

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

TABATHA MARTIN, TRACY MARTIN, ) CIVIL  
 T.M., a minor, by her parents ) NO. CV 15-00363 HG-KSC  
 and next friends, TABATHA ) [Class Action]  
 MARTIN and TRACY MARTIN; )  
 KIONINA KENESO, K.H., a )  
 minor, by her next friend, )  
 KIONINA KENESO; TANAKO YUG, )  
 GABRIEL YUG, G.Y., a minor, )  
 by his next friends, TANAKO )  
 YUG and GABRIEL YUG; DIANA )  
 CHONIONG; JON JOSEPHSON; )  
 NORMA MANUEL; MENSI RIKAT; )  
 ARI RODEN; RIMUO RUNTE; and )  
 SNOPIA WEINEI; individually )  
 and on behalf of the class of )  
 homeless or formerly homeless )  
 individuals whose property )  
 was seized and destroyed by )  
 City and County of Honolulu )  
 officials, )

Plaintiffs,

vs.

CITY AND COUNTY OF HONOLULU,  
 a municipal corporation; and  
 DOE EMPLOYEES OF CITY AND  
 COUNTY OF HONOLULU 1-100;

Defendants.

DEPOSITION OF ROSS SUMIO SASAMURA

Taken on behalf of the Plaintiffs at Alston Hunt Floyd & Ing, American Savings Bank Tower, 1001 Bishop Street, Suite 1800, Honolulu, Hawaii, commencing at 9:21 a.m. on Wednesday, October 14, 2015, pursuant to Notice.

BEFORE: SHARON L. ROSS, RPR, CRR, RMR, CSR No. 432

1 APPEARANCES:  
 2  
 3 For Plaintiffs:  
 4 NICKOLAS A. KACPROWSKI, ESQ.  
 5 KRISTIN L. HOLLAND, ESQ. (when noted)  
 6 Alston Hunt Floyd & Ing  
 7 American Savings Bank Tower  
 8 1001 Bishop Street, Suite 1800  
 9 Honolulu, Hawaii 96813  
 10 - and -  
 11 DANIEL M. GLUCK, ESQ.  
 12 ACLU of Hawaii Foundation  
 13 P. O. Box 3410  
 14 Honolulu, Hawaii 96801  
 15  
 16 For Defendants:  
 17 PAUL S. AOKI, ESQ.  
 18 ERNEST H. NOMURA, ESQ.  
 19 DAVID D. DAY, ESQ. (when noted)  
 20 Department of the Corporation Counsel  
 21 City and County of Honolulu  
 22 530 South King Street, Room 110  
 23 Honolulu, Hawaii 96813  
 24  
 25 Also Present: KATIE MULLINS

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1 ROSS SUMIO SASAMURA,  
 2 called as a witness at the instance of the Plaintiffs,  
 3 being first duly sworn to tell the truth, the whole  
 4 truth and nothing but the truth, was examined and  
 5 deposed as follows:  
 6 EXAMINATION  
 7 BY MR. KACPROWSKI:  
 8 Q. Good morning, Mr. Sasamura. Can you state your  
 9 name for the record, please?  
 10 A. My name is Ross Sumio Sasamura.  
 11 Q. I'm Nick Kacprowski. I'm an attorney here at  
 12 Alston Hunt Floyd & Ing, one of the attorneys for the  
 13 plaintiffs in this case. I'm going to start by giving  
 14 you some instructions that will apply throughout the  
 15 course of the deposition.  
 16 First is I'll need all of your answers to be  
 17 verbal. So, the court reporter can't pick up nods of  
 18 the heads or anything like that.  
 19 A. (Witness nods head.)  
 20 Q. The second instruction is that we'll take  
 21 periodic breaks. If you need one, please let me know;  
 22 and we can try to accommodate you.  
 23 We'll need your -- I'm going to, when I ask a  
 24 question, assume that you know -- that you understand it  
 25 if you answer it. If you don't understand it, please

1 the second in command.  
 2 Q. Okay. What are the various titles the members of  
 3 the enforcement team would have?  
 4 A. Construction equipment operator.  
 5 Q. Uh-huh.  
 6 A. And equipment operator.  
 7 Q. Okay. Any others?  
 8 A. Any others on the -- on the team? Is that what  
 9 you're asking me?  
 10 Q. Yeah, any other titles that anyone on the  
 11 enforcement team would have?  
 12 A. We also have a complaints investigator, and we  
 13 have a clerk dispatcher.  
 14 Q. Okay. And the complaints investigator and the  
 15 clerk dispatcher, would they be one of the six people on  
 16 the enforcement team?  
 17 A. Those positions are assigned to the enforcement  
 18 team.  
 19 Q. Okay. And are they full-time positions? So, one  
 20 person's entire position, for instance, is the claims --  
 21 what was it, claims or complaints --  
 22 A. Complaints investigator.  
 23 Q. Complaints investigator. So, that's one person's  
 24 complete job title?  
 25 A. Yes, it is.

1 Q. And do you know which person that is?  
 2 A. That position is vacant.  
 3 Q. Okay. Does anyone serve in that position as a --  
 4 on a temporary basis?  
 5 A. I'm not sure.  
 6 Q. Okay. Who investigates complaints if that  
 7 position is vacant?  
 8 A. It would fall under Mr. Shimizu because he's in  
 9 charge of that branch.  
 10 Q. So, am I correct that until someone is hired for  
 11 that position, Mr. Shimizu would take on the  
 12 responsibilities of the complaints investigator?  
 13 A. Mr. Shimizu would be responsible to ensure that  
 14 that function is fulfilled --  
 15 Q. Okay.  
 16 A. -- until it is filled.  
 17 Q. And can you tell me the names of any of the  
 18 former members of the enforcement team?  
 19 A. Not at the moment.  
 20 Q. And is that because you just -- you don't  
 21 remember their names or --  
 22 A. That's correct.  
 23 Q. To your knowledge, is anyone on the enforcement  
 24 team -- let me strike that and start over with the  
 25 question.

1 To your knowledge, is anyone involved in  
 2 enforcement actions -- so, I'm talking not just anyone  
 3 on the enforcement team but anyone else who might be  
 4 involved in enforcement actions -- related to anyone  
 5 else involved in enforcement actions?  
 6 A. I'm not sure.  
 7 Q. Okay. Are you related to anyone else involved in  
 8 enforcement actions?  
 9 A. You're speaking to the stored property ordinance  
 10 and sidewalk nuisance ordinance?  
 11 Q. Yes, yes.  
 12 A. No.  
 13 Q. Okay. And you mentioned earlier you were in  
 14 Kakaako this morning. What were you doing there?  
 15 A. I was there to be the media liaison.  
 16 Q. And how long did you spend there?  
 17 A. I was there from approximately 5:30 this morning  
 18 until approximately 8:30.  
 19 Q. And what did you do when you were there?  
 20 A. Waited for the media.  
 21 Q. Did you talk to any media?  
 22 A. No.  
 23 Q. Okay. Did you see -- was the enforcement action  
 24 going on this morning?  
 25 A. Yes, it was.

1 Q. And what was happening this morning?  
 2 A. The crew was continuing to work along Ohe Street.  
 3 Q. Were there any homeless individuals still on Ohe  
 4 Street, or was the entire area roped off?  
 5 A. The area was roped off.  
 6 Q. Okay. So, at this point they were just clearing  
 7 what was remaining on Ohe Street; is that correct?  
 8 A. That's correct.  
 9 Q. And at the time you were there, was anyone other  
 10 than the enforcement team or the City Police Department  
 11 helping them -- was anyone other than those people able  
 12 to access the portion of Ohe Street where you were  
 13 conducting the enforcement action?  
 14 A. There was somebody that was not a member of the  
 15 police department or the city enforcement team that  
 16 entered the area that was cordoned off.  
 17 Q. Okay. And who was that? Was that another City  
 18 employee or someone that --  
 19 A. No. It was just somebody else.  
 20 Q. Okay. Someone who was not authorized to go in?  
 21 A. That's correct.  
 22 Q. And how was that situation handled?  
 23 A. The police escorted the person out.  
 24 Q. Do you know if that person was arrested or what  
 25 happened to the person?

1 A. I do not know.  
 2 Q. Now, when there -- when the City impounds or  
 3 destroys items in public places, is that always done  
 4 pursuant to the SNO and SPO procedures?  
 5 A. Can you repeat the question?  
 6 MR. KACPROWSKI: Can you repeat that,  
 7 please?  
 8 THE COURT REPORTER: Sure.  
 9 (The court reporter read the following:  
 10 "Now, when there -- when the City impounds or destroys  
 11 items in public places, is that always done pursuant to  
 12 the SNO and SPO procedures?")  
 13 A. What do you mean by "destroy"?  
 14 Q. (BY MR. KACPROWSKI) That's a good question. So,  
 15 for the purposes of the deposition, what I mean when I  
 16 say "destroy," I'm going to include put something in a  
 17 trash truck that will then be taken to the dump or to  
 18 put something somewhere to be recycled or dismantled.  
 19 So, with that being said, are you able to answer the  
 20 question?  
 21 MR. AOKI: Sorry. Hold it. Would you mind  
 22 reading that back?  
 23 (The court reporter read the following:  
 24 "Now, when there -- when the City impounds or destroys  
 25 items in public places, is that always done pursuant to

1 the SNO and SPO procedures?")  
 2 MR. AOKI: Objection, overbroad.  
 3 A. We follow the procedures consistently.  
 4 Q. (BY MR. KACPROWSKI) Okay. Is there a schedule  
 5 in advance of where you conduct enforcement actions?  
 6 A. When you say "advance," what are you speaking of?  
 7 What kind of time frame are we talking about?  
 8 Q. Well, let's start, you know, a day ahead of time.  
 9 Do you know in the morning where you're going to be the  
 10 rest of the day?  
 11 A. For the enforcement team?  
 12 Q. Yeah.  
 13 A. It's possible.  
 14 Q. And how long in advance are enforcement actions  
 15 planned?  
 16 A. I can't say -- speak to that directly because I'm  
 17 not involved in the planning process for the schedule.  
 18 Q. Okay. Are the enforcement actions conducted  
 19 every day -- every workday, Monday through Friday?  
 20 A. Most days.  
 21 Q. Are they ever conducted on the weekend?  
 22 A. There may be times when they're conducted on  
 23 weekends.  
 24 Q. When might that be?  
 25 A. If the need arose to address some issues that we

1 received in the form of complaints.  
 2 Q. How many times in the last year would you  
 3 estimate an enforcement action has been conducted on the  
 4 weekend?  
 5 A. I'm not familiar with every instance. So, the  
 6 answer that I give you may not reflect the true  
 7 number --  
 8 Q. Okay.  
 9 A. -- but I --  
 10 Q. Go ahead. Do your best.  
 11 A. To the best of my knowledge, maybe a few times.  
 12 Q. Uh-huh.  
 13 A. Two, maybe three times.  
 14 Q. Okay. Now, I've heard -- I've seen in prior  
 15 testimony -- and I don't know if it's yours or  
 16 Mr. Shimizu's declarations in this case -- that the SPO  
 17 and SNO is complaint driven. Is that something that  
 18 you -- you would agree with?  
 19 A. Yes.  
 20 Q. And what exactly does that mean, that it's  
 21 complaint driven -- that the enforcement actions are  
 22 complaint driven?  
 23 A. The City receives complaints regarding anything  
 24 that's blocking access to sidewalks or to public  
 25 facilities, and we respond to those complaints.

1 Q. And when you receive a complaint, how quickly is  
 2 the typical turn-around between receiving the complaint  
 3 and the conducting of an enforcement action?  
 4 A. I can't answer that question. I'm not involved  
 5 in that process of receiving the complaints and  
 6 scheduling the enforcements.  
 7 Q. Okay. So, are you testifying you're not -- you  
 8 don't have sufficient knowledge to answer that question?  
 9 A. That's correct.  
 10 Q. How about -- how often is an enforcement action  
 11 conducted without a specific complaint?  
 12 A. I'm not aware of any enforcement action that  
 13 happens without a specific complaint.  
 14 Q. So, for the Kakaako enforcement action that has  
 15 been ongoing for the last month or so, what specific  
 16 complaints were those -- was that enforcement action in  
 17 response to?  
 18 A. The number of complaints that we receive from  
 19 people either traveling to, through, or work in the  
 20 area.  
 21 Q. Can you tell me anything about the process  
 22 between receiving a complaint and conducting an  
 23 enforcement action?  
 24 A. I'm not sure I understand your question.  
 25 Q. Well, let me -- let me rephrase it or let me

1 strike it and ask another one.  
 2 Do all complaints lead to an enforcement action?  
 3 A. As far as I know, yes.  
 4 Q. Does someone investigate the complaints before an  
 5 enforcement action begins?  
 6 A. I believe so, yes.  
 7 Q. And who would that person be?  
 8 A. Mr. Shimizu.  
 9 Q. So, can you walk me through a little what  
 10 happens? Is it that Mr. Shimizu receives a complaint,  
 11 he investigates it and, if it's valid, he then conducts  
 12 an enforcement action?  
 13 A. I believe that's correct; but I don't have  
 14 firsthand knowledge in what happens because, again, I'm  
 15 not directly involved in that process.  
 16 Q. Okay. Can Mr. Shimizu begin an enforcement  
 17 action at his own discretion or does he have to get  
 18 approval from anyone else?  
 19 A. He doesn't require approval from anyone else, to  
 20 my knowledge.  
 21 Q. Okay. If -- I guess the only other person  
 22 between you and Mr. Shimizu is Mr. Sugihara; is that  
 23 correct?  
 24 A. That's correct.  
 25 Q. So, to the extent he needed approval, is there

1 anyone else he would get it from other than you and  
 2 Mr. Sugihara?  
 3 A. Not to my knowledge.  
 4 Q. Okay. Can you walk me through what happens  
 5 during an enforcement action, so from the moment the  
 6 enforcement team leaves wherever it starts.  
 7 MR. AOKI: Objection. That's vague and  
 8 ambiguous, overbroad.  
 9 Q. (BY MR. KACPROWSKI) You can answer.  
 10 A. When you say take you through what happens, what  
 11 exactly are you asking for?  
 12 Q. Well, let me -- let me come back to that  
 13 question.  
 14 A. Okay.  
 15 Q. And so we'll strike it for now.  
 16 First, where physically is the headquarters of  
 17 the SNO/SPO enforcement team?  
 18 A. It's on Auahi Street in Kakaako.  
 19 Q. Okay. And so when they're not conducting  
 20 enforcement actions, that's where they -- that's where  
 21 they're situated?  
 22 A. That's -- that's correct.  
 23 Q. Okay. And how about the vehicles that are used  
 24 in the enforcement actions? Do they -- are they stored  
 25 in the same place?

1 A. Yes, they are.  
 2 Q. So, if the enforcement team is not already  
 3 conducting an enforcement action, would they -- would  
 4 they start out from the Kakaako -- I'm going to call it  
 5 the headquarters.  
 6 A. Would they start out there?  
 7 Q. Yes.  
 8 A. Is that what you're asking?  
 9 Q. Yeah.  
 10 A. Yes.  
 11 Q. And are the same vehicles generally used for each  
 12 action or is it -- you can answer that.  
 13 A. Yes.  
 14 Q. So, when they -- so, what happens -- so, let me  
 15 ask my earlier question. Can you walk me through what  
 16 happens when the enforcement team is called or sent to  
 17 go on an enforcement action, you know, once they get in  
 18 their vehicles and then they go and then what happens  
 19 after that?  
 20 MR. AOKI: Same objection, vague, ambiguous,  
 21 overbroad.  
 22 A. They would drive to whatever location they are  
 23 responding to a complaint on and then begin their  
 24 enforcement action.  
 25 Q. (BY MR. KACPROWSKI) Okay. What's the process of

1 the enforcement action? What are the steps that occur?  
 2 MR. AOKI: Same objection, vague, ambiguous,  
 3 overbroad.  
 4 A. So, depending on the situation, we may need  
 5 traffic control. We may need to deal with other  
 6 external issues relating to pedestrian foot traffic,  
 7 relating to vehicle traffic, and address the work area  
 8 for a -- from a safety perspective.  
 9 After the crew has all of those issues addressed,  
 10 then they would establish a government work zone or a  
 11 work area by use of barrier tape or other means to  
 12 control access into the area for the safety of everyone  
 13 involved.  
 14 And then depending on the situation, then they  
 15 would begin removing items and storing items as the  
 16 situation dictates.  
 17 Q. And what are the vehicles that are used in  
 18 enforcement actions?  
 19 A. What are you asking for specifically?  
 20 Q. What are -- all the -- all the DFM vehicles that  
 21 are on site during an enforcement action, what are those  
 22 vehicles?  
 23 A. We have two refuse collection trucks. We have a  
 24 flatbed truck, and we have a utility body service truck.  
 25 Q. Okay. What is a utility body service truck?

1 Q. Are there any complaints where he would have to  
 2 consult with you before disposing of the complaint?  
 3 A. Disposing of it or addressing it?  
 4 Q. Yeah. Before making a final decision on how to  
 5 address the complaint, are there any complaints where he  
 6 would have to consult with you first?  
 7 A. No.  
 8 Q. So, for example, if someone complained that they  
 9 had their property destroyed when it shouldn't have  
 10 been, that's something that Mr. Shimizu has the  
 11 discretion to handle all by himself?  
 12 A. He would.  
 13 Q. Are you aware of any incidents occurring where  
 14 people have been injured during enforcement actions?  
 15 A. When you say "people," you're speaking to City  
 16 people?  
 17 Q. Yeah, either City -- anyone, City people,  
 18 individuals, other cit -- any person.  
 19 A. Injured directly?  
 20 Q. Yeah, directly injured physically during  
 21 enforcement action.  
 22 A. I can't recall any.  
 23 Q. Are you aware of any incidents where people have  
 24 been roped off -- have been in their tent and the tent  
 25 area has been roped off around them when an enforcement

1 action was occurring?  
 2 A. Yes.  
 3 Q. What incidents are you aware of regarding that?  
 4 A. The only one that I can recall at the moment is  
 5 at Thomas Square.  
 6 Q. Uh-huh. Okay. Can you describe what the -- what  
 7 the issue was with that incident?  
 8 A. The issue was that there was a sidewalk nuisance  
 9 violation, and there was someone within a tent. And  
 10 during the establishment of the safe work zone, the  
 11 person was asked to come out.  
 12 Q. Okay. Was it the enforcement team's position  
 13 that that person was refusing to come out or that it was  
 14 the person unintentionally was in there and the City  
 15 didn't know that it had roped that person off?  
 16 A. The person may have been sleeping in the tent.  
 17 Q. Is that the only one -- any other incident that  
 18 you're aware of of the enforcement team roping off a  
 19 tent with people in the tent?  
 20 A. That's the only one that I can recall at the  
 21 moment.  
 22 Q. Is there any policy regarding checking tents or  
 23 other shelters for people before it is roped off to  
 24 create the safe area?  
 25 A. I can't speak to all situations, but in general

1 our law enforcement partners assist us in checking tents  
 2 before we actually establish the work zone.  
 3 Q. Okay. Is it the law enforcement partners that do  
 4 the roping off of the areas or is it the enforcement  
 5 team members?  
 6 A. It's the enforcement team members.  
 7 Q. Okay. And how do they ensure that there's no one  
 8 in the shelters or tents before they rope off what  
 9 you're calling the safe areas?  
 10 A. There's no deliberate attempt to make sure that  
 11 there's no one there. The area is taped off to prevent  
 12 other people from entering and to make the area clear  
 13 and safe for everyone involved.  
 14 Q. Okay. What if someone is in the area that's been  
 15 taped off? Is there no way or policy or practice of  
 16 ensuring that there's no one in the area when it's taped  
 17 off?  
 18 A. When people are within the taped area within an  
 19 encampment, they are asked to remove their life's  
 20 necessities and leave the taped-off area.  
 21 Q. Uh-huh. And has that policy been -- when was  
 22 that policy created?  
 23 A. It's been in place as long as I'm aware.  
 24 MR. KACPROWSKI: Okay. You know, it's noon  
 25 now. We can break if you folks want to. Let's go off

1 the record.  
 2 (Recess from 12:03 p.m. to 1:04 p.m.)  
 3 (Mr. David Day is not present.)  
 4 MR. KACPROWSKI: Back on the record.  
 5 Q. (BY MR. KACPROWSKI) So, I want to ask you, has  
 6 the City ever destroyed someone's identification during  
 7 an enforcement action?  
 8 A. Destroyed?  
 9 Q. Yeah, disposed of, thrown in the garbage.  
 10 A. Not to my knowledge.  
 11 Q. Have you read articles in the media about  
 12 homeless people having their identification destroyed?  
 13 A. I may have.  
 14 Q. Okay. Do you think that someone has had their  
 15 identification destroyed even if accidentally?  
 16 A. I don't believe so.  
 17 Q. So, you -- so, any time any homeless person has  
 18 claimed to have had their identification destroyed  
 19 during an enforcement action, you think that that is  
 20 false?  
 21 A. What I'm saying is if there are media reports  
 22 about issues like that, I'm not certain of their source  
 23 of information.  
 24 Q. Does it seem plausible to you or possible that a  
 25 person may have had their identification destroyed



1 Q. So, for example, you have not reviewed the  
 2 criteria that the City of Fresno, California uses?  
 3 A. No.  
 4 Q. You've not reviewed the criteria that the City of  
 5 Eugene, Oregon uses?  
 6 A. No.  
 7 Q. You've not reviewed the criteria that the City of  
 8 Seattle uses?  
 9 A. No.  
 10 Q. I'm not going to list any more cities, but is it  
 11 correct that I could list any city and you wouldn't be  
 12 aware of the criteria those cities used?  
 13 A. I would not be aware of the criteria those cities  
 14 used.  
 15 Q. Okay. Are you -- have you been involved in any  
 16 discussions with anyone else within the City or any of  
 17 the other Kakaako stakeholders of implementing a policy  
 18 that prohibited the destruction of certain -- of certain  
 19 personal property and actually listed that type of  
 20 property?  
 21 A. No.  
 22 Q. I'm going to move on to what I'll mark as  
 23 Exhibit 11.  
 24 (Sasamura Exhibit No. 11 marked.)  
 25 Q. (BY MR. KACPROWSKI) Do you recognize this

1 individual in Exhibit 11?  
 2 A. I think I do. I can't say with certainty because  
 3 of the profile.  
 4 Q. Okay. Who do you think it is?  
 5 A. I think that's Steve.  
 6 Q. Steve. And is Steve a member of the enforcement  
 7 team?  
 8 A. Yes.  
 9 Q. And do you know Steve's last name?  
 10 A. Not at the moment.  
 11 Q. Is it Steve Balbirona? Does that ring a bell?  
 12 A. I believe so.  
 13 Q. I'll hand you next through the court reporter  
 14 what will be marked as Exhibit 12.  
 15 (Sasamura Exhibit No. 12 marked.)  
 16 Q. (BY MR. KACPROWSKI) Do you recognize this  
 17 individual?  
 18 A. Yes.  
 19 Q. And what is his name?  
 20 A. His name is Joseph.  
 21 Q. And do you know Joseph's last name?  
 22 A. Not at the moment.  
 23 Q. Is it Joseph Romero? Does that name sound  
 24 familiar?  
 25 A. I believe that's it.

1 Q. Next is Exhibit 13.  
 2 (Sasamura Exhibit No. 13 marked.)  
 3 Q. (BY MR. KACPROWSKI) Now, is Exhibit 13 -- is  
 4 this Mr. Shimizu?  
 5 A. Yes, it is.  
 6 Q. Okay. Exhibit 14.  
 7 (Sasamura Exhibit No. 14 marked.)  
 8 Q. (BY MR. KACPROWSKI) Now, do you recognize the  
 9 individual in Exhibit 14?  
 10 A. Yes.  
 11 Q. And who is that?  
 12 A. That is Corporal Leland Cadoy, C-A-D-O-Y, of the  
 13 Honolulu Police Department.  
 14 Q. And what was his responsibility during the sweeps  
 15 in the Kakaako area in the last two months?  
 16 A. During the enforcement actions Corporal Cadoy was  
 17 there to maintain peace and order.  
 18 Q. Was he the head of the HPD's crew there?  
 19 A. No.  
 20 Q. Who was the person that was the head of the HPD's  
 21 crew?  
 22 A. Major Roy Sugimoto.  
 23 Q. And was Corporal --  
 24 A. Cadoy.  
 25 Q. -- Cadoy there every day during those sweeps?

1 A. I believe so.  
 2 Q. How about Major Sugimoto?  
 3 A. I'm not sure.  
 4 Q. So, next is Exhibit 15.  
 5 (Sasamura Exhibit No. 15 marked.)  
 6 Q. (BY MR. KACPROWSKI) And do you recognize this  
 7 individual in Exhibit 15?  
 8 A. That's Cory.  
 9 Q. And Cory -- is his last name Failma or Falima?  
 10 A. I believe so.  
 11 Q. Do you know which one it is, Failma or if it's  
 12 Falima?  
 13 A. I'm not sure of the pronunciation.  
 14 Q. And then Exhibit 16.  
 15 (Sasamura Exhibit No. 16 marked.)  
 16 Q. (BY MR. KACPROWSKI) And I want to ask if you can  
 17 identify on Exhibit 16 the individual at the left  
 18 part -- on the left. Is that Mr. Sato?  
 19 A. Yes, it is.  
 20 Q. And then Exhibit 17.  
 21 (Sasamura Exhibit No. 17 marked.)  
 22 Q. (BY MR. KACPROWSKI) Do you recognize the  
 23 individual in Exhibit 17?  
 24 A. Yes.  
 25 Q. And who is that?

1 on that concern?

2 A. I provided the neighborhood board members with

3 the telephone number for our enforcement team, 768-3585;

4 and I asked them to report any and all concerns

5 regarding access, regarding any safety issues. And it

6 wasn't limited to encampments but also included any

7 issues that related to businesses as well as residents.

8 Q. Did you attend that neighborhood board meeting as

9 a -- in your capacity as a City official or just as a

10 resident of the City or of that neighborhood?

11 A. As a City official.

12 Q. Are you aware of any issues with individuals

13 blocking the sidewalks in Hawaii Kai?

14 A. Not sidewalks specifically.

15 Q. Are you aware of any issue with people blocking

16 the sidewalks in Kahala?

17 A. No.

18 Q. Are you aware of any issues with people blocking

19 sidewalks in Kailua?

20 A. I'm not.

21 Q. Are you aware of any issue with people blocking

22 sidewalks in Kaneohe?

23 A. No.

24 Q. Are you aware of any issue of people blocking the

25 sidewalks in Wahiawa?

1 A. There may be.

2 Q. What awareness do you have of issues in Wahiawa?

3 A. I believe Wahiawa also had some concerns

4 regarding encampments that encroach into roadway areas

5 or unimproved shoulder areas.

6 Q. When did you become aware of those concerns?

7 A. It's an ongoing concern perhaps maybe going back

8 as far as two years.

9 Q. So, the concern about issues with people blocking

10 the sidewalks in Wahiawa, that's something that's still

11 an issue, to your -- to your knowledge?

12 A. I -- I believe so.

13 Q. Are you aware of anyone -- of any issue with

14 people blocking the sidewalks in Waialae?

15 A. Waialae?

16 Q. Yeah, Waialae. Sorry.

17 A. No, I'm not.

18 Q. Are you aware of any issue with people blocking

19 the sidewalks in Waimanalo?

20 A. No, I'm not.

21 Q. You mentioned the City -- the DFM hotline number,

22 768-3585?

23 A. Yes.

24 Q. Who mans that number? Who answers the phone when

25 that number is called?

1 A. Our clerk dispatcher.

2 Q. And is that a specific person or is that a title

3 that could be occupied by whoever's on call at that

4 time?

5 A. That's a specific person.

6 Q. And who is that?

7 A. Her name is Melita Pedrina.

8 Q. And what happens when -- well, before I go on,

9 can you spell that?

10 A. M-E-L-I-T-A, last name, P-E-D-R-I-N-A.

11 Q. And what happened when she receives calls on that

12 hotline?

13 A. I'm not sure exactly.

14 Q. Is that hotline specific to sidewalk nuisance

15 issues or is it for other complaints that would be

16 within DFM's jurisdiction?

17 A. That telephone number is to report both stored

18 property and sidewalk nuisance issues.

19 Q. Is it used to report any other issues?

20 A. Only those issues related to those two

21 ordinances.

22 Q. Okay. So, it's a number that was set up

23 specifically for issues with those ordinances?

24 A. Yes.

25 Q. And Ms. Pedrina, I take it, has other job

1 responsibilities other than answering that phone; is

2 that correct?

3 A. That's correct.

4 Q. And has she ever -- if she receives complaints

5 relating to sidewalk nuisance or stored property issues,

6 who generally would she go to to address those

7 complaints?

8 A. I believe it would be Mr. Shimizu.

9 Q. Has she ever gone to you in the first instance?

10 A. I'm sorry. I don't understand the question.

11 Q. Before going to Mr. Shimizu, has she ever gone to

12 you with a complaint on --

13 A. Not --

14 Q. -- on SPO or SNO issues?

15 A. Not that I can recall.

16 Q. Have you ever consulted with other counties in

17 the state regarding their responses to homelessness?

18 A. No, I have not.

19 Q. How long were you aware of the homeless

20 encampment in Kakaako that was the subject of the recent

21 enforcement actions?

22 A. I believe for the past several years.

23 Q. Why was it that it was cleared starting only last

24 month after not being subject to any enforcement actions

25 for several months before that?



1 A. There were issues relating to the effectiveness  
 2 of the enforcement actions, primarily the result of  
 3 different governmental jurisdictions being involved.  
 4 Q. You mean issues regarding the effectiveness of  
 5 prior enforcement actions in Kakaako?  
 6 A. Yes.  
 7 Q. What were those issues?  
 8 A. Mainly one of jurisdiction.  
 9 Q. Can you elaborate on how that was an issue?  
 10 A. Normally during an enforcement action, the City  
 11 has authority over the streets and sidewalks that we  
 12 maintain.  
 13 In the Kakaako area the Hawaii Community  
 14 Development Authority has overall jurisdictional  
 15 authority for the region. Not all streets in Kakaako  
 16 are owned by the City. And because there are other  
 17 state agencies that border or abut the streets in  
 18 Kakaako, the jurisdictional authority that the City has  
 19 is limited.  
 20 Q. Now that -- or at this point it's almost  
 21 4:00 o'clock in the afternoon on the 14th. Is the --  
 22 has the enforcement action been concluded in Kakaako?  
 23 A. Which enforcement action are you speaking of?  
 24 Q. The ones that began in September and were to run  
 25 until the encampments were cleared.

1 A. The enforcement action for stored property and  
 2 sidewalk nuisance ordinance will continue.  
 3 Q. And how long will it continue?  
 4 A. As long as there are impediments to access and  
 5 safe travel through the area.  
 6 Q. What are DFM's plans regarding enforcement  
 7 actions for the rest of the week?  
 8 A. To continue to do enforcement on an as-needed  
 9 basis based on issues that are observed, noted or we  
 10 receive complaints on.  
 11 Q. Okay. So, what I'm trying to get at is: The  
 12 enforcement actions that were going on through  
 13 September -- from September, are those over now and from  
 14 now on it's going to be complaint driven and you'll go  
 15 back or is there still more to clean up from the actions  
 16 that have been going on in the last month?  
 17 Does that make sense -- does that make better  
 18 sense?  
 19 A. I am not sure about the answer to that because I  
 20 don't know whether all of the work has been completed or  
 21 not.  
 22 Q. So, as of this morning they were still cleaning  
 23 up what they were doing from the enforcement actions  
 24 that have been ongoing?  
 25 A. Yes.

1 Q. Is it fair to say that you're towards the end of  
 2 those enforcement actions and the hope is that going  
 3 forward soon it will be enforcement actions on an  
 4 as-needed basis?  
 5 A. Yes.  
 6 Q. So, let me ask you, now that you're at that stage  
 7 when you've had a month of enforcement actions in  
 8 Kakaako, is there any way you think it could have been  
 9 handled better?  
 10 A. I can't think of anything at this time.  
 11 Q. Okay. So, there's nothing that you would do  
 12 differently if you had to do it again?  
 13 A. At this moment, there's nothing that I can think  
 14 of.  
 15 Q. Were there any materials that were collected  
 16 during the enforcement action in the Kakaako in the last  
 17 two months that were separated for recycling?  
 18 A. Yes.  
 19 Q. And what is the volume of those materials? How  
 20 much of that was separated?  
 21 A. For all of the enforcements in Kakaako?  
 22 Q. Yeah, in the last two months.  
 23 A. My recollection is as of October 9th, there were  
 24 104 cubic yards of metals for recycling.  
 25 Q. And where does that go? Is there one recycling

1 facility where that is all taken to or is it -- does it  
 2 go to different places?  
 3 A. I'm not sure.  
 4 Q. And which are the streets in Kakaako that don't  
 5 belong to the City?  
 6 A. I am not sure right now.  
 7 Q. How about -- is Ohe one of them?  
 8 A. Ohe is one of them.  
 9 Q. How about Ilalo?  
 10 A. I'm not sure.  
 11 Q. Olomehani, is that one of them?  
 12 A. I'm not sure.  
 13 Q. And the items that were taken for recycling, why  
 14 is it that those items -- the 104 cubic yards, why  
 15 weren't those items stored?  
 16 A. Primarily because of the nature of the items,  
 17 propane tanks, butane cylinders, bicycle frames, and  
 18 bicycle parts.  
 19 Q. Okay. Why are bicycle frames and bicycle parts  
 20 things that aren't worthy of storage?  
 21 A. Those items have to undergo review by the  
 22 Honolulu Police Department to determine whether or not  
 23 they're stolen or whether or not they're unlicensed.  
 24 Q. What is the process for the department reviewing  
 25 those? Do they review -- do they review all the bicycle

1 parts that are collected?  
 2 A. I'm not sure.  
 3 Q. Who would know the answer to that?  
 4 A. Somebody at the Honolulu Police Department.  
 5 Q. Well, if the DFM collects the items, presumably  
 6 the DFM would know where they are when they go out of  
 7 the DFM's possession. So, who at the DFM would be able  
 8 to answer the question whether the Honolulu Police  
 9 Department reviews them at any point when they're within  
 10 the DFM's possession?  
 11 A. You could check with Mr. Shimizu on that.  
 12 Q. Would -- would bicycles be something that are  
 13 stored as opposed to just bicycle parts? If it was an  
 14 intact bicycle, would that be stored?  
 15 A. They may be; but, again, bicycles come within the  
 16 jurisdiction of the Honolulu Police Department.  
 17 Q. When would they be stored? Is there -- what's  
 18 the criteria? Do the police check every bicycle before  
 19 storage or what happens before they're stored?  
 20 A. They would have to be checked to determine  
 21 whether they're licensed or whether they're stolen or if  
 22 there's any other issues relating to that specific  
 23 bicycle.  
 24 Q. And propane tanks, is there -- does the DFM check  
 25 to determine whether propane tanks are empty or not

1 before they send them for recycling?  
 2 A. There are some safety protocols that have to be  
 3 followed. I'm not sure exactly what process or  
 4 procedure our crew uses.  
 5 Q. Why can't, for example, empty propane tanks be  
 6 stored?  
 7 A. Empty propane tanks still contain residual  
 8 materials. So, empty cylinders are perhaps even more  
 9 dangerous than filled because of the amount of vapor  
 10 contained within them.  
 11 Q. So, if a person at a homeless encampment owns a  
 12 propane tank, is there any process during an enforcement  
 13 action for that person being able to keep that propane  
 14 tank or would -- will it always be confiscated and not  
 15 stored?  
 16 A. That would be determined on the situation, the  
 17 specific circumstances surrounding the person, the  
 18 propane tank, the location and the other belongings that  
 19 the person has.  
 20 Q. So, it would be possible for a person to keep a  
 21 propane tank --  
 22 A. Yes.  
 23 Q. -- depending on the situation?  
 24 A. Yes.  
 25 Q. But it sounds like if someone is not able to

1 carry away the propane tank, there would be no way that  
 2 that tank would be stored because it would be -- present  
 3 hazards?  
 4 A. Yes.  
 5 MR. KACPROWSKI: What are we at, 19?  
 6 THE COURT REPORTER: Yes.  
 7 Q. So, I'm going to mark this Exhibit 19.  
 8 (Sasamura Exhibit No. 19 marked.)  
 9 Q. (BY MR. KACPROWSKI) And do you recognize this  
 10 document, Exhibit 19?  
 11 A. Yes.  
 12 Q. And is that your signature on Page 8 of  
 13 Exhibit 19?  
 14 A. Yes. That appears to be.  
 15 Q. And you recall signing this declaration, correct?  
 16 A. Yes.  
 17 Q. So, let's go to paragraph 4 first. Paragraph 4  
 18 states that "To the extent homeless encampments are  
 19 involved in SNO enforcement, DFM (as it does SPO  
 20 enforcement) works closely with the City and County of  
 21 Honolulu's Office of Housing which in turn works closely  
 22 with social service providers to assist individuals who  
 23 may be impacted by SNO enforcement."  
 24 That's in your declaration, correct?  
 25 A. Yes.

1 Q. And what did you mean by -- by assistance to --  
 2 what assistance are you talking about in paragraph 4?  
 3 A. Where it says service -- "social service  
 4 providers to assist individuals."  
 5 Q. Uh-huh.  
 6 A. Outreach, placement in shelters, placement in  
 7 transitional housing, whatever the case may be.  
 8 Q. And what does DFM do to work closely with the  
 9 Office of Housing to provide that assistance?  
 10 A. We notify the Office of Housing of areas that we  
 11 receive complaints on or that we notice homeless  
 12 encampments building in or people moving to so that the  
 13 proper outreach activities may be engaged.  
 14 Q. So, other than notifying the Office of Housing  
 15 where homeless people are, how else do you work closely  
 16 with them? Is there any other way?  
 17 A. We receive requests from the Office of Housing to  
 18 curtail enforcements in specific areas when there are  
 19 outreach activities ongoing.  
 20 Q. And do you honor those requests all the time?  
 21 A. Yes.  
 22 Q. How often are those requests made?  
 23 A. On average, maybe three times a year.  
 24 Q. And who makes the request? Is it a call to you,  
 25 an e-mail to you? How is it made?

1 Q. And it was signed under penalty of perjury,  
 2 right?  
 3 A. Right.  
 4 Q. And are you aware that the court allowed the  
 5 enforcement actions to continue in the manner that they  
 6 continued after September 22nd based in part on this  
 7 signed declaration?  
 8 MR. AOKI: Objection. You're asking him for  
 9 a legal conclusion.  
 10 Q. (BY MR. KACPROWSKI) You can answer that.  
 11 A. I'm not aware of that.  
 12 Q. Okay. Have you read the court's order on the  
 13 temporary restraining order motion that the plaintiffs  
 14 filed in this case?  
 15 A. Yes.  
 16 Q. And did you note that the court cited to your  
 17 declaration many times?  
 18 A. Yes.  
 19 Q. And did you -- even after reading that, did you  
 20 have any inclination to amend or correct any statements  
 21 in your declaration?  
 22 A. No.  
 23 MR. KACPROWSKI: Let's take a quick break.  
 24 I'm close to being finished, but I probably have a  
 25 little bit more. So, why don't we take ten?

1 (Recess from 4:20 p.m. to 4:30 p.m.)  
 2 MR. KACPROWSKI: Back on the record.  
 3 Okay. I have no further questions. So, I'd like  
 4 to thank you for your time today, Mr. Sasamura. I'll  
 5 note for the record that we're leaving the deposition  
 6 open for a future time in -- during the case. Do you  
 7 guys --  
 8 MR. NOMURA: Consistent with counsel's  
 9 understanding and discussions regarding the expedited  
 10 discovery for purposes of the motion for preliminary  
 11 injunction and the litigation. So, Nick and I will talk  
 12 about it in a little bit more detail --  
 13 MR. KACPROWSKI: Okay.  
 14 MR. NOMURA: -- I think over time.  
 15 MR. KACPROWSKI: Okay. Yeah. I mean,  
 16 obviously we haven't agreed to anything on the record.  
 17 I'm leaving it open. And it's subject to certain  
 18 discussions based on our agreement with how discovery  
 19 will progress.  
 20 Do you have questions for the deponent?  
 21 MR. AOKI: I was just going to say no  
 22 questions.  
 23 THE COURT REPORTER: How about signature?  
 24 MR. AOKI: Yes.  
 25 (The deposition was concluded at 4:31 p.m.)

1 I, ROSS SUMIO SASAMURA, hereby certify that I have  
 2 read the foregoing typewritten pages 1 through 199,  
 3 inclusive, and corrections, if any, were noted by me,  
 4 and the same is now a true and correct transcript of my  
 5 testimony.  
 6 DATED: Honolulu, Hawaii,  
 7  
 8  
 9  
 10  
 11  
 12 Signed before me this  
 13 day of , 20 .  
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 23  
 24 Case: Martin, et al. vs. City and County of Honolulu  
 25 Civil No.: CV 15-00363 HG-KSC  
 Deposition Dated: October 14, 2015  
 Taken By: Sharon Ross

1 C E R T I F I C A T E  
 2 STATE OF HAWAII )  
 3 ) SS:  
 4 CITY AND COUNTY OF HONOLULU )  
 5 I, SHARON ROSS, Certified Shorthand Reporter, do  
 6 hereby certify:  
 7 That on Wednesday, October 14, 2015, at 9:21 a.m.,  
 8 appeared before me ROSS SUMIO SASAMURA, the witness  
 9 whose deposition is contained herein; that prior to  
 10 being examined he was by me duly sworn;  
 11 That the deposition was taken down by me in machine  
 12 shorthand and was thereafter reduced to typewriting  
 13 under my supervision; that the foregoing represents, to  
 14 the best of my ability, a true and correct transcript of  
 15 the proceedings had in the foregoing matter.  
 16 I further certify that I am not an attorney for any  
 17 of the parties hereto, nor in any way concerned with the  
 18 cause.  
 19 Dated this 17th day of October, 2015, in Honolulu,  
 20 Hawaii.  
 21  
 22  
 23  
 24 SHARON ROSS, CSR NO. 432  
 25

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

1  
2  
3 TABATHA MARTIN; TRACY ) Civil No. CV15-00363  
MARTIN; T.M., a minor, by ) HG-KSC  
her parents and next )  
4 friends TABATHA MARTIN and )  
TRACY MARTIN; KIONINA )  
5 KENESO; K.H., a minor, by )  
her next friend KIONINA )  
6 KENESO; TANAKO YUG; GABRIEL )  
YUG; DIANA CHONIONG; JON )  
7 JOSEPHSON; NORMA MANUEL; )  
MENSI RIKAT; ARI RODEN; )  
8 RIMUO RUNTE; and SNOPIA )  
WEINEI, individually and on )  
9 behalf of the class of )  
homeless or formerly )  
10 homeless individuals whose )  
property was seized and )  
11 destroyed by City and )  
County of Honolulu )  
12 officials, )  
)  
13 Plaintiffs, )  
)  
14 v. )  
)  
15 CITY AND COUNTY OF )  
HONOLULU, a municipal )  
16 corporation, and DOE )  
EMPLOYEES OF CITY AND )  
17 COUNTY OF HONOLULU 1-100, )  
)  
18 Defendants. )  
)  
19

DEPOSITION OF KENNETH SHIMIZU

Taken on behalf of the Plaintiffs at the offices of  
Alston Hunt Floyd & Ing, 1001 Bishop Street, 18th  
Floor, Honolulu, Hawaii, commencing at 8:05 a.m. on  
Friday, October 16, 2015, pursuant to Notice.

BEFORE: JESSICA R. PERRY, CSR NO. 404  
Certified Shorthand Reporter

APPEARANCES

For the Plaintiffs:

NICKOLAS A. KACPROWSKI, ESQ.  
Alston Hunt Floyd & Ing  
1001 Bishop Street, 18th Floor  
Honolulu, Hawaii 96813

and

DANIEL L. GLUCK, ESQ.  
KATIE MULLINS, ESQ.  
ACLU of Hawaii Foundation  
P.O. Box 3410  
Honolulu, Hawaii 96813

For the Defendants:

ERNEST H. NOMURA, ESQ.  
DAVID DAY, ESQ.  
Department of the Corporation Counsel  
530 South King Street, Room 110  
Honolulu, Hawaii 96813

Also Present:

Ross Sasamura

MR. KACPROWSKI: Can we have on the record who's in the room.

MR. NOMURA: Good morning, Nick. Curtis Nomura, Deputy Corporation Counsel on behalf of the City. Mr. Shimizu is present, the deponent, as well as Director Ross Sasamura, as representative of the City. Deputy Corporation Counsel David Day is also present.

MR. KACPROWSKI: And Mr. Sasamura is here as the City representative?

MR. NOMURA: Correct.

MR. KACPROWSKI: And then I'm Nick Kacprowski, and with me is Daniel Gluck of the ACLU and Katie Mullins, who has not appeared in this case, but is here with the ACLU.

KENNETH SHIMIZU, the witness hereinbefore named, being first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, testified under oath as follows:

EXAMINATION

BY MR. KACPROWSKI:

Q. Mr. Shimizu, good morning.

A. Good morning.

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Mr. Kacprowski 4

EXHIBITS FOR IDENTIFICATION

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28. Photograph 84

29. Photograph 94

30. Photograph 95

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33. Video MVI\_4222 169

Q. I'm going to start off by giving you some instructions.

A. Okay.

Q. First is, you know, this is a deposition and the court reporter is going to be recording my questions and your answers. So two important things to note are that you should try and wait until I finish my question before you answer, and I will try to wait until you finish your answer before I ask another question. That way it will be a clean record for what the court reporter types up.

The next instruction is that when I ask a question, if you answer it, I'm going to assume that you understand the question. So if you don't understand it, let me know and we'll try to deal with that.

Next instruction is that your answers will need to be verbal, because the court reporter will be typing this down and she may not see or be able to record things like a nod of the head.

Do you understand those instructions that I've given you?

A. Yes.

Q. If you need to take a break, let me know and we will, if that needs to happen at any time.

1 Q. And then the tent that was stored --  
 2 MR. NOMURA: Just for the record, Mr. --  
 3 I didn't hear Mr. Shimizu make a response. He was  
 4 nodding his head.  
 5 MR. KACPROWSKI: Thank you for catching  
 6 that.  
 7 BY MR. KACPROWSKI:  
 8 Q. My question was the owner specifically said,  
 9 "throw it away," and it looked like you were nodding  
 10 your head yes. So was your answer yes?  
 11 A. Right, yes.  
 12 Q. And when you talked to the owner about the  
 13 tent, did you -- did you tell him that if it was  
 14 stored, did you discuss anything about the process  
 15 where he could get it back if it was stored?  
 16 A. I can't remember.  
 17 Q. The tent that you stored -- I'm sorry, were  
 18 you -- was there more that you were saying? I didn't  
 19 want to cut you off.  
 20 A. No.  
 21 Q. The tent that you did store, why did you store  
 22 that one?  
 23 A. Because we -- we store everything. It was on  
 24 the sidewalk. We stored it.  
 25 Q. Was the owner there?

1 A. I don't remember if the owner was there.  
 2 Q. What did you do with the wheelchair?  
 3 A. Left it there.  
 4 Q. And how about the strollers?  
 5 A. We impounded some, disposed of others.  
 6 Q. How did you decide which ones to impound and  
 7 which ones to dispose of?  
 8 A. We store everything unless the owner instructs  
 9 us to throw it away.  
 10 Q. And then how about the backpacks?  
 11 A. The same, we store everything. If the owner  
 12 says throw it away, we throw it away.  
 13 Q. So let's get into how when you're conducting  
 14 enforcement actions, generally you decide when to  
 15 store something and when to throw something away. It  
 16 sound like you're saying you store everything, except  
 17 when the owner gives you -- tells you that you can  
 18 throw it away; is that correct?  
 19 A. I don't know if that's a compound question,  
 20 but my answer is yes and no, so...  
 21 Q. Answer to the best of your ability, and if you  
 22 need to -- if you need to elaborate, go ahead and  
 23 elaborate.  
 24 A. We store everything, except for food,  
 25 perishable items, wet, damp items, flammable items,

1 hazardous items, items that may be contaminated with  
 2 urine or feces. We don't store any liquids. We don't  
 3 store items that may contaminate other items that is  
 4 being stored. That's all I can think of right now.  
 5 It's hard.  
 6 Q. Okay. Let's take tents, for example. Is  
 7 it -- do you always store tents, unless someone tells  
 8 you specifically you can throw it away the tent?  
 9 A. That's correct.  
 10 Q. So you've never thrown a tent away where the  
 11 person is -- where the person is just not -- strike  
 12 that question, sorry. I was asking a bad question.  
 13 Let me rephrase it.  
 14 So in other words, every tent that you've  
 15 thrown away, it's only been where the owner has told  
 16 you that you can throw the tent away?  
 17 A. No.  
 18 Q. Okay. When else would you throw tents away?  
 19 A. When it's contaminated.  
 20 Q. What do you mean by contaminated?  
 21 A. If it's wet, infested with animal feces,  
 22 infested with human feces, urine, maybe animal, human,  
 23 if it's -- if it has flammable substances on it or if  
 24 it's -- if in the process of storing it, the condition  
 25 of the tent may contaminate other items in the bin.

1 Q. Anything else?  
 2 A. Not that I can think of right now.  
 3 Q. So it seems like unless you get permission  
 4 from the owner or unless the tent is in some way  
 5 contaminated or dangerous, the tent should be stored?  
 6 A. That's fair to say.  
 7 Q. And then who makes the decision on whether  
 8 the -- whether the tent is contaminated or dangerous?  
 9 A. Either myself or Allan Sato.  
 10 Q. And this -- these guidelines that you were  
 11 just testifying about, about when you would dispose of  
 12 a tent, have they been the same the entire time you've  
 13 been with the enforcement team?  
 14 MR. NOMURA: Objection. Vague and  
 15 ambiguous. Mischaracterizes testimony.  
 16 THE WITNESS: Under my watch.  
 17 BY MR. KACPROWSKI:  
 18 Q. So to your knowledge, has the enforcement team  
 19 ever disposed of a tent where it hasn't been  
 20 contaminated or where you didn't get consent to  
 21 dispose of it?  
 22 A. I don't know.  
 23 Q. Have you ever seen it happen?  
 24 A. I don't think so.  
 25 Q. And let me mark an exhibit. I think our next



1 Q. I'm just trying to figure out how you make  
 2 that determination, what the guidelines are or the  
 3 thought process for that.  
 4 A. Again --  
 5 Q. Is there a checklist of something that helps  
 6 you to make that determination?  
 7 A. Consent by owner.  
 8 Q. What if the owner is not there? Because my  
 9 understanding is if the owner is not there, based on  
 10 what you've been telling me, it should be stored,  
 11 unless it's dangerous, right?  
 12 A. Uh-huh.  
 13 Q. So if the owner is not there --  
 14 MR. GLUCK: You need a verbal answer.  
 15 BY MR. KACPROWSKI:  
 16 Q. I think you said uh-huh. Is that a yes to my  
 17 last question?  
 18 A. Which one?  
 19 Q. The question if the owner was not there, you  
 20 would only dispose of something that was dangerous?  
 21 MR. NOMURA: Well, objection. Misstates  
 22 prior testimony. Vague and ambiguous.  
 23 BY MR. KACPROWSKI:  
 24 Q. Let's make sure we're clear, then. If the  
 25 owner is not there, the tent would be disposed of only

1 something is dangerous or not, or is it just anything  
 2 in writing?  
 3 MR. NOMURA: Objection. Vague and  
 4 ambiguous. Compound.  
 5 THE WITNESS: Nothing in writing.  
 6 BY MR. KACPROWSKI:  
 7 Q. And when something is disposed of like this,  
 8 is this something that the crew members themselves  
 9 have the discretion to make the decision, or do you or  
 10 Mr. Sato have to decide before something goes into the  
 11 refuse truck?  
 12 A. Either I decide or Allan Sato decides.  
 13 Q. So before, for instance, a tent or a tarp is  
 14 put in, you or Mr. Sato have to give your okay to it?  
 15 A. Correct.  
 16 Q. And how do you make that determination?  
 17 A. Based on our observations, our findings.  
 18 Q. So is it all based on what you see and can see  
 19 at the time, or is there anything that you use to  
 20 guide you? And by guide you I mean, you know, a  
 21 written policy or something like that?  
 22 A. Nothing written, but the smell.  
 23 Q. Okay. So it's basically -- what I'm trying to  
 24 get at is, is it a judgment call that you make at the  
 25 time?

1 if there's something dangerous about it, it's  
 2 hazardous or there's contaminants?  
 3 A. Correct.  
 4 Q. And then the question I was trying to ask is  
 5 how do you determine whether something is hazardous or  
 6 dangerous? Is it just based on what the crew members  
 7 see or is there anything else that guides you on that?  
 8 A. If it's a flammable liquid that was in the  
 9 tent, but I don't even know if this is a tent. I  
 10 can't tell.  
 11 Q. Well, it looks -- wouldn't you agree it looks  
 12 to be either a tent or a tarp or both?  
 13 A. I can see it's a tarp, but I can't say it's a  
 14 tent based on the picture.  
 15 Q. And would you agree that under the SNO, tarps  
 16 are supposed to be stored also, unless you have  
 17 consent or they're contaminated or dangerous?  
 18 MR. NOMURA: Objection. Vague and  
 19 ambiguous. Assumes facts not in evidence.  
 20 THE WITNESS: That's what I said.  
 21 MR. NOMURA: Misstates prior testimony.  
 22 THE WITNESS: Yes.  
 23 BY MR. KACPROWSKI:  
 24 Q. And so getting back, are there any guidelines  
 25 that you follow that help you determine whether

1 A. I don't understand the word judgment. It's --  
 2 it's fact.  
 3 Q. I'm sorry?  
 4 A. It's fact.  
 5 Q. Fact?  
 6 A. It's fact, it smells.  
 7 Q. So if a tent smells funny to you, then it's  
 8 something that you would dispose of?  
 9 A. If the smell I believe is hazardous.  
 10 Q. And how about with respect to items such as  
 11 furniture, when would you store furniture and when  
 12 would you dispose of furniture?  
 13 MR. NOMURA: Objection. Vague and  
 14 ambiguous.  
 15 THE WITNESS: Can you be more specific on  
 16 furniture?  
 17 BY MR. KACPROWSKI:  
 18 Q. Like a chair or a table or a sofa.  
 19 MR. NOMURA: Same objection.  
 20 BY MR. KACPROWSKI:  
 21 Q. So my question was, you know, what would be --  
 22 when would furniture like a chair or a table or a sofa  
 23 be stored as opposed to thrown away? Is it the same  
 24 guidelines as with respect to a tent?  
 25 MR. NOMURA: Objection. Vague and

1 ambiguous. Compound.  
 2 THE WITNESS: No.  
 3 BY MR. KACPROWSKI:  
 4 Q. So then when would you dispose of a piece of  
 5 furniture?  
 6 MR. NOMURA: Same objection.  
 7 THE WITNESS: When we have nails sticking  
 8 out of it, we have something that could injure anybody  
 9 walking on the sidewalks.  
 10 BY MR. KACPROWSKI:  
 11 Q. Okay. So basically any time it would cause  
 12 some sort of a threat to danger is when you might  
 13 dispose of it?  
 14 A. That's correct.  
 15 Q. Any other circumstances for furniture?  
 16 A. Unless instructed by the owner.  
 17 Q. I'm going to show you when we're marking as  
 18 Exhibit 23.  
 19 (Exhibit No. 23 marked.)  
 20 Q. I'll represent to you that this was a photo  
 21 taken on October 8th of this year in Kakaako, and  
 22 would you agree that this looks to be a chair?  
 23 MR. NOMURA: Objection. The document  
 24 speaks for itself.  
 25 THE WITNESS: Yes.

1 BY MR. KACPROWSKI:  
 2 Q. And do you recall this chair in any way?  
 3 A. No.  
 4 Q. Okay. And so you don't know what happened to  
 5 this chair; is that right?  
 6 A. No, I don't.  
 7 Q. Or you can't recall sitting here today?  
 8 A. No, I don't know what happened to this chair.  
 9 Q. And this chair -- strike that.  
 10 I'm going to mark Exhibit 24.  
 11 (Exhibit No. 24 marked.)  
 12 Q. And I'll represent this was also taken on  
 13 October 8th, 2015.  
 14 Now, those are two people in Exhibit 24 are  
 15 members of the enforcement team, correct?  
 16 A. Correct.  
 17 Q. And it appears to me to be the same chair from  
 18 Exhibit 23. Does it appear to you to be the same  
 19 chair also?  
 20 A. I don't know.  
 21 Q. You can't tell?  
 22 A. I can't tell.  
 23 Q. Okay. Then let's go to Exhibit 25.  
 24 (Exhibit No. 25 marked.)  
 25 Q. Exhibit 25, once again, it's two members -- or

1 at least you can see clearly one member of the  
 2 enforcement team, correct?  
 3 A. Correct.  
 4 Q. And what's his name again, what's his first  
 5 name?  
 6 A. This is Cory.  
 7 Q. And then Cory is also in Exhibit 24, correct?  
 8 A. Yes.  
 9 Q. And in Exhibit 25 it looks like Cory is  
 10 standing next to a refuse truck where what looks to be  
 11 the same chair as in Exhibit 24 is now in the refuse  
 12 truck. Do you see that?  
 13 A. I see Cory.  
 14 Q. Well, how about this, I'll represent to you  
 15 that this is the same chair in Exhibit 25 as we saw in  
 16 Exhibit 24 and 23. So let me ask you, do you have any  
 17 recollection of whether you gave the consent for the  
 18 chair to be disposed of or whether Mr. Sato gave the  
 19 consent for the chair to be disposed of?  
 20 A. I don't understand the question.  
 21 Q. Do you remember being the person that signed  
 22 off on letting this chair go in the refuse truck?  
 23 MR. NOMURA: Objection. Vague and  
 24 ambiguous.  
 25 THE WITNESS: I don't understand the

1 question, because I don't know if that's a chair or  
 2 not.  
 3 BY MR. KACPROWSKI:  
 4 Q. Well, how about, whatever that item is in the  
 5 refuse truck, did you give your okay for it to go in  
 6 the refuse truck?  
 7 A. I don't remember.  
 8 Q. Do you remember whether there was any owner  
 9 present who gave permission to throw it away?  
 10 A. I don't remember.  
 11 Q. And do you have any knowledge of why the item  
 12 in Exhibit 24 -- or, I'm sorry, in Exhibit 25 is in  
 13 the refuse truck?  
 14 A. Either had consent or it was contaminated.  
 15 Q. And are you saying that based on your general  
 16 understanding of what the policy is or based on any  
 17 specific facts that you remember with respect to this  
 18 item?  
 19 MR. NOMURA: Objection. Compound. Vague  
 20 and ambiguous.  
 21 THE WITNESS: I don't understand the  
 22 question of policy.  
 23 BY MR. KACPROWSKI:  
 24 Q. Well, why do you say you either had consent or  
 25 it was contaminated, is it because you know something

1 Q. What does it depend on?  
 2 A. Depends on if nothing is cracked, splintering,  
 3 nail protruding, sharp parts of it, objects, sharp  
 4 corners.

5 Q. So how many times do you recall storing  
 6 something that you've disassembled like that?

7 A. I don't understand the question, you mean a  
 8 structure?

9 Q. Yeah, the illegal structures.

10 A. On my experience, my enforcements, none.

11 Q. None. Let's do Exhibit 29.

(Exhibit No. 29 marked.)

13 Q. Now, Exhibit 29 I'll represent was taken in  
 14 Kakaako on October 1st of this year. And this looks  
 15 like a basketball, right?

16 MR. NOMURA: Objection. Document speaks  
 17 for itself.

18 THE WITNESS: I don't know. You can say  
 19 so.

20 BY MR. KACPROWSKI:

21 Q. What does it look like to you? I don't know  
 22 either, but to me it looks like a basketball. What do  
 23 you think -- what does it look like to you?

24 A. A ball.

25 Q. Okay. Do you remember that item?

1 A. No.

2 Q. Do you remember talking to the owner of that  
 3 item?

4 A. I don't even remember this ball sitting in the  
 5 middle of the road. I don't know.

6 Q. And you don't remember, I'm guessing, because  
 7 you come across a lot of stuff and it's hard to  
 8 remember one thing in particular?

9 A. Yes.

10 Q. I'm not saying that -- it's not a memory test.  
 11 I'm not saying everything you see you should remember.  
 12 So I'm going to show you the next one, which is  
 13 Exhibit 30.

(Exhibit No. 30 marked.)

15 Q. So that's the same ball, I'll represent to  
 16 you, and I think that's you, but is that you standing  
 17 behind the truck?

18 A. Yeah, that's me.

19 Q. So I'm trying to figure out why the ball was  
 20 disposed of, as opposed to being stored. Are toys or  
 21 balls something that are always disposed of or are  
 22 they ever stored?

23 A. Again, if I had consent from the owner or if  
 24 it's contaminated or a safety hazard, disposed.

25 Q. With respect to this particular ball in

1 Exhibit 30, I think you -- I think I already asked  
 2 this, but do you remember getting consent from anyone  
 3 to dispose of it?

4 A. I don't know.

5 Q. Is there anything that would lead you to  
 6 believe that that would be contaminated?

7 A. I can't say. I don't know. I don't remember  
 8 the ball.

9 Q. But your testimony is that it must have been  
 10 contaminated or dangerous if it was disposed of, yes?

11 A. Yes.

12 MR. KACPROWSKI: Why don't we take a  
 13 break.

(Recess taken from 11:07 to 11:30 a.m.)

15 BY MR. KACPROWSKI:

16 Q. So, Mr. Shimizu, during the break -- I wanted  
 17 to ask you some questions on the record that you've  
 18 been up for quite a while already today; is that  
 19 right?

20 A. That's correct.

21 Q. It's been since 1:00 or 2:00 a.m., Mr. Nomura  
 22 was saying?

23 A. Wake up time for me is 12:30.

24 Q. Were you working this morning?

25 A. 2:00 this morning.

1 Q. So I wanted to ask you, do you feel like you  
 2 can still answer my questions fully and completely and  
 3 truthfully at this point?

4 A. Right now, yeah.

5 Q. And do you think that's been the case  
 6 throughout what I've been asking you already today?

7 A. Yes.

8 Q. And there's nothing else, other than being a  
 9 little tired, that might prevent you or has prevented  
 10 you from answering fully and truthfully?

11 A. Eating lunch, awaiting food.

12 Q. If it gets to the point of being hungry, let  
 13 me know.

14 A. That's for you guys, not for me. I mean,  
 15 because if I eat, then I can't go on already, yeah.

16 Q. Well, if we're getting to the point where you  
 17 think you're going to get to the point where you're  
 18 soon not going to be able to answer truthfully and  
 19 fully and remember correctly, let me know and then we  
 20 can talk about what to do.

21 Let me ask you, is the pay for the -- I want  
 22 to talk about the pay for the enforcement team  
 23 members, are they paid hourly or are they paid on an  
 24 hourly rate?

25 A. It's based on the collective bargaining

1 A. Correct.  
 2 Q. And then how do you decide if it's unusable?  
 3 A. By definition of a tarp.  
 4 Q. So you basically kind of look at it and make  
 5 the decision whether something is useable or unusable?  
 6 A. By the definition and the use of a tarp, I  
 7 mean, unless it's soiled and contaminated, you know,  
 8 with bird droppings and things like that, then I won't  
 9 store it. I will dispose of it.  
 10 Q. But what I'm meaning is that's a decision you  
 11 make in your own discretion and judgment, by looking  
 12 at it?  
 13 A. Yes.  
 14 Q. And then the last line, other than items that  
 15 when stored over a period of time will grow mold and  
 16 develop airborne pathogens are discarded.  
 17 A. Which section is that?  
 18 Q. It's the paragraph 10, and it's the last  
 19 sentence of paragraph 10. So maybe you should read  
 20 all of paragraph 10. It's only a couple of sentences.  
 21 A. Okay.  
 22 Q. And I'm just kind of curious, how do you know  
 23 when something will develop airborne pathogens? Isn't  
 24 that something you need to be a scientist to know  
 25 about?

1 A. When I sneeze.  
 2 Q. So any time --  
 3 A. Well, that's one.  
 4 Q. I'm just trying to figure out how you know,  
 5 like if someone sneezes on a tent, is that enough to  
 6 get it disposed of?  
 7 A. I mean, you see if it's -- you know, you see  
 8 mold on things. So, you know, I mean, we don't store  
 9 that kind of stuff.  
 10 Q. So this goes back to generally what we were  
 11 talking about earlier, about how you look and try to  
 12 determine if something is dangerous or contaminated or  
 13 not?  
 14 A. Correct.  
 15 Q. And that's something you just kind of do as  
 16 you're out there looking at items --  
 17 A. Correct.  
 18 Q. -- that are on the sidewalk?  
 19 A. Yeah.  
 20 Q. Is there anyone -- when you make that  
 21 decision, whether something is dangerous or  
 22 contaminated, is there anyone to help you or that you  
 23 consult with or is it just a decision that you make?  
 24 A. Maybe Allan Sato.  
 25 Q. Other than Allan Sato, because that's right,

1 you mentioned him before, other than Allan Sato?  
 2 A. Sometimes HPD.  
 3 Q. Okay. HPD, would you consult with them and  
 4 ask them --  
 5 A. They would point out things.  
 6 Q. Okay. And then you would make the decision?  
 7 A. Right.  
 8 Q. And how about anybody from, say, the health  
 9 department or officials like that, are they there and  
 10 you're consulting with them too?  
 11 A. If we have something that we know is  
 12 contaminated, we would call the Department of Health.  
 13 Q. But on -- for the most part, when you're  
 14 looking at, say, a tent or tarp and trying to decide  
 15 if it's dangerous or contaminated, that's you making a  
 16 decision and you don't have like a health department  
 17 official there with you that you're consulting with?  
 18 A. Correct.  
 19 Q. So have you ever called the Department of  
 20 Health during enforcement actions?  
 21 A. During a cleanup.  
 22 Q. Is that when you have -- when would you do  
 23 that?  
 24 A. When we find something suspicious.  
 25 Q. Are there any items that don't go into the --

1 into the refuse containers? I'm sorry, strike that.  
 2 Are there any items that don't go into the  
 3 refuse truck that are disposed of because they're  
 4 health hazards?  
 5 A. Motor oil, antifreeze, fire extinguishers, air  
 6 conditioning units, refrigeration units. Oh, boy.  
 7 Aerosol products.  
 8 Q. How about things like human waste, does that  
 9 go -- would that go into the garbage truck?  
 10 A. Most of it or all of it, yes.  
 11 Q. I'm just trying -- I'm trying to determine, it  
 12 sounds like things like chemicals or big bulky items  
 13 like motor oil, antifreeze, fire extinguishers,  
 14 aerosols wouldn't go into the truck, and why is that?  
 15 Is it because it would be dangerous to have those in  
 16 the truck?  
 17 A. It's illegal.  
 18 Q. Anything else that -- is there anything  
 19 else --  
 20 A. There's a lot of things that probably is  
 21 illegal, but EPA, you cannot throw a lot of things  
 22 into H-POWER, things of that nature. There are --  
 23 there is EPA guidelines to how to dispose of, you  
 24 know, different type of chemicals and, you know,  
 25 hazardous waste, as they call it.



1 A. Is to protect us.  
 2 Q. And when you tape it off, what does that  
 3 indicate to other people, that they can't go in or  
 4 that --  
 5 A. Yeah, that they can't enter the red-tape area.  
 6 Q. And then the owner -- I think you said that  
 7 the owners can go in; is that right?  
 8 A. Correct.  
 9 Q. And how does someone get permission to go in?  
 10 Is it they go up to you and say they're an owner?  
 11 A. They ask us if we can get in.  
 12 Q. And then what happens when they ask?  
 13 A. We let them in.  
 14 Q. And do they have to say I've got something  
 15 there or do you --  
 16 A. No, they ask, can I get my things? I'll say,  
 17 yeah, you can get your things.  
 18 Q. And what is it to protect you from?  
 19 A. If there's a confrontation, HPD that can order  
 20 them outside the red tape.  
 21 Q. Has that always been your policy, to let the  
 22 owner into the red-taped area?  
 23 MR. NOMURA: Objection. Vague and  
 24 ambiguous.  
 25 THE WITNESS: Yes.

1 of the notices that was posted generally in Kakaako  
 2 before the enforcement actions this month and last  
 3 month?  
 4 A. Yes.  
 5 Q. And did your team help post this?  
 6 A. Yes.  
 7 Q. And did you have any hand in writing this?  
 8 A. No.  
 9 Q. It was just -- your job was to just help post  
 10 it?  
 11 A. Yes.  
 12 Q. And if you'll look at the last two sentences,  
 13 the ones that are bolded, where it says, "Once SPO and  
 14 SNO enforcement commences, you should not interfere  
 15 with this government operation. If you do, you may be  
 16 subject to arrest." Does that -- in your mind, does  
 17 that not apply to the owners that would go -- would  
 18 get permission to go in the red-taped area?  
 19 A. Can you repeat the question?  
 20 Q. Yeah, those last two sentences, the ones that  
 21 are bolded, would that not apply to a situation where  
 22 an owner asked to go into the red-taped area?  
 23 MR. NOMURA: Objection. Vague and  
 24 ambiguous. Document speaks for itself. Calls for  
 25 speculation.

1 BY MR. KACPROWSKI:  
 2 Q. And how do the owners know that they're  
 3 allowed to go into the red-taped area?  
 4 A. I don't understand that question.  
 5 Q. Okay, is there any way -- if there's someone  
 6 who is an owner of property and they come and see an  
 7 area that's taped off, how would they know that they  
 8 can go ask you to get in that area?  
 9 A. Most of them would ask.  
 10 Q. So you kind of -- you'd have to rely on them  
 11 to figure out that they should just ask?  
 12 MR. NOMURA: Objection. Misstates  
 13 testimony. Vague and ambiguous.  
 14 BY MR. KACPROWSKI:  
 15 Q. Let me ask a different question. We'll strike  
 16 that one.  
 17 You don't give them any extra notice or  
 18 anything extra to let them know that they can ask you  
 19 to go into the area; is that right?  
 20 A. No.  
 21 Q. And can you take a look at Exhibit -- what's  
 22 been marked as Exhibit 10? It's in tab 10 of that  
 23 binder. And have you seen this before?  
 24 A. Yes.  
 25 Q. And is this the notice that was posted -- one

1 THE WITNESS: So you're asking me if it  
 2 applies to an owner?  
 3 BY MR. KACPROWSKI:  
 4 Q. Yeah, I mean, I'm trying to compare what you  
 5 were saying, which was that the owners can come and  
 6 ask if they can go back and get something from the  
 7 red-taped area. Is that something that would be  
 8 considered interfering with the operation? Because  
 9 this document then says, "you should not interfere  
 10 with the operation. If you do, you may be subject to  
 11 arrest."  
 12 A. I don't know how to answer it, but we let  
 13 people in. I mean...  
 14 Q. And the notice doesn't -- this notice doesn't  
 15 say anything about people being allowed in, right?  
 16 A. No, it doesn't say that.  
 17 Q. When you go on enforcement actions, do you  
 18 ever have interpreters with you?  
 19 A. No.  
 20 Q. And when you come across people and you  
 21 discuss with them whether to store property and  
 22 whether they want property stored, did some of them --  
 23 are some of them not able to speak English?  
 24 A. There have been a few.  
 25 Q. What do you do in that situation, if you don't

1 think they can understand the conversation and the  
 2 question about whether something can be -- should be  
 3 stored or not?  
 4 A. Speak pidgin. We communicate, hand signals  
 5 or, you know, grab things, hand them to them or things  
 6 like that.  
 7 Q. Have there been times when you've disposed of  
 8 items based on the hand signals and the non-verbal  
 9 communication with people who can't speak English or  
 10 can't speak pidgin?  
 11 A. With their consent, so throw away, take this  
 12 or throw away.  
 13 Q. Okay. So if someone doesn't speak English,  
 14 what you would try to do is use hand signals and sort  
 15 of basic English to try to determine whether they want  
 16 something thrown away or stored?  
 17 A. So we give it to them, hand it to them, and  
 18 they will say (indicating). They will shake their  
 19 hands like that, say no.  
 20 Q. Okay. So I'm just describing what you're  
 21 doing because we're on the record. So they shake  
 22 their hands like in a way that indicates to you, no,  
 23 they don't want it stored, then you might consider  
 24 that consent to throw something away.  
 25 A. (Nodding head.)

1 Q. And why -- why is it that you don't have  
 2 interpreters with you? Is that a budget issue or any  
 3 other reason?  
 4 A. I don't know.  
 5 Q. Let's talk about stored -- property that's  
 6 stored and the process for coming to reclaim it. Do  
 7 you know what the process is for getting a waiver of  
 8 the \$200 SNO fee?  
 9 A. There is an application form that is filled  
 10 out.  
 11 Q. And are you involved in that process at all?  
 12 A. No.  
 13 Q. Have you seen the application form?  
 14 A. Yes.  
 15 Q. And do you know where the application form is  
 16 turned in to?  
 17 A. To our office in Kapolei.  
 18 Q. And do you know what the Kapolei office does  
 19 after they get it?  
 20 A. No.  
 21 Q. And do you know what -- if the application  
 22 form is in any language other than English?  
 23 A. I don't know.  
 24 Q. What happens to -- and do you know who  
 25 developed the application form, who wrote it?

1 A. No.  
 2 Q. And what happens to bicycles or bicycle parts  
 3 that you find during enforcement actions?  
 4 A. Bicycles are stored during enforcement.  
 5 Bicycle parts is if they ask us to store it, we'll  
 6 store it, or we ask them can we throw it away, and  
 7 then we will put it in our flatbed truck to be  
 8 recycled.  
 9 Q. Does the HPD have to examine bicycles or  
 10 bicycle parts after you -- after you impound them?  
 11 A. They have the option of inspecting it at the  
 12 time of impoundment.  
 13 Q. And do they usually do that or is it usually  
 14 just put on the truck and then you either store or  
 15 dispose of it?  
 16 A. Sometimes, sometimes not.  
 17 Q. Is it pretty -- would you say it's usual for  
 18 the HPD to inspect the bicycles or bicycle parts or is  
 19 that more of an unusual thing?  
 20 MR. NOMURA: Objection. Vague and  
 21 ambiguous. Compound.  
 22 THE WITNESS: Bicycle parts, they don't.  
 23 Whole bicycles, they may run the serial numbers to see  
 24 if it's stolen or not.  
 25 BY MR. KACPROWSKI:

1 Q. And have they -- if they do find something  
 2 stolen, does the HPD take the bicycle, or what happens  
 3 in that situation?  
 4 A. They will take the bicycle and arrest the  
 5 person.  
 6 Q. And have you seen that happen?  
 7 A. I never seen them arrest anybody.  
 8 Q. Have you seen them take the bicycle?  
 9 A. Yes.  
 10 Q. You mentioned earlier that there were times  
 11 when you do enforcement actions where you might call  
 12 the Department of Health.  
 13 A. Correct.  
 14 Q. When might you call the Department of Health?  
 15 A. When you -- when we discovered that in one --  
 16 it really wasn't an enforcement. It was a cleanup of  
 17 bags that normally would be used for contaminated  
 18 soil.  
 19 Q. And are there any other times that you can  
 20 think of that you called the Department of Health?  
 21 A. Did one enforcement where we found five-gallon  
 22 barrels of looked like used oil.  
 23 Q. Is calling the Department of Health, is that  
 24 something that happens fairly rarely, would you say?  
 25 A. Rare.



1 I, KENNETH SHIMIZU, hereby certify that I have  
2 read the foregoing typewritten pages 1 through 178,  
3 inclusive, and corrections, if any, were noted by me  
4 and the same is a true and correct transcript of my  
5 testimony.

6  
7  
8  
9  
10

11 KENNETH SHIMIZU

12  
13  
14  
15

16 Signed before me this day of  
17 , 20 .

18  
19  
20  
21

22 Martin vs. City and County of Honolulu, United States  
23 District Court, District of Hawaii, Civil No.  
24 CV15-00363 HG-KSC, taken on Friday, October 16, 2015,  
25 by Jessica R. Perry, CSR.

1 CERTIFICATE

2

I, JESSICA R. PERRY, do hereby certify:

3  
4  
5  
6

That on Friday, October 16, 2015, at 8:05 a.m.,  
appeared before me KENNETH SHIMIZU, the witness whose  
deposition is contained herein; that prior to being  
examined he was by me duly sworn or affirmed pursuant  
to Act 110 of the 2010 Session of the Hawaii State  
Legislature;

7  
8  
9

That the deposition was taken down by me in machine  
shorthand and was thereafter reduced to typewriting;  
that the foregoing represents, to the best of my  
ability, a true and correct transcript of the  
proceedings had in the foregoing matter.

10  
11

That pursuant to Rule 30(e) of the Hawaii Rules of  
Civil Procedure, a request for an opportunity to  
review and make changes to this transcript:

12  
13  
14  
15  
16

- X Was made by the deponent or a party  
(and/or their attorney) prior to the  
completion of the deposition.
- \_ Was not made by the deponent or a party  
(and/or their attorney) prior to the  
completion of the deposition.
- \_ Was waived.

17  
18

I further certify that I am not an attorney for any  
of the parties hereto, nor in any way concerned with  
the cause.

19  
20  
21

Dated this 20th day of October, 2015, in Honolulu,  
Hawaii.

22

\_\_\_\_\_  
Jessica R. Perry, CSR NO. 404

23  
24  
25

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF HAWAII

3 TABATHA MARTIN; et al, Case No. CV15-00363 HG-KSC

4 Plaintiff,

5 vs.

6 CITY AND COUNTY OF HONOLULU,  
a municipal corporation, et al.,

7 Defendants.

8

9

10 DEPOSITION OF LESLIEANN K. PONTE

11 Taken on behalf of the Plaintiffs,

12 at Alston Hunt Floyd & Ing,

13 American Savings Bank Tower, 18th Floor

14 1001 Bishop Street; Honolulu, Hawaii 96813

15 commencing at 9:22 a.m.,

16 on Friday, October 23, 2015,

17 pursuant to Notice.

18

19 BEFORE: HEDY COLEMAN, CSR NO. 116  
20 Registered Merit Reporter

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1 APPEARANCES:

2 For the Plaintiffs:

3 DANIEL L. GLUCK, ESQ.  
4 KATIE MULLINS, ESQ.  
5 ACLU of Hawaii Foundation  
6 P.O. Box 3410  
7 Honolulu, Hawaii 96813  
8 Email: Dgluck@acluhawaii.org

9 and

10 NICKOLAS A. KACPROWSKI, ESQ.  
11 KRISTIN L. HOLLAND, ESQ.  
12 Alston Hunt Floyd & Ing  
13 American Savings Bank Tower, Suite 1800  
14 1003 Bishop Street  
15 Honolulu, Hawaii 96813

16 For the Defendants:

17 DAVID D. DAY, DEPUTY  
18 Corporation Counsel  
19 Department of the Corporation Counsel  
20 City and County of Honolulu  
21 530 South King Street, Room 110  
22 Honolulu, Hawaii 96813  
23 Email: david.day@honolulu.gov  
24  
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EXAMINATION BY:	PAGE
Mr. Gluck	4

EXHIBITS MARKED FOR IDENTIFICATION

Exhibit 34	Video marked 20141113_123947.	111
Exhibit 35	Video marked MVI_7131.	131
Exhibit 36	Video marked MVI_7087.	135

1 THE REPORTER: Our disclosure is complete and available  
2 for everyone to review. It will be attached to the  
3 deposition transcript.

4 LESLIEANN K. PONTE,

5 called as a witness on behalf of the Plaintiffs,  
6 having been duly sworn or affirmed to tell the truth,  
7 the whole truth and nothing but the truth, was examined  
8 and testified as follows:

9 EXAMINATION

10 BY MR. GLUCK

11 Q Good morning. My name is Dan Gluck, I'm one  
12 of the lawyers for the Plaintiffs in this case. Can  
13 you please state your full name for the record.

14 A Leslieann K. Ponte.

15 Q Have you ever been deposed before?

16 A No.

17 Q Okay. This deposition is being recorded.  
18 Therefore, it's important to answer verbally with a  
19 yes or no rather than nodding your head. Does that  
20 sound okay?

21 A Fine.

22 Q I may ask a question that I don't state very  
23 well or that for some other reason you don't quite  
24 understand. If you don't understand my question for  
25 any reason, please, just let me know, I'll do my very

1 nomenclature, so if there's a shirt, shirt or if  
2 there's shorts, shorts, or a shoe, or stuff like that.  
3 That's what I would be doing. And the person that  
4 would be writing the ticket would tell me oh, okay,  
5 yeah, we can't take that, so put that on the side.  
6 And then I finish.

7 Q So do you know how that person would decide  
8 what could be stored and what couldn't be stored?

9 A Normally, it would be things that were like  
10 soiled or wet, if it posed a safety hazard or a health  
11 hazard, any open food containers, any plastic bottles,  
12 cans and, yeah.

13 Q You said generally. Was that all the time?  
14 Were there other things that were thrown away that  
15 didn't meet those criteria?

16 MR. DAY: Objection; compound.

17 A They would make that decision. So...

18 BY MR. GLUCK

19 Q Who would make that decision?

20 A The supervisors.

21 Q Okay. Do you know how they would decide?

22 A I don't know what the thought process is.

23 Q Okay. But, it was always the supervisor's  
24 decision whether to throw something away versus to  
25 store it, is that right?



## C E R T I F I C A T E

I, HEDY COLEMAN, CSR No. 116, in and for the State of Hawaii, do hereby certify:

That I was acting as shorthand reporter in the foregoing matter on the 23rd day of October, 2015;

That the proceedings were taken down in machine shorthand by me and were thereafter reduced to typewriting by me; that the foregoing represents, to the best of my ability, a correct transcript of the proceedings had in the foregoing;

That pursuant to Rule 30(e) of the Hawaii Rules of Civil Procedure, a request for an opportunity to review and make changes to this transcript was made by the deponent or a party, and/or their attorney prior to the completion of the deposition.

I further certify that I am not counsel for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

DATED: \_\_\_\_\_

\_\_\_\_\_

HEDY COLEMAN, CSR #116

C E R T I F I C A T E

I, LESLIEANN K. PONTE, do hereby certify that I have read the foregoing pages 1 through 167, inclusive, and corrections, if any, were noted by me; and that same is now a true and correct transcript of my testimony.

Dated \_\_\_\_\_

\_\_\_\_\_  
LESLIEANN K. PONTE

Number of correction sheets submitted: \_\_\_\_\_

or

Corrections were not necessary (Please initial): \_\_\_\_\_

Signed before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2015.

\_\_\_\_\_

Case: Martin vs. City and County of Honolulu; et al.,  
Civil No.: CV15-00363 HG-KSC  
Date: 7-15-08, Hedy Coleman.