanson)

the buildings, Mr. Elieff.

5

A. Well, I believe they do, because they send me this document that they take over, and I keep giving those documents to Mr. Metz, who in turn is giving it to my lawyer.

10

Q. So you know, then, that the bank has given you notice that they might sell the building?

A. Yes.

Q. Is that correct?

A. Yes ---

15

Q. Okay.

A. --- we got those notices.

Q. So you are aware of that?

A. Yes.

20

**THE CHAIRPERSON:** Can I ask if power of sale proceedings have been commenced?

**THE WITNESS:** I don't know.

25

**THE CHAIRPERSON:** I can take judicial notice of them if ---

**MR. METZ:** I believe they have been.

**THE CHAIRPERSON:** They have been?

**MS. SANSON:** Notice has been received.

30

**THE CHAIRPERSON:** The notice of power of sale ---

**MS. SANSON:** Has been ---



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: --- has been received.

MS. SANSON: Has been sent to Mr. Elieff.

5

MR. METZ: Well, that's all I'm aware of  
myself.

MS. SANSON: Nothing has happened.

10

THE CHAIRPERSON: All right, let's  
proceed.

THE WITNESS: Well, what can I do if  
nothing has happened?

15

BY MS. SANSON:

Q. Well, I would put to you that you  
could still pay the mortgage.

A. Oh, yes.

20

Q. Isn't that true? You still have the  
opportunity to pay the mortgage?

A. I just can do nothing I told you.

25

Q. Mr. Elieff, isn't it true that you  
still have the opportunity to pay the mortgage, and then  
you can keep the buildings?

A. Oh yes, yes, I've got opportunity to  
pay the mortgage and everything, but just I choose not  
to, because there's no money to do it. I'm not sure even  
about that either, I don't know.

30

Q. Have you declared bankruptcy, Mr.



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E. ELIEFF, cr-ex.  
(Sanson)

Elieff?

A. Bankrupt? No, I haven't.

5

Q. Has Elieff Investments Limited  
declared bankruptcy?

A. Not that I'm aware of.

10

Q. Is there anyone who would have more  
information than you about that? You're the President.

A. No, I -- we haven't declared  
bankrupt. After I got from the bank I don't know what to  
do, I just am doing another action about it, which you  
are not to worry about.

15

Q. And what's that?

A. It's something you don't have to  
worry about it.

20

THE CHAIRPERSON: Mr. Elieff, do you have  
an accountant for Elieff Investments?

THE WITNESS: Yes.

25

THE CHAIRPERSON: Has he prepared a  
financial statement on Elieff Investments?

30

THE WITNESS: Yes, I've been having a --  
they've been preparing, yes. But that's not what she's  
asking, she's asking if I have declared bankruptcy and I  
told her no. And she keeps asking me Elieff Investments  
has done it, I said no. What's the next question?

THE CHAIRPERSON: Go ahead.



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E. ELIEFF, cr-ex.  
(Sanson)

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**MS. SANSON:** The board may be aware that that was part of the request and order by the board as to all of the financial statements, and the Commission never received the current financial position.

**THE CHAIRPERSON:** Is this my last order on February 5th?

10

**MS. SANSON:** Yes. It wasn't on February 5th, it was done by way of conference call.

**THE CHAIRPERSON:** Can we just go off the record for a moment, please?

15

(DISCUSSION OFF THE RECORD)

**THE CHAIRPERSON:** Let's go back on.

20

I see from my notes of the conference call on February 26th, 1993 that the respondent was to undertake to produce financial records by Friday, March the 12th, 1993. These records were to include, first, general ledger and monthly statements; two, financial statements, particularly for the year 1991; thirdly, income tax returns; and, fourth, vacancy records and rent payments for December 1992, January 1993, and February 1993.

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30

Mr. Metz, can you tell me if those records

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THE CENTRAL BANK OF INDIA  
 RESERVE BANK OF INDIA  
 THE GOVERNMENT OF INDIA  
 MINISTRY OF FINANCE  
 DEPARTMENT OF RESERVE BANK OF INDIA  
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 NEW DELHI



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E. ELIEFF, cr-ex.  
(Sanson)

MR. METZ: M'hm. In my ---

THE WITNESS: Nineteen ninety-two (1992)  
is not there, right?

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THE CHAIRPERSON: Just a minute, I'm  
asking Mr. Metz.

10

MR. METZ: In my letter of March 12th  
couriered to Ms. Sanson I included financial statements  
for the years '84 to December 31st, '91, including  
balance sheets and income statements; income tax returns  
for the years '84, '85, '90 and '91; vacancy lists for  
the period December '92, January '93, February '93.

15

Now, at that time there was a gap  
locating Mr. Elieff's copies of the tax returns for year  
'86-'89, I contacted Mr. Elieff's accountant, they were  
forwarded to Ms. Sanson on May 4th.

20

MS. SANSON: Perhaps you can read the  
other correspondence. The order for production was  
required by March 12th, '93, you might want to read the  
other correspondence dealing with what was provided and  
wasn't.

25

MR. METZ: How far back are we going,  
March 12th?

30

THE CHAIRPERSON: March 12th.

MR. METZ: My letter is addressed March  
12th, by courier.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Your letter?

MR. METZ: Yes, including ---

5

MS. SANSON: And there was a letter to you  
after that from me, would you read that for the board?

THE CHAIRPERSON: Yes.

MR. METZ: Yes.

10

"The board ordered Mr. Elieff to  
provide copies of his month-to-month  
general ledger statements for the  
periods in question by March 12,  
1993. You have not provided them."

15

Yes, there's a good reason for them,  
there's no ---

MS. SANSON: Would you please read the  
rest of the letter?

20

MR. METZ:

"I also await copies of Mr. Elieff's  
tax returns that you have not yet  
provided, please provide these  
documents immediately."

25

And they were provided immediately. In fact, I'll go  
back to my letter of March 12th ---

30

MS. SANSON: Would you please complete  
reading the entire record -- letter into the record?

MR. METZ: That is your letter. There is



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E. ELIEFF, cr-ex.  
(Sanson)

nothing else:

"Your very truly,  
Geraldine Sanson."

5

MS. SANSON: And is there another letter?

THE CHAIRPERSON: Is there ---

MR. METZ: There is the fax transmission  
sheet, "Please call Chris."

10

MS. SANSON: Is there another letter to  
you about being in disobedience of the board's order, or  
is that part of the earlier letter?

15

MR. METZ: Well, if there is I don't have  
one here.

THE CHAIRPERSON: Well, let me ask a  
general question.

20

MR. METZ: However, all the information  
has been given. And I still have to stress ---

THE CHAIRPERSON: Yes?

25

MR. METZ: --- I wrote to Ms. Sanson on  
April 30th, by fax:

30

"In response to your request for Mr.  
Elieff's tax returns and month-to-  
month general ledger statements I  
offer the following information:

Mr. Elieff has informed me that he is  
unable to locate copies of his tax



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E. ELIEFF, cr-ex.  
(Sanson)

returns for the years '86 to '89. As  
a result I have been in touch with  
Mr. William C. Barnes ..."

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I put the phone number in:

10

"... who was Mr. Elieff's  
accountants until 1991. Mr. Barnes'  
office had only this afternoon  
informed me that they do have the  
relevant copies and that Mr. Elieff  
may pick them up. I should have  
these documents in my possession by  
early next week and I will forward  
them to you as soon as they arrive.

15

With respect to month-to-month  
general ledger statements, Mr. Barnes  
informed me that no such records  
exist since the low number of annual  
accounting transactions did not  
justify maintaining such detailed  
records for Elieff Investments  
Limited."

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25

MS. SANSON: Can you just note for the

record what the date of that letter is?

30

MR. METZ: April 30th.

MS. SANSON: That's about one month after



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E. ELIEFF, cr-ex.  
(Sanson)

the deadline of the board's order.

**MR. METZ:** Ah, well let us go back to,  
again, March 12th.

5

"As per our tele ..."

Saying that all the other things were located, and I also  
put:

10

"As of this writing Mr. Elieff has  
been unable to locate his copies of  
tax returns for the years '86-89,  
although he was able to provide  
copies of financial statements for  
that period. Although he has advise  
me that he is continuing a search for  
the missing copies, it is possible he  
may not be able to locate them. If  
the information enclosed is  
insufficient for your needs please  
advise and we will undertake to  
locate copies of the tax returns from  
an alternate source."

15

20

25

You did not contact me regarding that until April 30th,  
and so ---

30

**THE CHAIRPERSON:** Excuse me. Can I ask  
both of you to discuss this matter at the next break and  
let me know if there is any documentation that has yet to



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be produced that is important or necessary for continuing cross-examination.

5

My reason for raising the question in the first place was to see what the latest financial statements for Elieff Investments are, and it would assist me if I had a copy of the most recent financial statement for Elieff Investments. That's my reason for asking that.

10

So in the break, if you can discuss together what gaps need to be filled and what you need to proceed today ---

15

MS. SANSON: I would ---

MR. METZ: There are none.

MS. SANSON: --- like to make some submissions in that regard.

20

THE CHAIRPERSON: Sure.

25

MS. SANSON: And, first of all, with respect to the obedience or disobedience of a board's order. We had several -- there were several requests made on the record for those financial statements way back in the last hearing. Even before the conference call was made the requests were made. Mr. Elieff said on the record that he was not going to provide those, that information. He didn't care what I said, he wasn't going to provide that information.

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E. ELIEFF, cr-ex.  
(Sanson)

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Subsequently to that, we were trying to get together to figure out what should be produced, that didn't happen. That necessitated a conference call, the board made an order as to what was to be produced and by when, as of the date of that order when all material was to be produced.

10

Instead, what the Commission received was only part of the material with an explanation why. They had several months to notify the Commission as to what was available and not from the last hearing day.

15

And today we are here, Mr. Elieff is on the stand saying he has no money, he can't afford to pay his bills because of what Susan Eagle's done, and what the London Free Press has done, and what everyone else has done except for Mr. Elieff and his ability, or refusal in our submission, to pay his utilities, and to make any payments at all since the commencement of this proceeding.

20

25

So the most current reflection of what his financial status is we don't have. We don't have that statement, because they have not provided it to us. And if they do not ---

30

THE CHAIRPERSON: Mr. ---

MS. SANSON: If they refuse to provide it to us, we don't have that information, then at this point



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E. ELIEFF, cr-ex.  
(Sanson)

I would ask the board that they are not entitled to rely on a financial position as an inability to fulfill his landlord obligations.

5

**THE WITNESS:** Shame on you.

**THE CHAIRPERSON:** Mr. Metz, what is the most recent financial statement that you have available for Elieff Investments?

10

**MR. METZ:** The ones that were provided. Mr. Elieff has no statements after, I believe from '92 on.

15

**THE CHAIRPERSON:** So you have a statement

---

**MR. METZ:** His accountant is no longer retained by him. I had a lengthy conversation with him and ---

20

**THE CHAIRPERSON:** Do you have an annual statement or a financial statement for 1992 for Elieff Investments?

25

**MR. METZ:** No. No.

**THE CHAIRPERSON:** Do you have one for 1991, which is what I had ordered?

**MR. METZ:** Yes.

30

**THE CHAIRPERSON:** And that has been delivered?

**MR. METZ:** That's been forwarded, and



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E. ELIEFF, cr-ex.  
(Sansón)

that's all there is.

THE CHAIRPERSON: Okay.

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MR. METZ: There is just no other records, unless you want to pay an accountant to put together the -- whatever financial records. I mean, Mr. Elieff wasn't even collecting his rents entirely in '92.

10

THE CHAIRPERSON: All right. So the answer to my question, then, is, '90-91 is the last date?

MR. METZ: Yes, m'hm.

15

THE CHAIRPERSON: That's the most recent financial statement.

THE WITNESS: And that's where we should stop.

20

MR. METZ: You have to remember that these requests were made in late '92 and that even if ---

25

THE CHAIRPERSON: That's true, and you can't put together 1992 statements until well into 1993. I accept that, that's why I didn't order it. But if those 1991 statements are available I would appreciate seeing a copy of them at some point. Somebody introduce them as an exhibit.

30

MS. SANSON: With respect to the information, that, in the Commission's submission, is particularly relevant for the purposes of this inquiry, which are the rental incomes earned by the apartment, and



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E. ELIEFF, cr-ex.  
(Sansou)

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the expenses which have been filed, we have received only to September of 1992. There are monthly totals for the rents received, for each of them, and I would ask the board at this point to take a look at the originals that were provided, only to September of '92, and Mr. -- or someone has gone through the document and stroked out the amounts so that we can't calculate what kind of rents Mr. Elieff was receiving on his properties.

15

**THE WITNESS:** You only asked the names of the tenants, never mind the rest. Why you got scratched here on the documents I got from you, letters?

20

**THE CHAIRPERSON:** I'm looking at the originals here, Mr. Metz, and beside -- the figures to represent the hundreds have been scored out with a black magic marker right down the line. If I look carefully at the original I can distinguish the pen marks underneath the black marker. I think the Commission's position is a fair one, if ---

25

**MR. METZ:** I don't believe that the amounts were being requested ---

30

**THE WITNESS:** That's not ---

**MR. METZ:** --- I believe they were being requested as a vacancy list, which apartments were empty ---

**MS. SANSON:** The amounts were requested



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E. ELIEFF, cr-ex.  
(Sanson)

over and over again ---

THE WITNESS: No.

5

MS. SANSON: --- lest I not have been clear the first time around. When they provided the vacancy for the remaining months I reiterated "I want the rental incomes for each of the apartments."

10

THE WITNESS: I was arguing how much money I'm losing on vacancies, okay. That's all you get.

THE CHAIRPERSON: Mr. Elieff, I'm talking to Mr. Metz and Ms. Sanson at the moment.

15

I think the information can be pieced together, just looking at the originals, I mean I can see the marks underneath.

20

MS. SANSON: I can see the marks as well

---

THE CHAIRPERSON: Yes.

MS. SANSON: --- but what we don't have is from September on ---

25

THE CHAIRPERSON: All right.

MS. SANSON: --- and the reason that it's relevant is because there were a whole bunch of rental orders that were made after that time. Strikingly, we don't ---

30

MR. METZ: September of what year?

THE CHAIRPERSON: Ninety-two ('92)



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E. ELIEFF, cr-ex.  
(Sanson)

MS. SANSON: Nineteen ninety-two (1992).

MR. METZ: Vacancy lists?

5

THE CHAIRPERSON: The same. Whatever these are.

MR. METZ: I assume those are the vacancy lists.

10

MS. SANSON: They're not vacancy lists.

MR. METZ: Well, what are those?

MS. SANSON: Those are the rental roles.

THE CHAIRPERSON: Rental list.

15

THE WITNESS: Yes, but I gave it for the name or for the sake of our vacancies. It doesn't matter what it says up ---

THE CHAIRPERSON: All right. Let me just -- Mr. Metz, I'm just speaking to you about this.

20

In the break can you find out if these rental lists exist after -- for the months October '92 on? Could you endeavour to find that out and locate them in the break?

25

And at the moment I'd like to return to the cross-examination if we could, and bearing in mind that I'd like to see at some point the 1991 financial statement of Elieff Investments Limited.

30

I'm sorry to have interrupted this way, Ms. Sanson. My notes indicate that you were asking if



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E. ELIEFF, cr-ex.  
(Sanson)

Elieff Investments had declared bankruptcy and the answer was given by the witness.

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MS. SANSON: Thank you.

BY MS. SANSON:

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Q. Mr. Elieff, would you agree with me that somewhere between the years '89 and '91 you lost \$10,000.00 on a deposit for the purchase of another building? Do you agree with me?

15

A. That's for not another building, it's for the next two buildings, for the neighbouring next two buildings. I was planning to buy them too.

Q. And then you changed your mind?

20

A. What do mean, change your mind? Well, that's not for you to know what happened.

THE CHAIRPERSON: Mr. Elieff, the question was whether you lost a deposit ---

THE WITNESS: Yes. Yes, I lost.

25

BY MS. SANSON:

Q. So that was \$10,000.00 that could have been spent on repairs, isn't that right?

A. I don't know.

30

THE CHAIRPERSON: Was it \$10,000.00?

THE WITNESS: M'hm.



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

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Q. Do you agree with me that the redirection of rents occurred only after you stopped paying the utilities?

A. I don't know. I cannot agree or disagree -- generally agree or disagree, I don't know.

10

Q. Do you agree with me that suddenly, only in the last little while you haven't been able to pay your bills? In the last, what, since the hearing began?

15

A. Yes.

20

Q. Mr. Elieff, we heard some evidence from you that nobody contacted you about any of the problems that the tenants were having, and I'm taking you back to the time that the complaints -- that the complaint arose. Do you agree with me that your evidence was that no one contacted you about the problems?

25

A. Which problem? What complaint?

Q. About the comments that you made.

A. I don't understand.

**THE CHAIRPERSON:** Could you maybe rephrase the question, please?

30

**MS. SANSON:** Okay.



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

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Q. During the course of your evidence you gave evidence that the tenants didn't contact you about any meetings that they were going to have with the tenant board to discuss the problems, they never approached you about the problems that they were having to try and resolve it; that you never knew that there were meetings going on about the problems, and that you would have worked with them if they had tried to talk to you about it.

10

15

A. In the latest times it was all over to me, because there was no sense to try to understand with Eagle or the rest of the gangsters.

Q. Okay. I'm taking you back ---

20

THE CHAIRPERSON: I gather this is -- your asking about 1989?

MS. SANSON: That's right.

25

BY MS. SANSON:

Q. When these problems arose.

A. Like they were -- I never been in a good faith invited to talk the problems with nobody.

30

Q. But you were aware that there were meetings going on? You had notice that there were meetings going on?



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E. ELIEFF, cr-ex.  
(Sansou)

A. Oh meetings, oh yes, I've been hearing through radio, others telling me how Eagle is organizing them, and countless stuff.

5

Q. We also heard yesterday that your son Zeranco attended one of the public meetings about it.

A. I don't -- I don't know. I don't know if he did.

10

THE CHAIRPERSON: Mr. Elieff, when Mr. Van Moorsel was giving his evidence yesterday ---

THE WITNESS: That wasn't a public -- that was in the front of my shop, it's not a public meeting.

15

THE CHAIRPERSON: No, no, no. He did make reference to what he called a town hall meeting.

THE WITNESS: Town hall?

20

THE CHAIRPERSON: A town hall meeting is a general public meeting.

THE WITNESS: It took place where?

25

THE CHAIRPERSON: Just -- that's not the issue. A general town hall issue is a public meeting where people can come and discuss problems related to the community, that's what I understood. I'm not too concerned about who pays to set up the meeting or what the actual wording is.

30

THE WITNESS: I don't know anything.

THE CHAIRPERSON: The question Ms. Sanson



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E. ELIEFF, cr-ex.  
(Sanson)

is asking is whether you knew that your son Zeranco was at one of those meetings and spoke on your behalf?

5

**THE WITNESS:** I don't remember anything. I don't understand what she's asking me really. About Zeranco, ask him. Why would you ask me, I don't know.

10

**BY MS. SANSON:**

Q. Do you agree with me that the London Free Press tried to contact you and you said you're not going to speak to them, they're a bunch of idiots, and hung up?

15

A. I don't know when, in what -- I've been at some point in time, every time they call me on the phone I just was kicking them off the phone, you know, said "To hell with you" and "You're no good to me because you're perverting my stories at all times", and I got fed up with them.

20

Q. So you didn't want to hear if anything was going on.

25

A. I was fed up with them all and so -- and then I start -- afterwards I start saying just "I got no comments with you guys", and that's it. But ---

30

Q. We also heard from Susan Eagle that there were many attempts, by not only the tenants but herself on behalf of the tenants to convey problems to



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E. ELIEFF, cr-ex.  
(Sanson)

you about the apartments and that you hung up on her.

5

A. Sure. I mean, after all that she's been doing in a sneaky way and an unfair way of course. What do you expect me to do?

10

Q. So you thought it was okay not to deal with the tenants problems because of your feelings for Susan Eagle?

A. Not through a person like Eagle, no. I hate her eyes. She's a bitchy woman to me.

15

THE CHAIRPERSON: Mr. Elieff, I've been meaning to say this for quite awhile, and I did speak to this issue yesterday.

THE WITNESS: So that's my reason ---

THE CHAIRPERSON: Let me finish.

20

THE WITNESS: --- why I won't deal through her.

THE CHAIRPERSON: Let me finish, please.

25

I am concerned about comments you make about other people in these proceedings, either witnesses or other people who have been involved. This is a formal proceeding, it's a public meeting ---

THE WITNESS: It's free expression also.

30

THE CHAIRPERSON: --- and I have been given the responsibility to maintain a degree of decorum and dignity.



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912

E. ELIEFF, cr-ex.  
(Sanson)

THE WITNESS: Yes.

THE CHAIRPERSON: I cannot allow you to  
make disparaging remarks about any person here.

5

THE WITNESS: But they squashed by  
dignity. They squash it, so what ---

THE CHAIRPERSON: Let me finish, Mr.  
Elieff.

10

I would ask you to please refrain from any  
negative comments about the people involved. You can  
have your own opinion about actions they have taken or  
things they have said, I'm not denying that of you, and  
Mr. Metz will be making these on your behalf when  
comes to argument. But any personal remarks about  
individuals I would ask you to keep to yourself when  
you're on the stand, and when you're in the room sitting  
beside your representative. Is that clear?

15

20

THE WITNESS: I will try to do my best  
about it.

THE CHAIRPERSON: That's good. Okay,  
thank you.

25

BY MS. SANSON:

30

Q. I'd like to refer you to Exhibit 15.  
This is the vacancy list that you filed, and I would ask  
you just to take a look at the ones that you've marked



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913

E. ELIEFF, cr-ex.  
(Sansons)

"No rent".

THE CHAIRPERSON: Ms. Sanson, these are  
the originals.

5

MS. SANSON: Thank you.

MR. METZ: Those are mine.

MS. SANSON: I'm going to be using them  
for cross-examination.

10

THE WITNESS: What about it?

BY MS. SANSON:

15

Q. Isn't it true that many of the  
tenants that you've marked as not having paid their rent  
have been making their rental payments into the trust  
fund?

20

A. I don't know. All I'm marking for me  
that they haven't paid to me. That's all it means. All  
this means to my information, I didn't have even that  
rent from this tenant for this month. That's all it  
means.

25

Q. Even though you had a letter  
notifying you of the trust fund and even though you know  
that you haven't been paying the utilities, you have no  
idea where the money is going?

30

A. I answered the question, that's what  
this means.



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914

E. ELIEFF, cr-ex.  
(Sanson)

Q. You don't know?

A. What? What do I don't know?

5

Q. Well, that they paid their rent into  
the trust fund.

10

A. Oh, I already told you. They were  
saying they were paying their rents to trust fund or to  
Eagle, they all say different. Some say "I paid it to  
court", "I'll pay it to Eagle", different answers and I  
just put that I didn't get rent for this month from this  
tenant.

15

Q. And have you made any notes to  
yourself as to which tenants are paying into the trust  
fund?

A. Not -- not -- not really.

20

Q. Have you made any inquiries as to  
who's paying into the trust fund?

A. No idea.

25

Q. You just marked them down as "No  
rent" ---

A. That's just "No rent".

Q. --- is that right?

A. Yes.

30

Q. So indeed they could have paid their  
rent, just not to you?

A. That means they have not ---



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915

E. ELIEFF, cr-ex.  
(Sanson)

Q. Is that right?

A. What? What is right?

5

Q. They could have paid their rent, just  
not to you?

A. Yes.

Q. That's right, thank you.

A. Right.

10

Q. I took that exhibit away too soon  
from you, Mr. Elieff.

You've got marked down here, apartment 43,  
John Pipe. Now, that's somebody who you said was a good  
tenant, and he came and he gave evidence, and then wasn't  
he one of the people who eventually left?

15

A. M'hm.

Q. Why did he leave?

20

A. Because he doesn't want to put up  
with all this. Mainly because what he felt is so much of  
unjustice being done to me, again from all those parties.  
That's the main thing he left.

25

Q. So he left -- he didn't want to give  
you any money because he felt you were unjustly wronged,  
is that why he left?

30

A. Oh no, no. Why he left is because he  
couldn't stand any more for their ---

Q. So he couldn't stand the apartments?



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916

E. ELIEFF, cr-ex.  
(Sanson)

A. No. No, he liked everything, and he liked the place very much, but he ---

5

Q. But he didn't want to pay you anyway.

A. He just couldn't stand somebody always knocking his door. Again, most of it he told me that was Eagle doing it, and he couldn't stand that. He tried to argue about it, you know, say -- but he couldn't mean it so he left.

10

Q. So he was so unhappy with the injustice to you ---

15

A. Yes, yes.

Q. --- that ---

A. That's why he came and testified about.

20

Q. --- he left ---

A. That's why he testified ---

Q. --- and stopped paying you rent, because he was so unhappy at ---

25

A. Not stopped paying rent, he moved.

Q. Because he was unhappy about how you were ---

A. Sure.

30

Q. And that resulted in financial devastation to you, is that right?

A. No. I don't know what you're talking



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917

E. ELIEFF, cr-ex.  
(Sansou)

about. I told you already, that's why he left.

5

Q. Okay. Let's look at the Ackworths, they were people that -- was it Linda Thomas?

A. Yes.

Q. Right here, it says "No rent for two months", is that right?

A. Yes. What about it?

10

Q. So they didn't pay you rent for two months?

A. Not to me, they probably paid to Eagle or someone else.

15

Q. But you don't know?

A. I don't.

Q. So they were such good tenants that they didn't pay you ---

20

A. They were ---

Q. --- any rent, is that right?

25

A. I believe -- I believe at that time they told me they had been forced, the court ordered it to pay the rents to the courts, whatever it was.

Q. I see. Even though you didn't recall a couple of minutes ago who paid their rent to the court.

30

A. Yes. I just recall that now, yes. Clicked in in my mind. That's one point I remember, they say they got orders by courts to pay the court. But



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E. ELIEFF, cr-ex.  
(Sanson)

that's what my marking is there, I told you, just to know who has paid, who hasn't paid. Short notes.

5

Q. Would you agree with me that between November -- that Ackworths were only there between November '89 and April '90, so they were only there about eight months in total, and then had moved in for just a short time at the commencement of the hearing?

10

A. Whatever you say, I don't know.

Q. Well, they were your tenants, Mr. Elieff.

15

A. They were all my tenants, but they are all ---

Q. Does it sound about right, that they were only there for eight months?

20

A. I don't know. If you say so, eight months, yes.

Q. And what about the Sucurs, would you agree with me that they were only there between '86 and '88, they weren't there at the time of the complaint?

25

A. I think so.

Q. This may seem like a rather odd question to you, Mr. Elieff, but can you tell me what colour your bathtub is in your house?

30

A. No, I won't tell you that, it's my business, my house, my bathtub.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Please answer the question.

A. No, I won't answer.

5

Q. What colour is your bathtub?

A. It's not your business.

**THE CHAIRPERSON:** Ms. Sanson, can you tell me what the relevance of this is?

10

**MS. SANSON:** Yes. I'll ask for the witness to be excluded first though.

**THE CHAIRPERSON:** Okay.

**THE WITNESS:** Not your business.

15

**THE CHAIRPERSON:** Mr. Elieff, could you step out for a minute, please?

**THE WITNESS:** What colour is yours?

20

(WITNESS WITHDRAWS)

25

**MS. SANSON:** One of the invoices that were produced as an expense was for a new bathtub, and I would like to cross-examine Mr. Elieff with respect to whether or not that indeed was an expense for the apartment buildings or if it was an expense for his home or another building. And the series of questions will hopefully lead to test that.

30

There's a receipt in the sum of \$1,200.00, one of the more expensive receipts for work that was



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920

E. ELIEFF

done, and it relates to a rose-coloured tub, and I would like to know where that rose-coloured tub is.

THE CHAIRPERSON: Okay.

5

Mr. Metz, could you call -- oh, it's all right.

MR. METZ: Is Ms. Sanson going to call him?

10

THE CHAIRPERSON: She is.

ELIJAH ELIEFF, Resumed:

15

THE CHAIRPERSON: Mr. Elieff, I'm going to

---

THE WITNESS: Talking about the colour of the tub.

20

THE CHAIRPERSON: I'm going to allow the question, just answer it directly.

THE WITNESS: If she gives -- answer my question, I'll answer hers.

25

THE CHAIRPERSON: Yes. You're to answer the questions.

THE WITNESS: Ah, come on.

30

MS. SANSON: If it will make it any easier, mine's tan.

THE WITNESS: Come on.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Okay. She's giving ---

THE WITNESS: The colour of my bathtub.

5

THE CHAIRPERSON: She's giving you her  
answer.

All right, Ms. Sanson.

10

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

Q. Tell me what colour your tub is?

A. None of your business. I'm private  
person, I live in privacy.

15

THE CHAIRPERSON: Mr. Elieff, I've asked  
you ---

THE WITNESS: That's my culture, in  
privacy. You don't go into my privacy.

20

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: You understand?

THE CHAIRPERSON: --- I would like you to  
answer that question because it is relevant to this  
hearing.

25

THE WITNESS: No, I won't answer, that's  
my private stuff. She's not going to dig into my  
privacy, is that clear.

30

THE CHAIRPERSON: I'm going to have a five  
minute -- ask for a five minute break ---

THE WITNESS: Jesus Christ, you know.



100-447778-100  
(Person)

THE CHAIRMAN: Now, she's given --  
the witness -- a copy of my report.  
THE CHAIRMAN: She's given you a

copy of my report.

CONFIDENTIAL CROSS EXAMINATION BY THE PROSECUTOR

Q Now, as you know, your report  
A says that you had a meeting with

the witness on the 11th of the month.

THE CHAIRMAN: The 11th of the month.

Q Now, you said that you had a

meeting with the witness on the 11th.

THE CHAIRMAN: Now, the witness

THE WITNESS: Yes, that's right.

THE CHAIRMAN: Now, would you go

back to the question before us in regard to this

meeting.

THE WITNESS: Yes, that's right.

Q Now, she's a very young girl.

THE WITNESS: Yes, that's right.

THE CHAIRMAN: Now, going to page 11.

Q Now, she's a very young girl.

THE WITNESS: Yes, that's right.



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E. ELIEFF, cr-ex.  
(Sansons)

**THE CHAIRPERSON:** --- and, Mr. Metz, I wonder if you would speak to the witness. I'm going to take a five minute break.

5

**MS. SANSON:** I have concerns about any discussion as between the witness before he's given his answer by anyone that's in this room in terms of the value of the question being asked at all.

10

**MR. METZ:** If I may suggest, why doesn't Ms. Sanson produce the evidence and ask Mr. Elieff about it ---

15

**MS. SANSON:** No.

**THE CHAIRPERSON:** No. I think her -- she has convinced me that it's a relevant question and I would ask Mr. Elieff to answer. It's a simple question.

20

**MR. METZ:** I would suggest that a more relevant -- well, I can't really -- could we ask Mr. Elieff to leave for a moment again?

25

**THE WITNESS:** I don't have a house of mine, I don't have a bathtub, so I got no answer to your question. I am a street man now. If you want to know, that's what I am.

30

(WITNESS WITHDRAWS)

**MR. METZ:** Perhaps if the question were



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phrased to the relevance in the buildings, perhaps if Mr. Elieff could explain where that tub was placed in the building.

5

**MS. SANSON:** That's a good follow up question, Mr. Metz ---

**THE CHAIRPERSON:** Yes.

10

**MS. SANSON:** --- but I'm entitled to ask my questions and receive answers. The board has made his order, and it is not open to you at this point to make suggestions as to how I ought to conduct my cross-examination.

15

**MR. METZ:** Well, I'm sorry, I was just trying to be a little more helpful. You don't have to ---

**THE CHAIRPERSON:** Yes.

20

**MS. SANSON:** Well, it's beyond help. The board makes an order and, consistent with orders that boards make, you think they don't have to be followed.

**THE CHAIRPERSON:** Okay.

25

Mr. Metz, I think I've decided that that's a question that needs to be answered. It's a relevant question, a fair question, and it has to do with these proceedings.

30

**MS. SANSON:** It's consistent with your news release yesterday about the esteem that you hold the



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board of inquiry not being a court.

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**THE CHAIRPERSON:** Ms. Sanson, I don't think there's any point in discussing this any further. I'd like to hear you out on ---

10

**MR. METZ:** Well, I have to agree with Ms. Sanson that I don't think it would be appropriate for me to go and discuss it with Mr. Elieff.

15

**THE CHAIRPERSON:** We wouldn't -- I would expect you to exercise your discretion in that and just speak to him about the need to answer the question, without providing him any further details. But under the circumstances I don't think anything is to be gained by your going out and discussing it with him.

20

Unless he has a change of heart while he's out there he's not going to answer the question.

25

**MS. SANSON:** At this point then I would renew my motion to have the board make an order with respect to your powers in order to prevent an abuse of process, and at this point I call upon the board to not rely on the sum of Mr. Elieff's evidence, if he's not prepared to answer the question after he's been instructed to do so. There have been ---

30

**THE CHAIRPERSON:** Mr. Metz, do you have any comments ---

**MR. METZ:** No.



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**THE CHAIRPERSON:** --- about what we should do in the event he doesn't answer the question?

5

**MR. METZ:** Well, I believe that's entirely in your discretion. I still think that the question should be phrased to the relevance of the apartment buildings in question.

10

**THE CHAIRPERSON:** I don't think that can be done. I think the nature of cross-examination is such that it is to test the voracity of the ---

15

**MR. METZ:** I would suggest that even if Mr. Elieff were to answer with any colour, and if the colour happens to match that, that is not indicative of anything, you know.

20

**THE CHAIRPERSON:** That's for me to decide. But I think the question in and of itself is a fair one and it's relevant, and I've made my decision on that. The question I now have to deal with is if he chooses not to answer this question.

25

So I wonder if you could call him back in, please.

**MR. METZ:** Do you want me to call him?

**MR. ELIEFF:** This is a monkey business to me.

30



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E. ELIEFF, cr-ex.  
(Sanson)

ELIJAH ELIEFF, Resumed:

5

THE CHAIRPERSON: Mr. Elieff, I'm asking you once again to answer the question. Could you please tell the board what is the colour of your bathtub in your home?

10

THE WITNESS: I don't have a home, I don't have a bathtub of my own, so I cannot answer the question. Do you know that?

THE CHAIRPERSON: You don't have a home?

15

THE WITNESS: I don't have a home, I don't have a bathtub of my own, so I cannot answer.

THE CHAIRPERSON: Where do you live now, Mr. Elieff?

20

THE WITNESS: With my son.

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

25

Q. What colour is the bathtub in 6 Elaine Crescent?

A. It's not my house. Go see it, ask my son.

30

THE CHAIRPERSON: Mr. Elieff, when did you last live at 6 Elaine Crescent?

THE WITNESS: I still live there, but it's not my house.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: All right.

THE WITNESS: It's not my tub.

5

THE CHAIRPERSON: You still live there and  
there is a bathroom there?

THE WITNESS: There are two bathrooms and  
I ---

10

THE CHAIRPERSON: And do any of the  
bathrooms ---

THE WITNESS: It's not my house, I cannot  
give out something that's not mine. I only stay there.  
By all ---

15

THE CHAIRPERSON: I'm going to take a 10-  
minute break to consider this.

THE WITNESS: You know, by all common  
sense I don't have to answer that stupid question ---

20

THE CHAIRPERSON: All right.

THE WITNESS: --- because it's not my  
house.

25

THE CHAIRPERSON: It's now 12:40, I think  
we should adjourn for lunch now.

30

MS. SANSON: In terms of how we may or may  
not proceed, I have two persons who are now present to  
give expert evidence in reply. Your ruling certainly  
will have some bearing on how we will proceed from here,  
I would request, respectfully, if we might receive your



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E. ELIEFF, cr-ex.  
(Sanson)

ruling on this matter before we break for lunch. It would be of great assistance in ---

5

THE CHAIRPERSON: I see.

MS. SANSON: --- how we would proceed from here.

10

THE CHAIRPERSON: All right. Then I'll consider this for 10 minutes and come back.

15

Mr. Elieff, I want you to be aware of the seriousness of this. If you still persist in refusing to answer, as you have, to a question that is simple, and in my view relevant and fair, then one of the options that I have before me, and it's been the submission of counsel for the Commission, that I exercise my authority and strike from the record your evidence that you have given in this hearing, so that I will then not be able to rely on anything you have said in your defence.

20

That's the ramification, that is the effect of your -- it could be the effect of your choosing not to answer this question, which I have said is fair and reasonable and relevant.

25

THE WITNESS: M'hm. Well, if she told me this yesterday I could have tried to find it, bring a piece here so she can see the colour, because I cannot describe the colour.

30

THE CHAIRPERSON: Well, we're just asking



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E. ELIEFF, cr-ex.  
(Sanson)

you to describe the colour.

THE WITNESS: Cannot describe. Cannot describe it, unless ---

5

THE CHAIRPERSON: Can you tell me ---

THE WITNESS: And which bathtub, I've got two.

10

THE CHAIRPERSON: How many bathtubs do you have?

THE WITNESS: I've got two.

THE CHAIRPERSON: Well, if you could give me the colour of both bathtubs.

15

THE WITNESS: So I could have brought today pieces of both so she can see. I cannot say now.

THE CHAIRPERSON: Are you telling me that you ---

20

THE WITNESS: I cannot ---

THE CHAIRPERSON: --- are unable to distinguish ---

25

THE WITNESS: I don't want to -- yes, I cannot tell exact colour, because I never paid an attention to the colours, and I don't want to lie.

30

THE CHAIRPERSON: Okay. Mr. Elieff, I'll give you the four primary colours, yellow, blue, green and red, of course there are white and black. You might want to take them down. Red, yellow, green and blue.







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E. ELIEFF, cr-ex.  
(Sanson)

Can you tell me which of those colour categories your bathtubs fall into?

5

THE WITNESS: One in downstairs is kind of small pieces, one-by-one inch, very tiny.

THE CHAIRPERSON: Yes. Mosaic?

THE WITNESS: Yes. Which is like white -- white and green mix.

10

THE CHAIRPERSON: White and green, okay.

15

THE WITNESS: Mix. And the upstairs I'm not sure, it is a big pieces, like this or a little bigger, and I'm not sure, it's a bright colour. Whether it's a colour blue or green I don't know, unless I ask my son.

20

THE CHAIRPERSON: I'm talking about the tub itself, not the tiling around the wall. The tub, the bathtub.

THE WITNESS: Oh, the bathtub?

THE CHAIRPERSON: Yes, the bathtub.

25

THE WITNESS: Oh, okay. The one downstairs is white.

THE CHAIRPERSON: Yes.

30

THE WITNESS: And the one upstairs is pink kind of.

THE CHAIRPERSON: Okay.

THE WITNESS: Yes.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Thank you.

THE WITNESS: I thought you were talking  
about the tiles.

5

THE CHAIRPERSON: No, and I apologize if  
that was confusing.

10

All right. I think we can proceed. Do  
you want to proceed now or we'll take the break now and  
come back?

MS. SANSON: I'm certainly happy to take a  
break now.

15

THE CHAIRPERSON: It's 12:42, it might be  
good to take the break now, but I'm prepared to go on  
until one.

MS. SANSON: Certainly.

20

MR. METZ: Yes, I would prefer.

THE CHAIRPERSON: Okay, let's proceed  
until one o'clock, shall we?

Okay, go ahead.

25

BY MS. SANSON:

Q. Could you please tell me, Mr. Elieff,  
whether -- please tell me what apartment in 95 or 105  
Cheyenne has a pink bathtub?

30

A. I can't recall. I can't recall, I  
don't know. If there is any I don't know. I can't tell



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E. ELIEFF, cr-ex.  
(Sanson)

you, I don't know.

5

Q. Can you tell me, Mr. Elieff, if that's the receipt for your pink bathtub at 6 Elaine Crescent?

MR. METZ: What is the date on that receipt?

10

BY MS. SANSON:

Q. Mr. Elieff, perhaps you can read out the date?

15

THE CHAIRPERSON: What is the date on that receipt, Mr. Elieff?

THE WITNESS: August 22, '88.

THE CHAIRPERSON: August 22 ---

20

THE WITNESS: Eighty-eight ('88).

THE CHAIRPERSON: --- '88. And what does it say on the receipt? How is it described?

THE WITNESS: I don't know what she's trying to prove with this anyway.

25

BY MS. SANSON:

Q. Is that a receipt for your bathtub at 6 Elaine Crescent?

30

A. I don't know.

Q. It's got your address on here.



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E. ELIEFF, cr-ex.  
(Sanson)

A. I can't recall a thing about it. I  
can't tell you.

5

MR. METZ: Which address is on there?

MS. SANSON: Six (6) Elaine Crescent.

MR. METZ: Oh, it's addressed to 6 Elaine?

10

BY MS. SANSON:

Q. So you don't know whether this was a  
bill for the apartment buildings or your house, is that  
right?

15

A. I can't -- I can't recall this  
particular bill.

Q. But you filed this as a receipt for  
an expense on the apartment buildings, isn't that right?

20

A. I don't know, maybe it went by  
mistake in there.

MR. METZ: That's quite possible.

25

BY MS. SANSON:

Q. It's a big mistake, a \$1,600.00  
mistake.

A. Yes, it's gone by mistake, I'm sorry.  
I'm sorry if it's gone by mistake.

30

Q. Any other mistakes in there?

MR. METZ: I'm afraid that wouldn't have



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E. ELIEFF, cr-ex.  
(Sanson)

been Mr. Elieff's mistake, that would have been mine and Jack Plant's. There were some invoices relating to things over at the sub shop, Mr. Elieff just brought us bags of stuff.

5

**THE CHAIRPERSON:** I think Mr. Elieff has given his answer and we can move on.

**THE WITNESS:** That's all, yes.

10

**BY MS. SANSON:**

Q. Mr. Elieff, are there any receipts in the receipts you filed for brand new washing machines and dryers?

15

A. M'hm?

Q. Are there any receipts in the evidence you filed for brand new washers and dryers?

20

A. I don't know. I don't know what -- I gave a bunch of receipts to Mr. Metz.

Q. We had some receipts for used washers and dryers, isn't that true?

25

A. And those that I gave there, yes.

Q. So those were the only purchases you made for the building were the used washers and dryers?

30

A. Oh I don't know what was on the purchase. There are washers and dryers which I bought, yes, there were.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. They were used, right?

A. Used, yes.

5

Q. Right.

A. Used ones.

Q. Did you get a warranty with those?

10

A. I think about three months, something like that. But the guy kept fix them up and I know he gaved up on that, because they've been vandalized over and over again. Machines were okay, but lots of tenants would overload the machines and I never fighted it -- argued with them about it. So they want to ---

15

Q. Mr. Elieff, we heard ---

A. They want to save money, you know.

20

Q. We heard Mr. Van Moorsel give evidence yesterday that there were cobwebs in the machines.

A. What was it?

Q. Cobwebs in the washers and dryers.

25

A. What is that?

**THE CHAIRPERSON:** Cobweb is what a spider makes in corners of the house, et cetera, you know, the web that ---

30

**THE WITNESS:** Oh, he saw some in the behind, behind the machines?

**THE CHAIRPERSON:** Inside the machine.



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E. ELIEFF, cr-ex.  
(Sanson)

THE WITNESS: I don't believe that. Unless that machine's been there for -- probably. Maybe it was if it's been broken and stood for a month, you know, these spiders, they can make it overnight.

5

THE CHAIRPERSON: I think it's ---

BY MS. SANSON:

10

Q. You told Mr. Van Moorsel you were going to buy new machines at that time. Did you ever buy them?

15

A. No, I don't remember saying that. No.

Q. You told Mary -- did you tell Mary Mowatt ---

20

A. No.

Q. --- that they were brand new, the machines were brand new, when indeed they were used?

25

A. Oh, I don't know what I said. I don't know. I haven't -- you know, I got problem with the language here and maybe sometime I would say something and not in a way that can be understood wrongly.

30

Q. So when Mary Mowatt gave evidence about ---

A. So ---



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Please listen to me.

A. M'hm.

5

Q. Mary Mowatt gave evidence about coming over to look at these brand new washers and dryers, they weren't brand new washers and dryers?

10

A. Oh, they were looking very good shape and all, they were looking like new. They were very good shape.

Q. But they weren't brand new.

15

A. They weren't brand new, but I never told Mary "Oh, these are brand new" or used. That's not what she meant, she meant they are nice looking, clean and in good shape machines, in working order machines. That's what she meant to say.

20

Q. Well, Mary Mowatt gave evidence that those machines were brand new, and the reason she recalls that they were brand new is because you were so proud of those brand new machines that she came over and she had to look at those brand new machines.

25

A. Oh.

Q. And you heard her give that evidence.

30

A. Oh, no. Come on. The machines were good shape, that's it. I don't know what she said, but I never ---

THE CHAIRPERSON: Let's move on.



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E. ELIEFF, cr-ex.  
(Sanson)

**THE WITNESS:** That was never in question to whether they were brand new or not brand new.

5

**BY MS. SANSON:**

Q. Wouldn't you agree with me that it's likely when you buy a used machine you don't know what you're getting?

10

A. Oh, this is a nice -- nice people, nice company, we were ---

Q. Three months warranty. So anything happens after three months that's it?

15

A. Sure. After that I was always paying whatever was to break. Things were breaking and I was -- he was repairing them and I was paying him for repair, but too much of vandalisms continued.

20

Q. We don't have any receipts of -- other than the replacing the doors we don't have any receipts of washer and dryer repairs.

25

A. Oh, I don't know, maybe -- that's what I got these mistakes, you know. I've been maybe put a wrong one and missed others, what the heck. You ask him, he's been repairing it quite a lot.

30

Q. I'm going to put it to you, Mr. Elieff ---

A. Yes.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. --- after the door replacement on the used washers and dryers you made no further repairs to the washers and dryers, you left them, isn't that true?

5

A. No.

Q. You deny that?

A. No, I deny that.

Q. Thank you.

10

A. Not true. Not true. Not true.

Q. Now, early on in the hearing there was a person named Andy Smitties who you advised the parties and the board was your present superintendent, and that you were going to call him to come and give evidence on your behalf.

15

A. M'hm.

Q. Do you remember that?

20

A. Yes.

Q. And when you identified today the superintendents he wasn't one of the people that you identified as someone, isn't that ---

25

A. But he was not supposed to be superintendent right away, he was planning to become superintendent and that failed.

Q. You fired him, isn't that right?

30

A. That failed.

Q. You fired him?



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A. No, I didn't fire. He won't pay the rents and he won't -- you know, since I said I don't think, you know, you can do me a job, and he just went with a few months and paid rent. And too many of those went by over the years.

5

Q. Did you take eviction proceedings against him, Mr. Elieff?

10

A. Oh, I think I did.

Q. Well, I'd like to see those documents.

15

A. Well, these are coming after these accusations, so you're not going to drag this forever. Don't try to dig too much about this.

20

Q. I'm going to put it to you, Mr. Elieff ---

A. I'm not prepared ---

Q. --- that the reason that Mr. ---

A. --- to be here for long.

25

Q. --- Smitties is not your superintendent is because you fired him, and the reason that you fired him was because he assisted the tenants in moving when the sewers backed up on the first floor apartments.

30

A. Not true.

Q. You deny that?



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E. ELIEFF, cr-ex.  
(Sanson)

5

A. Not true. He wasn't superintendent and he tried to act as one, even though I said you're -- you know, you won't be good, and so he -- that's what happened.

10

Q. So you identified at the hearing this person as being your superintendent, you told everyone he was and that you were going to call him to give evidence for your case at the outset, and ---

15

A. No, no, no, I ---

Q. --- and now you say he was never your superintendent?

20

A. He was never my superintendent. He was supposed to be, but he never really actually was, okay. He was ---

THE CHAIRPERSON: When was he ---

25

THE WITNESS: He was my prospective superintendent.

THE CHAIRPERSON: When was he fired?

THE WITNESS: He was not fired, he just won't pay the rents for two months, three or four months, and I had to take action and spend some money to -- finally he left.

30

BY MS. SANSON:

Q. Do you agree with me that he helped



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942

E. ELIEFF, cr-ex.  
(Sanson)

the tenants to move out of those first floor apartments when the sewage backed up into other apartments?

5

A. I don't know, I wasn't there.

Q. You have no information about that?

A. I wasn't there.

Q. Do you have any information about that?

10

A. I was told that he was helping them, but I didn't see it, I wasn't there.

Q. And isn't it true that you got mad at him for helping those tenants move?

15

A. No.

Q. You deny that?

A. No, that's not true.

20

Q. Mr. Elieff, when did you first put your buildings up for sale? Was it back in 1985-1986?

A. I don't remember. Maybe you know better than me, I don't know.

25

**THE CHAIRPERSON:** Just try and recall.

**THE WITNESS:** I can't recall because that's not what -- why I am here.

**THE CHAIRPERSON:** Did ---

**THE WITNESS:** I don't know when.

30

**THE CHAIRPERSON:** Did you try to sell the buildings from time to time?



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E. ELIEFF, cr-ex.  
(Sanson)

THE WITNESS: Oh yes, I've been trying for  
a long time to sell it, but ---

5

THE CHAIRPERSON: And Ms. Sanson is asking  
you whether you tried to sell it on -- what was the date?

THE WITNESS: I don't remember when.

THE CHAIRPERSON: Just a minute.

10

What was the date, Ms. Sanson? What was  
the year?

MS. SANSON: Eighty-five, eighty-six  
( '85-86 ).

15

THE WITNESS: She probably knows better  
than -- more than I do.

THE CHAIRPERSON: Just answer the  
question. In '85 and '86, try and remember that, do you  
remember trying to sell your buildings then?

20

THE WITNESS: No. I was not trying, I was  
offer it around, you know. This serviceman was trying  
-- I was offered to sell them two months after I bought  
the buildings. And then I don't recall actually when  
first time I ask to put them on the market, I don't  
recall that, I'm sorry.

25

THE CHAIRPERSON: Okay.

Go ahead, Ms. Sanson.

30



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

5

Q. So you were interested in selling those buildings before you were ever approached by the tenant board, isn't that true?

A. I don't know what you mean. That's not true. Not true.

10

Q. Which is it, you don't know or it's not true? Should I repeat the question?

A. Yes.

15

Q. Okay. You've just said that you have had your buildings on the market to sell them.

A. M'hm.

20

Q. So you've been interested in selling those buildings before 1989, isn't that right?

A. Not interested, I was trying. Not interested, I wanted to sell them.

Q. So you were trying?

A. Yes.

25

Q. You were trying to sell them?

A. M'hm. Yes.

30

Q. So you were trying to sell them before Susan Eagle approached you?

A. Sure. I was -- I consider myself an investor, sell them and buy bigger, better, right.

Q. Thank you.



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945

E. ELIEFF, cr-ex.  
(Sanson)

A. What do you think?

5

Q. You agree with me that you spent significant legal expenses in proceeding to evict tenants that you were having problems with?

10

A. That was on my disadvantage, too bad for me, having tenants like that and having stupid laws like that, you know.

THE CHAIRPERSON: Mr. Elieff, did you or did you not spend money on legal expenses to have tenants evicted?

15

THE WITNESS: Yes. I was spending, yes.

THE CHAIRPERSON: Thank you.

**BY MS. SANSON:**

20

Q. So you agree with me that you knew what to do if you had a problem with a tenant ---

A. Oh, I didn't know ---

Q. --- was to fill in their application?

25

A. I didn't know what to do, but I had a -- I was told who can take -- do that for me, so -- what can you expect, to let them stay there four months without paying rent?

30

Q. So you knew what action you could take if you were having problems with a tenant, isn't that right?



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E. ELIEFF, cr-ex.  
(Sanson)

5

A. Yes, I had a -- I had a lady who was doing this as I -- when I bought the buildings I was informed that, you know, "If you got problems with this, this is the lady that can take care of that."

10

MR. METZ: If I may make an observation here? Much of the questions being asked have been gone over before, I just wonder why we're going through the same questioning again.

MS. SANSON: What question would that be, Mr. Metz?

15

MR. METZ: Well, we were aware that Mr. Elieff already has his buildings up for sale; we were aware that Mr. Elieff spent a lot of legal expenses ---

MS. SANSON: I don't think that was on the record.

20

MR. METZ: --- on evictions.

THE CHAIRPERSON: It's been a long time.

MR. METZ: It has been on the record.

25

THE CHAIRPERSON: I can't recall that question being asked, it was certainly news to me. But, in any event, in cross-examination you're free to make connections and ask a question related to evidence that's come in before, and so in that respect the question is appropriate. The question is appropriate.

30

This may be a good time to break. I would



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E. ELIEFF, cr-ex.  
(Sanson)

like to speak to Ms. Sanson and Mr. Metz for a minute  
just as everyone leaves.

5

**THE WITNESS:** Are we taking lunch after  
that, one hour?

**THE CHAIRPERSON:** We're going to break for  
lunch now. How long would everyone like to break for?

10

**THE WITNESS:** Forty-five (45) minutes.

**THE CHAIRPERSON:** Two o'clock?

**MR. METZ:** Two o'clock?

**THE CHAIRPERSON:** Two o'clock.

15

**MR. METZ:** What time is it? Yes.

**MS. SANSON:** Sure.

(DISCUSSION OFF THE RECORD)

20

**THE CHAIRPERSON:** This won't take long.  
I'm just -- I guess my question is to you, Ms. Sanson,  
how much longer do you think you'll be in cross-  
examination?

25

**MS. SANSON:** Well, I suspect it will be  
the rest of the day, although that ---

30

**THE CHAIRPERSON:** My reason for saying  
that is that I can tell you without much reservation that  
the witness is not a very co-operative witness, evidence  
has to be extracted from him, and there are many examples



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of equivocation and contradictory evidence, I think that  
would be apparent from the record. And this, of course,  
affects a person's credibility and you don't have to be a  
5 genius to realize that the weight given to his evidence  
is not going to be serious. So in that light I wonder  
how much is to be gained from extensive cross-  
examination?

10 **MS. SANSON:** I certainly hear you and I'm  
prepared to go back through and if there are points that  
I can make through argument by referring to documents  
already filed I'm prepared, certainly prepared to do  
15 that, having had the board's direction in that regard  
and I will go back over my remaining cross, which looks  
like a lot but I don't think is, as we veered somewhat in  
the original course of the cross. So I think that I can  
20 attempt to narrow it as much as possible.

**THE CHAIRPERSON:** Okay.

**MS. SANSON:** There are some areas that I  
haven't covered, and indeed documents specifically which  
25 I would like to have identified for the purposes of them  
being received.

**THE CHAIRPERSON:** Okay. That's all I  
wanted to say. It was said in an effort to not speed up  
30 the process, but to deal with the available time as  
expeditiously as possible.



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Thank you. Two o'clock.

--- Upon recessing at 1:02 p.m.

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950

E. ELIEFF, cr-ex.  
(Sansou)

--- Upon resuming at 2:20 p.m.

5

ELIJAH ELIEFF, Resumed:

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

10

Q. Mr. Elieff, how much do think it would cost for you to put locks on the front doors and the laundry room of the apartment buildings?

A. I don't know.

Q. Any idea? A guess?

A. No idea.

15

Q. Did you ever consider putting locks on the doors to the entranceways and the laundry room?

A. Not really.

20

Q. You agree with me that you've had a lot of problems with the plumbing over the course of, say, between '85 and -- at least through all the invoices you filed with respect to the plumbing, that you had a lot of problems with your plumbing in those buildings?

A. I would say so.

25

Q. Did you ever take any investigations as to figuring out what the source of the problem was?

A. Yes, I did.

30

Q. When did you do that?

A. Many times. Many times in the last



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E. ELIEFF, cr-ex.  
(Sanson)

-- since I bought them.

5

Q. Perhaps you could explain to me what it is that you did. Did you just respond when there was a back up or ---

A. Oh, I asked the ---

10

Q. --- did you try and get at the root of the ---

15

A. I asked the certain plumbers who worked they think is the problem, and Salmon Plumbing told me the main problem is that the people who live in those buildings are throwing countless things through the system.

20

Q. I have an invoice here, it's one of the ones you filed and it's Exhibit 16, it's an invoice dated July 30th, 1987.

A. M'hm.

25

Q. And on the description of the bill it was tending the main building drain and sewer and backing into the building, and one of the comments that's on here is the main building sewer with an overdeveloped length to the city sewer, so it looks like some of the piping going through to the city sewer might be too long. Would you agree that's what that's about?

30

A. That's what this particular mechanic is saying, but that's not what his boss told me.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Did you ever replace this pipe into  
the sewer?

5

A. No, because that's not what his boss  
said it is. This particular mechanic is what he thinks,  
but his boss said the people that live there are throwing  
all kinds of stuff.

10

Q. So you weren't interested in seeing  
whether replacing that pipe would solve it.

A. Oh, I was, but his boss said that's  
not it. So if this man's boss say that's not it, so why  
I have to do anything.

15

Q. Well, unfortunately we don't have a  
evidence of what his boss said before us.

A. Well, you're supposed -- you should  
hear more ---

20

Q. We've gone through all of those  
receipts, and there are a number of them.

A. Did you -- how many from the Salmon  
Plumbing?

25

Q. There's several. All the ones that  
you filed here.

A. Well, so check what else they're  
saying there.

30

Q. I've gone through them.

A. Yes. Did you find the one that sa



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E. ELIEFF, cr-ex.  
(Sansou)

"Drain, napkins, beer" -- I mean cans and stuff like that?

5

Q. We went through the ones that you wanted to rely on in your in-chief ---

A. So.

Q. --- and I'm asking you questions as to whether or not you investigated ---

10

A. Yes, I did.

Q. --- the overextended pipe ---

A. Oh, yes.

Q. --- your answer was no, you didn't.

15

A. Yes. Yes, I did.

Q. And you didn't do it because you didn't want to rely on what the person had to say ---

A. Yes, I ---

20

Q. --- isn't that right?

A. I said yes, but that's not what the

---

Q. Thank you.

25

A. --- the chief ---

Q. That's the answer to my question.

A. --- of the company says, okay.

30

**THE CHAIRPERSON:** I'm not sure I understood what question you were answering, Mr. Elieff.

**THE WITNESS:** You see, there is one bill



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E. ELIEFF, cr-ex.  
(Sanson)

there, that particular mechanic where they were -- who did the job at that time.

5

THE CHAIRPERSON: Yes.

THE WITNESS: It's what he thinks the problem is.

THE CHAIRPERSON: Yes.

10

THE WITNESS: But then I called his boss, Mr. Salmon, his brother who is senior piper and owner of the company, he came with me in person to check it out, and overall he told me the problem is the occupants that keep throwing the stuff that's not supposed to be thrown. Sorry, but that's what it is.

15

THE CHAIRPERSON: Okay.

20

BY MS. SANSON:

Q. Mr. Elieff, I'd like to take you through the specific allegations in the complaint of Chippheng Hom and just ask you to confirm or deny.

25

Do you agree that you said to Chippheng Hom that your custom likes roaches, or likes that roaches?

A. No, I don't agree.

30

Q. Did you say anything similar to that statement to her?

A. No, I didn't.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Is Chippheng Hom lying, Mr. Elieff?

A. Yes, she is.

5

Q. And do you agree with me that  
Chippheng Hom told you she didn't like roaches?

A. No, she didn't. I don't recall that.

10

Q. Did you tell her that if she didn't  
like the roaches she could move?

A. I didn't tell her in that fashion.

Q. Did you tell her that?

15

A. I never told her in that way. All I  
said to her or to anybody else, if she doesn't like the  
place she can move, but not about whether she likes  
cockroach or not. So that's not so.

20

Q. Did you tell her that at the time in  
question?

A. Eh?

25

Q. Did you tell her that when she  
complained to you about the roaches? Did you tell her if  
she didn't like the place she could move?

A. She never complained to me about the  
roaches.

30

Q. So when did you have occasion to tell  
her if she didn't like the place she could move?

A. I don't know. I don't know when and  
where, but I believe at one point I have said that, to



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E. ELIEFF, cr-ex.  
(Sanson)

her or to some of you here in the hearings, you know. I don't know, I don't -- and that is the truth, anybody doesn't like it they were always free to go.

5

Q. Did you tell her that her people eat stink fish?

A. No.

Q. You deny that?

10

A. Deny it.

Q. Did you tell her anything like that?

A. I don't recall.

15

Q. Is it all lies and nonsense, Mr. Elieff?

A. To me, yes.

Q. Do you agree with me that Chippheng Hom asked you for a two bedroom apartment?

20

A. She asked for a two bedroom, yes. She asked -- before she moved in she wants one bedroom and in the future she would like two bedroom, and she got what she wanted.

25

Q. Do you agree with me that when she asked you for a two bedroom you asked her whether she was a good girl or a bad girl?

A. No, not true.

30

Q. Did you tell other tenants that Cambodians are like roaches?



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E. ELIEFF, cr-ex.  
(Sanson)

A. Me, I don't remember, I don't recall  
and I believe I haven't.

5

Q. Did you tell that to anyone?

A. I have -- I have said, you know, that  
they brought the cockroaches, and if they like them or  
not you ask them, but I don't -- I don't recall saying  
stuff the way that you're asking me to say.

10

Q. I'm going to ask you some questions  
about the evidence that Susan Eagle gave.

A. M'hm.

15

Q. Do you agree that once when she  
personally came to deliver some notices to you at your  
sub shop you personally assaulted her?

A. No, I never assaulted anyone.

20

Q. Never touched her?

A. I just told her get out.

Q. Did you touch her? Did you grab her?

A. No, I didn't grab her.

25

Q. Never touched her?

A. I just ordered her out and -- yes, I  
touched her, go out, because she refused to go.

Q. Did you grab her by the arm?

30

A. I don't know. I didn't grab her, I  
just did told her, you know, to go out.

Q. Did you push her? Did you push her?



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E. ELIEFF, cr-ex.  
(Sansons)

A. Because that's another business, that's another job position of mine and I've got perfect right to do that, to her or anybody else.

5

Q. The next question I have for you ---

THE CHAIRPERSON: Just before you move on.

Mr. Elieff, what won't be recorded in a transcript is your hand motion when you were talking about asking Ms. ---

10

THE WITNESS: I asked her to leave, that's all.

15

THE CHAIRPERSON: --- Eagle. But you indicated with your hand that you were asking her to leave, does that mean that you were touching her?

THE WITNESS: That mean I put my hand on her left arm ---

20

THE CHAIRPERSON: Yes.

THE WITNESS: --- and she just start going out.

25

BY MS. SANSON:

Q. But you didn't push her?

A. I didn't have to because she just left. If she don't left I don't know what I would have done.

30

THE CHAIRPERSON: Okay.



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

5

Q. Do you agree with me that one time you directed the health department to get in touch with Susan Eagle in order to arrange for the roach spraying?

10

A. I don't -- I don't told them the way you say I did, I told them "Here is Susan Eagle and yourselves, do what you want, because I stopped being co-operate with your department". Because they had told me first time "Let's spray the cockroaches, it look okay", so I agree and ---

15

Q. Mr. Elieff ---

A. And the second time they said ---

Q. Mr. Elieff ---

A. --- "Do it again", and then I did ---

20

Q. Mr. Elieff ---

**THE CHAIRPERSON:** Just answer. Answer the question.

25

BY MS. SANSON:

Q. Would you just answer the question?

A. Yes.

30

Q. After you were fined in 1989 is it true you were walking up and down the parking lot at the Cheyenne apartments with a sledgehammer?

A. Sure, I was doing my job there.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Do you agree with me that the tenants would be frightened of you walking up and down the parking lot with a sledgehammer in your hand?

5

A. Why would they be frightened, I'm going my job, you know, watching for them.

Q. Watching for them with a sledgehammer?

10

A. Sure, watching. Not to hurt anybody, but I was doing my job breaking those things in pieces so I can fix it up, because I was being ordered to fix it up.

15

Q. And you don't think that gave any cause to be afraid of you?

A. Oh, I don't know. I don't know. I was doing my job.

20

Q. Why weren't you doing your job before, Mr. Elieff?

A. That's the time when I choose to do it.

25

Q. After your fine.

A. I'll tell you what, I don't know it was after or before. I don't know.

30

Q. Mr. Elieff, do you see it as your obligation to take appropriate action to cure the cockroach problem?



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E. ELIEFF, cr-ex.  
(Sanson)

A. I tried.

5

Q. Do you see it as your obligation to  
cure the cockroach problem? Do you see it as your  
obligation?

A. Yes, I saw it as my obligation.

Q. Thank you.

10

A. Yes, but I couldn't make it.

Q. Thank you.

A. But I couldn't do it.

Q. I'd like to ask my next question.

15

A. Yes.

Q. Mr. Elieff, Chippheng's evidence in  
reply will be that the notice regarding the rent increase  
was taped on her door. Now, your evidence was that you  
hand delivered it.

20

A. Yes.

Q. And that's your evidence?

A. M'hm.

25

Q. And you also gave evidence that you  
had two witnesses.

A. Yes, I had.

Q. And you described, was it Mike Scur  
as being one of those witnesses?

30

A. Whoever they were.

Q. Who was it? You don't remember?



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E. ELIEFF, cr-ex.  
(Sanson)

A. Whoever they were, Mike Sucur and another guy, Ivan.

5

Q. Ivan who?

A. Milodine, Malodine, something like that.

10

Q. Now, we had Mike Sucur here, why didn't he give evidence that he had ---

A. Because ---

Q. --- witnessed you giving the rental increase to Chippheng?

15

A. That wasn't -- that wasn't in question I thought then. You know, it's not relevant. It wasn't relevant -- relevant to me, because I thought, you know, it's a separate stuff like that. You know, this is one complaining here and that's another at the time complaining against me, which I wanted to separate, keep it separate.

20

Q. Well, it was your evidence that you had two witnesses see it, don't you think they would have assisted your case when you had the witness here?

25

A. It would have -- it would have assist me if I was present at court, but I missed the date, so that's why I couldn't use my power there.

30

Q. Do you agree with me that you went on the air on the radio after one day to blame the tenants



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E. ELIEFF, cr-ex.  
(Sanson)

after one of the days of proceedings for the unpaid PUC  
bills and that you said it's the tenant's fault that the  
PUC bills are unpaid because the lights -- they keep the  
lights on all night and all day?

5

A. Yes.

Q. Isn't that the reason?

10

A. I don't know what the reason, but  
that's what ---

Q. You blame the tenants for that? The  
tenant's fault?

15

A. Oh, I blame them for a lot of doing  
just that, yes.

Q. Do you still agree you're the best  
landlord in town, Mr. Elieff?

A. Still the best.

20

Q. Still the best?

A. Yes, but I'm dead now. The best dead  
landlord. I might be resurrected some day, never know.

25

Q. Mr. Elieff, in December, after the  
first hearing day, Chippheng paid her rent to Zeranco and  
then I understand that you came back and handed the  
cheque back to her and said you were going to have her  
evicted, is that true?

30

A. I don't remember the details, I don't  
know. Like if I did it probably because she didn't make



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E. ELIEFF, cr-ex.  
(Sansou)

the full rent which I thought I was entitled.

5

Q. Do you -- is it your evidence that you handed the cheque back to her and told her you were going to evict her?

10

A. I believe that's what I did, but -- and that's the reason why it was done, because -- well, we talk about it.

Q. I'm going to refer specifically now to the transcript of November 16th at page 101.

Do we have the November 16th?

15

THE CHAIRPERSON: Yes.

MS. SANSON: We do?

THE CHAIRPERSON: That's right, November 16th. Monday, November 16th, page 101.

20

BY MS. SANSON:

25

Q. Now, throughout the course of this hearing we've heard from you that Susan Eagle is a liar, and the basis for you calling Susan Eagle a liar is because of what she said to Judge McArthur, isn't that right?

30

A. That is main -- main -- that's how it started it with her as a lying witness, because she came there the first time. There were two cases.

Q. Two times, and you said at page 101



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E. ELIEFF, cr-ex.  
(Sanson)

"He believed her the first time and then second time he rebuked her for lying second time."

5

Judge McArthur rebuked ---

A. Yes. Yes, he did, yes.

Q. Okay. And then the board said he can't accept that as evidence.

10

A. M'hm.

Q. And then you said:

"What she is saying now what ..."

A. Well ---

15

Q. I just want to read your evidence to you ---

A. M'hm.

Q. --- and ask you to confirm that:

20

"What she is saying now what has to do with this, most of what she is talking about now has nothing to do with this, her original accusations, right?"

25

A. M'hm. And that's second time here. Here saying here is the second time, not the first time. The second time we won the case, but the first time she lied and I lost the case.

30

Q. You said she lied both times.



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E. ELIEFF, cr-ex.  
(Sanson)

5

A. The second time she tried to, but she couldn't. She couldn't lie because, you know, it was proven the way the tenant wrecked the place, it was proven everything, that we fixed the place through professionals and so I ---

10

Q. Okay. Mr. Elieff, I'm going to refer you ---

A. --- proved it.

Q. --- back to your evidence at page 101. Your question to ---

15

A. That's second time. Don't tell me the same.

Q. --- Susan Eagle.

20

"This is all combined. Why did you come over there twice lying in front of Judge McArthur and there were no dogs, not (sic) cats in the one apartment. Therefore ..."

25

A. That's what she said first time, yes.

Q. And she said that the second time, "twice lying".

30

A. The second time she tried to, but that couldn't -- they didn't take any weight, they talked to her and the judge rebuked her before she even opened her mouth.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. "He believed her the first time and then second time he rebuked her for lying second time."

5

So she lied twice?

A. For lying. She was lying first time, and tried to lie second time, okay. That against comes my English language, but that's what I meant.

10

Q. Okay. So nowhere in here was it ---

A. That's proven.

Q. --- that she ---

15

A. That's been proven. The second time she was not given chance to lie, she started but she was rebuked and she shut her mouth and we won the case. Shame on her.

20

Q. Mr. Elieff, is this a copy of a note you were passing around to your tenants? It says:

"You must pay your rent to your lanlord (sic). Wicked Susan is a lyer (sic)."

25

It's signed "Elija".

A. At some point of time, yes, I gave these notes, yes.

30

MS. SANSON: A copy of that note can be found in the yellow volume and I'd like to have that entered as an exhibit. It may be found at Tab 51.



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: You'd like it produced as an exhibit. I can't remember how far we went in putting in the other documents, are you going to ---

5

MS. SANSON: If we could just identify them by the number that they are?

THE CHAIRPERSON: All right.

10

MS. SANSON: It's my intention to have all of these entered by the time that we're done, so the order may be mixed up as we're going through them, but it may make it easier for reference afterwards.

THE CHAIRPERSON: Okay.

15

MR. METZ: What is the date on this note? There's no date on mine.

MS. SANSON: There is no date, it's undated. Mr. Elieff has identified it as having passed it around to the tenants at some point, I would ---

20

THE CHAIRPERSON: At Tab 51 there are two notes.

MS. SANSON: The first one.

25

THE CHAIRPERSON: Okay. All right, we'll introduce that as Exhibit No. 51.

30

--- EXHIBIT NO. 51: Undated note signed "Elija".



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E. ELIEFF, cr-ex.  
(Sansou)

BY MS. SANSON:

5

Q. Mr. Elieff, am I correct in assuming that this note came out some time after the tenants started paying their rent to a trust fund, that's why this ---

10

A. No, no. It came in the beginning when Susan Eagle tell them to pay the rents to her, and I had no idea which way it would turn around. I didn't know which way it will go.

15

Q. So it was around December of '92?

A. It was in the beginning after Susan -- after some tenants start telling me "Oh, Susan Eagle is asking us to pay to her". There was no -- anyway, I got no idea what would have ---

20

Q. So that was around December of '92, is that right?

A. I don't know, whenever it was.

25

Q. That's when you stopped paying the utilities, you got your final notice?

A. No, no. No, no.

30

Q. Did you get your rents in November of '92?

A. No, you don't listen to me. This was -- I did this right after one or two tenants told me Eagle is persuading them to start paying it to her.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. Mr. Elieff, did you get your rents in November of '92?

A. So I don't know when.

5

Q. Did you get your rents in November of '92? Did you collect your rents then?

A. Well, we're talking about this note, okay.

10

Q. Yes.

A. So there's no date, right.

Q. Please answer my question. Did you receive your rents from your tenants in November of '92?

15

A. I don't know.

Q. You don't know.

A. I don't know.

20

THE CHAIRPERSON: Mr. Elieff, we're trying to find out ---

THE WITNESS: I receive some, some don't, you know.

25

THE CHAIRPERSON: Mr. Elieff, we're trying to find out the approximate ---

THE WITNESS: When the note was given out.

THE CHAIRPERSON: Right.

30

THE WITNESS: Well, there's no date, I don't know.

THE CHAIRPERSON: But without a date being



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E. ELIEFF, cr-ex.  
(Sansou)

on there ---

THE WITNESS: But all I can recall is shortly after the people start not paying the rent.

5

THE CHAIRPERSON: Right. Shortly after -- you said shortly after they started not paying their rents.

THE WITNESS: M'hm.

10

THE CHAIRPERSON: And when did they begin to not pay their rents?

THE WITNESS: I don't know out of hand when was that. I don't know. I don't know that.

15

THE CHAIRPERSON: Ms. Sanson was asking you whether it was around the time they were moving to have rents paid elsewhere.

20

THE WITNESS: Probably that was on Susan Mann, which I didn't know at the time, right. In the beginning I didn't know what would have developed.

THE CHAIRPERSON: And was that in the fall of 1992?

25

THE WITNESS: I don't know.

THE CHAIRPERSON: You don't know?

30

THE WITNESS: I don't know. All I know is the key thing about this notice I know that I give this note right -- or when I start getting first sign of people who were telling me "We're paying to -- we're



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E. ELIEFF, cr-ex.  
(Sanson)

going to be paying to Susan Eagle".

THE CHAIRPERSON: Okay.

5

THE WITNESS: And that's when I say "No,  
you must pay to me." I don't know when it was.

THE CHAIRPERSON: Let's move on.

10

BY MS. SANSON:

Q. Mr. Elieff, when you cross-examined  
Irina Sucur, or when you examined her you said, in  
reference to this tenant and Susan Eagle giving evidence  
at the hearing, you said to her:

15

"I don't know what was her name  
that's the tenant that I get to go to  
the courts with other six, seven  
tenants. And that's the tenant that  
Susan Eagle testified that she had no  
dogs, no cats."

20

And that's found at page 46 of the December 28th  
transcript, 1992, and I'll just ---

25

A. What is the question about it?

Q. I just want to refresh your memory.

That was the question. That was the information that you  
put to your witness, Irina Sucur.

30

A. What, the yellow mark?

Q. M'hm.



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E. ELIEFF, cr-ex.  
(Sanson)

MR. METZ: Which date and page is that on?

MS. SANSON: It's page 46 and it's  
December 28th.

5

BY MS. SANSON:

10

Q. And that's the question you asked and  
this is the answer given by Irina Sucur, can you read  
that out, please?

A. I don't know, who are they talking  
about?

15

Q. You have Irina Sucur ---

A. Well, this is for ---

Q. --- on the stand and you asked her  
about the tenant you evicted with the dogs and animals.  
You couldn't remember the name of the tenant:

20

"... but that's the tenant that I get  
to go to the courts with other six,  
seven tenants. And that's the tenant  
that Susan Eagle testified that she  
had no dogs, no cats."

25

A. Who is talking this?

Q. This is Irina Sucur.

A. She's talking about it, right?

30

Q. Yes. And she's giving her evidence  
now, and her evidence is:



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"Yes she had dogs. First it was two, afterwards one."

5

A. M'hm. So what about this? She said -- at that time I'm saying that I didn't know the name of the tenant that time, is that what you're saying?

10

Q. That's right. But your asking Irina Sucur about how many dogs this tenant had.

A. So she said ---

Q. Seemingly ---

A. Yes.

15

Q. --- she said:

"Yes she had dogs. First it was , afterwards one."

20

A. Yes, yes. What you want? There were more than two.

Q. We also had some evidence from ---

A. Many dogs, and cats too.

THE CHAIRPERSON: Just hear the question.

25

BY MS. SANSON:

Q. --- from Mike Sucur and to the effect that:

30

"Yes, she went to court and Mrs. Susan Eagle swear on the Bible that there wasn't no dog there at all."



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E. ELIEFF, cr-ex.  
(Sanson)

A. That's right.

Q. And recalls that she was telling untruths to the judge.

5

A. M'hm.

10

Q. Now, Mr. Elieff, I asked you to get the judgment of Mr. Justice McCart in these proceedings, and you got them for me, and they're found at Tab 45 of the exhibits, and I'd like you to just take a look through these judgments and tell me or show me any place where it's found that Susan Eagle was lying or that the judge rebuked her for lying.

15

A. Well, I don't know if the courts are recording what she was saying.

Q. Okay.

20

A. I don't know that.

Q. So you agree with me, there's nothing in there ---

A. I don't know ---

25

Q. --- that says Susan Eagle is a liar?

A. --- if there is something or not, I don't know that.

30

Q. Well, you check it right now and you tell me.

A. But there is -- there must be in the first judgment, first time. These are the judgments --



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E. ELIEFF, cr-ex.  
(Sanson)

not in these but the first one. What happened to the first one?

5

Q. They're all in here, the ones that you gave me.

A. No, no, no, the first one where she was lying and I lost the case.

10

Q. M'hm. You said she was lying in both cases, that was your evidence.

A. And she tried on the second, but she was not taken -- not believed.

15

THE CHAIRPERSON: Counsel, I'm not sure ---

THE WITNESS: So because the second time I have all the proofs in the world to show him, that's why I won.

20

MS. SANSON: Okay.

THE CHAIRPERSON: I'm not sure the witness appreciates the difference between the judgment and any transcripts of proceedings.

25

MS. SANSON: No, and I -- my question is merely whether there's anything in these judgments that have an indication that Susan Eagle was lying or that Susan Eagle was found to be untruthful.

30

THE WITNESS: That's the reason why I lost this case first time, because she came as a lying



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E. ELIEFF, cr-ex.  
(Sanson)

witness.

BY MS. SANSON:

5

Q. Okay.

A. Said it's not true what Elijah is saying.

10

Q. Mr. Elieff, we've got the transcript from that second proceeding, and that's found at ---

A. Second is not important for me. The first one is what I'm accusing Eagle.

15

Q. Well, that's really interesting now, Mr. Elieff ---

A. Right. Where is the first one?

20

Q. --- because you said she was lying both times. Let's take a look at what she said the second time. This is found at Tab 46, this is the -- this is the evidence of Susan Eagle during this proceeding, and we've had that, her evidence in entirety.

25

Now, I'm going to refer to her evidence that she gave in this proceeding.

A. Well, there was ---

30

Q. Beginning at page 5 -- you just let me read this to you. Here is her evidence:

"Does Miss McIntosh keep animals in her apartment?"



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E. ELIEFF, cr-ex.  
(Sanson)

Answer by Susan Eagle:

Yes, she keeps - she has had one dog,  
and I now see she has two dogs.

5

Q. Did you notice any animal  
excrement in the apartment itself?

A. No, I didn't, and I was through  
the whole apartment.

10

Q. Have you ever been outside around  
the balcony area?

A. Yes, I have.

Q. Did you notice any animal  
excrement out there?

15

A. I have not known of any anytime I  
have been there.

MISS McQUARRIE: Thank you.

20

THE COURT: Mr. Adams.

CROSS-EXAMINATION BY MR. ADAMS:

Q. To deal with the last item first,  
the issue of the dogs. You gave  
evidence at an earlier hearing  
involving Grace McIntosh?

25

A. Yes, I did.

Q. Were you aware, at the time, that  
there was a problem with dogs,  
that she had dogs?

30



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A. I was aware she had dogs, and said so. I was not aware of any problems with dogs.

5

Q. I see.

A. I was asked if there were cats, and I said, no.

10

Q. Were you aware of some other animals that she had, some gerbels (sic)? Do you know about those?

15

A. I've never seen any gerbels (sic)."

So you show me where the judge rebuked for lying, or where she was lying in her evidence here.

20

A. No, no. This is second time anyways here, and ---

Q. You said she was lying both times earlier on, Mr. Elieff.

25

A. She did some lying here too, but ---

Q. Where's the lie? Show me where the lie is.

30

A. They're not recorded on. She said there is not gerbils, there was gerbils. I know it was. So it's a lie, it's a lie to me and to the judge.

Q. Show me where the court rebuked her



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E. ELIEFF, cr-ex.  
(Sanson)

for lying, I'd like to see that.

5

A. Oh, to me rebuking means losing the case. That's what it is rebuking, you know. But in the first time she did said there is no dogs; there is no cats; she didn't wreck the place; Elijah give to her the way it is; but second time she could not prove that, even though she tried.

10

Q. Well, it seems like she said in her first -- the first time around ---

A. Never mind what it seems.

15

Q. --- that there was dogs, and she said so. I don't think she's ---

A. No, we'll find the original when I need it for me in the future, don't worry about this.

20

Q. Well, I won't worry about it, Mr. Elieff ---

A. Don't worry.

25

Q. --- but you've made some pretty strong allegations ---

A. Yes.

Q. --- that somebody lied ---

A. Yes.

30

Q. --- in a court proceeding ---

A. Yes.

Q. --- and I don't see any ---



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E. ELIEFF, cr-ex.  
(Sanson)

A. Sure, lied.

Q. --- rebukes by a judge ---

A. Yes.

5

Q. --- and I don't see any lies on this transcript ---

A. Sure, lies.

Q. --- Mr. Elieff.

10

A. Because she said she didn't destroy the place, when she did. That's a lie, all right. She tried to say -- she said first time she didn't destroy the place, and I lost, including no -- there is no pets. The second time she couldn't do it because I had the proof, and they lost.

15

THE CHAIRPERSON: Let's move on.

20

BY MS. SANSON:

Q. One last question, Mr. Elieff, did you review this document before you gave evidence? Were you reading this document before you gave evidence in court today?

25

A. Which?

Q. This one I just showed you.

A. Well, I read it before.

30

Q. When?

A. When I gave it to Metz.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. You didn't give it to Mr. Metz.

MR. METZ: Which one are we talking about?

THE WITNESS: I think I did.

5

MS. SANSON: The transcript.

MR. METZ: No, he ---

THE WITNESS: I don't know what you're  
talking about.

10

MS. SANSON: The transcript of the court  
proceedings we obtained from the court. The first time  
Mr. Elieff would have seen it was when I provided it to  
Mr. Metz.

15

MR. METZ: He hasn't seen it.

THE WITNESS: I don't know. I don't know  
what your talking ---

20

MS. SANSON: I'm asking Mr. ---

THE WITNESS: I don't know what you're  
talking about, which ---

THE CHAIRPERSON: This transcript ---

MR. METZ: We're talking about this.

25

THE CHAIRPERSON: --- that Ms. Sanson has  
just shown you, did you read it before? That's her  
question.

30

THE WITNESS: Those judgments?



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

5

Q. Not these, this one. Did Mr. Metz show you this? Did Mr. Metz show you this book before you gave evidence today? It's a simple question, Mr. Elieff.

A. No.

10

Q. He didn't show you this book? Is this the first time you've seen this document?

A. But these documents I gave it to him, I mean they're documents concerning these judgments, whatever they are.

15

THE CHAIRPERSON: I think the witness is confused.

MR. METZ: He didn't give me these. These aren't from Mr. Elieff.

20

THE CHAIRPERSON: He's thinking of the judgments.

MR. METZ: I haven't seen these before today.

25

THE WITNESS: I don't know.

BY MS. SANSON:

30

Q. Mr. Elieff, I'm going to ask you to take a look at some of your rental rolls and ask you to identify some comments. This is your December 1, 1990







12-1-50

The first part of the report deals with the general situation in the country and the progress made during the year.

The second part of the report deals with the work done in the various departments during the year.

The third part of the report deals with the work done in the various departments during the year.

The fourth part of the report deals with the work done in the various departments during the year.

The fifth part of the report deals with the work done in the various departments during the year.

The sixth part of the report deals with the work done in the various departments during the year.

The seventh part of the report deals with the work done in the various departments during the year.

The eighth part of the report deals with the work done in the various departments during the year.



Annual Report of the Department of the Interior, 1950

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E. ELIEFF, cr-ex.  
(Sanson)

---

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A. I want -- this is given to you to see the vacancies, and never mind what I said there, what I've written there in shorthand.

10

Q. Mr. Elieff, answer my question, and I haven't asked you my question so please listen to me, okay. Is this -- number 18, is this Chippheng Hom?

A. Yes.

Q. And what's this word written beside her rent? Is that "asshole", Mr. Elieff?

15

A. Yes, sure.

Q. Did you write that?

A. Sure. At this time -- this point of time she was an ass to me ---

20

Q. Okay.

A. --- so what's it about.

Q. And March 1 of 1991 again.

A. Yes, m'hm.

25

Q. Have you written "shit" beside her name?

A. Yes.

Q. And "Termination"?

A. Yes.

30

Q. And that's your writing?

A. Probably it is, I'm not sure ev



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E. ELIEFF, cr-ex.  
(Sanson)

though.

Q. You're not sure. Who fills out these?

5

A. With these anybody can ---

Q. You don't recognize your handwriting?

A. Anybody can, you know, but if it is me, if you think it's me it's me, what the heck.

10

Q. Well ---

A. What do you want to ---

Q. --- you're the one that knows whether it's you or not. Did you write it or didn't you?

15

A. I'm not positively sure. But the purpose of this, I know what was the person giving it ---

Q. Would you answer my question. Is this your handwriting or isn't it? Is that your handwriting?

20

A. It looks like, but could be imitated by someone. I don't know if it's me or ---

**THE CHAIRPERSON:** I think we have the answer.

25

**THE WITNESS:** I told you many times too, whole thing is bullshit to me.

**THE CHAIRPERSON:** Okay.

30

**THE WITNESS:** The whole thing is terrible.

What you want?



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E. ELIEFF, cr-ex.  
(Sanson)

THE CHAIRPERSON: Okay, Mr. Elieff.

BY MS. SANSON:

5

Q. Now, Mr. Elieff, you've said that you never had any cockroach problems whatsoever prior to 1985, or prior to the Cambodian and Vietnamese tenants coming to your apartments ---

10

A. I never ---

Q. --- is that true?

15

A. I never knew what a cockroach is or how it looks like until they came and then I saw it. Previously Irina Sucur was telling me "Don't take them, they bring in cockroach", I say "What the hell is that?" "Well, it's a bug that will never go away after you got it." I couldn't believe it.

20

Q. So can you explain to me why you had a contract for roach control in 1984 if you never had any problems?

25

A. Well, I was forced by health department.

Q. In 1984 you were forced by health department?

30

A. All these contracts, that's how I inherit -- that's how I bought the buildings and I assume, you know, and I bought it the way it was and



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E. ELIEFF, cr-ex.  
(Sanson)

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these were -- bought it with the contract, so the pest control was supposed to control the pest, right. But they were never able to control the cockroaches, I tell you that for sure.

10

And I don't hate it. If something we cannot beat it, you know, if you can't beat it, join it. That's how I think, you know. We're only humans, there's so much around we don't like, but what choice we have.

THE CHAIRPERSON: Ms. Sanson.

MS. SANSON: Thank you.

15

BY MS. SANSON:

20

Q. How many times have you been in to check the condition of Chippeng Hom's apartment since the time she's been there?

A. Many times.

Q. Roughly how many?

25

A. Many attempts I've been doing. And we've been doing the repairs, my son's been doing the repairs.

Q. You?

A. We do it a lot, you know.

30

Q. The question is you?

A. We personally ---

Q. Will you listen to my question and



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E. ELIEFF, cr-ex.  
(Sanson)

then please answer my question. We'll get out of her a lot faster.

5

A. Well, I said, I told you, many times.

Q. You, yourself?

A. Myself, I've been ---

Q. How many times would you say in the time she's been here?

10

A. We're not fighting times.

Q. Roughly?

A. More than two times.

Q. More than two times.

15

A. Three -- two or three times.

THE CHAIRPERSON: Two or three times.

BY MS. SANSON:

20

Q. Less than 10?

A. Hey, more than two times, I don't know. It could be less than 20. Attempts I mean, made attempts, but no co-operation.

25

Q. And you agree with me in 1992 you were ordered to spray for roaches and you refused to spray?

30

A. Yes. That's what I said, I was fighting the health department, you know, why would I be responsible to do this, you know. And they said



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E. ELIEFF, cr-ex.  
(Sansons)

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cockroaches were brought by these people, I know, and you're telling me, yes, it's them who brought these. I believe it's them because "we know" they say to me, how they got these cockroaches. They told me, you know, they say "From Asia is coming bulk food to the ship and the cockroach, their eggs are in the food as they come."

10

Q. Thank you, Mr. Elieff. I think my question was ---

A. That's how ---

15

Q. --- answered about four sentences ago and I'm going to ask you again to direct your answers to the specific questions.

A. Yes, sure.

Q. Okay?

20

A. Sure.

Q. Do you agree with me that you directed your son to go into Chippeng Hom's apartment in December to take photographs of her apartment?

25

A. No, I didn't.

Q. You didn't tell him to do that?

A. I didn't.

30

Q. Did he think of that all by himself or did you tell him?

A. I guess he thought it over himself.

Q. You had nothing to do with it?



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E. ELIEFF, cr-ex.  
(Sanson)

A. Nothing to do with it.

Q. But he acts on your behalf?

5

A. I don't know, you've got to ask him  
which ---

Q. You don't know? Who helps you out in  
looking after the buildings?

10

A. Looking after, yes, but doing stuff  
like that, I didn't ask him and I don't know why he did  
it. I always telling him "Leave my problems to me, don't  
get too much involved with the problems. Help me what  
you can help, problems leave it to me." But he sometimes  
oversteps trying to help me in a way he's not may  
supposed to and that's -- he did it on his own.

15

**THE CHAIRPERSON:** You mean in this  
particular case?

20

**THE WITNESS:** In this particular case,  
yes. He did it on his own. The first time I saw the  
pictures was when he showed it, you know. I was  
surprised.

25

**BY MS. SANSON:**

Q. Did you ask Chippheng Hom for her  
permission to take the photographs of her apartment?

30

A. I told you.

Q. Did you ask Chippheng Hom for her



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E. ELIEFF, cr-ex.  
(Sanson)

permission to take photographs?

A. I got nothing to do with it.

Q. Yes or no?

5

A. I got nothing to do with it, that's  
it.

Q. Did you ask Chippheng Hom for her  
permission to take the photographs, Mr. Elieff?

10

A. Come on.

**THE CHAIRPERSON:** Just answer the  
question. Did you ask -- did you ask Ms. Hom whether you  
could, or someone else could, have photographs taken of  
her apartment, yes or no?

15

**THE WITNESS:** I haven't asked her anything  
about it.

**THE CHAIRPERSON:** Is that a no?

20

**THE WITNESS:** I haven't. If I ask ---

**BY MS. SANSON:**

25

Q. Did you inquire with your son as to  
whether he ---

A. I didn't ask her ---

Q. --- asked permission?

30

A. --- and I didn't inquire. It's  
nothing ---

Q. You didn't see it as your



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E. ELIEFF, cr-ex.  
(Sanson)

responsibility as a landlord to find out whether your son  
got permission to take photographs of Chippheng's  
apartment?

5

A. What's your problem? He did on his  
own, I never knew it.

Q. Did you inquire?

A. What you want from me?

10

Q. Did you speak to your son about it?

A. I had nothing to do with it. There's  
no sense for me to -- for you to ask me questions when I  
just don't know ---

15

Q. Would you please answer ---

A. --- why he did it.

Q. --- my question, Mr. Elieff? I'm  
going to ---

20

A. What a stupid question.

Q. --- ask you the question one more  
time. Did you inquire to your son ---

A. No.

25

Q. --- as to whether he had sought  
permission? No? Thank you.

A. What are you -- I don't understand  
your question.

30

THE CHAIRPERSON: Yes, all right.

THE WITNESS: I don't understand the



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E. ELIEFF, cr-ex.  
(Sanson)

stupid questions here.

MR. METZ: It's a non sequitur.

5

THE WITNESS: I got nothing to do with it,  
that's it.

MS. SANSON: Mr. Metz, please keep your  
comments to yourself.

10

THE WITNESS: Don't ---

MS. SANSON: You'll have a chance to make  
final argument at the end of the day. If you have some  
submissions then we'll ask for the witness to be  
excluded, but otherwise I would ask that you practise  
some common courtesy when I'm conducting my cross-  
examination and keep your comments to yourself.

15

THE WITNESS: Hey, hey.

20

THE CHAIRPERSON: Mr. Elieff, would you  
please focus on the questions that are going to be asked  
to you ---

THE WITNESS: Well, I ---

25

THE CHAIRPERSON: --- and answer them  
directly.

30

THE WITNESS: I expect you, sir, to  
control the matter. I told you I got nothing to do with  
it, I got nothing to do with it, I don't need to hear any  
more questions about it. I don't got no idea why my son  
did it, when he did it, how he did it, I got no idea of



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E. ELIEFF, cr-ex.  
(Sanson)

it.

THE CHAIRPERSON: We just needed that ---

5

THE WITNESS: I don't want to get in something, saying something when I got nothing to do with that, so what the hell.

THE CHAIRPERSON: Okay.

10

THE WITNESS: I want -- I expect you, sir

THE CHAIRPERSON: All right.

THE WITNESS: --- to control your ---

15

THE CHAIRPERSON: All right.

Ms. Sanson?

BY MS. SANSON:

20

Q. Mr. Elieff, is it possible that Chippeng Hom was afraid of you and your reactions in coming to you for assistance?

A. I was afraid of them.

25

Q. Do you agree with me that it's likely she was afraid to come to you ---

A. No.

Q. --- because of how you treated her?

A. No, I don't agree with you.

30

Q. She shouldn't be afraid of you?

A. She's not afraid of anyone. She



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E. ELIEFF, cr-ex.  
(Sanson)

-- that lady, she's strong lady, she's not afraid.  
There's nothing to be afraid.

5

Q. She has no reason to be afraid of  
you ---

A. No reason to be afraid.

Q. --- and your treatment of her?

10

A. And I -- there was no sense of being  
afraid.

Q. Mr. Elieff, have you ever made a  
human rights complaint of your own before? Did you ever  
make a complaint to the Human Rights Commission?

15

A. That's got nothing to do with this.

Q. Answer my question.

THE CHAIRPERSON: Have you?

20

BY MS. SANSON:

Q. Have you?

A. Yes, I have.

25

Q. And wasn't that complaint resolved to  
your satisfaction?

A. No, it wasn't.

Q. It wasn't resolved?

A. M'hm.

30

Q. Why wasn't it resolved to your  
satisfaction?



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E. ELIEFF, cr-ex.  
(Sanson)

A. That's all I will -- that's all I can tell you.

5

Q. Did it go to a hearing?

A. I told you, I did make a complaint and that's it. You're not going to make a dig out of it. That's why I call you people idiots.

10

Q. Now, you gave some evidence with respect to how many tenants were in your apartment buildings and that the tenants were overcrowding the apartments and that was the cause of some of your problems. Do you agree with me that there is a by-law against how many tenants you can have in one apartment building?

15

A. I don't know about that.

20

Q. You don't know about that?

A. Because I never really cared, I wanted -- I only wanted to help the people.

25

Q. Okay. So you didn't see it as your job to enforce the by-laws with respect to overcrowding?

A. That's why I call myself the best landlord in town, because I allow the people to pack in and save money and ruin my place.

30

Q. What about your responsibility to other tenants?

A. What about other tenants? Most of



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E. ELIEFF, cr-ex.  
(Sansou)

5

them were same kind of tenants, living the same way of life, and that was making me feel good, because I was once before new Canadian with trying to start in this country.

Q. So you didn't see it as your responsibility to enforce the by-law?

10

A. Oh no, I told them, you know, that I -- too many of them I told "I believe", you know, "you're not allowed to be that many people, but you can have my blessing, help yourself." I told them openly, save some money on my part and buy yourself house and let's make it this country." I was telling them a lot about how to start in this country. "Here is me to help you doing so."

15

20

Q. Mr. Elieff, did you make an application to increase the rent sometime ago in order to replace all of the fridges and stoves in the apartments?

25

A. I was -- I tried to go after like launching it, but and then I discontinue it because I went discouraged and let it go.

30

Q. So you tried to get an increase in rent, saying that you're replacing the fridges and stoves ---

A. Yes, I was ---

Q. --- and you needed money for that?







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E. ELIEFF, cr-ex.  
(Sanson)

A. I was planning to. I told them what I was planning to do, was to be allowed to correct the place. I was trying to -- it was difficult to get grants to fix the place, but nothing seems to work out.

5

Q. Did you sign any leases with any of your tenants?

A. Eh?

10

Q. Did you sign leases with any of your tenants?

A. I been doing it before, but for quite some time now I -- lately I just rent them out without bothering signing anything.

15

Q. How long has that been going on for?

A. I don't know for sure.

Q. Years?

20

A. I don't know for sure that.

Q. Months? Years?

A. At least ---

THE CHAIRPERSON: Mr. Elieff ---

25

THE WITNESS: I think more than a year, but is it two years or more, I don't know.

THE CHAIRPERSON: You just ---

30

THE WITNESS: At one point I know I just discontinued.

THE CHAIRPERSON: You said that at the



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E. ELIEFF, cr-ex.  
(Sansou)

point ---

THE WITNESS: I discontinued to ask them  
for papers, all just month-to-month, you know.

5

THE CHAIRPERSON: And how long ago was  
that?

10

THE WITNESS: I don't know if it's over a  
year. A year, two years, I don't know for sure. Make it  
easy for them, so they won't be scared being tied to stay  
there for a year.

15

BY MS. SANSON:

Q. So you had planned to replace all the  
refrigerators and stoves because they needed to be  
replaced, is that right?

20

A. No, no, not because they needed to be  
replaced.

Q. Oh, you were just doing ---

A. I just ---

25

Q. --- it for nothing?

A. I just wanted to upgrade the place.  
You know what "upgrade" means?

Q. They didn't need to be replaced?

30

A. Well, I was ---

Q. You were just going to do it anyway?

A. I was thinking if I can upgrade the



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E. ELIEFF, cr-ex.  
(Sansón)

place, like you know. Someone gave me the idea, you know, asked if they can let you upgrade the place, to replace the appliance, fix the place around, through them, that way. And that's why I was also trying to see if not that way maybe I can get it through City Hall with those government grants, right.

5

Q. Wasn't it because the ---

10

A. But nothing was ---

Q. --- fridge and stoves were so old that you wanted to replace them?

15

A. Oh no, they -- I've been replacing them, fixing them around and so on, but I wanted, I could, replace them at once, at like one time.

Q. Mr. Elieff ---

20

A. Yes, I've been thinking of making it good for the tenants.

Q. Okay. I'm going to read your application for your increase, and that's found at Tab 49.

25

THE CHAIRPERSON: Forty-nine (49).

BY MS. SANSON:

30

Q. It says:

"Existing Refrigerators and stoves were purchased when the building



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E. ELIEFF, cr-ex.  
(Sanson)

constructed almost 20 years ago and  
will have to be replaced within the  
time period noted."

5

Is that your application, Mr. Elieff?

A. Where?

Q. Dated August 20th, 1987.

10

A. I don't know. I think that I asked  
one time a lawyer to do it for me, if that's what it is.  
I don't know.

Q. Is that your signature, Mr. Elieff?

15

A. Yes, but I think it's a lawyer who I  
asked to do it.

Q. So. It's signed by you.

A. Yes, yes.

20

Q. Okay.

A. But I asked a lawyer if he can do it  
for me, you know.

THE CHAIRPERSON: Do you remember reading  
that document before signing it?

25

THE WITNESS: Yes, yes.

BY MS. SANSON:

30

Q. And so the reason you wanted to  
replace them was because they were 20 years ago and  
needed to be replaced within the time period noted?



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E. ELIEFF, cr-ex.  
(Sanson)

5

A. Well, that's what I thought they were when I told the lawyer about it, but that couldn't be possible, couldn't be true, because buildings were not old either, you know. I don't know why he's -- that 20 there, but that's not -- to me it's irrelevant if I made an error there. The buildings were not 20 then.

10

Q. So you never replaced the fridges and stoves?

15

A. Not the way I was thinking then. That time I wanted to be able to replace all, you know, brand new.

20

Q. And the fridges and stoves ---

A. Fridges ---

Q. --- had just improved with age?

A. Fridges, stoves.

25

Q. Is that true, Mr. Elieff?

A. Yes. I wanted to upgrade the buildings, you know, let's have a double windows, let's get this ---

30

Q. But you didn't. You didn't replace ---

A. Didn't work.

Q. --- the fridges and stoves? And at the time you made your ---

A. I was dis -- I got dis -- I got



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E. ELIEFF, cr-ex.  
(Sanson)

discouraged, you know, discontinued, because of the  
unjustice, the law. I found the way the law unjust, I  
found the rent control unjust thing, and so I just got  
discouraged to all ---

5

THE CHAIRPERSON: Okay. Ms. Sanson has  
-- did you finish your question?

10

BY MS. SANSON:

Q. You gave some evidence that one of  
the repairs that you were talking about was you had to  
replace the freezer, and your evidence in February 3rd of  
'93 was that:

15

"The tenants used knives and  
screwdrivers in the freezer and make  
a hole in the evaporator of the  
freezer."

20

A. Yes, that's -- that's what the  
mechanic is saying ---

25

Q. Yes.

A. --- you know, on the bills. He's  
saying it.

30

Q. And you said:

"I keep replacing and replacing and  
maybe one of the reasons I hurt  
myself financially."



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E. ELIEFF, cr-ex.  
(Sanson)

Because you keep replacing and replacing.

5

A. Oh, that's -- that has to be one of the reasons, right. There are many reasons.

Q. But we've just heard you say that you never replaced the fridges and stoves and they were old when you took over the buildings.

10

A. Oh no, I've been replacing from time to time some of them, or fixing them up around. I got a few been stolen, taken away. Oh, you name it, it happened there.

15

Q. I'm going to refer you to the transcript of February 3rd, 1993, and page 333 of that transcript.

20

**THE CHAIRPERSON:** I'm sorry, counsel, what page was that?

**MS. SANSON:** It's 333.

25

**BY MS. SANSON:**

Q. And this is during your evidence, you were asked -- the Chairman says:

30

"The sentence just read by Mr. Elieff reads as follows; 'An extensive cockroach infestation exists within these buildings.' Go ahead, Mr. Elieff.



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E. ELIEFF, cr-ex.  
(Sansou)

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THE WITNESS: These conditions involving cockroaches may transmit communicable diseases. Down here it says you're invited whether or not to decide to appeal to the health division when the order is made, public inspection and blah, blah, blah. Attached is recommendations for preparation before treatment occurs."

10

15

You agree that was what you said?

Then again at page ---

A. I don't understand what you're saying here.

20

Q. I'm just asking you to confirm that that was you who said the "blah, blah, blah".

A. I don't know. I don't recall.

Q. No.

25

A. I can't remember if it was me.

Q. Then here again at page 362 you're asked and you're responding to another question.

A. M'hm.

30

Q. And beginning at the bottom of page 361.

"This is talking about I haven't



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E. ELIEFF, cr-ex.  
(Sansou)

paid the bills.

5

Q. The next letter is dated December 4th, 1992. The highlight is on the third bunch of wording, the tenant's board directed to take the following action to create tenant's trust fund to encourage tenants to pay their rent into that fund; to make an obligation to the court orders and this money be used to pay top make arrangements to PUC and blah blah, blah and my argument to this is instead them to help all of us around ..."

10

15

Do you agree with me that "blah, blah, blah" is a common expression of yours, Mr. Elieff? Do you use that phrase a lot, "blah, blah, blah"?

20

A. Sometime.

25

Q. There's another reference in the transcript, it's February 5th, it's at page 469.

"Okay. Go ahead with your comment, Mr. Elieff?

30

A. Here it says a man said he was taking the mater to the Huma



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E. ELIEFF, cr-ex.  
(Sanson)

5

Rights Commission but he felt it was a case of history repeating itself, my Irish ancestors went through all the same, blah, blah, blah."

10

A. I don't think I said that many "blah, blahs".

Q. Well, that's three times I've found in the transcript. You would agree with me that's a common phrase of yours?

15

A. I'm not -- it's not -- I won't say it's a common ---

MR. METZ: If I may interject?

THE WITNESS: I don't think it's ---

THE CHAIRPERSON: Yes, Mr. Metz.

20

MR. METZ: Mr. Elieff was saying "blah, blah, blah" so he didn't have to read every word in the document. That was the day we were going through every single document and he was being asked to read the basic ---

25

MS. SANSON: Are you giving evidence ---

MR. METZ: --- gist of each of them.

MS. SANSON: --- for Mr. Elieff?

30

MR. METZ: No, I'm stating what the facts were in the case. I mean, he could have read every



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E. ELIEFF, cr-ex.  
(Sanson)

little piece of every invoice ---

MS. SANSON: Could we please have Mr. Elieff excluded ---

5

MR. METZ: --- but he wasn't asked to do that.

MS. SANSON: --- if Mr. Metz is going to make submissions about what his evidence is or isn't?

10

THE CHAIRPERSON: Mr. Metz ---

MR. METZ: I don't see the relevance to

---

THE CHAIRPERSON: Well ---

15

MR. METZ: --- bringing out this "bla

blah, blah".

THE CHAIRPERSON: Okay. That's a fair ---

MR. METZ: He could have said "et cetera".

20

THE CHAIRPERSON: Wait a minute. That is a -- that's a fair question and I can ask Ms. Sanson if she can tell me what the relevance of this line of questioning is.

25

MS. SANSON: Certainly, once the witness is excused ---

THE CHAIRPERSON: All right.

MS. SANSON: --- I am prepared to.

30

THE CHAIRPERSON: Mr. Elieff, could you step out of the room for a moment, please?



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E. ELIEFF

THE WITNESS: I don't recall saying that many "blah, blahs".

5

(WITNESS WITHDRAWS)

THE CHAIRPERSON: Just assist me here in understanding.

10

MS. SANSON: It's my intention to put the letter that was entered by Mr. Elieff again. There was a letter, Exhibit 31, a racist letter that he introduced with the title that:

15

"This came to our sub Shope I hope because of Demonstrations led by Susan Eagle The lying witness."

And then there's reference with:

20

"problems with

LITTLE XXX ASIAN PIGS

25

???

let

30

MARTIN K. WEICHE (German gas xxx oven operator - new VW model - seats 8 pigs)



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and

5

FUCKEN QUP CUNT TOWING

Nash assholes

HELP YOU

10

OUT

preferably

15

put you little lebanese basturds back  
on the plane - korean air 707...

blah blah blah"

20

I'd like to put that document to Mr. Elieff and ask him  
who is the author of that document.

**THE CHAIRPERSON:** Okay. What's that  
exhibit?

25

**MS. SANSON:** It's Exhibit 31.

**THE CHAIRPERSON:** Okay.

Could you call Mr. Metz back in please.

I'm sorry, Mr. Elieff.

30

**MR. METZ:** Mr. Elieff, yes.



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E. ELIEFF, cr-ex.  
(Sansou)

ELIJAH ELIEFF, Resumed:

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THE CHAIRPERSON: All right. Go ahead,  
Ms. Sansou.

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

10

Q. Mr. Elieff, during your evidence in-  
chief you filed -- as one of your documents you filed a  
note that you said came to your sub shop, you hoped:

"... because of Demonstrations led by  
Susan Eagle The lying witness."

15

And it was filed as Exhibit 31.

I'm just going to ask you to read what's  
at the bottom of that note.

20

A. Oh, that was a letter being sent to  
me at the shop.

Q. What does this letter say?

A. It says "blah blah blah".

25

Q. Did you write this note, Mr. Elieff?

A. No, I didn't.

Q. You're sure about that?

A. Sure about it.

30

Q. Oh, that's where you're linking it.  
No, it's not me.

Q. Earlier on you had said that you



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E. ELIEFF, cr-ex.  
(Sanson)

received a letter from the Anti-Racism Committee about a complaint.

5

**THE CHAIRPERSON:** Can you just give me a minute?

**THE WITNESS:** What is it?

**MS. SANSON:** I'm sorry.

10

**THE CHAIRPERSON:** Just give me a minute.

(SHORT PAUSE)

15

**BY MS. SANSON:**

Q. Earlier in your evidence you had said that you had received a letter from the Urban Alliance about a complaint of racism and you wrote back to them, do you recall that being your evidence?

20

A. I don't know if I said that in evidence, but I remember that happening. They sent me a letter to the sub shop also, trying to tell me that if I said those comments they are completely wrong, that they won't come down for a sandwich or for food, and I wrote them back and tell them that is not true.

25

Q. But you didn't keep a ---

30

A. I don't, no.

Q. --- copy either of that letter ---

A. No. No, I don't.



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E. ELIEFF, cr-ex.  
(Sansou)

Q. --- or your response ---

A. Uh-uh.

Q. --- to that?

5

A. No, I don't.

Q. Can you tell me why you have this horrible, insulting note, you kept that, but you don't have a copy of other documents related to this complaint?

10

A. Well, because that is a horrible letter that I thought I'll keep it so I can show it if I have to show what I've been receiving, you know, because the other one was written in a nicely way and this was written in a bad way. With this letter I had a picture of a naked man, so I didn't show it to -- with this was going, you know, with this Playboy piece of -- one piece of the Playboy stuff was with this letter accompanied, but I didn't mention that.

15

20

**THE CHAIRPERSON:** How was it delivered to your sub shop?

25

**THE WITNESS:** By mail. It came by mail. And when I opened it I found this, the letter, and one piece of a -- of this Playboy that's going around, you know. And it was a male Playboy, and I don't know if I -- if I throw that away, but I kept this.

30

So I don't know to whom this mean, you know, to my tenants or to me. I don't know. And I felt



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E. ELIEFF, cr-ex.  
(Sanson)

pretty embarrassed to mention, but now I would like to stress that.

5

BY MS. SANSON:

Q. Now, Mr. Elieff, you filed the offer for purchase and sale of the building as one of your exhibits during your evidence in-chief, and I'm just going to locate where that was.

10

MR. METZ: What was the exhibit number of that letter?

THE CHAIRPERSON: Exhibit 31.

15

MR. METZ: Thirty-one (31).

BY MS. SANSON:

Q. There was one other question I wanted to ask you, and this is related to Exhibit 34. Who typed up this notice here? Did you do that? Did you type that up?

20

A. I believe so. Yes.

25

Q. You did that on your own typewriter?

A. Yes.

Q. Okay. I'm going to show you this letter again and I'm just going to ask you to compare it to the typing on this 34 and this 31.

30

THE CHAIRPERSON: Ms. Sanson, I think



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E. ELIEFF, cr-ex.  
(Sanson)

know the question you're going to ask. I think it's unfair that if you were going to ask that question it be asked of an expert witness, someone who is experienced in determining the issue which I anticipate.

5

MS. SANSON: Okay.

THE WITNESS: All right. This is what I said here, you know. That's how I got this, but it's not -- I received it in my sub shop.

10

MR. METZ: Mr. John, I have on my notes on Exhibit 31 that you have the original.

THE CHAIRPERSON: I have the original.

15

MR. METZ: Yes, okay.

THE CHAIRPERSON: Ms. Sanson, I was anticipating that question, and I did look, I examined it, and not being an expert I have some doubt about the issue.

20

MS. SANSON: Certainly. I'm not prepared to pursue it any further.

THE CHAIRPERSON: Okay. Okay.

25

BY MS. SANSON:

Q. Okay, Mr. Elieff, we're back at the purchase and sale agreement, and I just -- do you know what exhibit that is, Mr. Metz?

30

MR. METZ: I'm sorry?



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E. ELIEFF, cr-ex.  
(Sanson)

MS. SANSON: The purchase -- the offer for sale of the building, what exhibit we filed that as?

5

MR. METZ: Not offhand. Would it be higher than 31 or lower?

THE CHAIRPERSON: I think it's 33.

10

MR. METZ: Thirty-three (33), yes, that looks like it possibly could be, Pinero Realty ---

THE CHAIRPERSON: Yes.

MR. METZ: --- along with a copy letter from Phensan Associates.

15

THE CHAIRPERSON: Yes. Exhibit 33 includes a letter ---

MR. METZ: It has two different authors, yes.

20

THE CHAIRPERSON: A letter from Mr. Raymond to Mr. Elieff dated September 23, '93; and attached to it is an Agreement of Purchase and Sale -- two Agreements of Purchase and Sale.

25

BY MS. SANSON:

30

Q. Do you agree with me, Mr. Elieff, that when this property was listed that there was a statement that was prepared about the income and operating expenses for the building in terms of its investment potential, that there was a statement th



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1017

E. ELIEFF, cr-ex.  
(Sansou)

accompanied that offer?

A. I don't know. You've got to ask Joe Pinero about it.

5

Q. I'm going to ask you to tell me whether you recognize this as a copy of the statement at Tab 48, which I understand went along with that, and that's the listing for your properties, and here's gross income and your expenses, and then underneath it says -- describes the building, "EXCELLENT INVESTMENT".

10

A. M'hm. All of this was done by Joe Pinero over the phone, you know.

15

Q. Okay.

A. He called me this and I gave him some rough figures, that's all.

20

Q. So you gave him the information and that was ---

A. Yes.

Q. That was the statement?

25

A. Yes. That's what he did from previous -- you know, he's been around trying before to do it and he had a rough idea about those things. And all of this is, I believe, the way I understand, he just said he would mention it, just a rough idea, not precise thing.

30

Q. A rough idea. But this is ---



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E. ELIEFF, cr-ex.  
(Sanson)

A. I don't know.

5

Q. --- based on information you gave him to advertise your properties. And you recognize that this is what it is?

10

A. I don't recognize nothing because he did it in his office and mostly over the phone and I signed the deal that come to me, the first deal we signed. That's all I can say about it.

Q. And this didn't come with the deal? This wasn't ---

15

A. I don't know about it ---

Q. You don't recognize it?

A. --- because those are not -- I don't recognize it.

20

Q. Okay. So you don't identify this as your own?

A. Can't identify it, no.

Q. Okay.

25

A. It could be, it probably is.

Q. It relates to your properties, Mr. Elieff?

A. Yes, yes, but not done by me so that

30

---  
Q. Well, it's based on information you provided, I would have thought you would want to have



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E. ELIEFF, cr-ex.  
(Sansón)

reviewed it for its accuracy ---

A. M'hm.

5

Q. --- when you're selling your properties, or attempting to sell your properties.

A. Yes.

Q. But you didn't do that, is that correct?

10

A. Not me. He did it, he prepared everything.

Q. And you didn't review that statement for its accuracy?

15

A. No, I didn't. No.

MS. SANSON: I'm getting close to the completion of my cross-examination and perhaps we might break for 10 minutes, I could just take a look at what, if anything, is left.

20

THE CHAIRPERSON: Okay.

Just let's go off the record for a minute.

25

(DISCUSSION OFF THE RECORD)

--- Upon recessing at 3:40 p.m.

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E. ELIEFF, cr-ex.  
(Sanson)

--- Upon resuming at 3:57 p.m.

5

ELIJAH ELIEFF, Resumed:

THE CHAIRPERSON: Shall we continue with cross then?

10

MS. SANSON: Thank you.

THE CHAIRPERSON: Okay.

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

15

Q. Mr. Elieff, we heard some evidence with respect to Patrice John, and that was some evidence from you, that was the tenant that was in the apartment before Chippheng took over. And your evidence was that she had seen the apartment and then moved in and then after about two weeks or so she changed her mind. Is that an accurate summary of your evidence?

20

A. Yes.

25

Q. And then also there was one of the records that we had from the health department related to a cockroach problem with respect to that apartment prior to Chippheng moving in.

30

A. Cockroaches were everywhere by then.

Q. Pardon me?

A. There were cockroaches everywhere



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E. ELIEFF, cr-ex.  
(Sanson)

then anyways.

5

Q. Would you agree with me that subsequently to Patrice John moving out of the apartment there was an action against you and an order for the return of her money?

10

A. I believe there was something about it, but I just couldn't accept it. I didn't agree with it because, you know, I just can't believe this happening, you know. She's been there for a couple of weeks, why would she stay a couple of weeks, you know. Don't move in at all. If you move in, move out, and then accuse me for it. That's what my surprise, you know, after two weeks, "Oh, I don't want it now", you know.

15

20

Q. And you agree with me that there was a judgment for the return of her money?

A. Well, that's what I'm saying, I mean there's so much unjust, you know, been going around, unbelievable.

25

Q. But you agreed there was a judgment against you?

30

A. I don't know if it was a judgment or whatever it was. I know it -- she was, you know, complaining, whoever it was, Neighbourhood Services, whatever, because when mail like that comes to me I just can't believe it it's happening, I just keep throwing in



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1022

E. ELIEFF, cr-ex.  
(Sanson)

the garbage. I don't know. That's why I can't tell too much about some of the things.

5

Q. Well, the reason I'm asking is because in the notice to the Power of Sale she's listed as one of the people that have to give notice, so she ---

10

A. I don't know. I mean, I'm confused too much here, and I'm disappointed, I'm very angry about it, so what happens happens.

15

THE CHAIRPERSON: I'm not sure the witness can understand the question, and I'm not sure it has -- it can be given a lot of weight. It is borderl statement of fact evidence. Because here we're concerned about an infringement question.

20

MS. SANSON: Yes.

THE CHAIRPERSON: The evidence of his relationship as a landlord to another tenant ---

25

MS. SANSON: Yes.

THE CHAIRPERSON: --- does have some bearing and I'm allowing the question to stand, but I don't think that there's much to be gained by pursuing it further.

30

MS. SANSON: Okay.



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E. ELIEFF, cr-ex.  
(Sanson)

BY MS. SANSON:

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Q. I would ask you to identify one of the documents that Mr. Partalas filed with the board when he gave his evidence, and that was in Exhibit 5, and I have it numbered as page 11. I can't remember whether we went through to -- went through and numbered them.

10

But Mr. Partalas's evidence was that he sent out this list of deficiencies to you and he got a letter back that said -- from you, and I'm just going to ask you to identify, is this your handwriting, Mr. Elieff, that says:

15

"Why won't you suck shit you fucking asshole. Fuck off."

20

A. We talked about this when he was giving this, then I was asking these questions. I don't see why would I get to be asked again through this stuff.

Q. I just want to confirm that that's your handwriting.

25

A. Whatever I said then that's what it is, you know.

Q. I don't think we heard from you about that, Mr. Elieff. Is that your handwriting?

30

A. I think you're repeating too much of the questions.

THE CHAIRPERSON: Mr. Elieff, the question



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E. ELIEFF, cr-ex.  
(Sanson)

is just simply is that your handwriting?

5

THE WITNESS: I'm -- I'm not confirming,  
I'm not denying it, I don't know what I said last time I  
said, I don't know. The same thing.

BY MS. SANSON:

10

Q. Is that yours ---

A. I won't deny, won't confirm.

Q. "Fuck off all of you. Stop  
bothering me."

15

A. I'm not ---

Q. It's addressed to you, crossed out  
and sent back to them.

20

A. I just don't know. There's no dates,  
no signature. I'm ---

Q. You know your handwriting, Mr.  
Elieff.

25

A. I don't -- I don't ---

Q. Did you do that or didn't you?

A. Like I say ---

Q. It's addressed to you ---

A. Yes.

30

Q. --- it's crossed out ---

A. Yes, that's what it is.

Q. --- with writing that appears to be



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1025

E. ELIEFF, cr-ex.  
(Sansou)

your handwriting. Is it your handwriting or isn't it?

A. The answer is I won't deny and I won't confirm it. That's my answer, that's all.

5

Q. That's not an answer, Mr. Elieff.

A. So you take it as it is, you know.

THE CHAIRPERSON: Mr. Elieff, either you know it is or it isn't.

10

THE WITNESS: I'm not sure. I'm not sure.

THE CHAIRPERSON: You're not sure.

THE WITNESS: I'm not sure.

15

THE CHAIRPERSON: You cannot recognize your own writing?

THE WITNESS: Can't. Cannot recognize is it mine or is not. I don't know.

THE CHAIRPERSON: Let's move on.

20

BY MS. SANSON:

Q. Someone else at the end of the day that you can blame it goes to rights like you.

25

A. Yes. If it is me I would say it certain if it is me. But, you know, when you're pushing someone unjustly so far.

30

Q. Now, we've heard in your evidence that the tenants never came to you with their problems and that was part of your frustration, that they went to



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1026

E. ELIEFF, cr-ex.  
(Sanson)

the health department or they went to someone else and they never came to you, and when they came to you you fixed it. You agree that was your evidence?

5

A. I can't recall all my evidence.

Q. Does that sound ---

A. Might have been, might not have been.

10

It sound -- you know, it sounds true because many times many of them won't tell me anything about it, they would tell Susan Eagle before they would tell me.

Q. Well, I have a group of letters that were sent to you, Mr. Elieff, or addressed to you ---

15

A. M'hm.

Q. --- from the tenants, and on the -- it's my understanding that those letters were returned, and there's comments on:

20

"Ap. 4

You can All go to Hell."

I'm going to ask you to identify. This is Tab 42.

25

A. I can't recall any of this. I can't recall being in receiving them.

Q. Any reason why you wouldn't have received them?

30

A. And I can't -- I can't recall. I don't know, I just can't recall this. Because I -- most of -- I don't know, many times I believe they just made



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1027

E. ELIEFF, cr-ex.  
(Sanson)

these letters and give it to you, you know, saying "We sent to Elijah, we gave Elijah", that's my assumption.

5

Q. So they addressed it to you but they give it to Susan?

A. Many of them. I think many of them done that, yes.

10

Q. Okay. But ---

A. M'hm.

Q. And we have this at the front, is that your handwriting?

15

A. I don't ---

Q. Is that Susan ---

A. I don't know.

Q. --- Eagle's handwriting?

20

A. I don't know also this one. There's no signature, no date either on them.

Q. So you deny having written those comments on the top of that?

25

A. I don't recall writing it. And I won't confirm or deny, but I don't recall either.

Q. And Tab 43 of the same book, do you agree with me that you received some more recent work orders from the health department and city?

30

A. I received, yes, lots of them at all times.



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E. ELIEFF, cr-ex.  
(Sanson)

Q. December 2nd, '92?

A. I cannot tell you anything about any particular of this, because I ---

5

Q. Did you receive this, Mr. Elieff?

A. I don't know.

Q. You don't know whether you received this?

10

A. And I can tell you why I don't know, because every time I receive something from them I just piled them up in my desk without even checking what the hell they are for.

15

Q. So you'd just ignore any ---

A. Just ignore everything.

Q. --- orders you receive?

A. Lately -- lately just ignore everything.

20

Q. And in December you were ---

A. Just ---

Q. --- ignoring?

25

A. Yes.

Q. Okay. And then the ---

A. I believe so.

Q. --- one following?

30

A. Oh yes, yes. I got fed up with them.

Enough is enough, right. Enough of the same, you know.



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1029

E. ELIEFF, cr-ex.  
(Sanson)

Too much of the same is too much.

5

Q. Now, is this Mary Mowatt's? That's not your handwriting, is it? It's my understanding that this is ---

A. I don't know.

Q. --- Mary's. I thought this was another ---

10

A. I doubt it. I just ---

Q. You don't know?

A. It's not me.

15

Q. It's not yours? You know that's not yours?

A. I have no idea.

20

MS. SANSON: The last page -- the last Tab, 51, there's -- the second document I would ask if we could perhaps just rip it out. That's not a note from Mr. Elieff, I think it was from Mary Mowatt.

25

THE CHAIRPERSON: Counsel, I'm not sure we identified Exhibit 44.

MS. SANSON: Forty-four (44) is another work order that would have been sent out to Mr. Elieff at the same time. If he can't identify them I will ask Susan Eagle to identify them when she's recalled.

30

THE CHAIRPERSON: Okay.

MS. SANSON: Those are my questions, Mr.



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E. ELIEFF, re-ex.  
(Metz)

Elieff.

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what I want.

THE WITNESS: Yes. I want -- I told you

THE CHAIRPERSON: Okay.

THE WITNESS: They throw garbage in the  
garbage.

10

THE CHAIRPERSON: Mr. Metz, are you ready  
for questions in reply?

MR. METZ: Yes. I'll be very brief.

THE CHAIRPERSON: Okay.

15

RE-EXAMINATION BY MR. METZ:

20

Q. Mr. Elieff, Ms. Sanson referred  
earlier to the tenants that were listed on one of the  
exhibits as paying into the trust fund, one of them was  
Chippeng Hom, and she suggested you haven't taken any  
action against anyone else other than Chippeng Hom in  
terms of eviction notice and things of that nature. You  
suggested that the reason that you were evict -- or  
served the eviction notice on Chippeng Hom was because  
she refused to pay an increase ---

25

A. Right.

30

Q. --- in rent.

A. That's it, yes.

Q. Did any of the other people who are



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1031

E. ELIEFF, re-ex.  
(Metz)

paying their money to the trust fund also refuse to pay  
an increase?

5

A. Not at the time.

Q. Okay, that's all I want to know on  
that.

I'm trying to avoid the repetitive  
information.

10

There was a -- regarding the questions  
regarding your responsibility as a landlord, and you  
suggested that your responsibility as a landlord was far  
more complex than just answering simple yes or no whether  
you have a responsibility in keeping the building in good  
repair. I would ask you what conditions would be  
necessary for you to have answered Ms. Sanson in the  
affirmative, to say that it was your responsibility? In  
other words, what conditions would have been necessary,  
either in the behaviour of your tenants or the laws that  
you've been subjected to that would morally or legally  
obligate you in your own mind to carrying out those  
responsibilities?

15

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THE CHAIRPERSON: I think you'll need to  
rephrase the question so that it's more direct.

30

BY MR. METZ:

Q. Well, Mr. Elieff ---



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E. ELIEFF, re-ex.  
(Metz)

A. I understand the question I think.

Q. You understand the question?

5

THE CHAIRPERSON: All right. Well, why don't you attempt to answer it then.

10

THE WITNESS: Yes. For me it was able to say or not and to talk about responsibility, I would have appreciate if I -- if things were not happen the way they were happening to me, if there wasn't so much vandalism; if there wasn't so much disarray in the place, over noise, mess, overcrowdence, overusing all the utilities, and much more, then I would have been able, and I would have been able to do my responsibilities. But because of all of that, and so much of it, I wasn't able to. It seems not to be able to keep up with my responsibilities.

15

20

And a landlord can only be -- he can follow his responsibilities if all the tenants and everybody else keep up with their responsibilities.

25

BY MR. METZ:

Q. How would you ---

A. But that wasn't the case.

30

Q. What would you say some of those responsibilities would be, like if I were to ask you what you would regard as a tenant responsibility?

A. My responsibility as a landlord



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1033

E. ELIEFF, re-ex.  
(Metz)

all know, you know.

5

Q. No, but I'm asking you what do you regard -- what would you say would be a tenant's responsibility, not the landlord's responsibility?

10

A. What the tenant's responsibility, you know, if the tenant is fully conscious and a fair tenant, he would not overcrowd the place; he would say "Elijah, can I stay two families, we're willing to pay extra", so I can be able to pay the extra wasted utilities. None of that was coming from the tenants. The tenants would have keep the place in good shape, free of noise, free of throwing garbage, marks and scratches and broken windows; as their children were walking through instead through the door they would walk through the broken window that they just broke yesterday, or whoever broke it.

15

20

There's so much been said about it, and if that was not happening then I wouldn't have to waste too much time and money to keep up with all of that, which I undertake and did. And why I did was because I just wanted to help my tenants.

25

30

And these are just a few of responsibility of the tenants. But in my apartment buildings you name it, I have it, you know, breaking windows; breaking fences; even making holes on the back of the 95 building on the grass, deep holes. So so much of eating bananas,



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1034

E. ELIEFF, re-ex.  
(Metz)

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oranges being thrown around, and I never, ever saw one of the tenants, male or female, picking up any of this in assumption that it could have been his or her children doing it. And not all my cleaning people could put up with it.

10

Q. When you rented to new tenants you said that, particularly recently, it was more on a month-to-month basis, you didn't sign leases or legal agreements in that sense. Was there any way you conveyed what you felt should be a tenant's responsibility to those tenants?

15

20

25

A. Well, before I been practising t going to -- signing papers around, but nobody was respecting anything of that so I, in attempt to make it the way they want it, you know, many of the tenants -- most of them they feel -- I thought they preferred just not to sign any papers, just move in, paying first and last, or some of them just pay first, wait for the last and never get it back, so -- but I did it mostly to make the tenants happy.

30

Q. But when you accepted one of these tenants did you explain to them what you expected of them in the sense of what you've just said, keeping the place clean, et cetera, et cetera?

A. Yes, I've been trying to be all



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1035

E. ELIEFF, re-ex.  
(Metz)

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friendly I can be with them whenever I was to give an apartment to any tenant, you know, showing him the place and I kind of -- almost all of them used to tell that I am not playing a big shot landlord and I'm interested to harass you or anybody, "Here is the place, since you like it, enjoy it, I'm around to help you, morally, in any way".

10

Because they were mostly newcomers and that was my way of talking to them. And I said "Look, I came from Makedonija, I started with nothing in this country" and "Welcome to this country" and, you know, they say well -- some of them would say "Well, Mr. Elieff, I got three kids, four kids", you know, "can I have an apartment, one bedroom" ---

15

20

Q. Well, would you tell such people, particularly recently, would you tell them "Please don't throw garbage in the hallways" or "Please don't" ---

25

30

A. Yes, I been -- I would tell as they move in, I said "You see, you know, we got lots of kids, and I like kids; kids are making some garbage; kids are making some noise, but since you got kids of your own", most of them do, "so let's try to take care of these kids, let them grow as kids without giving them too much of pressure, let them grow as kids, but then at the same time, you know, we should do our best together to make



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E. ELIEFF, re-ex.  
(Metz)

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the place as better as we can for the same kids so they can be free, play, you know, but we should all be feeling to feel free in many way, you know, free in this country, free in this city, free in this part of the city, free in this buildings, free of this building owner's harassments or something", and that was my idea.

10

And many of the tenants have been very unhappy for what's been unfolding around. Many of them say they wish never stuff like that keeps going on around. And then same -- at the same time, same tenants say we -- they are saying to me but they would not want to come and testify on my behalf because of they are afraid of some of their own mud to be hating them or picking on them because they would sight me.

15

20

**THE CHAIRPERSON:** Mr. Metz, could you help to focus the answer a bit?

**MR. METZ:** Yes, he's wandering a little off my question.

25

**THE CHAIRPERSON:** Okay. Can we move ---

30

**MS. SANSON:** Just in terms of -- I will say this now and forever hold my peace, but reply is to deal with issues that were raised on cross-examination that couldn't -- that was not dealt with in Mr. Elieff's evidence in-chief. I think you covered this territory and more in your evidence in-chief in great detail, a I



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E. ELIEFF, re-ex.  
(Metz)

would ask that the questions -- at this point Mr. Elieff has had a full opportunity for his evidence in-chief, he's had cross and an opportunity to provide further detail with those questions that we hold the purpose of reply, which is to deal with those things that couldn't have been anticipated.

5

10

MR. METZ: Well, I was assuming my question was relating to your questions, several questions relating to Mr. Elieff's responsibility as a landlord.

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MS. SANSON: You dealt with that in your chief, Mr. Metz.

MR. METZ: Well, Mr. ---

THE CHAIRPERSON: Mr. Metz ---

20

MR. METZ: --- Elieff did reply that his responsibility as a landlord depended on a reciprocal responsibility of his tenants, and that's what I was addressing.

25

MS. SANSON: And that was covered in-chief.

MR. METZ: Well, so were ---

MS. SANSON: That evidence was covered in-chief.

30

MR. METZ: --- most of your questions that you did this afternoon.



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E. ELIEFF, re-ex.  
(Metz)

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**THE CHAIRPERSON:** Yes, but on reply, the purpose of reply is to clarify any answers given in cross-examination that might not have been available to you earlier. And it doesn't assist us to have the same information in the record all over again. It would help if you could just focus on a particular issue, ask the question and wait for the answer.

10

**MR. METZ:** Well, I would suggest in that case I think I'm finished.

15

**THE CHAIRPERSON:** Okay.  
Thank you, Mr. Elieff, you're free to proceed.

20

**THE WITNESS:** Thank you.  
**THE CHAIRPERSON:** Now, Ms. Sanson, you indicated you had a couple of witnesses to call.  
**MS. SANSON:** I do have a couple of witnesses to call, and the witnesses are Jim Daly and Darlene Clark, and they're from the Carleton Group, which is a management, a property management company here in London.

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I would like to suggest something that's rather unorthodox, but I think may also make more sense in terms of proceeding with the evidence. They are two people that put their heads together to provide the information that's contained in the report. Mr. Dal



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involved in the maintenance end and deals specifically with maintenance of properties and in terms of making assessments of building and the necessary capital items; and Darlene Clark is involved in the property management aspects, preparing budgets for various -- for management of individual properties and putting together the numbers.

10

It would be my suggestion that perhaps they could -- in terms of expedition and in also getting a complete picture, I would propose to have them both sworn in at the same time and the background could be given by Mr. Daly in terms of what his responsibilities are and how he provided what information he provided for the preparation of the report, and then to hear, in follow up to that, to go through the actual report with Darlene Clark, and then in terms of cross-examination Mr. Metz could ask questions and the person who is best situated to provide that information ---

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THE CHAIRPERSON: Could give the answer.

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MS. SANSON: --- could give you that.

MR. METZ: I would be ---

THE CHAIRPERSON: Do you agree, Mr. Metz?

MR. METZ: Yes, yes.

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THE CHAIRPERSON: Fine. I have no objection to that.



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J.K. DALY/D. CLARK

MS. SANSON: Okay.

THE CHAIRPERSON: I don't think it would be too confusing for the record.

5

MS. SANSON: So we'll put another chair up there.

THE CHAIRPERSON: Thank you.

10

MS. SANSON: I would then like to call Jim Daly and Darlene Clark to the stand.

JAMES KENNETH DALY, Affirmed:

15

DARLENE CLARK, Affirmed:

THE CHAIRPERSON: Is that Clark with an "E"?

20

MS. CLARK: No, it isn't.

THE CHAIRPERSON: And, Mr. Daly, is it D-A-L-E-Y?

25

MR. DALY: D-A-L-Y.

THE CHAIRPERSON: D-A-L-Y, wrong on two counts.

MR. DALY: Yes.

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THE CHAIRPERSON: Okay.  
And the -- I'm sorry, I suppose that will come in while you're qualifying.



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1041 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

Are you going to qualify these witnesses?

MS. SANSON: Certainly.

THE CHAIRPERSON: Okay.

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EXAMINATION-IN-CHIEF BY MS. SANSON:

10

Q. Mr. Daly, could you please describe your position, your current position with the Carleton Group?

15

MR. DALY: I presently manage the Maintenance Division for the Carleton Management Group, I've done so for the past six years. I'm wholly responsible for the budgeting for the Maintenance Division and work hand-in-hand with the property management when it comes to making decisions on properties and forecasting budgets, et cetera.

20

I also deal in construction extensively within the company. Perhaps I could tell you that for this year the Maintenance Division will deal with well over \$1 million worth of maintenance, and will also field \$2 million worth of construction.

25

Q. What is the Carleton Group, Mr. Daly?

MR. DALY: It's a management company.

Q. A management company for?

30

MR. DALY: Property management company.

Q. Okay. And but what kind of



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1042 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

properties do you deal with?

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**MR. DALY:** We have 3,000 residential units in -- I'm sorry, 4,000 residential units in some 30 buildings, and we also have a fair amount of commercial property, the square footage, I'm not familiar with the total amount of square footage.

10

**Q.** Would you describe for the board some of your specific responsibilities as head of the Maintenance Division at the Carleton Group?

15

**MR. DALY:** Well, I manage 12 salaried employees; a network of 12 to 20 subcontractors; act as a liaison or an advisor for foreign investor with regard to a major construction job at the moment. That's it.

20

**Q.** And would you describe some of your job duties, your day-to-day job duties with respect to the properties that Carleton manages?

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**MR. DALY:** My day-to-day duties with respect to the properties. Well ---

**THE CHAIRPERSON:** Now, the question is day-to-day duties or management day-to-day?

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**BY MS. SANSON:**

**Q.** The maintenance duties.

**MR. DALY:** The division?



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1043 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

Q. Yes.

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MR. DALY: Well, the Maintenance Division is available for property management to call on for repairs in their buildings, and basically we -- I have three -- three full time staff working in the office of the Maintenance Division, and we take requests from the property managers and building managers and they request various services or goods and we provide them with it. It could be plumbing or electrical or carpentry or concrete or roofing.

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Like I was mentioning to you before, we're also available to supply them with consultation, advice and budget numbers. Basically we're a separate division within the company, however we primarily work solely within our own company.

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THE CHAIRPERSON: Do you deal with appliances, any of the appliances and other fixtures?

MR. DALY: Yes.

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BY MS. SANSON:

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Q. Perhaps you could just explain a little more about why you're -- what makes you separate in terms of a division from a division of Carleton?

MR. DALY: Well, we are a profit centre within the company and I am responsible for the bottom



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1044 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

line for the division, and I'm responsible for a modest profit margin at the end of the year. So for each request that we receive from property management ---

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Q. Yes?

MR. DALY: --- we would then make a response to that request, make a repair, and then we would invoice them for that service.

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Q. Okay.

MR. DALY: Property management has the ability to go beyond the Maintenance Division and into the marketplace ---

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Q. Yes?

MR. DALY: --- with their requests, and that puts us in competition with the marketplace and ensures the property management division that invoicing from the Maintenance Division is in fact fair market. We compete for our work ---

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Q. With ---

MR. DALY: --- with the market.

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Q. With Carleton Management.

MR. DALY: Yes, yes.

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Q. So just in terms of -- so I understand, if indeed Carleton Management can get a better price someplace else then they might use that other ---



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1045 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

MR. DALY: Yes, they might.

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Q. Okay. I'd like to ask you for some specific detail about what happens when there is a maintenance problem and you receive a request for an estimate or some work. What are the steps that one would go through?

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MR. DALY: Well, firstly you would receive a request for an estimate ---

Q. Yes?

MR. DALY: --- and at that point you would make a visit to the site ---

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Q. Okay.

MR. DALY: --- and come back, make a report. Off of that report you would either produce a quotation or something of that.

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Q. Okay.

Perhaps at this point I'll just ask for some direction from the board. Would you like to hear the background of Darlene Clark at this point?

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THE CHAIRPERSON: And then have them qualified?

MS. SANSON: Yes.

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THE CHAIRPERSON: Okay.



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1046 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

BY MS. SANSON:

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Q. Ms. Clark, could you please detail your background and experience in the property management business?

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MS. CLARK: I've been doing property management for 12 years; I have studied under the North American program for the Certified Property Management, which is the most prestigious certificate program available for property managers for asset management of buildings in North America, and I am within two courses shy of getting my certificate. I have -- in my portfolio at the present time directly I'm responsible for 2,000 units, and indirectly I oversee another 1,000 units.

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I direct the property managers, I'm Senior Property Manager at this point, in the residential section of Carleton; I direct the other property managers and their assistants. Also I'm involved in dealing with the Maintenance Department quite a bit in developing a certification program for the building managers that we do have towards their maintenance goals and objectives and how we would like to have the buildings ran.

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I have seven years of experience extensively in head office or a corporate-type of environment dealing primarily with the direction of the highest and best use of a building.



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1047 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

Q. I'm sorry?

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MS. CLARK: The highest and best use of a building. It's a property management term dealing with if a building is in the highest and best use, you analyze the needs of that building or the needs of the investor.

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At present I work for investors under a fee management system, that they give us their goals and objectives and we follow those goals and objectives in management of the building.

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Q. How many property managers do you direct?

MS. CLARK: Right now I direct two.

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Q. Two, okay. And you may have already indicated this, I just want some clarification, but in terms of your responsibility you provide advice to individual managers of ---

MS. CLARK: Yes, that's correct.

Q. --- the properties themselves?

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MS. CLARK: And how to run the properties correctly under the Landlord And Tenant Act or the Rent Control Act, or I deal also with the investor's wishes on how they want to have the property managed. I have to look at how much money we may be securing with the building through the operations, and I have to deal with that to manage the properties in the most effective

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1. The first step in the process is to identify the problem.

2. The second step is to analyze the problem and determine its causes.

3. The third step is to develop a plan of action to address the problem.

4. The fourth step is to implement the plan and monitor progress.

5. The fifth step is to evaluate the results and make adjustments as needed.

6. The sixth step is to document the process and share the results.

7. The seventh step is to review the process and make improvements.

8. The eighth step is to ensure that the process is sustainable.

9. The ninth step is to communicate the results to all stakeholders.

10. The tenth step is to celebrate the success and learn from the experience.

11. The eleventh step is to continue to monitor and improve the process.

12. The twelfth step is to ensure that the process is aligned with the organization's goals.

13. The thirteenth step is to ensure that the process is flexible and adaptable.

14. The fourteenth step is to ensure that the process is transparent and accountable.

15. The fifteenth step is to ensure that the process is continuous and iterative.

16. The sixteenth step is to ensure that the process is data-driven and evidence-based.

17. The seventeenth step is to ensure that the process is collaborative and inclusive.

18. The eighteenth step is to ensure that the process is agile and responsive.

19. The nineteenth step is to ensure that the process is resilient and robust.

20. The twentieth step is to ensure that the process is sustainable and long-term.

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1048 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

manner.

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I have budgets to prepare. I deal with rent review applications, through the whole process, and I have written several policies and procedures in various locations that I have been employed at to do this in the most effective manner that I can do for that particular company, depending on their needs.

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Q. Do you have any experience with properties in trouble?

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**MS. CLARK:** Actually that's my area of expertise, I've been dealing with that for about 12 years, maybe 11-and-a-half. I have -- prior to coming Carleton I've worked for owners of buildings, and the criteria -- I just recently moved from Sarnia, one of the criterias I had there when I first was employed there in '88 was to deal with two properties that had never made money, due to maintenance problems or tenant problems, or various other factors that they hadn't been able to identify at that time, and I successfully turned both those properties around.

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When I came into Carleton I had a portfolio of properties that were primarily dealing with investor-owned properties that were in trouble in the sense of the investor was either cash short or they had problems with some tenants, or very large maintenanc



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1049 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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items that needed to be addressed, so I had to go through the buildings and identify the problem areas, and Jim and I did that on several occasions, and then put a report out to the investor on what they needed to look at at that building, including a capital budget and a timeframe of having that capital budget implemented, and advise the investor as to the avenues or the alternatives available to him, and the alternatives if he didn't do it, what the options were that he had if he didn't do it, what would be the result of not doing it.

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**MS. SANSON:** At this point I would seek to have Jim Daly and Darlene Clark qualified as experts to give evidence about the costs of maintenance and the requirements for maintenance of properties.

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**THE CHAIRPERSON:** So you would like them qualified as experts in property management and the maintenance of multi-unit residential buildings?

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**MS. SANSON:** Yes.

**THE CHAIRPERSON:** All right. Let me just

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**MS. SANSON:** You said that more succinctly than I have.

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**MR. ELIEFF:** But not on the area which I am.

**THE CHAIRPERSON:** We'll get to that in a



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minute.

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Mr. Metz, you will have a chance now to ask any questions, if you have them ---

MR. METZ: Right now?

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THE CHAIRPERSON: --- as qualifying them as experts, or you can agree with the fact that they are experts in the property ---

MR. METZ: I just would ask you a question for my own information ---

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THE CHAIRPERSON: Yes?

MR. METZ: --- what the significance of the term "expert" is in this regard?

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THE CHAIRPERSON: The significance is this, that if they're asked for an opinion they will be given expert opinion. That is to say, their opinion will carry more weight than my opinion or your opinion, because we wouldn't be qualified as experts. So on certain questions their opinions would carry more weight than the average person. That's why some people are qualified as experts and others aren't.

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MR. METZ: I would just question their expertise on areas of discrimination, which is what the charges here are and the human rights ---

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THE CHAIRPERSON: That's not how they're being sought to be qualified, they're being qualified



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1051 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

purely as expert in property management and maintenance  
of multi-unit residential buildings.

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MS. SANSON: Perhaps in terms of questions

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MR. METZ: Then perhaps I'm asking for  
relevance.

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THE CHAIRPERSON: Okay.

Well, Ms. Sanson, would you like to  
comment on that?

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MS. SANSON: The submission that I was  
going to make was simply this, I think we heard from  
Darlene Clark as to her background and experience with  
respect to particular legislation relating to landlord  
and tenant and various aspects of obligations and  
responsibilities of landlords and tenants, and I think  
that was detailed. I'm not sure whether ---

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MR. METZ: I'm sorry?

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MS. SANSON: We heard from Darlene Clark  
her experience in dealing with various legislation,  
various landlord and tenant legislation.

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MR. METZ: Yes.

MS. SANSON: Perhaps you might want to ask  
her about whether she's had any specific dealings with  
the Human Rights Code.

MR. METZ: Yes. I thought that would be



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1052 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

in cross-examination, wouldn't it, or are we doing it all at once now?

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**THE CHAIRPERSON:** We can do it now. If you have any questions about whether they should be qualified as experts for this hearing you can ask those questions.

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**MR. METZ:** Well, I certainly don't dispute their expertise in relationship to the areas that they have outlined, that's as far as that goes.

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**THE CHAIRPERSON:** All right. But your question is a fair one, I think you're wondering whether they can be qualified as experts on human rights issues related to infringement in accommodation, infringement of the Human Rights Code in relation to buildings and accommodations. Is that your question?

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**MR. METZ:** Essentially.

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**MS. SANSON:** And the Commission's response to that is that we're not -- we won't be calling upon these experts to give an opinion on whether or not there was a violation of the Human Rights Code. The ---

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**MR. METZ:** Then I'm back to asking for relevance again.

**MS. SANSON:** Well, I think the relevance has been demonstrated best by your evidence in-chief necessitating the need for reply evidence, which was the



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Mr. Elieff has performed all of his responsibilities as a landlord and the problem lays with the tenants; and also that Mr. Elieff has carried out and made significant expenditures with respect to repairs, once again the problem resting with the tenants in terms of the current shape of the building.

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And so we have now some people who can provide us with information as to what one might expect to spend in terms of ongoing maintenance of a building; what one might expect as a landlord in terms of obligations; to detail and outline what the responsibilities are with respect to maintaining the property; and with respect to obligations under the Landlord And Tenant Act; and what a reasonable -- reasonably prudent landlord might do under the circumstances.

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**THE CHAIRPERSON:** Let me see if I can attempt to give you my own thoughts on why I tend to consider this relevant. I'm open to your suggestions as well.

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The issues before the board are twofold, as I said earlier today, this afternoon, one is whether an infringement of the Code took place on the basis of comments that received a certain amount of publicity, and those have been denied.



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1054 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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Secondly, there is an allegation that the Code was breached because the level of services provided to the tenants was such that would lead one to conclude that these services were denied for reasons which are a breach of the Code. The answer to that has been the services provided by the landlord were those that any good landlord would and there hasn't been any denial of services.

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Also, to be fair ---

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**MR. METZ:** But I believe also that those denial of services have to relate to discrimination on the basis of the various charges, i.e., race, ancestry, et cetera. If these statistics do not include the races and ancestry, or -- of either the tenants, owners, et cetera, et cetera, I don't see what relevance they would have, other than to suggest that one landlord may be better than another landlord, which I am more than willing to accede to.

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**THE CHAIRPERSON:** Well, it's a little more than that and, you know, that's a fair comment that this landlord may just be ---

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**MR. METZ:** I mean, there may be some bad landlords out there ---

**THE CHAIRPERSON:** That's right.

**MR. METZ:** --- who are just bad landlords,



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1055 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

regardless of who's in the building.

THE CHAIRPERSON: But the ---

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MR. METZ: And what we're investigating today is whether certain tenants are being treated differently as account of their race.

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THE CHAIRPERSON: But, you see, in the evidence that Mr. Elieff gave his objective was to show that he was as good as any other landlord and that he didn't deny any services. Now, admitted, for purposes of this Code you'd have to make the connection between denial of services and infringement of the Code, but my point is that the evidence of these two witnesses would be relevant at the first stage, to show that in fact there was a denial of services. Does that clarify the issue?

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MR. METZ: Only -- not really. In a very broad sense I understand what you're saying, but what we have to talk about here is whether there was a denial of service to people who were either Asian tenants versus people who were non-Asian tenants, and I don't believe that case has been made.

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THE CHAIRPERSON: Well, I think that's something you could raise on argument, but at this stage, when we're getting the evidence in, I believe it would be useful to obtain this evidence on the generally accepted



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1056 J.K. DALY/D. CLARK, in-cn.  
(Sanson)

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standards for landlords vis-à-vis tenants in multi-residential units. It doesn't mean we draw any conclusions from this, and we will be hearing argument on that on the last two days.

Ms. Sanson, do you have any other comments to make?

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**MS. SANSON:** I have no further submissions on the question of qualifying the witnesses.

**THE CHAIRPERSON:** Mr. Metz?

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**MR. METZ:** In the other respect -- yes, I'll deal with that later.

I would -- I'm just curious about procedure now. I would prefer that Ms. Sanson finish her evidence in-chief and then I cross-examine afterwards, rather than doing it all together.

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**THE CHAIRPERSON:** I understand your point. At this stage this is really the first round, and that is to qualify these two witnesses as experts.

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**MR. METZ:** Oh, so we're not even in evidence in-chief?

**THE CHAIRPERSON:** Not into evidence.

**MR. METZ:** Okay, okay.

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**THE CHAIRPERSON:** So on the issue of qualifying them as experts do you have any questions?

**MR. METZ:** No.



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1057 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

THE CHAIRPERSON: Okay.

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Well, then I will accept that the two witnesses are experts in property management and maintenance of multi-unit residential buildings.

Okay. Now we ---

MR. METZ: Now we're in evidence, okay.

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THE CHAIRPERSON: --- we're into in-chief examination.

MR. METZ: I'm sorry.

MS. SANSON: Thank you.

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BY MS. SANSON:

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Q. Perhaps in terms of proceeding I would ask Darlene Clark to take us through how the report was prepared, and then I would call upon Jim Daly to -- if you can perhaps just give us an overview of the report and what's in the report, and then I would ask Jim Daly to identify, to go through the information gathering that you conducted in order to provide the report, and then perhaps then go back to you, Darlene Clark, to actually take us through the remaining details of the report.

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MS. CLARK: Okay. A general overview at first would be that we sat down and we gathered the information that we had on hand so that the expenses -- the timeframe of the expenses that were submitted for



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1058 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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comparison were '84 to '89, 1984 to 1989, so we had to establish what was a comparable building that we had available to us and what the expenses were available to us, and we had three of them.

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And if you turn to page 2 in section one of the report, at the top we have chosen the three buildings address 295 Dufferin, 59 Ridout and 1267 Richmond as comparable buildings, and Jim will get into the reasons why they are comparable in a minute.

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What I did is I wanted to -- I had to come up with some type of method, and the most common method of doing that so that you can have truer comparisons to bring everything down to a per unit basis, and I did so with all the expenses and the revenues, so that I can compare what the expenses were compared to what the revenues generated to find that percentage.

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And then what I did is I did an average of that and I compared it in the years 1984 to 1989 to the information that we had submitted to us as being spent on 95 and 105 Cheyenne.

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On the average we spent -- I took the other three buildings, to make it a little bit fairer, I took those three buildings that we used as comparisons and then did an average for those time periods too, and the average of that expenses that we did was 17.13 per



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1059 J.K. DALY/D. CLARK, in-ch.  
(Sansou)

cent, compared to the average 3.44 per cent.

THE CHAIRPERSON: Can you tell me where  
this is?

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MS. CLARK: That's on page 2 of the  
report.

THE CHAIRPERSON: On page 2.

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MS. CLARK: I'm going to go through page  
by page of the report later ---

THE CHAIRPERSON: All right.

MS. CLARK: --- I'm just going to do a  
general overview at that time.

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We didn't put the mortgage in, because the  
mortgage has -- the only relation the mortgage would have  
to your maintenance expense is if you had any money left  
over to pay your maintenance expense. You have an  
obligation under the Landlord and Tenant Act to make sure  
that you keep your building in good repair, under the  
by-laws of the city you have an obligation.

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So it was really immaterial to the  
purpose that we were doing, because someone could be in a  
building and have it so highly leveraged that it makes it  
impossible. Well, the response at that point is that  
they shouldn't have the investment. It may sound  
unrealistic, but in today's environment there's a lot of  
them that don't have it be because of that reason.

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Certainly with the landlord and -- with the Rent Review Act coming in that a lot of methods of management of the buildings has changed due to that Rent Control Act.

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At any rate, we took all the information, we compiled it; we did all the comparisons; took all the financial information down to a per-unit basis; compared it, based on the information submitted to us; I took the rental information from the sheets that were submitted by the landlord for 1984, and I took the guideline amount up on a yearly basis until they reached a unit that had a rent review order placed on it, and at that point I followed the information based on that rent review order and increased the rents up to 1993 to find out what the legal maximum rents were on those apartments, and I used that to base my revenue projections on, my revenue for comparison on the expenses.

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BY MS. SANSON:

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Q. I'm just going to stop you there, Ms. Clark, and perhaps if we can just make reference to the specific ---

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MS. CLARK: I thought we'd do that when we went through every page by page, if you don't mind.

Q. Oh, okay. All right.

MS. CLARK: Okay?



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1061 J.K. DALY/D. CLARK, in-ch.  
(Sansou)

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And then the other thing that we did after that is that we thought what we would do is to establish if we did all the capital work required of the building then from that point onward, assuming that the capital work had been done, what would it cost to run this building. And we started it in August of 1993, with the assumption that the capital items had been repaired. So that you can look -- and we did it for five years so that you can look at it to see what the costs were and what a prudent landlord would do. And that's what we kept in mind as we were compiling this report, is what a prudent landlord would manage it for.

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And in the different areas as we go through it on an itemized basis where there was a doubt as to whether or not it was going to be fair to the landlord we always went to his side, because it's a very difficult thing to establish what happened back in a different year, so we thought it was the fairest method to give the benefit of the doubt to him. And we can go through that when we do that in detail, we can certainly address the various items where that question came up.

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We had to establish what was comparable, and that's where Jim came in. So if you want me to stop at this point.

Q. Okay. Okay.







THE UNIVERSITY OF CHICAGO

Department of Chemistry  
5780 South Ellis Avenue  
Chicago, Illinois 60637

Dear Sirs:

I am pleased to inform you that your application for admission to the Ph.D. program in Chemistry for the fall semester has been accepted.

Your admission is contingent upon your successful completion of the required pre-admission examinations and the receipt of a letter of recommendation from your undergraduate advisor.

The pre-admission examinations will be held on the campus of the University of Chicago during the month of August. Details regarding the examinations and the location of the campus are enclosed in this letter.

Once you have completed the examinations, please submit your scores to the Department of Chemistry. A letter of recommendation from your undergraduate advisor should also be submitted to the Department.

If you are accepted for admission, you will be required to enroll in the Ph.D. program in Chemistry for the fall semester. You will also be required to complete the necessary paperwork for admission to the University of Chicago.

I am sure that you will find the University of Chicago to be a most stimulating and rewarding environment in which to pursue your graduate studies. We look forward to your arrival on campus in the fall.

Very truly yours,  
The Department of Chemistry



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1062 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

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Just going back, Mr. Daly, I'm going to ask you to outline the steps for the board in terms of what you did to gather information in order to prepare this report.

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**MR. DALY:** At the very onset of the report, the very first step that I made was to make a site visit, on July the 15th.

**Q.** And did you have any information about the properties before you made the site visit?

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**MR. DALY:** Yes, I did. I had a copy of the Dillon Report, which is this book.

**Q.** And that is found at Tab 6?

**MR. DALY:** Yes.

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**Q.** And who provided you with a copy of this report?

**MR. DALY:** I picked that up. Susan Eagle provided me with it. I picked that up a few days previous to the site visit.

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**Q.** What other information did you have?

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**MR. DALY:** I believe at that point in time that was the only information I had, other than a conversation with Susan Eagle with regards to certain maintenance deficiencies in the buildings, and my own knowledge of the area and the buildings.

**THE CHAIRPERSON:** Counsel, can you refer...



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1063 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

my memory here? Have we discussed this Dillon Report before? Has it come up before?

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MS. SANSON: It's never been formally entered as an exhibit, I was just going to ask Mr. Daly to what extent in terms of preparation of the report how he relied on this.

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THE CHAIRPERSON: Okay. Go ahead.

MR. DALY: Basically what I did with the Dillon Report was firstly I read it thoroughly, and ---

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BY MS. SANSON:

Q. What is the Dillon Report?

MR. DALY: It's an engineering report, it was compiled by -- their names are listed in the introduction here.

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Q. Are you familiar with this agency?

MR. DALY: No, I'm not.

Q. Okay.

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MR. DALY: To carry on, what I did was, firstly I read the report thoroughly and used it as a reference when I went to the site, and when I made my own inspections then I would use this report as a guideline for which items I should be looking at that weren't particularly obvious to me. I also used it to provide me with information like such as how many units were in

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1064 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

the buildings.

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It was obvious that it had a wood truss system on the roof; I didn't know that it had blown fiberglass insulation in it, this report told me that. I suspected it was a block construction with pan deck, this report suspects it is too, those kinds of things.

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**THE CHAIRPERSON:** What was the date of your site visit?

**MR. DALY:** July the 15th, 1993.

**THE CHAIRPERSON:** Thank you.

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**MR. DALY:** I did not use the report when I was reviewing my notes and coming up with numbers for Darlene to use in her budget, I used my own numbers.

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**BY MS. SANSON:**

Q. And did you rely on that report for any conclusions that were drawn with respect to ---

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**MR. DALY:** Well, basically mostly the items in the report -- all of the items in the report I'm in full agreement with, and the report, I would say, is pretty much an accurate and concise description of the state of the buildings and the units.

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Q. Based on your visual inspection?

**MR. DALY:** Yes.

Q. And with respect to th



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1065 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

recommendations that you make in your report, would you comment on the recommendations contained in the Dillon Report?

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**THE CHAIRPERSON:** I'm sorry, counsel, what was the question?

**BY MS. SANSON:**

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Q. Perhaps I can reframe that question, and I would ask about did -- once again in terms of the conclusions or recommendations that the Dillon Report made, did you rely on those conclusions as conclusions of your own in terms of recommendations for maintenance?

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**MR. DALY:** No, I didn't. Not generally speaking, because I believe the primary conclusion of the Dillon Report was to tear the buildings down.

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Q. And that wasn't your ---

**MR. DALY:** Or to completely gut them.

Q. And that ---

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**MR. DALY:** And that wasn't my conclusion, no.

Q. Okay. Okay.

Let me take you back to the site visit ---

**MR. DALY:** Okay.

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Q. --- and perhaps you can describe what happened next.



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1066 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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**MR. DALY:** Okay. As I said, it was July the 15th, I met Susan Eagle there and she assisted me in an inspection of 105 Cheyenne. Actually I arrived at the site before Susan did and I did a preliminary walk around myself of the property and I took note of a few characteristics of the buildings and tried to become familiar with them.

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While I was on my site trip I took pictures, would I be allowed to present those pictures now and to refer to them as part of my description of the site visit?

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**Q.** Certainly.

**MR. DALY:** So would I ---

**MS. SANSON:** I have to show them to Mr. Metz first.

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**MR. DALY:** Okay.

**MR. METZ:** Are these pictures in this report?

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**MR. DALY:** Pardon me?

**MR. METZ:** Are these pictures in the report anywhere?

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**MS. SANSON:** No.

**MR. DALY:** No, they're not.

**MR. METZ:** No?

**MS. SANSON:** Do you want to take a look at



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1067 J.K. DALY/D. CLARK, in-ch.  
(Sansons)

them.

MR. METZ: This is July 15?

MR. DALY: Yes.

5

MR. METZ: Is this looking down from something?

MR. DALY: That's looking down on a balcony slab.

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MR. METZ: Okay.

MR. DALY: Concrete.

MR. METZ: So you're looking over the edge.

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MR. DALY: Yes.

THE CHAIRPERSON: Ms. Sanson, are we going to enter this as an exhibit, this report?

MS. SANSON: Yes, I would like to do that.

20

THE CHAIRPERSON: Okay. Maybe you could

---

MS. SANSON: Could we mark it for now and then -- is that your preference to mark it now, before all of the documents have been identified?

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THE CHAIRPERSON: Yes, because then these photo -- I'm just thinking that these can be part of this exhibit, so it would be document one of this exhibit, et cetera.

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MR. METZ: Will these photographs be



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1068 J.K. DALY/D. CLARK, in-ch.  
(Sansón)

entered as an exhibit as well?

**THE CHAIRPERSON:** They will be part of  
this exhibit, I assume.

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**MS. SANSON:** Yes.

**MR. METZ:** Can I get copies of them later  
on?

**THE CHAIRPERSON:** Yes.

10

**MS. SANSON:** We can make photocopies, I'm  
not sure whether ---

**THE CHAIRPERSON:** Yes, photocopies, that's  
what I meant.

15

What exhibit are we on?

**MS. SANSON:** Now, I've had a note from the  
reporter and actually I meant to deal with this before we  
moved on, and apparently there were some documents that  
though referred to were not officially entered as  
exhibits.

20

**THE CHAIRPERSON:** That's right. And you  
thought you might enter them officially as exhibits once  
you has Susan Eagle in reply.

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**MS. SANSON:** But I think there were  
additional ones that weren't. We can ---

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**THE CHAIRPERSON:** Well, I'm content to  
have them identified now, but -- in other words, do what  
we need to do with the ---



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1069 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

MS. SANSON: Okay.

THE CHAIRPERSON: --- witnesses here ---

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MS. SANSON: Okay.

THE CHAIRPERSON: --- and then we can sort  
out the numbering later.

MS. SANSON: Okay. Then it would be  
document -- it would be Exhibit 54.

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--- EXHIBIT NO. 54: Report on 95-105 Cheyenne Apartment  
Expenses and 18 photographs.

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BY MS. SANSON:

Q. Mr. Daly, I'm going to ask you to go  
through the photographs in terms of your site inspection  
and identify each of the pictures.

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MR. DALY: All right.

Q. Just as a visual aid to what you saw  
during your inspection ---

MR. DALY: Okay.

25

Q. --- once Mr. Elieff has had an  
opportunity to take a look at them.

MR. DALY: Thank you.

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Q. Perhaps it might be best for you to  
identify the photograph and then present it to the  
board.



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MR. DALY: Okay.

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Q. And you can make any references to the pictures as you go along.

MR. DALY: Okay. Shall I come up and ---

Q. Would you first ---

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MR. DALY: --- go through them one at a time?

Q. Yes. If you would first show the picture, the specific picture that you're going to refer to to Mr. Elieff and Mr. Metz, and then you can present it to the board ---

15

MR. DALY: Okay.

Q. --- in your discussion so they know which one you're referring to.

20

MR. DALY: Well, basically when I got to the site that day and was trying to familiarize myself with the two buildings in question, I took this first shot, and it is a shot of 95 Cheyenne, and it would be the east face facing Cheyenne. And one of the items about this photograph that I'd like to point out is the plexiglass in the stair lights in the stairwell, and the fact that the window frame has been, at some point in time, changed around and the glass was taken out and the plexiglass installed. Shall I pass that up now.

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THE CHAIRPERSON: So this will be photo



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1071 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

number one.

MR. DALY: Yes.

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MR. ELIEFF: The glass cannot be seen, you should have gone close to the glass so you're going to say about the glass being broken or something.

10

MR. DALY: Yes, the glass must have been broken at some time and plexiglass was installed.

MR. ELIEFF: May times over.

MR. DALY: Yes.

I guess what -- shall I just go into it?

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BY MS. SANSON:

Q. Yes.

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MR. DALY: I guess my concern with that plexiglass window arrangement would have been really not that there was glass or plexi there, but that the whole arrangement wasn't very secure, and the plexi was right at the landing that is between the two levels, and I would consider it a safety hazard, that somebody, had they been pushed into that window arrangement such as it is could conceivably go through it, all right. Were it one of our buildings I would have requested or recommended that a metal railing be put across in front of it on the inside.

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The second shot I took was of 105



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1072 J.K. DALY/D. CLARK, in-cn.  
(Sanson)

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Cheyenne, it shows the southeast corner of the building,  
and the reason I took this shot was it shows the concrete  
balcony slab on the top floor of the southeast corner is  
in poor condition and in need of repair, and so I took  
that shot.

10

THE CHAIRPERSON: Thanks very much.

MR. DALY: Would it be all right if I  
stood up and then I could just pass the picture?

THE CHAIRPERSON: Sure.

MS. SANSON: Sure. Sure.

15

THE WITNESS: My next shot was simply in  
building 105 the ground floor patio/balcony doors had  
been smashed, and refrigerators in view ---

MR. ELIEFF: Smashed?

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MR. DALY: --- and all of that, so seeing  
that as being ---

MR. ELIEFF: Very true.

25

MR. DALY: --- an item I took a picture of  
it. Actually I took two.

There was no security on the ground floor  
and access to the units was wide open.

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MS. SANSON: Perhaps we could just number  
those one, two, three in terms of the photocopies may not  
be readily ---

THE CHAIRPERSON: Oh, you mean on the



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1073 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

photograph side you mean?

**MS. SANSON:** On the back side, and then  
when I copy I'll know which ---

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**THE CHAIRPERSON:** Yes, I'm putting -- I'm  
marking them as Exhibit 54, document photo number two, et  
cetera.

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**MS. SANSON:** Okay. Thank you.

**MR. DALY:** Okay.

This next ---

**THE CHAIRPERSON:** I'm sorry, Mr. Daly.

**MR. DALY:** I'm sorry.

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**THE CHAIRPERSON:** Which one was three and  
which one was ---

**MR. DALY:** Actually ---

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**THE CHAIRPERSON:** It doesn't matter?

**MR. DALY:** --- it doesn't really matter.

**THE CHAIRPERSON:** Okay.

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**MR. DALY:** This next shot is the entrance  
door to 105 Cheyenne on the north face. I took it  
primarily to help familiarize me with the buildings and  
the like.

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There is a piece of broken glass at the  
bottom right-hand side of the side light as well that's  
missing.

So at that point in time I was inside the



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1074 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

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building and I went to the front and noticed the mailboxes. The mailboxes were in a sad state of affairs, some of them were missing mailbox locks, others had padlocks bolted to them, by whom I don't know, but for security for tenants for mail.

10

MR. ELIEFF: Yes, they did their things.

THE CHAIRPERSON: Thank you.

15

MR. DALY: And then immediately after, the mailboxes being just inside the east door, if you go up the first set of -- first flight of stairs at the east door, the fire door between the stairwell and the corridor is the next shot.

20

MR. ELIEFF: What happened to that one?

MR. DALY: This door is right off its hinges, and I would consider that a serious breach of the fire code and a threat. In case of fire you try to maintain a fire door separation between the corridor and a stairwell.

25

And then carrying on after I got in there, the next shot is a picture of a fire extinguisher cabinet

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MR. ELIEFF: What happened to that?

MR. DALY: --- less the fire extinguisher.

MR. ELIEFF: And what happened to that

one?



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1075 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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**MR. DALY:** Also I noticed while I was in there that the pull stations for the fire system were missing the glass rods and the exit signs were missing the face of some of the signs, the face that says "Exit", so at that point fairly a useless fixture.

10

And then we went into the laundry room, and in the laundry room there's a meter cabinet, and the door to the meter cabinet had been vandalized ---

15

**MR. ELIEFF:** M'hm.

20

**MR. DALY:** --- and the door was wide open and available to anyone to go in and hurt themselves. This would be a life-threatening situation. This is -- this is a London PUC meter box, which I was informed at the time there was an order for the PUC to come and make a repair to the door, but in the interim the door is open. It's a single-phase 240-volt line coming in. And you can see the connections have been taped, which is a standard procedure by the PUC, however it's -- it goes without saying that were that tape not there, or if some small person was playing around with the tape, that they could quite easily kill themselves if they touched it.

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**THE CHAIRPERSON:** This is exposed to a public area?

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**MR. DALY:** That is in the -- yes, it's a public room, it in fact is the laundry room. It is in



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1076 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

this room, which is my next shot, and it is mounted on this wall over here.

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THE CHAIRPERSON: I see. Is this the floor of the room or ---

MR. DALY: I should have backed up shouldn't I. This is the box itself and this is the door.

10

THE CHAIRPERSON: Okay.

MR. DALY: Right. So it's coming in the side of the box and going out the bottom of the box here.

THE CHAIRPERSON: All right.

15

MR. DALY: And it's referred to as a meter box.

MR. ELIEFF: Whose property is that box?

20

MR. DALY: I would say that it's the property of the PUC.

MR. ELIEFF: M'hm.

THE CHAIRPERSON: All right.

25

MR. DALY: Who would vandalize it, I have no idea, the meters I mean.

And the next shot was the laundry machines.

THE CHAIRPERSON: Where is this?

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MR. DALY: In the same room. All the laundry machines were, I assume, not -- not working.



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1077 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

There were no coin slides in any of the machines, so they were inoperable.

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At that point we were inside a unit and I took this next shot, and it's a typical window arrangement. It's single-glazed windows, sliders. And it shows some plaster repair on the bottom. Single-glazed sliders will always condensate in the winter.

10

MR. ELIEFF: Right. Right. Why they allow the buildings to be built that way at that time, as expert? As expert can you tell me?

15

THE CHAIRPERSON: Mr. Elieff ---

MR. ELIEFF: No?

20

THE CHAIRPERSON: --- I'm going to ask you to save your questions and have the -- suggest your questions to Mr. Metz, because he'll have a chance to cross-examine.

MR. ELIEFF: Okay.

THE CHAIRPERSON: Okay?

25

MR. DALY: And the next shot is a picture of the kitchen counter top arrangement. I took this shot because the tap was dripping quite badly and that the counter top had been rotted out around the base of the faucet, which always happens when the taps are leaky because the particle board the counter tops are made out of can't take the water sitting on it.

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1078 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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And then this shot was standing in the washroom looking out, and I took it because there's a piece of wood trim screwed to the door frame which is being used as a privacy lock for the washroom.

MR. METZ: Modern.

10

MR. DALY: Yes. This is the piece of trim I'm referring to, you'd shut the door and put that trim -- screw, spin, right. That would provide you with privacy in your washroom.

15

The next three shots were taken in that washroom looking at the ceramic tiles, which were in very poor condition. There were -- the plastered walls behind them had long since rotted out, and the grout had rotted and the caulking was mouldy and smeared. They're all three of the same, the same tub-surround.

20

And then at that point I went outside on the balcony, because I knew -- I knew the balcony slab was bad because I had seen it from the corner and I went out and just took another shot of it, looking down at it like this, so you don't have a squared corner here.

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30

And then my last shot is a shot of the compound. At the back there's a parking lot on the way out with a large pile of refuse, furniture and debris and that sort of stuff all piled up out at the back. That's a maintenance issue, I took a picture of it.



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1079 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

THE CHAIRPERSON: Just for the record,  
there are 18 photographs.

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BY MS. SANSON:

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Q. Perhaps at this juncture, Mr. Daly,  
you could explain, you made reference to the single-  
glazing glass and you made reference to some condensation  
in the wintertime.

MR. DALY: Yes.

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Q. Could you just detail the  
consequences that may arise as a result of single-glazing  
and condensation?

MR. DALY: Yes. Well, with a single-glaze  
window there's no "R" value to the window at all hardly,  
and ---

20

Q. Sorry, no?

MR. METZ: "R".

MR. DALY: Insulation reading ---

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BY MS. SANSON:

Q. Yes?

A. --- on the window arrangement ---

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Q. Yes?

A. --- and it will always condensate in  
the winter where the cold air outside meets the hot air



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1080 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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inside on that piece of glass, and it will condensate to the point that it will drip and run and go down into the window track and out onto the plaster walls and that sort of thing.

10

So that, of course, is going to cause a mouldy condition. The mould will start because of the condensation, and the mould will, because mould grows, it will expand and move around the room, right.

15

The same thing would hold true for the sliding patio doors, and they would condensate. And what they would do is they would drip down onto the floor and rot the carpets out. And what happens in a lot of cases especially on the north face, is there would be ice on the windows and doors as well, it's a pretty much permanent-type thing, on the inside of the glass there would be ice forming as a result of the condensation forming in the cold on the glass.

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25

Q. As a result of the single-glaze windows what maintenance steps or precautions are required?

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MR. DALY: Well, so that is the reality that a single-glazed window condensates, so one either puts a storm on the outside, and insulates with the storm, or is constantly re-plastering and fixing his carpets, because of the condensation and the rot and the



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1081 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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mildew that it causes. So it seems to me that where you don't have double-glazed windows, or thermally insulated windows, you would have to constantly be coming around and cleaning the mould out of the tracks and making plaster repairs.

10

Q. Okay. And you were detailing your site visit, have you concluded ---

MR. DALY: Yes, that was the extent of the site visit pretty much.

15

Q. After the site visit did you receive any further information in preparing your report?

20

MR. DALY: No. At that point in time I would have gotten together with Darlene Clark and we would have worked on a budget, jointly, and I would have provided her with capital numbers or capital expense amounts for the ---

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Q. And what was the capital expense amounts based on?

MR. DALY: It was on my site visit and my report.

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Q. Okay.

MR. DALY: So we have a listing in here, in our report, of all of the capital items that relate to the common area and all of the capital items that relate to the units themselves.



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1082 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

Q. Perhaps we could just turn those up right now.

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MR. DALY: Okay. Okay. Page 16 is the budget. Capital items per building are on page 20. I'm sorry, capital items units, and these numbers are per building.

10

THE CHAIRPERSON: Can you just -- just before you proceed.

Ms. Sanson, do we have a target time for adjourning today? How long would you like to go before we adjourn?

15

MS. SANSON: I'm in the board's and the party's hands. I know that you've been experiencing some back ---

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THE CHAIRPERSON: My back is fine for the moment, but if -- and I'd be interested in continuing if Mr. Metz here is agreeable and ---

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MR. METZ: Yes, m'hm.

THE CHAIRPERSON: --- Ms. Hom.

MS. CLARK: I wouldn't mind just a short, short, short break.

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THE CHAIRPERSON: A short break.

MS. CLARK: Sure.

THE CHAIRPERSON: Why don't we take a short break now for five or 10 minutes.



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1083 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

MS. SANSON: Okay.

MS. CLARK: Thank you.

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--- Upon recessing at 5:27 p.m.

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--- Upon adjourning at 5:40 p.m.

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JAMES KENNETH DALY, Resumed:

DARLENE CLARK, Resumed:

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MS. SANSON: I believe Mr. Daly was just identifying the two capital item ---

MR. METZ: Page 20.

THE CHAIRPERSON: Page 20?

15

MR. METZ: That's where we were at.

CONTINUED EXAMINATION-IN-CHIEF BY MS. SANSON:

Q. And was there one other page?

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MR. DALY: Twenty-two (22).

Q. Twenty-two (22).

25

And perhaps at this point what we can do is move back to the overall budget, or is there some additional information we need in order to move through the report?

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MR. DALY: Well, the budget was based on this capital work. We should really go through the capital items first and then go to the budget.

MS. CLARK: Or we can start right at the beginning and through on a page-by-page itemized list



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1085 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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until we get to the budget, because this is, as it is, what happened in the past at first, and the capital items are based as it is today, and then the budget is based on the projected future of the building. So would it be a logical assumption to start from what happened, where we are, what we can do?

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MR. ELIEFF: That's right.

BY MS. SANSON:

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Q. Does that make sense to you, Mr. Daly?

MR. ELIEFF: Sure it does.

MR. DALY: M'hm.

20

BY MS. SANSON:

Q. Okay. Perhaps then at this point I would ask Darlene Clark to just detail the additional information, the sources of additional information that were relied upon in terms of preparing the report?

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MS. CLARK: The information that I obtained from Jim Daly as far as what the comparable buildings were, we went at that point and dug up all the invoices for the same time period, being 1984 to 1989, in that time period. Actually we did it to '92, but we only used those so that it could be based on the same

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1086 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

information as submitted for the expenses on the subject property.

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Q. Just to back up, there were some additional information that was provided to you by the Commission in terms of the information for the preparation of the budget.

10

MS. CLARK: M'hm.

Q. And could you just identify the information with respect to the subject properties, the additional information?

15

MS. CLARK: Well, we had some rent sheets that were submitted, and we also had some rent review reports that were submitted. And the rent sheets dealt with the rent role, saying who the tenants were as of 1984 and upward, and the rent review orders based from in and around the year 1990 to '92, that they were granted on individual apartments.

20

And there was also a list of expenses that were submitted for the subject property from 1984 to 1989, and they can be found in section two, page 27 to 34, for the actual expenses, excluding the utilities. Because the 1984 utilities were not submitted, they went from '85 to '92. They were also taken out of the comparable information sheet as found on page 2.

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And the utilities were the PUC, which



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1087 J.K. DALY/D. CLARK, in-ch.  
(Sansou)

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covers your hydro and water, and gas, and they are found in section three and four. PUC in section three from page 36 to 41 covering 1985 to '92; and for the gas it's in section four page 42 to 47.

Q. Okay.

MS. CLARK: Okay. So ---

10

MS. SANSON: And just by way of information for the record, the information that are contained in these summaries of expenses and PUC's were taken directly from the exhibits?

THE CHAIRPERSON: Yes.

15

MS. SANSON: It was our office who prepared them and it was reviewed by one other individual. There certainly may be some non-inclusions, you'll see portions where if a bill was produced twice it was listed and added in as twice, so the totals have been taken from the actual exhibits. So you'll see lists of each of those, the actual exhibits and the amounts on the far column.

20

THE CHAIRPERSON: Yes.

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MS. CLARK: Okay. So if we turn to page 2 of the report ---

MR. METZ: Page 2?

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MS. CLARK: Page 2, section one.

MR. METZ: Okay.



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MS. CLARK: What this is is a comparable per unit on all revenues and expenses for the subject property, and they're broken down on a percentage on the comparables. What percentage of revenues did we spend on expenses on a per-unit basis they were broken down into.

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BY MS. SANSON:

Q. Perhaps we could just hear, there are three properties, why those three?

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MS. CLARK: Yes, I was just going to go into that.

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Q. Okay. Thank you.

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MS. CLARK: That's okay.

30

The information on the subject property can be found based on second number one, pages 25 and 26 for revenues. And what, as I had said before, I did on that is I took what was the submitted rent role sheet, which is found on Tab 7 -- it's the rental income role for December of 1984 -- and I listed them all for all the units, and I took that information and I put -- because under the law you can only use a guideline increase every year. Unless you apply to a rent review application and it has been granted you can at that point increase your rents up to that -- over and above that guideline amount. So based on what was submitted as the



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1089 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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rents were in 1984, I took the guideline increase every year up and to 1989 so that we could have the information on the revenues, and this was as effective as December in every year.

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For the information purposes on the rent review orders that are found under section eight, page 75, I then extended all the rental units. And if you look on page 26 you'll see a rent review order for the particular apartment in 1991. Well, I extended it. At that time it was ordered that that was the amount according to the rent review order, that was the amount of rent that you could legally charge for that unit, and I extended it over for '92 and '93.

15

20

So that we ended up with if it didn't have an order I would just take the information as found on page 1989's rent and extended it over, found on page 25, and extended it over so that we would have the complete maximum rent as of 1993, December, which is on page 26.

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THE CHAIRPERSON: Cumulative.

MS. CLARK: Cumulative.

30

Okay. So getting back to page 2, that's where I obtained the revenue information for the subject property.

For the expenses on the subject property



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1090 J.K. DALY/D. CLARK, in-chn.  
(Sanson)

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it was submitted under section two, pages 27 to 35, on a yearly basis by the landlord what he spent on those properties. And in the information that I had it wasn't specified exactly -- like if you look on page 29, in June 29, 1985, which is the sixth item down, it says "Woolco". Well, I don't understand which particular expense that would fall under, it could be cleaning supplies, it could be any of a number of things. So I just accumulated their expenses at the whole amount, the total amount, and used that for the expense for the year and put it on a per-unit basis, and that's how I came up with these figures.

**THE CHAIRPERSON:** Excuse me. When you say you put in on a per-unit, you just divided all those expenses by the number of units?

**MS. CLARK:** That's right.

**THE CHAIRPERSON:** Okay.

**MS. CLARK:** Because I needed to have a unit of comparison that would be the most fairest, because you couldn't basically do it as the whole building because of the unit's variance that would be in that building, so I did it as a per-unit basis.

**THE CHAIRPERSON:** Okay.

**MS. CLARK:** So at this point what we have on page 2, we have revenues as described, and we have



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1091 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

expenses as described, both over the same time period on a per-unit basis. I took the percentage of the expenses to the revenue per year and I listed it straight down.

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Then I went to the properties, and you can find the descriptions on section one for the first one, of 295 Dufferin, pages 7 and 9. Page 7 describes why that building is comparable, 7 and 8.

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Then if you turn to page 9 what I've done is I took the actual expenses that we have from our financial statements from 1984 to 1989 and I did a breakdown of what was in rent; what we collected as income in our laundry; what our other income would be; what our vacancy loss was; so we had a net income. Then I put it down into a per-unit basis for Dufferin Street.

15

And then I followed the same criteria for the expenses, and then I put the expenses on a per-unit basis, and then I established whether there would be a net loss or gain.

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Mortgages, as I explained before, were not included because it depends on the building and the leverage of that mortgage on the building, and my purpose was to deal with straight maintenance items.

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If you turn to page 6 you will be able ---

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**THE CHAIRPERSON:** That's an important point, could you just expand on why the carrying cost of



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1092 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

money on a building is not included as an expense?

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**MS. CLARK:** Because that's -- that can vary from building to building, depending on the needs of the unit owner. They may in fact have had that building for several years and had the mortgage paid down on it and used that building to increase the mortgaging so that they can purchase another ---

10

**THE CHAIRPERSON:** Another property.

**MS. CLARK:** --- another property.

15

The building itself could be highly leveraged, because maybe the landlord himself didn't have a lot of money. I'm not saying in this case this is what happened.

**THE CHAIRPERSON:** No.

20

**MS. CLARK:** But it could be that that person had very low money down and therefore the mortgage would be very high. Or it could be that the owner had it for a long period of time and they didn't, you know, re-increase their mortgage, because they didn't want to use that money for whatever purpose, and the mortgage might be very low.

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**THE CHAIRMAN:** Thank you.

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**MS. CLARK:** My purpose was to find out what the building operated on ---

**THE CHAIRPERSON:** Okay



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1093 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

**MS. CLARK:** --- and this is an operating statement basis. And the expenses to operate that, if you look on page 6, and compare page 6 to page 2, the expenses were broken up into these categories. If you look on page 2 under the "Comparable Breakdown Of Expenses For Years 1984 - 1989 In Rounded Totals" for the comparable properties you see "Unit Maintenance, Building Maint., Wages & Benefits" and "Capital Items" and "Other Expenses", and I want to go through on page 6 what was in each one of those sections.

Unit repairs and maintenance dealt with everything that was inside the unit, being carpet cleaning, plumbing, plastering, locks and keys pertaining to that unit, electrical, carpet replacements, painting or appliance replacements or repair.

In the building maintenance section it would be the common area repairs, locks and keys, laundry repairs, laundry room repairs, fire alarm systems, the plumbing, painting of the common area, any pest control in the common area, cleaning supplies, mechanical repairs and maintenance, service contracts on any of the boiler equipments or any large mechanical equipment that you would have to operate the building; any grounds keeping, including snow removal, and the wages of the superintendent.



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1094 J.K. DALY/D. CLARK, in-charge.  
(Sanson)

THE CHAIRPERSON: Can I ask why pest control was not also included in the unit repairs?

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MS. CLARK: It would be included in unit repairs.

THE CHAIRPERSON: It would be, okay.

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MS. CLARK: Yes. I just did the general things that stand out, because pest control in a common area would come up with a larger expense than it would be in the unit.

THE CHAIRPERSON: Unit, yes.

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MS. CLARK: It might be \$25.00 versus \$150.00.

MR. DALY: It would be a contract basis as well.

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MS. CLARK: Yes.

MR. DALY: Common areas would be done on a regular basis, part of a yearly budget, whereas a unit

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MS. CLARK: It's done as required.

MR. DALY: As required.

THE CHAIRPERSON: Okay.

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MS. CLARK: All right. Good point, Jim. Utilities dealt with the heat, they hydro and the water.

Other expenses, as found again on page



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1095 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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dealt with advertisements; insurance; any rental incentives, such as if you gave a free month's rent to increase your market share of the client base; office expenses, what it took to run the -- if you had a rental office down there or if you purchased leases or anything along that line, paperwork; deposit interest payable. That's the accrued interest of six per cent required under the Landlord And Tenant Act on all last months rent.

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THE CHAIRPERSON: M'hm.

MS. CLARK: Okay? Bad debts and professional fees, such as engineers or auditing or legal work that you would have done due to the operation of the building. That's under "Other Expenses".

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The other item that you see there is capital items, and that would be something that you would have to have. And under the Revenue Canada rules a capital item is something that you would refer to that you would use that would either get more than one year's life expectancy of that product. For instance, the purchases of maybe one stove may not be, but generally speaking, if you purchased a couple or three or four of them you would be using that as a capital item.

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If you decided to paint one unit it wouldn't be a capital item, but if you repainted all the



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1096 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

units you would classify that as a capital item.

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So anything that we found in the expenses in the comparables were dealt with under the capital items category.

THE CHAIRPERSON: I'm sorry, could you repeat that last sentence? Everything?

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MS. CLARK: Everything that we found as a capital item on the financial statement were included under "Capital Items" in this as an expense. Normally you would have a capital budget ---

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THE CHAIRPERSON: Yes, for income tax purposes.

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MS. CLARK: --- you know what I mean? Like as far as income tax purposes we put the capital items in here.

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THE CHAIRPERSON: Okay, fair enough.

MS. CLARK: Okay, just to clarify that.

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The revenues -- 1984 it appeared from the information submitted to me that June of 1984 was the time that the corporation was started, so I only did half a year for 1984. I excluded the utilities as the bill submitted did not cover the total timeframe in '84, so I wanted it to be as fair as possible so I started -- I took the utilities out.

That's something that you have to pay



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1097 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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for, and perhaps the way your building is looked after it may increase your hydro or not, or if you've done an energy auditing by changing your lights and things like that, it may decrease your expenses. But the other items were pertaining to the actual operation of the building, and I felt it was very important that we kept that, and I didn't have the bills for 1984 and I wanted it to be as fair as possible with our comparables, so I excluded that.

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I then took this information and I compiled it, and I tried to in all instances err on the side of where it would be the fairest to the landlord. So I've taken -- and if you look at 295 Dufferin, the total expenses to revenues over the timeframe of 1984 to 1989 was 20.54 per cent. And I'm going to get into more of these details in this in a minute, but just to bring out what the totals were.

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And at 59 Ridout it was 12.32 per cent. At 1267 Richmond it was 18.53 per cent. And there was such a variance in there I thought it would be fairer if I averaged the three of them out, because of variances that you might find, even though they're on a per-unit basis the variance that you might find and expect to have over a larger aggregate, so I put it at 17.13 per cent. And then I used that in comparison to what the



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1098 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

landlord did at the subject property and I graphed it on page 3.

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But I do want to point out one thing here, to be fair. The first year of 1984 our expenses are for the total year and it should only be for half a year to compare it in the same timeframe, so it's asterisked to point that out in 1984.

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BY MS. SANSON:

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Q. So the first block should be half of what it is?

MS. CLARK: Half that, m'hm.

Q. With Mr. Elieff's property as it is?

MS. CLARK: That's right.

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If you turn back to page 2, if you look under 295 Dufferin, the information on that, as I said, was found between -- the comparable information at 7 and 8, and the extended information as far as the numbers are found on page 9.

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I just wanted to go through 7 and 8 to show -- and Jim actually was the person that did a lot of this, but we worked on writing down the information together. So you can jump in any time on this part.

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MR. DALY: All right.

MS. CLARK: Okay. For Lord Dufferin we



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found that -- what we did, we thought it would be the best thing to do is to go through each property and put down the information that we thought that we'd look at so that you can use that information to make it either comparable or to show the differences that may be within that building as compared to the subject building.

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Some of the items that we established to do that were the location of the building; the age; the number of units; and in Lord Dufferin's case there's the number of units on page 7, it said in this information package that there's 20, but in fact there's 19, and the figures are calculated all on 19 units rather than the 20, so this is an error on page 7. So if you could stroke that 20 units out and put 19 in it would be correct.

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The structure of the building, whether it was a walk-up, and all the comparables were between a three and a four storey walk-up without elevators. What kind of heating system was in it. In Lord Dufferin's case it was gas fired hot water boilers. The make up of your patio doors and your windows, whether or not it had storm windows on it or anything; what the roof was like; and the common area flooring.

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All these factors would point out the different types of things that you would have to

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1100 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

consider. For instance, in the common area flooring it's  
hardwood. Well, you wouldn't have to worry about carpet  
replacement as a cost, for instance, on things like that.

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We looked at the laundry room, whether the  
appliances were owned by the property or not. What the  
domestic hot water system was; the lighting in the  
exterior or the common areas; what the entrance doors  
were like.

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And on page 8, what kind of emergency  
lighting was in each building; what kind of appliance was  
held in the unit; what the unit carpeting or what type of  
flooring it had in there, and it could vary in each part  
of the unit. If there was a fire alarm system what kind  
it was; the apartment entry doors. Because that would  
affect also your heat value inside your unit, depending  
if it was hollow core or solid core door.

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The kitchen cupboards, what type of  
kitchen cupboards there were; if there was a bathroom  
exhaust, and in this case it was -- Lord Dufferin's case  
it was the windows were used as the exhaust for the  
ventilation in the bathroom. How many pieces in the  
bathroom fixtures there were, if there's one or two  
bathrooms for instance. In this case there was one  
bathroom with four pieces in it. The type of bathroom  
walls. And going on the exterior, what kind of parking

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1101 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

there was.

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So when we had that base information and the expenses on page 9, from 1984 to 1989 I totalled every year and then I cross referenced it to make sure the figures were correct on a per-unit basis. I did it for the revenue and the expenses.

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And then I did an average, what the average would be per year based on the timeframe of '84 to '89, and that's found in your average per year column. Just for information purposes on that, because I didn't use that in any of my reports, but I just wanted to see what the average per year was.

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So based on revenues, on a per-unit basis of \$3,490.00 we spent an average of \$1,564.00 on expenses.

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**THE CHAIRPERSON:** Where are you -- where were you getting ---

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**MS. CLARK:** That's on the average per year, page 9, the last column.

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**THE CHAIRPERSON:** Yes.

**MS. CLARK:** The average per year, the total revenue was \$3,490.00, and the average expense was \$1,564.00, and the net profit was \$1,926.00, which was to pay your mortgages or any other expenses that you might have on that property.



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1102 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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So that was how we established the comparables for purposes of what the subject property was doing compared to what another landlord would do, on pages 2 and 3.

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Page 4, it was the same information base that we had for 7, page 7, which was one of the comparable properties, being Lord Dufferin; page 10, which was another comparable, being Carlton Court at 59 Ridout Street; and page 13, which was our last comparable of 1267 Richmond Street in London.

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And the 95 to the 105 Cheyenne, this was information that Jim had gathered on his site visit, and there were some items that were marked unknown because those items were not -- Jim was not given access to them or they were not made available to him at his site visit.

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So, Jim, did you want to go down through this one here? You may have comments that you want to make on that comparable information package. This is on page 4 and 5.

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MR. DALY: Do we want to go into the building descriptions in detail, or do we want to leave it simply as it's stated here? There's differences in the buildings, right, do we want to point those differences out or is that an issue?

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1103 J.K. DALY/D. CLARK, in-ch.  
(Sansons)

BY MS. SANSON:

Q. Perhaps we could ---

MR. DALY: I guess ---

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Q. --- detail your general selection  
criteria for picking these three properties.

MR. DALY: Okay.

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Simply put, each building is 14 units, a  
minimum of 14 units, 14 units or greater in each  
building; they all have a similar heating system; and  
they're all three or four floor walk-ups, and by and  
large, generally speaking, that sits them in a certain  
category whether it has 50 units or if it has 20 units in  
it. And there is an opportunity for a building with 50  
units to spread its expenses out perhaps a little more  
than there is -- per unit than there is for a building  
that has only 14 units. But in this case we took a  
building that had 72 units, which is 59 Ridout, and we  
took a building which had 14 units, which was 1267  
Richmond Street, and included both of them for that  
average, right.

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Q. Okay.

MR. DALY: Like I say, the buildings are  
all individuals. I think really and truly if you went  
out and tried to find identical buildings it would be a  
hard thing to find, and we used the criteria of four

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1104 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

floor walk-ups, a similar heating system. Location was not a factor because we were comparing expenses, we weren't comparing income. That's about it.

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MS. CLARK: That's a normal practice when you're doing market surveys too is to find comparable buildings based on the criteria that you're comparing. We weren't comparing rent, we were comparing expenses. So the location of each building didn't matter so much as the number of units, the number of walk-ups, if it had an elevator, if it had a similar heating system, that sort of criteria. What we were comparing is the expenses rather than the revenues at this point.

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THE CHAIRPERSON: And age? Was age a factor?

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MS. CLARK: Yes.

MR. DALY: All of the comparable buildings are older than the Cheyenne buildings. In all of the buildings the heat is paid by the landlord.

25

THE CHAIRPERSON: Okay.

MS. CLARK: So we sat down and we thought we would do a capital -- so that established what had happened, what had happened in past.

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And then we thought, well, we have to establish what we can do with the present, what's wrong at the present, so that's when we looked at the figures



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1105 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

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on page 20 and page 22, what was needed on capital items to bring the building up to acceptable standards under the property standards in London and to comply with the Ontario Building Code and Fire and Safety Standards. And those capital items are found on page 20 and 22.

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And the assumption notes based on each one of these units are found for each one of these items. For instance, for page 20 the assumption notes are found on page 21; and the capital items for the building common areas is found on page 22, the assumption notes are found on page 23.

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Do you want us to go over exact details on each one of them so we can explain how each one was arrived at?

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**THE CHAIRPERSON:** Ms. Sanson, it's your witness.

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**BY MS. SANSON:**

Q. Certainly.

**MS. CLARK:** Okay.

**MR. METZ:** If I may ask ---

**THE CHAIRPERSON:** Yes.

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**MR. METZ:** --- is this detail necessary for your questioning?

**MS. SANSON:** I'm in your hands in terms of



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1106 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

I'm more familiar with the information, obviously, than the other parties and the board, so I'm in your hands in that regard, and I think in terms of unless the ---

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MR. DALY: Perhaps I can go through the capital items fairly quickly.

THE CHAIRPERSON: Yes.

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MR. DALY: And I won't refer to the assumption notes that often, but just sort of basically run down them and give you an idea how we arrived at them.

THE CHAIRPERSON: Okay.

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BY MS. SANSON:

Q. Certainly.

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MR. DALY: So "Capital Items, Per Building: Units". And the first item, "Washroom Basins & Faucets", and we allotted \$1,200.00 per building, which would be \$60.00 per unit, and basically that will cover the cost of new plumbing, taps, P-traps, supplies, valves, basins if required.

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"Bathtub, Faucets" waste and overflows, \$8,000.00, which would be \$400.00 per unit, and simply that's the replacement of the entire bathtub, waste and overflow assembly, and faucets.

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We budgeted for \$9,000.00 worth of ceramic



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1107 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

tile replacement, which is the next item, and that would be an allowance of \$450.00 per unit for new ceramic tile tub-surrounds.

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"Bathroom Exhaust Fans", we allocated \$2,500.00. We did that on the assumption that we would find various faults with the bathroom exhaust system, were it burned out motors or whatever, and allocated \$2,500.00.

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"Kitchen Range Hood" fans is pretty much a similar situation. We allocated \$75.00 per unit; \$75.00 will basically buy you a kitchen range hood installed.

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"Kitchen Cupboards, Sinks, Faucets", we allocated \$30,000.00, that's \$1,500.00 per unit, and we were of the opinion that we could go into that building and install new kitchen cupboards, complete with counter top, sinks and taps for \$1,500.00, similar cupboards of a -- we could replace the cupboards with units of a similar construction.

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"Kitchen & Washroom Floors", \$5,500.00. It was based on a price of \$16.00 a square yard, it's \$275.00 a unit, and \$16.00 a square yard is the market rate for new linoleum or vinyl tile, installed.

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"Carpeting", we budgeted \$21,500.00. It also is based on \$16.00 a square yard, it's also pretty well an established number in the market today. For

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1108 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

\$16.00 your old carpet is taken out and new carpet is installed with a new under pad.

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"Painting & Plaster Repairs" is pretty much an unknown, although what I saw of the units that I was in there would be fairly extensive work and we would anticipate a lot of repairs, so we budgeted \$12,000.00.

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So that is a total of \$91,200.00, there's a 10 per cent variance which gives us \$100,320.00 for unit work per building.

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**THE CHAIRPERSON:** I notice you didn't add per unit and any costs for double-glazing, you're just assuming it's going to remain single-glazing?

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**MR. DALY:** Well, we talked about that and decided that we wouldn't. The reasoning for that was our budget was already in a negative number for the first year.

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**MS. CLARK:** We went through everything and we only based it on if this was our property how we would do it, and we really wanted to be fair. We wouldn't do that either so we thought ---

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**MR. DALY:** That's not -- I'm sorry. That's not to say we wouldn't do it the next year, or perhaps five years later ---

**THE CHAIRPERSON:** I see.

**MR. DALY:** --- given the money was



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available, right.

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**MS. CLARK:** But as a prudent landlord, we'd be able to look at a building and how they would run that building, and we ask that every time we're out "What would we do?"

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And we argued back and forth a little bit on some of these items too, because he works in the maintenance shop and I'm in property management and they're sort of in adversarial roles sometimes on "I know I can get it cheaper in the marketplace", and we knew the prices very well and how to manipulate those prices, and that's why -- some of these prices are very low, but that's based -- it's an accurate thing because we thought "If we owned these buildings how -- what would I pay? What would I expect an investor to pay", or we'd have to justify it at our next budget meeting.

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So that's what we did, so on the windows we decided we wouldn't do it because we didn't have the money.

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**THE CHAIRPERSON:** Okay.

**BY MS. SANSON:**

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Q. Have you made allowances for the other repairs necessary as a result of ---

**MS. CLARK:** Yes.



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1110 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

MR. DALY: Of not doing it?

Q. Yes.

MS. CLARK: In the budget, yes.

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MR. DALY: Yes.

(DISCUSSION OFF THE RECORD)

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BY MS. SANSON:

Q. Perhaps you could deal with ---

MS. CLARK: The budget?

Q. The response to that last question.

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MS. CLARK: Yes, we did.

MR. DALY: Yes.

MS. CLARK: Yes. I'm sorry.

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MR. DALY: Should we carry on? We'll  
carry on to page 22, which lists all of the capital items  
for the common areas.

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Item number one was the "Roofing". It's a  
roof truss system with a shingled roof, I was informed  
that the shingles were fairly new, we budgeted \$3,000.00  
because it shows signs of repairs needed on the south  
side.

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"Masonry & Caulking" was by and large in  
fairly good condition, that is to say masonry being the  
brickwork. I didn't see a lot of brick damage, but I



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1111 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

anticipated that there would be need of caulking, especially around windows and patio doors.

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"Windows" we budgeted -- so this is common area windows, we budgeted for broken glass replacement and window screens, \$1,000.00.

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"Patio Doors" we budgeted \$6,000.00 for the replacement of eight patio door unit assemblies.

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"Stairwell Railings", \$500.00. That had to do with existing railings coming down the stairwells that have come loose from the wall to be secured and made safe.

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"Doors (Other)", gosh. Repairs to apartment entrance doors as well as the glass aluminum frame -- the glass entrance doors to the front of the buildings.

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"Flooring/Carpets", \$4,250.00, based on the same \$16.00 a square yard. Common area "Painting", \$3,000.00. "Asphalt" we budgeted \$5,000.00. There's a lot -- the asphalt repair, you could have spent a lot more money on the asphalt, we thought we could get by with a \$5,000.00 repair and make a fairly good job of it.

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Common area "Lighting" we budgeted \$2,000.00. We anticipate that some of the circuitry there might be problems with it, half of the lights aren't working now, whether it's burnt bulbs or whether



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1112 J.K. DALY/D. CLARK, in-charge.  
(Sanson)

it's the fixtures or whatever.

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The "Fire Alarm" system we budgeted -- we made an allowance there, the fire alarm system is working. Craig Stevens, the fire alarm inspect -- I'm sorry, the fire inspector comes around and tests it once a week.

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"Fencing" we made an allowance of \$500.00 for repairs. "Waste Removal" we budgeted \$800.00 for the pile of debris that was in the back of the building in the parking area.

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"Storm Sewer". There was a catch basin in the parking area, we budgeted \$2,500.00 for repairs it. I'm not sure if it's tied into a storm sewer or if it's a dry well. At any rate, it's full of mud and stones and sticks and at this point in time doesn't drain water at all.

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The "Sanitary Sewer" we budgeted \$2,500.00. It became obvious to us that there had been problems there, we don't know what the problems are, but we felt \$2,500.00 would serve us fairly well in that regard.

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"Concrete Repairs", primarily balcony slabs, as well as some repair to the concrete slab at the entrance to the building, we budgeted \$6,500.00.

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"Landscaping" we budgeted \$2,500.00.



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1113 J.K. DALY/D. CLARK, in-ch.  
(Sansou)

Darlene was very insistent on this, this is an important item and it's part of her projected plan in her budget and it would be an upgrade to the exterior and part of a

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**MS. CLARK:** Providing curb appeal so that you could increase your rentals.

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**MR. DALY:** Curb appeal, yes.

"Boiler Repairs". We don't know anything about the boilers, we budgeted \$5,000.00 for them. It costs \$250.00 each boiler, to clean it, I guess if you went at it that way you could spend \$250.00 per boiler, plus parts. We budgeted \$5,000.00 because it's an unknown.

15

"Fumigation" we budgeted \$1,000.00. "Stairwell Railings". My first shot of 95 Cheyenne, when I pointed out that window arrangement and the plexiglass at the bottom, I felt that for \$1,000.00 you could put a railing across that window arrangement on the inside for both buildings and make it safe. And we also budgeted for new mailboxes at \$1,200.00.

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So that's the lot of it. The subtotal is \$63,000.00. Once again there's a 10 per cent variance, and it's \$69,630.00 per building.

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**MS. CLARK:** So assuming that the capital items were done ---



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1114 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

MR. DALY: I'm sorry, go ahead.

MS. CLARK: Were you going to say something?

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MR. DALY: I just wanted to make one more point because we made reference to the Dillon Report.

Q. Yes?

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MR. DALY: And that is -- they basically said that it was going to take \$3 million to bring the buildings back into first class condition, which according to them -- if they did it their way it would. We, being a property management company, we're more apt to go into a building and try to maintain -- try to bring a building up to proper standards and maintain the status quo as far as the architecture and all the rest of it is concerned, so our numbers came in considerable less. Actually, our numbers were 20 per cent of the engineer's report, and that's the reason why.

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That's it. I'm finished.

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MS. CLARK: So assuming that those capital items had been looked after, then what we thought we'd do is we would establish a budget for operating the building, and we took some information, and I don't know if you really would be able to use this in the future or not, but this is some -- all budgets are just projected on our best estimate of what's going to happen in the

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1115 J.K. DALY/D. CLARK, in-ch.  
(Sansón)

future.

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And we did, what we had assumed that the capital items were done and we built a budget base built from the latter half of 1993, and we carried that figure through up until 1998, in a lot more detail obviously. And that's found on page 16.

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And the budget note pertaining to every item detailed under this budget are found on 17, 18 and 19, and this is our -- what explains -- the budget notes explain every item and any assumptions that we have taken in the items.

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Did you want -- did you need to go through all that in detail at this point?

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**MS. SANSON:** I'm in the board's and party's hands in terms of your question.

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**THE CHAIRPERSON:** I think just in the interests of time, if you could review this quickly now, we have 10 minutes, and then perhaps between now and tomorrow morning we could go through it individually and look at the notes and see what you've included and then be able to pick up with you tomorrow morning.

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**MS. CLARK:** Okay.

**THE CHAIRPERSON:** So for the next 10 minutes if you could give us the lay of the land that would help.



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1116 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

MS. CLARK: Okay. Okay.

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Well, on page 16 what we establish is what the residential income would be based on the guideline increases from 1984 and the rent review information that was obtained from the rent review, which is found at the end of the report, as I've referred to those pages being 75 I believe -- 74 and 75. I used that to base my revenue for residential rent.

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And then if you refer back to the budget notes when you're looking at this report later on tonight, you can look at each section on how that assumption was made on the income. For instance, other residential income, this account will allow for any NSF fees or late fees or sublet fees or close-out fees or questions of bad debts.

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And what we assumed when we went through each item is that if we were operating this building, or if this was our building, if it was a prudent landlord, if they were managing this, what cost -- what revenues could be expected.

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Initially the vacancy loss on this building, because of the capital items being done, and the problems, and certainly the bad, perhaps, reputation that the building has now, for whatever reason it is, we estimated a 50 per cent vacancy rate for the remainder of



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1117 J.K. DALY/D. CLARK, in-ch.  
(Sanson)

1993, or which would be 20 units.

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And then we thought it would go down to 25 per cent, and then after that it would go to the normal rate of five per cent for the remainder of the projected budget.

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And outside of the unit repairs and maintenance, which is increasing I believe at three per cent, all other expenses went up at the same rate of five per cent. You have the unit repairs and maintenance went up at a three per cent factor, everything else went up at five per cent.

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And if you follow it through the sections, if you look on the immediate -- on page 16 on the immediate left, the first section deals with just the income, and under the expenses you have the unit; the building; the mechanical, which deals with the boiler and larger equipment in the building; you have the grounds, and that is your total maintenance expense. Then you have your taxes and utilities; and then you have your salaries for your superintendents; you have your professional fees; and we used a management fee in here because that would be something that would be an expense to the building normally speaking, unless you managed it yourself. So that can be a variable that cannot or can be put into perspective of these expenses.

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So the other direct property expenses would then be the other expenses which we had already dealt with before, like advertising, rental expense, office expense. And we estimated quite a large amount in the rental expense because we wanted to market the property, and we assumed everything in the budget based on -- we went right to great detail in here, because we really wanted to market the property. How do we do it? We had to increase our advertising, we had to increase the curb appeal, we had to give incentive to the people to come in. We had to have -- to show a good unit. And all those factors were taken into account in this budget and they're detailed in the budget notes.

So I think that probably if you reviewed that, and I guess tomorrow morning the questions.

THE CHAIRPERSON: Yes.

MS. CLARK: One more?

THE CHAIRPERSON: Just for my own interest's sake, can you fill me in on the management fee that is there?

MS. CLARK: That's based usually on four per cent.

THE CHAIRPERSON: Right.

MS. CLARK: The market rate is a standard four per cent based on your revenue that you generate on



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that -- management of that building.

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**THE CHAIRPERSON:** And this is a property management company to run the building, is that right?

**MS. CLARK:** Right. Right.

**THE CHAIRPERSON:** Okay. Thank you.

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Are there any other questions? Did you want to go on through this?

**MS. CLARK:** We'll answer anything that you'd like.

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**THE CHAIRPERSON:** Well, can you just describe to us the bottom line of this?

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**MS. CLARK:** Okay. The bottom line would be when I've taken the income, and I've taken off the expenses, and I wanted to see if there was any cash flow to the property prior to debt service. In the first year, the first section, which is the last half of 1993, there is a loss prior to debt service due to the high vacancy rate, and in 1994 it started levelling off. But this is prior to debt service, so the debt service would have to come off these projected figures.

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**THE CHAIRPERSON:** Right.

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**MS. CLARK:** And in 1998, based on capital items and management of this building in a productive and prudent manner, we're estimating a cash flow of \$139,000.00 -- well, just under \$140,000.00.







There are several reasons why the  
 industry is not doing as well as  
 it once was. One of the main reasons  
 is the lack of innovation. Many  
 companies are still using old  
 methods and technologies. Another  
 reason is the high cost of  
 production. This is due to  
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 target audience. This is a  
 major problem for the industry  
 as a whole. It is time for  
 companies to start investing in  
 research and development. They  
 need to come up with new  
 products and services that will  
 attract customers. They also  
 need to improve their marketing  
 and sales strategies. Only then  
 can the industry start to grow  
 again.



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(Sanson)

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There can be different methods of saving money even on that, for instance if you manage the property correctly and prudently but you didn't pay a management fee to a management company, then you would certainly save the four per cent of your salary. But that's only -- four per cent off your expenses I mean, pardon me. But, at any rate, even in 1998 that's still under \$14,000.00.

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Because there are so many laws and there are so many changes in rent review, unless you're directly involved in that line of work you have to keep on top of it to make sure what you're doing is legal. To make sure what you're doing for yourself is the best thing for yourself and the management of that property.

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So we thought a prudent landlord would hire that expertise. That's pretty cheap expertise at any rate. So I included that. That isn't a plug for fee management, but ---

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So the report was based on, and our assumptions on here is if there was an error to be made, if there was a judgment to be made, if there was any type of doubt in our minds on where to go as far as favouring on the expenses or our ideas on how we should manage the property and therefore put a number down, we thought it prudent to err on the side of this landlord, on the

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(Sanson)

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management of it because it was going to show more fairness. It's difficult to manage property in today's rent control environment, and we really wanted to make sure that we were looking at this in a very prudent manner and that's, as you go through the figures tonight, and the budget notes, you'll notice that that has been taken into account.

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**THE CHAIRPERSON:** May I just ask a question? Quite apart from the role of comparing the costs, the revenues and expenses with other buildings, when you looked at this building in and of itself, for itself, were you given any information on the financing charges or the carrying costs of the mortgages, et cetera? Did you have any of that information?

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**MS. CLARK:** Yes, I probably did in the financial statements. I went and I reviewed some of that information, but it was as a -- there was other buildings included in that, other rental income included in that. It wasn't broken up, that I could see, for 95 and 105, and those are the only two that I had to look after.

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**THE CHAIRPERSON:** Oh, I see.

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**MS. CLARK:** So to do it properly, and because of the reasons I've already stated, because of the different needs and the leveraging of a building, I didn't find that it was material to the purpose that I



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was asked to do.

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**THE CHAIRPERSON:** No, no, I'm not suggesting that that was your purpose, I'm just asking by the by were you able to discover what the carrying costs of the mortgages would be.

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**MS. CLARK:** Not as stipulated for these two particular buildings, because the mortgage would be on all of the complex I would assume ---

**THE CHAIRPERSON:** Okay.

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**MS. CLARK:** --- and not broken up into building. Because I don't know how highly leveraged it is at all.

**THE CHAIRPERSON:** Okay. Any other questions for today before we adjourn?

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**MR. METZ:** I would have some questions but I guess they more pertain to cross-examination.

**THE CHAIRPERSON:** Okay. Well, I think in the break overnight we can review this in detail and prepare the questions better.

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**MR. METZ:** So that's where we'll start in the morning then?

**MS. SANSON:** Not with cross-examination, I'm not -- there are some remaining questions ---

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**MR. METZ:** No.

**THE CHAIRPERSON:** Yes.



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(Sanson)

MS. SANSON: --- in terms of the chief of  
the witnesses.

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THE CHAIRPERSON: And then you'll have a  
chance to cross-examine. So there's still more questions  
in-chief and then you'll have a chance to cross-examine.

MR. METZ: Yes.

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THE CHAIRPERSON: We'll adjourn until  
tomorrow, and we were talking about starting at nine, is  
that possible for everybody?

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(DISCUSSION OFF THE RECORD)

MS. SANSON: Nine-thirty (9:30) is  
possible?

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THE CHAIRPERSON: It's a deal.

MR. METZ: Nine-thirty (9:30).

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--- Upon adjourning at 6:38 p.m.

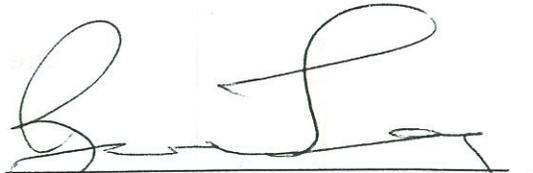
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CERTIFIED CORRECT




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W. Bruce Levey,  
Certified Court Reporter

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