

Minutes of a Chapter 54 public hearing held by the Town Board of the Town of Riverhead at Town Hall, 200 Howell Avenue, Riverhead, New York, on Thursday, May 2, 2002, at 11:26 a.m.

Present:

Robert Kozakiewicz,	Supervisor
James Lull,	Councilman
Barbara Blass,	Councilperson
Rose Sanders,	Councilperson

Also Present:

Barbara Grattan,	Town Clerk
Sean Walter, Esq.,	Town Attorney

Absent:

Edward Densieski,	Councilman
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Supervisor Kozakiewicz called the meeting to order at 11:26 a.m.

Supervisor Kozakiewicz: "All right. We're going to take one more stab at this hopefully, the CD is working, the time of 11:26 p.m. having arrived, I would like to call to order, and I think it was adjourned if my memory serves me right from a prior date, the matter of the Chapter 54 in regards to Doris Gatz."

Public Hearing opened: 11:26 a.m.

Peter Danowski: "My name is Pete Danowski. I recognize this matter was on earlier and consistent with your comments, except for the p.m. comment rather than a.m.- "

Supervisor Kozakiewicz: "You're right."

Peter Danowski: "- I had requested an adjournment the last time this was on. Doris Gatz is the owner of this land which has a house on it. Apparently her daughter and the daughter's dog live on the property. I haven't been physically to the site. I do not represent the daughter or the dog. I do represent, however, Doris, who is still located out of the- "

Supervisor Kozakiewicz: "Does that mean we have to adjourn the proceedings to bring in another attorney to represent the canine?"

Peter Danowski: "One of the members of the press asked me if I prefer to represent the dog. My end line here, however, is Mrs. Gatz has been incapacitated out of state recovering from broken bones in a fall. She also went to visit some child out of state in South Carolina and tragically enough her grandchild was killed in a car accident while she was there. So she's had a double burden and this house makes it a triple burden, being injured herself, having a relative die, and now have the town try to- which will result and if you go through this proceeding, have the daughter somehow removed from the premises.

So, I don't represent the daughter, I only bring these facts to your attention. This was adjourned apparently to today's date but I didn't- I don't recognize- I got a written notice about this being on today so when the Town Attorney was here, I said I'll stay around, but I wasn't sure it was on and I never received a written notice.

Having said that, I would ask you to consider adjourning this hearing for a minimum of a month and the reason may be that this proceeding may not be necessary. I have been contacted by a lady who attended the meeting the last time while it was here. She was the neighboring property owner or the parent of the property owner who is a local farmer who farms approximately 10 or 12 acres of land and would like to buy this house. So I after that date had spoken to that lady. She went and hired an appraiser and she's waiting for the written appraisal to come back so she can make an offer to purchase the house. So I'm hoping that within a month's time period there will be a contract of sale and someone would buy the place, give the people the opportunity to relocate and rehab the building.

So that is my request not to proceed with this hearing on the basis that (1) I wasn't aware by written notice it was on but more importantly to give the opportunity to take care of rehabing the house."

Supervisor Kozakiewicz: "Well, I guess my first reaction before we would consider the request is what the current situation is with respect to the structure and what type of problems it poses. Is there anybody from our side who would like to address that inquiry? Either Mr. Testa or Mr. Johnson."

Sean Walter: "Do you want to swear them in or just- "

Supervisor Kozakiewicz: "No. We're not in the formal hearing yet, so."

Ken Testa: "For the record, my name is Ken Testa. I am a town engineer for the town of Riverhead. I am a New York State licensed professional engineer and a New York State certified code enforcement official."

Sean Walter: "Ken, just give them- we're not in the hearing right now."

Supervisor Kozakiewicz: "We're not there yet. I just want to know what the- "

Ken Testa: "I did it like in a- all right, you want me to just go over the deficiencies?"

Sean Walter: "Just go over the pictures."

Supervisor Kozakiewicz: "No. What we're really looking to do is to address Mr. Danowski's comments with respect to adjourning this. If we were to adjourn it, what is the current- I mean is there risk of injury or death or something- "

Ken Testa: "I believe so. Would you like me to give you a relatively quick summary of some of the major concerns? Okay. The heating system is totally inoperable which I guess is not- as the weather changes is not going to be a major issue, but the house is being heated by a kerosene heater that's being exhausted directly into the interior of the building which is a problem. There had been a prior fire in a kerosene heater that was used which brought the condition of the house to light I believe when the fire department responded.

My concern is the structural deficiencies. There are several rotted floor joists that are visible from the basement area that have completely failed and have collapsed leaving the occupied floor of the house in immediate danger of collapse. The foundation is failing and is caved in in several locations. There's evidence of a previous fire that damaged several support structures in the basement. The main headers in the floor system have failed and are shimmed up with rocks, bricks and pieces of rotting wood. The headers which are part of the main support system of the house are damaged.

I have photographic evidence that clearly shows the supports failing and areas of the floor that has already caved in leaving it dangerous to both the existing occupants and any emergency service workers that might have to respond to an emergency at the property.

They would be going into a facility that has already holes through to the basement that the occupant may be aware of but emergency personnel may not be.

There are windows boarded up on the rear of the building on the first floor which blocks egress from the house in the event of an emergency. The front door is blocked by the collapsed porch roof which is caved in and is blocking exit from the building through the front door, so the occupant really only has one way to get out of the structure.

In light of those issues, I feel that that occupant and any emergency services workers that enter the building are in immediate danger."

Supervisor Kozakiewicz: "All right. Mr. Danowski, I'm going to ask you back up. Given the current scenario, I think that we're aware of a very, very dangerous situation that's presently out there and being aware of it, I know sometimes these Chapter 54's get us into a tangled web which we can't get ourselves out of. We're- unfortunately, at least I'm very unfortunately reluctant to grant any adjournment with the young lady and the canine still occupying the structure. Is there some way we can get the habitants out of that structure?"

Peter Danowski: "Well, that's obviously the hope. I think the Town Attorney has tried to use his best efforts to try and contact people who can aid the lady in trying to find other housing and there has been an act of good concern. But I don't have the ability to represent that and we can always talk about legal issues here today, about search warrants and everything else, but I don't want to go there.

I think, you know, we recognize we're the owner of the structure trying to deal with it under very trying circumstances and I just would respectfully request that you adjourn this matter. Absent doing that, we'll have to pose a legal challenge to whatever if that's what the owner wants to do.

The interesting part of this is thinking back to another discussion we had about county owned property and trying to get some buildings knocked down that the county owns that are crack houses or worse and it's probably taken a year to get the county to even try to consider it. So, on this one- "

Councilwoman Blass: "An appraisal coming back in a month is also maybe (inaudible)."

Peter Danowski: "That's exactly right. That's true. But actually, I've talked to the appraiser just for your information, and he had done his work. It was a question of getting a written appraisal back to the person. If you want a shorter time period, I suggest a shorter time period but I'm not sure that I can do anything other than say we might be in contract."

Supervisor Kozakiewicz: "Well, I guess my concern is that, you know once again, I am trying to think of this as if it were my family member or somebody that I had if I was the mother or father. I would probably do everything I can to convince that person to come and live with me on a temporary basis and I don't know where that person goes once the sale comes to being if that's where we're going. And knowing how long it takes to, you know, get to a closing sometimes unless it's an all cash deal, I'm fearful that any adjournment here is going to lead to another month adjournment which is going to lead to six months of an adjournment. In the meantime, that person is going to continue to reside there."

Yes, Mr. Johnson, you have something you wish to add?'

Bruce Johnson: "The- I think we were discussing the main concern and that's really not the immediate disposition on the structure itself but what we're going to do with Mrs. Gatz. The fire department has been there once before for a fire incident and fortunately there were no injuries. You know, that is a paramount concern and I think what, you know, Mr. Danowski raises is the question, she really is refusing to leave and I think that's going to be an issue even if the house is sold. She has a great attachment to the house and because of her dog, it's very, very difficult to try to get any kind of another rental house for her."

We have really, you know, bent over backwards trying to contact some of our local real estate landowners. She's been through Chapter 8 and has refused housing assistance with Chapter 8 because of her dog, you know. So we've done everything that we can to move her out. We did make a referral for APS but because she is working, they don't feel that they have grounds to take action. She's just going to be a difficult person to move whether it's because the house is sold or because the town moves further on the Chapter 54.

So, you know, I might ask Mr. Danowski if there can be some

stipulation as to an effort on his part to try to get her relocated or suggest that the Town Board move for an order to vacate from Supreme Court."

Peter Danowski: "You know, it's sort of interesting. I appreciate the efforts and I was always hopeful that the town would have some form of program, you know, Community Development monies. We talk about rehabing houses in downtown. We've done some nice jobs with some of that stuff, you know. I would have thought that maybe somebody could reach out and get this house rehabed. I think the practical problem is not that the lady wouldn't want to see repairs done to the house, people can't afford to do it. If the concern is the safety of the building, then why wouldn't the building be rehabed with the aid of the town? That's even a better question. But I don't represent the tenant."

Sean Walter: "Well, I will state one thing that we did reach out to her. We have been through several organizations. Once we do the Chapter 54, we have to move as we have discussed in Supreme Court for an order to vacate. It doesn't- this- we can't knock down the house while she's living there. The Supreme Court has to give us the order to vacate. This is the first step in doing the order to vacate if you will. We were going to try to do it previously. We were unsuccessful in getting that done for a variety of reasons. We're working with her to try and get her out of the house but if we do the Chapter 54 then we can move to the order to vacate in Supreme Court. If we can resolve it before then, that would obviously be the best way to handle it."

Supervisor Kozakiewicz: "Given everything that we've heard today, I guess I'm going to have to deny the request for an adjournment. And we will take testimony today. And so just for the record, we'll start. We have appearing for the record, Mr. Danowski, representing the owner. Kenneth Testa, the town engineer, and Bruce Johnson, the Fire Marshal for the town. Mr. Walters, would you swear in the first witness?"

Sean Walter: "Okay, Bruce Johnson, would you raise your right hand? Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Bruce Johnson: "Yes, I do."

Sean Walter: "Okay. Can you state your name for the record, sir?"

Bruce Johnson: "My name is Bruce Johnson."

Sean Walter: "And your employer?"

Bruce Johnson: "Town of Riverhead."

Sean Walter: "And what is your title?"

Bruce Johnson: "I'm the town Fire Marshal."

Sean Walter: "And length of employment?"

Bruce Johnson: "I've been employed since April of 1998."

Sean Walter: "And what are your qualifications as a fire marshal?"

Bruce Johnson: "Would you like me to read them or just- "

Sean Walter: "Yes."

Supervisor Kozakiewicz: "Put them on the record."

Sean Walter: "Put them on the record."

Bruce Johnson: "I'm a New York State certified code enforcement official. My registration number is 0299-7031A (as in apple). I'm a New York State fire investigator level 2; a nationally certified fire instructor 1. My education includes a Bachelor of Science in Accounting, Business Administration degree, a Master's, and also a Bachelor of Fire Science from Empire State College. I have 20 years experience as a fire fighter, including five years as a Chief officer, taken numerous courses in firematic training including building structures, building collapse, fire protection and life safety.

As a Deputy Fire Chief instructor for the Suffolk County Fire Academy since 1999, I teach basic fire fighting including building construction. Also an adjunct profession for Empire State College since 1998 and I teach (inaudible) level courses including building structures and fire protection systems, fire investigations and fire prevention, organization and management.

As the town Fire Marshal, I've conducted hundreds of building fire safety inspections and testified at dozen- over a dozen unsafe structure hearings."

Sean Walter: "Thank you, Mr. Johnson. Have you had the opportunity to inspect the subject premises, 537- excuse me, 5375 Sound Avenue in Jamesport?"

Bruce Johnson: "Yes, I have."

Sean Walter: "And what caused you to make that inspection?"

Bruce Johnson: "I was initially there following a request from the fire chief to do an investigation subsequent to a fire that occurred at that structure, a small fire involving a kerosene heater back in January."

Sean Walter: "What was the exact date? Do you have that?"

Bruce Johnson: "I don't have the exact date of that."

Sean Walter: "Okay. And when have you been- have you been to the premises since the January, 2002 date?"

Bruce Johnson: "Yes, I was. With our town engineer, Ken Testa on May- I'm sorry, March 21st. We did a site inspection at the location."

Sean Walter: "And who was present? Was Miss Gatz present?"

Bruce Johnson: "No. There was no one home at the time of the inspection."

Sean Walter: "Okay. And when you arrived at the first- in the first instance, in January, what did you observe?"

Bruce Johnson: "Basically observed the fire was confined to a small piece of the carpet and to the kerosene heater and observed what appeared to be unhealthy or unsanitary conditions and a number of structural problems that initiated a- the beginning of a Chapter 54 proceeding."

Sean Walter: "And when you returned on March- was it March 28th?"

Bruce Johnson: "21st."

Sean Walter: "21st. When you returned on March 21st, who were you with and what did you observe?"

Bruce Johnson: "I was with town engineer, Ken Testa, and we made observations of the exterior of the house. We took some digital pictures and we also made an inspection of the basement area. The access to the basement is an open stairwell to the rear of the house."

Sean Walter: "And from your inspections, what are your conclusions?"

Bruce Johnson: "That there are definitely some structural concerns with the house. The town engineer is prepared to talk about and there are certainly some light safety issues that were observed including windows that are boarded up, partial collapse of a roof, blocked egress to the front of the house. A number of concerns. There is no heat in the house so they're using alternative heat sources. We feel that all of those present a life safety hazard for the occupant and probably increase the chances of having some type of an emergency there that would put either police, ambulance or fire personnel at risk should we have to enter this house."

Sean Walter: "And can you just state from your review of records who you have found to be the record owner of the house?"

Bruce Johnson: "The record owner is- "

Supervisor Kozakiewicz: "I'm not sure Mr. Danowski will want to stipulate for the record, but do you wish to, Mr. Danowski?"

Peter Danowski: "Absolutely not."

Supervisor Kozakiewicz: "Okay. From your search of- "

Bruce Johnson: "Do you have the (inaudible) paperwork, Sean. Can I refer to that?"

Supervisor Kozakiewicz: "It's right there in front- is that it?"

Sean Walter: "Mr. Danowski, I'm going to pass Bruce Johnson the Chapter 54 paperwork. Would you like to look at this first?"

Peter Danowski: (From the audience, inaudible). "If you want to stipulate the pictures (inaudible)."

Supervisor Kozakiewicz: "Well, the pictures are from Mr. Testa and we can stipulate and we- if we can when we get to Ken."

Bruce Johnson: "The record of owner is Doris Gatz."

Supervisor Kozakiewicz: "Is there also a tax map designation for this property so we can put that on the record? What is that tax map designation?"

Bruce Johnson: "It's 21-2-7."

Sean Walter: "That would be in the town of Riverhead?"

Bruce Johnson: "In the town of Riverhead."

Sean Walter: "County of Suffolk?"

Bruce Johnson: "Yes."

Supervisor Kozakiewicz: "And State of New York."

Sean Walter: "And the State of New York?"

Bruce Johnson: "Correct."

Supervisor Kozakiewicz: "Okay."

Sean Walter: "Have you been back to the property since March 28th?"

Bruce Johnson: "21st."

Sean Walter: "21st. I'm sorry. Okay."

Bruce Johnson: "Although I do have the occasion to drive past it twice a day to and from work and have observed no changes to the condition of the house."

Sean Walter: "Okay. And it is your opinion as an expert fire marshal that it's structurally unsafe and dangerous. Is that accurate- is that an accurate statement?"

Bruce Johnson: "That is my statement and my testimony."

Sean Walter: "And have you served the notice- excuse me, have you served the owner with the notice of your inspection report?"

Bruce Johnson: "Yes, we have."

Sean Walter: "And did you post the notice to vacate?"

Bruce Johnson: "Yes, I have."

Sean Walter: "And when did you post that notice to vacate?"

Bruce Johnson: "The notice to vacate would have been posted on the afternoon of February 4th along with the posting of the Chapter 54 violation notice."

Sean Walter: "Okay. Thank you."

Supervisor Kozakiewicz: "I'm sorry. What was the date? You did an inspection on March 21st and the date of the posting was when? I'm not sure if I- maybe I was zoning out at that point."

Bruce Johnson: "The chronology was that we did the posting after the fire investigation which was in January and then based on the request from the Deputy Town Attorney, I returned with our town engineer to get his engineering opinion as to the structural integrity of the building."

Supervisor Kozakiewicz: "Okay. It was unclear. It was unclear. Okay. So I just wanted to make sure I clarified it. Okay. Any other testimony from this witness?"

Sean Walter: "I would just draw your attention to there's a report in front of you that I would like to just mark if you can show Mr. Danowski. Okay. What is that report that I refer to?"

Bruce Johnson: "That was an internal report. In addition to the engineering report from Ken Testa, just a summary of observations in terms of the unsanitary and health violations that were observed. Would you like me to read those? There was soot accumulations on the inside of the windows. We observed this from the outside as an indication of poor combustion in the kerosene heater and indications of possible production of carbon monoxide.

We observed feces on the floor, no running water, no central heat, no electricity and the fire safety violation was the kerosene heater was placed directly adjacent to combustibles. We tried to get a picture of that through the window but it didn't come out. There was definitely inadequate egress as we mentioned. We have windows that are boarded up that are inoperative or that are blocked by combustible materials inside and the partial collapse of the front

porch.

And then we had the- what would be the east side of the house was completely stacked with combustibile storage."

Sean Walter: "Okay. Thank you. I'd like to enter that as Exhibit No. 1 if there's no objection."

Supervisor Kozakiewicz: "Are you talking about placing it into evidence?"

Sean Walter: "Excuse me. Place that into evidence."

Supervisor Kozakiewicz: "Counsel?"

Peter Danowski: "It's objectionable, but let it go in."

Supervisor Kozakiewicz: "All right. Thank you, Counselor. Admitted into evidence."

Sean Walter: "I have no other questions."

Supervisor Kozakiewicz: "Any questions, Counsel?"

Peter Danowski: "Yes. Bruce, did you have an opportunity to get a search warrant for the premises?"

Bruce Johnson: "No. I did not."

Peter Danowski: "Did you get one? You had plenty of opportunity, right?"

Bruce Johnson: "Yeah, I would say that is correct."

Peter Danowski: "All right. So, you didn't get a search warrant for the premises. Did you get the written consent of the owner to go onto his premises?"

Bruce Johnson: "I had a number of conversations with Doris Gatz. We spoke by phone. And at no point did she ask us not to either visit her daughter, try to assist in any way, or to go on the premises."

Peter Danowski: "All right. So I guess my answer to that question would be no?"

Bruce Johnson: "That's correct."

Peter Danowski: "So you didn't get any written consent to come onto someone's private property. You didn't get a search warrant issued by a judge to come onto private property. What gave you the right in your mind to go onto the property?"

Supervisor Kozakiewicz: "Just so I'm clear for the record, are we talking about the instance in January when there was a response to the fire or- "

Peter Danowski: "No. Every time after the fire arrival, in a non-emergency situation."

Supervisor Kozakiewicz: "Okay."

Peter Danowski: "Subsequent to someone supplying information to this gentleman."

Supervisor Kozakiewicz: "Okay."

Peter Danowski: "He had the opportunity, failed to get a search warrant, failed to even apply for one, failed to get the written consent of the owner, and certainly we're here over objection of the owner."

Supervisor Kozakiewicz: "Yes. I just wanted to make sure we're talking about other than the response to the fire. Okay."

Peter Danowski: "Thank you. No further questions."

Supervisor Kozakiewicz: "Next witness."

Sean Walter: "Redirect."

Supervisor Kozakiewicz: "If you wish."

Sean Walter: "On January- in January of 2002, you were there in response to a fire?"

Bruce Johnson: "That is correct."

Sean Walter: "And you had authority to be there as a fire marshal for the town of Riverhead."

Bruce Johnson: "That's correct, under the exigent circumstances rule."

Sean Walter: "And the items that you've testified to you observed January, 2002?"

Bruce Johnson: "That is correct."

Sean Walter: "Thank you."

Supervisor Kozakiewicz: "Any re-redirect or re-cross, I should say."

Peter Danowski: "Boy. If this was a criminal trial, we'd be here for years."

Supervisor Kozakiewicz: "This isn't a criminal trial. Not yet, at least."

Peter Danowski: "Did you cause a report to be done immediately after your arrival as a fire marshal at the time of the occurrence of the fire?"

Bruce Johnson: "Yes, I did."

Peter Danowski: "Those aren't the reports you've now put in evidence and testified about. Is that correct? These reports were generated at later visits to the site?"

Bruce Johnson: "Right."

Supervisor Kozakiewicz: "The report that's admitted into evidence, this is dated what date? Just so that we clarify for the record. Do we have that? What was the date of that report?"

Bruce Johnson: "February 4th."

Peter Danowski: "And the date you visited the fire was?"

Sean Walter: "This report was March 21, 2002."

Bruce Johnson: "I'd have to check my file back in the office."

Peter Danowski: "Would it be a fair comment to say that you went back on several occasions to do inspections? As a result of

those inspections, you produced these reports?"

Bruce Johnson: "No. It's fair to say that we went back on one occasion, March 21st, for the purposes of getting additional information for this hearing."

Peter Danowski: "Okay. Without written consent, with the owner not present on the premises, correct?"

Bruce Johnson: "That is correct."

Peter Danowski: "You just walked in, walked through someone's house that was boarded up?"

Bruce Johnson: "Just to clarify, Pete, we did not go inside the house. We were in the basement area which was an open rear stairwell."

Peter Danowski: "Well, I mean- "

Supervisor Kozakiewicz: "We'd better be clear. Because if you were in the open rear stairwell, did you enter what would be the footprint if I was looking from above, or were you outside the footprint?"

Bruce Johnson: "We were inside the footprint."

Peter Danowski: "I mean, I think the pictures speak for themselves. You didn't have a telescopic lens down there, did you?"

Bruce Johnson: "No."

Peter Danowski: "All right. One-- just a little additional question. Do you know who the prior owner of this property was?"

Bruce Johnson: "Do not."

Peter Danowski: "Well, did you have a deed to the premises that you examined to determine who the owner was?"

Bruce Johnson: "Do not. We just strictly went by the building department and the assessor's records."

Peter Danowski: "So you never looked, never found a deed to the premises?"

Sean Walter: "I think the testimony- I object to the question about the prior owner. I don't see relevance."

Peter Danowski: "Well, let's ask the first question. Did you ever find the deed to this premises, examine the deed to determine who the rightful owner was? Yes or no?"

Bruce Johnson: "No."

Peter Danowski: "Would it surprise you to know that the County of Suffolk was the prior owner?"

Bruce Johnson: "No."

Peter Danowski: "Did you ever give a violation to the County of Suffolk or any prior owner on this property?"

Bruce Johnson: "I did not."

Supervisor Kozakiewicz: "If you know."

Bruce Johnson: "I do not."

Peter Danowski: "Do you know what the condition was when the County of Suffolk owned this property?"

Bruce Johnson: "I do not."

Peter Danowski: "Thank you."

Supervisor Kozakiewicz: "Any other questions? If not, Mr. Testa, are you prepared to have Mr. Testa testify?"

Peter Danowski: (From the audience - inaudible)

Supervisor Kozakiewicz: "Well, we're talking about stipulating- the photographs, stipulate that they'll be admitted and you stipulate to his qualifications as a licensed and professional engineer?"

Peter Danowski: "I'll say every bit of words. He can stipulate to his qualifications, I'll stipulate to the photographs being taken by him at the dates that have been talked about which was after the fire department visit in responding to the fire. They can go in, you can examine them for what they're worth."

Supervisor Kozakiewicz: "Very good. Not a great deal to testify to then, is there?"

Sean Walter: "I'd like to let the record reflect that we've provided counsel for Miss Gatz copies of Exhibits which we are now prepared to offer into evidence. They are pictures of the house taken from various perspectives at 5375 Sound Avenue."

Supervisor Kozakiewicz: "And the photographs were taken on what date? Would that have been the March 21st, 2002 date?"

Bruce Johnson: "Yes."

Supervisor Kozakiewicz: "Okay. Just so that's clear. Okay. Any other questions for Mr. Testa? His qualifications have been stipulated to and the photographs that have been admitted in have been stipulated to and they were taken on March 21, 2002, when Mr. Testa was in company of the Fire Marshal for the town of Riverhead."

Sean Walter: "Okay, Mr. Testa, have you- you've had the opportunity to inspect 5375 Sound Avenue?"

Ken Testa: "That's correct, yes."

Sean Walter: "And can you- when you arrived at this location to conduct the inspection, can you describe to us what you saw?"

Ken Testa: "Well, we arrived at the front of the structure and we saw a structure that appeared to be in serious condition, in disrepair."

Sean Walter: "And can you elaborate on the disrepair?"

Ken Testa: "Sure. That would be the north and west elevations of the building, there were several broken windows, sagging walls. There was debris from a collapsed porch roof blocking egress through the front door from the house. Several holes in the roof, electric meter hanging off the wall. That's about it from the front of the building."

Sean Walter: "And that's from the front of the building?"

Ken Testa: "Yes."

Sean Walter: "Okay. And in your expert opinion as a civil

engineer, is this structure from what you've just testified, unsafe and dangerous?"

Ken Testa: "From my observations, only from the north and west side of the structure or from all of my inspections of the structure?"

Sean Walter: "From your observations from the outside of the structure?"

Ken Testa: "Should I say the structure was unsafe- not including the basement inspection, I can't say that without the (inaudible)."

Sean Walter: "On the date in question, I believe it was March 21, 2002, did you have occasion to inspect the basement?"

Ken Testa: "Yes, I did."

Sean Walter: "And as a result of that inspection, what did you find?"

Ken Testa: "Several rotted floor joists that were visible from the basement area. They had completely failed and collapsed leaving the occupied floor of the house in immediate danger of collapse. Several areas of the floor had caved in from the first floor area and you could see the first floor covering through the basement. The foundation was failing, in several locations had caved in. There was evidence of a previous fire damage that appeared to have caused structural damage that was not repaired after that fire. The main headers in the floor system had failed. They were shimmed up with rocks and bricks and pieces of rotted wood because the main supports had failed. I have photographic evidence that shows the supports failing, leaving the entire floor in danger of collapse. That was pretty much it."

Sean Walter: "And from your inspection and as an expert civil engineer, do you find that this building is structurally unsafe and dangerous?"

Ken Testa: "Yes."

Sean Walter: "I have no further questions."

Supervisor Kozakiewicz: "Mr. Danowski?"

Peter Danowski: "Mr. Testa, did you obtain a search warrant?"

Ken Testa: "No, I did not."

Peter Danowski: "Did you obtain the written consent of my client?"

Ken Testa: "No, I did not."

Peter Danowski: "Did you serve any notices or in your presence did Mr. Johnson serve any notices personally on Doris Gatz?"

Ken Testa: "Not that I'm aware of although Doris Gatz was there initially when we arrived on the site and had left in her car shortly after we arrived."

Peter Danowski: "Did you walk inside the building, including the basement?"

Ken Testa: "I did not walk into the interior occupied area of the building but I did enter the basement area which was open from the exterior of the house."

Peter Danowski: "And can you tell us approximately what distance you walked inside the basement?"

Ken Testa: "I would say the basement was approximately 12 foot by maybe 15 foot, and we entered to the extremes of that space so the answer would be 15 feet approximately."

Peter Danowski: "So you walked within the basement area obviously to take the pictures that were produced here today?"

Ken Testa: "That's correct, yes."

Peter Danowski: "Were you able to put any lights on to take the pictures?"

Ken Testa: "No, there were no working lights."

Peter Danowski: "Okay. No further questions."

Supervisor Kozakiewicz: "Thank you. Any redirect?"

Sean Walter: "No redirect. I'd like to have a side bar

conversation with the Town Board and Mr. Danowski, if that's possible."

Supervisor Kozakiewicz: "Well, can we close this hearing, go to the other hearings, and do that rather than delay everyone else? I think we're not making final determination today. I mean unless there's something that this Board wants to do and take action right now. I think I'd rather have the minutes transcribed and get them back and make a decision. Hopefully, we can get that done pretty quickly, so close the hearing and get that information in front of us in written form. And then at that point, decide what we'll do and pass a resolution accordingly."

I know we've got some critical issues out there but I prefer to do that and see what the record reflects. A lot of stuff that was put forth to us and there were some legal issues that were raised as well."

Councilman Lull: "Mr. Supervisor, could I ask a - "

Supervisor Kozakiewicz: "Unless there's objection from the balance of the Board."

Councilman Lull: "Can I ask a question?"

Supervisor Kozakiewicz: "Well, I mean if we're going to get into legal issues- "

Councilman Lull: "No, no."

Supervisor Kozakiewicz: "Okay."

Councilman Lull: "Not legal issues. Well, maybe, I don't know, consider it. You made it clear, the two of you, that you consider that someone living in this house is in physical danger?"

Bruce Johnson: "That is correct. And that really is our main focus. I don't have any problems with delaying determination on the structure as long as it's made secure from the outside so that there can be nobody unlawfully entering in the future. But what we need to do is address the occupant of the house. That's the primary concern."

Supervisor Kozakiewicz: "Let me ask a different question which is a follow up to what Mr. Lull is alluding to. If this Board were to render a determination today that we find the structure is unsafe and

in immediate danger and we were to pass a resolution Tuesday, that does not necessarily get us anywhere as far as getting the occupant removed Wednesday. Is that correct?"

Sean Walter: "That's correct."

Supervisor Kozakiewicz: "All right."

Bruce Johnson: "I believe though that as Deputy Town Attorney has mentioned, that is kind of the prerequisite to a Supreme Court hearing for that purpose."

Supervisor Kozakiewicz: "I heard that from counsel, our Deputy Town Attorney, and I understand that. I've also heard some indication from counsel representing the interest of the property owner that they're making efforts to contract a sale of the property here. I've also heard legal questions with respect to the search. Also legal questions with respect to how the evidence was obtained, and I think just to rule right from the bench here today would be ill advised, and I think we've got to have a moment to speak with counsel and I respectfully say to our Deputy Town Counsel that that's something that I think we speak to him about alone without counsel from- representing the owner as to how we decide. So I would like to close the public hearing at this point in time and reserve our decision with respect to the evidence that's placed before us with the understanding that we need to address those other issues."

Is there any objection from any Board members? All right, let the record reflect that the time of 12:03 p.m. has now arrived and the hearing is closed."

Public Hearing closed: 12:03 p.m.

Supervisor Kozakiewicz: "All right. And I also know we have a number of other ones on as well and we're going to respectfully see Councilwoman Sanders off, we'll see you later, and let's see if we can get to the next matters. Thank you everyone."

Public Hearing opened: 12:04 p.m.

I think we have next Betty Harris, 23 Lewis Street. And I understand there may be an application on this one."

Sean Walter: "Yes."

Supervisor Kozakiewicz: "And we've got to get that microphone back down. Now, there's also a notation on mine that there's a Lloyd Harris, 11:15. Is that for a different location or are we talking about one location, 23 Lewis."

Sean Walter: "23 Lewis we are taking an application on."

Supervisor Kozakiewicz: "Okay."

Sean Walter: "The other one we are proceeding with, Chapter 54."

Supervisor Kozakiewicz: "Okay. Very good. Okay. Thank you. Counsel, I understand we have- "

Christopher Kent: "I'll put my appearance on the record."

Supervisor Kozakiewicz: "Please."

Christopher Kent: "Christopher Kent, 1 Union Square, POB 1538, Riverhead, New York, for the property owner, Betty Harris. The property in- the subject premises 23 Lewis Street, Riverhead, New York, tax map number is 0600-105-02-036."

Supervisor Kozakiewicz: "Okay. Thank you, counsel. I understand there is an application on this matter?"

Christopher Kent: "First I would like to provide a copy- actually, the original letter I would like to- I hand delivered contracts of sale for this property to the town attorney yesterday, May 1st. I'm providing him with a corresponding letter, transmittal letter that was given to Mr. Walter yesterday. I'd like him to acknowledge on the record that he received those contracts fully executed and that we are now in contract to sell this property to the town of Riverhead."

Supervisor Kozakiewicz: "For the record, the letter dated May 1, 2002, which was just handed up addressed to Mr. Walter verifying that there's a fully executed contract of sale, I assume there is no objection. I have a copy of this marked for the record with the Clerk's office. The original- "

Christopher Kent: "I just happen to have a copy- "

Supervisor Kozakiewicz: "-- and the original will stay in the Town Attorney's office."

Christopher Kent: "That's correct."

Supervisor Kozakiewicz: "Okay. Good. So we'll have that marked as an exhibit- "

Christopher Kent: "And if I could have the Town Attorney acknowledge receipt of those fully executed contracts?"

Sean Walter: "I think the Town Attorney is prepared to make an application at this time."

Supervisor Kozakiewicz: "All right, Mister- Town Attorney, what's the application?"

Sean Walter: "The Town Attorney's application is to withdraw the Chapter 54 hearing on 23 Lewis Street in light of the contract of sale between Betty Harris and the Town of Riverhead."

Christopher Kent: "I would join that application."

Supervisor Kozakiewicz: "Application granted."

Councilman Lull: "Do we now serve a 54 on ourselves?"

Christopher Kent: "What's that?"

Supervisor Kozakiewicz: "Yes. We should- we have to make an application now to amend our proceedings to name the Town of Riverhead as the property owner, contract vendee, not yet. Okay."

Sean Walter: "It's interesting enough."

Supervisor Kozakiewicz: "All right. We have one other one. I think this- is this, in fact, Lloyd Harris?"

Sean Walter: "This is, in fact, Lloyd Harris. That's correct."

Supervisor Kozakiewicz: "Oh, I'm sorry, let the record reflect that with respect to Betty Harris, 23 Lewis Street, the matter is withdrawn and let the record reflect that the time of 12:06 p.m. has arrived."

Public Hearing closed: 12:06 p.m.

Public Hearing opened: 12:06 p.m.

Supervisor Kozakiewicz: "And 12:06- Richie, you'll get Bruce? Thank you. So we can get started. The time still being 12:06 p.m., let's take up the next one. Is this an adjourned proceeding as well? Okay."

Sean Walter: "Which one?"

Supervisor Kozakiewicz: "Lloyd and this was Melene Street if my memory serves me."

Christopher Kent: "Can we go off the record first?"

Supervisor Kozakiewicz: "Okay."

Christopher Kent: "And I'll tell you what we have done to date and maybe go back on the record."

(Discussion was held off the record)

Supervisor Kozakiewicz: "Why don't we go back on the record and have you put what you just stated on- I mean it's on the record technically, is it not? I mean the tape? Okay. So, even though it was indicated to be off the record, why don't we just consider it on the record-- "

Christopher Kent: "I'll formally appear. This is an adjourned hearing for the Town versus Lloyd Harris, property known as 30 Melene Street, Riverhead, New York, tax map number is 105-02- 0600 Section 105 Block 2 Lot 17."

Supervisor Kozakiewicz: "Okay, thank you."

Christopher Kent: "Chris- appearing for the owner is Christopher Kent, 1 Union Square, POB 1538, Riverhead, New York."

Supervisor Kozakiewicz: "Thank you, Counsel."

Christopher Kent: "For the record, this is a matter that's been adjourned from April 11th. Originally it was adjourned to April 25th and then by consent to today. On April 11th I appeared before this Board and I promised that in exchange for consent to adjourn the

matter, I would serve on behalf of the owner of the property a 30 day notice upon the tenants to vacate the premises by May 31, 2002.

I offer up to the Town at this time a 30 day notice signed by-executed by myself, executed by me, excuse me, with authority from the landlord and with proof of service of same upon tenants on April 24th demanding that they vacate the premises by on or before May 31st. It also informs the tenant that if they do not vacate the premises by such date, that summary proceedings under the laws of the State of New York shall be commenced against them.

Secondly- "

Supervisor Kozakiewicz: "And for the record, I would accept into evidence and make part of the record herein the 30 day notice that you've just referred to and handed up to this Board."

Sean Walter: "You just gave it to me."

Christopher Kent: "In addition, I had agreed to contact the attorney for the mortgagee, the mortgagee is Steven Patterson. His attorney of record at the time of the last hearing was Shepherd Sheinberg. I did contact Mr. Sheinberg. I was later contacted by Mr. Patterson who told me that Shep Sheinberg was no longer representing him in this regard and that I should provide Murray Schneps, an attorney in Aquebogue, with notice of subsequent hearings. I provided Mr. Schneps a memo informing him of the status of the proceeding with the adjourned date of April 25th and subsequently provided him notice of the adjournment to today's date. I will provide information to the court that Mr. Schneps told me his client had advised him not to be present and that we can proceed without him being- providing him further notice of these proceedings."

Supervisor Kozakiewicz: "Thank you."

Christopher Kent: "I also agreed to contact the criminal attorney for the owner who at the time was Anthony LaPinta (phonetic). Again, subsequently I was told that Mr. LaPinta was no longer representing Mr. Harris and that in his place, Glen Obedin (phonetic) of Efman and Obedin (phonetic) would be providing him with criminal defense. I contacted Mr. Obedin inquiring as to the status of any proceedings for civil forfeiture of the property and I was informed that the US Attorney was prosecuting the case and that there was no decision yet on any civil forfeiture of properties but the likelihood of the US Attorney seeking civil forfeiture of this property was

improbable.

I've also had conference with the building department regarding this property. Let me provide one other note before I detail what occurred with the building department and then I'll make an application.

I spoke to the Harris family regarding this property. Darrell Harris who is the brother of Lloyd Harris is- has expressed the intention of taking over this property on behalf of the family and he wants to make every effort to bring the mortgage current with Mr. Patterson, to pay the back taxes, and to bring the premises into compliance with the building department pursuant to the notice that was provided dated February 22, 2002, signed by Bruce Johnson.

I had a conference- thereafter I had a conference with Mr. Johnson where we discussed the items a through f that are contained in that correspondence and provided a willingness to comply commencing immediately with items b, c, d, and f which are to make sure that there's no occupancy of the basement, to have the padlock on the bedroom door removed, to provide repairs for various electrical violations, broken fixtures and missing cover plates, and the use of extension cords, and to install a smoke detector in the premises.

I also informed Mr. Johnson of the intent to have the tenant evicted from the premises and that we would then proceed with items a, which is to secure the structural damage to the foundation, and e, which would be to replace the oil burner and hot water heater in the premises.

Mr. Johnson expressed to me that if we could reach some type of compliance agreement to that effect, that we'd be- he'd be willing to consent to an adjournment of this Chapter 54 hearing for a period of time that would be adequate to- for us to make those repairs."

Supervisor Kozakiewicz: "I have to assume that as far as the mortgagee's interest is concerned as long as the payments are made current, they're happy and at some point, they would be willing to assign the mortgage to Darrell Harris?"

Christopher Kent: "On that note, I've had faxed correspondence with the mortgagee who provided me with a proof of all payments received to date. I provided a fax back to the mortgagee detailing the current interest and late charges that are due under the mortgage and I provided him with a total payoff figure. He's consented to that

amount and it's Darrell Harris' intent to pay the interest and late charges that are presently due and to return the mortgage to current status."

Supervisor Kozakiewicz: "Okay. Is there a timetable on when that's anticipated to be done and accomplished by?"

Christopher Kent: "That will be done today."

Supervisor Kozakiewicz: "The actual late payments and the interest?"

Christopher Kent: "That's correct."

Supervisor Kozakiewicz: "Okay. All right. Mr. Johnson, hearing all that."

Bruce Johnson: (Inaudible)

Sean Walter: "We're not sworn in."

Supervisor Kozakiewicz: "I know. What I'm hearing is, there's an offer to try and- so we don't have to take testimony, is that what I'm hearing today? Is that where we are?"

Sean Walter: "Mr. Johnson, do you concur in the application for an adjournment as presented pending compliance for a period of time yet to be determined?"

Bruce Johnson: "Yes, I do."

Sean Walter: "And, Mr. Kent, what period of time would that be?"

Christopher Kent: "It really depends on- the first four items I think we can gain compliance within two weeks. The last two items, it's really dependent upon when we can have the tenant vacated- when we can have the premises vacated. If the tenant leaves, we can have this work done, probably completed by the end of June. If the tenant does not leave by June 1st, we will then have to commence a summary proceeding in Justice Court and we probably wouldn't be able to complete this work until probably the end of July."

Sean Walter: "Would you consent or stipulate to an inspection by the code enforcement officers on the record?"

Christopher Kent: "Yes. The property owner is willing to consent but what I would ask is that if an inspection is going to be taken by the building department, that they provide me notice and that I would fax them a written consent."

Sean Walter: "Absolutely. So that being said, we've stipulated to an inspection by the building department. We understand that you would not be able to do some of the remediation until after the tenant is vacant, the house is vacant."

Supervisor Kozakiewicz: "There's a couple of dates that we're looking at. May 30th, June 13th, June 27th are our next work session dates if we would adjourn it."

Christopher Kent: "I would say for control purposes on this, we might want to put it on to either June 13th or June 27th because by that time- "

Supervisor Kozakiewicz: "I figured either June 13th or June 27th will get us past the 30 day notice and that was where I was leaning towards, so I just wanted to get some feedback from the representative, Mr. Johnson, from his standpoint. Some of these other things are taking place obviously."

Bruce Johnson: "I think, yes, the two weeks- the two weeks stipulation on the minor repairs especially while the house is going to be occupied until the tenant vacates is certainly acceptable and I would also ask Mr. Kent, we- part of that discussion for the repairs to the cinder block foundation walls was to have an engineer prepare the remediation plan."

So if by that adjournment date we could have an application filed with the building department by a licensed engineer or architect for that remediation plan of the foundation walls, with the work to commence once the tenant has been-- vacated the premises would be, I think, the only other thing I would ask."

Supervisor Kozakiewicz: "I'm not sure if I understand. Are you suggesting that we do a May 30th date and then if the other things are- "

Bruce Johnson: "No."

Supervisor Kozakiewicz: "Or June 13th?"

Bruce Johnson: "June 13th."

Supervisor Kozakiewicz: "All right. Fine."

Bruce Johnson: "At least we could have the building application for the foundation work."

Councilman Lull: "By June 13th you are expecting to see a plan for the foundation work and if the tenants have or have not left, at least a plan for the replacing of the burner and the water heater?"

Bruce Johnson: "Yes."

Councilman Lull: "Okay."

Christopher Kent: "I would consent to that."

Supervisor Kozakiewicz: "Okay, so the next date we'll, without objection, we'll adjourn to June 13th. I'm not sure if there's any others that are on for that date, so assuming there is none, we'll do it for 11:00 but if there's any others that are on that date, we'll notify counsel accordingly. So say June 13th, 11:00 a.m. and, again, that's subject to if we find out there's any other Chapter 54's so notifying counsel."

Councilman Lull: "Question, a legal question. Do you have to do that adjournment on the record?"

Supervisor Kozakiewicz: "Well, everything was on the record."

Councilman Lull: "Yeah, but I mean as part of the hearing record we didn't open the hearing."

Supervisor Kozakiewicz: "I think we did. I think we did, but we never took any testimony."

Councilman Lull: "Okay."

Supervisor Kozakiewicz: "We didn't take any testimony, sworn testimony with respect to the substance of the report and the paperwork but the hearing had been opened at 12:06."

Councilman Lull: "Okay."

Supervisor Kozakiewicz: "And then I did open it up for that

comment."

Councilman Lull: "Right."

Supervisor Kozakiewicz: "All right. Okay."

Peter Danowski: "I was just hoping that before you broke for lunch, you would allow Mr. Hanley to discuss the moratorium issues because I had (inaudible)."

Supervisor Kozakiewicz: "Yeah, I know, I know. We like to take them up in a block and we have about three or four requests for 70/30's."

Peter Danowski: "And that's what I wanted to discuss before the break for lunch."

Supervisor Kozakiewicz: "I have one more Chapter 54 yet, too. No. Two more?"

Barbara Grattan: "No, there's two. There's Betty Harris, okay."

Supervisor Kozakiewicz: "Betty Harris is done."

Barbara Grattan: "Ann Joselin."

Supervisor Kozakiewicz: "Ann Joselin, right, so it's been one of those days. Let the record reflect the time of 12:20 we close the prior hearing and we open for this one which I think is a new one so, Barbara, would you read the affidavit of publishing and posting, please."

Public Hearing opened: 12:20 p.m.

Barbara Grattan: "I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall, Riverhead, New York on May 2, 2002, at 11:45 a.m. regarding Chapter 54 Unsafe Buildings and Structures property owned by Ann Joselin located at 43 Kay Road, Calverton."

Supervisor Kozakiewicz: "Okay. Is there anyone who is appearing for Ann Joselin?"

Sean Walter: "I think Ann Joselin has contacted the building

department, Mr. Downs, and he's going to convey to the Town Board that conversation."

Supervisor Kozakiewicz: "All right. Well, are we talking about an application or are we taking testimony today?"

Sean Walter: "We're talking about an application- "

Supervisor Kozakiewicz: "All right."

Sean Walter: "-- from Miss Joselin."

Supervisor Kozakiewicz: "All right, go ahead, Mr. Downs."

Mr. Downs: "She had contacted me yesterday with reference to this dwelling which is open and insecure. There have been recent, you know, break-ins into the house, the garage door is ajar, it's exposed to all the elements and she's a 97 year old woman. She's- right now, she's confined to her house and she's planning on selling the house. She's contacted a real estate- "

Supervisor Kozakiewicz: "This particular house on Kay?"

Mr. Downs: "On Kay Road, 43 Kay Road. She's contacted a realtor, Century 21, and she's in the process of selling the house. The house has been vacated for over 20 years now. It was left to her from her deceased boyfriend and she just hasn't kept up, you know, with the house. But she is- she has stressed to me that she wants to comply with boarding it up and getting it secured."

Supervisor Kozakiewicz: "When will she be undertaking that? When- how quickly did he indicate she would have the building secured and boarded?"

Mr. Downs: "She's awaiting a call from me, you know, to let her know, you know, what she needs to do and when she needs to do it. But I was- "

Supervisor Kozakiewicz: "Is there anybody occupying the structure right now that we know of?"

Mr. Downs: "No. Nobody's occupying the structure."

Supervisor Kozakiewicz: "If we are to grant an adjournment, let's say to the June 13th date to keep it consistent, and you were to

notify her, is she indicating that we're talking about a week, two weeks. How long will it take for this building to be made secure?"

Mr. Downs: "I'm hoping that she can do it, you know, in a timely process, within a week or two weeks because there have been break-ins and the police department has been there on numerous issues so we want to get it secured. Incidentally, I just shut off the power to the house because she was paying the LIPA bills since 1976."

Supervisor Kozakiewicz: "Good for LIPA."

Mr. Downs: "Yeah."

Supervisor Kozakiewicz: "All right. So there's no objection to putting this over to June 13th with the understanding that she'll undertake- or do you want a short date, the next work session date to see that it's done? June 13th, counselor? Any objection to that?"

Sean Walter: "June 13th is fine."

Supervisor Kozakiewicz: "11:15. So we'll grant the application to June 13th, 11:15 with the hope that all these things are in place by then and make it clear to Ms. Joselin that if they're not we will have the hearing then. Thank you."

Mr. Downs: "Thank you."

Public Hearing closed: 12:24 p.m.

Supervisor Kozakiewicz: "That concludes Chapter 54's. And let the record reflect the time of 12:24 p.m. has arrived and, Peter, I don't know if I have an ability to do this one now, the applications for the 70/30. I have a lot of people who were here earlier. I know a lot of people want to talk to us about it and we had Mr. Stark here earlier from Glenwood. I know that Mr. Hartman (phonetic) was here and he's left. I see Mr. Barnett and Mr. Young here as well."

Meeting adjourned

Barbara Gutton
Town Clerk