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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas
The Honorable Kristi F. Curtis

Appellate Case No. 2021-000685

The Station, Inc. d/b/a Company Two, Inc.,.....Appellant,

v.

Hampton County, ...Respondent.

**RECORD ON APPEAL
VOLUME III**

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Certificate of Counsel and Compliance

1 THE COURT: Thank y'all, please have a seat.
2 Okay, Mr. Wilson, you want to be heard on the
3 Defendant's Motion for Directed Verdict?

4 MR. WILSON: Please, Your Honor. And, Your
5 Honor, I'm gonna hand up some materials I'll refer
6 to, and I'll hand them to the Defendant.

7 Judge, at the outset, let me say thank you, and
8 I appreciate your indulgence in giving me the
9 evening to take a look at that stuff and to be able
10 to respond. And as the Court is well aware at this
11 stage a directed verdict that unless there's only a
12 matter of law to be decided, a directed verdict
13 wouldn't be proper, or if the evidence is subject to
14 multiple inferences in the light most favorable to
15 the Plaintiff, consider the evidence, and any
16 reasonable conclusion to be drawn therefrom, a
17 directed verdict wouldn't be proper.

18 So, Your Honor, I will address each one of our
19 causes of action, and then refer to the materials
20 you have there. And I think you asked -- and I was
21 confused yesterday, Your Honor, and I apologize, it
22 had been a long day, I think you asked me if the
23 existence of a contract was an issue for a jury to
24 determine; and I -- I believe that it is, Your
25 Honor, per the law. And the cases, the Stevens --

1 Stevens versus Wilkinson case that the Defendants
2 referred to and handed up to the Court, Your Honor,
3 where it's clearly stated that the existence of a
4 contract is for a jury to determine. Your -- Your
5 Honor, once a jury determines whether a contract
6 exists, and I'm just quoting right from the case,
7 "Although the existence of a contract is ordinarily
8 a question of fact for the jury, where the
9 undisputed facts do not establish a contract, the
10 question becomes one of law, but if there are
11 disputed facts," which I would submit at -- at a
12 minimum we have disputed facts here, Your Honor, we
13 would take the position that -- that, as a matter of
14 law, there is a contract, and that we've taken that
15 position before the Court before. And we've taken
16 the position that that contract is unambiguous, but,
17 at a minimum, there's a disputed fact as to whether
18 a contract or an agreement exists between these
19 parties, and that's ordinarily a question of fact
20 for a jury determination. So once you -- that issue
21 is submitted to the Jury, Your Honor, in doing so,
22 just in contract law, Your Honor, if -- if -- the
23 Court has to determine if the contract -- or the
24 terms of the contract is ambiguous. And -- and if
25 you're aware of the law, I won't belabor the law,

1 Your Honor, but a contract is ambiguous, and -- and
2 that -- whether the contract is ambiguous or not,
3 that determination is Bluestein versus the Town of
4 Sullivan. Your Honor, and -- and -- and this law
5 applies to all kind of written instruments,
6 contracts, and other written instruments, but in
7 Bluestein versus the Town of Sullivan the Court
8 would determine whether the contract is ambiguous or
9 unambiguous, and then from there things take off.
10 Your Honor, ambiguity is not just simply two parties
11 disagreeing as to what something says, that might be
12 an issue. It's not just questions about, you know,
13 maybe this means something different, it's
14 definitely not adding terms or words to a contract
15 to make them ambiguous, like trying to change
16 northeast to northwest, or trying to add the word
17 "runway" after airport to create an ambiguity. An
18 ambiguity only exists when considering the document
19 and the circumstances around the document, there
20 could be two reasonable interpretations of the
21 document. Your Honor, that -- there very well might
22 be ambiguity in this contract, you would have to
23 make that determination. Once that determination is
24 made, and -- and -- and, Your Honor, the -- the law
25 says a mere lack of clarity on a casual reading is

1 not the standard for determining whether a contract
2 is afflicted with an ambiguity, it's to be
3 determined from the entire contract. And I -- and,
4 you know, we can argue about that later, when the
5 time comes, Your Honor, about whether this contract
6 has any ambiguity in it or not. If it is
7 unambiguous, which we have asserted in pretrial
8 motions in this case and -- and a little bit
9 yesterday. If it's unambiguous, Your Honor, then
10 the terms of it are there, it's construed without
11 ambiguity, and then it's really just a matter of is
12 it breached or was there damage? If it is
13 ambiguous, Your Honor, then, obviously, Your Honor,
14 a -- a jury would determine the meaning of the
15 ambiguity, and that's the Pee Dee Stores case that
16 we handed up, 672 S.E.2d 799. Your Honor, if it's
17 unambiguous, it's the Lee case that we handed up,
18 Lee versus USC. Your Honor, so that's kind of the
19 con- -- overriding contract law that prevails. Now,
20 Your Honor, there were issues raised and questions
21 about the duration of this. Was it in perpetuity?
22 You know, what was the duration of this, Your Honor?
23 And one of the cases that I handed up, Your Honor,
24 is -- and there -- and there's evidence before this
25 Court, Your Honor, that the concern of the duration

1 of this agreement, this contract, the -- the letter
2 and the testimony is, that this agreement and this
3 contract was given to Company Two for testing of
4 ARFF trucks for this very particular pur- -- purpose
5 to a very particular company. Your Honor, not
6 forever and ever, and not for just a short period of
7 time, Your Honor. And at the end of the day, the
8 contract is to determine -- is to determine the
9 intention of the parts. That's all law in this
10 regard is to determine and carry into effect the
11 intention of the parties. The reasonable inferences
12 of that evidence and testimony, Your Honor, creates
13 a -- a -- a time period in this contract and in this
14 agreement. But, Your Honor, even if there's not,
15 even if there's -- even if there's a concern that
16 there's absolutely no term, no evidence, no
17 discussion or agreement between the parties as to
18 what the duration of the term would be, Your Honor,
19 the Childs case, Childs versus City of Columbia that
20 I handed up, Your Honor, indicates that the contract
21 doesn't fail under South Carolina law simply because
22 of that. Your Honor, where the parties to -- and
23 I'm just reading from that, "Where the parties to a
24 contract ex- -- express no period in its duration,
25 and no definite time period can be implied from the

1 nature of the contract, or from the circumstances
2 surrounding them." And I would submit to, Your
3 Honor, that there is a term that is expressed in the
4 contract by the terms of the agreement with who it
5 is, Your Honor, who it's made with. It's not
6 anywhere in there that expresses some type of, you
7 know, forever and ever and ever or -- or even it
8 doesn't contain the heirs and assigns language, Your
9 Honor. But even if that, it goes on to say, "And no
10 definite time can be implied from the nature of the
11 contract or from the circumstances," and so I would
12 argue to, Your Honor, that even if there's no
13 expressed duration, the duration can be implied from
14 the nature of the contract and the circumstances
15 surrounding them, because we have testimony about
16 the type of contract that it is, the vi- -- the
17 vital -- the -- the importantness of -- the
18 importance of the contract, circumstances of it, the
19 -- the nature of it being able to be carried out
20 with co-existing uses. Your Honor, even if you
21 don't have any of that, then it would be -- it would
22 be unrea- -- the Court says, and this is the Supreme
23 Court, Your Honor, from back in 1911, I looked it
24 up, and it's still good law, it says even in all of
25 that, if you had no expressed term and no implied

1 circumstance, it would be unreasonable to impute to
 2 the parties an intention to make a contract binding
 3 themselves perpetually, and the only reasonable
 4 intention that can be imputed to the parties is the
 5 contract can only be terminated upon giving
 6 reasonable notice to the party, who's looking to
 7 offer that. Your Honor, reasonable notice and the
 8 reasonableness of those type things would,
 9 obviously, be a jury issue for determination. We've
 10 got evidence here, Your Honor, that there was ten
 11 years' worth of use, then Mr. Jones was told to get
 12 off the runway, after a substantial investment and
 13 substantial expenditures, after extensive use with
 14 really no valid -- or at least there's evidence that
 15 there was no valid reason for that, Your Honor, and
 16 -- and also that there was no valid notice or no
 17 notice. Your Honor, that case has even been cited
 18 in the Federal Courts that says under circumstances
 19 you -- you would -- duration would be a -- a
 20 reasonable duration, which would, obviously, be a
 21 Jury decision, Your Honor. At the end of the day,
 22 it's all about carrying into and putting into effect
 23 the intent of the parties. I mean that's what all
 24 this law says at the end of the day is the intent of
 25 the parties.

1 Now, Your Honor, there was some discussion
2 yesterday and argument by the Defendant that -- that
3 -- that somehow that this was -- that this was an
4 easement or a license, Your Honor, and -- and not a
5 breach of contract. Your Honor, to that extent,
6 we've tried these issues to a Jury, and we've tried
7 them to a Jury without any objection, without any
8 motions being made, without any objection to keep
9 evidence out. Your Honor, our pleadings have
10 clearly asserted that we allege that there was a
11 grant, an easement, that there was per- -- that
12 there was a -- an agreement to use land. That there
13 was permission given to use land, Your Honor, and --
14 and whether that's an easement or a license, Your
15 Honor, we would move to amend -- and these are
16 issues that were raised yesterday, they weren't
17 raised in pretrial motions, and they weren't raised
18 during testimony, Your Honor, and so we would move
19 under Rule 15(b), and, if necessary, we would move
20 under Rule 15(b) in the Harvey versus Strickland
21 case, the -- to amend our pleadings to conform to
22 the proof that's been submitted to the Court. Your
23 Honor, as you well know, amendments are to be freely
24 granted, and -- and -- unless there's prejudice to
25 the other side, amendments are to be freely granted.

1 We tried these issues by consent, Your Honor,
2 without objection. The law in that area of
3 easement, which is akin to a contract just with
4 land, or what they submit as a license, Your Honor,
5 which is akin to a promise -- which is akin to a
6 promissory estoppel arrangement, the law is really
7 all the same, the application of the law is really
8 all the same, Your Honor. And so we -- we would
9 amend our pleadings to -- we would ask the Court to
10 amend our pleadings to add a cause of action for a
11 breach of an easement, easement by grant, because
12 that document and the testimony of the commitment
13 that was made would support that, Your Honor, and/or
14 a breach of a license, Your Honor. It's the same
15 proof, it's the same damages, it's the same
16 everything, Your Honor, and, in essence, it's the
17 same elements, it's just -- if their position is
18 somehow that because this relates to land, Your
19 Honor, then -- then we've -- we've proven that case,
20 we've tried that case before this Jury. Your Honor
21 the e- -- the question of an easement is an -- and
22 action -- is a determination to be made at law.
23 I've handed up to the Court the Frierson case,
24 Frierson versus Watson, Your Honor, and also a Snow
25 case, those two cases clearly set forth that deeds

1 -- easements are to be construed by the same law,
2 and to be treated under the same law as deeds --
3 easements are to be construed and treated the same
4 way as deeds and other written contracts, Your
5 Honor. And -- and all of that law concerning
6 easements and deeds and restrictive covenants
7 carries out the same law as our contract law, that
8 the intent of the parties is the controlling factor,
9 and if the Court seeks to enforce the intent of the
10 parties. Your Honor, I just -- looking at the --
11 some of the South Carolina Jurisprudence information
12 I handed up, whether an easement exists is a
13 question of fact to be determined in an action of
14 law. An easement can be granted by direct expressed
15 easement, which is exactly what they've alleged that
16 we -- or what the evidence could be construed to
17 have here, Your Honor. And -- and it just says that
18 the intention of the parties is gathered from the
19 language of the incident -- the instrument should be
20 carried out. Your Honor, when you talk about the
21 duration of -- of an easement, it's the same thing
22 that I argued to, Your Honor, just a moment ago on
23 our breach of contract claim. You look to what the
24 parties' intentions were. Normally, there's a --
25 there's a -- there's a -- a position in our courts

1 to -- to not have easements in perpetuity unless
 2 they expressly -- or interest in land, just like
 3 there is with contracts, to not have them in
 4 perpetuity in forever and ever unless they expressly
 5 and very clearly provide for such, Your Honor.

6 And then out of the Snow case, Your Honor, in
 7 dealing with a deed, it's dealing with a deed, Your
 8 Honor. Our courts went through very much the same
 9 analysis, that the Court is without authority to
 10 consider party's secret intentions. Words can't be
 11 read into a contract, but they're to construe the
 12 contract, to construe the document to carry out the
 13 intention of the parties. And then the same thing,
 14 the determination of whether the language in a deed
 15 is ambiguous is a question of law. If it's
 16 ambiguous then it's the determination for the fact
 17 finder if it's -- as to what means. If it's not,
 18 then it's unambiguous.

19 Your Honor, so we would -- we would move to
 20 amend in that regard, Your Honor, to add those two
 21 causes, or to add claims in those two regards.

22 Your Honor, and then I will look to promissory
 23 estoppel. Your Honor, our promissory estoppel
 24 claim, we've put evidence up of a promise, and we
 25 submit that it's unambiguous in its terms, and I

1 think there's a reasonable inference from the
2 evidence that that promise that was made was
3 unambiguous. They can test whether it's ambiguous
4 or not, and they can test that it means something
5 different, but at this point, Your Honor, taking
6 into account the evidence that -- and that's all of
7 our cross-examination and questioning. The only
8 evidence before the Court on whether that promise is
9 unambiguous or not is a letter. That letter, we've
10 talked about so many times, I'm tired of talking
11 about it, but from the Gemco property line to the
12 northeast tip, nobody disputes that that's the
13 entire property. They may want to argue about is it
14 at an angle, or is it the whole property, but,
15 clearly, there's a -- a reasonable inference can be
16 drawn that's the whole property, Your Honor. And --
17 and the only witnesses that have testified, Mr.
18 Jones, Mr. Wilso,n and Mr. Daniel have very clearly
19 testified unambiguously that that -- that that
20 promise that was made encompassed use of the runway,
21 which is the whole issue here, Your Honor. So --
22 and then we have our reliance, I asked Mr. Daniel
23 and I asked Mr. Jones about reliance. It's very
24 foreseeable these are all jury questions about the
25 reliance and whether it was reasonable, Your Honor.

1 An estoppel can lie against the government, and it's
2 a jury issue that North American Rescue case that
3 they handed up yesterday, that I've also got a copy
4 in there for -- for the -- for, Your Honor, very
5 clearly says that a promissory estoppel is a jury
6 issue. In that case, the Appellate Court actually
7 reversed a jury verdict, but the issue of promissory
8 estoppel were submitted and determined by a jury in
9 that case. So, Your Honor, I -- I think that's
10 where we are kind of on the directed verdict of this
11 case is, there are issues to be submitted to a jury
12 that would preclude directed verdict.

13 Your Honor, with respect to the contract, to the
14 promissory estoppel, with respect, and then,
15 obviously, with our motion to amend, which you will
16 have to consider and determine, Your Honor, and --
17 and -- and if you grant it based off of what we
18 already tried in front of this jury and in this
19 case, there -- there are issues that will prevent a
20 dir- -- a directed verdict.

21 Your Honor, I know there was -- and I'll go into
22 it, if I need to, Your Honor, there was an issue
23 raised about authority yesterday, and I've handed up
24 to Your Honor Williams versus Commerce Casualty,
25 which just -- I mean authority can be any number of

1 ways expressed, implied, apparent, and, Your Honor,
 2 I've handed up to the Court that Williams case that
 3 says whether an agent exceeds his authority or acts
 4 outside of his authority is a jury issue, so if I
 5 need to argue that further, I will be glad to, but I
 6 don't think the authority issue is something that
 7 would grant summary judgment.

8 So, Your Honor, depending on how you deal with
 9 the motion to amend and the directed verdict, I mean
 10 I can address now an election of remedies, or I can
 11 do that if you would like to take those issues up
 12 first.

13 THE COURT: Well, if this is an easement, does
 14 that then trigger the statute that requires an
 15 ordinance before the County can grant that easement?

16 MR. WILSON: No, ma'am, because it's not a sale.

17 THE COURT: Well, you're conveying an interest
 18 in -- in property, whether it was for money, or if
 19 it was an exchange for something else, I mean some
 20 other consideration. It is granting an interest in
 21 -- in real property.

22 MR. WILSON: Your Honor, can I have a moment for
 23 this?

24 THE COURT: Yes.

25 MR. WILSON: Your Honor, the law that I -- I

1 read that statute to say sell, lease or contract to
2 sell or lease. The -- the law that I've read and --
3 and I can't cite specifically to it. I'll be glad
4 to take a few minutes and pull the case. The law
5 that I've read says that an easement is -- a sale
6 and a lease both encompass giving up exclusive
7 possession. Obviously, when you sell something, you
8 give up possession, and that -- and -- and lease is
9 the same thing, Your Honor. The law that I've read
10 on easements say that an easement is not a burden on
11 the land to that extent. I -- I need a minute to
12 look for it, if I could, but I don't believe an
13 easement or a right-to-use, which is, in essence,
14 what an easement is, rises to the level of a sale or
15 a lease, because that does not exclude, either for
16 the term of the lease, or for the term of the period
17 of time, that's forever on a sale, or for the term
18 of the lease. That does not exclude Hampton County
19 from using or accessing their own property, these
20 interests would exist co-extensively, Your Honor.
21 And a sale and a lease both in -- contemplate
22 exclusion of the grantor, to some extent, even on a
23 sale permanently, or a lease during the duration,
24 Your Honor. And -- and -- and I apologize, I -- I
25 -- I appreciate you pointing that out to me, but I

1 -- I would need just a moment to look at the case
 2 law, but there's -- there's authority from what I
 3 read that an easement does not rise to the level of
 4 that kind of transfer of the interest in the
 5 property. It is definitely an interest in property,
 6 but it's a -- it's a co-existing use interest, as
 7 opposed to a transfer of more extensive property
 8 right interest.

9 THE COURT: Do you want to respond, Ms. Jett?

10 MS. JETT: I would like to, Your Honor. And,
 11 first, the Defendant was assert that the Plaintiff
 12 is judicially estopped from changing course at this
 13 late stage in the case and cannot change his
 14 position and now claim an easement. But if the
 15 Court is entertaining the concept of easement, we
 16 would assert an easement is perpetual and it would
 17 be a sale, and a permanent burden, and then it would
 18 then implicate the statute.

19 Your Honor, a license is not the same as an
 20 easement. The law is clear on that. A license is a
 21 temporary permissive use for so long as the person
 22 granting that license is willing to suffer the
 23 activities of the grantee. The license can be
 24 revoked, and -- and really, in this situation, could
 25 not breach a license. Your Honor, he has

1 established no elements of any sort of easement.
2 The Plaintiff just asserted the easement would be in
3 favor of Company Two, but Q&J is the property owner.
4 There's not been any implied easement established.
5 Throughout this trial the Plaintiff has maintained
6 that the 2005 letter is separate from his deed of
7 easement; but if there was an easement contemplated
8 by the parties, it was granted in the document that
9 was signed in 2014, that was the subject of the 2011
10 written agreement. The 2014 document was recorded
11 in 2015, and it's clearly limited to the taxiway,
12 not the runway. So, Your Honor, the -- the cases
13 that the Plaintiff has mentioned, I just want to
14 distinguish a few of them. On the -- the University
15 of South Carolina and Lee case, that's a written
16 agreement where Mr. Lee gave the University his
17 \$100,000 life insurance rights, and in exchange got
18 to keep season tickets without paying the license
19 fees. That absolutely was written unambiguous, and
20 -- and that's the key words, the language of the
21 agreement is clear, as long as Lee performs his
22 contractual obligations, the University must provide
23 him with the -- and it goes on. In the Childs
24 versus City of Columbia case, the quote at -- and,
25 Your Honor, I don't have -- I don't see the last

1 page number on it, but it is page four of five of
2 the printed document Mr. Wilson handed up, glaring
3 paragraph. The failed defect of the complaint is
4 that it alleges a contract indefinite as to the
5 price and duration of the service. There we go,
6 conferring no right on the Plaintiff to require the
7 service of the City beyond the date picked by
8 reasonable notice, and it goes on, but no price, no
9 duration. The Town of Sullivan -- the Albanesius --
10 I can't tell if this is Albanesius or Blue -- it's
11 Bluestein versus the Town of Sullivan's Island
12 involves a deed, and the only question was whether
13 that deed's description included land that accreted
14 along a body of water. The Stevenson and Wilkinson
15 case, which I handed up yesterday and Mr. Wilson has
16 also handed up, Your Honor, the -- the key element
17 in there is meeting of the minds, an agreement that
18 leaves open material terms is unenforceable. Snow
19 versus Smith, Your Honor, can't vary the terms of a
20 written easement, and -- and we've got a written
21 easement in this case. Your Honor, essentially, as
22 the Plaintiff urged yesterday, he urged that the
23 Jury should determine whether there was a promise
24 that was enforceable, and the Jury should determine
25 whether there was a contract. And that if terms

1 were missing, the Jury could simply supply those
2 terms. So what I want to assert to the Court,
3 obviously, is that if there's a promise presented by
4 the letter, the promise is a taxiway, the word
5 "runway" is never mentioned. And that's fulfilled
6 by the easement for a taxiway which the County also
7 prepared, and then there was a mention of swap of
8 deeds. They did swap the deeds. Mr. Jones gave up
9 1.7 something acres, and the County gave him three
10 acres. If there's a runway use in that promise,
11 it's vague and it's ambiguous, but I think the --
12 the key thing on the contract, if the Jury is to
13 supply the terms, let's imagine the Jury form, do
14 you find a contract? If so, what is its duration?
15 Is it one year perpetuity, somewhere in between? If
16 you find a contract, it's a contract requiring what?
17 Is a runway involved? Who on the Plaintiff's side
18 is the other party to the contract? Is it Q&J, the
19 property owner, Company Two, a mere tenant, Quincy
20 Jones, because he owns both companies, so he is they
21 and they are him. Consideration, is it money? If
22 so, how much, and on what frequency, or is it a one
23 time payment? Is it services? If so, which
24 services? Does it inure or not the benefit of the
25 successors, heirs, assigns, personal representatives

1 of whoever this, I would say, imaginary contract
2 beneficiary is, or is it personal? And then there
3 are the other parameters usually found in a contract
4 of this nature between a County and a -- an entity
5 or person. Is he going to perform FOD, the -- the
6 maintenance on the runway? Who's liable for
7 injuries and property damage? Does he have to
8 supply insurance? If so, how much? Must it be an
9 A-rated company? Does it include runway use, and,
10 if so, how much, over what time, at what frequency,
11 and of what sort? When he's using the runway, must
12 he close it physically with barriers to prevent
13 vehicles and pedestrians? Must he request a NOTAM?
14 The Court heard here today there's been no --
15 nothing to refute that he never, never requested a
16 NOTAM, even though he was using the runway, and we
17 would say that was unauthorized use. What
18 activities are allowed?

19 Your Honor, I swear I thought I had silenced
20 that, and I am so sorry.

21 THE COURT: It happens to all of us.

22 MS. JETT: I asked everybody in the room if they
23 had silenced.

24 THE COURT: It's always the one who tells
25 everybody --

1 MS. JETT: It is silenced. And it's ringing
2 anyway.

3 THE COURT: -- else to turn their phones on.

4 MS. JETT: It's silent, and it's ringing anyway.

5 MR. WILSON: I had mine go off in front of Judge
6 Peoples one time, Your Honor, if you could imagine
7 that.

8 MS. JETT: Yeah, and that's why I said
9 yesterday, silence it, because I've heard Judge --

10 MR. WILSON: Judge --

11 MS. JETT: -- Peoples threaten to throw one out
12 the window.

13 MR. WILSON: Judge Peoples wasn't so gracious.

14 MS. JETT: Yeah.

15 THE COURT: I mean --

16 MS. JETT: I'm so sorry. I swear the button
17 says it's silent. There's nobody on there that
18 could override that.

19 Your Honor, additionally, specific performance
20 you can't direct specific performance of contract if
21 there's not a contract, and if the terms must be
22 supplied by the Court. Here, virtually, all the
23 terms must be supplied by the Jury if this goes to
24 the Jury. It's going to be one -- excuse me, but
25 one heck of a Jury form, one heck of a lot of

1 special interrogatories. In other words, Jury,
 2 would you please fashion a contract for us? Make us
 3 a contract with all your legal training in
 4 contracts. Your Honor, that -- that's simply --
 5 that's ridiculous and burdensome, and we are being
 6 asked to perpetually burden the people's property
 7 without the vote of the people's elected body. The
 8 Court can't do this. Thank you, Your Honor.

9 THE COURT: Mr. Wilson, is there anything else
 10 you want to tell me, since --

11 MR. WILSON: Your Honor -- I'm -- I'm sorry.
 12 Your Honor, I -- I don't know how we can be
 13 judicially estopped from something that we tried
 14 without objection. Your Honor, if there was some
 15 position that was going to be taken that because
 16 this was land that was something different than what
 17 we were trying, then, Your Honor, there -- there was
 18 time to raise that. We tried all those issues by
 19 consent, and, you know, amendments are freely
 20 granted to conform with the proof, and that's -- at
 21 the end of the day that's the proof in this case is
 22 -- or at least there -- there's evidence of that,
 23 that there was a grant of a right-to-use property,
 24 the runway, that consists of real property, then
 25 that's what the evidence the Jury heard. So I don't

1 know how we can be judic- -- judicially estopped,
 2 Your Honor. And not to belabor the point, they want
 3 to go to 2014 and 2011 documents, and -- and, Your
 4 Honor, those are with Q&J Properties. Your Honor,
 5 they -- those two documents by their own definitions
 6 deal with entirely different property than the
 7 property that encompasses the runway. And -- and,
 8 Your Honor, so to keep going back to that, and
 9 somehow -- and you've ruled on it. So, Your Honor,
 10 Childs -- just briefly on the Childs case, Your
 11 Honor, let me put my hands -- hands on it in one
 12 second. Your Honor, on the Childs case, the
 13 language that Ms. -- Your Honor, on the Childs case,
 14 the -- the language that Ms. Jett says, "The fatal
 15 defect of a complaint is that it alleges the
 16 contract indefinite as to the price and the duration
 17 of services, conferring no right." That's -- that's
 18 what's stated, Your Honor, it's on the top of what's
 19 page 405. And then if you go just three sentences
 20 down, it says, "Where parties to a contract express
 21 no term," that's not fatal, Your Honor. That's the
 22 Supreme Court, that's not fatal. And in that case,
 23 Your Honor, the temporary restraining order was set
 24 aside and the injunction was refused. Your Honor,
 25 that -- that -- that -- that case did not decide

1 that the lack of duration was fatal, that case said
2 that that's the missing element. I don't believe
3 the word fatal there is being used in the context of
4 the claim fails. That -- that -- that word is being
5 used in the context of this is what's -- this was
6 missing, or this is what is maybe not addressed.
7 Your Honor, and I -- I -- I've looked, the case law,
8 Your Honor, an easement is a burden on property, an
9 easement is a right to use property, but I -- I
10 found no case law, and I mean I looked all night
11 long last night at this stuff, I found no case law
12 that indicates that an easement is a sale of
13 property, which encompasses giving up rights as
14 opposed to allowing co-existing rights. And, Your
15 Honor, I don't want to keep the Jury waiting. If I
16 need to, you know, if I need to pull out and give
17 that to you specifically, I'm glad to if that's an
18 issue that you feel like you need that, I'll -- but
19 I'll let you tell me how you want to proceed.

20 THE COURT: I think where we are is that I'm
21 going to grant the motion for a directed verdict as
22 to the breach of contract cause of action and as to
23 the specific performance cause of action. It
24 appears to me that this 2005 letter is similar to
25 the memorandum of understanding, I can't remember

1 the case, the one that Kaye Hearn wrote for the
2 Supreme Court confirming Buck James, involved a
3 hotel in downtown Columbia. That this is more in
4 the nature of that memorandum of understanding of
5 what the parties intend to do in the future. That
6 Hampton County has authorized Mr. Daniel to make
7 these commitments, and, I guess, what -- what really
8 strikes me is, the tentative nature of this with the
9 language that, you know, "We intended in the future
10 to install runway -- runway lights. We would
11 appreciate your commitment to grant the property in
12 a property swap. Hampton County concurs with that
13 request." At that point, that's just a request.
14 Here's what we're willing to commit to you, here's
15 what we're going to ask you to do commit back to us.
16 So the fact that there's no duration on this, I mean
17 I'm just having to torture this to make this be able
18 to go to the Jury on the breach of contract cause of
19 action. It pains me to direct a verdict, because I
20 would prefer for the Jury to have to make this
21 decision and not me, but I just -- I -- I can't
22 torture this in any way to be able to send this to
23 the Jury. I do find that the promissory estoppel
24 claim does present questions of fact for the Jury to
25 determine, whether the County made promises to

1 Mr. Jones in order to get him to bring his Company
2 here; whether they made a promise to give him use of
3 the runway from the northeast tip of the Airport to
4 the Gemco property line, and whether they made good
5 on that promise. So I do think that the promissory
6 estoppel claim goes to the Jury. And that will be
7 my ruling.

8 MS. JETT: Your Honor, if I may be heard
9 briefly, and I'm not arguing after the Court has
10 ruled except that I do not know --

11 THE COURT: Sure, because we're not going to
12 reargue.

13 MS. JETT: Right, I do want to -- want to know,
14 I think we're gonna need some guidance later from
15 the Court on the Jury Verdict form, because if the
16 promise was made, we get back to the duration of the
17 promise unless they fill in the terms of the
18 promise, so I do think we're going to need to hash
19 out the Jury Verdict form.

20 THE COURT: I feel certain we'll need to hash
21 something out, but I -- I have confidence we can do
22 it.

23 MS. JETT: Thank you.

24 THE COURT: Yes, sir?

25 MR. WILSON: Your Honor, just -- just briefly,

1 at this point I understand your ruling on the
2 contract. Your Honor, we've put evidence before the
3 Court many times that -- along the lines of what you
4 just said that there was a -- a -- a meeting of the
5 minds and a contract and agreement, a granted
6 easement, as we've asked that we amend to have a
7 right-to-use the Airport runway. And just as Your
8 Honor noted, there is discussion of -- of a request,
9 there is discussion in that letter of other things
10 that the County would like to do. Just because
11 there is a discussion of things that we would like
12 to discuss in the future to see if we can reach a
13 contract or an agreement on things in the future
14 doesn't preclude there being the existence of a
15 contract, or an agreement, or a grant of an
16 easement, if you'll grant our motion. In 2005 --
17 and all that kind of -- really kind of bears out the
18 fact that it's six years later that there's a
19 written agreement to swap properties with an
20 easement across one of the properties being swapped.
21 It's totally a different piece of property. So in
22 that regard, Your Honor, I would just would like to
23 put that on the record. Your Honor, if I understand
24 what we would be -- we would be trying off of that
25 ruling would be a promissory estoppel case where

1 there was a promise to grant a license or a use-of-
2 property, I guess is what we're talking about.

3 THE COURT: Yes, sir.

4 MR. WILSON: Okay. And I guess to that extent
5 our motion to amend would be -- again, I can -- I
6 don't know that it matters the terminology.

7 THE COURT: I guess I would grant it to the
8 extent that you -- your argument is that the -- the
9 County promised to give him an easement across the
10 property. I -- I just -- I -- I struggle with
11 whether a government authority could give somebody
12 an easement to go across public property.

13 MR. WILSON: The statute says sale and lease,
14 Your Honor, it doesn't say anything about use. And
15 then, obviously, the Legislature could have, you
16 know, with the rules of legislative interpretation,
17 it could have gone that far if they'd have wanted
18 to, Your Honor. So I -- I understand your ruling.
19 I appreciate it.

20 Judge, with respect to the duration argument, we
21 can argue about that later, and I'm -- and I've
22 handed up the law that I believe applies. The Jury,
23 I mean, at the end of the day the law is to carry
24 out the intention of the parties.

25 THE COURT: Well, again, I'm going to allow it

1 to go to the Jury on a promissory estoppel.

2 MR. WILSON: Then I'm -- I'm going to argue --

3 MS. JETT: Your Honor --

4 MR. WILSON: -- other than to just take
5 exceptions to any part of our motion to deny it and
6 then grant of the directed verdict on breach of
7 contract.

8 THE COURT: Ms. Jett?

9 MR. WILSON: And the specific performance, Your
10 Honor.

11 MS. JETT: Your Honor, the Court's ruling to
12 grant a directed verdict on the contract and
13 specific performance causes of action gives rise to
14 another motion. The Defendant, under Rule 39 and
15 really 39 and 38, moves now for this Court to
16 dismiss the Jury and proceed without the Jury,
17 because promissory estoppel is an equitable action,
18 and it is a -- it is a -- it is a claim -- a
19 promissory estoppel is an outgrowth of the general
20 principles of equitable estoppel. They are -- it's
21 -- it's entirely different than a contract theory,
22 and, Your Honor, if the claim is equitable, there's
23 no right to a jury trial under Loyola Federal
24 Savings Bank versus Thomasson Properties, 318 S.C.
25 92, that's a 1995 Court of Appeals case. Your

1 Honor, that Rules 38 and 39 read together indicate
2 that this Court would sit as the trier of fact for
3 all purposes henceforth on an equitable action,
4 which is what promissory estoppel is.

5 And, Your Honor, 39 provision part two, it can
6 say that the Court upon motion or its own initiative
7 finds that a right to trial by a jury or some -- of
8 some or all of the issues does not exist. And, Your
9 Honor, we would certainly say that on the promissory
10 estoppel the right to trial by a jury does exist.

11 THE COURT: I'm looking at the North American
12 Rescue case that you had brought to my attention
13 earlier.

14 MR. WILSON: Judge, that's the case the
15 Defendant handed up yesterday also.

16 THE COURT: I guess I'm looking for it being a
17 jury question as to whether or not there was an
18 unambiguous promise.

19 MR. WILSON: Judge, sorry, I -- I apologize,
20 I'll let you finish reading. I just would say in
21 that case, Your Honor, there was just an email that
22 the Court decided couldn't in any way, shape or form
23 rise to the level of an un- -- of -- as a matter of
24 law, that it couldn't rise to the level of an
25 unambiguous promise. And then it was as vague as

1 nothing has changed in my mind about getting this
2 done for you and your family.

3 THE COURT: Well, I guess the -- the question is
4 whether a case for promissory estoppel can go to the
5 jury --

6 MR. WILSON: This one --

7 THE COURT: -- is equitable. I --

8 MR. WILSON: This one did, Your Honor.

9 THE COURT: But --

10 MR. WILSON: The jury reached a verdict, and
11 then it was -- and then the Court reversed it, that
12 would have been in the Supreme Court, reversed the
13 jury's verdict. It was actually a 2.29 million
14 dollar verdict, Your Honor. And then they reversed
15 it because they said there's no way that language
16 can be considered -- be unambiguous, because it was
17 just a vague statement in an email.

18 THE COURT: I understand that case did have a
19 breach of contract counterclaim, which would give
20 rise to the right to a jury trial.

21 MS. JETT: And, Your Honor, the breach of
22 contract counterclaim directed verdict was denied,
23 and that's why both went to the jury, and -- and had
24 Your Honor denied our motion for a directed verdict,
25 all would have gone to the Jury in this case.

1 THE COURT: I don't want to keep the Jury
2 waiting too long. Let me just -- I'm gonna kind of
3 just break for a minute so I can take a look at
4 this, and -- and I'll be right back with y'all. Let
5 me -- let me just step off, so I can kind of take a
6 look here.

7 MS. JETT: Than you, Your Honor.
8 (Whereupon, a brief recess is taken.)

9 THE COURT: Back on the record. The motion to
10 dismiss the jury is granted. This is a promissory
11 estoppel, there's not a right to a jury trial, so
12 I'm going to go ahead and dismiss the Jury, and we
13 will hear the remainder of the Defendant's case
14 nonjury.

15 MR. WILSON: Your Honor, could I be heard just
16 one moment, please?

17 THE COURT: Sure.

18 MR. WILSON: Your -- Your Honor, unless I
19 misread North American versus Richardson, and I know
20 Your Honor went back and reviewed it and other
21 stuff, you've got North American, who brought a DJ
22 action to determine if Richardson had a certain
23 right. And then you've got Richardson, who
24 counterclaimed for breach of contract, promissory
25 estoppel, and specific performance. And the jury

1 returned the verdict on the promissory estoppel
2 counter -- which was a counterclaim, and -- and
3 there was a breach of contract with it, I -- I
4 acknowledge that, Your Honor. And the jury returned
5 the verdict on the promissory estoppel, which means
6 promissory estoppel and all elements of that were
7 submitted to the jury. And -- and then the Circuit
8 Court entered that judgment, and then the Court of
9 Appeals affirmed that, despite the Defendant having
10 made motions, I believe, for a directed verdict.
11 The -- the Court of Appeals affirmed that, and then
12 it went to the Supreme Court. And the Supreme Court
13 made a decision to reverse the Court of Appeals, in
14 essence reversing the Trial Court, in essence
15 reversing the jury, and they made that decision by
16 saying that there was no evidence as a matter of law
17 of an unambiguous promise. That there was no
18 evidence as a matter of law of an unambiguous
19 promise. That the words in an email nothing has
20 changed my mind about this could rise to the level
21 of an unambiguous promise and make that
22 determination as a matter of law. Your Honor, they
23 did not, at that point in time, or any point in
24 time, did the Supreme Court say, "Well, this
25 shouldn't have gone to the jury, we're gonna reverse

1 this verdict, and we're going to remand it back for
2 consideration by the Court." They took that jury
3 verdict and then set that jury verdict aside. And
4 -- and I just think that -- at that level, Your
5 Honor, and at that stage, and this is the Supreme
6 Court in 2015, that by -- by making the
7 determination that the -- that jury verdict would be
8 set aside, not because it should have never been
9 submitted to the jury, and -- and somehow that
10 wasn't proper, and maybe it either needed to be
11 reversed or remanded back to a -- a -- a Court, to
12 Judge, or a Special Referee, or whoever is
13 determined. That -- that was the perfect
14 opportunity to do that, to just say this is not
15 properly submitted to a jury, Your Honor, and by not
16 doing so, the Supreme Court has acknowledged that --
17 that all elements of that promissory estoppel was
18 properly submitted to a jury, and all those elements
19 are properly submitted to and considered for fact
20 determination by a jury. I -- I just don't see --
21 and -- and I -- if I'm reading it wrong, then I'm
22 reading it wrong, but I --

23 THE COURT: Well, I understand your point, but,
24 certainly, if you've got both contractual and
25 equitable claims, if you've got a legal claim,

1 you've got an equitable claim, they're gonna be
2 tried together in one case. There certainly could
3 be strategic reasons why the other side doesn't
4 contest the right to a jury trial, but in that case
5 you had both legal and equitable claims. And so the
6 issue we've got now is where all we've got left is
7 an equitable claim. And the case law's very clear
8 there's no right to a jury trial in an equitable
9 claim. So I don't know how you get around that.

10 Ms. Jett, do you -- do you want to add --

11 MS. JETT: Just, Your Honor, that -- that
12 because both went to the jury, and they only granted
13 on one, nobody ever argued that point either, that
14 somehow those cases should have been severed, and
15 they shouldn't have been severed, there was a breach
16 of contract claim, they both went there, and the
17 jury got a right --

18 THE COURT: And it arises out of the same set of
19 facts, --

20 MS. JETT: -- to choose which one.

21 THE COURT: -- it's gonna all go to the jury.

22 MS. JETT: Right.

23 THE COURT: Sure.

24 MS. JETT: And you -- and you can't -- you can't
25 find promissory estoppel where there's an actionable

1 breach of a contract. So both of those went to the
2 jury, and they, in the jury room, had to elect
3 between the two, because they could not award
4 damages on both. And so that -- that just wasn't
5 the issue before the Court in North America.

6 THE COURT: Oh, believe me, I would love to send
7 this to the Jury. I just don't think I've got any
8 legal basis to do that.

9 MR. WILSON: Your -- Your Honor, and I -- just
10 one other thing. We've tried these issues to this
11 Jury to this point without any issues being raised
12 about equitable, promissory estoppel, equitable
13 needing to be tried, or separated, or tried some
14 other way, and I -- and I understand we have
15 associated other causes of action, but we've tried
16 it to this point in essence by consent of the
17 parties. I just -- I appreciate the Court's ruling,
18 I just respectfully disagree.

19 THE COURT: Yeah, I just have not seen any case
20 law that says if you start out by jury, you have to
21 finish by jury, where you're left with only
22 equitable claims, otherwise, I -- if I could find
23 some authority for that, I would send it to the
24 Jury, I just don't think there's any rule of
25 authority for that.

1 MR. WILSON: Thank you, Your Honor.

2 THE COURT: So if you'll bring the jury in.

3 (Whereupon, the Jury enters the courtroom.)

4 THE COURT: Okay, Ladies and Gentlemen, thank
5 you again for being here this morning. We have
6 taken up a number of legal matters this morning, and
7 the result of that is that I'm going to dismiss you
8 and we're going to hear the remainder of this case
9 with -- with a bench trial. So in other words, we
10 will not be having a jury trial on the remainder of
11 the issues that are before the Court. So, again, I
12 appreciate very much you being here. This case has
13 been pending for a number of years. If it were not
14 for the fact that you all are here and ready to go
15 and ready to try this case, it would still be
16 pending. So you have done a great service to
17 Hampton County by being here these last several
18 days, but I'm going to go ahead and dismiss you.
19 Thank you very much.

20 MS. JETT: Your Honor, the attorneys thank the
21 Jury for being here.

22 MADAM CLERK: And your checks are in the mail.
23 (Whereupon, the Jury is dismissed from courtroom for
24 the completion of the trial.)

25 THE COURT: Do y'all need a minute before we

1 move into the testimony, or are you ready to go?

2 MS. JETT: Your Honor, I have one matter to take
3 up with the Court, if I may? Your Honor, there's a
4 dearth of law in South Carolina on a promissory
5 estoppel only, and -- and there's a -- a good reason
6 why. I mean it typically just rides along with a
7 breach of contract claim. Your Honor, promissory
8 estoppel carries with it only reliance damages,
9 consequential damages. And I'm glad to email the
10 case of Blanton Enterprise versus Burger King, it's
11 a -- it's a District Court case applying South
12 Carolina State law. There -- there are just very
13 few State Court cases on it, but in Blanton, that is
14 one of the cases that talks about only reliance
15 damages can be recovered, no consequential damages
16 are awardable, no appeal that damages are awarded.
17 Your Honor, the Plaintiff has not put up any
18 reliance damages on promissory estoppel. The
19 Plaintiff has put up consequential damages on breach
20 of contract, but no reliance damages in promissory
21 estoppel, and you would assert that there would be
22 nothing left to try. If I may, I'd like to email
23 that case to you and to Plaintiff's counsel.

24 THE COURT: You can, and I'll take it under
25 advisement.

1 MS. JETT: Thank you, Your Honor. And it should
2 be coming to you any minute.

3 THE COURT: Do you all need a minute before we
4 move forward with your first witness?

5 MR. AARON NESS: I -- I think she's in the back.

6 MS. JETT: I just need to -- Your Honor, if it
7 would be acceptable to the Court, I'd like to go
8 speak to the next witness while he takes this
9 witness and that would maybe make sure that things
10 are moving along.

11 THE COURT: Sure.

12 MS. JETT: Thank you.

13 (OFF RECORD)

14 MR. AARON NESS: Your Honor, are you ready?

15 THE COURT: Yes.

16 MR. AARON NESS: We call Sabrina Graham to the
17 stand.

18 (Sabrina Posey Graham, having been duly sworn,
19 testifies as follows)

20 **DIRECT EXAMINATION MR. AARON NESS**

21 BY MR. AARON NESS:

22 Q. Good morning, Ms. Graham.

23 A. Good morning.

24 Q. How are you?

25 A. I'm good, thank you.

1 Q. Good. Can you please state your full name for
2 the record?

3 A. Sabrina Posey Graham.

4 Q. Ms. Graham, where are you from?

5 A. From Gaffney, South Carolina.

6 Q. And where do you live currently?

7 A. Varnville.

8 Q. And do you have ties to Hampton County?

9 A. I guess you could say I do.

10 Q. Okay, how so?

11 A. I worked -- worked here as county administrator
12 for about ten and a half years.

13 Q. Can you give the Court a little bit of
14 background information on your education and -- and
15 your employment history?

16 A. I graduated from Gaffney High School and
17 attended Coastal Carolina, which is a branch of the
18 University of South Carolina. After completing my
19 Bachelor's Degree there, I worked for the City of
20 Georgetown, and then Georgetown County, before
21 becoming administrator here in -- in Hampton County.

22 Q. Who are you employed by currently?

23 A. Low Country Council of Governments.

24 Q. And that's, what, LCOG?

25 A. Yes.

1 Q. Okay. And where is your office located?

2 A. It's located at Point South in Yemassee.

3 Q. Can tell the Court what kind of organization
4 that is.

5 A. A regional council of governments that serves
6 four counties to assist them with grant funding,
7 local land use planning, any type of convening or
8 regional work that we can do to assist either the
9 municipalities or local governments to work
10 together, we try and do that.

11 Q. And you're the executive director?

12 A. I am.

13 Q. What was your job at Hampton County?

14 A. I was the county administrator.

15 Q. And can you tell the Court the timeframe of when
16 you were county administrator?

17 A. From May of 2004 until December of 2014.

18 Q. Do you know Mr. Jones?

19 A. Yes.

20 Q. And are you familiar with his company, Company
21 Two?

22 A. Yes.

23 Q. Okay. Can you tell the Court how you're
24 familiar with the Company?

25 A. Just from having known him, and then coming

1 here, I know that they refurbish fire engines.

2 Q. Was he already located here when you became
3 Director in 2004?

4 A. I'm not sure if -- if he was or not.

5 Q. Do you have any personal knowledge of
6 discussions in 2005 regarding Company Two and its
7 use of the Airport?

8 A. I do not.

9 Q. Do you know Jim Daniel?

10 A. Yes.

11 Q. And was Jim Daniel the economic development
12 director during your tenure here?

13 A. He was when I was first hired, yes.

14 Q. Was he eventually asked to leave his job as
15 economic development director?

16 A. Yes.

17 Q. Did Jim Daniel have any kind of authority in
18 terms of binding the County?

19 A. No.

20 Q. Can you tell the Court a little bit about that,
21 what you would tell him and how that would work?

22 A. If there was a -- a issue or something that
23 needed some binding or contracts to be made, those
24 items would have to go before County Council for
25 approval before Jim or I could -- could bind the

1 County. I mean that had to be done by County
2 Council.

3 Q. Who was your boss; so to speak? Who did you
4 answer to as county administrator?

5 A. Hampton County Council.

6 Q. So you served in your position at the pleasure
7 of County Council?

8 A. Yes.

9 Q. In terms of economic development and the
10 Economic Development Commission, can you tell the
11 Court what the general procedure was back then for
12 how you recruited companies and how you got them
13 before Council?

14 A. I don't know that I could tell you a whole lot
15 about how they were recruited. Sometimes folks
16 reached out to us. We certainly could attempt to
17 identify companies. We worked with the Southern
18 Carolina Alliance, who did a lot of marketing for
19 the County, in terms of recruitment, but any company
20 that sought interest, the economic development
21 director would be the initial point of contact. And
22 then if there was some desire to locate here, that
23 information would be brought to -- shared with me,
24 and then shared with County Council. And so if
25 there were any terms or any contractual arrangements

1 to be made, that had to be done by County Council.

2 Q. Okay. So Mr. Daniel would recruit them, and
3 then y'all, eventually, would get them in front of
4 County Council, and then terms would be discussed?

5 A. Yes.

6 Q. Okay. Would that happen in open session or --
7 open court public hearing, or in -- in executive
8 session?

9 A. I'm not sure what you're asking.

10 Q. Sure. The -- the terms of -- of any agreements
11 with perspective companies, would that happen during
12 the public session of the County Council meeting, or
13 would that happen during an executive session?

14 A. Executive session.

15 Q. Okay, but then y'all would have to come --
16 County Council would have to come back out and then
17 then make the decision?

18 MR. WILSON: Your Honor, I'm going to object to
19 the leading. I hate to do that in front of the
20 Court, but I'm going to object to the leading.

21 THE COURT: Sure, it's sustained.

22 BY MR. AARON NESS:

23 Q. Ms. -- Ms. Graham, I'm going to hand you a
24 couple of documents, and I know you've seen them
25 before, but it may have been a while.

1 A. Okay.

2 Q. I'll hand you Defendant's Exhibit 16, which is a
3 plat, Defendant's Exhibit 15, which is a 2014
4 easement agreement, Defendant's Exhibit 14, which is
5 a deed, 13, which is another deed, 12, which is a
6 2011 agreement. Can you see if you recognize those?

7 A. (Reviews documents.) Yes.

8 MR. AARON NESS: Your Honor, we move to admit
9 also into evidence Defendant's Exhibit 12, 13, 14,
10 15 and 16.

11 THE COURT: Any objection?

12 MR. WILSON: None, Your Honor.

13 THE COURT: They are admitted.

14 (Whereupon, Defendant's Exhibits 12, 13, 14, 15, and
15 16 are moved into evidence without objection.)

16 BY MR. AARON NESS:

17 Q. See if you recognize these.

18 A. Yes.

19 Q. Okay. Defendant's Exhibit 12, can you pull that
20 out? That was the 2011 agreement.

21 A. Got it.

22 Q. And do you recognize -- well, you said you
23 recognized this agreement. Can you tell the Court
24 what this was pertaining to?

25 A. This is an agreement that the County entered

1 into with Company Two to exchange property.

2 Q. And they -- were they swapping property and then
3 granting an easement too?

4 A. The agreement is for the exchange of property,
5 and I thought there was a separate sheet that was
6 for the easement, as well.

7 Q. If you'll look at the bottom, "Whereas," on the
8 first page of the agreement?

9 A. The -- the least whereas says, "The County will
10 construct a taxiway?"

11 Q. Yes, ma'am.

12 A. Yes.

13 Q. Okay. And so this was the agreement that
14 Hampton County struck with Company Two, correct?

15 A. Yes.

16 Q. Okay. And is this agreement directly related,
17 and did it pertain to a deal or a commitment that
18 Hampton County had made years before 2005?

19 A. Yes.

20 MR. WILSON: Objection, Your Honor. I'm going
21 to object to him just leading, and I -- I know it's
22 nonjury, Your Honor, but still --

23 MR. AARON NESS: I'll try to ask more --

24 MR. WILSON: She needs to testify, not Mr. Ness.

25 THE COURT: Sure, that's sustained.

1 BY MR. AARON NESS:

2 Q. Ms. Graham, I'm going to hand you Plaintiff's
3 Exhibit 1. Do you recognize that?

4 A. (Reviews document.) Yes.

5 Q. Well, what did the 2005 letter pertain to in
6 terms of commitments and other such? That may have
7 been a bad question. Do you understand my question?

8 A. I think so.

9 Q. Okay.

10 A. Give me a second to take a look at the letter.

11 Q. Sure.

12 A. The letter written by Jim Daniels, who was the
13 economic development director, was expressing to
14 Mr. Jones that the County was interested in having
15 Company Two to locate in our County, and was res- --
16 in response to a request for certain commitments,
17 and those commitments were spelled out as to what
18 Hampton County was agreeing to, which was -- which
19 was to provide the taxiway from the Airport, and
20 then, again, the consideration about the -- the
21 properties -- or the property swap.

22 Q. What relation does the 2005 letter you have in
23 your hand have to do with the 2011 agreement you
24 just had in your hand?

25 A. The agreement completes what was discussed -- or

1 offered back in the 2005 letter.

2 Q. Tell the Court why it took six years for that to
3 happen between 2005 and 2011.

4 A. I'm not sure if I can tell you exactly why. We
5 changed our economic development directors, and I
6 just think the process just got dropped or -- or
7 forgotten, but no specific problem that had caused
8 it to -- to be delayed.

9 Q. So Jim Daniel would have been the first economic
10 development director, correct?

11 A. Yes, well --

12 Q. Okay.

13 A. -- for when I started, yes.

14 Q. Okay. And then there would have been how many
15 in between then in 2011? Do you have any
16 recollection of that?

17 A. Maybe two.

18 Q. Sandy Steele would have been one of them?

19 A. She was the last one before I left, yes.

20 Q. Okay. Do you see the meeting minutes in front
21 of you, it'd be Defendant's Exhibit 2, Defendant's
22 Exhibit 3, Exhibit 4, -- 2, 3, 4?

23 A. (Reviews document.) Yes.

24 Q. And do you recognize these minutes as being
25 minutes of Hampton County?

1 A. Yes.

2 Q. On Defendant's Exhibit 2, I'll just start with
3 that one. Do you see anything in the minutes
4 discussing Company Two?

5 A. (Reviews document.) Yes.

6 Q. Okay. And can you refer -- or tell me where it
7 is or just read it for the record?

8 A. On page two of three, ordinances.

9 Q. Can you read it?

10 A. "First reading by title only to ordinance number
11 2011-001, an ordinance for transferring parcel to
12 Company Two and receive a parcel from Company Two."
13 Do you want me to read the motion, as well?

14 Q. Yes, ma'am, please.

15 A. "Move by Councilmember Halsey (phonetic),
16 seconded by Councilmember Williams to give first
17 reading by title -- title only to ordinance number
18 2011-001, and an ordinance to transfer a parcel to
19 Company Two, and receive a parcel from Company Two.
20 Motion carried unanimously."

21 Q. Okay. And if you'll go to Defendant's Exhibit
22 3? Can you tell me where you -- where -- if
23 anywhere, you see Company Two referred to in these
24 minutes?

25 A. (Reviews document.) On page three of four,

1 Ordinances.

2 Q. Can you read the paragraph pertaining to Company
3 Two?

4 A. "Second reading to Ordinance number 2011-001, an
5 Ordinance to transfer a parcel to Company Two and
6 receive a parcel from Company Two, moved by
7 Councilmember Phillips, seconded by Councilmember
8 Johnson, to give second reading to Ordinance Number
9 2011-001, an Ordinance to transferring parcel to
10 Company Two and receiving a parcel from Company Two.
11 Motion carried unanimously.

12 Q. This was the second reading, correct?

13 A. Yes.

14 Q. All right. Then if you'll go to Defendant's
15 Exhibit 4, and where, if anywhere, do you see on
16 this document discussions about Company Two?

17 A. (Reviews document.) On page three of five.

18 Q. Can you read that into the record?

19 A. "Public hearing regarding third reading to
20 Ordinance Number 2011-001, an ordinance to transfer
21 a parcel to Company Two and to receive a parcel from
22 Company Two. Chairman Gray opened the public
23 hearing to receive public comments regarding the
24 public hearing, regarding Ordinance Number 2011-001,
25 an ordinance to transfer a parcel to Company Two,

1 and receive a parcel from Company Two. There were
2 no public comments. Chairman Gray closed the public
3 hearing."

4 Q. And this was the third reading?

5 A. That was a public hearing.

6 Q. Oh, excuse me. Yeah. And then what happens
7 after that from a -- from a Council's perspective in
8 terms of procedure after the public hearing? Does
9 Council pass an Ordinance?

10 A. There's a -- a third reading.

11 Q. Yeah, that was the public hearing regarding the
12 third reading?

13 A. A public hearing regarding the -- the Ordinance
14 2011-001.

15 Q. Okay. And you see that public hearing regarding
16 third --

17 MR. WILSON: Your Honor, just very briefly, I --
18 I don't want to somehow be seen as having waived
19 arguments I made earlier about public hearing
20 ordinance and all that, that you've already denied
21 that this was relevant. I don't really mind going
22 into it before you since we don't have a jury, I
23 just don't want to be seen as having waived anything
24 by this, so I would object to that scope.

25 THE COURT: And you -- I -- I understand your

1 position and your -- I don't find you're waiving any
2 right to contest that an ordinance was not necessary
3 for granting the use of the airport.

4 MR. WILSON: Thank you, Your Honor.

5 BY MR. AARON NESS:

6 Q. Ms. Graham, --

7 MR. WILSON: And, Your Honor, I'm sorry, the
8 ordinance, I think the statute actually talks about
9 a public hearing, which then resulted in an
10 ordinance, so we talked about that whole process
11 throughout the whole thing, Your Honor. Thank you.

12 THE COURT: Thank you.

13 BY MR. AARON NESS:

14 Q. Do you see something else on three of five, as
15 well?

16 A. (Reviews documents.) On three of five, the
17 public hearing paragraph is what I read.

18 Q. Okay, and then on page four?

19 A. On page four of five under Ordinances, it's the
20 third reading to Ordinance 2011-001, "An Ordinance
21 to transfer a parcel to Company Two and receive a
22 parcel from Company Two. Moved by Councilmember
23 Halsey, seconded by Councilmember Johnson and give a
24 third reading to Ordinance number 2011-001, an
25 Ordinance for transferring a parcel to Company Two

1 and receive a parcel from Company Two, contingent
2 upon a clean title examination and to adopt the
3 agreement between Company Two and Hampton County,
4 contingent upon a clean title examination. Motion
5 carried unanimously.

6 Q. And then if you'll look at Defendant's Exhibit
7 7? And is this the Ordinance?

8 A. (Reviews document.) Yes.

9 Q. Was it signed by all members of Council?

10 A. Yes.

11 Q. There's a sketch on the back, correct?

12 A. Yes.

13 Q. And then going back to Defendant's Exhibit 12,
14 which is the Agreement, was the agreement signed
15 around the same time the Ordinance was passed?

16 A. (Reviews document.) The agreement is signed --
17 if we're looking at the official date June 13, 2011.

18 Q. Okay. And the Ordinance was passed on, what,
19 April of '11?

20 A. Yes.

21 Q. So what happened between April and June?

22 A. When the document has been finalized, I don't
23 know.

24 Q. You're talking about Defendant's Exhibit 12, the
25 agreement?

1 A. Yes.

2 Q. So the attorneys had to -- the attorneys had to
3 draft the agreement, correct? That was your
4 understanding?

5 A. Yes.

6 Q. What was mentioned in -- what is -- what is
7 mentioned in the 2011 Agreement, if anything,
8 regarding Company Two using the airport -- airport
9 or airport runway to test fire trucks?

10 A. I didn't hear all of your question.

11 Q. Sure. What -- what, if anything, in Defendant's
12 Exhibit 12 states that Mr. Jones and his Company had
13 the right to test fire trucks on the airport or
14 airport runway?

15 A. Nothing.

16 Q. Okay. If you'll flip to page four of seven on
17 that same Exhibit Number 12? Do you see paragraph
18 11?

19 A. (Reviews document.) Yes.

20 Q. Can you read it?

21 A. Paragraph 11 --

22 Q. Yes.

23 A. -- "This -- this contract contains the entire
24 understanding and agreement between the parties. It
25 shall not be modified or amended in any way, except

1 by a written instrument executed by both parties."

2 Q. And then you signed it on page six?

3 A. (Reviews document.) Yes.

4 Q. And Sandy Fowler -- well Sandy Fowler Steele was
5 one of the witnesses, correct?

6 A. Yes.

7 Q. Okay. And then Mr. Jones signed it on page
8 seven, correct?

9 A. Yes.

10 Q. Okay. And if you'll kind of keep your hand on
11 Defendant's Exhibit -- you can put that one down,
12 thank you. If you'll get Defendant's Exhibits 13,
13 14 and 15.

14 A. I don't have it anywhere.

15 Q. Oh, I'm sorry. What do you recognize Exhibits
16 13 and 14 being?

17 A. (Reviews documents.) Title to the Real Estate.

18 Q. And were these the deeds transferring property?

19 A. Yes.

20 Q. And then Number 15, what is that?

21 A. An easement.

22 Q. What relation do Exhibits 13, 14 and 15 have
23 compared to Exhibit 12?

24 A. Twelve was the agreement about the transfer of
25 property, the exchange of property, and then the

1 deeds are the actual transactions --

2 Q. Okay.

3 A. -- recordings of -- of those transactions.

4 Q. Why did it take then three years from 2011 to
5 the end of '14 and into '15 to sign the deeds and
6 grant an easement?

7 A. I don't know.

8 Q. If you'll keep Exhibit 15 in your hand.

9 A. Okay.

10 Q. On page one towards the bottom, the bottom
11 paragraph?

12 A. Uh-huh.

13 Q. The lower lines from the top, do you see where
14 it says Grantee; it starts with Grantee? It starts
15 with Grantee. Four lines from the bottom, excuse
16 me.

17 A. (Reviews document.) Yes.

18 Q. Can you read that?

19 A. "Grantee shall have no other rights in and to
20 any other portion of the Grantor property, except
21 the easement area as defined therein. The easement
22 area shall be for the use of the Grantee and its
23 guest, customers, tenants, invitees, agents,
24 representatives, heirs and assigns."

25 Q. The Grantor property meaning the Airport, right?

1 A. Yes.

2 Q. What rights to the Grantor property was Hampton
3 County giving in this document?

4 A. It was an easement that allowed for access over
5 and across the County's property that the airport
6 property for a vehicular airplane taxi and
7 pedestrian ingress and egress on, over and across
8 the easement area."

9 Q. And I slid it over here, Defendant's Exhibit 16,
10 you may have it in front of you, or you may have it
11 here. Is this an easement -- or -- or what do you
12 recognize -- where -- where, if anywhere, do you
13 recognize that easement on Defendant's Exhibit 16?

14 A. I'm sorry, I don't understand your question.

15 Q. Sure. The easement we were discussing on
16 Defendant's Exhibit 15, where, if anywhere, on
17 Defendant's Exhibit 16 is an easement? Is an
18 easement on there?

19 A. (Reviews document.) I can't pick it out.

20 Q. What does that say right there?

21 MADAM COURT REPORTER: Speak up, please.

22 MR. AARON NESS: Excuse me.

23 BY MR. AARON NESS:

24 Q. On Defendant's Exhibit 16 in the top right
25 corner, what do you see right here where my finger

1 is?

2 A. (Reviews document.) Runway, Hampton County
3 Airport.

4 Q. Does that help you get your bearings?

5 A. No. I'm sorry.

6 Q. When was the last time you went over there?

7 A. Ten, 15 years ago.

8 Q. Does this help you any?

9 A. (Reviews document.) That's an old map, but I do
10 see the runway --

11 Q. Okay.

12 A. -- access there.

13 Q. Do you see Mr. Jones' building in there?

14 A. Yes.

15 Q. Can you point to it?

16 A. Do you see Mr. Jones' building on Defendant's
17 Exhibit 16?

18 MR. AARON NESS: Your Honor, may I lead the
19 witness a little bit?

20 THE COURT: Repeat the question.

21 MR. AARON NESS: Sure.

22 BY MR. AARON NESS:

23 Q. Where do you see Mr. Jones' property on
24 Defendant's Exhibit 16.

25 A. I don't see it.

1 MADAM COURT REPORTER: You need to speak up,
2 please.

3 MR. AARON NESS: Where -- I'll -- I'll stand
4 right here.

5 BY MR. AARON NESS:

6 Q. Where do you see the -- where do you see
7 Mr. Jones' property on Defendant's Exhibit 16?

8 A. Here in the center. In the center.

9 Q. Okay, so you see Mr. Jones' property?

10 A. Yes.

11 Q. Okay. And do you see the Hampton County runway?

12 A. Yes.

13 Q. And where's -- where, if anywhere, is there an
14 easement on that document?

15 A. (Reviews document.) I can't tell you, I can't
16 pull it out. I see it now, easement, from the --
17 from the runway over to the property.

18 Q. Okay. And that's how you see it, because --

19 A. Yes, from the end of the runway it says -- like
20 it says 35 wide easement to runway and it crosses.

21 Q. The document, Defendant's Exhibit 15, what right
22 does that give Mr. Jones in relation to his building
23 and the Hampton Airport? Do you understand my
24 question?

25 A. The easement gave him the right to access or --

1 or for him to use that portion of the property, that
2 -- that easement, to access his property from the
3 runway.

4 Q. Okay. Okay, if you will flip to page 12.

5 A. Of 15?

6 Q. Yes, ma'am, 15.

7 A. I'm sorry, which page?

8 Q. Paragraph 12, page three.

9 A. (Reviews document.) Okay.

10 Q. All right, can you read paragraph 12 into the
11 record?

12 A. "Paragraph 12, Integration. This agreement is
13 an integrated agreement, and expresses the complete
14 agreement and understanding of the parties. Any and
15 all prior or contemporaneous oral agreement or prior
16 written agreement regarding the agreement will be
17 merged therein -- herein."

18 Q. All right. What other agreements, if any, did
19 Hampton County have with Mr. Jones and Company Two?

20 A. None that I'm aware of.

21 Q. And then your signature's on page five, correct?

22 A. (Reviews document.) Yes.

23 Q. And then Mr. Jones -- well, there's two
24 signatures on page four under Grantee?

25 A. Yes.

1 Q. Whose signature?

2 A. Under Grantee is Mr. Jones' signature.

3 Q. To your knowledge, has Hampton County ever
4 promised Company Two something that it hasn't
5 delivered?

6 A. No.

7 MR. AARON NESS: Your Honor, that's all I have
8 on direct.

9 THE COURT: Okay, Mr. Wilson?

10 MR. WILSON: Thank you, Your Honor.

11 **CROSS-EXAMINATION BY MR. WILSON**

12 BY MR. WILSON:

13 Q. Good morning, Ms. Graham, how are you?

14 A. I'm good, thank you.

15 Q. Good. So let me make sure I understand, May of
16 2004 to December of 2014?

17 A. Yes.

18 Q. And I guess the airport was already in existence
19 when you became administrator, correct?

20 A. Yes.

21 Q. Okay. Wasn't really anything going on out there
22 when you became administrator? Not a whole lot of
23 activity was there?

24 A. No.

25 Q. And during your time as administrator it wasn't

1 even really a focus, was it? Wasn't much -- wasn't
2 -- wasn't a big priority like it is now?

3 A. Not like it is now, no.

4 Q. Okay. But you did have pilots -- some planes
5 out there and some pilots that would use the runway
6 to take off and land, correct?

7 A. I guess from time-to-time. I don't know of any
8 significance that we kept a record of.

9 Q. I understand, but you knew, as administrator,
10 that Hampton County had an airport, correct?

11 A. Yes.

12 Q. And you knew that Hampton County was in charge
13 of operating that airport, correct?

14 A. Yes.

15 Q. And you knew that there was -- it wasn't shut
16 down, it wasn't closed to air traffic, was it?

17 A. It was declared a recreational airport because
18 it did not meet all the requirements --

19 Q. Okay.

20 A. -- with lighting and what State Aviation
21 required, so we didn't have major activity,
22 certainly, nothing like what -- what there is now --

23 Q. I get that.

24 A. -- but it was an airport.

25 Q. But it was an airport and planes could take off

1 and land from there?

2 A. I -- I guess. I -- I can't tell you specific
3 details, 'cause I don't know, it wasn't operational
4 like it is today.

5 Q. I -- I -- I understand that, and I'm not trying
6 to belabor the point. Was the airport shut down and
7 closed to pilots during your time as administrator?
8 Was it shut down and closed to aircraft?

9 A. I would have to say no, it was determined a
10 recreational airport. There was a discussion with
11 Council about completely closing it, and they did
12 not do that.

13 Q. So it stayed open?

14 A. It was considered a recreational airport is --
15 is what the State Aviation allowed us to -- to
16 declare it.

17 Q. And you, as the administrator and County Council
18 as the operating agency would have wanted the
19 airport to at least be safe enough for the few
20 people that were able to, or willing to use it, or
21 decided to use it to take off and land, if they
22 chose to do so, wouldn't you?

23 A. Yes.

24 Q. And so you would have wanted the airport
25 property and the runway to be maintained at least

1 enough with the limited use that was going on for
2 planes to take off and land?

3 A. Yes.

4 Q. Okay. Now, I think I heard you say in response
5 to Mr. Ness's question that you don't know whether
6 Company Two had already located in Hampton County
7 about 2005 or was looking to relocate, you just
8 don't know that, do you?

9 A. I thought he said 2004, but --

10 Q. 2004.

11 A. Yeah.

12 Q. So same thing for 2005?

13 A. Well, by 2005 we were having the conversations
14 about the property swap, but prior to my coming I
15 don't know if he was already here, or, you know, was
16 beginning to -- to come. I don't know prior to
17 2004.

18 Q. Okay. I'm going to show you something here, and
19 I'll just show it to you on the computer. I think
20 you'll be able to see it and tell what it is. Do
21 you see what this is? Does this look like a deed,
22 kind of like what you were looking at a little bit
23 earlier?

24 A. (Reviews document.) Yes.

25 Q. Title to Real Estate?

1 A. Uh-huh.

2 Q. And do you see right here where it was recorded
3 October the 24th of 2005?

4 A. Yes.

5 Q. Okay, and do you see right here where somebody
6 named Susan Sherry and Elizabeth Pinckney making a
7 sale of property to Q&J Properties, LLC?

8 A. Yes.

9 Q. For \$420,000?

10 A. Yes.

11 Q. Okay. And do you see the date that the deed was
12 signed by the Sherrys? What's that date right
13 there? Can you read it?

14 A. (Reviews document.) Here?

15 Q. Yes.

16 A. October 17, 2005.

17 Q. Okay. Now, Ms. Graham, I understand your
18 testimony is that you don't believe Mr. Jones and
19 Company Two had any rights by anything Hampton
20 County did or didn't do for access to use the
21 Airport runway to test fire trucks; is that what I
22 understand your testimony to be?

23 A. Say that for me again.

24 Q. That you don't believe anything Hampton County
25 did or didn't do, but in particular, anything

1 Hampton County did gave Mr. Jones any right to use
2 the Airport runway to test fire trucks?

3 A. Correct.

4 Q. Okay. Will you agree with me that the property
5 where Company Two is located is much less -- it
6 would be less valuable to Company Two to be located
7 in that property if there's no access to the airport
8 runway to test fire trucks, as opposed to if there
9 was the right to test fire trucks on the airport
10 runway, if that's a vital and important piece of its
11 business?

12 A. I can't agree or disagree.

13 MR. AARON NESS: Your Honor, I would object,
14 Mr. Wilson should have put up his potential damages
15 in his case-in-chief, not through cross-examination,
16 and he doesn't even have the document.

17 THE COURT: All right, I'm going to sustain the
18 objection on the basis that it's speculative.

19 MR. WILSON: Sure.

20 THE COURT: I don't know how she could know
21 about the business model.

22 MR. WILSON: I understand.

23 MR. AARON NESS: I think the best evidence --
24 the best evidence would be the document, not
25 computer.

1 THE COURT: Your objection is sustained.

2 MR. AARON NESS: Thank you.

3 MR. WILSON: Your Honor, I -- I showed her the
4 -- the document, Your Honor. I'll -- I'll be glad
5 to put the document into evidence. Could I -- I --
6 I would need to print a copy of it, I apologize, I
7 just didn't have a copy of it printed and handy.
8 Could I have -- and it's public record, Your Honor.
9 I mean I'll just move it into evidence as
10 Plaintiff's Exhibit Number 3 as a public record, and
11 I'll get a copy printed now and submit it to the
12 court reporter while we're on break.

13 THE COURT: Any objection?

14 MR. AARON NESS: Yes, Your Honor.

15 THE COURT: What's -- and this is to the deed
16 giving the property to Q&J?

17 MR. WILSON: Yes, Your Honor. Yes, sir?

18 MR. AARON NESS: Chris, are you wanting to put
19 it in now, or what?

20 MR. WILSON: It's public record.

21 MR. AARON NESS: Well, he doesn't have it.

22 THE COURT: Well, I mean he -- he can print it
23 out. I'm assuming that's what you're requesting to
24 do?

25 MR. WILSON: Yes, Your Honor.

1 THE COURT: I'm going to allow it.

2 MR. AARON NESS: Thank you.

3 THE COURT: Thank you.

4 MR. WILSON: Thank you, your Honor.

5 (Whereupon, Exhibit Number 3 is moved into evidence
6 without objection.)

7 BY MR. WILSON:

8 Q. Ms. Graham, if -- can you explain why -- if --
9 I'm confused about some -- I'm just kind of confused
10 about something. I understand your position or your
11 testimony to be that this letter, which we've looked
12 at a bunch of times, on Plaintiff's Exhibit Number 1
13 was an agreement to just swap properties and install
14 a taxiway; is that what I understand?

15 A. The letter was not an agreement. The letter was
16 informing him that the Council would agree to that.

17 Q. The letter was informing him that the Council
18 would agree to that?

19 A. Correct. This isn't the agreement, this was
20 just a letter that Mr. Daniels wrote back to
21 Mr. Jones, explaining to him what Council was -- was
22 willing to do.

23 Q. Okay.

24 A. Or that the Council would -- would agree with
25 those.

1 Q. So in 2005, what I'm asking is, in 2005 did
2 Hampton County have an agreement, in your -- in your
3 opinion, for your testimony and -- and your -- the
4 way I understand you described this, in 2005 did
5 Hampton County have an agreement with Mr. Jones or
6 with Company Two to provide a taxiway, right-to-use,
7 and to swap properties?

8 A. It -- it was agreed upon at that time, but I --
9 I thought you were asking if that was the agreement.

10 Q. Okay, so there was an -- you're -- you're saying
11 there was an agreement in 2005 for Hampton County to
12 provide a taxiway, or what's been described in there
13 as a taxiway, right-to use.

14 A. Uh-huh.

15 Q. So there was an agreement reached for Hampton to
16 do that in 2005?

17 A. Correct.

18 Q. And -- and you're saying there was also an
19 agreement reached in 2005 for a property swap?

20 A. Correct.

21 Q. Okay. And that's the only thing that you think
22 that was agreed to in 2005?

23 A. For the property swap and for the taxiway, yes.

24 Q. And in your -- and you -- you tell us what you
25 believe or what you believe the taxiway which you're

1 describing was con -- would consist of?

2 A. You mean what it would be used for would it --
3 I'm not sure I understand.

4 Q. Where it would be located, and what it would
5 consist of, what it would be used for? However you
6 want to describe it.

7 Q. Okay. I don't know what you mean when you say
8 what did it consist of, if you're talking about size
9 or measurement, I don't know what you're talking
10 about. Use, I can tell you what I understood use
11 is.

12 Q. Where would it go from and where would it go to?

13 A. From the end of the runway over to his property.

14 Q. Would it encompass -- would -- would -- would
15 what's was agreed to in 2005, per -- per your
16 testimony, encompass anything that encompassed the
17 -- the Hampton County Airport property in total or
18 the runway?

19 A. I don't --

20 Q. The actual -- I guess what I'm asking is this.
21 I asked you -- and -- and you're telling us that in
22 2005 there was an agreement reached with Company
23 Two, --

24 A. Yes.

25 Q. -- correct?

1 A. Yes.

2 Q. And the agreement was that Company Two would
3 relocate, that's what the letter says -- excited
4 about the commitment in relocating. So it looked
5 like Company Two was going to relocate; would you
6 agree with that?

7 A. Yes.

8 Q. And so Company Two was going to relocate,
9 correct?

10 A. Yes.

11 Q. That was part of the agreement?

12 A. It says, "We're excited about your prospect,
13 your proposal to having Company Two relocate."

14 Q. Well, if Company Two wasn't going to relocate,
15 was Hampton County gonna, as you described it,
16 provide a taxiway for Company Two?

17 A. This letter states that the County was in
18 agreement to provide the taxiway from the end of the
19 runway to Mr. Jones' property, and that we were in
20 agreement with doing the property swap.

21 Q. I -- I get that, but my question is, as a part
22 of that didn't Company Two have to relocate?

23 A. I don't know if they had to, but that was part
24 of what they were going to do.

25 Q. So are you telling us that if Company Two had

1 decided not to relocate, Hampton County would have
2 gone forward and still granted whatever you
3 described or whatever -- whatever the taxiway is,
4 they would have still gone ahead and granted the
5 taxiway to Company Two?

6 A. I can't speak for what County Council would have
7 done.

8 Q. Well, you were the administrator at the time.

9 A. I was, but I was not the County Council.

10 Q. Well, I think that comes to something I'm
11 concerned with, or -- or want to ask you about. I
12 recall asking you in your deposition, and I think
13 you told me you -- you thought that by the time you
14 came -- you got involved in this thing, all the
15 discussions and the negotiations with Mr. -- with
16 Mr. Jone had already -- Mr. Jones had already been
17 completed, correct?

18 A. Discussions about him coming here -- about the
19 business coming here; is that --

20 Q. Is --

21 A. -- what you're asking?

22 Q. All the negotiations and discussions with him
23 had been completed, that's what you told me in your
24 deposition; is that correct?

25 A. I can't say it was correct about property swap,

1 because we were discussing it in 2005. If you're
2 asking me if the discussions about him coming here
3 were completed, I can say yes. I wasn't a part of
4 those discussions, but I was a part of the
5 discussions about the property swap.

6 Q. All right. Now, Jim Daniel worked -- worked for
7 the County, correct?

8 A. Yes.

9 Q. I mean there's been talk about him being
10 terminated or -- excuse me, him -- let's see how the
11 question was asked, being asked to leave. Did you
12 ask Mr. Daniel to leave?

13 A. I offered him the opportunity to resign.

14 Q. Did it have anything to do with this?

15 A. Nothing at all.

16 Q. Okay, 'cause that's been asked several times in
17 here. So it had nothing to do with this situation
18 with Company Two?

19 A. No.

20 Q. Or overstepping authority with respect to
21 negotiations with Company Two, or anything like
22 that?

23 A. No.

24 Q. Okay. Now, I think -- I -- I want to go back
25 and ask you just in -- about this -- I just want to

1 make sure I understand. You're saying that in 2005
2 Hampton County and Company Two had an agreement
3 where Company Two would be provided a taxiway,
4 right-to-use, --

5 A. Yes.

6 Q. -- correct? And they would be provided -- and
7 -- and there would be a property swap that would
8 occur for properties that Company Two or -- or
9 Mr. Jones would have that the airport was interested
10 in, that the County was interested in and some
11 exchange of -- of a like type property?

12 A. Yes.

13 Q. And as a part of that, Company Two was going to
14 relocate to Hampton County?

15 A. We're back to that same question. I can't tell
16 you that. I can tell you we discussed the property
17 swap. I assumed he'd already agreed to -- to
18 relocate. I -- I can't answer that for you.

19 Q. Okay. If -- if that agreement to do those
20 things was already in place in 2005, and that's all
21 it was, and -- and as I understand it, your
22 testimony is that -- that the taxiway that was
23 agreed to in 2005, the taxiway, right-to-use, was
24 only to get from Mr. Jones' property to the Airport
25 runway; is that correct?

1 A. That's my understanding, yes.

2 Q. And it encompassed in no way, shape or form use
3 of the runway to test trucks or do anything as such?

4 A. No.

5 Q. Well, if that agreement was already in place in
6 2005 and already in writing with the County, then
7 why would the County in 2011 need to do an entirely
8 different, entirely separate, written agreement for
9 the same thing that's already in writing in 2005?

10 A. The 2005 document is a letter informing
11 Mr. Jones that County Council was willing to agree
12 to this. The actual agreement was not prepared
13 until the actual document you have in your hand.

14 Q. You just told me it was an agreement in 2005.
15 If there was an agreement in 2005, why do we need a
16 -- another agreement in 2011 to the exact same
17 thing?

18 Q. Your question, "Was an agreement reached in
19 2005," and I said, "Yes, it was reached." The
20 document was not prepared until you have it there in
21 your hand, but they did reach an agreement, but the
22 document of the agreement, which is what you're
23 holding, was not done until later.

24 Q. Okay. So why -- why would Mr. Jones wait -- why
25 would Company Two wait six years plus to carry out,

1 or to put in place, or make Hampton County perform
2 the terms of its agreement if the agreement -- the
3 agreement only encompassed a taxiway from his
4 property line -- the property line Company Two he's
5 using to the Airport runway?

6 A. I do not know.

7 Q. But you were informed, prior to 2011, that
8 Mr. Jones was using -- you were aware prior to 2011
9 Mr. Jones was using the airport runway or that
10 Company Two was to test fire trucks, to test ARFF
11 trucks? You were made aware of that, weren't you?

12 A. I don't know when I was made aware. I can't
13 tell you it was prior to 2011. I would even say
14 probably after that, but I don't know when I was
15 made aware that -- that it was being used.

16 Q. Prior to your time --

17 A. I don't know if it was before that.

18 Q. Prior to your time leaving, you were made aware
19 of that?

20 A. Yes.

21 Q. Okay. Do you know if any of the representatives
22 -- other representatives of Hampton County were made
23 aware of that prior to 2011?

24 A. I do not know.

25 Q. So your testimony today is that prior to your

1 leaving Hampton County as administrator, you were
2 made aware that Company Two was using the airport
3 runway to test fire trucks?

4 A. Yes.

5 Q. And you left December of 2014?

6 A. Yes.

7 Q. And I believe that Mr. Jones and Company Two was
8 told in 2015 to, in essence, get off of the runway
9 and stay off the runway; does that sound right to
10 you?

11 A. I have no idea.

12 Q. Okay. You -- you don't have anything to dispute
13 that, do you?

14 A. No, sir.

15 Q. Okay. Let's -- let's take a look -- I want you
16 to take a look at your deposition right here one
17 moment.

18 A. Okay.

19 Q. Because I asked you some of these same questions
20 in your deposition. I want you to take a look right
21 here at page 45.

22 A. You turned to 43, you want me to go to 45?

23 Q. Yeah, 45, I'm sorry.

24 A. Okay.

25 Q. I went to the wrong page. And I want you to

1 look, specifically, one second, I'm sorry. I want
2 you to look right there on pa -- on line 19. And
3 I'm gonna read the question, and I want you to read
4 the answer, okay?

5 A. Okay.

6 Q. "Did you ever see a fire truck of any type on
7 the airport runway during your time as Hampton
8 County administrator." Your answer?

9 A. (Reviews document.) Yes. "No."

10 Q. And then I asked you, "Did you ever receive a
11 report or a notification that there was a fire truck
12 on the airport runway during your time as County
13 administrator?" And your answer on the next page?

14 A. (Reviews document.) "No."

15 Q. Thank you. Ms. Graham, at any point in time
16 during your time as Hampton County administrator,
17 did you ever instruct Company Two or Mr. Jones that
18 they were -- that they were not allowed to use the
19 Hampton Airport, in particular, the Hampton Airport
20 runway for testing of fire trucks?

21 A. No.

22 Q. Okay. But your testimony is today that you were
23 aware of that prior to your leaving as Hampton
24 County administrator?

25 A. Yes.

1 Q. Did you ever instruct or have anyone instruct or
2 did anyone from Hampton County, to your knowledge,
3 ever instruct Mr. Jones that the letter that's
4 Plaintiff's Exhibit Number 1, did not give Company
5 Two the right to use the Hampton County Airport
6 property or the Hampton airport runway to test fire
7 trucks?

8 A. I'm sorry, can --

9 Q. Did you, or anyone at your direction, or anyone
10 that you know of ever instruct Mr. Jones or notify
11 Mr. Jones that that letter, this Plaintiff's Exhibit
12 Number 1, did not encompass or authorize his use of
13 the airport runway or airport property to test fire
14 trucks?

15 A. I'm getting lost in your question, but --

16 Q. Just asking if anybody you know of from Hampton
17 County ever told Mr. Jones while you were
18 administrator that he wasn't supposed to be on the
19 airport runway?

20 A. Not to my knowledge.

21 Q. And then the follow-up is, did anybody tell
22 Mr. Jones that that letter that we looked at,
23 Plaintiff's Exhibit Number 1, did not give him
24 permission to use the airport runway to test fire
25 trucks?

1 A. I was never part of those discussions to give
2 permission.

3 Q. I'm not asking to give permission. I'm asking
4 you, you were the administrator, you put into
5 effect --

6 A. Yes, to --

7 Q. -- all business of Hampton County, correct?

8 A. Yes.

9 Q. And I'm asking you, if, to your knowledge, did
10 you or anyone else instruct Mr. Jones that that let
11 -- tell Mr. Jones that that letter, Plaintiff's
12 Exhibit Number 1, did not give him permission to
13 test trucks on the runway?

14 A. That letter did not say that.

15 Q. I'm ask -- I'm not asking you that. I'm asking
16 you did anyone tell Mr. Jones that?

17 A. To my knowledge, no one told Mr. Jones that that
18 letter said that.

19 MR. WILSON: Just one moment, if I could, Your
20 Honor?

21 THE COURT: Uh-huh.

22 MR. WILSON: Your Honor, that's all the
23 questions I have for Ms. Graham. I appreciate your
24 time.

25 MS. GRAHAM: Thank you.

1 MR. AARON NESS: Nothing on redirect, Your
2 Honor.

3 THE COURT: Thank you, ma'am, you may step down.

4 MS. GRAHAM: Thank you, Your Honor.

5 MR. AARON NESS: May she be excused?

6 THE COURT: Any objection, Mr. Wilson?

7 MR. WILSON: No objection, Your Honor.

8 THE COURT: You're free to go.

9 MS. GRAHAM: Thank you.

10 MS. JETT: Your Honor, Mr. Algie Solomons is
11 waiting in the room back there.

12 (A.G. "Algie" Solomons, Jr., was duly sworn
13 and testified as follows)

14 **EXAMINATION BY MS. JETT**

15 MR. SOLOMONS: May I take this off, Judge?

16 THE COURT: You may.

17 BY MS. JETT:

18 Q. Good morning, Mr. Solomons.

19 A. Hi.

20 Q. How are you?

21 A. I'm good.

22 Q. Would you --

23 A. But you might want to speak up a little bit, I'm
24 also hard of hearing.

25 Q. Well, I'll approach the mic, can you hear me

1 now?

2 A. Yeah.

3 Q. Would you state your full name for the record,
4 please?

5 A. A. G. Solomons, Jr.

6 Q. Mr. Solomons, what is your profession?

7 A. I'm an attorney.

8 Q. And how long have you been licensed as an
9 attorney?

10 A. Since November of 1975.

11 Q. And are you the Hampton County attorney?

12 A. Yes, ma'am.

13 Q. Were you the Hampton County attorney in 2005?

14 A. Yes, ma'am.

15 Q. Do you know how long you've been the Hampton
16 County attorney?

17 A. I think since Mr. George Warren left the
18 esteemed position of County attorney in 1978.

19 Q. Okay. For the -- excuse me, for the record, as
20 I ask you questions, I'm certainly not asking you to
21 divulge any attorney-client communications. I'm not
22 asking you to violate any privilege.

23 A. I certainly hope I wouldn't.

24 Q. I don't think you would.

25 A. I do not --

1 Q. I don't think I can --

2 A -- intend to.

3 Q. -- persuade you to, but I want to make sure that
4 you know I'm not. I'm gonna show you what's been
5 marked as Exhibit 1, and ask you if you recognize
6 that document or can say what it appears to be?

7 A. (Reviews document.) I recognize it because I've
8 seen it in -- in the last three or four, five years.

9 Q. And what is it?

10 A. It is a letter dated October 12, 2005, from
11 Jim Daniel to -- and Jim is not identified in
12 what capacity he signed the letter, but it's to
13 Mr. Quincy Jones.

14 MR. WILSON: Your Honor, if I could be heard
15 just a moment. If Mr. -- and I don't know, but if
16 Mr. Solomons' knowledge of this letter is only in
17 the last few year in connection with this
18 litigation, then I don't think -- and he doesn't
19 have any personal knowledge, then I don't know that
20 he's a proper witness to testify, and be excluded on
21 those grounds. And I -- I gather from his statement
22 that's the case, but maybe I misunderstood.

23 MS. JETT: Your Honor, he's got plenty to say
24 about the letter.

25 THE COURT: I'm going to give you some leeway,

1 go ahead.

2 THE WITNESS: I use this loud voice to hear
3 myself, Judge.

4 THE COURT: That's perfectly fine.

5 MS. JETT: Thank you.

6 BY MS. JETT:

7 Q. Mr. Solomons, did you -- did you draft that
8 letter?

9 A. I did not.

10 Q. Did you participate in its drafting?

11 A. It -- my recollection is no. I can't find any
12 indication that I had drafted this letter. Now,
13 having said that, Ms. Jett, I'm also not gonna tell
14 you I haven't. At some point in time I've seen the
15 letter when, you know, back in -- in the day, but I
16 -- I didn't -- I did not draft it. It would not
17 state what it says if I had drafted it.

18 Q. Why would it not --

19 MR. WILSON: Your Honor -- Your Honor, that's my
20 point, Your Honor, and I'll object, he didn't --

21 MS. JETT: Your Honor, there's no jury here,
22 Your Honor, and -- and I think that we can allow him
23 to elaborate on why it wouldn't have been that
24 letter.

25 THE COURT: Let me get the basis of his

1 objection.

2 MR. WILSON: Thank you. Your Honor, and I
3 understand there's not a jury, I'm just making sure
4 I'm protected. And -- but, Your Honor, if he
5 doesn't have any personal knowledge of it, didn't
6 prepare it, didn't draft it, he can't testify with
7 any certainty he reviewed, I think is what he just
8 said. I -- I don't -- that part of his testimony
9 might be relevant, but I don't know that anything
10 else would be relevant. I mean he's not been named
11 as an expert witness or anything in regards to give
12 opinions about what it means, or interpret it, or do
13 anything like that, Your Honor.

14 MS. JETT: Your Honor, I'm defending against
15 testimony that was given earlier in this trial
16 concerning Mr. Solomons' role in that letter.

17 MR. WILSON: Either have it -- I'm sorry, either
18 having drafted it or reviewed it, Your Honor, he
19 just said he didn't.

20 THE COURT: I'm going to allow it because I
21 think we've asked every witness who's been on the
22 stand up until this point what the letter meant, so
23 I'm gonna give you a little leeway.

24 MS. JETT: Thank you, Your Honor.

25 MR. WILSON: But -- but, Your Honor, if I could

1 be heard, I just -- all those people were involved
2 in -- in that process in 2005 in some way, shape or
3 form. All those people were involved with that,
4 either Ms. Graham, who was the administrator, who
5 was involved in negotiating -- being involved in the
6 meeting, or --

7 THE COURT: I think we've questioned the
8 gentleman who's the current Chair of the County
9 Council. We questioned him about it, even though he
10 was not involved in it. I'm gonna give her a little
11 leeway.

12 MR. WILSON: Sure, I understand, Your Honor.
13 And I -- and I apologize for interrupting in a non-
14 jury, I was just trying to protect things, Your
15 Honor.

16 THE COURT: No, that's fine.

17 BY MS. JETT:

18 Q. Mr. Solomons, I think you were interrupted in
19 your answer. You were saying you did not assist in
20 the drafting of this letter --

21 A. No, ma'am.

22 Q. -- because --

23 A. Well, I mean it's -- it's much, much too broad
24 for me to have drafted it. It doesn't --

25 Q. Okay.

1 A. -- it doesn't restrict -- it doesn't contain
2 what concerns I would have regarding carte blanche
3 use of the right-to-use a private taxiway from the
4 northeast tip of the airport, which is indefinite,
5 in my opinion. I don't know what it -- I really
6 don't know what that means. Obviously, it then goes
7 on to say a private taxiway, which -- anyway, let me
8 hush. That it -- it contains a -- a broad
9 acquiescence to a position that I probably would
10 have objected to. I mean I don't vote, so if they
11 -- they could have listened to me or not, but I --
12 I'm -- but I don't have anything in my file, or in
13 my office, that indicates that I participated in the
14 drafting of this letter.

15 Q. If you had assisted in the drafting of that
16 letter, and if County Council had authorized an
17 officer to make an offer such as that letter seems
18 to -- to include or has been -- been construed to
19 include or -- or argued to include to use the
20 airport -- if -- if the offer had been to use the
21 airport runway to test airport rescue and
22 firefighting trucks, would you have included
23 language to that effect in the letter?

24 MR. WILSON: Your Honor -- Your Honor, I -- I
25 would object to that, it's leading. It calls for a

1 matter that's not relevant, Your Honor. It -- it
2 goes to all the things that we were just talking
3 about a moment ago. I don't think -- he said he
4 wasn't involved, and if he wasn't involved, I don't
5 know that what he would have done is relevant.

6 MS. JETT: Well, Your Honor --

7 THE COURT: But --

8 MS. JETT: -- a prior witness has testified that
9 he participated.

10 THE COURT: I understand it, and he's rebutted
11 that, so that objection is sustained. Thank you.

12 MS. JETT: Thank you.

13 BY MS. JETT:

14 Q. And did you approve that letter in any way?

15 A. I don't have any independent recollection of --
16 of doing so, no, ma'am.

17 Q. If you had been asked to review that letter,
18 would you have suggested any edits to it?

19 MR. WILSON: Same -- same objection, Your Honor.

20 WITNESS CONTINUES:

21 A. I've already -- I think I've already established
22 that I probably would have, yes, ma'am.

23 Q. In 2005, when that letter was issued, did you
24 routinely go to the meetings of County -- County
25 Council?

1 A. Yes, ma'am.

2 Q. And would those meetings have included going
3 into any executive sessions?

4 A. Usually.

5 Q. Okay.

6 A. Most of the time.

7 Q. Are you aware of any time in which the subject
8 of that ma -- of that letter was addressed in a
9 County Council meeting?

10 A. No, ma'am, I could not recollect that. And, of
11 course, there are no minutes, so no recordings
12 regarding executive session.

13 Q. If that letter or the content of that letter had
14 been discussed in executive session in your
15 presence, would it have been voted on in executive
16 session?

17 A. Nothing --

18 Q. Do you recall?

19 A. -- is voted on in executive session.

20 MR. WILSON: Your Honor, I -- I'll object to
21 that question, Your Honor.

22 THE COURT: I'll allow it, since that you're
23 asking what the normal procedure is --

24 MS. JETT: Yes, Your Honor.

25 THE COURT: -- in executive session.

1 MS. JETT: Yes, Your Honor, and I'll be glad to
2 reword it.

3 BY MS. JETT:

4 Q. Mr. Solomons, when you're with Council in an
5 executive session during a Council meeting, is -- is
6 there any action taken by Council in executive
7 session?

8 A. No, ma'am. I see a couple people that I
9 recognize that were there, but they would -- they
10 would tell you -- no, ma'am, the answer is you do
11 not take any official action in executive session.
12 Any official action must be taken in open session
13 and voted on in open session. You may report out of
14 executive session what was discussed in terms of the
15 general idea or item, but then any action to be
16 taken must come out of -- or in the pre -- in an
17 open session of Council.

18 Q. And in the ordinary course of those County
19 Council meetings, would any action taken by County
20 Council be reflected in the minutes of the County
21 Council meeting?

22 A. I would expect so, yes, ma'am.

23 Q. Do you have any recollection of any action of
24 Council in your presence concerning the subject
25 matter of that letter?

1 A. No, ma'am.

2 Q. Do you recall any action taken in an executive
3 session of County Council concerning the content of
4 that letter?

5 A. I do not.

6 Q. And in the ordinary course of a County Council
7 meeting, if someone tried to take action in an
8 executive session, what would have been your
9 response?

10 A. You can't do it. Don't do it, it would be
11 invalid to try to do it.

12 Q. Have you seen any minutes of County Council that
13 address the subject of that letter?

14 A. No, ma'am. To be honest with you, I don't
15 review -- typically review minutes. I hear Council
16 act on minutes at every meeting, but unless they ask
17 specific questions of me regarding something that
18 may have been addressed in County Council with a
19 legal reflected on it, then I respond, but I do not
20 remember seeing anything in the minutes about that.

21 Q. You said that that letter has come up in recent
22 times. Have you reviewed any minutes from that
23 period regarding --

24 A. No, ma'am.

25 Q. -- this subject matter? Okay.

1 MS. JETT: I beg the Court's indulgence, Your
2 Honor. Your Honor, that's all the questions I have
3 for this witness.

4 Please answer any questions Mr. Wilson has.

5 THE WITNESS: Yes, ma'am.

6 MR. WILSON: Your Honor, I might be one of the
7 few people that's ever had the privilege of cross-
8 examining the wise Mr. Solomons, so --

9 THE COURT: It's your lucky day.

10 MR. WILSON: I know. I've got a few things I
11 want to ask him, Your Honor, it might not be
12 relevant.

13 THE WITNESS: My golf game's not bad.

14 MR. WILSON: That's right, that's right.

15 **CROSS-EXAMINATION BY MR. WILSON**

16 BY MR. WILSON:

17 Q. Do you mind if I call you, Algie?

18 A. Not a bit.

19 Q. Algie, you don't get involved in every single
20 contract or agreement that Hampton County Council
21 enters into, or -- or the administrator, or someone
22 on behalf of Hampton County Council enters into, do
23 you?

24 A. Probably not, Chris. May I call you Chris?

25 Q. You most certainly can.

1 So I mean there are a number of things that
2 Hampton County Council or the administrator
3 contracts or agrees to that they feel like they can
4 handle without involving the attorney; isn't that
5 correct?

6 A. Probably, yes, sir.

7 Q. Otherwise, you'd work -- that'd be your only
8 job, right?

9 A. Yes, sir.

10 Q. It's not your only job being the --

11 A. No.

12 Q. -- Hampton County attorney, is it?

13 A. No.

14 Q. It's a part-time job, isn't it?

15 A. Yes, sir.

16 Q. You have a private practice, and I think we
17 heard you're a magistrate?

18 A. I do.

19 Q. Okay. So Hampton County's work doesn't take up
20 all of your time, does it?

21 A. No, sir.

22 Q. Okay. Now, if Council goes into executive
23 session and they have a discussion about whatever in
24 executive session, then they come out, and -- and --
25 and they can take action by instructing whoever the

1 -- whoever it is, the Administrator, or whoever
2 needs to take action what to do, that's done in open
3 session, correct?

4 A. Correct. Generally, coming out of executive
5 session the Chairman will announce to the --
6 whoever's there and that during -- once they take a
7 vote to come out of executive session, the Chairman
8 usually reports to the public the items that were
9 involved that they discussed in executive session.
10 They do not -- they do not address the specifics of
11 the discussion, but they announce the -- whatever
12 was -- was -- was discussed in executive session.

13 Q. Okay. And -- and so there will be a discussion
14 in executive session, and then members will leave
15 executive session, will come out, and they'll give
16 instruction of what to do?

17 A. Yes, sir. They don't vote. If there's gonna be
18 a vote on whatever happened in executive session,
19 somebody motions the Chairman about it, and if it
20 gets a second, and after discussion they take a
21 vote.

22 Q. Now, we talked about this enough, but I think
23 everybody understands when you said -- your -- your
24 testimony, as I understand it, is that -- let me
25 rephrase that, one moment.

1 MR. WILSON: Just one moment, Your Honor.

2 BY MR. WILSON:

3 Q. Mr. Solomons, do you agree with me, I guess
4 you've looked at this letter, I'm sure you've looked
5 at the map, the aerial, do you agree with me that
6 however inartfully worded this language might be a
7 private taxiway right-to-use from the northeast tip
8 of the airport to the Gemco property line, that that
9 description, Gemco property line to the northeast
10 tip of the airport encompasses the entire airport
11 property?

12 A. I would not.

13 Q. You don't agree with that?

14 A. No, sir. I wouldn't have written the letter.
15 That's why, if I wrote that letter, it would have
16 been much more detailed.

17 Q. And I'm not asking you if you don't agree with,
18 because you didn't write the letter, I'm asking
19 you --

20 A. I do not agree with your position that that
21 includes the airport.

22 Q. So what do you think Gem -- no, I mean --

23 MR. WILSON: Judge, I know you've seen this.

24 EXAMINATION CONTINUES BY MR. WILSON:

25 Q. I mean you'd agree with me that's the Gemco

1 property line, don't you?

2 A. It --

3 Q. You've seen an aerial?

4 A. It could be. I can't tell you, Chris.

5 Q. Okay. Well how --

6 A. If you're telling me that's the Gemco property
7 line, I will agree with you, but --

8 Q. And the runway goes east to west?

9 A. Yes, sir.

10 Q. So north, south, east, west?

11 A. Yes, sir.

12 Q. So Gemco property line here, and the northeast
13 -- the northeast direction's over here somewhere,
14 correct?

15 A. It would appear to be.

16 Q. And your testimony is you don't believe that --
17 that the description that starts here and runs all
18 the way over here encompasses the entire airport?

19 A. I do not.

20 Q. Okay.

21 A. If I may?

22 Q. Well, what -- what does it -- what would that
23 encompass?

24 A. Well, what -- what you need to include is the
25 agreement that was signed between County previously,

1 and also the easement that was signed that properly
2 identifies the access that Company Two, whoever that
3 is now, had to the airport.

4 Q. What if there was a -- what if there was another
5 -- a different agreement, a prior agreement?

6 A. I don't know anything about it.

7 Q. I'm not asking you if you know anything about
8 it, I'm asking you if there was a prior agreement
9 that encompassed a different piece of property, or
10 encompassed a different area?

11 A. What about it? I mean if -- if is a big word, I
12 -- I -- unless you show me something specifically,
13 I'm not going with if.

14 Q. I understand, but that's -- I mean that's what
15 disputes are about is to prove different sides of
16 if, so my question is -- I think my question was
17 that you don't agree that that enc -- encompasses --
18 that that description encompasses the entire airport
19 property?

20 A. I do not.

21 Q. Well, then I want you to tell me, Algie, what
22 does that description encompass from the Gemco
23 property line to the northeast tip of the airport?

24 A. Well what I --

25 Q. No, not what you would have done, I want you to

1 tell me what it encompasses.

2 A. I think, based on my reading of this, and I
3 can't disassociate my own understanding is that
4 there was an intent to run from that property line
5 directly to the ta -- to the airport, and that was
6 the taxiway. That's what I think that letter meant,
7 and that's all I can tell you. I can't -- why
8 Mr. Daniel put that in there, I don't know.

9 Q. But you weren't involved in preparing this
10 letter?

11 A. I was not.

12 Q. Were you ever involved, to your recollection, in
13 any of the discussions or negotiations with Company
14 Two relocating or locating in Hampton County? Do
15 you have any independent recollection of that?

16 A. No, not other -- other than possibly reviewing
17 the -- the easement documents, or the deed --

18 Q. Sure.

19 A. -- but, no.

20 Q. And you know Quincy?

21 A. I do.

22 Q. Okay. So you would have interacted with him
23 many times before?

24 A. Yes.

25 Q. But with respect --

1 A. He's a pretty good golfer, too, you know.

2 Q. I agree, he cut me the last time. So with
3 respect to -- you may have been involved in the 2011
4 and 2014 documents, I think.

5 A. Involved to the extent that I was reviewing what
6 I was tasked to review.

7 Q. But you had no involvement and -- and your
8 independent recollection is you had no involvement
9 in any discussions or negotiations with Mr. Jones
10 back in 2005?

11 A. I don't think so. No. Let me answer no, that's
12 my recollection.

13 Q. Okay.

14 MR. WILSON: Your Honor, I don't believe I have
15 any more questions.

16 Thank you, Alge.

17 THE WITNESS: Thank you.

18 MS. JETT: I have a few redirects.

19 THE COURT: Yes, ma'am.

20 **REDIRECT EXAMINATION BY MS. JETT**

21 BY MS. JETT:

22 Q. Mr. Solomons, I'm going to hand you, again,
23 Plaintiff's 1. Mr. Wilson asked you whether that
24 area that's described in that paragraph encompasses
25 the entire airport, and you said it doesn't. It --

1 A. I don't --

2 Q. -- gives -- it gives two points of reference
3 somewhat; does it not?

4 A. To the tip of the airport.

5 Q. So I'm just gonna show you a blank piece of
6 paper here. I'm a little --

7 A. And see that's so vague, too, Ms. Jett, to the
8 tip of the airport.

9 Q. Right. Well I'm gonna give you -- I'm gonna
10 show you a piece of paper here. I draw a little
11 black circle here, it might be blue, my eyes are
12 bad, but a little circle here. If I want to go from
13 that circle to that circle, and I describe that as
14 an area, but we don't know, do we, if that's a
15 straight, narrow line, a wavy path, is it a wide
16 path, is it square, is it sort of rounded, or is
17 there someway of saying that from here-to-here is
18 the whole top half of this page, do we?

19 A. No.

20 Q. And that's why you wouldn't haven't written
21 that, isn't it?

22 A. Exactly. That's one of the reasons.

23 Q. Now, if -- you were asked if you participate in
24 every County contract. In general, do you know of
25 any contractual matters affecting County lands that

1 you don't become involved in?

2 A. No. As a general statement regarding any
3 property leased or -- and/or conveyed, either to or
4 from the County, usually results in my reviewing
5 documents.

6 Q. What if somebody just wants to use the County
7 properties? Doesn't want an easement, doesn't want
8 a sale, and doesn't want a lease, they just want to
9 use it now, are you consulted on the use of land?

10 A. I hope I would be, but I can't tell you in every
11 case I would have been.

12 Q. Are you aware, during your tenure, of any
13 contract affecting use of land that you weren't
14 consulted on?

15 A. No -- no, ma'am.

16 Q. Any County land? You mentioned earlier about
17 what happens after executive session, that somebody
18 motions the Chairman if there's a second, there's a
19 vote taken. But the motion and the second and the
20 vote are all in open session, correct?

21 A. Absolutely.

22 Q. Thank you.

23 MS. JETT: No further questions, Your Honor.

24 MR. WILSON: Can I briefly, Your Honor?

25 THE COURT: Sure.

1 MR. WILSON: Thank you.

2 **RE CROSS-EXAMINATION BY MR. WILSON**

3 BY MR. WILSON:

4 Q. Algie, --

5 A. Yes, sir.

6 Q. -- Ms. Jett was asking you about if you're
7 consulted every time by County Council or involved
8 every time County Council or Hampton County decides
9 to allow someone or to commit to somebody use of
10 property, and you said you don't know. You don't
11 really know, do you? You hoped you would be, but
12 you don't really know for sure?

13 A. Correct.

14 Q. Okay. I -- I remember when Randolph Murdaugh
15 got the Order at Palmetto, they had a big ceremony
16 out here on the Courthouse grounds. I was there, I
17 think you were there, too, weren't you?

18 A. Yes, I was.

19 Q. Did you get consulted by County Council about
20 the use of the Courthouse grounds?

21 A. No.

22 Q. The -- the -- Hampton County authorizes or had
23 authorized -- there's this huge thing goes on every
24 year here, the Hampton Watermelon Festival, right?

25 A. Yes.

1 Q. It's gone on for 75 --

2 A. A long time.

3 Q. -- plus years, right?

4 A. Yeah.

5 Q. The Watermelon Festival uses the airport
6 property back for mud runs, correct?

7 A. Correct.

8 Q. Do you ever get consulted about the County's
9 agreement for the Watermelon Festival to use the
10 airport for mud runs?

11 A. Yes.

12 Q. Okay. How about car shows at the airport?

13 A. I remember a discussion about car shows and --
14 and the use of the airport for that purpose.

15 Q. Were you consulted about --

16 A. Well, I don't know if you would call that a
17 consulting situation, I'm not sure.

18 Q. You don't know of your own knowledge,
19 specifically, what Hampton County Council intended
20 -- or what Company Two intended by the terms of this
21 letter, because you weren't involved in it, correct?

22 A. Correct.

23 Q. And you don't even recall being involved of your
24 own independent knowledge in any of the discussions
25 in 2005, or negotiations, or whatever you want to

1 call it that led up to this letter?

2 A. The only thing -- well, I -- I've previously
3 testified that what I remember is it was -- when the
4 time came to reduce what I thought the agreement in
5 writing was, I reviewed that. And that -- and that
6 letter -- and that agreement I assumed was signed.
7 You sent me a copy of it, but it was unsigned, and
8 then that was followed by the exchange of the
9 property, which I did review, and the easement,
10 which I did review.

11 Q. I gotcha, and that's what you thought was meant
12 back --

13 A. Yes.

14 Q. -- in 2005?

15 A. Yes.

16 Q. But you don't know that for sure, do you? You
17 don't even know that of your own knowledge, do you?

18 A. I know of my own knowledge what -- how I
19 participated, and I didn't participate in writing
20 that letter.

21 MR. WILSON: I don't have any other questions,
22 Your Honor.

23 MS. JETT: Your Honor, I have one more.

24 RE-REDIRECT EXAMINATION BY MS. JETT

25 BY MS. JETT:

1 Q. Mr. Solomons, you were asked about --

2 MR. WILSON: Your Honor, I -- I mean --

3 THE COURT: We've had your expert testimony on
4 direct, we've had cross, we've had re-cross, now
5 we're re-redirecting. Very briefly.

6 MS. JETT: Yes, Your Honor.

7 BY MS. JETT:

8 Q. You were asked about the Courthouse grounds and
9 the Order of the Palmetto ceremony. By law, the
10 Courthouse grounds are under the control of the
11 Clerk of Court, not County Council, nor the County
12 administrator; is that correct?

13 A. That's my understanding, yes, ma'am.

14 Q. Okay.

15 MS. JETT: That's it, Your Honor.

16 MR. WILSON: Your Honor, could I -- just one
17 question?

18 **RE-RECROSS-EXAMINATION BY MR. WILSON**

19 BY MR. WILSON:

20 Q. If anybody uses the recreation grounds, anybody
21 ever uses the softball complex, or any other
22 property like that, just on a basis, are you
23 consulted?

24 A. Re -- restate that question?

25 Q. If any citizen wants to use the softball complex

1 on the weekend or wants to use the recreation
2 grounds, you're not consulted in every one of those
3 instances, are you?

4 A. The only recreation grounds I'm aware of that
5 the County owns is -- is the old Varnville gym. We
6 don't have a County rec area. We -- we're -- we're
7 hoping to get there, but so far -- so the answer is
8 regarding Varnville gymnasium property, no.

9 Q. Okay.

10 MR. WILSON: No other questions.

11 MS. JETT: Your Honor, may this witness be
12 excused?

13 THE COURT: You don't have any objection, do
14 you?

15 MR. WILSON: No, thank you, Your Honor.

16 THE COURT: Yes.

17 MR. SOLOMONS: May I speak with Mr. Ness?

18 THE COURT: Certainly.

19 MR. SOLOMONS: Thank you.

20 MR. AARON NESS: Judge, can we take a ten-minute
21 break?

22 THE COURT: Sure. And let's try to do at least
23 one more witness before we break for lunch.

24 MR. AARON NESS: Yes, ma'am.

25 (Whereupon, a brief recess is taken.)

1 THE COURT: Okay, are we ready for the next
2 witness?

3 MR. AARON NESS: We are, Your Honor, we call
4 Dr. Roy Hollingsworth.

5 (Dr. Roy Hollingsworth, Jr., was duly sworn
6 and testified as follows)

7 **EXAMINATION BY MR. AARON NESS**

8 BY MR. AARON NESS:

9 Q. Dr. Hollingsworth, would you state your name for
10 the record, please?

11 A. Roy T. Hollingsworth, Jr.

12 Q. And, Dr. Hollingworth, where are you from?

13 A. I'm originally from Miami, Florida.

14 Q. Okay, and where do you live now?

15 A. I live in Varnville, South Carolina.

16 Q. How'd you get from Miami to Varnville?

17 A. I was recruited in college.

18 Q. And where did you go to --

19 A. As an undergraduate.

20 Q. And where'd you go to college?

21 A. I went to Florida A&M University.

22 Q. Would you be able to speak -- speak up a little
23 bit? And then after college you were recruited
24 here?

25 A. Yes, as an undergraduate, yes.

1 Q. To do what?

2 A. To work as a County Extension Agent for Clemson
3 University, who offered the extension service.

4 Q. And did you continue doing that job throughout
5 your career, or did you do other things?

6 A. Worked for them for 33 years. I retired as a
7 County Extension Agent.

8 Q. Okay. In that 33 years did you also go back and
9 get more education?

10 A. Yes, I did.

11 Q. Can you tell the Court about that?

12 A. I have a master's in agricultural education from
13 Clemson University, and a doctorate degree in rural
14 sociology from the Union Institute -- well, Union
15 University and Institute.

16 Q. Okay. And are you married, Dr. Hollingsworth?

17 A. Yes, I am.

18 Q. And what's your wife's name?

19 A. Margaret Hollingsworth. Nowell is her maiden
20 name.

21 Q. And is she from Hampton?

22 A. Yes, she is. Actually, she's from Miley.

23 Q. Okay. Hampton County.

24 A. In -- in Hampton County.

25 Q. How long -- or are you on Hampton County

1 Council?

2 A. Yes, I am.

3 Q. And how long have you been on Hampton County
4 Council?

5 A. I've been on Hampton County Council since
6 January of 2013.

7 Q. And are -- you're still currently on it,
8 correct?

9 A. Yes, I am.

10 Q. And have you ever been chairman?

11 A. Yes.

12 Q. When?

13 A. From January 2017 until January 2019.

14 Q. Prior to being on Hampton County Council, did
15 you have any real knowledge of the Hampton Airport?

16 A. No.

17 Q. Any real reason?

18 A. No.

19 Q. And when did you get interested in the Hampton
20 County Airport?

21 A. In 2013 I attended the South Carolina Economic
22 Development Institute, and it was a training that
23 had started in February of 2017 -- I mean 2013
24 through November of 2013. And there were four
25 sessions that they had, and during those sessions,

1 in one of those sessions they talked about airports
2 and how viable it could be to your community if you
3 have one for those counties who do have an airport.
4 That you have a gem when it comes to economic
5 development, and if you have not done anything to
6 improve it or enhance it, it could possibly, you
7 know, be an opportunity to do economic development
8 by way of -- by the airport.

9 Q. So it was during this meeting that you got
10 interested in the airport?

11 A. That's correct.

12 Q. Okay. After this Economic Development
13 Institute, when did you -- when, if at all, did you
14 go visit the Hampton Airport?

15 A. It was somewhere either the latter part of 2013,
16 or the first part of 2014, I went out there to look
17 at that airport.

18 Q. And what did you find?

19 A. I saw a few hangars that were out there, not
20 much activity going on out -- out there.

21 Q. What did you discuss with other Councilmembers
22 after visiting the airport?

23 A. Well, my concern was what were we going to --
24 what -- what were we doing -- what were we doing for
25 the airport. To be honest with you, I saw very

1 little activity going on out there, and tried to
2 think of what can County Council do to either change
3 the direction of where the airport would go, and
4 look at some other opportunities to generate revenue
5 with the County; or possibly, you know, look at
6 those things that could develop the airport and
7 enhance it.

8 Q. Do you recall who you may have had discussions
9 with about that?

10 A. Actually, besides myself, it was Councilman --
11 which is now our House Representative, Shedron
12 Williams.

13 Q. Okay.

14 A. He and I both went out there to look at the
15 airport at that time.

16 Q. What about -- what about the County
17 administrator?

18 A. No.

19 Q. Okay. Do you recall any discussions with
20 Mr. Williams about that?

21 A. Yes.

22 Q. Can you tell the Court what they were?

23 A. Well, you know, we looked in the hangars to see,
24 you know, the -- the hangars were somewhat, you
25 know, I won't say dilapidated, but I mean they were

1 oper -- you know, they were structurally --
2 structurally there. Looked in there to see, if
3 there were planes in there. It was my
4 understanding, at the time, that the hangars
5 belonged to the County. I found out later on that
6 they were privately owned hangars.

7 Q. When, if at all, did you have discussions with
8 the County administrator that y'all wanted to get it
9 back going, redevelop it?

10 A. It was when we hired our County administrator,
11 Ms. Rose Elliott.

12 Q. And what were those discussions like?

13 A. Well, during her interview with the full
14 Council, I do recall myself asking her what did she
15 think about airports? And I had my view as to try
16 to do something with that airport that we had out
17 there, and she stated that -- that she would -- that
18 she believed in airports, and she felt that she
19 could get the airport back in operation with what I
20 considered vital economic development for Hampton
21 County.

22 Q. And what did County Council start doing to get
23 the ball rolling; so to speak?

24 A. Well, we -- so somewhat left it in her hands to
25 come up with monies, or grants, or whatever, that

1 she could move forward in trying to obtain to
2 develop it -- to get it developed, so we sort of
3 left it in her hands to come up with some ideas as
4 to how go about doing it. But I think it was the
5 consensus of the, in my opinion, the consensus of
6 the Council that we wanted to do something with that
7 airport to get back into a viable operating and good
8 condition.

9 Q. What's your position as a current County
10 Councilman regarding Company Two and its use of the
11 airport?

12 A. Repeat that again?

13 Q. Yes, sir. What's your position as a current
14 County Councilman regarding Company Two and use of
15 the airport? What -- what's your standpoint on it?

16 A. What my standpoint is?

17 Q. Yes, sir.

18 A. My standpoint only was, and I think Councilman
19 Chairman Buddy Phillips stated yesterday that we
20 wanted to consider having it as a viable, economic
21 entity for Hampton County, and that in order for
22 that to happen, first of all they have the safety
23 involvement, they had the security involvement, and
24 they had liability involved; so those are the three
25 areas that I felt that airport that we need to

1 address in bringing about a viable airport.

2 Q. How's the County made any progress, if any, on
3 the airport since 2015?

4 A. They've made tremendous progress --

5 Q. How so?

6 A. -- since -- the -- the runway, an asphalt
7 runway. We have a fuel station out now for jet fuel
8 as well as regular planes. Twenty T-hangers as well
9 as the corporate -- two corporate hangers that been
10 built out there. The Pilot Lounge has been
11 remodeled, refurbished. We have a communication
12 system to where a plane, you know, by way of radio,
13 that gives out weather as to what it is out at the
14 airport for the -- for -- for pilots that are flying
15 in. There's been a lot out there.

16 Q. Are you a pilot, Dr. Hollingsworth?

17 A. No, I'm not.

18 Q. Have you ever flow in and out of Hampton
19 Airport?

20 A. I have not.

21 Q. So is your interest in the airport purely from a
22 Council and economic development perspective?

23 A. That's correct.

24 MR. AARON NESS: Nothing further on direct, Your
25 Honor.

1 THE COURT: Mr. Wilson?

2 MR. WILSON: Thank you, Your Honor.

3 CROSS-EXAMINATION BY MR. WILSON

4 EXAMINATION BY MR. WILSON:

5 Q. Mr. Hollingsworth, good to see you again.

6 Mr. Hollingsworth, you were not on -- as I
7 understand it you started in 2013?

8 A. Yes, January of 2013.

9 Q. So you weren't there in 2005, and you don't know
10 what kind of discussions were held between Company
11 Two and Hampton County in 2005, do you?

12 A. No.

13 Q. Okay. I asked Mr. Phillips this yesterday, I
14 want to see if you agree with him, Hampton's done
15 improvement -- improvement work at the airport,
16 correct?

17 A. Yes.

18 Q. And added a taxiway, correct?

19 A. Yes.

20 Q. The taxiway runs the full length of the air --
21 of the runway, doesn't it?

22 A. Some of the runway, yes.

23 Q. Right parallel to it?

24 A. Yes.

25 Q. Okay. Do you know of any rule, regulation, law,

1 guideline that says Company Two can't be on an
2 airport runway or an airport taxiway?

3 A. No.

4 Q. When Hampton County Council or Hampton County
5 makes commitments to anybody, you think the County
6 should honor those, don't you?

7 A. Yes, if we have a written document, yes.

8 Q. Okay. If the County makes promises to somebody,
9 you think they should honor that, don't you?

10 A. As long as it's written, yes.

11 Q. Okay. Now, when you first got on Council in
12 2013 and 2014, I think the Watermelon Festival came
13 to Council for approval and use of the airport
14 property for something called mud runs, right?

15 A. I believe they came in -- I believe the date is
16 2014.

17 Q. And you --

18 A. I think.

19 Q. You voted in favor of that in 2014?

20 A. For, what? For the mud run?

21 Q. Yeah.

22 A. Yes, I think I did when it was the mud run in
23 2014, I believe that's correct, the correct date,
24 year, so I voted yes.

25 Q. Okay. And if you started in 2013, you would

1 have started in January of 2013; doesn't that sound
2 right?

3 A. That's correct.

4 Q. And that Watermelon Festival takes place every
5 summer, doesn't it?

6 A. Yes.

7 Q. And normally come to Council just a few minutes
8 -- a few months before that to get permission to use
9 the Airport property, correct?

10 A. Correct.

11 Q. So, likely, you voted for it in 2013 sometime
12 before the summer of '13, while you were with
13 Council, and in 2014; does --

14 A. Right.

15 Q. -- that make sense?

16 A. Yes, it does.

17 Q. Okay. And then I guess in 2015 you said you
18 voted against it?

19 A. Yes.

20 Q. And that would have been after Ms.. Rose Elliott
21 became administrator?

22 A. Yes.

23 Q. And that was after some of the things you
24 discussed here earlier about a change in Council's
25 desires to try to move forward doing something with

1 the airport?

2 A. Correct.

3 Q. Now, there are other routes that use the airport
4 -- and now let me ask you this, the Watermelon
5 Festival use, that never went through three readings
6 and an ordinance or anything like that to be
7 approved, did it?

8 A. No, 'cause it was done just one time as a single
9 vote by --

10 Q. Okay.

11 A. -- by Council.

12 Q. Okay. And there are other groups similar to
13 that that have used the airport in the past, same --
14 same concept, correct? It didn't go through three
15 readings and a vote, there was a Air National Guard
16 that used the airport?

17 A. Yes, for enrichment purposes, well, for
18 training.

19 Q. For training?

20 A. Yes.

21 Q. Okay. I think there was a -- a private company,
22 a helicopter group and -- and an ambulance emergency
23 transport helicopter group that has used the airport
24 property.

25 A. Yes.

1 Q. And none of that stuff's gone through three
2 readings and an ordinance, has it?

3 A. Yeah, I believe it may have, I'm not quite sure,
4 because of their methods, and we needed a place for
5 them to have that airport, and they had to have a
6 place where they could at least have access to
7 equipment.

8 Q. Okay.

9 A. So I'm not -- I'm not quite sure --

10 Q. You're not to sure about that one.

11 A. -- exactly if we did have three readings and an
12 open hearing, but I do know that they asked for it.

13 Q. I understand, okay. Yeah, I mean they had to do
14 something to approve the use --

15 A. Yes.

16 Q. -- by air methods, correct?

17 A. Yes.

18 Q. Okay. And same thing for the Air National
19 Guard?

20 A. Yes.

21 Q. I -- I think --

22 MR. WILSON: Could I just have one moment,
23 please, Your Honor?

24 BY MR. WILSON:

25 Q. Mr. Hollingsworth, I -- I want to make sure I

1 have this right. I think you told me, and I want
2 you to tell the Court, were you aware -- so you --
3 you've been on Council since 2013, and the evidence
4 is in 2015 Mr. Jones was told to stay off the
5 runway. In that time period, you were made aware
6 that Mr. Jones was on the airport runway, weren't
7 you --

8 A. No.

9 Q. -- testing fire trucks?

10 A. No.

11 Q. You weren't?

12 A. No.

13 Q. When's the first time that you found out or
14 learned that Company Two was using the airport
15 runway to test fire trucks?

16 A. After we hired Ms. Rose Elliott as our County
17 administrator.

18 MR. WILSON: That's all the questions I have,
19 Your Honor.

20 Mr. Hollingsworth, I appreciate your time today.

21 THE WITNESS: Thank you.

22 MR. WILSON: Thank you.

23 MR. AARON NESS: A couple on redirect, Your
24 Honor.

25 THE COURT: Yes, sir.

1 **REDIRECT-EXAMINATION BY MR. AARON NESS**

2 BY MR. AARON NESS:

3 Q. Dr. Hollingsworth, you mentioned Air Methods a
4 minute ago?

5 A. Yes.

6 Q. Can you tell the Court what that is?

7 A. Air Methods is a medical-type doctor that it --
8 whenever there is a problem, or a medical situation,
9 they fly patients to -- to bigger -- a -- a larger
10 medical facility like a hospital. And the County
11 had contracted out with their evidence of -- their
12 air methods to provide that service.

13 Q. And --

14 THE COURT: Tell me -- tell me what you're
15 saying, what the name?

16 MR. AARON NESS: Yeah, Air Methods.

17 THE COURT: Methods?

18 MR. AARON NESS: Yeah, Methods, yes, ma'am.

19 BY MR. AARON NESS:

20 Q. And where are they stationed again?

21 A. I don't know where they're stationed now, you
22 know, -- as -- as of today, but I do know that when
23 they came to Hampton County, they were housed out --
24 stationed out there at the airport.

25 Q. How long does the Watermelon Festival typically

1 last?

2 A. For a week.

3 Q. Okay. Oh, for one week?

4 A. Normally, it starts on -- like on Father's Day,
5 and it goes until the following Sunday.

6 Q. Okay, so for a single week?

7 A. Yes.

8 Q. Okay, I thought you said four weeks.

9 A. No, no, no.

10 Q. Okay. And then the single event that they came
11 to County Council about -- about, how long did that
12 -- was that event supposed to last?

13 A. One day.

14 Q. Okay. And where at the airport were they
15 requesting to use?

16 A. The County had a clay pit that was part of the
17 Airport property that they -- that they held the mud
18 run at.

19 Q. Not the runway?

20 A. No.

21 Q. No. Thank you.

22 MR. AARON NESS: Nothing -- nothing further,
23 Your Honor.

24 THE COURT: Anything further, Mr. Wilson?

25 MR. WILSON: Nothing further, Your Honor.

1 THE COURT: Thank you, sir, you can step down.

2 MR. HOLLINGSWORTH: Thank you.

3 MR. AARON NESS: May he be excused, Your Honor?

4 THE COURT: Any objection?

5 MR. WILSON: No objection, Your Honor.

6 THE COURT: Sir, you can be excused.

7 MR. HOLLINGSWORTH: Oh, okay.

8 THE COURT: Thank you.

9 MS. JETT: Your Honor, our next witness is going
10 to take probably in excess of 30, 45 minutes. I
11 didn't know if you wanted us to call him before or
12 after lunch.

13 THE COURT: Can we do one more before we break?

14 MS. JETT: Yes.

15 THE COURT: Are you ready to go on that?

16 MS. JETT: I think Mr. Woodward's back here.

17 (Jack Harley Woodward, having been
18 duly sworn, testifies as follows:)

19 **DIRECT EXAMINATION BY MS. JETT**

20 EXAMINATION BY MS. JETT:

21 Q. Good morning.

22 MR. WILSON: Your Honor, --

23 WITNESS CONTINUES:

24 A. Good morning.

25 MR. WILSON: I apologize, I believe Mr. Woodward

1 is a member of the Airport Commission, and I don't
2 know that there's any relevance to Airport
3 Commission with respect to what we heard.
4 Everything we've heard is Hampton County Council
5 controls the airport and makes the ultimate
6 decision, decisions on how it's operated, so I -- I
7 don't know what the relevance of the Airport
8 Commission is.

9 MS. JETT: Your Honor, you will be hearing what
10 the role of the Airport Commission is, if -- if you
11 allow Mr. Woodward to testify.

12 THE COURT: I -- I'm going to allow it. I don't
13 know what his testimony is going to be, but we'll
14 determine whether it's relevant.

15 MS. JETT: Thank you.

16 BY MS. JETT:

17 Q. Please state your full name for the record,
18 please.

19 A. Jack Harley Woodward.

20 Q. Mr. Woodward, are you employed at this time?

21 A. No, ma'am.

22 Q. Okay.

23 A. I'm retired.

24 Q. What did you retire from? And what sort of
25 pilot were you?

1 A. I -- corporate pilot, crop duster --
2 Q. In the private --
3 A. All --
4 Q. -- industry?
5 A. In the private sector, self-employed.
6 Q. How long did you do that for a living?
7 A. Fifty, 55 years or so.
8 Q. Are you still flying?
9 A. Not much.
10 Q. But you can fly? Do you still -- you're still
11 allowed to fly?
12 A. No, I don't have a current medical record.
13 Q. So you have not medically, I don't know what you
14 call it, recertified to continue as a -- as a
15 licensed pilot?
16 A. Well, the money to be recertified because I'm
17 having a heart issue, it's more than the gain would
18 be.
19 Q. What is your relationship, if any, with the
20 Hampton County Airport?
21 A. I'm the -- at this time I'm the Chairman of the
22 Advisory Committee.
23 Q. The Hampton Airport Commission?
24 A. Commission, as an advisor to the Council.
25 Q. Okay. And how long have you been on the Airport

1 Commission?

2 A. I've been on there about 17 years, I think.

3 Q. So do you believe you were on there before
4 Mr. Quincy Jones and his company purchased the Gemco
5 building?

6 A. I think so.

7 Q. You said that the Airport Commission is an
8 advisory to County Council; would you elaborate on
9 that, and tell the Court what that role is?

10 A. We -- we just advise them on the operation and
11 the rules and regulations of flying, and, basically,
12 the number one issue is the safety, to make sure
13 everything is done safely.

14 Q. If there is an issue involving the Airport, it
15 is to be brought before County Council at one of its
16 regular meetings. Are you routinely present for
17 those meetings?

18 A. Yes, ma'am.

19 Q. And if Council goes into executive session to
20 consider a matter involving the airport, do you
21 typically go into executive session with Council?

22 A. No, ma'am.

23 Q. So if Council goes into executive session to
24 consider a business contract or a proposal regarding
25 the airport, would you be back there out of the

1 presence of the public?

2 A. Well, if they -- if they needed direction and
3 guidance on it.

4 Q. So there would be --

5 A. If they ask.

6 Q. There would be occasions when you would report
7 to the County Council in executive session; is that
8 correct?

9 A. If -- if needed to.

10 Q. Okay. I want to ask you to take a look at
11 what's been marked as Plaintiff's -- admitted as
12 Plaintiff's Exhibit 1, and ask you, if you are
13 familiar with that document?

14 A. (Reviews document.) No, ma'am.

15 Q. Have you ever seen that document?

16 A. I have no recollection of it.

17 Q. Okay. Well, I'm going to ask you then to take a
18 moment to read it. It's a -- it's a pretty short
19 letter, and I've got a question for you about it.

20 A. (Reviews document.)

21 Q. Having read the letter, Mr. Woodward, do you
22 recall being involved in any meetings or discussions
23 that might have led to the issuance of this October
24 12, 2005, letter?

25 A. No, ma'am.

1 Q. Were you present for any negotiations or
2 proposals made between Company Two, or Q&J
3 Properties, or Mr. Quincy Jones and Hampton County
4 in 2005, predating that letter?

5 A. No, ma'am.

6 Q. At some point, while you were on the Airport --
7 while you've been on the Airport Commission, did you
8 become aware that Company Two was testing fire
9 trucks on the Hampton Airport runway?

10 A. Yes, ma'am.

11 Q. How did you become aware of that?

12 A. When I -- local pilots had landed at the Airport
13 called attention to the fact that there was foam on
14 the runway, and there was -- had been a fire truck
15 back there on it.

16 Q. Okay, and did you make any inquiry in response
17 to the report of a fire truck and foam on the
18 runway?

19 A. I didn't make a formal report, but I asked the
20 County administrator.

21 Q. And who was that County administrator at the
22 time?

23 A. That would have been Rose --

24 Q. Rose Elliott?

25 A. -- Elliott.

1 Q. And you asked her about it?

2 A. Yes, ma'am.

3 Q. Are you aware of any developments that occurred
4 after asking Ms. Elliott about the foam at the
5 Airport and the fire trucks?

6 A. There was a lot of discussion over it, a lot of
7 arguments about it.

8 Q. Arguments between who?

9 A. The fire truck people and the County.

10 Q. Speak -- speak close to the mic. What kind of
11 arguments between -- and you -- when you said fire
12 truck people, you mean Mr. Jones' company?

13 A. Mr. -- Mr. Jones' company.

14 Q. Okay, and what kind of argument was there
15 between Mr. Jones' company and --

16 A. He came to several Council meet -- I mean
17 Airport Commission meetings --

18 Q. And what --

19 A. -- and had made different proposals and stuff.

20 Q. At -- at any of those meetings, did anyone
21 assert that Mr. Jones was using the airport with the
22 permission of the County?

23 A. No, ma'am, I never heard that.

24 Q. Okay. In October -- well, let me -- let me back
25 up. What is your position, if any, as a member of

1 the Airport Commission regarding use of fire trucks
2 or testing of fire trucks on the airport runway?

3 A. I -- I don't see it being safe.

4 Q. Okay.

5 A. That's a safety issue, and I don't think -- the
6 airport is an uncontrolled airport, and pilots from
7 all over the world can land on it, and a lot of them
8 come in who don't have radios, and it would be a
9 safety concern. Safety is number one on airports.

10 Q. That airport is not instrument righted, correct?

11 A. No, ma'am.

12 Q. So it's a visual only?

13 A. Yes, ma'am, at this time.

14 Q. So when an airplane of whatever size, or nature,
15 or -- flies into the Hampton County Airport, the
16 pilot has to keep a visual lookout for any
17 obstacles, hazards, or other airplanes -- other
18 traffic, correct?

19 A. Yes, ma'am.

20 Q. Okay. And then -- and he doesn't have anybody
21 to radio and ask for clearance to land, right?

22 A. No, you don't get clearance on an uncontrolled
23 field.

24 Q. Right, you don't ask, you just look out and be
25 as safe as you can, right?

1 A. Yes, ma'am.

2 Q. And speaking of fire trucks. (Sirens sound
3 outside.) What is your position as a professional
4 pilot of over 50 years of experience, sitting on an
5 Airport Commission, advising County Council about
6 any continued presence of fire truck testing on the
7 airport runway here?

8 A. I would advise them it is not a safe issue, and
9 it should not be done.

10 Q. So as a -- as a member and the Chair of the
11 Airport Commission, you would oppose that practice?

12 A. I would oppose it.

13 Q. Okay. Do you know of anything that could be
14 done to the Hampton County Airport in its current
15 state that would make that a safe practice?

16 A. No, ma'am.

17 Q. How many runways do you have at the airport?

18 A. One.

19 Q. Were you sitting on the Hampton County Airport
20 Commission in October of 2015?

21 A. Yes, ma'am.

22 Q. Were you the Chair at that time?

23 A. I think so.

24 Q. Okay. I want to show you what has been marked
25 as Exhibit -- Defendant's Exhibit 20, and ask you if

1 you've ever seen that document. Just take a moment
2 to review it?

3 MR. WILSON: Can I see it just one moment?

4 MS. JETT: Sure.

5 MR. WILSON: Do you have a copy?

6 MS. JETT: I think we -- I think we provided you
7 a copy of everything we proposed.

8 MR. WILSON: Got it.

9 MS. JETT: Sure.

10 BY MS. JETT:

11 Q. I appreciate your patience, Mr. Woodward. And,
12 again, I'm going to show you, Mr. Woodward, what's
13 been marked as Exhibit 20 and ask you to take a
14 moment to read over that document.

15 A. (Reviews document.)

16 Q. When you're ready to talk about it, let me know.

17 A. Okay.

18 Q. And I want to show you what's been marked as
19 Exhibit -- as Defendant's Exhibit 21, because we're
20 gonna discuss those sort of in conjunction with 20.

21 A. (Reviews document.)

22 Q. Mr. Woodward, what is Exhibit 21?

23 A. It was a -- a denial of use, a recommendation
24 simply made to Council.

25 Q. Okay. And that's the letter from you as

1 Chairman of the Hampton County Airport Commission to
2 the Hampton County Council, dated November 29, 2016;
3 is that correct?

4 A. Yes, ma'am.

5 Q. And Exhibit 21 appears to be, does it not, the
6 -- recommendation of the Airport Commission to the
7 County Council that they deny a requested use from
8 Company Two to use the runway to test its fire
9 trucks?

10 A. Yes, ma'am.

11 Q. Okay. So that request was considered -- was
12 under consideration in November 2016, correct?

13 A. Yes, ma'am.

14 Q. And it was going to be up to County Council to
15 decide, --

16 A. Yes.

17 Q. -- correct?

18 A. Yes, ma'am.

19 MR. WILSON: Your Honor, I -- I just object to
20 her leading.

21 MS. JETT: Well, he already said that, I'm just
22 getting to the next question, but I -- I'm trying to
23 move it along. Your Honor, I'll try to move it
24 along.

25 BY MS. JETT:

1 Q. And -- and the recommendation was what?

2 A. To deny the use for the listed reasons.

3 Q. And -- and is that your signature on that
4 letter?

5 A. Yes, ma'am.

6 MS. JETT: Your Honor, I would move Defendant's
7 Exhibit 21 into evidence.

8 MR. WILSON: No objection, Your Honor.

9 THE COURT: 21 is admitted.

10 (Whereupon, Defendant's Exhibit Number 21 is
11 admitted into evidence without objection.)

12 BY MS. JETT:

13 Q. Mr. Woodward, I showed you while ago Defendant's
14 Exhibit 20, and you reviewed it. What did that
15 appear to be to you? Well, first of all, who does
16 it purport to be from?

17 A. (Reviews document.) Quincy Jones, owner of
18 Company Two.

19 Q. And what date is that letter?

20 A. October 8, 2015.

21 Q. And to who is it addressed?

22 A. Hampton County Airport, Administration Chairman,
23 Jack Woodard, misspelled name.

24 Q. Okay. And was it also -- well, that one was
25 just the Hampton County Airport Administration, and

1 he left out one "W" in your name, didn't ?

2 A. Right.

3 Q. What -- what did that appear to be from

4 Mr. Jones to the Airport Commission?

5 A. He was trying to say that what we needed to do,

6 for all that work he was going to do stuff for us,

7 and that would have been if we would allow him to do

8 it, we'd been contracting to him, and we'd been

9 accepting a big liability.

10 Q. Okay. You would be accepting a big liability,

11 if you --

12 A. That's right.

13 Q. -- agreed with this. My question is, was he

14 proposing in this some future agreement between the

15 County and his Company?

16 A. Yes, ma'am.

17 Q. And -- and was that the agreement in which he

18 sought -- or the -- the agreement that he sought,

19 was it to use the Airport runway to test fire

20 trucks?

21 A. He asked in all different ways. It kind of

22 confuses me. They had so many different ways.

23 Q. Okay. But that was a proposal from Mr. -- from

24 Mr. Jones --

25 A. Yes, ma'am.

1 Q. -- and his company to --

2 A. Yes, ma'am.

3 Q. -- Airport Commission at that time, correct?

4 A. Yes, ma'am.

5 Q. Okay. And do you recall considering that
6 proposal?

7 A. No, ma'am. We -- we talked it over --

8 Q. No, not -- not that were you agreeable, but did
9 y'all -- did y'all deliberate on this, discuss it
10 and --

11 A. Yes, ma'am, we discussed it.

12 Q. Okay.

13 A. Yes.

14 MS. JETT: Your Honor, I would move Defendant's
15 Exhibit 20 into evidence.

16 MR. WILSON: No objection, Your Honor.

17 THE COURT: 20 is admitted.

18 (Whereupon, Defendant's Exhibit Number 20 is
19 admitted into evidence without objection.)

20 BY MS. JETT:

21 Q. And now, Mr. Woodward, I'm going to ask you to
22 take a look at Defendant's Exhibit 19, which appears
23 to be on Company Two letterhead and dated February
24 5, 2016 and hand up to you for your -- for your
25 review. And you let me know when you're ready to

1 talk about that one.

2 A. (Reviews document.) Okay.

3 Q. Mr. Woodward, to whom was this February 5, 2016,
4 letter addressed?

5 A. Hampton County Airport Commission and Hampton
6 County Council.

7 Q. So to both the Commission and County Council?

8 A. Yes, ma'am.

9 Q. And I want to ask you to look, bear with me just
10 a moment. I want to ask you what -- excuse me, does
11 -- does Exhibit 19 appear to be yet another proposal
12 from Mr. Jones and his company to the County Council
13 and the Airport Commission seeking to use the runway
14 to test fire trucks?

15 A. Yes, ma'am.

16 MS. JETT: Your Honor, I would move Exhibit 19
17 into evidence.

18 MR. WILSON: You've already move that one in.

19 THE COURT: No, 20 and 21 are admitted and 19
20 has not yet been admitted.

21 MR. WILSON: Oh, it wasn't? Okay. Yeah, I -- I
22 don't object to making it, I thought it was already
23 in there.

24 THE COURT: It's admitted.

25 (Whereupon, Defendant's Exhibit Number 19 is

1 admitted into evidence without objection.)

2 BY MS. JETT:

3 Q. So I want to ask you to look at Exhibit 20, and
4 I want you to read this one paragraph that starts
5 with "Up until recently."

6 A. Is that --

7 Q. Read it out loud, start from, "Up until
8 recently."

9 A. (Reviews document.) "Up until recently Hampton
10 County Admin has cooperated with us in most any way
11 that they could. Recently Rose has asked us to stay
12 clear of the runway. We have done so, but now this
13 request is starting to increase -- to increase our
14 production cost dramatically, which brings me to
15 this letter."

16 Q. So, Mr. Woodward, in October of -- of 2015, when
17 Mr. Jones wrote this letter to the Airport
18 Commission, Administrator Rose Elliott had already
19 directed that they cease using the runway; is that
20 correct?

21 A. That's correct.

22 Q. And in -- after -- after considering what
23 Mr. Jones proposed in both October of 2015 and
24 February of 2016, in November 2016 you re- --
25 recommended to Council that they deny his request,

1 correct?

2 A. Yes, ma'am.

3 Q. Do you know of any time when Mr. Jones or his
4 Company have requested a NOTAM be issued, while they
5 were doing anything on the runway?

6 A. Huh?

7 Q. Have you ever been told that?

8 A. Not to my knowledge.

9 Q. Have you ever been informed of any time that
10 they blocked the runway and kept vehicles and
11 airplanes from taxiing onto the runway?

12 A. No, ma'am.

13 Q. Thank you. Please answer any questions
14 Mr. Wilson has.

15 MR. WILSON: Your Honor.

16 **CROSS-EXAMINATION BY MR. WILSON**

17 BY MR. WILSON:

18 Q. Mr. Woodard, how are you today?

19 A. Well, I'm feeling all right. How are you?

20 Q. I'm doing good, thank you. I think I heard you
21 say early on in your testimony that if there is
22 anything involved with the Airport, you will
23 generally attend the County Council meeting? Would
24 that be correct?

25 A. If -- if asked to.

1 Q. If asked to? Okay. And as Chairman, if there's
2 anything going on that involves the Airport -- with
3 Hampton County's Chairman, now you're usually
4 consulted about that and kept advised, correct?

5 A. Yes, sir. Yes.

6 Q. In 2005, you weren't Chairman of the Airport
7 Commission, were you?

8 A. No, sir.

9 Q. But you were on the Airport Commission, correct?

10 A. Yes, sir. Yes.

11 Q. And who was the Chairman back then?

12 A. I think it was Lee Ellis.

13 Q. Okay. Using -- let's take a look at something,
14 one moment.

15 MR. WILSON: Can we cut this on?

16 MADAM CLERK: Uh-huh.

17 MR. WILSON: You know what? I don't need it. I
18 can show him actually.

19 BY MR. WILSON:

20 Q. Mr. Woodard, using the Airport property to test
21 fire trucks on the runway, that would be something
22 that entailed the airport property, correct?

23 A. Yes, it would.

24 Q. And that would involve it, correct?

25 A. Yes.

1 Q. Getting a taxi -- and -- and when did you become
2 Chairman, again, on the Airport Commission?

3 A. I don't remember the exact date.

4 Q. Were you Chairman in 2011?

5 A. I don't think I was.

6 Q. Okay.

7 A. I'm getting kind of old, and y'all keep throwing
8 all these dates and times.

9 Q. I understand.

10 A. You're trying to trip me up.

11 Q. That's okay. No, I'm not trying to trip you up,
12 I promise you.

13 A. And I wouldn't try to tell anything that wasn't
14 right.

15 Q. I understand, and I promise you I'm not trying
16 to trip you up. So you don't know if you were
17 Chairperson in 2011 or not?

18 A. I don't think I was.

19 Q. Okay. But the normal practice is, if
20 something's going on that involves the airport, the
21 Airport Chairman is kept informed and involved?

22 A. Yes.

23 Q. Mr. Woodard, you said that you had known or had
24 learned about fire trucks being on the runway from
25 some pilots -- other pilots, I think you said?

1 A. Yes.

2 Q. You actually have seen one of Mr. Jones' fire
3 trucks -- or Company Two's fire trucks on the
4 airport runway when you were flying one time, didn't
5 you?

6 A. Yes, I did.

7 Q. You -- I don't think you were trying to land or
8 anythin, while it was on the runway, as I recall,
9 were you?

10 A. No, I was just flying over.

11 Q. Flying over. And that would have been before
12 Mr. Jones was told by Ms. Elliott or instructed by
13 the administrator to stay off of the runway?

14 A. I don't know when it was. That was -- that was
15 before my heart stuff, --

16 Q. I gotcha.

17 A. -- I think.

18 Q. Did you report that to anybody?

19 A. Yes, and I -- and I talked to Quincy one time
20 about it, and I told him it was a severe safety
21 issue, and it wouldn't be good if a plane and a
22 truck run together.

23 Q. I understand. Did you report -- did you report
24 what you saw to anybody with Hampton County -- with
25 the Admin -- with the Administrator's Office, or

1 County -- Hampton County Councilmembers?

2 A. I think I told -- told the -- discussed it in
3 the next airport meeting we had, we discussed it.

4 Q. Okay.

5 MR. WILSON: Can I have just one moment, please,
6 Your Honor?

7 THE COURT: Sure.

8 BY MR. WILSON:

9 Q. Mr. Woodard.

10 A. Woodward.

11 Q. Woodward, I'm sorry, I've been saying that wrong
12 the whole time, I apologize.

13 MR. WILSON: I appreciate your time today.
14 Thank you, sir.

15 THE WITNESS: Thank you.

16 MS. JETT: No questions, Your Honor.

17 THE COURT: Thank you, sir, you can step down.

18 MS. JETT: Your Honor, may this witness be
19 excused?

20 THE COURT: Certainly.

21 MS. JETT: And, Your Honor, if this witness
22 chooses to stay in the room and remain in the
23 audience, is that all right?

24 THE COURT: Absolutely.

25 MS. JETT: Thank you.

1 THE COURT: Okay, this is a good point for us to
2 break for lunch. It's 1:17. Can we be back at
3 2:15? Does that give y'all enough time?

4 All right, we'll be recessed --

5 MS. JETT: Thank you, Your Honor.

6 THE COURT: -- until 2:15.

7 MS. JETT: Thank you, Your Honor.

8 (Whereupon, a lunch recess is taken.)

9 THE COURT: Okay, we're back on the record.

10 MR. WILSON: Your Honor, may I be heard a
11 moment?

12 THE COURT: Yes, sir.

13 MR. WILSON: Thank you.

14 Judge, I was just looking back over my notes on
15 the lunch break, and -- and I understand all your
16 rulings, I'm not questioning any, if it all, or
17 asking you to reconsider, I mean could -- could we
18 get on the record that they argued a number of
19 different grounds for a directed verdict on the
20 breach of contract claim, and could we get on the
21 record the specific basis for the ruling on that,
22 and then, in essence, the denial of our motions to
23 amend to assert a -- a breach of an easement, and I
24 guess a -- a breach of a -- a license, Your Honor?
25 My understanding, you've taken the promissory

1 estoppel and allowed them to proceed as a nonjury
2 claim, but can -- can we get the specific grounds
3 for that so that it's just more clear?

4 THE COURT: Sure.

5 MR. WILSON: Thank you.

6 THE COURT: The -- again, I did direct a verdict
7 as to the breach of contract cause -- cause of
8 action, based on several things. First of all, the
9 2005 letter shows the parties intent to move
10 forward. It does not contain any of the terms or
11 what type of interest the County would be granting
12 to Company Two. It uses the -- the language
13 "private taxiway right-to-use," which does not carry
14 any particular legal definition. It then goes on to
15 talk about what each party claims to do in the
16 future. The County claims to move forward with
17 improvements, that the County wants to acquire this
18 piece adjacent to the airport, and it then requests
19 that's -- this property swap, and it certainly
20 doesn't say the parties have agreed to the property
21 swap, so it's -- it's -- what they're willing to
22 offer Company Two and what Company Two -- what they
23 are requesting back to Company Two. If you look at
24 the March 2005 letter to Gary Grossman, you'll see
25 that there's different language in that letter that

1 says "You agreed to grant the portion of the
2 property to the County provided we give you a
3 similar amount of acreage." The contract's alleging
4 Mr. Jones says -- says, "This is what we're
5 requesting that you commit to us, and that Hampton
6 County Council concurs with that request." So it
7 appears to me an agreement to do something in the
8 future. Because there was no vote from County
9 Council or what appeared to be any official action,
10 I think the most that could be granted is a license
11 or a right-to-use it that was revocable. I believe
12 that it wasn't any kind of a permit, it's -- it was
13 an easement, or any other more permanent burden on
14 the County's property, that that would have had to
15 have been approved by County Council by an
16 ordinance. It does not contain any of the
17 particulars of any agreement between the parties,
18 which I guess is borne out by the fact that this
19 property swap didn't take place until 2015. So I
20 find that this does not contain any of the
21 requirements, and a particular problem to me is the
22 duration issue, that it doesn't give any indication
23 of what the duration of this right-to-use is, so
24 that's the grounds for my granting the directed
25 verdict as breach of contract.

1 MR. WILSON: And, Your Honor, I'm not trying to
2 reargue, I just -- just for the record, I'd just
3 like to note the -- and I think I argued that we had
4 had evidence, I think I said this yesterday, that we
5 had had evidence from I believe Mr. Willard Wilson
6 had come out of executive session and given
7 instruction to the chairman who gave it to
8 development director, and I think the reasonable
9 inferences from that could be drawn. And I think
10 you had denied their parol evidence arguments
11 throughout, trying to preclude any oral or other
12 evidence -- parol evidence of the meeting of those
13 words within the Plaintiff's Exhibit Number 1. And,
14 you know, we've had ample witness testimony in that
15 regard, but I -- I understand. I'm not trying to
16 reargue, I just want to make sure it was on record,
17 Your Honor. And then I think we did have the -- the
18 motion to amend in both regards that, as I
19 understood, was denied.

20 THE COURT: Well, your first was a motion to
21 amend to allege the existence of an easement.

22 MR. WILSON: Yes, Your Honor.

23 THE COURT: I -- I just don't think that
24 particularly helps you. I'm happy to allow you to
25 amend to a certain right, that he had the right to

1 an easement across the property; but, again, I don't
2 think that that helps you. I don't think that the
3 -- the discussions that we've heard thus far could
4 support the County having granted an easement,
5 particularly, when they then went on to formalize
6 the easement from the taxiway to the -- to the tip
7 of the airport.

8 MR. WILSON: Yes, Your Honor. Thank you very
9 much.

10 THE COURT: Okay. Do you want to call your next
11 witness?

12 MS. JETT: Sure. Your Honor, we would call
13 Mr. Perry Bullard. I'm sorry, I called him by the
14 wrong first name, Mr. Buddy Bullard.

15 (George Bullard, being duly sworn,
16 testified as follows)

17 **DIRECT EXAMINATION BY MS. JETT**

18 MS. JETT: Your Honor, may Mr. Bullard remove
19 his mask?

20 THE COURT: Yes.

21 BY MS. JETT:

22 Q. Are you comfortable being unmasked to testify,
23 Mr. Phillip?

24 A. Yes.

25 Q. Would you state your full name for the record,

1 please?

2 A. George Bullard.

3 Q. Mr. Bullard -- Mr. Bullard, have you ever been
4 employed by Hampton County?

5 A. No.

6 Q. Are you actively employed now or retired?

7 A. I'm in the real estate business.

8 Q. Okay. And have you ever been an appointed
9 official for Hampton County?

10 A. No, not appointed. I was on the Economic
11 Development Commission.

12 Q. Got it, and how -- how long were you on the
13 Economic Development Commission?

14 A. Off and on about ten years.

15 Q. Okay. Are you still on it now?

16 A. No, I'm not.

17 Q. Were you on it in 2005?

18 A. I think I was.

19 Q. Okay. Were you on it during the period of time
20 that Mr. Quincy Jones and his Company, Q&J
21 Properties bought the Gemco property adjacent to the
22 Hampton County Airport?

23 A. No, I was not.

24 Q. Were you ever present for any discussions
25 concerning the purchase by Mr. Jones' company of the

1 Gemco property?

2 A. No.

3 Q. Were you ever on the Airport Commission?

4 A. Yes.

5 Q. And in what capacity were you on the Airport
6 Commission?

7 A. I was ad hoc.

8 Q. And what -- what years was that?

9 A. I -- I don't remember.

10 Q. I want to show you what's been marked as Exhibit
11 1, and ask you if you have any knowledge of that
12 document?

13 A. (Reviews document.) No.

14 Q. Were you in any way involved in the preparation
15 of that document?

16 A. No, I was not.

17 Q. Okay. Mr. Bullard, are you --

18 THE COURT: You're showing him -- I think you
19 said you're showing him Plaintiff's Exhibit 1?

20 MS. JETT: Yes.

21 BY MS. JETT:

22 Q. Mr. Bullard, have you -- have you ever had any
23 conversations with Mr. Jones about acquiring
24 property at or near the Airport?

25 A. Yes. He told me that he had planned to buy the

1 building adjacent to his building --

2 Q. All right.

3 A. -- and paint airplanes, and he would need access
4 from the end of the runway to this building.

5 Q. And why would he need access from the end of the
6 runway to that building?

7 A. Well, he would taxi the airplanes from the end
8 of the runway to the building and he would paint
9 them.

10 Q. Okay, and then taxi them back, I presume, so
11 that they could go back --

12 A. Yeah.

13 Q. -- home --

14 A. Yeah.

15 Q. -- freshly painted? But when were those
16 conversations?

17 A. I don't remember the dates of it.

18 Q. Okay. Were they since 2005? Sometime since
19 then?

20 A. Yes.

21 Q. Okay. Do you know if they were prior to 2016?

22 A. I would say yes.

23 Q. They were certainly prior to this lawsuit being
24 filed?

25 A. Yes.

1 Q. And was there any ques -- any discussion between
2 you and Mr. Jones about using the runway itself at
3 Hampton Airport?

4 A. No.

5 Q. Or about testing fire trucks at the airport?

6 A. No.

7 Q. Were you ever present for any executive sessions
8 of Hampton County Council or the Airport Commission
9 reporting to Hampton County Council on any matter
10 concerning Mr. Jones and his companies?

11 A. No, I was not.

12 Q. Thank you.

13 MS. JETT: Please answer any questions
14 Mr. Wilson has.

15 **CROSS-EXAMINATION BY MR. WILSON**

16 BY MR. WILSON:

17 Q. Mr. -- Mr. Bullard, I just want to make sure I
18 understand the -- I -- I missed the first part of
19 what you said. Back around 2005 were you on the
20 Economic Development Board?

21 A. I'm not -- I'm not -- I don't remember if I was
22 on there or not.

23 Q. I understand, fair enough. Back in 2005 were
24 you on the Airport Commission?

25 A. I don't think I was on the Commission then in

1 2005.

2 Q. But at some point in time you become a member of
3 the Airport Commission?

4 A. I was. I was on the Economic Development
5 Commission and I wanted to be on the Airport
6 Commission, and I couldn't be both, so I -- I was on
7 the Airport Commission as an ad hoc member.

8 Q. Okay, are you on either one now?

9 A. I'm on the Airport Commission now, and an ad hoc
10 member.

11 Q. Okay. How long have you been on the Airport
12 Commission?

13 A. Probably four years.

14 Q. And before that you were on the Economic
15 Development Board?

16 A. That's correct.

17 Q. How long were you on that?

18 A. Probably ten years. I was off and on, and I was
19 just on for so long, then you'd have to be off for
20 so long, and then you could go back.

21 Q. I gotcha.

22 A. But I've been in development -- interested in
23 that for a long time.

24 Q. I understand. So maybe going back to 2007 or so
25 to about 2017 would have been about ten years on the

1 Economic Development Board, and then the last four
2 years on the Airport Commission; does that sound
3 about right?

4 A. I think so, yeah.

5 Q. Okay. All right. During your time on the
6 Economic Development Board or the Airport Commission
7 before Ms. Elliott became administrator, were you
8 ever made aware that Company Two was using the
9 Hampton-Varnville Airport runway to access fire
10 trucks -- excuse me, to test fire trucks?

11 A. Before who was on?

12 Q. Before Ms. Rose Elliott became administrator,
13 were you ever notified, or did you ever find out
14 that Company Two was using the Hampton Airport to --

15 A. I understand that they had been using it before,
16 the airport, nothing was being done with the
17 airport.

18 Q. I understand. But I'm -- I'm not asking like
19 what you heard somebody say, or what I'm asking, did
20 you -- did you know, or did somebody come to you and
21 tell you, before Ms. Elliott became Administrator,
22 that Company Two was using the runway to test fire
23 trucks?

24 A. No.

25 Q. Okay. And did anyone come to you as an Economic

1 Development Board member, or come to your
2 Development Board, or come to the Airport Commission
3 to let y'all know that Mr. Jones was being told to
4 stay off the runway?

5 A. Not --

6 Q. Before it happened?

7 A. Not the Economic Development Commission, no.

8 Q. How about did anybody come to the Airport
9 Commission and tell the Airport Commission Mr. Jones
10 is being told to stay off the runway before --
11 before he was told?

12 A. Before he was told?

13 Q. Yes, sir.

14 A. I just don't see how that could be.

15 Q. Okay. Mr. Bullard, you weren't, yourself,
16 involved in any of the negotiations or conversations
17 between Hampton County Council and Company Two when
18 Company Two was first located in Hampton -- in
19 Hampton County back around 2005, were you?

20 A. No, I was not.

21 Q. Okay.

22 MR. WILSON: Mr. Bullard, I appreciate your time
23 today.

24 MS. JETT: No further questions, Your Honor.

25 May Mr. Bullard be excused?

1 MR. WILSON: No -- no objection, Your Honor.

2 THE COURT: Yes, sir, you're free to go.

3 MS. JETT: And, Your Honor, if Mr. Bullard
4 chooses to remain, may he remain in the audience if
5 he so chooses?

6 THE COURT: Certainly.

7 MR. BULLARD: Thanks.

8 MR. AARON NESS: Your Honor, we call David
9 Anderson to the stand.

10 (David Anderson, being duly sworn
11 testified as follows)

12 **DIRECT EXAMINATION BY MR. AARON NESS**

13 EXAMINATION BY MR. AARON NESS:

14 Q. Mr. Anderson, can you state your full name for
15 the record?

16 A. David Anderson.

17 Q. And, Mr. Anderson, where are you from?

18 A. I'm from Valentine, South Carolina.

19 Q. Is that just below Furman?

20 A. Yes.

21 Q. And where are you -- where did - where'd you
22 grow up?

23 A. I grew up in the -- the outskirts of Columbia,
24 in a place, a small burg called Dentsville, went to
25 high school there.

1 Q. Are you married?

2 A. Yes. I've been married to the same person for
3 56 years.

4 Q. And do you have any children?

5 A. We have two sons.

6 Q. Can you give the Court a little bit of
7 background starting with after high school?

8 A. After high school I went to the University of
9 South Carolina for a semester. I didn't do too
10 well. The Army at that particular time was offering
11 opportunities to go to flight training, so I joined
12 the Army in 1964, went to flight training, and 30
13 days after graduation I was in Vietnam flying
14 helicopters. Living here, there, came back for a
15 15-months state-side tour. I had to transition into
16 another aircraft and went back overseas to Vietnam
17 for a second tour. At the end of the second tour I
18 came back and went to Fort Rucker, Alabama, and
19 commanded the Airfield Company at Fort Rucker, which
20 was 550-person organization responsible for all of
21 the Army airfields in Alabama, northern Florida, and
22 Georgia. I had all the air traffic controllers in
23 the company, firefighters, equipment operators,
24 support personnel, and I stayed in that job about 18
25 months and then got burned out, because it's quite

1 extensive. I left Fort Rucker and had an
2 opportunity to do the Army Bootstrap Program to go
3 to the University of Tampa. I went to Tampa and
4 graduated the University of Tampa. I left Tampa en
5 route to Fort Bragg, North Carolina, with a stop at
6 Fort Benning, and went to Airborne school and Ranger
7 school. I joined the Battalion at Fort Bragg and
8 commanded a Rifle Company and the 82nd Airborne
9 Division. And then left there and went to the 18th
10 Airborne Corps., and it was about that time that we
11 counted up the number of times we had moved in 12
12 years, nine times, so we decided to look elsewhere.
13 So I happened to find an opportunity with the
14 Department of Defense and was hired as a civilian
15 pilot for the Department of Defense and flew for
16 five years with them. I was an instructor pilot, an
17 instrument flight examiner, and the FAA noticed me,
18 I guess, offered me a job, so I took the FAA job,
19 and was with the FAA for 22 years as an aviation
20 safety inspector. I was an office manager in
21 Nashville, Tennessee, and an office manager in San
22 Juan, Puerto Rico. I did action investigations, I'd
23 been trained in the Army as an action investigator,
24 did enforcement and compliance, evaluated safety
25 situations throughout the aviation industry. And

1 just as a matter of background, when someone talked
2 about the FAA, they -- when you think about air
3 traffic, it's our largest organization, and -- and
4 people hear about them more -- more commonly than
5 others, and there's about 80,000 people. There's
6 80,000 air traffic controllers. And then we have
7 airways facilities who take care of the navigation
8 aids and airport lighting, things like that. And
9 then we have airports, which is a compliance
10 organization for the operation of FAA required 139
11 airports, and then flight standards. Now, all those
12 other organizations have 25 -- thousands of people
13 in them, like I said, 80,000 in air traffic, there's
14 about 40,000 in air -- airports, and about 25 to
15 30,000 in airways facilities, but there's only 2,500
16 aviation safety inspectors. The agency, through
17 Congress, has kept it small, because there's a
18 tendency to stifle the industry if you're -- because
19 we're in the compliance enforcement and safety arm
20 of the agency. So while I -- while I was in the
21 FAA, I had the opportunity to -- opportunity, it's
22 not really an opportunity, but I participated in
23 five or six different National Transportation Safety
24 Board hearings in front of administrative law
25 judges. And I've been in three or four separate

1 cases regarding operations on an airfield.

2 Q. Mr. Anderson, let's go back one second. When
3 you were in Vietnam you flew helicopters?

4 A. Yes.

5 Q. Okay, but you're licensed to fly both?

6 A. Yes. In between those tours I got a Fixed Wing
7 qualification airplane qualification also, so --
8 well, I didn't, the airline transport pilot level
9 both aircraft, helicopter and airplane single and
10 multi-engine land and jet.

11 Q. Approximately, how many hours do you have as a
12 pilot?

13 A. A little over 15,000.

14 Q. When did you retire from the military?

15 A. In 2004.

16 Q. Okay. And what was your rank when you retired?

17 A. I was a colonel, a full colonel.

18 Q. Do you hold a U.S. security clearance?

19 A. Yes, I do.

20 Q. Since you retired, you have your own consulting
21 business?

22 A. Yes. When I retired, I opened up a small
23 company, one person, me, called Aviation Solutions,
24 LLC.

25 Q. And what does your company do?

1 A. After my experience with the FAA, I -- I help
 2 people negotiate, if you will, or work their way
 3 through a process that the FAA uses to determine
 4 suitability for certification of airmen, and
 5 certificate holders who want to operate a business,
 6 a maintenance business, or a flight school, or an
 7 air carrier business. I help them negotiate the
 8 process to acquire those certificates. I also
 9 provide consulting services to existing companies
 10 who wish to maintain a certain standard that the FAA
 11 prescribes for them. I do audits of company's
 12 safety and compliance audits and help them meet the
 13 standard when called upon.

14 Q. Does your consulting business include consulting
 15 work for the government?

16 A. Yes, it does. I -- after retiring from the FAA,
 17 they asked me to come out to the Academy. The FAA
 18 Academy is located in Oklahoma City, and all
 19 aviation safety inspectors go to that academy,
 20 initially, for about a six-month period, and then on
 21 a recurring basis almost yearly. And I have the
 22 occasion -- I've been asked to come out and teach, I
 23 teach out at the Academy. I go out there -- well,
 24 before COVID I went out six to eight times a -- a
 25 year for a week to two weeks to teach a class. I

1 just finished a class last Friday virtually, which
2 I've been teaching virtually now for about a year.
3 We hope to open up the thing again in October of
4 this year. The government doesn't necessarily care
5 about what is happening, they've got a date of 1
6 October, and that's when they're going to open it.

7 Q. Are you on the South Carolina Aeronautics
8 Commission, as well?

9 A. Yes, I got shanghaied into that, that's my word,
10 and I'm in the 2nd Congressional District, and the
11 Representatives and the Senators from the 2nd
12 Congressional District voted and selected me as
13 Airport commissioner.

14 MR. AARON NESS: Your Honor, we offer David
15 Anderson as an expert in aviation and airport safety
16 and compliance.

17 MR. WILSON: Your Honor, I thought he said his
18 experience was in airmen and operators, and that's
19 what he'd been experienced in and to help them get
20 certified. Now, the distinction would be it's not
21 airports themselves, that's -- that's flight
22 companies and people like that, that have not
23 operated an airport. That's where his experience
24 is. I don't know that that qualifies his --
25 qualifies him in total airport safety. I mean I'd

1 be glad to ask him some questions, but I don't
2 believe, you know, how -- however much the Court
3 would like to be done. I don't have any objection
4 to his cer -- his -- his expertise in certifying
5 airmen and operators.

6 THE COURT: I'm going to allow him to testify as
7 an expert in aviation airport safety and compliance.
8 Thank you.

9 MR. WILSON: Thank you.

10 BY MR. AARON NESS:

11 Q. Mr. Anderson, what's your understanding of how
12 Company Two used the Hampton Airport and runway from
13 2005 to approximately 2015?

14 A. Based upon what I've been able to determine that
15 the use of the airport by Company Two has been
16 unfettered. It -- it hasn't -- there doesn't seem
17 to be any controls in place to allow the use of fire
18 trucks on the airfield.

19 Q. What's the definition of an airport?

20 A. An airport by rule -- by federally aviation
21 regulations is designed for the landing or takeoff
22 and landing of air traffic; that's what the basic
23 rule says.

24 Q. And where does that definition come from?

25 A. It comes from the Federal Aviation regulations

1 and in Part 1 of Title XIV.

2 Q. Is that FAR as they are called?

3 A. Yes, they're called FARs.

4 Q. Mr. Anderson, what would be the difference in
5 bringing an ARFF truck on a runway or some other
6 vehicle or a lawnmower?

7 A. The difference in the two?

8 Q. Yes, sir.

9 A. With anything, other than an airplane, or any
10 sort of aircraft on a runway, there really isn't any
11 difference. It's not designed for a fire truck, or
12 fire truck or a lawnmower, but I've seen lawnmowers,
13 investigated those types of complaints.

14 Motorcycles, go-carts, drag racing, any number of
15 things. Airports have been used for those kinds of
16 things, but the design and the purpose of the runway
17 is for the landing and taking off of aircraft.

18 Q. Are there certain limited situations with
19 controls in place where a vehicle like a ARFF truck
20 could be on a runway?

21 A. Yes.

22 Q. Can you elaborate any on that?

23 A. Obviously, airports are used and runways are
24 used for other purposes, but that use -- those other
25 purposes are controlled. There are written

1 provisions agreed upon by all parties that will
2 allow the operation. The aviation community, in
3 general, is notified of the operation. It's usually
4 restricted in time or date, or successive days. Air
5 shows is a good example. We have air shows on
6 airports. Nobody lands or take off -- or takes off,
7 other than the air show participants. The air space
8 around that airport during air shows is restricted,
9 and -- and we notify the pilot community that that
10 kind of activity is going on, so they avoid it. It
11 doesn't mean we don't have an intruder every now and
12 then, it does happen, but most of the time we don't.
13 And that -- when I say air shows, I'm talking about
14 everything from a one or two-plane operation and all
15 the way up to the Thunderbirds and the Blue Angels.
16 They -- they -- they operate in South Carolina on an
17 annual basis almost. And even when they operate on
18 a military field, I've been the air show monitor for
19 many air shows and signed the documentation that
20 issued the waiver of the rule that says we're gonna
21 use that airport for something else other than
22 landing and takeoff. And so it's not unusual to be
23 able to do those kinds of things, but that's to be
24 controlled, just cannot be unfettered, and say,
25 "Okay, today we're gonna have an air show."

1 Q. Mr. Anderson, what's your opinion, if you have
2 one on whether it would be safe to put ARFF trucks
3 on the Hampton runway?

4 A. Based upon what I have learned about the
5 operation of the ARFF trucks on the runway is that
6 it's currently unsafe to do that. There are, as I
7 said -- stated earlier, it's unfettered. We don't
8 know when it's going to happen, who's going to do
9 it, how long it's going to last, whether we tell
10 anybody else about it, whatever the case may be it
11 just -- if they need to test a truck, it appears
12 they just go out there and test it.

13 Q. Mr. Anderson, is it common or uncommon to have
14 vehicles on runways that aren't aviation-related?

15 A. It's not uncommon to have a vehicle on a runway,
16 but most of the time -- and I was here and heard
17 testimony regarding the advisory circular earlier,
18 on the operation of vehicles on a runway, or
19 movement areas better stated, movement areas on an
20 airport refer to those areas that you have to have
21 authority to move into and out of, and that
22 authority emanates from the Air Traffic Control
23 facility. Those types of airports have a -- have a
24 tower, an operating tower with an Air Traffic
25 Controller on duty, more than one obviously, and

1 they control the movement of those airplanes or
2 aircraft. We don't have that at Hampton County.

3 Q. Mr. Anderson, what document -- excuse me, of
4 regulation prevents putting trucks on runways?

5 A. The Federal Aviation starts out with the basic
6 rule that a runway is designed to be used --
7 utilized for taking -- for landing and takeoff of
8 aircraft.

9 Q. Do you remember a document Chief Nilo testified
10 about yesterday, an advisory circular?

11 A. Yes.

12 Q. Okay. Is there anything in that circular
13 regarding trucks on runways?

14 A. Yes. That advisory circular is extensive, and
15 it tells that airport operator what they need to do
16 to be able to do what -- to put a truck on a runway,
17 or to have a vehicle in a movement area. Again
18 though, that's based on control that emanates from
19 an Air Traffic Control Tower. Without that Air
20 Traffic Control Tower, like Hampton and many of our
21 airports, in South Carolina we -- we have six air
22 carrier airports. They are FAR Part 139 certified.
23 So nobody moves in the movement area without
24 permission from the Tower. However, without
25 permission from the Tower, there has to be a written

1 document agreed upon by all parties about what is
2 going to happen, because we don't have that
3 immediate control. Even with an Air Traffic Control
4 Tower, an ARFF truck or a runway truck that's gonna
5 go down the runway and check foreign object debris
6 on the runway would have to have permission. You
7 just can't get in the truck and go out there and do
8 it, even though it's well-intended, it has to be
9 controlled, because safety is affected when you
10 allow people on the runway or in movement areas that
11 are not controlled.

12 Q. What kind of -- what type of FAA compliance, if
13 any, does an airport like Hampton have to abide by?

14 A. They don't -- they don't really -- they have to
15 abide by the basic rules, of course, for operation
16 of a non-towered airport. Traffic patterns are
17 specified for them to operate on the airport.
18 Right-of-way rule is employed. See and be seen,
19 because it's an airport without a tower or radar. A
20 pilot has to look outside and see the outside
21 environment. He has to be able to see it. It's a
22 VFR, which stands for Visual Flight Rules. Like
23 today, a nice sunny day, but -- and Hampton County
24 is limited because it does not -- when I say
25 limited, what I mean by that, it doesn't have an air

1 traffic control tower. It doesn't have enough
2 traffic to have an air traffic controller.

3 Q. As a pilot, what do you expect to be on a runway
4 when you're either circling it or about to land; or
5 as a pilot, what do you expect to be on the runway
6 when you made the decision you're going to land?

7 A. Well, you don't expect anything to be there, you
8 expect it to be clear.

9 Q. In your own words, what's a NOTAM?

10 A. A NOTAM is -- it's actually pronounced notam.

11 Q. Notum.

12 A. Excuse me. It's actually pronounced no-tum, but
13 it's N-O-T-A-M, stands for Notice To Airmen.

14 Q. Are you aware of any NOTAMS issued by Company
15 Two when they were using the airport?

16 A. No, sir.

17 MR. AARON NESS: Your Honor, The Court's
18 indulgence for a minute.

19 BY MR. AARON NESS:

20 Q. Mr. Anderson, what's your opinion --

21 A. Excuse me.

22 Q. Yes, sir, what's your opinion on Company Two
23 with unrestricted access to the Hampton Airport?

24 A. With the fire trucks?

25 Q. Yes, sir, with the fire trucks.

1 A. That's an unsafe act.

2 Q. Because it's not controlled?

3 A. It's not controlled. There's no parameters that
4 I've been -- that I'm aware of. It's -- it's just
5 whenever they want to do it, they do it, or need to
6 do it, and, obviously, they need to do it, take the
7 truck out there and test it, but it's not
8 controlled.

9 MR. AARON NESS: Thank you, sir, that's all I
10 have on direct.

11 THE COURT: Mr. Wilson?

12 MR. WILSON: Thank you, Your Honor.

13 **CROSS-EXAMINATION BY MR. WILSON**

14 Q. Mr. Anderson, how are you doing today?

15 A. Just fine, sir.

16 Q. Good to see you again.

17 A. Good to see you.

18 Q. Your title is Aviation Safety Inspector?

19 A. Yes.

20 Q. Okay. And I think in the past, when I was
21 taking your deposition, you said you had been
22 involved in circumstances, the negotiating dual use
23 of the airports by other operations than planes
24 taking off and landing, hadn't you?

25 A. Sure.

1 Q. I think you told me about a situation where you
2 had helped negotiate dual use between planes taking
3 off and landing and -- and glider planes, non- --
4 non-motorized planes, correct?

5 A. Yes, sir.

6 Q. I think even over here in Barnwell, just a few
7 miles down the road, you've been involved in
8 negotiating out parachute -- a parachute operation
9 that was using the Barnwell Airport, correct?

10 A. Yes, sir.

11 Q. And -- and you put in places processes and --
12 and agreements and understandings about how those
13 operations could co-exist at the same airport,
14 correct?

15 A. Yes, sir.

16 Q. And all of that stuff was able to go forward,
17 dual uses within those airports, correct?

18 A. Correct.

19 Q. And that there -- there's been some other ones,
20 too. I think you had some experience with military
21 use of airport -- dual operations between military
22 and -- and private uses of airports, correct?

23 A. Yes, sir.

24 Q. And all those things were able to be worked out
25 with the right processes and the right protocols in

1 place?

2 A. Correct.

3 Q. Okay. Did -- did anybody from Hampton County
4 ever contact you back in or around 2015, to ask you
5 to get involved in working on any kind of protocols
6 or processes for the dual use or operation of the
7 Hampton-Varnville Airport?

8 A. Dual -- well, to answer the question, no, not in
9 -- no, nobody's talked to me about that.

10 Q. Okay. So back in 2014, '15, '16, nobody from
11 Hampton contacted you about, "Can we work something
12 out for our airport to be used for more than just
13 planes taking off and landing? We've got a company
14 that tests -- uses the runway to test fire trucks,
15 ARFF trucks that are specified for an airport, and
16 we'd like to know if that can be allowed and a --
17 and a set of protocols worked out," like what you've
18 done with gliders and parachutes, or those type
19 things?

20 A. Well, now, you changed your question on me
21 there.

22 Q. I didn't mean to.

23 A. Yeah, yeah.

24 Q. Okay. Well, my first question is, did anybody
25 contact you?

1 A. No, sir, nobody did.

2 Q. Okay. And then how did I change the question?

3 Because I want you to answer the second -- second --

4 A. Because in the second time you asked it, you
5 included the use of the ARFF trucks.

6 Q. Okay.

7 A. The first part -- the first question you didn't
8 say anything about anybody else.

9 Q. Okay. I -- I didn't mean to try to -- I was
10 just trying to say -- nobody contacted you about
11 putting protocols in place at the Hampton Airport
12 for any kind of operations, did it?

13 A. No, sir.

14 Q. All right, all right. Do you know a Mr. Jim
15 Price at the FAA?

16 A. Yes, sir, I know him.

17 Q. And I -- I understand his title his Airport
18 Certification Safety Inspector?

19 A. Yes, sir.

20 Q. Do you know the difference between that and an
21 Aviation Safety Inspector?

22 A. Yes, sir.

23 Q. What's the difference?

24 A. An Aviation -- well, as far as a Compliance
25 Safety Inspector, that's -- that's what he does. He

1 determines whether or not a FAA Required 139 Airport
2 is in compliance based on that advisor circular that
3 is printed for them to follow. An Aviation Safety
4 Inspector, like I was, has complete and unfettered
5 access to any aviation activity within the
6 continental United States, anywhere, any time.

7 Q. So -- so just --

8 A. No other organization within the FAA has that
9 capability. Every credential I had, a credential
10 that allowed me access in the safety and secured
11 areas unfettered. The Aviation Safety Inspector,
12 2,500 people, were the only ones who can do that.

13 Q. When -- when it comes to airport safety
14 compliance, are you -- do you have more of a
15 qualification or less of a qualification than Jim
16 Price?

17 A. It depends on if there's a violation of the
18 rule. In the case of what --

19 Q. Okay.

20 A. -- Mr. Price is -- excuse me.

21 Q. Before you go to far, are you talking about --
22 who are you talking about?

23 A. The FAR.

24 Q. Federal Aviation Regulations.

25 A. Correct.

1 Q. Okay. Do you -- your testimony was a little
2 confusing to me just a little while ago. Is a
3 vehicle at any point in time, for any reason, other
4 than responding to an emergency, is a vehicle that
5 is located on an airport runway, other than when
6 it's responding to an emergency, a violation of any
7 Federal Aviation Regulation?

8 A. No, if it's controlled.

9 Q. Okay. Mr. Anderson, in this case, I think when
10 I took your deposition you said that you haven't
11 reviewed any depositions; is that correct?

12 A. (No response.)

13 Q. When I took your deposition I don't think you
14 had reviewed anybody else's depositions in this
15 case, had you?

16 A. Oh, no, I had not, no, sir.

17 Q. Okay. And you had only met with Rose Elliott, I
18 believe. That's the only person from Hampton you
19 had met with other than somebody drug you out to the
20 airport, correct?

21 A. I -- I drove myself out there.

22 Q. There was somebody there.

23 A. And -- and I'd met with Rose Elliott, yes.

24 Q. Okay, all right. So Rose Elliott's the only
25 person you ever discussed any and all specifics of

1 the Hampton Airport in this case, or anything about
2 -- like that with her?

3 A. That's -- well, at that moment, yes, that you
4 asked me that question.

5 Q. Okay. So I just want to make sure I understand,
6 your testimony today is that -- that a vehicle,
7 whatever nature, on the airport runway, or on an
8 airport runway, even if it's not there for emergency
9 purposes, doesn't violate the Federal Aviation
10 Regulations, if it's done in a controlled setting,
11 or in a controlled process?

12 A. In a controlled manner.

13 Q. A controlled manner.

14 A. That's correct. And when I say control, I mean
15 written controllers.

16 Q. I understand. Have you ever seen or reviewed
17 any correspondence with Jim Price concerning this
18 issue of a violation of Federal Aviation
19 Regulations?

20 A. I recently -- yes, I did. Since the deposition,
21 I have seen some emails.

22 Q. And what was that?

23 A. It was a decision -- not decision, but an
24 opinion by Mr. Price, regarding the Hampton Airport
25 having vehicles on it.

1 Q. What was his opinion or his advice?

2 A. Well, his opinion was, is that Hampton Airport
3 could do what they wanted to do, because they are
4 not a Part 139 Airport, not certificated, don't have
5 to comply.

6 Q. I just want to show you one thing, and I have
7 just a few more questions, Mr. Anderson. I want to
8 show you your deposition testimony.

9 A. Uh-huh.

10 Q. And I'm going to ask you to take a look at page
11 74.

12 A. Say that again?

13 Q. I -- I'm looking at it right here real quick, to
14 make sure I'm on the right page. 74, starting at
15 line 12. All right?

16 A. (Reviews document.) Okay, at line 12, the
17 question, right?

18 Q. Yeah. Yeah, I'm going to read the question, and
19 I just want you to read your answer, okay? "So if
20 we take your opinion and just broaden it out and say
21 the operation of any vehicle on an airport runway
22 that's not being used for emergency purposes called
23 out to a crash, called out to a fire, the operation
24 of any vehicle on an airport runway for any purposes
25 other than -- than that would be violative of the

1 FAR regulations from the FAA, because it would
2 violative of the intended purpose for the definition
3 of an airport." And your answer was?

4 A. "That is correct."

5 Q. Okay.

6 A. Based upon your question.

7 Q. And your definition of an airport is an airport,
8 as I recall from your testimony, you relied on Part
9 1 of the FAR, correct, by --

10 A. Yeah.

11 Q. -- the definition?

12 A. Yes.

13 Q. And your reading of that was the definition of
14 an airport was a place that was intended for planes
15 to take off and land?

16 A. That's correct.

17 Q. Okay. And then I want you to -- keep -- keep
18 that out, because I've got you to look one more
19 place.

20 A. Okay.

21 Q. And then your -- the next question was, "And any
22 agreement to that effect between the owner and
23 operator of an airport and the owner or operator of
24 such vehicle would be violative likewise, in your
25 opinion, of the FAR?" And your answer?

1 A. "That is correct. It would still be violative
2 of the FAR." What you -- well, never mind, never
3 mind, I'm not --

4 Q. I want you to --

5 A. No.

6 MR. WILSON: Your Honor, I -- I don't -- I don't
7 have any other questions for Mr. Anderson.

8 Mr. Anderson, good to see you again.

9 THE WITNESS: Thank you, sir, same here.

10 THE COURT: Any redirect?

11 MR. AARON NESS: One second. Your Honor, no
12 further direct.

13 THE COURT: Thank you, sir, you can step down.

14 MR. ANDERSON: Thank you, ma'am.

15 MS. JETT: Your Honor, we would call Rose
16 Elliott to the stand.

17 (Rose Ann Dobson Elliott, being duly sworn,
18 testified as follows)

19 **DIRECT EXAMINATION BY MS. JETT**

20 EXAMINATION BY MS. JETT:

21 Q. Ms. Elliott, would you state your full name for
22 the record?

23 A. My full name?

24 Q. Yes.

25 A. Rose Ann Dobson Elliott.

1 Q. And you work for Hampton County?

2 A. Yes, ma'am.

3 Q. In what capacity?

4 A. I'm the County Administrator.

5 Q. How long have you been the County Administrator
6 for Hampton County?

7 A. This time?

8 Q. Yeah. Yeah, well, let's talk about both times.

9 A. I came the first time in June of 1991, and I
10 left in December of '06, no, it was '03.

11 Q. And then when did you --

12 A. '02, excuse me, December of '02. I came back in
13 January of '15 and I'm still here.

14 Q. Okay. When, approximately, did you first learn
15 that Mr. Quincy Jones' Company, Company Two was
16 operating ARFF trucks on the Hampton Airport runway?

17 A. It was sometime between February of '15 and, I
18 guess, April of '15.

19 Q. I want to show you what's been marked as Exhibit
20 35, and ask you if you recognize that photograph?
21 What is that?

22 A. (Reviews photograph.) That is -- well, I was
23 told that was foam that was on the runway, that is
24 the Hampton County Airport runway.

25 Q. And you did not take that picture, did you?

1 A. No, ma'am.

2 Q. Okay. Was that picture provided to you as
3 information regarding activities at the airport
4 runway?

5 A. Yes, ma'am.

6 MS. JETT: Your Honor, I would move Exhibit 35
7 into evidence.

8 MR. WILSON: No objection, Your Honor.

9 THE COURT: It's admitted.

10 (Whereupon, Defendant's Exhibit Number 35 is
11 admitted into evidence without objection.)

12 EXAMINATION CONTINUES BY MS. JETT:

13 Q. Ms. Elliott, how -- how did you learn about the
14 airport use by the ARFF trucks?

15 A. We began working on the airport, doing research
16 and trying to decide what we could do, what process,
17 and that's why we started going out there. So I
18 received notification from a pilot that was coming
19 in that he was expecting a dry runway concerning the
20 conditions, and he observed the foam on the runway,
21 and so that's when we first noticed that something
22 was going on, we just didn't know where it came
23 from.

24 Q. And did you eventually learn how it came to be?

25 A. Yes, I did.

1 Q. And what did you learn?

2 A. We started work on the -- Public Works started
3 going -- had them out there working on the building,
4 the Pilot's Lounge, renovating it and so forth, and
5 the guys called me and said, "Hey, we know where the
6 water and foam is coming from. There's fire trucks
7 on the runway."

8 Q. Did you explore whose fire trucks those were?

9 A. Yes, I did, and --

10 Q. What did you learn?

11 A. Determined that it was Mr. Jones' Company.

12 Q. And what did you do next?

13 A. Went back to the office and did a -- what I
14 considered to be a thorough search of all the
15 records I could put my hands on, made some phone
16 calls to various individuals to determine if he had
17 any right to be out there. I had not seen anything
18 or had been told anything. And I determined there
19 was nothing in the records that allowed that use.

20 Q. And by records what do you mean?

21 A. I looked at anything that was on file. All I
22 found was the easement that had been filed and
23 approved by County Council. The land swap, that's
24 all I had found, you know, was nothing concerning
25 use of the runway.

1 Q. Did you research County Council minutes?

2 A. I did.

3 Q. And how far back did you go?

4 A. I went back to 2005 -- actually 2004.

5 Q. So you searched all County Council minutes for
6 2004 through the time that you learned there was
7 fire truck activity on the runway?

8 A. Actually, we searched all the way back until I
9 came back in 2015.

10 Q. Okay.

11 A. And the agendas.

12 Q. And you found what?

13 A. In 2005 the only times that I found Mr. Daniels
14 went before Council, there were three times, and the
15 item that was listed concerned an LMAR facility, and
16 that was it. I found nothing concerning Quincy
17 Jones; Q&J Properties; Station, Inc.; or Company
18 Two.

19 Q. Did you find any notation in any minutes that
20 Council ever went into executive session for
21 anything involving Mr. Jones or any company owned by
22 him?

23 A. No, ma'am.

24 Q. And let me ask you, back in 2005, would it have
25 been legal and acceptable procedure for County

1 Council to vote on any matter or take any action in
2 executive session

3 A. No, ma'am, never.

4 Q. How long have you been serving in the capacity
5 of county administrators, county employee and -- and
6 other jobs that made -- made you party to the County
7 Council meetings and executive sessions?

8 A. Thirty-three years.

9 Q. In how many counties?

10 A. Well, I actually served four counties when I
11 worked with Lowcountry Council of Governments, and I
12 did community and economic development work there,
13 so I was involved in bringing in some industry and
14 working out the details and so forth.

15 Q. So in that capacity you were presenting at
16 executive session to Councilmembers --

17 A. And --

18 Q. -- behind closed doors so to speak?

19 A. And open session.

20 Q. Right. When you presented in executive session,
21 did you ever know any County Council to take action
22 in executive session and -- and vote?

23 A. No, ma'am, they would take no action.

24 Q. All right. And did you find any indication that
25 Council in any open session ever took action

1 concerning Mr. Jones and any of his companies in the
2 time from 2004 to the time you came to Hamp -- to --
3 to the County?

4 A. Not prior to my arrival, no.

5 Q. Once you learned about the fire truck activity
6 on the runway, did you communicate anything about
7 that to Mr. Jones?

8 A. No, I did not. I had Mr. Hires and Mr. Blake in
9 my office, and we were discussing it, 'cause I was
10 asking them, "You know, do you know of any, you
11 know, any permission, or anything else?" I said,
12 "This has got to stop, because this is a liability
13 to the County."

14 Q. And did anyone communicate with Mr. Jones?

15 A. Mr. Blake told me he would take care of it.

16 Q. And you trusted that he did?

17 A. Yes, ma'am.

18 Q. And did you hear further from Mr. Jones about
19 the issue?

20 A. I did.

21 Q. And what did you hear?

22 A. He called me on the phone and asked me -- well,
23 he said that -- and I don't think I can say
24 verbatim, but he said, "I understand you want me to
25 stay off the runway." And I said, "That's right,

1 you need to stay off the runway." He said, "Do you
2 want me to continue doing the FOD cleanup?" And I
3 said, "No."

4 Q. Did you ever find any agreement between the
5 County for him to do FOD cleanup?

6 A. No, ma'am.

7 Q. After you learned that there was foam on the
8 runway and there was communication with Mr. Jones,
9 were you ever aware of Mr. Jones making any pitch or
10 proposal to the Airport Commission or the County
11 Council seeking to gain that permission to use the
12 runway?

13 A. Are you talking about prior to --

14 Q. No. After -- after you communicated with him,
15 did he then make a proposal and --

16 A. Yes.

17 Q. And I want to show you what's been marked as
18 Exhibit 19, 20 and 21, since we'll be talking about
19 those in conjunction with one another, and you just
20 take a moment to look at those.

21 A. (Reviews document.)

22 Q. Have you seen those before?

23 A. Yes, ma'am.

24 Q. What are those? If you could describe them, and
25 -- and refer to the number as you describe each one.

1 A. Exhibit 20, which is the first in chronological
2 order is October 8th of 2015, it's a letter from
3 Company Two, it's addressed to the Hampton County
4 Airport Administration, Jim or Jack Woodward, and
5 this concerns his explanation of his request to the
6 Airport Commission.

7 Q. Had you -- in your review of the documents,
8 before October of 2015, did you see any written
9 communication between Company Two and Hampton County
10 Council, administration, or any body of Hampton
11 County requesting use of its runway for testing fire
12 trucks?

13 A. No, ma'am.

14 Q. And that is the first request you found of
15 record?

16 A. Of record, yes, ma'am.

17 Q. And then what is the next chronological --

18 A. February --

19 Q. -- and refer to it by number.

20 A. Defendant's Exhibit 19, February 5th, 2016, this
21 is -- again, it's addressed to Hampton County
22 Airport Commission and Hampton County Council. And
23 this was, again, Mr. Jones addressing the concerns
24 and so forth of the Council and the Airport
25 Commission --

1 Q. Concerning?

2 A. -- concerning use of the airport.

3 Q. And was there a request embodied in there?

4 A. He stated a proposal by which he would like to
5 use the runway for testing.

6 Q. What's the next chronological one?

7 A. The item, November 29th -- Defendant's Exhibit
8 21, November 29th, 2016, the Airport Commission met
9 and had a vote on his proposal, and this was the
10 recommendation with County Council, where they made
11 the decision and they denied his request.

12 Q. So Hampton County Airport Commission recommended
13 to Council not to accept Mr. Jones' proposal?

14 A. That's correct. Well, they actually voted back
15 on May 10th of 2016.

16 Q. The Airport Commission did, and then they sent
17 you -- sent Hampton County Council a letter?

18 A. Correct.

19 Q. I want to show you what's been marked as
20 Defendant's Exhibit 22 and ask if you recognize
21 that?

22 A. (Reviews document.) I do. This is --

23 Q. What is that?

24 A. This is a letter that, apparently, my secretary
25 wasn't available to write a letter, so I did, so

1 there's no date at the top, so I did it. This is in
2 response to Mr. Jones because he wanted to sit and
3 answer the Council decision concerning the use.

4 Q. And do you know about when that letter would
5 have been issued?

6 A. It would have been after County Council had
7 voted and turned him down.

8 Q. And do you know when they voted to turn him
9 down?

10 A. I'm sure there's a letter --

11 Q. Okay.

12 A. -- that would show that.

13 Q. But it would have been --

14 A. It would have been --

15 Q. -- some time at least after --

16 A. -- after --

17 Q. -- Mr. Woodward's letter?

18 A. It would have been after the November 29th
19 letter, I believe.

20 Q. So this letter, Exhibit 22 --

21 A. I believe.

22 Q. -- is issued after -- at least after October of
23 2016 -- or after October of '15?

24 A. Yes.

25 Q. Which one?

1 A. That would have been definitely after the
2 October 5th, yeah.

3 Q. Of '15?

4 A. October 8th, excuse me.

5 Q. Of '15. Would it have been before or after the
6 February 5, 2016; do you know?

7 A. It would have been after.

8 Q. Okay.

9 A. To the best of my recollection.

10 Q. Okay. And in the October 2015 letter that is
11 Defendant's Exhibit 20, in the second paragraph, are
12 you the Rose that is referred to in that paragraph?

13 A. (Reviews document.) Well, I hate to assume
14 anything, but I would guess so.

15 Q. Well, the Rose in that paragraph asked us to
16 stay clear of the runway; would that be you?

17 A. That would be me.

18 MS. JETT: Your Honor, I would move Exhibit 22
19 into evidence if it's not already been stipulated.

20 MR. WILSON: That's fine, no objection.

21 MS. JETT: No objection?

22 MR. WILSON: No.

23 THE COURT: 22 is admitted.

24 (Whereupon, Defendant's Exhibit Number 22 has been
25 admitted into evidence without objection.)

1 BY MS. JETT:

2 Q. And I'm just gonna leave those right there. And
3 I may have already asked this, but did you find any
4 time before that October of 2015 letter, that is
5 Exhibit 20, in which Mr. Jones ever asked in writing
6 of Hampton County Council to use its runway to test
7 fire trucks.

8 A. No, ma'am.

9 Q. Did you find anything that predates Exhibit 20
10 in which Mr. Jones said he needed access to the
11 runway to test fire trucks at 50 or 70 miles per
12 hour, or do speed tests?

13 A. No, ma'am.

14 Q. Did you ever find anywhere in the Hampton County
15 Council minutes where Mr. Jones was granted such
16 permission?

17 A. No, ma'am.

18 Q. We've been discussing an exhibit admitted as
19 Plaintiff's 1, and I'm going to show that to you.
20 And I'm aware that that predates your tenure as
21 County Administrator, but you've seen this letter a
22 number of times; have you not?

23 A. (Reviews document.) Yes, ma'am.

24 Q. Okay. And as County Administrator for a number
25 of counties, and in your prior economic capacity

1 with the Lowcounty Council of Governments, have you
2 seen such letters on a regular basis?

3 A. I've seen similar.

4 Q. Some letters expressing some interest of a
5 County and luring some company to come to the -- to
6 the County or some interest by a business and
7 locating to the County, and they make a pitch to the
8 County. Sometimes it's one way, and sometimes it's
9 the other, correct?

10 A. Correct.

11 Q. And if the parties involved in those
12 arrangements work out some tentative deal where they
13 think they can fashion an agreement, is a letter
14 like that sometimes issued?

15 A. Correct.

16 Q. Is that letter the end of the contractual
17 negotiations usually?

18 A. No, ma'am, this is the beginning.

19 Q. Okay. Is that type of letter customarily
20 followed up by some negotiations, and some drafts
21 exchanged, and a contract hammered out between the
22 parties?

23 A. Exactly.

24 Q. And in this setting -- I'm gonna show you what's
25 been marked as Defendant's Exhibit 12. Was that the

1 sort -- is that the sort of agreement that would
2 typically follow at some point, a letter, such as
3 Plaintiff's 1?

4 A. Yes, ma'am.

5 Q. And that's an agreement that's in the record
6 here. Does that appear to you to be the agreement
7 between the County and Company Two --

8 A. Yes, ma'm.

9 Q. -- or -- excuse me, that might the Q&J
10 Properties.

11 A. Q&J.

12 Q. That's Q&J Properties for the easement and the
13 swap of parcels, correct?

14 A. Correct, this is for the property swap.

15 Q. Right.

16 A. And the easement, taxiway.

17 Q. Right. And then we have a deed, Defendant's
18 Exhibit 14, a deed from Coun -- Hampton County to
19 Q&J, correct?

20 A. Correct.

21 Q. Of 1. -- no three acres -- three acres --

22 A. Three acres.

23 Q. -- from the County to Q&J, and then Defendant's
24 13, a deed from Q&J to County of Ham -- Hampton for
25 1.774 acres, correct?

1 A. Correct.

2 Q. And a plat identified as -- or admitted as
3 Defendant's Exhibit 16, that shows the swapped
4 parcels, correct?

5 A. Correct.

6 Q. And then an easement agreement at Exhibit 15,
7 which is the taxiway easement we've been talking
8 about, correct?

9 A. Correct.

10 Q. Is that the way that ordinarily works?

11 A. Yes, ma'am.

12 Q. Some talks, a letter, a contract, some documents
13 exchanged?

14 A. Correct.

15 Q. And had there been an agreement of Hampton
16 County to give Mr. Jones either an easement, or some
17 other unfettered access, or even limited access to
18 the runway, as some inducement for him locating
19 here, or his company locating here, we would have
20 seen some sort of similar pattern, correct?

21 A. Anything other than landing an airplane or
22 taking one off, yes.

23 Q. I want to show you what's been marked as
24 Defendant's Exhibit 18 that's in evidence and ask
25 you if you recognize that from the Hampton County

1 records?

2 A. (Reviews document.) I do.

3 Q. What is that?

4 A. This was a letter that went to a Mr. Gary
5 Grossman with Lancaster Development Corporation.
6 They were -- they had showed some interest in that
7 Gemco property.

8 Q. And is it virtually identical to the letter you
9 saw as Plaintiff's 1?

10 A. Very, -- almost identical, yes.

11 MS. JETT: Madam Court Reporter, would you mark
12 this as 18A.

13 (Whereupon, Defendant's Exhibit Number 18A was
14 marked for the record.)

15 BY MS. JETT:

16 Q. I want to show you what's been marked, but not
17 yet in evidence, it's Defendant's Exhibit 18A, and
18 ask you if you have seen that document before?

19 A. (Reviews document.) Yes, ma'am, it was in the
20 files of the -- it was in the airport files.

21 Q. Okay. And is that letter connected somehow to
22 Defendant's 18?

23 A. Yes, ma'am.

24 Q. Would you tell us about that connection?

25 A. This is -- predates this letter.

1 Q. So --

2 A. Lancaster --

3 Q. -- 18A predates 18?

4 A. Right. Mr. Grossman sent a letter of inquiry to
5 the Airport Commission through Mr. Lee Ellis,
6 concerning that Company's desire to purchase the
7 Gemco building, and that Company actually had two
8 airplanes that they would use to -- they're desire
9 was to fly between their Pennsylvania location and
10 here, and also would use to fly in individuals
11 looking to -- they built modular homes, and their
12 clients would come in and pick out what they wanted.

13 Q. And that company, to your knowledge, had no
14 interest in testing anything on the runway?

15 A. I mean I dealt with this company, eventually, in
16 my capacity in Jasper County and, no, ma'am, it did
17 not.

18 Q. And -- and did they, ultimately, locate in South
19 Carolina?

20 A. They did.

21 Q. And where?

22 A. Jasper County.

23 Q. And were you County Administrator there, or what
24 was your role in Jasper County?

25 A. I was Deputy Administrator for economic

1 community level.

2 Q. Okay. And so the Company that had been
3 interested in Hampton went to Jasper?

4 A. Yes, ma'am.

5 Q. And you were familiar with that Company?

6 A. Yes, ma'am.

7 Q. And were you familiar with their history of
8 considering Hampton County?

9 A. Yes, ma'am.

10 MS. JETT: Your Honor, I would move 18A into
11 evidence.

12 MR. WILSON: No objection.

13 THE COURT: It's admitted.

14 (Whereupon, Defendant's Exhibit Number 18A is
15 admitted into evidence without objection.)

16 BY MR. JETT:

17 Q. Ms. Elliott, in reviewing 18A, there are two
18 attachments, one appears to be some sort of an
19 aerial photo, and one appears to be either a
20 schematic or sort of a partial plat.

21 A. Correct.

22 Q. Okay. What is highlighted in pink on that
23 attachment to 18A?

24 A. It's -- it is the -- what I would consider the
25 proposed easement between the end of the runway of

1 the Varnville, which would be the 11 -- called 11M,
2 11 approach, and the old Gemco property. It does
3 not show the Gemco property on here, but it does
4 give the address of the Gemco property.

5 Q. And what, to you, is the significance of this
6 sketch on 18A, the letter that is 18 -- Defendant's
7 18, and then the letter that is Plaintiff's 1? How
8 would those three things be connected; if at all?

9 A. You need to show me.

10 Q. I'm about to get that, I'm looking for it.
11 Plaintiff's 1, I'm sorry.

12 A. Plaintiff's 1 is Mr. Daniels' letter?

13 Q. Yes, Plaintiff's 1, Defendant's 18 and
14 Defendant's 18A, the sketch, is there any connection
15 between those three things?

16 A. (Reviews documents.) What it a- -- what it
17 appears is, the original letter came from Lancaster
18 Redevelopment. It appears that the letter back from
19 Hampton County was drafted from this letter back to
20 Mr. Grossman, and then the same verbiage was used in
21 this letter and went to Mr. Jones.

22 Q. And what is the connection between Plaintiff's
23 1, Defendant's 18, and Defendant's 18A, the sketch,
24 regarding the --

25 A. It --

1 Q. -- the area described in there, if any?

2 A. It uses the same descriptive, but the problem is
3 that the compass rose is located in the wrong
4 direction on this piece here, and I'm directionally
5 challenged, but I figured that part out. They --
6 the desired easement is shown where they desire it,
7 but the descriptive portion is incorrect.

8 Q. And in the descriptive portion from --

9 A. It moves from --

10 Q. -- Defendant's 18 is copied over into
11 Plaintiff's 1?

12 A. 18A.

13 Q. The descriptive portion of the letter that is 18
14 is --

15 A. Correct.

16 Q. -- copied over into Plaintiff's 1?

17 A. Yes.

18 Q. And so an error on the sketch provided by
19 Lancaster Redevelopment turns into language in --

20 A. It's in the descriptive --

21 Q. -- 18, and then turns into language in
22 Plaintiff's 1?

23 A. That is how it appears, but it's from the
24 descriptive portion from here.

25 Q. And based on your review of those documents, did

1 you believe the intention of the letter identified
2 as Defendant's 18 was to convey an easement over the
3 area shown in pink on 18A?

4 MR. WILSON: Your Honor, I would object to that.
5 I -- I don't know that she has -- is qualified to
6 give an opinion over something in 2005 when she
7 wasn't here. She's not an expert, so I don't know
8 where that would give her the basis to say what she
9 believes.

10 THE COURT: That's sustained, I -- I think --

11 MS. JETT: Like --

12 THE COURT: -- it's speculation on her part.
13 It's an argument you can make, but --

14 MS. JETT: Thank you, Your Honor.

15 THE COURT: -- I think she has a basis to give
16 that testimony.

17 MS. JETT: Sorry, thank you.

18 BY MS. JETT:

19 Q. When you came onboard as the County
20 Administrator for Hampton County in January of 2015,
21 what was sort of the mission for which you were
22 hired, if there was one?

23 A. I had already started working with the Airport
24 Commission. As it was, there was just a few members
25 at that time from like October -- October '14 -- no,

1 September and October of '14, and then when I became
2 Administrator, I continued working with the Airport
3 Commission. The County Council during the interview
4 made it clear that two of my goals were to be
5 looking at the Airport, seeing what could be done,
6 develop a mission for getting it done, and then make
7 it happen. The second was to, basically, the same
8 thing with the Arts Council, to determine the
9 condition it was in, and develop a plan for moving
10 it forward.

11 Q. Since you came on with Hampton County in January
12 of 2015, how has the Airport fared?

13 A. We secured a 2.66 million grant from USDA. Out
14 of that we have secured the largest grant that was
15 ever given from the State Economics Commission, an
16 amount of 1.23 and some change million dollars. We
17 have secured being a test for a solar windsock that
18 was provided by the State Aeronautics. We have been
19 given a say whether a system might stay in
20 aeronautics. We have received a lot of support from
21 the State Aeronautics Commission, and we have put in
22 fuel services. We regen -- rejuvenated and
23 resurfaced. It's a very active airport at this
24 time.

25 Q. Now I'm going to show you what's in evidence as

1 Defendant's 11B, and ask you, is that approximately
2 the -- the modern state of Hampton County Airport?

3 A. (Reviews photograph.) Yes, ma'am, that's a
4 couple weeks ago. That first next building has
5 already been enclosed, I believe.

6 Q. Which one?

7 A. To your very next -- it's called a -- made two
8 box hangers here.

9 Q. The one that looks sort of like mesh here?

10 A. Yeah.

11 Q. Oh, yeah.

12 A. The first one --

13 Q. Frame-built?

14 A. Yes, ma'am. The first one is almost completely
15 enclosed.

16 Q. And what is that?

17 A. Those two box hangers.

18 Q. Okay, and --

19 A. The first two are the -- what are called Super T
20 hangers. There's 20 -- a total of 20 of those.

21 Q. And am I correct that the Gemco building is over
22 here or over here? It's over --

23 A. Your first one.

24 Q. This one?

25 A. Yeah.

1 Q. Okay. And this area here is the runway,
2 correct?

3 A. That's the runway.

4 Q. What is this?

5 A. That is the new full-length taxiway that has
6 been paved and put in.

7 Q. And that's add -- been added during your tenure?

8 A. Yes, ma'am.

9 Q. Okay, and this strip over here is that the
10 taxiway that we -- where's --

11 A. That's the --

12 Q. -- where's the taxiway that we've been
13 discussing that there's an easement for for --

14 A. It doesn't how it --

15 Q. -- Q&J?

16 A. It does not show up very well on here.

17 Q. Okay.

18 A. It wants to come --

19 Q. It's sort of in the --

20 A. -- this way.

21 Q. -- shadow there?

22 A. The taxiway was actually -- kind of took part of
23 this because this is not a full like taxiway.

24 Q. Right.

25 A. The rest of the easement would come -- well,

1 now, it can't really tell where the property line on
2 there, but it would run that way.

3 Q. But his easement is over here?

4 A. Correct.

5 Q. The one that's been recorded in 2015?

6 A. Correct.

7 Q. Has the volume of use at the Airport increased
8 during your tenure?

9 A. Yes, ma'am.

10 MS. JETT: Your Honor, are these marked? And I
11 -- I don't remember where our list went off. It was
12 in the 40s, I think. Did we give you a list?

13 THE COURT: You did not.

14 MS. JETT: Aaron Ness, what is the next exhibit
15 in our list?

16 MR. AARON NESS: After which one?

17 MS. JETT: After the ones that we have provided
18 to Mr. Wilson and -- and the Court. I think it's in
19 the 40s.

20 MR. AARON NESS: At least to be safe.

21 MS. JETT: Your Honor, even if it's not
22 sequential, may I just now release 46 and 47?

23 THE COURT: The last one in my book is 45. So
24 that would be fine.

25 MS. JETT: If you would mark these as 46 and 47,

1 there's stickers on them already, but you can use
2 yours if you wish.

3 (Whereupon, Defendant's Exhibits 46 and 47 are
4 marked for the record.)

5 BY MS. JETT:

6 Q. Ms. Elliott, I want to show you what's been
7 marked as Exhibit 46 and 47, and tell us, if you
8 can, what those are?

9 A. (Reviews documents.) Yes, ma'am, these are logs
10 that, when we take our daily logs, and then turn
11 into a monthly log, and we keep a total of the
12 aircraft that land and take off at the airport and
13 our fuel sales. And this is the report that we give
14 to the Airport Commission and County Council.

15 Q. And one is --

16 A. This --

17 Q. -- for --

18 A. One is for 2020, and one is for current 2021.

19 Q. And you heard earlier this week that the numbers
20 that were discussed is what were the takeoffs and
21 landings in 2005 at the airport, do those show a
22 substantial increase?

23 A. There wasn't a document of what was going on in
24 2005, as far as the numbers because of our County.

25 Q. You didn't keep logs?

1 A. No, there was no one out there really to keep a
2 log. We started manning it in '18, I believe.
3 There were 874 in 2020, as a total, but 515 so far
4 -- well, just through April.

5 Q. In '21?

6 A. In '21.

7 Q. Who's doing the FOD maintenance at the airport
8 now?

9 A. County employees.

10 Q. Who issues NOTAMS at that airport?

11 A. We have a listing. The predominant one is Dobie
12 Hiers.

13 Q. Okay. Can Mr. Jones or Company Two's employees
14 issue NOTAMS?

15 A. No, ma'am.

16 Q. Do you know whether anyone from that Company has
17 ever requested a NOTAM during any work that was
18 being done by them at the airport?

19 A. No, ma'am.

20 Q. When you learned that there were fire trucks
21 being run on the airport runway, did you inquire
22 whether any NOTAMS had ever been issued?

23 A. I don't recall, but I'm going to not.

24 Q. But have you ever -- have you ever been informed
25 that one was issued?

1 A. No, ma'am.

2 Q. What was your reasoning behind asking Mr. Jones
3 to keep his company air -- fire trucks off of the
4 runway?

5 A. For me, it was a -- it was a liability issue for
6 the County. The trucks go out there and it's County
7 property, it's a private business doing something on
8 County property without expressed permission, and he
9 had to have permission to use County property.

10 Q. Did anyone ever inform you whether during those
11 activities they blocked vehicular or pedestrian ac -
12 - access to the runway?

13 A. No, ma'am.

14 Q. Or issued -- had an NOTAM issued?

15 A. No, ma'am.

16 Q. Who other than private pilots and planes uses
17 that airport?

18 A. We had several medical aircraft that do come in
19 and utilize that airport.

20 Q. Does any military aircraft come there?

21 A. South Carolina National Guard has, SLED, South
22 Carolina SLED, forestry -- forestry, multiple state
23 agencies do. There are several contract that fly
24 for mapping purposes for USDA. We have several
25 independent contractors that come in and fly for the

1 spraying of the pine trees, and so forth.

2 Q. You heard Mr. Anderson say that this a -- a
3 visual airport, not an instrument-rated airport, --

4 A. Correct.

5 Q. -- right?

6 A. At this time.

7 Q. And is it still visual only?

8 A. At this time.

9 Q. So it's up to the pilot circling the airplane to
10 look and make sure there's not an obstacle?

11 A. Correct.

12 Q. And he doesn't have to get clearance to land?

13 A. No, ma'am.

14 Q. And he doesn't know if somebody's planning to
15 drive out there just as he's landing?

16 A. No, ma'am.

17 MS. JETT: Thank you, please answer any
18 questions Mr. Wilson may have.

19 **CROSS-EXAMINATION BY MR. WILSON**

20 BY MR. WILSON:

21 Q. Good afternoon, Ms. Elliott, how are you?

22 A. I'm doing fine, Mr. Wilson, how are you?

23 Q. You can call me Chris. Do you mind if I call
24 you Rose?

25 A. Not a problem.

1 Q. Okay. If I'm understanding correctly, you
2 became Administrator in January of 2015?

3 A. Correct.

4 Q. And you had been Administrator from 1991 until
5 approximately when in Hampton County?

6 A. I believe it was December of '02.

7 Q. And then you left and went a few other places,
8 Jasper, and then came back January of 2015?

9 A. I went to Jasper, --

10 Q. Right.

11 A. -- went to Bamberg, went to Hardeeville, about a
12 year and a half hiatus, then I went and did interim
13 work, then I went to Hardeeville --

14 Q. Okay.

15 A. -- and then I came back to Hampton.

16 Q. Okay. And I think, if I understood correctly,
17 you said that when you were approached or determined
18 that Company Two was testing trucks or -- or had
19 ARFF trucks on the Hampton-Varnville Airport runway,
20 you -- you first learned of that sometime in
21 February -- between February and April of 2015; is
22 that what you said a little bit earlier?

23 A. Correct.

24 Q. Okay, and then you said you instructed Blake
25 Hodge to notify Mr. Jones to cease from doing that?

1 A. Correct.

2 Q. And that was pretty much immediate as soon as
3 you found out about it?

4 A. Well, once we found out what was going on, yes.

5 Q. And -- and we talked about this in your
6 deposition, and if we need to look at it we can, but
7 I had asked you if you had received some complaints,
8 and -- and then you had actually written Council in
9 the last paragraph of an email you had written them,
10 you said that you had informed Mr. Jones around
11 March of 2015 to stop the activities.

12 A. Sounds right.

13 Q. Okay, and then I said, "So that would have been
14 the first time you notified or had anybody notify
15 Mr. Jones or Company Two that they needed to cease
16 operations for testing on the runway." You said,
17 "Correct"; does that --

18 A. Correct.

19 Q. -- does that sound all right?

20 A. That sounds right.

21 Q. So other than sending Mr. Hodge to communicate
22 to Mr. Jones to cease using the runway and -- did
23 you have any other communications with Mr. Jones
24 prior to sending word for him to cease operations on
25 the runway? Prior to that, not afterwards, prior.

1 A. No.

2 Q. And I think you said after you sent that word to
3 him through Mr. -- through Blake, I think you called
4 him, Mr. Hodge, Mr. Jones called you and asked you
5 if you wanted him to continue to do FOD cleanup, and
6 you told him, "No."

7 A. Correct. Well he also asked me -- he said, "I
8 understand you want me to stay off the runway to
9 stop using the runway."

10 Q. Okay. Do -- do you -- do you know of any
11 instance where Mr. Jones or Company Two's vehicles
12 have been back on the runway since that time?

13 A. He -- He did not immediately stop until after --
14 there were a couple of instances of water being on
15 the runway, and I reported this to the FAA, I
16 believe, two three times.

17 Q. Okay.

18 A. And I believe he was contacted actually by the
19 FAA.

20 Q. All right. Did you ever have any communications
21 with Mr. Jones -- well, let me ask you this, before
22 -- Ms. Elliott, this letter that we've talked about
23 to so much, Plaintiff's Exhibit 1 --

24 A. Yes.

25 Q. -- did you -- did you find that letter in the

1 County records, prior to sending word to notify
2 Mr. Jones that he needed to cease using the runway?

3 A. Yes.

4 Q. Did you ever have any conversation or
5 communication with Mr. Jones about any kind of
6 authority, or permission, or any reason why he
7 thought he had access to the Airport runway to test
8 trucks prior to telling him to cease using it? Did
9 you ever ask him why he was using the runway, or how
10 he felt like he had the permission or the right to
11 use the runway?

12 A. No, 'cause I found no documentation in County
13 records.

14 Q. Okay. Did you ever ask him -- approach him and
15 -- and ask him about that letter, or anything to do
16 with that letter, prior to telling him to cease
17 using the runway?

18 A. No, I didn't.

19 Q. Did you ever have anybody do either one of those
20 two things?

21 A. No, I didn't.

22 Q. Now, obviously, you weren't here in 2005,
23 correct?

24 A. Correct.

25 Q. And you weren't involved in any of the

1 negotiations or discussions with Company Two -- with
2 Quincy Jones about Company Two's locating to Hampton
3 County?

4 A. No, sir.

5 Q. You don't know what kind of commitments
6 Mr. Jones and Company Two needed to be able to
7 locate in Hampton County?

8 A. No, sir.

9 Q. And you don't know what kind of discussions were
10 had with Mr. Jones and Company Two concerning that,
11 do you?

12 A. No, sir.

13 Q. You weren't involved in any of that?

14 A. No, sir.

15 Q. And I understand you said that you would be
16 involved -- as Administrator, you would be involved
17 in processes with recruits and prospects -- that's
18 how you -- you do it as Administrator, I believe,
19 correct?

20 A. Any Administrator at some point in time would be
21 involved.

22 Q. But you also have an Economic Development
23 Director or person that's kind of the head of a
24 different department handles a lot of those issues
25 for you, correct?

1 A. Correct.

2 Q. You just can't do everything in your job, --

3 A. Right.

4 Q. -- right?

5 A. Right.

6 Q. Just out of curiosity, I -- I'm looking at
7 minutes, and I'll be glad to show them to you, I'm
8 looking at minutes from -- County Council meeting
9 minutes from December 16th of 2019, and it says that
10 there was a third reading on an ordinance to provide
11 for the issuance and sell not to exceed 2.6 million
12 dollar general obligation bonds. You had said
13 something a moment ago about a 2.6 million dollar
14 grant, is that --

15 A. It was a USDA loan. If I said grant, I was
16 mistaken.

17 Q. Okay, so it's not a grant, it's a loan to be
18 repaid?

19 A. The 2.66 is a loan with the USDA, but now we
20 will not draw out that amount, because we -- we've
21 actually acquired just around 1.28, 1.3 million in
22 grants.

23 Q. I understand that. I just want to make sure I
24 heard correctly. After you were informed that
25 Company Two was using the Airport runway to test

1 fire trucks, and you said you did your research to
2 see if you felt like there was any permission, I
3 think I understood you said you didn't have any
4 communication with Mr. Jones about why he thought he
5 had permission to be there, or what he was doing,
6 other than send word to him to cease that, correct?

7 A. Correct.

8 Q. Did you ever have any communication with anybody
9 to see if there were any kind of protocols or
10 procedures that could be put in place to allow
11 Company Two to continue to test trucks on the
12 runway, in -- in addition to any of the actions and
13 activities that you wanted to take, with respect to
14 the runway, or see if operations could occur? Some
15 of the same stuff I talked to Mr. David Anderson
16 about protocols. Did you contact anybody about
17 doing any of that before you sent word to Mr. Jones
18 to get off the runway?

19 A. No.

20 Q. Now, Mr. Jones has been to a number of -- let's
21 -- let's say this, we -- we can -- can we disagree
22 we have -- can we agree that we have a disagreement
23 about whether Mr. Jones had permission, or an
24 agreement, or a commitment to use the Airport runway
25 to test fire trucks?

1 A. We can definitely agree to disagree.

2 Q. All right, he and Hampton County have a
3 disagreement of that in regard, correct?

4 A. Correct.

5 Q. So when I asked these questions about getting
6 back on the runway, I -- I understand you may
7 dispute whether he ever had the right to be there to
8 start with, okay; is that fair enough?

9 A. Fair enough.

10 Q. Okay. So Mr. Jones -- after you sent word to
11 him to get off the Hampton runway, Mr. Jones would
12 have attended a number of County Council meetings.
13 You've seen minutes from Airport Commission
14 meetings, Economic Development minute meetings,
15 trying to get back onto the runway; do you agree
16 with that?

17 A. It was Airport Commission meetings and County
18 Council --

19 Q. County Council.

20 A. -- and not Economic Development.

21 Q. Okay, fair enough. And that process would have
22 gone on for upwards of two years?

23 A. It seems like it's been about 30 --

24 Q. I understand.

25 A. -- at least.

1 Q. I understand. I believe -- I'm gonna -- since
2 we put that other correspondence in, I want to do
3 this. Can you tell me what that is?

4 A. (Reviews document.). That's the January 17th,
5 2017, letter from Mr. Jones to me.

6 Q. Okay. And you did receive that letter?

7 A. I did.

8 Q. All right.

9 MR. WILSON: We're going to enter that in as --
10 I'm sorry, Your Honor, I'm not sure which one.

11 THE COURT: That's okay.

12 MR. WILSON: I ask you every time. I forgot.

13 MS. JETT: No objection.

14 THE COURT: What was the number?

15 MR. WILSON: Four. I going to move this in as
16 Plaintiff's Exhibit Number 4.

17 (Whereupon, Plaintiff's Exhibit Number 4 is marked
18 and admitted into evidence without objection.)

19 BY MR. WILSON:

20 Q. Ms. Elliott, did you receive that letter?

21 A. (Reviews document.) Yes, sir.

22 Q. Does it appear from that letter that Mr. Jones
23 is trying to address concerns that he felt like may
24 have been expressed to him about his use of the
25 Airport runway to test fire trucks?

1 A. This was in follow-up to Mr. Jones' request for
2 a specific reasons why the vote was taken the way it
3 was, and this was his response back to those
4 statements.

5 Q. And you think that might have been like in
6 response to the letter that you talked about
7 earlier, that you wrote him that didn't have a date
8 on it?

9 A. Correct.

10 Q. This seems like that, doesn't it?

11 A. Correct.

12 Q. You had some communication with the FAA about
13 whether any type of activities by Company Two would
14 violate any Federal Aviation Regulations, or any
15 grant assurances, or any kind of federal funding
16 guidelines, haven't you?

17 A. Are you talking about Mr. Price?

18 Q. Yeah.

19 A. Yes.

20 Q. You've had some communication with Mr. Price,
21 haven't you?

22 A. I followed up on Mr. Price's -- the opinion that
23 he wrote, correct.

24 Q. When Mr. Price gave you an opinion, and when you
25 contacted him by email, he gave you an opinion that

1 operations at the Airport are solely the
2 jurisdiction of the airport owner, correct?

3 A. Correct. He responded after about four times.

4 Q. I understand, FAA can be busy. I think what he
5 emailed you was, in short, you, which I guess would
6 be Hampton County, on the Airport, and you may allow
7 the company to use your facility or not; --

8 A. Correct.

9 Q. -- do you agree with that?

10 A. Correct.

11 Q. And then he says, "You can charge or not," and
12 then he says, "the decision is up to Hampton
13 County."

14 A. Correct.

15 Q. Ms. Elliott, let's take a look real quick at
16 these documents that -- that Ms. Jett asked you
17 about. So Mr. Grossman was writing Hampton County
18 saying he had some emphasis of Defendant's Exhibit
19 18A. So Mr. Grossman was writing Hampton County,
20 and he was telling Hampton County that he was
21 interested in locating there, that he was going to
22 purchase -- he had -- he had an agreement to
23 purchase a nine-acre parcel at 283 Foster Road,
24 correct?

25 A. He corresponded with Mr. Ellis as the Hampton

1 County report.

2 Q. But you found this in the Hampton County
3 records, correct?

4 A. In the Airport --

5 Q. You found this in --

6 A. -- Commission records, yes.

7 Q. I might call it Hampton County records, will --
8 will cover County Council, Economic Development and
9 Airport Commission, fair enough?

10 A. Fair enough.

11 Q. Okay. So in th Hampton County records you found
12 this letter from Mr. Grossman, correct?

13 A. Correct.

14 Q. And he, in essence, says he's buying the nine
15 acres at 283 Foster Road, correct?

16 A. Correct.

17 Q. Or he had an agreement to do a -- a contract of
18 purchase, correct?

19 A. Correct.

20 Q. And that's the Gemco property?

21 A. Correct.

22 Q. Okay. And he's still trying to work out some
23 stuff, and he said he had two planes, correct?

24 A. Correct.

25 Q. All right, and then he wanted a written

1 commitment for a private taxiway easement from where
2 to where?

3 A. He used the description northeast tip of the
4 property to the runway as illustrated on the
5 attached aerial photograph.

6 Q. Okay. Northeast tip of what property?

7 A. Well, he says, "This property," and I can give
8 you my interpretation."

9 Q. Please.

10 A. That would be the Gemco property.

11 Q. Okay. So he's looking for a taxiway -- a
12 private taxiway from the Gemco property, the
13 property he's about to buy, to the edge of the
14 runway?

15 A. Correct.

16 Q. And that's what he needs to be able to relocate,
17 or be able to locate his business in Hampton County?

18 A. Correct.

19 Q. Okay. Now, I understand the letter that got
20 written to him may have said something different, or
21 -- or phrased it differently, but your understanding
22 is that was what he would have needed to locate or
23 relocate?

24 A. That was part of it.

25 Q. Was there something else that you found out?

1 A. Well, with Mr. Grossman, with a manufacturing
2 facility, there would have been additional --

3 Q. Incentives?

4 A. -- incentives that would have gone through the
5 County, that would have been, I guess, directly
6 responding to Mr. Daniels, himself, but I didn't
7 find any of that, when I had a conversation with
8 Mr. Grossman.

9 Q. You agree with me that what Mr. Grossman wrote
10 in this letter, that he was looking for a commitment
11 from Hampton County for --

12 A. For an easement to the Airport.

13 Q. To just -- just to the --

14 A. Taxi --

15 Q. -- tip of the --

16 A. -- to the runway.

17 Q. Just to the runway.

18 THE COURT: Can y'all hand me Plaintiff's 4 and
19 Defendant's 18A? I haven't seen either of those.

20 MR. WILSON: Yes, I'm sorry. Your Honor, that's
21 all the questions I have for Ms. Elliott.

22 MS. JETT: Your Honor, I just have a couple on
23 redirect.

24 **REDIRECT EXAMINATION BY MS. JETT**

25 Q. Ms. Elliott, Mr. Wilson had asked you whether

1 you ever asked Mr. Jones why he thought he could use
2 the runway for his fire trucks, and you said you did
3 not ever ask him that.

4 A. I didn't ask him that, no.

5 Q. Were you ever present for any conversation in
6 which anyone else asked Mr. Jones who authorized him
7 to use the runway for his fire trucks and in --

8 A. I was.

9 Q. -- which he responded?

10 A. I was.

11 Q. Where was that?

12 A. It was at the Airport Commission meeting.

13 Q. And about what timeframe; if you can remember
14 even vaguely?

15 A. I believe it was the second one that he came to.

16 Q. And that would have been after you stopped him
17 using the --

18 A. Correct.

19 Q. -- runway?

20 A. It would have been in -- in the minutes for the
21 Airport Commission when he attended.

22 Q. Okay.

23 A. It might have been the second one.

24 Q. And would that have been around the time of
25 those two letters --

1 A. Probably before those letters, right.

2 MS. JETT: That would be 19, 20, 21. If Your
3 Honor please, I'll just need to find these.

4 THE COURT: I do have 19, so that's 19, 20 and
5 21.

6 MS. JETT: Oh, I'm sorry.

7 THE COURT: I mean I don't have your -- I don't
8 have your copy.

9 MS. JETT: Oh.

10 THE COURT: I have one for my --

11 MS. JETT: I'm sorry, let me -- while I'm
12 looking for it here. Here it is.

13 BY MS. JETT:

14 Q. Would that have been sometime around the time of
15 the letters that ranged from October of '15 to
16 November of 2016, the letters from Company Two to
17 the Airport Commission, to the Airport Commission
18 and County Council, and then from the Airport
19 Commission to County Council, recommending a denial?
20 Would it have been sometime in there that --

21 A. Somewhere in there.

22 Q. -- that these conversations were --

23 A. Yes.

24 Q. -- occurring? Tell me about the conversation
25 that you witnessed between Mr. Jones and another

1 person --

2 A. It was after the Airport Commission meeting had
3 ended.

4 Q. Yes.

5 A. So -- yes, so I would haven't taken notes --

6 Q. Right.

7 A. -- at that time. One of the Commission members,
8 and I honestly can't remember which one it was, I
9 did not write that down, but I did make a note on
10 his response. One of them asked Mr. Jones, "Well,
11 how did you come about using the runway anyway?"
12 And he responded, "That I just started using it,
13 nobody gave me permission," something to that
14 effect.

15 Q. Thank you.

16 MS. JETT: No further questions, Your Honor.

17 THE COURT: Mr. Wilson, anything else?

18 MR. WILSON: If I could have just one more,
19 please, Your Honor?

20 THE COURT: Sure.

21 **RECROSS-EXAMINATION BY MR. WILSON**

22 Q. Ms. Elliott, did you ever make any notes about
23 this statement you just attributed to Mr. Jones
24 anywhere?

25 A. It's in a report that I gave to County Council,

1 and that's been part of the documents that y'all
2 were provided.

3 Q. Do you have it?

4 A. It's in the records. I'm sure I've got a copy
5 in my file somewhere.

6 Q. Anything other than that?

7 A. No.

8 Q. Anywhere else you talk about it other than that,
9 or disclosed that statement other than that?

10 A. No, sir.

11 Q. Okay.

12 MR. WILSON: Nothing else, Your Honor.

13 MS. JETT: May Ms. Elliott be excused?

14 THE COURT: Sure.

15 MS. JETT: Your Honor, the Defendant rests, and
16 we do have a motion to take up with the Court.

17 THE COURT: Okay, anything in rebuttal from
18 Plaintiff?

19 MR. WILSON: Your Honor, can we take -- I -- I
20 know it's 4:15, but can we take a two-minute break?

21 THE COURT: Yes.

22 MR. WILSON: A five-minute break maybe, and let
23 me check one thing.

24 THE COURT: We'll recess for about five minutes.

25 MS. JETT: Thank you, Your Honor.

1 (Whereupon, a brief recess is taken.)

2 MR. WILSON: Your Honor, we don't intend to call
3 anything in reply.

4 THE COURT: Okay.

5 Yes, ma'am?

6 MS. JETT: Your Honor, I have a directed verdict
7 motion. Your Honor, the only remaining cause of
8 action now is promissory estoppel. I have emailed
9 the Court earlier in the Blanton Enterprises versus
10 Burger King case. Last evening emailed you Glover
11 versus Lockheed, which is also relevant to this --
12 this aspect. And I have several others -- well,
13 actually, two other cases, I believe, that I can
14 email straight to the Court, and that is, Your
15 Honor, the -- the promissory estoppel is based only
16 when there is a clear unambiguous promise, and this
17 Court this week has heard that if there was anything
18 resembling a promise in that 2005 letter, then,
19 number one, it didn't involve accessing a runway.
20 If it had, Mr. Jones wouldn't have been coming
21 forward in 2015 and '16 saying, "I'd like to access
22 the runway, and here are the things I'd like to do
23 in return," which are the two Company Two letters,
24 and I think they're 19 and 20, or somewhere in there
25 that we handed up.

1 THE COURT: And, of course, that was after he
2 had been kicked off the runway.

3 MS. JETT: Yes, Your Honor, he had been kicked
4 off of the runway, but had there been a promise, it
5 would seem that those letters to the Airport
6 Commission and to the Hampton County Council and the
7 Airport Commission would have said, "I've been
8 kicked off in violation of a promise." The other
9 thing about the promise, not only must it be
10 unambiguous, Your Honor, but it's -- it's a promise
11 of what? I don't think there's a County Council --
12 a County employee who could make a clear and
13 unambiguous promise to give a perpetual access to an
14 airport runway owned by the County. There's --
15 there's no authority for that. Your Honor, the
16 promise has to be clear and unambiguous, there can't
17 be any ambiguity in it. The only damages that can
18 flow from it are damages caused by the Defendant
19 being -- acting inconsistently with the promise, and
20 those are the reliance damages.

21 THE COURT: Well, let me ask you this, as
22 Mr. Solomons' described the 2005 letter giving carte
23 blanche from the northeast of the runway to his
24 property line, and also said it's -- that that
25 letter indicated what he called broad acquiescence.

1 And now I understand him trying to distance himself
2 from this letter as much as possible, because it --
3 it's very inartfully drawn.

4 MS. JETT: Okay.

5 THE COURT: But I mean that was his description
6 of it, was that it gives carte blanche, basically,
7 to use the entire Air -- Airport property.

8 MS. JETT: But when you consider the language in
9 the letter itself, it does not say runway, it says
10 taxiway right, and if you --

11 THE COURT: Well, it says taxiway right-to-use,
12 so then it describes this broad area.

13 MS. JETT: But it says from and it gives two
14 points, Your Honor, and those two points, as I went
15 through with Mr. Solomons, could have been a
16 straight and narrow line, a straight and wide line,
17 a wavy line, it could have been irregularly shaped.
18 There are two extreme points, but that is a 2-D --
19 when -- when you look at a map, it's a 2-D document,
20 and it's not just a straight line between two
21 points. If so, then he only had an access to travel
22 a certain straight line, and -- and Mr. Jones
23 himself agreed, when shown on the aerial, that --
24 that line dissected the runway, it didn't run along
25 the runway, if we looked at those two points. When

1 put in context with Defendant's 18A, which was the
 2 letter from Lancaster Redevelopment to the County
 3 where they attached a map that showed an access that
 4 went from a northeast point to a southwest point,
 5 one being the border of the property, and one being
 6 the border of the Airport, that dovetailed with the
 7 taxiway that later was granted to Mr. Jones. Other
 8 than a license, which has now been revoked, if it
 9 existed, there's nothing that that letter could
 10 convey. It can't -- it can't give him a perpetual
 11 access to an entire airport property, that would be
 12 not only unlawful, but it would be absurd in its --
 13 in its translation, Your Honor.

14 THE COURT: No, I don't know that it would be
 15 unlawful according to Jim Price. He said that
 16 you're allowed to let anybody use the Airport
 17 however you see fit. You own it --

18 MS. JETT: But I mean by --

19 THE COURT: -- and it didn't violate any FAA
 20 regs.

21 MS. JETT: Right. But -- and what I mean by
 22 unlawful is not authorized by Council and yet in
 23 covering its land with some sort of right that is
 24 vague, and, apparently, perpetual, and that can't
 25 be. The rights that he could have under law, the

1 interest that he could have in the real estate would
2 be a fee simple ownership, some other type of fee, a
3 leasehold, an interest, su- -- I mean a -- a license
4 to use, or permissive use, but it wouldn't be --
5 they couldn't have given him an easement, and so
6 what must it be? It must be something that is
7 revocable, and not permanent, and not perpetual.

8 THE COURT: Well, let's -- let's say it was a
9 permissive use that was revocable, --

10 MS. JETT: Yes.

11 THE COURT: -- because there's a fair amount of
12 testimony that the folks who were involved in this
13 deal in 2005 said, "We knew it involved him using
14 the Airport runway, that's his business is
15 refurbishing these fire trucks, we knew that's what
16 he was going to be doing, and that's what we agreed
17 to let him do." Let's say it was permissive use,
18 tell me about the timing of this, because it strikes
19 me as particularly harsh to the Plaintiff that he --
20 as soon as he effectuates that property swap, where
21 he is giving up the prime piece of Airport real
22 estate that the Airport wants to now effectuate the
23 improvements to the Airport, as soon as he does
24 that, he conveys that property over, and that's
25 about the time that he is now kicked off the Airport

1 runway.

2 Q. Your Honor, that's also about the time that the
3 taxiway, which we say is what is being contemplated
4 by that 2005 letter, is effectuated. The letter
5 says he will have a taxiway right-to-use, he gets a
6 taxiway. He gets that taxiway in the same string of
7 deeds as the deed swap, he gets -- in the 2005
8 letter he has a taxiway right-to-use, and there is a
9 contemplated swap. In 2011 there's a written
10 agreement. In 2014 they sign deeds, one is the
11 easement for that taxiway, that the County had no
12 other reason to give him. There's no reason to just
13 give the man a taxiway, but for the fact that they
14 referenced it in the 2005 letter, they give him the
15 taxiway, the swap the parcels, and that effectuates
16 the 2005 letter. Mr. Jones' Company, Company Two,
17 has not shown any reliance damages in this case.
18 Promissory estoppel does not carry any consequential
19 damages. It doesn't carry any profits, no loss of
20 expected profits, no punitive damages, it carries
21 only reliance damages. Company Two has not shown
22 any evidence of any cost it incurred to relocate in
23 reliance on a promise. The property was sold to
24 Mr. Jones' other company, Q&J Properties, it wasn't
25 sold to Company Two. And so Company Two being a

1 mere tenant doesn't incur that cost. That's not a
2 reliance cost to Company Two, that's a Q&J cost to
3 Q&J, and Q&J is not a party to this case. There's
4 no reliance damages whatsoever. Your Honor, there
5 was no -- the -- the evidence -- and Mr. Jones did
6 say that he was planning to refurbish these airport
7 runway fire trucks that required the runway to test,
8 but Mr. Wineberg said he's the one that got him
9 interested in it in the 2007 to 2008 timeframe, long
10 after the letter, long after Mr. Jones put Company
11 Two in the Gemco property. There's been no record
12 from any source that involved the word "runway."
13 And there's certainly no record from any source that
14 involved Hampton County taking on the potential
15 liability, let alone the FAA regs, that's fine, but
16 when you've got a -- a visual rated airport and a
17 small plane flying in, doesn't know that at any
18 minute there's gonna be a runway going zero to 50 on
19 -- on that runway in just a little bit of time,
20 turning around quickly and going back the other way,
21 testing its brakes, doing it -- I believe they said
22 six trips in an averaging, this small plane may be
23 endangered by that, and that's a huge liability for
24 the County to take on perpetually based on what is,
25 obviously, very vague. Your Honor, Company -- and

1 I'm -- I'm being reminded, Company Two doesn't have
 2 standing to claim Mr. Jones' other companies
 3 expenses in the property. Company Two doesn't have
 4 standing to claim Q&J's expenses. Q&J has no
 5 standing in this case because it's not a party. And
 6 so, Your Honor, even if you found a promise, and
 7 even if you found it was unreasonably broken, there
 8 is no damage here that is incurred in reliance on
 9 that promise in moving. Thank you.

10 THE COURT: Yes, ma'am.

11 MS. JETT: And -- and, Your Honor, I have a -- I
 12 -- I should just at least cite the cases. Blanton
 13 Enterprises versus Burger King, which is what I sent
 14 to you earlier. Glover versus Lockheed Corp.,
 15 Barnes versus Johnson, Rushing versus McKinney, and
 16 I can send those to the Court. Howard versus
 17 National Bank, Davis versus Greenwood School
 18 District. Just for the record. Thank you.

19 THE COURT: Mr. Wilson?

20 MR. WILSON: Thank you, Your Honor. Your Honor,
 21 where we stand after your rulings on the directed
 22 verdict at the prior stage, Your Honor, is,
 23 obviously, with what's left is a promissory estoppel
 24 claim. And -- and there's an issue of fact that now
 25 you have to decide as to whether this promise is

1 unambiguous or not.

2 THE COURT: Right.

3 MR. WILSON: And then from that point you have
4 to decide if reliance is had, if it's reasonable, if
5 there's any damage resulting from that. I don't
6 agree with Ms. Jett, the case -- I think earlier
7 when she was arguing damages, Your -- Your Honor,
8 she said that the Blanton case prohibited punitive
9 damages or consequential damages on a promissory
10 estoppel case. It clearly says no punitive damages.
11 I don't see where it says anything about
12 consequential type damages, Your Honor. I -- I
13 would -- I would like, if it's okay with the Court,
14 and I don't know if you intend to rule today, or if
15 you intended to take this under advisement, but --
16 but I would ask that you do so, and give us an
17 opportunity just to address that issue a little bit
18 further, so that you would have a better idea of the
19 law as it pertains to the type of damages that have
20 been heard. I'll -- I'll talk about the -- the
21 promissory estoppel elements first, and then I'll
22 talk about the damage issue. Your Honor, I think --
23 and -- and I think -- I don't usually try to quote
24 Judges, because I'll get them wrong, but I think you
25 used word "tortured" in the directed verdict stage

1 when you were talking about the con -- breach of
2 contract action. And, Your Honor, I -- I -- I
3 understand your ruling, and we have obviously
4 expressed our disagreement with it, but -- but
5 respect the decision. I think that word very much
6 applies to the analysis that's been gone through by
7 the Defendants or the Defendant and their witnesses
8 in this case, and -- and the way that they've cross-
9 examined witnesses as to what this October of 2005
10 Plaintiff's Exhibit Number 1 letter written to
11 Mr. Jones means. We've added words, we've changed
12 words, we've asked people who weren't there, we've
13 gone through any, you know, we've gone through any
14 number of different contortions to try to make this
15 thing same something different than what it says,
16 Your Honor, and so I think the word "tortured" is
17 very appropriate. Exhibits 18 and 18A, the Grossman
18 stuff, and I -- I won't, you know, belabor it,
19 because you'll have the information, Your Honor, but
20 -- but I don't think that supports anything that
21 they're trying to say. And -- and to the contrary,
22 Your Honor, that's Mr. Grossman saying he wanted
23 something totally different than -- than all the
24 testimony is that Mr. Jones' Company Two needed and
25 wanted to relocate. Mr. Grossman very clearly says

1 in his letter that, you know, "I need a taxiway -- a
2 private taxiway," I don't even think the words
3 right-to-use are in his letter, just a private
4 taxiway from this property. And in that letter he's
5 referring to the nine acres, he was going to buy the
6 Jemco property to the north -- from the northeast --
7 excuse me, it says from the northeast -- it -- it
8 gets confusing, but it says, "What I need is from
9 the northeast tip of this property to the airport
10 runway." And do you have that up there, Your Honor,
11 or was -- do we have --

12 THE COURT: I've got it right here.

13 MR. WILSON: You do? Okay. I want to make sure
14 -- I mean you have it, so I don't want to misquote
15 it, but you have it. He says, "I need a private
16 taxiway easement from the northeast tip of this
17 property to the runway, as illustrated in the area.
18 That isn't -- now I understand that language got
19 somehow morphed or became -- there's no evidence
20 whether there were more negotiations with him, and
21 he needed more before this letter that's -- that was
22 written to him that's Defendant's Exhibit 3, I
23 think, it is. There's no evidence or testimony how
24 that came to be other than a suggestion, and your --
25 and that's Defendant's Exhibit 18, I'm sorry, other

1 than a suggestion that somehow there was a mistake,
2 Your Honor, but -- but he's clearly indicated that
3 he needs something less than Mr. Jones and testimony
4 and all the evidence has indicated was the case with
5 respect to Company Two. The only evidence, Your
6 Honor, with respect to -- and we argued this from
7 the beginning, Your Honor, that that language was
8 unambiguous. When you took the -- the contents, and
9 I argued this earlier, on the directed verdict
10 stage, just saying something's an unam -- just --
11 just saying something is ambiguous, or having two
12 people disagree that something is ambiguous, doesn't
13 make it ambiguous, or contorting yourself into
14 trying to say something's ambiguous, doesn't make it
15 ambiguous. The law, as I indicated to you earlier,
16 that you look to the -- to the language in the
17 document and the circumstances and the intention of
18 the parties, to -- to make that determination, and
19 -- and most of the document and the documents says
20 exactly what it says, and -- and when you put it
21 into context, Your Honor, it's just unambiguous. At
22 the end of the day it's a fact decision, so I know
23 I'm arguing that it's not proper for a directed
24 verdict and then you're the finder of fact, so if
25 you want to hear us argue like all the facts, like a

1 closing argument, I'll be glad to do that, but I
2 don't think -- I don't know that that's necessary
3 for you to make your fact determinations in that
4 regard. I'm just arguing, I guess --

5 THE COURT: I do want to give you a chance to
6 address one thing, because nobody's really touched on
7 this, and it did strike me in Defendant's Exhibit
8 20, and I don't know if you want to take a look at
9 that, but this is one of the letters from Mr. Jones
10 to Hampton County. This was in October of 2015.

11 MR. WILSON: Yes, ma'am.

12 THE COURT: I think we talked about the second
13 paragraph that said, "Up until recently Hampton
14 County Admin has cooperated with us in most any way
15 they could." A little further down he says, "When
16 Company Two Fire agreed to purchase this property,
17 the sale was contingent upon several conditions, one
18 of which was that Hampton County would build us a
19 grassed taxiway to the runway itself. They agreed
20 and did so. Company Two Fire -- Fire has used and
21 maintained it since day one without incident."
22 Doesn't that support the County's position that all
23 of that 2005 letter was crossing -- was the taxiway
24 to the runway?

25 MR. WILSON: No, I don't believe that it does,

1 Your Honor, because the language in there is --
2 again, the description in there is totally
3 different. I'm thinking -- I think that as a matter
4 of outset, I -- I believe that -- if I could -- hold
5 up 11. This --

6 MS. JETT: This is 11, just in my notebook copy,
7 this is not the actual copy.

8 MR. WILSON: I can -- I can get it. Your --
9 Your Honor, he indicates that there were several
10 conditions, and I -- and I -- I note that it says,
11 "When Company Two Fire agreed to purchase this
12 property, the sale was contingent upon several
13 conditions, one of which was that Hampton County
14 would build us a grass taxiway to the runway
15 itself." And that isn't correct, Your Honor,
16 because the taxiway was supposed to go from Gemco
17 property line -- the private taxiway right-to-use
18 was supposed to go from the Gemco property line to
19 the northeast tip of the Airport. It -- it couldn't
20 go from the Gemco property line, unless the taxiway
21 was extended, or unless the runway and the -- and
22 the pavement and the access was extended to the
23 Gemco property line. And -- and so I -- I
24 understand the concern in that language in that
25 letter, Your Honor, but that is not Mr. Jones

1 indicating that that's all that he was to be -- that
2 that's all that was promised to Company Two. I
3 think if you look at the -- the Plaintiff's Exhibit
4 Number 4, Your Honor.

5 THE COURT: Yes.

6 MR. WILSON: Do you have that?

7 THE COURT: Uh-huh.

8 MR. WILSON: Yeah, I think if you take a look at
9 Plaintiff's Exhibit Number 4, Your Honor, there's a
10 -- that's Ms. Elliott -- that's when I was
11 questioning Ms. Elliott, she indicated she had
12 written that undated letter to Mr. Jones explaining
13 all the reasons. In the very first part of it she
14 basically says, "You don't have any right to be here
15 to use the runway." And his response is very clear
16 that the 2005 letter provides that. So I -- I
17 understand that the October of 2015 there's a letter
18 where he doesn't mention runway, but he's saying, in
19 addition to other things, like access to the runway
20 to test fire trucks, y'all were supposed to complete
21 construction of a taxiway for the rest of the way
22 over to my property line -- to the Gemco property
23 line. I -- I -- I -- I understand the -- the issue,
24 Your Honor, but I don't think that precludes -- I
25 don't think that warrants or mandates a directed

1 verdict. I mean it's obviously a fact issue that
2 you have to consider in making a determination of
3 whether we met the elements of the promissory
4 estoppel, but not at the directed verdict stage. I
5 don't want to -- I don't want to over argue with it,
6 but I don't think that distinction -- any
7 question --

8 THE COURT: I understand.

9 MR. WILSON: Okay, okay, thank you, Your Honor.

10 MS. JETT: And -- and, Your Honor, just the one
11 thing that I absolutely agree with Mr. Wilson on is
12 it's a little bit odd to be arguing a directed
13 verdict in this context, but I have to say that in
14 32 years, this is the first jury trial that I
15 started that ended nonjury.

16 THE COURT: I really don't want to add that to
17 its extinction, but --

18 MS. JETT: I hope it is. And -- and it's --
19 it's just because of the odd blend of -- of -- of
20 the causes of action, and how the -- how the case
21 shook out. Your Honor, I did want to follow-up on a
22 couple things that Mr. Wilson mentioned, and I
23 understand --

24 THE COURT: I'm going to stop you, Ms. Jett,
25 because I don't know that he was done.

1 MS. JETT: I'm sorry.

2 MR. WILSON: Your -- Your Honor, I -- I would
3 just submit to the Court that at this stage a
4 directed verdict's not proper, and then I think it's
5 just a fact issue that now you -- you have to decide
6 is, is that unambiguous? Did he rely -- did he have
7 the reason to rely? Did he suffer damages that are
8 compensable? And the extent of those I had asked
9 you to let us look a little further into.

10 THE COURT: Well, at -- that was going to be --
11 that was an issue I thought you were going to
12 address a little further is -- is what evidence is
13 there of damages with respect to the promissory
14 estoppel?

15 MR. WILSON: Your Honor, it -- Mr. Jones
16 testified about his damages, he testified about
17 investment. He testified about monies that were
18 expended in pursuing this bid, which was lost, and a
19 very unique bid, a no exception bid. He testified
20 about increased -- an increase in lease or
21 expenditure prices having to relocate. He testified
22 that -- clearly, that the easement was of value, or
23 that the access to the runway was a value -- was an
24 important value to his business. So there's
25 testimony of damage that was suffered, Your Honor.

1 I think depending on the breadth of what is
2 allowable, I think Your Honor would have to decide,
3 you know, what fits within the parameters of that.
4 And -- and they want to -- they want to say it's,
5 you know, I -- I don't disagree that it's -- that
6 the case law says that it is damages that are
7 suffered in reliance, but, Your Honor, a promissory
8 estoppel is a -- I mean everything I've read is
9 quasi contract claim, and the only thing that I've
10 seen that is excluded damage-wise in the research
11 that I've done so far, the only thing that I've seen
12 this exclude the damage-wise is the punitive damage.
13 I -- I won't sit here and tell you that they're not
14 right, Your Honor, I just don't want to concede
15 that, at -- at this point, if you --- if it's
16 something you'll allow us to address a little bit
17 further, and then I'd be glad to tie our damages and
18 submit to the Court the entire damages into what is
19 allowable. But there's -- there's -- there's
20 testimony of damage, Your Honor. There's testimony
21 of loss to avoid a -- to sustain a directed verdict
22 motion on just that -- just that motion, if nothing
23 else -- if nothing else at a bare minimum. And I'm
24 not submitting that this is all the damage that
25 would be allowable, if, Your Honor, were so to find,

1 you know, in the Plaintiff's favor on the promissory
2 estoppel; but if nothing else, there is testimony
3 that when this bid process started, Company Two had
4 access to the runway, and that before the -- the
5 contract was awarded, that -- that they lost access
6 to the runway, and that there was time and money,
7 manpowers, consultant fees and all of those things
8 that were -- that were expended, and those would
9 have been expended based off of a commitment that we
10 have access to the runway to make this bid, Your
11 Honor, because it was a no-exception bid. There's
12 testimony in that regard, the -- the language from
13 it is in Exhibit -- Plaintiff's Exhibit Number 2,
14 and -- and -- and so, Your Honor, at bare minimum to
15 warrant the lack of directed verdict, there are
16 damages that were sustained in that regard, and as
17 damages we -- depending on what final, I'll
18 obviously submit and go further. You know, we're
19 not talking about -- we're talking a bid in an area
20 where the testimony is that there are -- and this
21 gets into argument, Your Honor, kind of beyond a
22 directed verdict, but there's testimony that there
23 are three of these companies in -- in the -- in the
24 nation and that do this remanufacturing, there are
25 three of them, and this was a no exception bid. And

1 there's testimony -- a plethora of testimony that --
2 that Company Two had to take an exception after the
3 unambiguous promise and commitment was revoked. And
4 there's testimony that from Mr. Bobby Shaub that
5 they were the most reputable company -- that they're
6 the most reputable company -- company in the
7 country, and that they were the best suited to -- to
8 -- to win this bid, and to perform this contract.
9 And Mr. Jones testified about, you know, what his --
10 what his profit margin would be on that, Your Honor,
11 and he testified about how he would have been able
12 to -- and how when he wasn't awarded the contract,
13 because of having this commitment that couldn't be
14 met. And -- and Mr. Shaub testified, and I think
15 even -- even some of Kevin Wineberg's deposition
16 testimony bears out that not being able to test on-
17 site increases costs, and Mr. -- and, of course,
18 increases the -- the amount you have to bid. And
19 Mr. Shaub said, obviously, there were two competing
20 factors, the increasing cost and the no exception,
21 Your Honor, but -- but then at the end of the day
22 Mr. Jones recouped a little bit of that with the
23 sale of the two trucks to Fire Trucks Unlimited, his
24 competitor, who, ultimately, got the contract, even
25 though they couldn't perform it without being in

1 touch with him, Your Honor. And -- and so I mean
2 there are damages that may be applicable in the
3 promissory estoppel claim. Those would be
4 contractual damages, if your -- if we were able to
5 submit them to a jury. There are future damages.
6 We'd have to prove that they weren't speculative.
7 We argued about a lot of that in the first stage of
8 the case, and I'd be glad to argue that further if I
9 need to, Your Honor, but I'd -- I'd like to be able
10 to take a look at the promissory estoppel issue.
11 Your Honor, I -- I do -- I will submit this, it is
12 unique because the bid was -- the bid was submitted,
13 even though there was an exception in it, and even
14 though it was clear that there was probably going to
15 be rejected. If it hadn't been submitted, we'd be
16 hearing about he didn't mitigate the damages, so
17 kind of a Catch 22 in that situation, Your Honor. I
18 think that goes towards, you know, an effort to
19 mitigate damages that it was actually submitted,
20 even though it was pretty clear it was going to
21 fail, which it ultimately did.

22 So long story short, Your Honor, there's --
23 there's elements of damages that -- that -- that I
24 feel like are applicable, but I'd like to look at
25 the law a little bit further. There is definitely

1 some damage that has been testified to look forward
2 as a reliance damage to the fee of a directed
3 verdict motion and this fact decision.

4 THE COURT: Thank you.

5 MS. JETT: And, Your Honor?

6 THE COURT: Yes, ma'am.

7 MS. JETT: In response, we would just point out,
8 as Mr. Wilson was talking about with the -- with the
9 Lancaster and Company Two letters, and I've lost the
10 exhibit numbers in my head now, but the three
11 letters, one from Lancaster Development Company to
12 the County, from the County then back to Lancaster,
13 and then the County to Company Two, yes, Lancaster
14 said in its first letter it needed a taxiway, and it
15 certainly didn't have anything to test on the
16 runway; but Lancaster and Company Two, if you
17 believe what the Plaintiff has asserted, had very
18 different -- different needs. The Plaintiff is
19 claiming that he asserted a need for runway testing
20 fire trucks at the time, and, certainly, Lancaster
21 had only need of a taxiway to and from the runway,
22 but the letters back to these companies are
23 identical. So if there was a promise to Mr. Jones
24 of the very thing that he says he now -- he -- he
25 now says he demanded at the time, wouldn't that

1 letter have been differently worded than the
2 Lancaster letter? Wouldn't that letter have said
3 runway and not taxiway? And then his own writing
4 later says, "We wanted a taxiway, they gave it,
5 we've maintained it."

6 Your Honor, to the damages issues, the Blanton
7 case, which we sent to Your Honor, it head notes 26,
8 27 and 28. "As discussed earlier, Plaintiff's own
9 projections indicate that it would make considerably
10 more profit operating a Denny's at the Carowinds
11 site than a Burger King," and it goes on through.
12 It says, "Therefore, by Plaintiff's own admissions
13 it would not be entitled to any lost profits, but
14 even if Plaintiff could show lost profits, they
15 would not be recoverable under a promissory estoppel
16 theory of recovery." And it goes onto say, "Damages
17 recoverable under a claim of detrimental reliance
18 are carefully circumscribed. The Plaintiffs may
19 recover only those expenditures made in reliance
20 upon Defendant's promise." And then, Your Honor,
21 there is Barnes, in the Barnes versus Johnson case,
22 which I'll leave it up to the Court, "No ambiguity
23 is allowed and promised. No damages that don't flow
24 from the inconsistency itself because to do
25 otherwise would be inequitable to the promisor."

1 The Rushing case says, "There has to be clearly
2 articulated terms, and in the absence of those,
3 there is no recovery in promissory estoppel." And
4 then the Davis versus Greenwood case, "That any
5 promises of a pay incentive," that was in an
6 educator sense, "any promises of a pay incentive
7 would have necessarily been subject to Board
8 approval." The Hampton County Economic Development
9 Director can make all the promises he wants, I
10 suppose, but he can't promise anything that County
11 Council won't deliver when it comes to encumbering
12 their land in perpetuity, and -- and we can brief
13 that later. We do assert that this is a matter of
14 law, and that, Your Honor, can grant a directed
15 verdict. We also understand that, if you don't,
16 you're the finder of fact, and -- and we await your
17 instructions on whether you want it briefed, because
18 surely you don't want traditional closing arguments
19 at this stage.

20 THE COURT: I think I -- I'm following you all.
21 Certainly, I followed all your arguments. I'm glad
22 to give you some of your time, if you want, to
23 submit something to me on the damages issue. So I
24 guess I'd say, you know, what's good for the goose
25 is good for the gander. If there's something that

1 y'all want to submit to me in writing, that's fine.
2 I hate to like slink away, Rusty Barber used to
3 always say, "The Lord hates a coward." I hate to
4 like slink away and not being able to give you my
5 ruling in Court, but I can't do both. I can't let
6 you have time to submit anything further to me and
7 have time to go over it. I mean I can be back
8 tomorrow, but that's giving y'all very little time
9 to do anything additional.

10 MR. WILSON: Your Honor, I -- I know Hampton
11 County wants this resolved as -- as well as does
12 Company Two, but it's been going on since 2015, and
13 the case was filed in 2017, I think, so I don't
14 think another, you know, ten days is going to make a
15 difference, Your Honor. So I'd like to get, you
16 know, ten days to submit anything, if that's
17 agreeable with Court. If we need to do it sooner,
18 we will, but I -- I've got some digging out to do on
19 one thing when I get back in the office, if I could.
20 I -- I had to put off -- I -- and -- and not to try
21 to get too keep into it, I had to put off getting a
22 proposed order done in another case on a pretty
23 extensive issue because of this trial, and then a
24 medical malpractice trial that we were supposed to
25 be trying in two weeks that actually resolved, so it

1 freed up to be able to catch that up, but I owe that
2 order first, if I could, so if that's not too --

3 THE COURT: I don't have any objection to the
4 ten days. I'm on vacation next week, so if y'all
5 get it to me by tomorrow, that means I've got to
6 read it all next week.

7 MR. WILSON: We'll wait. We'll wait.

8 THE COURT: So ten days is perfectly fine. I do
9 have to say I really appreciate all the attorneys
10 being so thoroughly well prepared in this case.
11 Great advocates for their clients, and collegial and
12 professional. You know, anybody that criticizes
13 lawyers, I wish they could have come and have sat in
14 on this and seen what a great job all of you did, so
15 I do appreciate that very much.

16 MR. WILSON: Thank you, Your Honor.

17 MS. JETT: Thank you, Your Honor.

18 THE COURT: Okay, anything further before we
19 recess?

20 MS. JETT: Just the subject matter of the
21 briefs, are we brief, and is it on the directed
22 verdict motion and not briefing to the facts of the
23 case?

24 THE COURT: Just the directed verdict motion.

25 MS. JETT: Thank you, Your Honor.

1 THE COURT: Thank you.

2 MR. WILSON: Your Honor, there is one other
3 thing. They -- and they may withdraw at this point,
4 Your Honor, but they had counterclaims for nuisance
5 and damage to the runway.

6 THE COURT: Injunction.

7 MR. WILSON: Injunction and that kind of stuff.
8 I -- I -- I think at this point they haven't put any
9 evidence up, the only testimony's been there was no
10 damage to the runway from Company Two, so I think at
11 this point it's either a directed verdict or they
12 withdraw.

13 MS. JETT: Your Honor, I'm authorized to
14 withdraw those. The evidence has shown that
15 Mr. Jones, when he -- when he got off the runway, he
16 stayed off the runway.

17 THE COURT: Thank you. Yes, sir.

18 MR. WILSON: Thank you, Your Honor.

19 THE COURT: Okay, can I take custody of the
20 exhibits?

21 COURT REPORTER: Certainly.

22 THE COURT: All right, thank y'all.

23 Whereupon, the hearing was concluded at 5:04 p.m.)

24 END OF VOLUME IV

25 - - -END OF TRANSCRIPT- - -

CERTIFICATE OF REPORTER

I, Cathy L. Young, CVR-M, for the
Fourteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a
true, accurate and complete Transcript of Record of
the proceedings had and evidence introduced in the
trial of the captioned case, relative to appear, in
the Circuit Court for Hampton County, South
Carolina, on the 24th day of May, 2021, and
concluded on the 27th day of May, 2021.

I do further certify that I am neither of
kin, counsel nor interest to any party herein.

Cathy L. Young, CVR-M
Court Reporter and Notary
Public in and for South Carolina
My Commission expires: 3-28-2029