

1 **TAPE 86 OF 114 – Heard 6/25/03 – SW1695 (000-230) – Side A**

2 **TESTIMONY OF DENNIS LAROCQUE**

3 Ferland: Okay, we've been joined by a witness in the grand jury. If you could
4 direct your attention, sir, to the foreperson of the grand jury. Raise your
5 right hand while she administers the oath.

6 Foreperson: Do you solemnly swear that the testimony you are about to give before
7 this Grand Jury, touching on any crime or misdemeanor you may be
8 inquired about shall be the truth, the whole truth, and nothing but the truth,
9 so help you God?

10 Larocque: I do.

11 Ferland: Sir, you can have a seat. Would you state your name and spell your last
12 name for the record?

13 Larocque: Dennis Larocque. Last name L-A-R-O-C-Q-U-E.

14 Ferland: And Mr. Larocque, I see that you are attired in the uniform of the West
15 Warwick Fire Department. Are you currently employed by them?

16 Larocque: Yes I am.

17 Ferland: And in what capacity?

18 Larocque: Fire Prevention Division as fire marshal.

19 Ferland: And how long have you been a member of the West Warwick Fire
20 Department?

21 Larocque: Twenty-six years.

22 Ferland: How long have you held the current position as fire marshal?

23 Larocque: Since 1998. It's five years.

1 Ferland: And can you tell us a little bit about the experience and education that you
2 received that's led up to your current position?

3 Larocque: The fire training would have been the class sponsored by the State for the
4 Assistant Deputy Certification. Also have a Fire Science Degree from the
5 Community College of Rhode Island. I've attended several National Fire
6 Academy classes in Emmittsburg (*phonetic*), Maryland, as well as
7 seminars locally.

8 Ferland: Okay. Tell us about what your duties consist of on a day-to-day basis as
9 the Town Fire Marshal for the West Warwick Fire Department?

10 Larocque: The Fire Prevention Division is divided into four distinct categories. One
11 is public education; the second is fire investigation; the third is plan
12 review; and the fourth is inspections.

13 Ferland: Okay, let's take those one at a time. Plan review, what would that consist
14 of?

15 Larocque: Plan review is all the new construction submitted through the building
16 inspector's office is forwarded through my office for review on type of
17 buildings constructed, make sure they meet code, changes, additions,
18 brand new buildings. And that type.

19 Ferland: Okay. And you indicated also that part of your duties is inspections, is
20 that correct?

21 Larocque: Yes.

22 Ferland: What sort of inspections or types of inspections do you conduct?

1 Larocque: There are several types. There are code compliance inspections, body
2 shop or license type inspections to do for either liquor licenses or body
3 shop licenses, victualling house licenses. There are also tank removal
4 inspections.

5 Ferland: What is a tank removal inspection?

6 Larocque: When either gasoline stations or underground tanks are removed we go
7 out on site and take photographs, make sure there's no contamination.
8 Tanks are not allowed to be cut on site. They have to be transported away
9 from the site.

10 Ferland: Okay. Are there any other types of inspections that you perform in
11 addition to code and license and tank removal?

12 Larocque: I believe they all fall under those type of categories.

13 Ferland: Okay. Are you sometimes called upon to conduct inspections based on
14 complaints made by citizens?

15 Larocque: Yes, they would be requests or complaints. Again, they would fall under
16 one of those type of inspections, would be a full inspection. Code
17 compliance-type inspection.

18 Ferland: Okay. You also told us that part of your function is investigations. What
19 sort of investigations are you making reference to?

20 Larocque: These are all cause and origin type investigations. Determining how fires
21 start.

22 Ferland: And how often are you called upon to do those sorts of things?

1 Larocque: That varies. There are times where you get called in several times in a
2 week, or there are weeks where you don't have any fires.

3 Ferland: Okay. And you said there was a fourth area, education?

4 Larocque: Public education.

5 Ferland: And what does that consist of?

6 Larocque: That consists of we go out into the schools in Fire Prevention Week,
7 which we call Fire Prevention Week, it actually takes us the month of
8 October, pretty much, to get through all the schools. (Inaudible) fire
9 safety programs, public education as far as what to do in case of a fire and
10 we also visit the elderly homes. We're required yearly to do an annual
11 safety talk to all the high-rise, the elderly homes in town. So we do that
12 also, that falls under the public education.

13 Ferland: Okay, a couple of times you said we. How many people are in the Fire
14 Safety office for the West Warwick Fire Department?

15 Larocque: Presently there's two. We just had an assistant hired, a second man in the
16 division. He just started a couple of months ago. But prior to that I was
17 the only man in the division.

18 Ferland: Okay, in February of 2003, how many people were employed in the
19 division?

20 Larocque: Just myself.

21 Ferland: So was it your responsibility to carry out these four functions for the Town
22 of West Warwick?

23 Larocque: Yes.

1 Ferland: Sir, in addition to conducting these types of inspections that you've told us
2 about, your investigations, education and plan review, are you also
3 involved in assessing what the capacity of a particular building or
4 establishment might be?

5 Larocque: Yes.

6 Ferland: Let me direct your attention specifically to The Station nightclub at 211
7 Cowesett Avenue. In sometime in late 1999 did you become aware of the
8 fact that there was an interest in assessing The Station to determine what
9 its capacity was?

10 Larocque: That's correct.

11 Ferland: And are you familiar with the evolution as to how that came to be?

12 Larocque: Yes. There were some complaints from neighbors to, I believe, the Town
13 Council or someone in town government. There were complaints about
14 noise, there was complaints about parking issues. Fire apparatus access on
15 the road beside The Station, which is Kulas Road. They were parking on
16 both sides of the road, so there was some concern from the neighbors as to
17 the parking situation, the noise situation. And there were reports of
18 possible overcrowding at the facility, also.

19 Ferland: Okay, sir, if I could direct your attention to this document, which is dated
20 11/1/99, take a look at that document and tell me, are you familiar with
21 that document?

22 Larocque: I've seen it since, but I was not aware of it at the time.

1 Ferland: Does that document appear to reflect the concerns voiced by the public
2 that you've made the jury aware of?

3 Larocque: That's where the concerns came from, that's where they related to them
4 and from that point that's how I got involved in (inaudible)

5 Ferland: Okay, you maintain files at the fire safety office relative to various
6 businesses in the Town of West Warwick?

7 Larocque: Yes.

8 Ferland: Is this a document that was in your file or the files of the Town of West
9 Warwick? If you know.

10 Larocque: This one, it would have been in the department's files, but not necessarily
11 in the building file for The Station.

12 Ferland: Okay.

13 Larocque: It would have been – the acting chief, it would have been in his file, he
14 would have been aware of it.

15 Ferland: Now let me ask you about acting chief. What is that all about, Acting
16 Chief Tellier? In other words, is Chief – is Tellier the Chief of the Fire
17 Department?

18 Larocque: Chief Tellier is a battalion chief, he was serving in a capacity of acting fire
19 chief. Our previous fire chief had retired and they hadn't replaced him
20 yet.

21 Ferland: Okay, so he was serving in the capacity as the fire chief, correct?

22 Larocque: Correct.

23 Ferland: And you would answer to the fire chief, is that right?

1 Larocque: That's correct.

2 Ferland: In fact, how is the chain of command structured within the fire
3 department?

4 Larocque: The Chief is the chief of the department. There are five battalion chiefs.
5 One shift commander for each of the four platoons, and myself being the
6 fifth. So there are a total of five, each battalion chief runs a shift, and the
7 fifth chief is the chief assigned to fire prevention.

8 Ferland: Okay.

9 Larocque: Below that are the captains, lieutenants and privates.

10 Ferland: So you answer directly to whom, sir?

11 Larocque: I answer to the chief.

12 Ferland: Okay. I'll show you this document. It's dated November 15th of 1999.
13 Have you seen that document, dated November 15, 1999?

14 Larocque: Yes.

15 Ferland: What does that document reflect?

16 Larocque: This is a memo from Chief Brousseau requesting the fire prevention office
17 to determine the occupancy limit for the building.

18 Ferland: Okay, and that appears to be generated at or near the time of the initial
19 memo that we brought to the jury's attention, is that correct?

20 Larocque: That's correct.

21 Ferland: So he's requesting that you go out and do an occupancy check on the
22 building, correct?

23 Larocque: That's correct.

1 Ferland: Okay. Now in response to that, I'll show you this document dated
2 December 13th. Did you, yourself, send out some sort of a document, a
3 letter?
4 Larocque: Yes, this is a letter to Triton Realty, which is the owner of the building.
5 Ferland: Okay. And what was that letter in concern to?
6 Larocque: This is informing him we have received a complaint regarding The Filling
7 Station at Cowesett Avenue, and enclosed a Consent to Inspect form for
8 him to sign to allow the inspection.
9 Ferland: Is that normal protocol that you would alert the owner of the building that
10 you wanted to conduct such an assessment?
11 Larocque: Yes it is.
12 Ferland: And what was Triton Realty's response, do you know?
13 Larocque: Triton Realty had no complaint, no reservations about the building being
14 inspected. He said we can inspect it at any time, just a matter of arranging
15 it with the tenants.
16 Ferland: Okay, so Triton Realty owns the business, building, but they were not the
17 operators of the business, is that accurate to say?
18 Larocque: That's correct.
19 Ferland: Now in response to your letter, were you contacted by anyone?
20 Larocque: Mr. Villanova (*phonetic*) who was from Triton Realty. I'm not sure what
21 his position there is.

1 Ferland: I'll show you that document. Do you recognize the message slip in the
2 lower left-hand corner as displayed on the screen, and that is in front of
3 you as well?

4 Larocque: Yes, that's Ray Villanova from Triton Realty, the owner of the building.

5 Ferland: And did you call him back in response to this call?

6 Larocque: And he's – I got a message here from him returning – to return a call to
7 him in regards to a letter he received.

8 Ferland: And that was for the inspection, is that correct?

9 Larocque: That was about the inspection.

10 Ferland: Okay, now after you had received permission from the owner of the
11 building to conduct such an inspection, did you in fact go out to that
12 location?

13 Larocque: Yes we did.

14 Ferland: Do you recall when it was, approximately, that you had gone out there to
15 do that?

16 Larocque: I believe it was on December 27th.

17 Ferland: Okay. And after you had conducted your review on December 22nd *[sic]*
18 did –

19 Larocque: 27th.

20 Ferland: I'm sorry, December 27th you said?

21 Larocque: 27th.

22 Ferland: Did you generate a letter or report in reference to what that capacity was?

23 Larocque: Yes I did.

1 Ferland: And who did you direct that to, sir?

2 Larocque: That letter was given to the owner of the business at the time.

3 Ferland: And do you remember who the owner of the business was at that time?

4 Larocque: It was Mr. Julian.

5 Ferland: Do you remember his first name by any chance?

6 Larocque: Howard, I believe.

7 Ferland: Okay. This is becoming annoying – I show you – this program is not what
8 I want it to be. I'm showing you this document dated 12/30, do you
9 recognize that?

10 Larocque: Yes I do.

11 Ferland: What do you recognize that to be?

12 Larocque: This is a memo from myself to the Chief of Police informing him of the
13 capacity numbers.

14 Ferland: Okay. What exactly does that memo say, can you tell us?

15 Larocque: The capacity was determined based on its layout at the time. There are
16 several possible uses by the business, and depending on how that use –
17 how the building was used, the capacity would change.

18 Ferland: Okay. So it looks like it says upon review of building measurements the
19 occupant – I can't read the next word –

20 Larocque: Load.

21 Ferland: Load, I'm sorry. Occupant load for The Filling Station at 211 Cowesett
22 Avenue based on present layout is 253. This business is allowed to
23 increase the number to 317 by removing tables and chairs from the three

1 lounge areas and providing only standing room in those areas. We are
2 presently setting up an inspection date for this building with the business
3 owner to rectify what appear to be violations. The building owner, Triton
4 Realty, has given permission to inspect the property at any time. So that
5 was your report and your conclusion was that it was a capacity of 317, is
6 that correct?

7 Larocque: That's' correct.

8 Ferland: Now you had indicated that there were some violations that you noticed.
9 Do you remember whether or not you documented those violations that
10 you noticed?

11 Larocque: At that time, again, we were setting up, trying to set up the inspection date
12 for the building.

13 Ferland: Mm hmm.

14 Larocque: This particular time we went out and did the capacity.

15 Ferland: Mm hmm. Did you follow up with a general inspection or a code
16 inspection or any sort of inspection after that?

17 Larocque: We did do an inspection I believe it was a walk through at the time. There
18 was also another one in March.

19 Ferland: March of 2000?

20 Larocque: Right.

21 Ferland: Okay. I show you this document which is dated 3/2/2000. Take a look at
22 that. Do you recognize that?

23 Larocque: Yes, this is an inspection report from March 2, 2000.

1 Ferland: Okay. Now tell us, what did you look at when you conducted this
2 inspection report?

3 Larocque: I was there along with Director of Communications John Peiczarek.
4 Based upon John's knowledge previously of the building we had looked at
5 some issues. There had been changes made to the building that he was
6 aware of that I wasn't. Back when it used to be a restaurant there were
7 some kitchen changes and so forth. So we did a little more in depth
8 inspection as to a full building inspection to determine exactly what
9 changes were made. And these are some of the items we found.

10 Ferland: Okay. Let's run through some of those items that you found. Now first
11 off, let me ask you this. What triggered this March 2nd inspection?

12 Larocque: This was a request by the owner for a liquor license transfer.

13 Ferland: Okay, so when a person is going to transfer the liquor license, does that
14 automatically mean that you go out and conduct an inspection?

15 Larocque: Yes.

16 Ferland: All right, let's look at the things that you found. First item is a blocked
17 exit near stage. Now what, if you recall, what was blocking the exit near
18 the stage?

19 Larocque: Those were speakers.

20 Ferland: And you've got exit lights, is that? Emergency lights, is that what that
21 says?

22 Larocque: Emergency lights, there was one set that wasn't working.

23 Ferland: Okay, and what are the emergency lights, Chief?

1 Larocque: Emergency lights would be lights that go on with loss of power, would
2 provide lighting to the exits should the building lose power.

3 Ferland: Okay. It says one to add near bathroom corridor. What was that?

4 Larocque: There was no lighting in that area at all. We had them add emergency
5 lighting to that bathroom corridor.

6 Ferland: Remove curtain or rate it. What does that mean?

7 Larocque: This was a curtain that was in the stage area. By code curtains are
8 required to be treated with fire retardant materials. We couldn't determine
9 either by a tag, which is how it's normally done. There's usually a label
10 there signifying that it has been treated and when. Or a certificate would
11 also accompany that with more information stating where it was treated,
12 who treated it, so forth. We couldn't locate either. We couldn't find a
13 label, and they didn't have a certificate saying that this curtain was indeed
14 treated. So that was their option. They either had to obtain information or
15 remove the curtain.

16 Ferland: So why is that? What's the rationale for being concerned about something
17 like a curtain in the stage area?

18 Larocque: Under the Code, part of the Code for places of assembly there is a section
19 that deals with decorative and acoustical materials. And not only places of
20 assembly, but we find that also in schools who have auditoriums or stages
21 that have the same type of curtains. And the same requirement is required
22 there. They are required to treat these curtains.

23 Ferland: Now is that because they're subject to fire and they're a good fuel source?

1 Larocque: Correct.

2 Ferland: All right, now the next item that you've got there. Ancill (*phonetic*) not
3 covering stove. What does that mean? First, what's an ancill?

4 Larocque: Ancill system is a fire extinguishing system used, it's actually a name
5 brand, Ancill is the name of the company. It's a fire extinguishing system
6 for kitchens, for stove areas and cooking areas. Not only for stoves but it
7 could be for deep fat fryers, griddles, any type of kitchen equipment like
8 that. They're a fire extinguishing system for that cooking appliances.

9 Ferland: Okay, then the next item is replace two panic hardware.

10 Larocque: Right and left exits.

11 Ferland: Right and left exits, thank you. And what's panic hardware?

12 Larocque: Panic hardware is the type of hardware required on places of assembly.
13 It's a hardware, opening device, if you'd call it that, where you push the
14 bar and the door opens.

15 Ferland: And there was problems with those panic –

16 Larocque: Both of these were not working properly. They were either not releasing
17 the latch or the doors were stiff. But in this particular case it says replace
18 two panic hardware, so the panic hardware wasn't operating properly.

19 Ferland: And then you had exit sign bulb near back, near bar, I'm sorry. What does
20 that reference?

21 Larocque: The exit sign near the bar was missing a bulb or had burnt out.

22 Ferland: In an establishment like this, The Station nightclub, does the fire code
23 require them to maintain lit exit signs?

1 Larocque: Not only do they require them to be lit, they're required to be on back up.

2 Ferland: Meaning what?

3 Larocque: Meaning same as the emergency lighting, should you lose power there are
4 back up lighting features that would still light the exit signs.

5 Ferland: Okay. Mount fire extinguisher. Well that's pretty self-evident. There
6 was a fire extinguisher that was not properly mounted, is that accurate?

7 Larocque: Correct.

8 Ferland: And what sort of mounting, and where do they have to be placed in a club
9 like this?

10 Larocque: We definitely need one, even with the Ancill extinguishing system we
11 require one in the kitchen.

12 Ferland: Mm hmm.

13 Larocque: And then you'd locate them throughout the building based on travel
14 distance to the extinguisher.

15 Ferland: Clean out the basement. What was the problem with the basement?

16 Larocque: The basement was just loaded with combustible, mostly garbage – not
17 garbage trash, but just overloaded with old furniture, old things that just
18 never got thrown out. They just kept piling in the basement, and the
19 basement was full. Needed housekeeping.

20 Ferland: Okay, you also have a notation here remove exit sign near kitchen. What
21 did that reference?

22 Larocque: There was an exit sign near the kitchen indicating an exit through the
23 kitchen, which is not allowed by code.

1 Ferland: Why is it not allowed by code?

2 Larocque: Kitchens and storerooms and other rooms subject to locking, you're not
3 allowed to exit through.

4 Ferland: Okay, so then why is it that you needed to have that exit sign removed?

5 Larocque: It was not an approved exit, so you wouldn't be directing people – that
6 sign should not be directing people toward the kitchen and out that door,
7 because it's not an approved exit.

8 Ferland: Okay. I'm going to show you the next document. Okay, let me go back.
9 I'm getting ahead of myself here. The last item, fire alarm system change,
10 changes. What were the problems with the fire alarm system?

11 Larocque: The fire alarm system, again it's on my slip but it's actually something
12 John Peiczarek, our director, that falls under his jurisdiction. But there
13 was an old system. The panel was in the kitchen above a ceiling tile. It
14 was a very, very limited system. We recommended upgrading to a more
15 updated system with more coverage.

16 Ferland: Okay. The fire alarm system that The Station had in place then, was that a
17 local system?

18 Larocque: Yes it was.

19 Ferland: And what is a local system?

20 Larocque: A local system means it rings in the building only. There's no direct
21 connection or supervised connection to the fire station. It wouldn't ring
22 directly at the station. Someone would have to call us to notify us. It

1 rings, it would notify the occupants of the building, but it would not ring
2 anywhere. Someone would have to call the fire department.

3 Ferland: Okay, so not a direct link?

4 Larocque: Correct.

5 Ferland: Who was present when you conducted this 3/2/2000 inspection?

6 Larocque: Myself and John Peiczarek, the director from the fire department. Mike
7 Derderian was there.

8 Ferland: Okay, Mike Derderian was present?

9 Larocque: Yes he was.

10 Ferland: And did you make Mike Derderian aware of these various items that fall
11 under inspector's notes on this form?

12 Larocque: Yes, he wasn't the owner at the time, but he was there when we did the
13 inspection.

14 Ferland: And why was he there?

15 Larocque: I believe he was the one, this liquor license transfer, but he was the
16 prospective buyer of the business and who the liquor license was going to
17 be transferred to.

18 Ferland: Okay. While you were there with Mr. Derderian on March 2nd of 2000,
19 did you have a conversation that in any way related to the capacity of the
20 building?

21 Larocque: Yes.

22 Ferland: Can you tell the jury about that?

1 Larocque: Mr. Derderian was making changes, or was making changes to the
2 building, and he wanted to know – he knew the occupancy of the building
3 based upon the previous owner. And he wanted to know what the limits
4 of the building were. What the building could accommodate.

5 Ferland: And what did you tell him?

6 Larocque: And that would be based upon its use. How he used the building. Some
7 buildings that use the same layout, day after day, the occupancy really
8 doesn't change. But when you get into buildings that could use different
9 function rooms differently, that number could change.

10 Ferland: Okay, and so what did Mr. Derderian say in response to what you had
11 already determined the number to be?

12 Larocque: He wanted to know if the building could hold four hundred people.

13 Ferland: So he was specifically looking for four hundred?

14 Larocque: Yes.

15 Ferland: Why don't we – this is a good opportunity for us to discuss how you go
16 about calculating capacity. What is the formula and how do you know
17 where to find the formula to determine a building's capacity?

18 Larocque: In this particular case the capacity numbers and the formula would be
19 located in the Rhode Island State Fire Code.

20 Ferland: Okay, and what is the formula that is contained in the Rhode Island State
21 Fire Code?

22 Larocque: The Fire Code explains by use, either concentrated or less concentrated
23 use, and depending on how that is used you either – it's a square footage

1 figure. You determine the square footage of an area, determine how it's
2 used. And then at that point you divide by the use number.

3 Ferland: Okay. Let me – I've got a copy of the Rhode Island General Law that
4 relates to the Fire Code. First of all, under the Fire Code, what type of a
5 building is this classified as?

6 Larocque: This is classified as a place of assembly.

7 Ferland: And what constitutes or is the definition of a place of assembly under the
8 Code?

9 Larocque: It's a place where people gather for amusement, recreational, or other type
10 use.

11 Ferland: All right, so you've got a place of assembly. And then once you've
12 determined it's a place of assembly, what's the next step you would take
13 in assessing the capacity of the club?

14 Larocque: Once you know the capacity then you're going to further subdivide that
15 into a Class A, B or C type place of assembly.

16 Ferland: All right, so first thing you do is determine the capacity?

17 Larocque: You need to determine the capacity to find out whether they're an A, B or
18 a C, yes.

19 Ferland: All right, so you go to the Rhode Island General Law?

20 Larocque: Right.

21 Ferland: Now there is a section here in the Code that's entitled Maximum
22 Occupancy. When you conducted the review, the first review and

1 assessment, and made the determination that the capacity was 317
2 maximum, which section of this Code did you rely upon to do that?

3 Larocque: We relied upon, its' a combination of the sections of the seven square foot
4 rule or the fifteen – I'm sorry, the seven square foot per person rule or the
5 fifteen square foot per person rule. It was a combination of both.

6 Ferland: Okay, explain what you mean by that. How can it be either seven or
7 fifteen?

8 Larocque: The difference comes in as to how, again, how the room is used. If you
9 use the room for tables and chairs, then you need to get the square footage,
10 determine the square footage. And you divide by fifteen.

11 Ferland: Okay, when you first went out there to The Station, back in December of
12 '99, to assess the capacity of the club, did you take measurements?

13 Larocque: Yes.

14 Ferland: And did you take notes of those measurements?

15 Larocque: Yes.

16 Ferland: And were you able to determine what the square footage was that was
17 usable to the club?

18 Larocque: I knew the square footage and at that time with the 253 and the 317, the
19 253 meant rooms that were being used with tables and chairs, that's why
20 the number's lower.

21 Ferland: Okay. And what number would that be that you had used as your
22 formula?

23 Larocque: That would have been the 15.

1 Ferland: Fifteen square foot per occupant, is that correct?

2 Larocque: Correct.

3 Ferland: So in other words, in an establishment, if you've got one person in that
4 establishment you have to have at least fifteen square feet for that person?

5 Larocque: Correct.

6 Ferland: Correct?

7 Larocque: And what the assumption is, that the tables and the chairs are in the space,
8 occupying some of that space also.

9 Ferland: Okay. You take out your tables and chairs and now you have seven
10 square feet per person?

11 Larocque: Correct.

12 Ferland: So for each individual you've got to figure out in that club at least seven
13 square feet for that individual?

14 Larocque: Correct.

15 Ferland: Okay. Now using that formula, the amount of area that you determined
16 was available in that seven person figure, you came up with a maximum
17 capacity of 317?

18 Larocque: Correct.

19 Ferland: Okay. Now you had your meeting with Mr. Derderian when you
20 conducted your inspection. And he indicated to you he was looking to
21 increase capacity to four hundred, is that correct?

22 Larocque: Correct.

23 Ferland: And that was on the 2nd of March of 2000?

1 Larocque: That's correct.

2 Ferland: Okay, sometime after your meeting with Mr. Derderian, did you
3 recalculate the capacity level for that club?

4 Larocque: Yes I did.

5 Ferland: And what – first of all, what figure did you come to?

6 Larocque: The figure was 404.

7 Ferland: Okay, so now the capacity was 404. What changed between December of
8 '99 and three months later, March of 2000?

9 Larocque: There were a couple of changes. One was the removal of – actually how
10 he was going to use the space as opposed to what the previous owner, how
11 he used the space. The previous owner was using three of the rooms for
12 standing room, but the fourth room he was using normal use.

13 Ferland: What do you mean by that?

14 Larocque: Using the tables and chairs. The tables and chairs were not coming out of
15 that area, but they were coming out of the other three general areas.

16 Ferland: Okay, so now he told you he's going to take the chairs out of the other
17 room, too?

18 Larocque: He told me he was going to take the tables and chairs out of that fourth
19 space, so that would change that factor as to how you determine the
20 capacity for that room.

21 Ferland: So that gave you more space?

1 Larocque: So that gave you more space. You would use the seven number there, or
2 the standing number rather than the fifteen that you used for the tables
3 previous.

4 Ferland: Okay. I don't think you've mentioned the standing number before. What
5 do you mean by standing number?

6 Larocque: The standing room number, that's allowed in addition to the 15 and the
7 seven. It's a standing room, which is pretty much how he was using this
8 building. It's a standing room number that's divided by, it's a five square
9 foot number.

10 Ferland: Okay. So I guess I'm probably a little confused about this. The formula
11 that you relied upon initially in December, you used fifteen and seven, is
12 that accurate?

13 Larocque: Correct.

14 Ferland: And then in March it's dropped down now to five per person?

15 Larocque: Correct.

16 Ferland: Okay. So explain what was the triggering event that brought it from seven
17 to five?

18 Larocque: All right, initially we did the fifteen and seven calculations. We – I went
19 back into the '68 Code, which is the previous, the original code. It's the
20 minimum code to which all buildings have to comply. Buildings
21 obviously built after that date have a new set of – but this particular
22 business, being a place of assembly was a restaurant back then. Even

1 though it was a restaurant type nightclub now, under our definition it's
2 still a place of assembly, there is no change of use.

3 Ferland: Okay.

4 Larocque: So under that, back in the '68 code there are provisions before the seven
5 and the fifteen came into existence, there were provisions for six and ten.
6 The numbers were different then.

7 Ferland: Okay.

8 Larocque: So upon reviewing the grandfather right did apply in this case, and we
9 went back to the '68 code. We located the six number and a ten number,
10 and while we were looking at that we looked at the standing room number
11 also, which is how he was using the space.

12 Ferland: Okay. So if I'm not having anybody sit in my club, they're all going to be
13 standing, I can legally pack more people in is what you're telling me?

14 Larocque: There's less square footage required per person, yes.

15 Ferland: Okay, five?

16 Larocque: Right.

17 Ferland: Using the five figure, you came up with 404?

18 Larocque: Correct.

19 Ferland: Did you communicate that to Michael Derderian?

20 Larocque: Yes.

21 Ferland: And did he seem satisfied with that?

22 Larocque: Yes.

23 Ferland: Did you communicate that 404 figure to Chief Brousseau?

1 Larocque: Yes.

2 Ferland: Okay, so as of March 2, 2000 you generated a memo, did you not, that
3 reported the capacity as being 404?

4 Larocque: That would have been in – yes, yes.

5 Ferland: All right, let me see if I can't pull that up. All right, so we've determined
6 now that it's 404 that we're talking about. And everybody that – is it your
7 understanding, sir, that as of March 2, 2000 everyone's on the same page
8 that the most they can put in there is 404?

9 Larocque: Yes.

10 Ferland: Okay. Let me show you another document.

11 White: Did you write this on March 2nd ?

12 Larocque: This was actually started on March 2nd and it was completed on the 6th. It
13 does – the date does say the 2nd. Which was a Thursday, I believe, and
14 finished on the Monday when I returned to work. It was started but it
15 wasn't completed.

16 White: Did you communicate, did you give Michael Derderian a copy of that
17 document?

18 Larocque: He would not – that's a memo to Chief Brousseau informing him of the
19 number. It wouldn't have been that specific document, no.

20 White: Did you tell him the number?

21 Larocque: It was definitely verbally, he was informed of the number.

22 White: Do you know whether it was on the phone or in person?

23 Larocque: That was in person, at the club.

1 White: And that would have been a trip to the club after March 2nd?

2 Larocque: Would have been sometime after March 2nd.

3 White: Do you know when?

4 Larocque: I'm not sure.

5 White: Okay.

6 Ferland: So the way that you communicated this was verbally?

7 Larocque: This was verbal, yes.

8 Ferland: You had an in-person conversation with Michael Derderian?

9 Larocque: Yes.

10 Ferland: Okay. Now on the 21st of March this letter was received by the Town
11 Council from The Station Nightclub. Are you familiar with that letter?

12 Daly: It's 2000.

13 Ferland: March 21, 2000. What did I say?

14 Daly: You didn't say (inaudible).

15 Larocque: This letter wasn't to me, but I'm referenced in here. It's a letter to, I'm not
16 sure who he sent it to, but it wasn't sent to me.

17 Ferland: It was not sent to you, but have you seen this letter previously?

18 Larocque: In reviewing documents I believe at the – after the fire with the Town
19 Clerk, I believe did have this letter. And that was the first I saw it.

20 Ferland: Okay. In the letter though, the author from The Station says that we have
21 spoken with Fire Chief Larocque and are crystal clear as to the amount of
22 patrons we are allowed to have. What is the figure that they are crystal
23 clear on as of the 21st of March, 2000?

1 Larocque: That number is 404.

2 White: So you had had this conversation that you said took place after March 2nd
3 with Michael Derderian at the nightclub, took place on an unknown date
4 after March 2nd, but is it your testimony that that conversation had taken
5 place by March 21st?

6 Larocque: Yes.

7 Ferland: Okay. He indicates that a detail from both the fire department and the
8 police department will be utilized. What is he making reference to there
9 as it relates to a detail?

10 Larocque: These are standard details, a firefighter and police details hired at the club
11 on certain evenings. Common with a lot of places of assembly and large
12 type venues.

13 Ferland: When you had had your discussion with Mr. Derderian and he had wanted
14 to increase his capacity to 400, was there any discussion of details?

15 Larocque: Yes.

16 Ferland: Who initiated the discussion of details?

17 Larocque: He did. When he brought up the fact of the old occupancy number and his
18 desire to increase, to see if the building could possibly hold 400 people, he
19 indicated to me that he would be hiring police and fire details.

20 Ferland: Now the hiring of police and fire, would that make a difference as to what
21 the capacity of the club is?

1 Larocque: I believe in his mind if that would help him get to that 400 number he
2 wanted, that was the initiation of his offer. But that does not allow you, in
3 and of itself, to increase capacity.

4 Ferland: Okay. So me having a fireman there isn't going to – obviously isn't going
5 to increase the size of my club. And it does not factor into the
6 mathematical formula that you use in determining capacity?

7 Larocque: Correct.

8 Ferland: Okay, is there something in the Rhode Island General Laws that require
9 the presence of a fire detail when the crowd is of a certain size?

10 Larocque: Yes.

11 Ferland: Can you tell us about that?

12 Larocque: Class A places of assembly, which is places of assembly that hold 1000,
13 1001 or more people, are required by law to have firefighter, at least one
14 firefighter and any additional deemed necessary by the chief at that
15 function.

16 Ferland: Okay, so that's a Class A, but this place isn't a Class A, correct?

17 Larocque: This is not a Class A.

18 Ferland: This is a Class B.

19 Larocque: B would be anyone from 70, I'm sorry, 301 to 1000.

20 Ferland: So this place would fall under 301 to 1000?

21 Larocque: This would fall.

22 Ferland: And what does the statute say about a detail man required for 301 to 1000?

23 Larocque: The statute indicates that it is up to the discretion of the chief.

1 Ferland: Now I know in an earlier discussion you told me that, but I look at the
2 statute, 23-28.6-5, Admissions Restricted and Supervised, Section D, and
3 it clearly says all Class B places of assembly of less concentrated use shall
4 have a uniformed firefighter and any additional uniformed firefighters on
5 duty when deemed necessary by the chief of the local fire department.
6 That's a Class B.

7 Larocque: That – and, if you look at Class A, I think the difference there is there's a
8 comma. This was brought up previously to the fire board as far as a
9 clarification. And the difference between A and B, there's a comma, I
10 believe, in that first sentence. And it was interpreted as the one firefighter
11 and any additional were optional.

12 Ferland: I see. So where does that come from, sir? Whose interpretation?

13 Larocque: That would be the fire chief.

14 Ferland: The fire chief? So it's up to an individual fire chief to interpret this
15 statute?

16 Larocque: In each community, whether they deemed a firefighter necessary, yes.

17 Ferland: Okay. And there had been discussion with Derderian about having a fire
18 detail there?

19 Larocque: Yes.

20 Ferland: Let me ask you this. When he's got 404 people, did you tell him he had to
21 have a fireman there?

22 Larocque: The number that it went back to was the original full capacity number.

23 Ferland: What do you mean by that?

1 Larocque: It went back to his original – it ended up coming back to his original,
2 when he made the offer of trying to increase the club’s capacity from 317
3 to 400. And he offered the details. When he got his new capacity number,
4 that’s your new capacity number for the building. However, the
5 firefighter detail will be required once you reach the 317.

6 Ferland: Okay, did you tell him that?

7 Larocque: Yes.

8 White: And did you tell him that at that same meeting that took place between
9 March 2nd and March 21st?

10 Larocque: Yes. When he was advised of the occupancy number for the building, he
11 was also advised of the requirement that your 404 is your occupancy
12 number. When you get around that number, the 317 number, is when your
13 detail would kick in.

14 White: Now when you had the discussion with him about the provision you just
15 mentioned, do you remember whether or not either of you elaborated on
16 that? For example, if I’m Michael Derderian, how would I know if I was
17 going to sponsor a concert this weekend, how would I know that I was
18 going to reach the magic 317 to trigger the provision that required me to
19 get a firefighter? Did you guys discuss how that would happen?

20 Larocque: Yes, there was specific discussion about that, based upon advance ticket
21 sales. There were concerts that he knew about based upon his advance
22 ticket sales where he knew he was going to reach that number. He could
23 call in advance and schedule the detail. Whereas some other bands that he

1 didn't know what his number was going to be, where he might have been
2 close, yet they were still selling tickets at the door, so he could actually
3 reach that 317 on the night of the concert. He was advised, again, when he
4 gets near that number, that's the triggering number. Again, he can hire a
5 detail every night if he wants. But that's when we were going to require
6 it. When he hit the 317 and when you got around that number he had to
7 get the detail there, and we'd have the detail man there within the hour.

8 White: So you told – did you tell him in that same meeting that you could provide
9 a detail person within an hour's notice?

10 Larocque: That's right.

11 White: And with respect to how he counted in advance of the show, the advance
12 ticket sales or the door that night, was it – was there any provision that you
13 were requiring him to keep you posted as things went along, or was it the
14 honor system that he would simply take it upon himself, that if and when
15 he got near 317 he would trigger the detail?

16 Larocque: It is pretty much on the honor system. Management is required – they're
17 the responsible people to determine whether the club becomes over-
18 occupied or not. Even with the firefighter detail hired, it is not the
19 firefighter detail's job, nor is it the police officer's job to count.

20 Ferland: How do you know that?

21 Larocque: That's in the book, the specific duties. Management's – it is the
22 management's responsibility to determine the occupancy – not to
23 determine, to maintain or see that the occupancy is not exceeded.

1 Ferland: Is that by statute?

2 Larocque: Yes.

3 Ferland: Are you referring to 23-28.6-5, Admissions Restricted and Supervised,
4 which says admissions to all places of assembly shall be supervised by the
5 responsible management, or by the person or persons delegated with the
6 responsibility by the management, and the responsible person shall not
7 allow admissions in excess of the maximum occupancy as provided?

8 Larocque: That's correct.

9 Ferland: Okay, so by statute the business is required to keep the number down?

10 Larocque: That's correct.

11 Ferland: I see. Okay, now as it relates to that inspection that you did conduct on
12 the 2nd of March, and the deficiencies that you found, did you or one of
13 your subordinates go back to find out whether or not they had complied
14 with those requests or demands?

15 Larocque: Yes, John Peiczarek, who is our Director of Communications, went out on
16 March the 21st. And that report he issued saying all deficiencies noted on
17 3/2/2000 report have been corrected.

18 Ferland: Okay. Not to beat a dead horse, but on this capacity issue, let me show
19 you this document which is dated February 18, 2000. Are you familiar
20 with that document?

21 Larocque: This document is in the file. This is a document sent from the fire chief to
22 the West Warwick Town Council.

23 **[TAPE 87 OF 114 – Heard 6/25/03 – SW1695 (417-570) – Side A]**

1 Ferland: Now this is February 18, so this is sometime before the meeting that
2 you've had with Michael Derderian, correct?

3 Larocque: Correct.

4 Ferland: And I've noticed in the letter that Chief Rita, now he's the permanent
5 Chief of the Fire Department?

6 Larocque: At this time. He was appointed in December of '99.

7 Ferland: Okay. He voices another issue that is of grave concern to me is an
8 ongoing problem of overcrowding that occurs at this establishment. And
9 of course he's referring to The Station. Occupancy limits are determined
10 and are exceeded on busy nights. Again, this presents a problem should
11 evacuation or emergency medical treatment become necessary. Is that
12 correct? Did Chief Rita make you aware of that? In other words, had you
13 had a conversation within the Fire Department that there were concerns
14 about overcrowding at the club?

15 Larocque: I believe the neighbors complaints, the size of the parking lot, the amount
16 of cars in the parking lot, they were parking on both sides of Kulas Road,
17 they were wrapping into the plat and behind, and I think the neighbors
18 perceived the amount of vehicles that were being parked on the streets and
19 in the parking lot, that there were too many people there.

20 Ferland: But apparently not just the neighbors, because this is the Chief that's
21 making some fairly strong conclusions here. I mean, wouldn't you agree
22 with me that the Chief appears to be of the same mind as the neighbors?

1 Larocque: By what that paragraph there states, he's indicating that there are nights
2 where he believes that this capacity is being exceeded. But there was no
3 verification, no spot inspection, no actual count ever taken as to what the
4 capacity was and what –

5 Ferland: Nobody counted the people in the place, but it looked like it was
6 overcrowded, is that what you're trying to say?

7 Larocque: Based upon the cars that were being parked in the plat and in the parking
8 lot, it wasn't a very big parking lot. I think there was an assumption there
9 on the overcrowding and it could have been actual. But there was actual
10 time where anyone went out there and did a head count and found that the
11 capacity was over 404.

12 Ferland: Okay. What's the next time you entered the building to conduct an
13 inspection? One second, I'm sorry.

14 Larocque: You said next time I was in the building?

15 Ferland: Yes sir.

16 Larocque: It was November of 2001.

17 Ferland: 2001?

18 Larocque: Mm hmm.

19 Ferland: Okay, so I'm off on that. Okay, what's this document then that we're
20 looking at here?

21 Larocque: This is a document generated by the Town Clerk's office as to the type of
22 license, liquor license, to be renewed. There was one of these type forms
23 sent for each liquor license being renewed in town. That's sent over to my

1 office, at which time, after the inspection has been completed and all
2 deficiencies have been corrected, at the bottom I would check the
3 Recommended line and sign it.

4 Ferland: So every liquor establishment gets one of these?

5 Larocque: Correct.

6 Ferland: And every year you go out and do one of these liquor license inspections?

7 Larocque: Correct.

8 Ferland: For all licensed liquor establishments?

9 Larocque: Right.

10 Ferland: And so on this particular location you went out sometime in November of
11 '01, is that accurate?

12 Larocque: November of '01 would have been the next – the next time I was in that
13 building.

14 Ferland: Okay, from the date of the inspection that you conducted when the
15 Derderians were going to be taking over, which was about November –
16 strike that – March of 2000.

17 Larocque: March of 2000.

18 Ferland: The next time you were in there is November of '01?

19 Larocque: Right. The November 2000 liquor license inspection I didn't do, that was
20 done by Mr. Peiczarek.

21 Ferland: Okay, so the next time you were personally in the building is November
22 10th?

23 Larocque: Correct.

1 Ferland: Of '01?

2 Larocque: '01.

3 Ferland: And what defects, if any, did you find in the club?

4 Larocque: First was the exit sign near the main entrance, which are three of those
5 needed bulbs.

6 Ferland: Okay, and what's the next thing you found?

7 Larocque: Emergency lighting, main exit, does that say?

8 Ferland: It's your report, I'll give it to you.

9 Larocque: Emergency lighting main exit not working.

10 Ferland: Next item?

11 Larocque: Emergency lighting near stage not working, and it also had a broken head .

12 Ferland: Next item.

13 Larocque: Door near stage cannot swing in.

14 Ferland: And what does that mean, sir?

15 Larocque: Doors in places of assembly are required to swing in a direction of exit
16 travel. They mean they have to open out.

17 Ferland: And this particular door did not open out?

18 Larocque: This door did not open out.

19 Ferland: Did you bring that to their attention?

20 Larocque: Yes I did.

21 Ferland: Okay, and I notice that there's another thing with the fire extinguishers.
22 Hang all extinguishers, and now you've got three of them, is that correct?

23 Larocque: Correct.

1 Ferland: Is this the same sort of an issue that you had run across in March of 2000?
2 You had indicated in that report that there was a fire extinguisher that was
3 not properly hung?

4 Larocque: It was not mounted, that's correct. They need to be mounted, they cannot
5 be resting on a floor somewhere.

6 Ferland: Okay. And it says clear across –

7 Larocque: Clear access to electrical panel in the basement.

8 Ferland: Oh, okay. And what does that mean?

9 Larocque: In the basement, the electrical panel, they had I'm not sure exactly what,
10 but access to the panel was limited or restricted. Again, in case of an
11 emergency and you need to knock power off to certain circuits or even to
12 the entire building, you need to have access to the electrical panel, and
13 they had obstructions there.

14 Ferland: Chief, I have a question. Back in the March one that we talked about, one
15 of the things you said was clean out the basement.

16 Larocque: Mm hmm.

17 Ferland: You did a follow-up inspection, or Mr. Peiczarek did a follow-up
18 inspection. Was the basement cleaned out?

19 Larocque: According to Mr. Peiczarek's compliance report it says all deficiencies
20 have been corrected. So according to that I would say yes.

21 Ferland: Okay. And that was March of 2000?

22 Larocque: Mm hmm.

1 Ferland: So there was no junk in the basement March of 2000, according to
2 Peiczarek?

3 Larocque: According to Mr. Peiczarek –

4 Ferland: And you rely on his report on a regular basis, correct?

5 Larocque: He can do follow-up inspections. He is certified to do the follow-up
6 inspections?

7 Ferland: And you've come to rely on those follow-up inspections?

8 Larocque: Yes.

9 Ferland: Okay, now on this one of November of 2000, a bunch of OK's over here,
10 who put those OK's on the report?

11 Larocque: Those are mine.

12 Ferland: And when would you have done that?

13 Larocque: The initial date of the report is 11/10 of '01. Underneath that it says re-
14 inspection date, and what I do is I put call when ready, with the phone
15 number. When all those violations or deficiencies were corrected they
16 would have called the station letting us know they're ready to be re-
17 inspected, and we would go out at that time.

18 Ferland: Did you go out?

19 Larocque: Yes.

20 Ferland: Okay, how about that door near the stage that can't swing in? Was that in
21 place when you went and did your re-inspection?

22 Larocque: No.

23 Ferland: Okay, so that was gone?

1 Larocque: The door was removed.

2 Ferland: All right. Did you fill out any other form other than just writing OK's on
3 the original form, to indicate that they were now in compliance?

4 Larocque: The form that went back to the Town Clerk's Office with the check mark
5 "Recommended" with the signature.

6 Ferland: And that's the one that we just had seen a second ago, just immediately
7 previous to this one? That form there, is that correct?

8 Larocque: Correct.

9 Ferland: All right. Yes?

10 Daly: Is there a time limit that they have to fix these deficiencies by and contact
11 you within? You say call when ready. Do you call when ready but within
12 a certain period of time?

13 Larocque: Yes. These liquor licenses expire on December the 1st. Unfortunately
14 with the work load that's in the office we used to try and get out in
15 September and October to try and get these inspections done. As I
16 mentioned previously, with Fire Prevention Week, it used to be a week,
17 week and a half, it's now taking all month. So part of the duties, we're
18 getting there later and later. This particular time we're in November now
19 doing this inspection. These things, these violations, these deficiencies,
20 need to be corrected by December 1st, or the license will not be renewed.

21 Ferland: Okay, so if the Town Council doesn't get your little form that you'd
22 showed us, this one page deal, checked "recommended", their license is
23 not renewed?

1 Larocque: They will not issue a license.

2 Ferland: So there is sort of a window of time in which they need to comply?

3 Larocque: Correct. Yes.

4 Ferland: I'll show you this – first off, when's the next time that you went into the
5 club for purposes of inspection or visit?

6 Larocque: This would have been November of 2002.

7 Ferland: Did you go in between November of 2001 and November 2002 for any
8 purposes?

9 Larocque: No.

10 Ferland: What was the purpose in going there in November 2002?

11 Larocque: November of 2002 is again, the annual liquor license renewal.

12 Ferland: Did you go to that establishment?

13 Larocque: Yes I did.

14 Ferland: Were you accompanied by anyone?

15 Larocque: This particular year I was there on three occasions. The first time there
16 was no one there. The second time there was, which was on the 27th, and
17 then the final time on December the 2nd, I was there also by myself.

18 Ferland: Okay, so let's trace this. The first time you go out there, you visit,
19 obviously there's somebody from the club that lets you in?

20 Larocque: Correct.

21 Ferland: And then there's a second time you go there and who did you go there
22 with the second time?

1 Larocque: On the 27th, the building inspector, who is also required to sign off on
2 these liquor license renewals. Police, Fire and Building. Police – I'm
3 sorry, Fire and Building have to with the same form. Again, all three have
4 to send these forms to the Town Clerk's office before these licenses will
5 be issued. The building inspector was there making his inspection.

6 Ferland: On the 27th?

7 Larocque: On the 27th.

8 Ferland: And then you said you went back there in December?

9 Larocque: For the compliance inspection that's saying everything had been corrected,
10 all deficiencies had been corrected and they were ready for re-inspection,
11 that was December the 2nd.

12 Ferland: Okay, so the last time you were in the building – strike that. Is that the
13 last time you were in the building prior to the fire?

14 Larocque: December 2nd, yes.

15 Ferland: In your inspection of 11/20/02, did you find any deficiencies?

16 Larocque: I found nine deficiencies.

17 Ferland: Okay, can you tell us about what those were?

18 Larocque: The first one is exit door swings wrong direction, stage door.

19 Ferland: Was that the same door that you had observed a year earlier?

20 Larocque: Same door.

21 Ferland: That's the door that you had cited them for a year earlier?

22 Larocque: Same door.

23 Ferland: What was your reaction to that?

1 Larocque: I was surprised, to say the least, putting it mildly. I really – I really didn't
2 expect to see that door there, seeing as though they were cited for it
3 previously. And apparently sometime after I had left and okayed all the
4 deficiencies, they had re-hung the door.

5 Ferland: Did you speak with anybody about that on that day, 11/20?

6 Larocque: The only – there was no one there. None of the owners were there. The
7 person who had opened the bar, obviously, it was a female.

8 Ferland: Did you speak to her about that, do you recall?

9 Larocque: On this particular day, no.

10 Ferland: Do you recall speaking to anyone that day, or thereabout that day in
11 reference to that door?

12 Larocque: No.

13 Ferland: Okay, what's the next item that you see on the list?

14 Larocque: Panic hardware is broken on the same door.

15 Ferland: Okay, and was that on the door that swung in, that the panic hardware was
16 broken?

17 Larocque: That needs clarification. It isn't physically the same door. Same door
18 meant stage door. I was trying to locate for the owners which door the
19 broken hardware was on. But it's not physically the same door.

20 Ferland: So there are two doors there, obviously?

21 Larocque: Right. An inner door and an outer door.

22 Ferland: And what was wrong with the panic hardware on the exterior door?

23 Larocque: The panic hardware was not operating properly.

1 Ferland: Okay, you cited them for that, is that correct?

2 Larocque: Correct.

3 Ferland: Anything else? What's the next thing?

4 Larocque: The pull station near the kitchen door was broken, it was pulled out of the
5 wall.

6 Ferland: What's a pull station?

7 Larocque: A pull station is part of the fire alarm system. It's an activation device
8 where you pull the lever down and it activates the fire alarm system in the
9 building.

10 Ferland: Now you've already told us that the alarm system in place in the club, at
11 least initially, was a local alarm system. Were there repairs done to the
12 alarm system after you had brought to their attention the fact that you felt
13 it was deficient system?

14 Larocque: They had upgraded to a new, brand-new fire alarm system, yes.

15 Ferland: Was it still a local system?

16 Larocque: Yes it was.

17 Ferland: So that pull box that was loose there from the wall, if I was a patron and I
18 pulled that down, would that ring at the fire department?

19 Larocque: It would not.

20 Ferland: So it would just simply signal a bell or whatever?

21 Larocque: Activate the horns in the building, to notify the occupants to exit the
22 building.

23 Ferland: Okay, what's the next deficiency that you found?

1 Larocque: Ancill service, again, that's the fire extinguishing system for the cooking
2 appliances, it was due that month. It wasn't expired, but they're tagged
3 when they're inspected. This one had a November tag, it was due to be re-
4 inspected by the end of the month.

5 Ferland: Okay. Next item?

6 Larocque: Fire extinguisher not tagged, were due for service this month. Same thing.
7 Fire extinguishers are required to be inspected annually. These particular
8 extinguishers were dated November and they were due to be re-inspected
9 by the end of the month.

10 Ferland: Okay, and what's the next item?

11 Larocque: Exit signs not working.

12 Ferland: So again, was this a situation where the exit signs were burned out, or
13 were not properly lit?

14 Larocque: Correct.

15 Ferland: Next item?

16 Larocque: Ceiling panel broken near side exit door.

17 Ferland: What was that all about?

18 Larocque: This was a drop ceiling panel, the left-side front bar area, approaching the
19 exit door. There was a drop ceiling panel that was broken, similar to what
20 we have here.

21 Ferland: Okay, and finally?

22 Larocque: Open gasoline can in basement. And then the top, when I ran out of room,
23 I went back to the top, and there's a mounted extinguisher (inaudible).

1 Ferland: Okay. Now there are, on this particular form, two “all OK’s” written there
2 with your initials. Let me ask you this. Do you write those “all OK’s” on
3 this form?

4 Larocque: Yes.

5 Ferland: And then there are a column of OK’s before the various deficiencies that
6 you’ve indicated, did you write those OK’s?

7 Larocque: Yes.

8 Ferland: Is that something that you did after you had returned to the club?

9 Larocque: Those OK’s would have been placed on this form the day of the
10 compliance inspection.

11 Ferland: Which was what date?

12 Larocque: Which was December the 2nd.

13 Ferland: December 2. Was the door down, sir, that door that swung in? Was that
14 down?

15 Larocque: That door had been removed.

16 Ferland: Okay. And the exit signs that were not working, were those then lit?

17 Larocque: Yes they were.

18 Ferland: Now have you had an opportunity to review the videotape of the interior
19 of The Station nightclub on the night of the fire?

20 Larocque: Yes.

21 Ferland: And were you able to look into the area of the stage, and more particularly
22 the door that you’ve made reference to?

23 Larocque: Yes.

1 Ferland: Was that door in place at – based on your review of the videotape?

2 Larocque: That door was, once again, had been re-installed.

3 Ferland: Okay, so now you've twice cited these people for not – for having an
4 illegal door, and at least on two occasions now they've put it back up
5 again?

6 Larocque: Yes.

7 Ferland: So you've made them aware that they're not in compliance?

8 Larocque: Correct.

9 Ferland: Okay. Sir, shortly before the fire in February of this year, did it come to
10 your attention that the Derderians were contemplating transferring their
11 liquor license?

12 A: Say it again, I'm sorry?

13 Q: Before the fire, between January and February of this year, 2003, did it
14 come to your attention that the Derderians were contemplating transferring
15 their liquor license?

16 A: I believe they had made application to transfer the license.

17 Q: Okay. And how did that come to your attention, do you know?

18 A: That would have been a same – the same type of notification from the
19 Town Clerk's office, that we get on a liquor license renewal, that would
20 have come – would have said liquor license transfer.

21 Q: Okay. When you went into the club in November of 2002 to conduct your
22 inspection, did you notice any acoustic-type material having been installed
23 in the club?

1 A: No.

2 Q: And when you did your inspection in November of 2001, did you notice
3 the acoustical material there in the club?

4 A: No.

5 Q: Now it's since been brought to your attention, has it not, that the stage area
6 at this location was covered with this acoustical material?

7 A: Yes it was.

8 Q: And is it your testimony that you did not see that material?

9 A: That's correct.

10 Q: Now how is that, that you were not able to see that material?

11 A: These fire, these are called fire safety inspections, what we do for liquor
12 license renewals. These are not full building code-compliance
13 inspections, which is what we did the first time, when we noticed the
14 curtain at the stage that needed to be rated, those are more in-depth
15 inspections. That more in-depth inspection was done because of changes
16 that we had seen made to the building. These particular inspections are
17 not full-building inspections. These are, what they call, fire safety
18 inspections. They are, where it says the fire protection equipment – it's a
19 maintenance-type inspection. It tells us who's maintaining their building
20 and who isn't. These are mostly fire systems or fire equipment is what
21 we're going there to test.

22 Ferland: Okay. So you tested the fire equipment?

1 Larocque: Inspected the extinguishers. We make sure they're mounted, they haven't
2 been discharged, and they're tagged. The ancill system also should be
3 tagged. The emergency lighting, there are test buttons. We push the
4 button to make sure they light. Exit signs, we make sure they're lit. What
5 we call the – we call a four E's, these type of inspections. That's
6 extinguishers, emergency lighting, exit signs and egress. These type of
7 inspections are pretty much focused on those items. In addition to, we
8 also would check the basement for any combustible or accumulation of
9 combustible material there, where it seems like you just accumulate and
10 accumulate things, and you don't throw things away. It's just something
11 that would contribute to the fire load of the building in the basement. But
12 these are not full building inspections. These are inspections geared
13 towards those basic items.

14 Ferland: Okay, but if you were in the club, and you saw something like this
15 acoustical material, regardless of whether you're there to check it, would
16 you take some action if –

17 Larocque: Absolutely. Where I say it's focused in the – it's pretty much focused on
18 these items, but if you see something, as in this particular case the open
19 gas can in the basement, the ceiling tile in the bar area, again those are not
20 items geared to specifically towards those fire safety equipment items that
21 I mentioned earlier. But it's obviously, if you see something outside that
22 scope you obviously do not ignore it, you do cite it.

1 Ferland: Okay. Did you ever change the capacity of the club from March of 2000
2 to February of 2003, from that 404 figure?

3 Larocque: No.

4 Ferland: Okay. Why don't we take a break, because I know we've been going at it
5 a long time. And we'll come back in a few minutes, after we've stretched
6 our legs.

7 [Tape turned off]

8 Ferland: Okay, we are back on the record for the morning session, the 25th of June,
9 2003. I remind you that we have a witness here with us, a Mr. Denis
10 Larocque. Mr. Larocque, I remind you that you're still under oath. I'd
11 like to talk about a couple of new topics, plus doing a little bit of
12 clarification on some of the older topics. The Division of Fire Safety
13 there, within the Town of West Warwick, are you folks responsible for the
14 issuance, or play any role in the issuance of pyrotechnic licenses?

15 Larocque: Yes.

16 Ferland: Okay, can you explain, what is the role of your office in that?

17 Larocque: The procedure, again, it's covered under the State Fire Code. The
18 procedure begins at the State level. You need to be licensed by the State,
19 in the State of Rhode Island. You need to be – you need to post bond,
20 show evidence of competency. And once you achieve those items you
21 then go to your local community to apply for a permit. So there are
22 requirements on the State level to even get to the point where you need to
23 obtain a permit from us.

1 Ferland: Okay, and once somebody is qualified, that is to say, they have a license
2 from the State, do they go to you and say okay, on such and such a date I
3 want to use fireworks?

4 Larocque: Correct.

5 Ferland: And do they do that in writing?

6 Larocque: It would be, again, they'd come in with their license, a copy of their
7 license, the competency, copy of the bonding. You're talking about
8 outdoor fireworks now?

9 Ferland: Yes, let's – the more common type of fireworks.

10 Larocque: Outdoor fireworks, same procedure. You then have to submit also a
11 diagram showing where you're going to be lighting these fireworks off.
12 You need to show clearances to surrounding buildings. You need to show,
13 give information as to the size of the tubes. Different size fireworks get
14 shot out of different tubes. There's a whole list of information, a whole
15 list of requirements.

16 Ferland: Okay.

17 Larocque: Onsite inspection is a requirement.

18 Ferland: What does that consist of?

19 Larocque: We go out as they're setting these up. From the time the fireworks are
20 delivered to the site to the time the – all the items are removed we are
21 required to have a firefighter on duty, a detail-type similar to what we
22 talked about earlier. A firefighter has to be on-site during that time period.

1 Ferland: Okay. You mentioned outdoor pyrotechnics. Have you in the past, let's
2 say two years, received applications to conduct outdoor pyrotechnic
3 shows?

4 Larocque: Outdoor fireworks, yes.

5 Ferland: And did you follow the procedure that you outlined for the jury a second
6 ago?

7 Larocque: Yes.

8 Ferland: Have you, in the last two years, received any permit requests for indoor
9 pyrotechnics?

10 Larocque: None.

11 Ferland: Did anybody make you aware that special effects or indoor pyrotechnics
12 were being used at The Station nightclub from March of 2000 to February
13 of 2003?

14 Larocque: Absolutely not. No.

15 Ferland: Was that something that you would have liked to have known?

16 Larocque: Absolutely.

17 Ferland: And what – strike that. So have you reviewed your files?

18 Larocque: Yes.

19 Ferland: And are you aware of any application having been received requesting
20 permission to use indoor pyrotechnics at The Station nightclub?

21 Larocque: None.

22 Ferland: Okay. Something that I want to clarify in my own mind, Chief, as it
23 relates to assessing the capacity of the club. When you go into the club

1 and you take internal measurements what are you measuring? I guess
2 that's really the question, what are you measuring?

3 Larocque: You're measuring the square footage of the patron space.

4 Ferland: Okay, what is the patron space?

5 Larocque: Patron space is the area of the club where, or the room, where the
6 occupants or the customers will be occupying.

7 Ferland: What sorts of things are excluded from that?

8 Larocque: You would not include bar, behind bar areas. You would not include the
9 stage, you would not include any office or kitchen areas. All areas where,
10 again, all where the customers would not be.

11 Ferland: Okay. When you are assessing capacity are there certain fixtures within
12 the club that you would subtract from the available floor space?

13 Larocque: Yes.

14 Ferland: For example, in this particular nightspot, were you aware that there were
15 pool tables?

16 Larocque: Yes.

17 Ferland: Did you subtract available floor space using the measurements of the pool
18 tables?

19 Larocque: Yes.

20 Ferland: So the pool tables didn't factor in into the total available floor space in the
21 nightclub?

22 Larocque: On the nights when they planned to occupy this particular pool table room,
23 what they used to do is they took the pool tables, they slid them off to the

1 front, to the greenhouse window area. They slid them off to the side, and
2 that was the square footage that I deducted from that calculation.

3 Ferland: Okay, so in other words, you were still subtracting this total size of the
4 pool tables, they were just out of the way?

5 Larocque: There was a square footage that was not available for the customers to
6 stand in.

7 Ferland: Okay. In addition to determining the capacity in the club, is there some
8 sort of a formula you use to determine how many exits or avenues of
9 egress must be available to the occupants of the building?

10 Larocque: Yes. Once you determine what that occupancy number is, you must then
11 determine whether there is adequate exit capacity to accommodate that
12 number.

13 **[TAPE 87, SIDE B – SW1695 570-720]**

14 Ferland: Okay, let's use The Station nightclub as an example. You determined that
15 there was a capacity of four hundred and four people based on the floor
16 space. With 404 people, how many points of egress should they have
17 had?

18 Larocque: Size of the – the capacity of each exit would be determined, in this
19 particular case by a state code it's regulated at twenty-two inches per
20 hundred people. Twenty-two inches of exit width allows that exit to – for
21 every hundred people. So if you determine, in this particular case they
22 had the three exits, with one in the front of the building and one on each
23 side, those were all, and it's a standard ballpark figure of a thirty-six inch

1 door will give you a hundred and fifty people, but if you do it by that, the
2 actual formula that's in the book, it's thirty, I'm sorry, twenty-two inches
3 for every hundred people. So in this particular case you would take the
4 clear width, not the size of the door now, the clear width – whatever the
5 clear opening is. Take that measurement, divide that by twenty-two, that
6 would give you the answer in hundreds as to how many people that exit
7 door can accommodate.

8 Ferland: Okay, so using that formula how many, were there sufficient exits I guess
9 is my question, in that club on the night of February 20, 2003?

10 Larocque: Yes, either using the ballpark, again, thirty-six inch door will give you
11 150, at three of those exit doors will give you 450.

12 Ferland: Okay, so a thirty-six inch door, 150 people, you had three doors of thirty-
13 six inches, so that was – there were enough exits there for 450 people?

14 Larocque: Correct.

15 Ferland: Okay. And you didn't – you obviously did not count the kitchen as being
16 an available exit, correct?

17 Larocque: We did not count. It's an exit door – you cannot count the kitchen exit,
18 the code does not allow exiting through a kitchen or storeroom or other
19 door subject to locking as we discussed previously.

20 Ferland: Okay.

21 White: But in terms of how the available egress affects your occupancy number,
22 right, you've determined for this club by March 21, 2000, that the
23 occupancy without tables is 404, correct?

1 Larocque: Correct.

2 White: If they have three doors and roughly rated at 150 people each, that does
3 not mean, does it, that they can now have 450 people in the club, correct?

4 Larocque: That's correct. You are still limited to the 404 number and it's based,
5 which is what you – how you determined that number based on plot
6 (*phonetic*) square footage because you have more exits, more exit capacity
7 than that number does not allow you to increase that number.

8 White: Okay, now what if you had, you determined by the square footage formula
9 using the divider of five for standing room, that the number was 404, and
10 what if you had decided that they only had two exits that accommodated
11 150 people each. Would the occupancy number in that case still be 404?

12 Larocque: Then your occupancy number would have to be decreased to that
13 maximum exit capacity number. In this particular case, had they only had
14 two exits that 404 number would have dropped to 300.

15 White: Okay. And it appears to you, in this case, that even excluding that kitchen
16 door there were three exits that had sufficient capacity to justify and affirm
17 the 404 number, correct?

18 Larocque: Yes.

19 White: So 404 was the occupancy as of February 20, '03, correct?

20 Larocque: Correct.

21 Ferland: Mr. Daly?

22 Daly: Just one question, or one area. Mr. Larocque, you talked a little bit about
23 emergency lighting during the course of your testimony. Is there a

1 formula for determining how much emergency lighting is needed in a
2 facility?

3 Larocque: Emergency lighting requirement is lighting, again, when power, I mean if
4 power failed there should be adequate emergency lighting to allow all the
5 occupants to find their way to an exit.

6 Daly: Is there a formula for determining how much emergency lighting is
7 needed in a particular location?

8 Larocque: There's no particular number as far as a form to see how many you need.
9 You need your light – your exits and your pathways to the exit lit.

10 Daly: When you did your November 2001 and November 2002 inspections I
11 believe in at least one, maybe both, you indicated the emergency lighting
12 needed to be repaired?

13 Larocque: Correct.

14 Daly: Did you make an assessment during either or both of those inspections that
15 there were adequate emergency lightings in the facility?

16 Larocque: The emergency lighting was adequate.

17 Daly: Thank you.

18 White: You mentioned earlier fire extinguishers and that when you do one of
19 these abbreviated inspections, as you do for the annual liquor license, that
20 you focus on the four E's, and one of the E's is extinguishers, correct?

21 Larocque: Correct.

22 White: Does the Code, or any other guidance you might receive as the fire
23 inspector, fire marshal, give you a determination of the number of fire

1 extinguishers that a particular facility, say a place of assembly, should
2 have?

3 Larocque: Each, in each particular chapter of the Fire Code, it will tell you where fire
4 extinguishers are required. It'll tell you the required based upon, it's
5 called NFPA Ten, it's another, it's a National Fire Protection Association
6 requirement, it's a guideline. The '88 edition is the edition we're
7 enforcing. That is where it gets specific as to the number of extinguishers
8 you need, the travel distances to that number – to those extinguishers.
9 And for these places of assembly travel distance to an extinguisher should
10 not exceed seventy-five feet.

11 White: That distance requirement, in effect, becomes a number of extinguishers
12 requirement, correct?

13 Larocque: That would -

14 White: So if you have a building eighty feet long you're going to have to have
15 two fire extinguishers, if you have one at the far end, because by necessity
16 one would have to be beyond seventy-five feet?

17 Larocque: Correct. And again, that would be travel distance as you walk, not in a
18 straight line. So if you're going around furniture you have to measure it
19 that way. It's not in a straight line.

20 White: Now in any of the inspections that you did yourself or have reviewed, that
21 Mr. Peiczarek or anyone else did, was the distance to an extinguisher ever
22 an issue with The Station nightclub?

23 Larocque: No.

1 White: With respect to the discussion you just had with Mr. Ferland about the
2 issuance of permits for outdoor fireworks displays, did you say that you as
3 the Fire Marshal have personally been involved in going through that on-
4 site inspection, the size of tubes and the diagram and clearances business?

5 Larocque: Yes.

6 White: And had you personally been involved with such an inspection for an
7 outdoor fireworks display prior to February 20, '03?

8 Larocque: Yes.

9 White: And what guidance, where is it that you find the checklist of the on-site
10 inspection, size of tubes, diagrams, clearances business that you require of
11 someone who is seeking a permit?

12 Larocque: That is in the Rhode Island State Fire Code.

13 White: Okay. Are you aware of whether or not the Fire Code or any other
14 authority provides any requirement with respect to the issuance of a permit
15 for fireworks or pyrotechnics, either indoors or outdoors, for the use and
16 placement of fire extinguishers? Is there guidance provided with respect
17 to that?

18 Larocque: Part of that requirement as far as the licensing and the diagram and the
19 clearances, also on that list is the requirement that a fire extinguisher be
20 present.

21 White: Okay.

22 Ferland: And is that in the NFPA?

23 Larocque: That's in the State Code.

1 Ferland: Does the State Code, if you know, adopt the NFPA as the regulations
2 concerning the use of fireworks?

3 Larocque: They do.

4 Ferland: Okay.

5 Larocque: There is a specific chapter in the State Code having to do with fireworks.

6 Stone: Do you know whether or not a fireman has to be present on an indoor pyro
7 show?

8 Larocque: The indoor – again, we haven’t received application for permits for indoor
9 shows. The guidelines that govern the indoor shows, it’s the NFPA, 11-26
10 specifically having to do with pyrotechnics. There are a whole list of
11 requirements, a whole set of guidelines that have to be followed for these
12 to be used.

13 Ferland: Is that known as the NFPA Guidelines For the Use of Pyrotechnics For A
14 Proximate Audience (*sounds like*)?

15 Larocque: That’s the one, yes.

16 Ferland: I’m going to show you this document, it’s entitled NFPA 11-26. It’s the
17 2001 Edition. Are you familiar with that?

18 Larocque: Again, I’ve never had to use it. I know it exists, but again we haven’t
19 received any requests for any indoor pyrotechnic shows to say that we’ve
20 actually gone out and had to follow this on-site for any type of indoor
21 show, no I haven’t. But I know it does exist and it does govern as to what
22 is required.

1 Ferland: Is that what you would consult if you had actually received such an
2 application?

3 Larocque: Yes.

4 Ferland: Okay. And just so I'm clear, this is a standard that they – according to the
5 Code here, this is the standard that shall apply to any indoor use of
6 pyrotechnics, is that correct?

7 Larocque: That's correct.

8 Ferland: There are storage requirements for these devices, is that correct?

9 Larocque: That's correct.

10 Ferland: A requirement that a detailed plan be submitted to your office concerning
11 the use of those indoor pyrotechnics?

12 Larocque: That's correct.

13 Ferland: That would include a material safety data sheet for the particular devices
14 in question?

15 Larocque: Correct.

16 Ferland: Did you receive such a plan for the February 20, 2003 show for Great
17 White?

18 Larocque: No, we did not.

19 Ferland: And there are certain qualifications for operators and their assistants for
20 the use of those devices, is that correct?

21 Larocque: That's correct.

22 Ferland: And one of the requirements for the use of these devices is that there's – a
23 walk-through shall be conducted and a representative demonstration of the

1 pyrotechnics shall be approved by the authority having jurisdiction before
2 a permit is approved. That would be you, correct?

3 Larocque: Correct.

4 Ferland: Did you do a walk-through and see a demonstration of these devices on
5 February 20th?

6 Larocque: I did not.

7 Ferland: In Chapter 6 here, it deals with firefighting equipment that must be
8 available, is that correct?

9 Larocque: That's correct.

10 Ferland: Two or more fire extinguishers of a proper classification as approved by
11 the authority, again, that would be you, shall be accessible while the
12 pyrotechnics are being loaded, prepared for firing, or fired. So that's one
13 of the things that you would have required should you have received such
14 an application, is at least two fire extinguishers, correct?

15 Larocque: That's correct.

16 Ferland: Suffice it to say that there are detailed requirements included in the NFPA
17 Code for the use of indoor pyrotechnics, is that accurate?

18 Larocque: That's correct.

19 White: The rule there with respect, recognizing again that you never received
20 such an application, who would seek the permit for the use of pyrotechnics
21 indoors? The owner or tenant of the venue in which they're to be fired, or
22 the person who proposes to actually do the firing of them?

23 Larocque: It would be the person doing the firing.

1 Ferland: Michael, do you have questions? Paul?

2 Daly: Mr. Larocque, I'm just going to ask you a couple of follow-up questions
3 on that, on the emergency lighting. You indicated that it was your
4 estimation that there was sufficient emergency lighting, is that correct?

5 Larocque: That's correct.

6 Daly: And you base that upon your observations of the interior of The Station?

7 Larocque: Correct.

8 Daly: When you are determining whether there is sufficient emergency lighting,
9 are you making that determination based upon the location of the lights?
10 Do you do any tests of any kind?

11 Larocque: You test to see that they work. There's a test button located on the side.
12 You test to see they come on. In some of the newer occupancies they're
13 also required outside the building. Again, you test them, they would come
14 on. But you see where they're located. If they're located by the exit or
15 over an exit, and they cast light forward to the aisle to the exit, I mean
16 that's what you're looking to see.

17 Daly: And is your determination simply a determination of whether there is
18 sufficient lighting if the lights go out?

19 Larocque: Again, location would – like when we did the first inspection we had them
20 add emergency lighting to the corridor to the bathrooms. That appeared to
21 us would be a dark area if you came out of the bathroom and the lights
22 were out, you couldn't see that far to where you could pick up your next
23 emergency light to guide yourself to the exit. That's why at that time we

1 had them add that one. It appeared by the location of where the
2 emergency lighting was, that the lighting to the exit, even the units
3 themselves, sometimes they have remote heads that operate off that same
4 battery unit. Looking at where these emergency lights were located, and
5 where they were pointing, and the direction they were pointing, it would
6 be adequate lighting so long as they worked. As the batteries need
7 replacing from time to time, so long as the batteries were replaced and
8 they worked properly there was adequate lighting there.

9 Daly: You would agree that each fire displays its own characteristics. Some
10 burn hotter than others, some produce more smoke than others, is that
11 correct?

12 Larocque: Correct.

13 Daly: If there's no criteria or standard from which to decide or determine what is
14 sufficient emergency lighting within a facility, is there any way to assess
15 whether you encounter an extremely smoky fire, for example, whether a
16 set of emergency lighting is sufficient to deal with that situation as
17 opposed to a less smoky fire?

18 Larocque: The requirement for the emergency lighting, there is a lux (*phonetic*)
19 rating, again it's something you'd have to measure with a light meter type
20 of thing to say that's adequate lighting. That's in case of a power failure.
21 Normal, the artificial – not artificial, but the lighting in the building would
22 go out, then these should provide enough lighting to get you to the exit.
23 Now if you add smoke to that mixture, which would obviously decrease

1 the effect of this lighting, then smoke obviously could hinder the amount
2 of light that these emergency lightings project.

3 Daly: And would it be fair to say that intense smoke would further diminish the
4 amount of light –

5 Larocque: Yes.

6 Daly: - that's available to illuminate the exits and so forth?

7 Larocque: Again, this emergency lighting is again, you're assessing the amount of
8 light thrown on these exits and aisles to the exit based upon loss of power.
9 Adding smoke to that mix would obviously decrease the effect of that
10 lighting.

11 Daly: Thank you.

12 Ferland: Jurors? Sir?

13 Juror: Is there any requirement for like fire lanes (inaudible) The Station like
14 painted on? Is that ever like checked or enforced?

15 Larocque: Again, parking for the side on Kulas Road was a concern as far as parking
16 on both sides and the limited amount of space left available for each fire
17 apparatus to reach or travel Kulas Road. That was an issue. Travel lanes
18 or fire lanes, there is nothing in the Fire Code having to do with fire lanes,
19 that is by local ordinance. Need to – has to be done by local ordinance, for
20 the police to enforce that.

21 Juror: So like I mean parking a big bus in front isn't a hindrance, I mean would
22 that be say a violation, too close to the building, something that large?

1 Larocque: Fire apparatus, obviously, you need to get access to the building in the
2 case of an emergency, and whether that bus being in front of the building
3 whether there was still an alley for fire apparatus to extend to an area that
4 they may have needed, I'm not sure what the parking situation was that
5 night there.

6 Ferland: Sir?

7 Juror: As a follow-up to his question now, but is there a local ordinance that
8 requires an establishment of public assembly to provide a fire lane
9 adjacent – a certain size or dimension adjacent to the building? And
10 would that be something that your department somehow would look for
11 when doing either license renewal inspection or a similar type of code
12 compliance inspection?

13 Larocque: Historically, the inspections we do for the liquor licenses are having to do
14 with the interior of the building. Those four E's and the combustibles in
15 the basement, those type issues. There are, again, requirements or – there
16 are not requirements in the State Fire Code for fire lanes. They have to
17 propose that by ordinance for the police to be able to enforce that.

18 Ferland: Okay, and I don't know if you know the answer to this, but as it relates to
19 that issue, have you familiarized yourself with the West Warwick Town
20 ordinances as it relates to fire lanes? If you have you have, if you haven't,
21 you haven't. You indicate that it's by town ordinance, correct?

22 Larocque: It is by town ordinance.

23 Ferland: I'll show you this document. Do you recognize this at all?

1 Larocque: This is part of the Town Charter I believe.

2 Ferland: Okay, so those are the town ordinances that relate to that, is that correct?

3 Larocque: This is the section having to do with fire lanes and there – who’s
4 responsibility to maintain them, signs, records, enforcement and so on. It
5 says it shall be the duty of the Police Department of this Town to enforce
6 the provisions of this article.

7 Ferland: Okay, so it’s the Police Department’s responsibility to enforce it, but as it
8 relates to designation and the definition of a fire lane, what does the
9 ordinance say in respect to –

10 Larocque: Says it will be designated by the fire chief with approval of the Town
11 Council.

12 Ferland: So the marking of fire lanes on private property devoted to public use shall
13 be designated by the fire chief with the approval of the Town Council.
14 Fire lane shall mean any area appurtenant to entrances or exits of a
15 building which the fire chief and the Town Council have established. Fire
16 lanes should remain free and clear of parked vehicles for access to such
17 buildings in case of fire or other emergency. Which said area may include
18 sidewalks, driveways, portions of parking lots and other areas adjacent to
19 or near said buildings’ entrances or exits, or any fire hydrant. So that sets
20 forth in the town ordinance what constitutes a fire lane, correct?

21 Larocque: Correct.

22 Ferland: Now as it relates to keeping that area free, who does the ordinance
23 delegate that responsibility to?

1 Larocque: The owner of such property shall continue to be responsible for the
2 maintenance of such area.

3 Ferland: So there is an ordinance on it, and it is regulated by the Town, correct?

4 Larocque: Correct.

5 Ferland: Yes sir?

6 Juror: Regarding the official capacity of the building. Was that just the patrons
7 of the building, or would that include the employees and band members,
8 and anybody else that might be there?

9 Larocque: The Rhode Island Code and the NFPA code do differ in that respect.
10 There is no provision in the Rhode Island Code which would govern this
11 particular property as to adding the employees to that number. But the
12 NFPA would. There are provisions in the NFPA code where they allow,
13 where we deduct it for stages and kitchens and barrooms, they have a
14 number, and it varies depending on the type or the area involved, to – as to
15 how many people should be in those areas. Like kitchens are a hundred –
16 what they do is it's 100 square feet per person, and what they do, they take
17 into consideration the amount of stoves and cooking appliances and
18 equipment in the kitchen, that would determine how many people should
19 be in that kitchen.

20 Juror: Well the number that you gave the club, 404, were you including the
21 employees also, or no?

22 Larocque: No, under – again, under Rhode Island Code it's patron space. It was
23 patrons only, that was the number.

1 Juror: When you, fire department had to detail the space, what are the duties and
2 the responsibilities of that fireman? Is he supposed to be circulating
3 through the club looking out for violations?

4 Larocque: That's correct.

5 Juror: If he saw, if the fireman saw the pyrotechnics in use, right, (inaudible)
6 open flame, would there be an official report generated?

7 Larocque: He would, in that particular example that you just stated, he would call the
8 duty chief of any concerns he may have, whether it's pyrotechnics, as you
9 just mentioned. Whether it's possible overcrowding, whether he sees
10 blocked exits. He would call the duty chief if he feels uncomfortable with
11 any certain number of duties he has, he would call the duty chief, which
12 would be the chief working that night, who'd come down and follow-up.
13 And again, if the duty chief wasn't sure, then I'd be called in, or the fire
14 chief. His duties would be, again, as you said, walking around. His
15 primary responsibility would be to maintain the access to the exits. He
16 would need to know where the fire extinguishers are located, should an
17 event happen. He'd need to make notification to the fire department
18 should an emergency arise.

19 Juror: When you do your annual inspections, do you pull the previous years'
20 inspections to see what the violations were, so you'll know if it's
21 continuing violations?

22 Larocque: No.

23 Juror: No?

1 Larocque: I do not.

2 Juror: What about building permit, you know, so you'll familiarize yourself with
3 any changes, building changes that were made in the previous year?

4 Larocque: Building permits are issued through the building office, but do we have a
5 copy of –

6 Juror: Yes?

7 Larocque: - on file with us when we go, no.

8 Juror: No.

9 White: I don't know sir, if this would ever arise, but as a follow-up on the
10 occupancy question about excluding certain spaces from the occupancy.

11 Larocque: Yes.

12 White: You've had a chance to review a diagram of The Station nightclub,
13 correct?

14 Larocque: Correct.

15 White: And you've looked at it in connection with the figures that you calculated
16 back when you did the 404 assessment, right?

17 Larocque: Correct.

18 White: You're familiar with there having been what was called a horseshoe bar in
19 the nightclub?

20 Larocque: Correct.

21 White: Is it fair to say that the space within – inside the horseshoe bar, where the
22 bartender stood, would be excluded from the available square footage
23 space when you calculated the 404?

1 Larocque: The space behind the bar, the space the bar itself took up, yes. That would
2 all be excluded. Those would not be areas where the patrons would be.

3 **[Tape 88 of 114 – Heard 6-25-03 – SW1695 720-850]**

4 White: Okay, now assuming that whatever other provisions apply to how many
5 people can be behind the bar, assume behind the bar can allow one person
6 to be there. Is it fair to say that that one person, assuming that that person
7 stayed within the bar serving drinks, would not be included in a count of
8 up to 404.

9 Larocque: That person would not be included in that example you just gave.

10 White: How about a person who served drinks from the floor, like serving shots,
11 and the person's job is to patrol and walk about in the patron area, and
12 only in the patron area, with the patrons. Is that person there, so to speak,
13 in the 404 count, or not there?

14 Larocque: In my 404 count, that person would not be there. I would have no idea in
15 knowing how many even people they have walking around. It could be
16 one, it could be two, it could be five. I mean I don't know. For another
17 example, let's say they had a band play the previous night. The previous
18 to this – the second band. The second band came on.

19 White: Right.

20 Larocque: When the band's up on the stage, you wouldn't be counting them.
21 They're up, out of the patron area. Well once this next band comes on and
22 this band has now decided to come out with the patrons, now you count
23 them.

1 White: Okay, so somebody who's in the patron area, regardless of their status of
2 being an employee or a band member is a patron for purposes of the count,
3 correct?

4 Larocque: If they're going to occupy the patron space, you would need to count
5 them. But again, to come up with an accurate number as to –

6 White: Of who's where?

7 Larocque: (Inaudible) space as to how many that would be, I don't know how you do
8 that.

9 White: Okay.

10 Juror: In that same regard then, is it fair to say that if, say there were more bands
11 playing, if one band had all their equipment stored in the patron space, that
12 would have been something that you normally would have considered in
13 the calculation of the number. And in fact, should have been – deduct that
14 square footage -should have been deducted from the capacity?

15 Larocque: Correct. That capacity is based on that specific layout, as I mentioned
16 earlier. They were moving the tables, pool tables, to that greenhouse area,
17 so that square footage was deducted, the same way that you just spoke
18 about.

19 Juror: Do you recall ever having a conversation with any of the owners of The
20 Station, the Derderians or prior owners about whether band equipment
21 would be allowed to be stored, or shouldn't be stored in the building? Did
22 that subject ever come up?

1 Larocque: No, it did not. Band equipment, where this stage was, where the band was
2 performing, there was also a stage to the left. Whether they use the same
3 equipment or they stored their equipment, I'm not sure what they did. But
4 yeah, if you now take something different than this set-up that we
5 approved for 404, and put something else in that space, obviously the
6 number does decrease.

7 Ferland: Ma'am?

8 Juror: Who issues the, usually if you go into a restaurant or someplace the
9 occupancy, the board, you know with the red letters and everything that
10 says there can't be more than so many patrons, is that your department or
11 does a local business do that?

12 Larocque: We provide the sign, it comes from the State Fire Marshal's office. We
13 provide the sign and they should, they're responsible –

14 Juror: Did you provide one for The Station?

15 Larocque: In this particular case, there were so many variables as to how I arrived at
16 that occupancy number, my concern was posting that 404. This number
17 was arrived at using standing room, without the tables and chairs, with
18 these pool tables moved to the side. As that report said earlier where the
19 letter said as to how I arrived at that number, there was a removal of a
20 vending machine, a cigarette machine. Under those conditions this
21 capacity would be 404. I didn't want to put a sign up saying 404 and have
22 all the tables and chairs in place, and not move the tables, pool tables to
23 the side. My concern, I had – as long as I informed the owners as to what

1 their occupancy was, I felt I covered that particular area as far as what the
2 occupancy numbers were. I didn't want to post a 404 sign and have them
3 use it any way they want it, which they could have done.

4 Juror: Could there have been a sign that said tables and chairs, occupancy this,
5 standing room, occupancy this?

6 Larocque: There could have been. There's not that much room on these signs to
7 even allow that many variables.

8 White: But the bottom line is, from your personal knowledge, there was no sign in
9 The Station nightclub?

10 Larocque: I didn't see a sign.

11 White: And you didn't cause one to be put up?

12 Larocque: I did not.

13 White: Okay.

14 Larocque: Again, what normally happens, we're finding, and we've even found since
15 the fire, these signs tend to disappear, tend to be vandalized, they tend to
16 add numbers to them. And this has all happened, I've come across that
17 personally, even since the fire. So yeah, they need to be posted, and
18 they're required to be posted. They're vandalized, they're changed,
19 they're removed, they renovate, they don't put the signs back up. So even
20 when they're installed they tend to disappear.

21 Juror: (Inaudible) citation or anything for not having it up?

22 Larocque: Again, it's part of what's required, and if you notice that it is gone, then
23 yes, they're required to provide the sign again. And it just –

1 Juror: So accountability-wise, if you don't give them a sign and they're supposed
2 to have a sign, who gets cited for it?

3 Larocque: Again, this – my concern was posting that number and having them use it,
4 not in how it was achieved.

5 White: Recognizing that there are variables, tables in, tables out; an earlier
6 number, a later number. Is it fair to say that 404 is the number that you
7 communicated to Michael Derderian?

8 Larocque: Yes.

9 White: Did you ever tell Michael Derderian any number higher than 404?

10 Larocque: Never.

11 White: Did you ever tell anybody associated with the club that they could have
12 550 people there?

13 Larocque: No, never. Never.

14 White: Yes?

15 Juror: You mentioned you were upset about that door when you went back for
16 the 2002 inspection, and you saw the door, that exit door that goes the
17 wrong way?

18 Larocque: Yes.

19 Juror: You mentioned you were upset about it, okay. Now you wrote it down on
20 your report, okay, and then on December 2nd, I believe, you went back and
21 now you've okayed everything. Did you mention it to anyone, I better not
22 see that door back up again?

1 Larocque: On the 27th, as I stated, I was there three times this particular year. I was
2 there on the 20th, 27th and the 2nd. On the 27th, that's when the building
3 inspector was there at the same time I was. That day I had questioned the
4 girl behind the bar as to who put the door back up. And obviously I knew
5 it wasn't her, but she said she didn't know. And that's when further
6 conversation, we went over as to why I had been there a week previous
7 and none of these corrections had been made yet, and I also advised her
8 that her liquor license would be expiring on the 1st, and that seemed – that
9 seemed to get the ball rolling as to making the corrections.

10 Juror: Now you said you were there and the building inspector was there.

11 Larocque: On the 27th, we were both there together.

12 Juror: Is it two separate inspection reports?

13 Larocque: Yes.

14 Juror: Okay, so his doesn't roll into yours. He has his own?

15 Larocque: He has his own and I have my own.

16 White: Did you know who that woman was?

17 Larocque: She's one of, I don't know her name. She was an employee of the
18 establishment as we all saw went over, along with the building inspector,
19 some electrical (inaudible) when we were there on that day the
20 greenhouse, the greenhouse window where it met the roof. There was
21 leaking water and they had like buckets or tarps trying to catch the water.
22 And that's where the building inspector was when I arrived. In that area
23 there were some electrical cords running by, and we were – the building

1 inspector was concerned about where this electrical wire was in relation to
2 where the electrical – where the water was. So we had talked to her about
3 these electrical cords, and again I had mentioned to her about the door, as
4 to who put the door on. And she said she didn't know.

5 White: Would you recognize her if you saw her again?

6 Larocque: I don't think so. It was an employee, someone at this, working. Who was
7 in, she was the one that was there that day, she was the only person there
8 then.

9 Juror: Did you happen to notice where the door was? It was removed, but was it
10 around anywhere there?

11 Larocque: I did not.

12 Ferland: Yes ma'am, in the back?

13 Juror: As regards capacity, is it up to the management to make sure that it's not
14 exceeded?

15 Larocque: Correct.

16 Juror: And it has nothing to do with the police officer on the detail there?

17 Larocque: That's correct.

18 Juror: It's not – how would it ever be enforced?

19 Larocque: They're responsible, again, to count and, with a clicker at the door, as to
20 how many people. It can be sometimes difficult to keep that number
21 accurate because you're counting people coming in, but there's not really
22 anybody counting people leaving. But again, they know what their
23 capacity is. It's manager's responsibility. If it appears now, to a police

1 officer or the firefighter on detail that, you know, they may approach this
2 person and try to determine what that number actually is, how accurate
3 that may be. I mean, again, if there's a concern that they're over capacity,
4 then that follow-up procedure is he notifies the duty chief, again, which
5 would notify me, and count heads. Stop people from coming in. If there's
6 a real concern about overcrowding I stop anybody else from coming in,
7 you try and determine the number as to how many people are in there.

8 Juror: So the manager's not going turn himself in?

9 Larocque: Correct. I mean, again, it has to do with – which is why the firefighter
10 detail pretty much was required. I mean it is an honor system, but if
11 there's someone watching, I mean they may pay a little bit more attention
12 to it.

13 Ferland: Well you say it's an honor system. The night of February 20, 2003, if
14 there was more than 317 people in the building, they're supposed to have a
15 fire detail man it, correct?

16 Larocque: Correct.

17 Ferland: And there was no fire detail manning it, correct?

18 Larocque: There was a police detail, there was no fire detail.

19 Ferland: Okay.

20 White: Was one requested?

21 Larocque: No.

22 Stone: In the past year and a half, how many fire details have been at The Station,
23 do you know?

1 Larocque: Year and a half? There's been a total of, I believe, six or seven since
2 March, March of 2000.

3 Ferland: Yes sir?

4 Juror: When you (inaudible) nightclub, like in a basement or bathrooms, is that
5 like a law to have those (inaudible)?

6 Larocque: Part of that fire alarm system, again, it's a local type system. Before that
7 system, again, and this is not my area. Our director of communications,
8 he handles the fire alarms, he could probably answer that for you. But
9 before they install that system, again, it's got to be installed by a licensed
10 contractor. He has to submit three sets of plans through the building
11 office, you have to get them approved. Back and forth as to the type of
12 detectors being located where. That gets approved and then it's go out,
13 they have to do a pre-test on the system, the electricians. And then they'll
14 call for acceptance of the system, which our director will go out to do
15 100% test of that system before it's accepted.

16 Ferland: Yes sir?

17 Juror: If you go for a fire inspection one year and the door is on there, as it was,
18 and you go back the next year and the door is back up, what are your
19 options as the fire marshal to make sure the owner of that business I
20 getting the message? Yet he evidently wasn't getting the message.

21 Larocque: Evidently he wasn't. You can cite it, and that's part of what you're
22 hearing now as far as the change in the codes and the requirements. The
23 allowance for us to issue citations similar to what the police do. Right

1 now we don't have that authority. We cannot do that. We can cite the
2 violation, give them a timetable to correct, time-frame to correct it, and go
3 back and re-inspect.

4 Juror: Okay. Mr. Ferland, could you bring up the letter from – to the council
5 from the fire chief?

6 Ferland: Certainly.

7 Juror: I'm sorry I don't have the date on it.

8 Ferland: That's okay. That's from Chief Rita?

9 Juror: Yes.

10 Ferland: My computer went dormant because I wasn't using it.

11 Juror: You sound like my kids.

12 Ferland: Okay. I'll have to switch back to Mr. Larocque. And Mr. Larocque's
13 letter to the Town Council. Boom, there she is.

14 Juror: This letter, the next-to-last paragraph says the fire department will conduct
15 on-spot inspections to control overcrowding. Can you tell us whether that
16 was ever done or not? And if so, when?

17 Larocque: I cannot tell you. I believe it was done, it was not done by myself.
18 Whether the Chief communicated to the duty chiefs, every once in while
19 to stop by I'm not aware of.

20 Juror: Would there be any records in the fire department as to when that was
21 done, and who would sign off on those?

1 Larocque: They may have, or may not have made a report on it. If they found, if they
2 went out there and found everything to be in order they may not even have
3 made a report.

4 Juror: That's not a part of a daily log of the duty chief?

5 Larocque: Again, he may – you would think that yeah, that should be documented
6 somewhere, now whether they actually did that or not, I don't know. I
7 haven't seen it.

8 Juror: I think there was one other question. I will defer to the other grand juror.

9 Juror: Can you bring up the letter from The Station to the Town Council?

10 Ferland: Sure.

11 Juror: Did you get a copy of this, officer?

12 Larocque: Did I at the time? No.

13 Juror: Because the noise level, the first one, the sound-retardant insulation has
14 been employed around stage, I was just wondering if anybody had gone to
15 check that? They wrote to the Town Council that they had installed it.

16 Ferland: March of 2000. They said that they had put up foam. March 21 of 2000.

17 Larocque: (Inaudible)

18 Juror: Do you know if anybody had gone to check to see if they had done what
19 they said they did in this letter?

20 Ferland: (Inaudible)

21 Juror: Well if you went in for your inspection on 11/20/02, didn't you notice the
22 foam?

23 Larocque: I did not.

1 Juror: Well when you got to that door that swung in, the one that you were
2 concerned about –

3 Juror: That has foam on it.

4 Juror: That had foam on it.

5 Larocque: Yes. From the reports I'm hearing and supposedly this door had foam on
6 it. The door itself, again, it shouldn't have been there number one, so I'm
7 not really focusing on what's on the door. My inspection at that time is
8 what I said earlier, was – it's a basic fire safety inspection. My focus is on
9 extinguishers, the four E's as I said earlier, and egress and basement.

10 Juror: I realize that.

11 Larocque: Seeing the door and surprising to see the door, I was more concerned that
12 the door was even there, not what was on it.

13 Juror: But if you see another potential hazard –

14 Ferland: Again, the date. The date, March 21, 2000.

15 Juror: And you inspected the property when?

16 Ferland: Well you have to talk amongst yourselves.

17 Juror: What date were you in the property for that March inspection? What date
18 were you there?

19 Larocque: The March inspection was March 2nd.

20 Juror: Okay. So you were there March the 2nd. This letter is dated March 21st.
21 So there's a period of time between –

22 Larocque: There is almost three weeks there.

23 Juror: Yes, okay.

1 Ferland: But you –

2 White: But you said - you said you had been back between –

3 Ferland: Please note the year.

4 Juror: Right, right.

5 Juror: Excuse me.

6 Ferland: Yes?

7 Juror: The inspection that all deficiencies were corrected for the transfer of the

8 liquor license was on 3/21/00.

9 Ferland: Correct.

10 Juror: So the foam was there?

11 Ferland: Right. It's your recollection that governs. And you'll have to use your

12 collective recollections. But focus back on the testimony that relates to

13 the installation of the foam.

14 Juror: Okay.

15 Ferland: Okay? More particularly you want to think about Mr. Arnold's testimony,

16 you want to think about the Johnston, American Foam Company, when

17 they delivered the foam.

18 Juror: Oh, okay.

19 Ferland: Okay?

20 White: But that said, did you see foam in November of '01?

21 Juror: Right.

22 Larocque: No.

23 White: Did you see foam in November of '02?

1 Larocque: No.

2 Juror: That's (inaudible)

3 Juror: But those inspections were of a different nature than the March inspection,
4 correct?

5 Larocque: The March inspection we did in 2000. Again, we went a little bit more in
6 depth because of the director noticing that the building had changed
7 construction-wise. There were changes made, especially for the kitchen
8 area and other areas I'm not familiar with. We did a little bit more in-
9 depth inspection because of those changes. Our normal inspection for a
10 liquor license renewal is those four E's I talked about, where you're just
11 focusing on the fire safety equipment, and the accumulation of
12 combustibles in the basement.

13 Juror: When you went back in and you found that door, and you were surprised
14 to see it, didn't that raise a red flag to you saying that they're doing what
15 they want to do? Didn't you think that they would have sent someone
16 back to check, to make sure it was fixed? The door was on that shouldn't
17 have been there, it was a violation. It was put back on, and you don't
18 know who put it on.

19 Larocque: Correct.

20 Juror: But why would they just let that be and not go back and check and make
21 sure it was taken care of properly?

22 Larocque: I went back on December 2nd and again, the door was removed.

1 Juror: And again the door was removed. So – but you know from previous that
2 this is what they do. They know you're coming, they remove the door.
3 And then after you, apparently, the inspection's over they put the door
4 back on again? They do what they please it sounded like.

5 Larocque: In this particular case, again, they did reinstall the door twice.

6 Juror: Yeah.

7 Larocque: And they were –

8 Juror: So what's to say they, you know, it was off while you were there and then
9 they would put it on again after you had left. In other words, apparently
10 that's exactly what they did.

11 Larocque: That's what someone did. Who installed the door I don't know.

12 Juror: But I mean, seeing the club was known prior to the violation, they're
13 actually, they're doing whatever they wanted to do.

14 Juror: What I think she's saying is, why didn't you do more spot inspections?

15 Juror: Why didn't you go back again to check and see if the hardware was on it,
16 if it was opening the correct way? Why did you just leave it be?

17 Larocque: We didn't leave it be. We had to cite – the deficiency corrected.

18 Juror: Right.

19 Larocque: And that was in December.

20 Juror: Right.

21 Larocque: Of 2002.

22 Juror: But I mean –

23 Larocque: We had not gotten back there again after that point to re-check again, no.

1 Juror: For what reason do they wait so late before they went back and checked
2 again?

3 Larocque: We go out presently for the liquor license renewals.

4 Juror: Right.

5 Larocque: Now are you talking about –

6 Juror: I'm talking like a violation for the fire exit. You know, I mean they didn't
7 – they took -

8 Larocque: They corrected it.

9 Juror: They take it off so they could pass the inspection.

10 Larocque: Yes.

11 Juror: Then after you've left they put it back on again. Well it would seem to me
12 that this is what they did, they did as they pleased after you went. They
13 just put it back on again. With, you know, not even giving it a second
14 thought.

15 Larocque: Yes.

16 Juror: But you don't –

17 Larocque: I don't know how to answer your question other than –

18 Juror: Yes.

19 Larocque: We cite it, they correct it.

20 Juror: And then they put it back on again.

21 Larocque: Obviously you can't be there every hour that someone is there, we just
22 hadn't, you know, hadn't gotten back to the club. Again.

23 Juror: All right.

1 Ferland: Yes sir?

2 Juror: There was another memo, I believe, from the Chief's office to the Chief,
3 to the fire chief. And there was not date on it and there was no from on it,
4 it just says to. I think that's memo to file – how about that memo to Chief
5 Brousseau? This is definitely an internal memo, there was Town of West
6 Warwick at the top.

7 Ferland: Okay.

8 Juror: Okay, let's look at this one, to Chief Brousseau, from – who's Chief
9 Brousseau, is he the fire chief?

10 Larocque: Police chief.

11 Juror: He's the police chief. Wasn't there a memo to the fire chief from, well we
12 don't know who it was from.

13 Ferland: Oh, a memo from the fire chief?

14 Juror: To the chief. To the fire chief.

15 Juror: To the Town Council?

16 Juror: No. I may be confused.

17 Ferland: Well that's okay, let's check it out. There's a memo to the Town Manager
18 from the police chief.

19 Juror: No, this was either to the fire chief or the police chief. I thought it was the
20 fire chief.

21 Ferland: There's that one.

22 Juror: No, this didn't have a from on it.

23 Ferland: Okay.

1 Juror: Was it the one that requested the capacity?

2 Juror: It might have been.

3 Juror: (Inaudible) memo to increase capacity? (Inaudible)

4 Ferland: This one here?

5 Juror: November 15th?

6 Juror: Do you have the November 15, 1999?

7 Ferland: Okay.

8 Juror: Can we stay on that one for a minute, Mr. Ferland?

9 Ferland: Sure.

10 Juror: Okay, who is this memo from? I mean, we know it's from the West

11 Warwick Fire Department, but it says –

12 Larocque: That's from me.

13 Juror: That's from you?

14 Larocque: Yes.

15 Juror: And why wouldn't that be – why wouldn't you say that it was you, and not

16 just the generic West Warwick Fire Department?

17 Larocque: This particular memo was on March the 2nd. And again that's the one we

18 talked about earlier, as it was started on the 2nd and completed on the 6th.

19 Juror: Mm hmm.

20 Larocque: And probably because it was started on one day and finished on the other,

21 again, even some of the wording is – could have been worded better. It

22 was probably just finished up and not of what appeared probably on the

23 screen of the computer monitor, that below that – these are standard, like

1 the To, From, Subject, is a standard form and then you fill in as you go.
2 Didn't even notice, probably, below that, that there wasn't anything –
3 there wasn't anything below as far as signing it as to who it was from.
4 Juror: Okay, is there any way of blowing up that middle?
5 Ferland: Yes, that's what I'm trying to do.
6 Juror: The whole paragraph, the whole, the whole –
7 Ferland: Highlight the whole thing? Do the entire thing?
8 Juror: Just the text.
9 Juror: I think you've got to put your pointer up in the left-hand corner, yeah.
10 And then drop down. And then over. There we go.
11 Juror: But drag it over, there you go.
12 Juror: I'm reading to myself (inaudible) sorry about that. That's the – when
13 tables and chairs are (inaudible) would be 258, is that –
14 Juror: Yes.
15 Juror: Okay, so the last sentence says this will require a uniform firefighter to be
16 hired standing. Is there additional? To be hired standing? Is that it?
17 Larocque: That's it.
18 Juror: That's it. So this will require a uniform – so are we on the honor system
19 here that the owner of The Filling Station will hire a firefighter?
20 Larocque: Yes.
21 **[Tape 88, Side B – SW1695 850-975]**

1 Juror: Was there any memo between you and the owner of the business as to
2 what he was agreeing to, what you were agreeing to? Was it just a verbal
3 agreement and then you memo-ized [*sic*] it to the, to the police chief?

4 Larocque: Correct.

5 Juror: Did the owner of the business get a copy of this memo?

6 Larocque: This particular memo, no.

7 Juror: Okay, so there's no, there's no audit trail here to say, okay, I agreed to
8 this, in fact I'm proving that I agreed to this by this internal memo?

9 Juror: You said there's a lot you can say (inaudible) without being said? Can I
10 draw that conclusion?

11 Ferland: Well let's – before he answers that question let's take a look at something
12 else.

13 White: You've testified before that although Michael Derderian did not get a copy
14 of the document you were just asked about, the one that you write to Chief
15 Brousseau and sign it West Warwick Fire Department. Do I recount
16 correctly that your testimony before was that sometime between your
17 March 2nd visit of '00 when you spoke to Mike Derderian in person and he
18 expressed the desire to have the club capacity raised to 400, and am I right
19 that it's during that conversation that he also mentions, will it help if I
20 volunteer to have details from the fire department? Is that correct?

21 Larocque: In his attempt, again, to increase to the 400 number, if that could be
22 increased to that number, his offer of hiring a police and fire detail,
23 whether that – he was under the impression that that would help increase

1 the number. And you cannot, as I stated earlier, you cannot increase the
2 number on the capacity based upon having a detail firefighter there.

3 White: Tell the jurors again what happens after you've gone back, found the 1968
4 code that has other dividers besides 15 and 7, you find a 6 and 10, and
5 then ultimately the 5 divider. You use the 5 divider, you come up with
6 404, and then you said that you went back to the club, in person, and met
7 with Michael Derderian, correct?

8 Larocque: Correct.

9 White: What did you tell him on that day about capacity and about fire details?

10 Larocque: I advised him his capacity number would be 404. And I also, as he
11 proposed – as it turns out, as he proposed earlier when he was attempting
12 to increase his capacity, the capacity at that time, above 317. That was the
13 number we used at which the fire detail would be, that would – if the
14 capacity is 404, however when you reach around that number, the 317
15 number that's when the firefighter details would be mandatory. Again,
16 you can have the firefighter details even if you're under that number. I
17 mean, whenever you, you're not – that's when you're required to have
18 them would be when you reach around that 317 number, that's when the
19 detail would be required. If you chose to hire the details even if you do
20 not have the number, that's your option also.

21 White: Do you have a specific recollection of an exchange between yourself and
22 Mr. Derderian about how he would determine whether he was getting
23 close to the requirement triggered by the 317 to get a detail?

1 Larocque: And that's where the discussion came in as to the advance ticket sales,
2 when he knew he was going to reach that number, and some of the lesser-
3 type attended events where he wasn't sure if he'd ever reach that number
4 or not, he had the option of, again, in advance hiring and notifying us that
5 he would need a detail on a certain date. He was also informed at the time
6 it's a minimum of four-hour detail. It's a minimum payment of four hours
7 – the detail, you're required to pay a firefighter. And events on nights
8 where he wasn't sure on the attendance of certain events, he could notify
9 the department and we'd have a detail there within the hour.

10 White: And all of this took place in one conversation between you and Mr.
11 Derderian at the club?

12 Larocque: Yes.

13 White: Do you remember whether or not any other West Warwick official, either
14 fire or police person, or building person was there for that conversation?

15 Larocque: I believe John Peiczarek was there. Again, the first – as I stated earlier,
16 just a second ago, the conversation that did actually happen in two events.
17 The first time he offered the firefighter detail in an attempt to increase the
18 capacity. We didn't know what that new capacity number was yet. So it
19 was first mentioned on that 3/2 date as to he was offering to hire police.
20 He will be - he's interested in hiring police and fire details in an attempt to
21 increase the capacity. But the actual notification of him and his new
22 number, and the requirement for that detail didn't happen until after that

1 March 2nd. Sometime before the 21st we have that letter stating he's clear
2 as to what his number is and when he's going to need details.

3 White: Okay, so that conversation you've been talking about, that Peiczarek and
4 you were there for that you've just recounted in detail, happens before
5 March 21st, correct?

6 Larocque: The first one, of the offer to hire the details, was March the 2nd. And
7 sometime between that and this 21st is when we notified of his number.

8 White: Okay, and then this thing that's up on the screen now that's from The
9 Station, not to you, correct?

10 Larocque: That's not to me.

11 White: Okay, but this section that refers to capacity and seems to be from
12 representatives of The Station, although it does not say what the amount of
13 patrons is, or what the agreement is, is it fair to say that that comment is
14 consistent with your trip, trips – March 2nd and sometime after that, before
15 March 21st, to The Station?

16 Larocque: The statement there that says he's clear as to his occupancy and when the
17 details would be required.

18 Juror: Did you – after you spoke with him verbally did you write this down and
19 send it to him as a backup, saying this is – as per our conversation this is
20 your occupancy number for sitting, this is your occupancy for standing?
21 Once you reach 317 you need to have a detail? Is there anything in
22 writing from you to him about that?

1 Larocque: The exact language of what you're speaking, I know I gave someone those
2 numbers, okay, in hard copy form. My recollection is he was given that in
3 writing. I'm not positive. My recollection is I would have put it in writing
4 to him, although I don't have that copy. But I remember handing
5 someone, and I'm not sure if it was this time or the first time we had come
6 up with occupancy numbers, thinking to myself there's no doubt as to
7 what these numbers are. Everyone knows what the number is.

8 Juror: Procedure-wise, when you go to give somebody an occupancy number or
9 something, do you make a copy and give one copy the chief, one copy
10 stays with you, one copy goes to the patron, or the customer?

11 Larocque: At this particular time the forms we were using was a field inspection
12 form. Well, we hadn't been using them yet, actually. The building
13 department was using those. They're a two-part form. A front copy and a
14 back copy. I had ordered forms in triplicate, which hadn't come in yet.
15 So when you see, I think one of those forms had that building department
16 on it, that's why. Our forms hadn't – I was actually using some of the
17 building department's forms. There's is in duplicate, ours is in triplicate.
18 We were not using – ours weren't in yet.

19 Juror: Somewhere (inaudible).

20 Larocque: My recollection is –

21 Juror: - there should be a copy of the building department should be a copy of
22 that.

1 Larocque: I believe, that's why I notified them as far as what their occupancy number
2 is, and I may have mistakenly given them my copy as well, and that's why
3 there's not a copy in the file. But I remember giving someone a copy,
4 saying the numbers, and thinking to myself, there's no doubt as to what
5 the occupancy of this building is.

6 White: Was there, this reference in the capacity thing that's written to someone
7 other than you, says we're also in agreement that on certain evenings a
8 detail from both the fire department and the police department will be
9 utilized. You've talked about your meeting. Was there an agreement
10 about what number, if any, would trigger the requirement for a police
11 detail?

12 Larocque: No. No.

13 White: Are you aware of any agreement that was made with The Station
14 regarding a police department detail?

15 Larocque: I don't know what the police department's requirement was for hiring the
16 detail.

17 White: Was that something that was discussed on either of these meetings you've
18 talked about?

19 Larocque: No. Ours was – our requirement was based on a capacity number. I do
20 not know what the police department's was based on.

21 Juror: So your original conversations with Jeffrey Derderian were 3/2/00?

22 White: Did you ever meet with Jeffrey Derderian?

23 Larocque: No –

1 Juror: How about Michael?

2 Larocque: It was Mike Derderian.

3 Juror: That was when he asked about getting it increased?

4 Larocque: Correct.

5 Juror: And now there's the memo to the chief saying that it has been increased?

6 Wasn't the date on that 3/2/00 also? That memo dated the same day?

7 Larocque: It was started –

8 Juror: To the chief?

9 Larocque: It was started on 3/2, and I believe it was finished on I believe 3/6. On

10 Thursday, Monday.

11 Juror: So it was recalculated in between those – in between the 2nd and the 6th?

12 You originally met with him and your inspection on 3/2/00, and then the

13 letter was written to the chief on 3/6, or finished on 3/6?

14 Larocque: It was probably completed on –

15 Juror: It had been completed, okay.

16 White: There'd be no reason to start writing the memo until you'd come up with

17 the number, right? The recalculation?

18 Larocque: Correct.

19 White: So is it fair to say that you recalculated the number to 404 the very same

20 day that he had asked could it be 400?

21 Larocque: It's a possibility.

22 White: Do you remember that, or is that –

23 Larocque: I don't recall when it was done.

1 Juror: That letter also mentioned the removal of the cigarette machine, and the
2 video machine. In that conversation that you had with Mr. Derderian, do
3 you actually saying to him that these two things must be removed for that
4 404 number?

5 Larocque: When we were walking through as determining how he was going to use
6 the space he indicated that those machines would be –

7 Juror: So he said he was getting rid of them?

8 Larocque: Yes.

9 Juror: So then you felt that you could count that space?

10 Larocque: Correct.

11 White: Did you have to re-measure on March 2nd from your December
12 measurements?

13 Larocque: The calculations we wouldn't have had to do all over again.

14 White: Not the calculations, the actual measurements with a tape measure. Did
15 you have to do that again in March?

16 Larocque: I don't believe we did. We had the original measurements from when we
17 took it in that December, which was a couple of months prior.

18 White: So the recalculation is simply you applying a different divider, and
19 according to your testimony earlier, taking out a room that Julian had told
20 you he was going to continue to use with tables and chairs, and Michael
21 Derderian is telling you he's not going to use with tables and chairs, is that
22 right?

23 Larocque: That's correct.

1 White: What portion of the club was it that Julian was going to maintain with
2 tables and chairs even when the rest of the club was open?

3 Larocque: It was that front bar area.

4 White: Which one – on the diagram to your left can you show the jurors where
5 that is?

6 Larocque: Which would be this lower left corner, the area around the main bar. He
7 still had tables and chairs set up there in that space. He was using the
8 balance of the space as standing room.

9 Juror: So (inaudible) the base calculation for total square footage, you just take
10 the dimensions of the room as if there was no furniture, no anything in it,
11 and then start deducting those areas that were occupied either by the bar,
12 bar area, tables?

13 Larocque: You could do it that way, or you could just measure the space where the
14 patrons were going to be. In this particular case, rather than measure the
15 whole square of the room and then measure the bar and deduct it, you
16 could measure the distance at the back wall to the left of the bar, measure
17 down to where the bar ended, and across and take that square footage. Or
18 you could just break it up like in boxes to determine a length times a width
19 so you could come up with square footage.

20 Juror: Now did you consider areas such as a hallway in the front of the restroom
21 facility, or the hallway where the front door is in the calculation of the
22 total square footage? The front doorway is an exit access?

1 Larocque: It's aisle access to the exit. It's one of the areas as well as the area
2 heading towards the right stage exit. It's aisle, it's clear exits, meaning not
3 only the exit itself but the pathway to it. Those are all areas where patrons
4 should not be standing around, hanging around, those should remain clear.

5 Ferland: Chief, as it relates to your coming to the calculations, you and your
6 department received a subpoena from this Grand Jury for all of your
7 written records that related to capacity and The Station nightclub, correct?

8 Larocque: Correct.

9 Ferland: And in response to that subpoena, did you locate your rough notes from
10 the inspection that you had done, including your measurements and such?

11 Larocque: Correct.

12 Ferland: And you provided them to the jury?

13 Larocque: Yes.

14 Ferland: Okay, I'll show you this package of writings, and I'll mark them as an
15 exhibit. Grand Jury Fifty-Six, 6/25/03. Take a look at those writings and
16 tell me, do you recognize those?

17 Larocque: These in particular do not have to do with – this was when a previous
18 establishment in that same building. Crackerjacks I believe. That wasn't
19 done by myself.

20 Ferland: Okay. This is something you pulled out of the file?

21 Larocque: That was in the file.

22 Ferland: All right. Are those writings that you did?

23 Larocque: These are mine.

1 Ferland: Okay, so the thing that you were just telling the juror about, the thing – the
2 formula and the process and procedure you used, is that reflected in those
3 documents?

4 Larocque: Yes.

5 Ferland: Okay. Fifty-six, yes. Let's just find out how many pages we have in the
6 exhibit, sir..

7 Larocque: D you want this one and the one I gave you back?

8 Ferland: No, we're not going to submit those. You said that those are something
9 that you're not familiar with, correct?

10 Larocque: That might have been the one you marked, I don't see anything –

11 Ferland: I did. All right.

12 Juror: These are directly related to the March 2nd visit?

13 Ferland: It's a nine-page document.

14 Larocque: The end of December, '99.

15 Ferland: Attach those with a paper clip when you're done. So you used the same
16 figures in calculating the capacity?

17 Larocque: It's pretty much the same dimensions of the rooms, yes. Nothing had
18 changed. Yes, nothing had changed. There appeared to have been
19 changes previously, which I mentioned that the director picked up on. But
20 from December of '99 to March, in that three month span, nothing had
21 changed.

1 Ferland: We can circulate those notes for the jurors, and if the jurors have any
2 particular questions, or if we need something translated, then we can bring
3 those to your attention. Why don't you just put that clip on there. Sir?

4 Juror: I have a question. It sounds to me from your testimony that there was
5 negotiations going on. In other words the capacity was 318, 17. It sounds
6 like he wanted the capacity to be up around 400. And so you went back
7 and applied the old law rather than the new law, and in turn he agreed to
8 have a fireman and a policeman there if you would agree to go back and
9 apply the old law. Is that your recollection?

10 Larocque: It's not as you just described it. The first time we did the measurements
11 was based on the 15 and the 7, which is present code. We didn't go back
12 and look at every grandfathering. I shouldn't say we, I didn't look at the
13 grandfathering number when I did the calculations the first time. When
14 we re-measured – not measure but recalculated the dimensions based upon
15 how he was going to use the property, it was at that point we went back.
16 What I didn't do the first time was look back because this place of
17 assembly really does go back to that point, and we found that the
18 dimensions, the calculations or the divisors, back in the '68 code were
19 actually different than the ones we used the first time.

20 Juror: But then even after you have okayed the numbers went (inaudible) to 404
21 and (inaudible) fireman and policeman.

22 Larocque: The 404 number is based on that standing room divider of 5.

23 Juror: When using the old -

1 Larocque: Again, the standing room, that first time – I didn't look at it the first time.
2 But we looked back into the '68 version of the code, which is the code that
3 really would apply in this case because there has been no change in
4 occupancy type. Their still a place of assembly. Back in the '68 code
5 those numbers were divided, instead of the 7-15, were the 6 and a 10. And
6 it was while I was looking at that that I saw the standing room division of
7 5, which I didn't look at the first time.

8 White: But the standing division, the standing division of 5 is not the old code.
9 That's simply a code variable in the new code, correct?

10 Larocque: That's in the new code as well.

11 White: So you're saying that when you did the December '99 calculation you
12 divided by 15 for tables and chairs, 7 for without tables and chairs,
13 correct?

14 Larocque: Correct.

15 White: You go back in March, and you look at the old code and find under the old
16 code there's dividers of 6 and 10, correct?

17 Larocque: Right.

18 White: It was while you're looking at the 6 and 10 that it comes to your attention
19 that the new code has still a third variable beside the 15 and the 7, and
20 that's the divider of 5 for standing room, correct?

21 Larocque: Correct.

22 White: And it's at that point that you decide to apply the standing room divider
23 under the new code, correct?

1 Larocque: Correct.

2 White: Which, just using logic of the dividers – options, 15, 7 and 5 under the
3 new code. 6 and 10 under the old code. You have applied, in effect, the
4 most charitable divider you can. In other words, it's that divider that
5 would yield the highest occupancy for the club owner, correct?

6 Larocque: Correct.

7 Ferland: If you made a mistake, it was the in the Derderians' favor. Let's suppose
8 you were mistaken in that March of 2000, strike that. Yeah, in the March,
9 2000 calculation.

10 Larocque: Yes.

11 Ferland: But if you were mistaken, then your first calculation of 317 would have
12 been correct.

13 Larocque: 317, using the 7 and 15 is how we arrived at that number, based upon how
14 the previous owner used the four rooms.

15 Ferland: In other words, I guess what I'm trying to say to you Chief is that if there
16 was a mistake here, it wasn't that you were going to give them 550 people
17 being the capacity. If there was a mistake here, it would have been lower,
18 correct? The capacity would have been lower if there was a mistake?

19 Larocque: I'm trying to follow you.

20 White: When you mean a mistake – is it fair to say that reasonable minds could
21 differ about whether, under the new code, the space as it was to be used by
22 the Derderians in a concert hall situation, reasonable minds could differ
23 about whether that is standing room, for which you divide by 5; or

1 whether it's 7, which you had used when you first calculated it for Howard
2 Julian? So what Mr. Ferland is asking you is, if someone disagreed with
3 you and said what are you doing, you shouldn't use 5. You should use 7.
4 If you had used 7, the occupancy number that you would have come up
5 with would have been lower than 404. And if you had applied, for
6 whatever reasons moved you, the old code, 6 and 10. Whether you
7 divided by – if you divided by 6, which presumably is the old counterpart
8 to 7, that number still would have been lower than the 5 you did apply,
9 correct?

10 Larocque: Correct.

11 White: So you used the most charitable number available from both the old and
12 the new code to come up with the -

13 Larocque: The language that states standing room in places of assembly will be
14 allowed at five square feet per person. That's the language.

15 Juror: I have one additional question on that memo. That looks like it's a stand
16 alone. There's no to, there's no from, there's no signature. Is that that one
17 page –

18 Ferland: Which memo?

19 Juror: Where it says capacity. The top, the stationery says The Station.

20 Ferland: Oh, okay. Yes, yes.

21 Juror: That, is that the total – is that the document? There's no page one, page
22 two, page three?

1 Ferland: This document was produced, and again, it's your testimony that would
2 recollect, but this document was produced in response to the subpoena that
3 you issued to the Town Clerk to produce all documents relative to The
4 Station that they had on hand.

5 Juror: Okay, there's no page one or page two or page three to go with it?

6 Ferland: But we will check and see the original. We will pull the original and see if
7 there's a page two. But I'm not sure that this witness is in a position to tell
8 you that.

9 Juror: All right.

10 Larocque: Yeah, this letter, whoever this was to, this was not to me. I did not receive
11 this.

12 Ferland: Yes sir?

13 Juror: You started off this morning with I believe it was letter citing parking
14 problems, overcrowding problems. And then in the middle of that they get
15 their occupancy increased. Did you get any heat from members of the
16 Town Council or police chief or anybody about issuance of a higher
17 capacity, in the midst of controversy of the place? Which is, here's how
18 we started this, knowing that there were problems with the place and they
19 wanted them looked into, and that looks like they got looked into and the
20 capacity increased?

21 Larocque: Actually the problems and the complaints decreased after.

22 Ferland: After what?

1 Larocque: These business owners took over the place. Whether they just managed
2 better or kept a better eye on things, or – I don't know. But the complaints
3 and even I believe there's records even to the Town Council as far as how
4 they're managing or how they're – the complaints from neighbors or
5 whoever they were and all those complaints pretty much stopped. There
6 were no complaints. There was nothing to suspect anything was amiss
7 there.

8 Ferland: Yes?

9 Juror: I need a clarification on the difference between the divisor of 5 and 7.
10 Because at first I thought 7 was standing no furniture and now I hear the 5,
11 standing. Please tell me what that 7 is for, what's the difference between a
12 7 and a 5?

13 **[TAPE 89 OF 114, SIDE A – SWGJ 1695 (945-1093)]**

14 Ferland: Well first of all, why don't we do this. Why don't you show the juror
15 where you're pulling this from, okay. You can actually, feel free to go
16 right up and – we're an interactive (inaudible). Okay, you can point it out,
17 but don't say anything because the record won't pick it up. So anything
18 you've got to say, we'll say back here. Okay, hold on one second. We're
19 on the record. Okay, has the juror had an opportunity to look at the Rhode
20 Island General Law, the volume 4C that the witness has been relying
21 upon?

22 Juror: Yes.

23 Ferland: Okay, and did you have another question?

1 Juror: Yes.

2 Ferland: Okay.

3 Juror: In 7 square feet, aisle area is not taken into consideration, passage ways,
4 whatever. In the 5 square feet, the aisle or passage to exits has to be
5 excluded. But you said you didn't recalculate your square feet (inaudible)
6 dividing.

7 Larocque: I didn't recalculate the dimensions on the room. But measuring of aisles
8 was done, and that's in that paperwork also.

9 Juror: Then the actual square feet is less when you divided by five than when
10 you divided by seven?

11 Larocque: Square footage –

12 Juror: Was it less?

13 Larocque: Yeah, it's there. But the aisles, like you said as 5 it says we need to deduct
14 the aisles, you can't include except for rear cross aisles in that square
15 footage and the aisles were deducted.

16 Ferland: Did you want to consult your notes to be able to illustrate the point?

17 Larocque: Yes, wherever that's –

18 Juror: Actually I had the same question that that juror did, if you could explain
19 the difference again between the five and the seven.

20 White: Why don't we just read it, because 23-28.6-3, maximum occupancy from
21 Volume 4C of the Rhode Island General Laws, Reenactment 1997. The
22 occupant load permitted in any assembly building structure or portion
23 thereof shall be determined by dividing the net floor area or space

1 assigned to that use by the square feet per occupant as follows: 1) an
2 assembly area of concentrated use without fixed seats, such as an
3 auditorium, gymnasium, church, chapel, dance floor and lodge room,
4 seven square feet per person; 2) an assembly area of less concentrated
5 use, such as conference rooms, dining room, drinking establishments,
6 exhibit room or lounge, fifteen square feet per person; 3) standing room or
7 waiting space, five square feet per person, provided that aisle area, except
8 rear cross-aisles, shall not be considered in determining the number of
9 standing patrons allowed. A related section of the laws, a separate section
10 follows, and it is number 23-28.6-4, and its entitled "Standing
11 Conditions". A) Standing patrons may be allowed in places of assembly
12 at the rate of one person per each five square feet of area available for
13 standing, provided that aisle area, except rear cross aisles, shall not be
14 considered in determining the number of standing patrons allowed; B) the
15 provisions in this section do not apply to churches and places of worship
16 wherein patrons retain their outer clothing for immediate exit, and where
17 they are confined for a period not exceeding two hours duration. Only that
18 part of the building directly accessible to doors for hasty exit may be used
19 in this manner. That's it.

20 Ferland: Are there any other questions about where he's drawing the formula from?

21 Yes sir?

22 Juror: When you – the passage where you're excluding in the calculations, what
23 determines how much space you need for the capacity right there?

1 Larocque: That's –

2 Juror: It didn't spell it out there. It didn't say you need such a (inaudible) aisle

3 so wide or so long or –

4 Larocque: It's a three-foot aisle. Let me see where it says that.

5 Ferland: Look in the definition section.

6 Larocque: Aisles in the direction of exits shall be at least three feet in width. Suitable

7 access to aisles shall be provided from all tables. Aisles and seating, same

8 – different section.

9 Ferland: Did you hear that?

10 Juror: It doesn't give – does it give a length of an aisle? I mean –

11 Larocque: It would be an aisle to the exit.

12 Juror: So for instance –

13 Larocque: Three feet in width.

14 Juror: Three feet in width, but how long? And you subtract that number you get

15 the square footage, right?

16 Juror: Is it fair to say –

17 Larocque: Which is what I did here.

18 Ferland: Okay. What?

19 Larocque: These lines here are the aisles that were deducted.

20 White: Could you show the jurors, if you can, on the diagram, with your pointer,

21 where you subtracted the aisles from?

22 Ferland: Sir, there's a pointer right here if you want it.

1 Larocque: Sorry. Can everybody see this, or not? This is – I'm reading upside down
2 here, but this particular aisle here –

3 Ferland: Speak way up. Speak way up.

4 Larocque: This first aisle, bottom right, this would extend from here all the way
5 through here. This aisle is not deducted, but it was never included.
6 That's, again, the main exit, that's an aisle way. That's not something that
7 was – its not an area that patrons are going to be allowed to congregate in,
8 this is an area that needs to be maintained clear at all times. So this aisle
9 here would extend here, all the way to here. Then there's an aisle that
10 would extend this way, it would extend that way. Then if you come on
11 this side it would extend this way around the bar. And also the back left
12 corner would be here and this way. It's a total of 160 feet that is three feet
13 wide, came to almost 500 square feet, 498 square feet, that was deducted
14 from the overall total square footage.

15 Juror: Where's that other aisle going to, from that upper left –

16 Larocque: This aisle would be for people in this area to find their way to this exit.
17 The is no exit in this area. Again, we talked about this is the kitchen exit
18 earlier. This is where the sign was removed because you're not allowed to
19 exit through the kitchen. So this aisle way would have gone this way, this
20 way, and then it would pick up this aisle, coming forward, as it is in this
21 diagram.

22 Ferland: Other questions?

1 Juror: I have just one quick question about placement of exits. Does the code
2 say anything about, I mean, can a building have all the exits in one corner,
3 does that affect capacity at all?

4 Larocque: It cannot. There's a remoteness exit requirement. Again, back in the older
5 codes it wasn't specific. It is something that's specific now. Back then it
6 would read, and it's in here also, each place of assembly shall have at least
7 two approved ways of egress from each level, remote from each other,
8 providing the best practicable means of egress in the event fire renders one
9 exit impassible. So there is a requirement that they be remote. In this
10 language all it says is it has to be as remote as practicable. Under newer
11 codes there is actually a requirement that's based upon distance and the –
12 it's calculated using a diagonal measurement of the building. You would
13 take a diagonal measurement of the building. If it's a non-sprinklered
14 building you would take half that distance, and the distance between those
15 two exits would have to be at least that dimension. If you were a
16 sprinklered building you're allowed to decrease that down to a third. So
17 those exits would have to be at least that distance apart. But in this
18 language here it says only as remote as practicable, in this particular case
19 you have an exit on three different sides of the building.

20 Juror: Thank you.

21 Ferland: And this was not a sprinklered building?

22 Larocque: This was not a sprinklered building.

23 Ferland: Sir?

1 Juror: Is there anything in the fire code that when an alarm is pulled would
2 require that any fans, or exhaust systems in the system to automatically
3 shut down?

4 Larocque: There is, again, fire alarm – there is such a clause as far as requiring a fan
5 shutdown if they're a certain size CFM. Again, that comes under fire
6 alarm, that's Mr. Peiczarek's area. I know there is such a thing, but what
7 the specifics are, I believe it's over a certain CFM that they're required to
8 have fan shutdown.

9 Ferland: What's a CFM?

10 Larocque: Cubic feet per minute, has to do with the air exchange in the building.

11 Juror: Someone else could testify to that?

12 Larocque: Yes, that's part of the fire alarm requirement. 100% testing, I said earlier,
13 that's part of – if that was required in this particular case, that's part of the
14 100% test they will do when they accept the system. If it's required to
15 have fan shutdown they want to see that activation of it, you know, that it
16 does actually shut the fans down.

17 Juror: But you can't testify to that?

18 Larocque: I can't testify to that. I know it exists, but again, that's Mr. Peiczarek's
19 field of expertise, he could be more specific.

20 Juror: Thank you.

21 Juror: So it seems that with the different codes that you sort of pick and choose
22 which ones you want to use? Whether they go back to the grandfather

1 clause or not, there's no overall consistency with, okay, this building was
2 built in such and such a date, these are the ones we always use?

3 Larocque: There is –

4 Juror: It seems to me that –

5 White: Well there's no – is there anything that you did in this case for which you
6 applied an old code? You determined 404 by the new code divisor of five,
7 correct?

8 Larocque: Which is in also the new, correct.

9 White: And the only reference to an old code is you found it because you were
10 hunting around in the old code and you found six and ten and then your
11 eyes fell on the new code that had five, right?

12 Larocque: Correct. Again, the requirement as to what code you're enforcing, as you
13 mentioned, you always start with the latest edition of the code. Existing
14 buildings are inspected under the Rhode Island State Fire Code. New
15 construction, or additions, or new buildings are now reviewed and
16 inspected under this NFPA 1 and 101, which right now we're under –
17 we're using the '97 edition. Okay, so there are different codes depending
18 on the age of the building. And as you specified earlier, and I said earlier
19 also, this place of assembly when it was a restaurant, to now that it's a
20 nightclub, under our definition, place of assembly, that doesn't change.
21 Under the building code there is a change, and it's a different total
22 designation and the requirements, there are subdivisions under place of
23 assembly. Ours does not have that. If it's a place of assembly, if it holds

1 fifty or more people for new, seventy-six or more for existing, for
2 recreational and those type purposes.

3 Ferland: So it's not just completely arbitrary?

4 Larocque: Hmm?

5 Ferland: It's not –

6 Larocque: No. And that's part of the research. Like when you – when we started
7 with this code, you always start with the most current, which is how we
8 come up with the seven and fifteen the first time. Then you start
9 researching more and it's well this was a place of assembly even back
10 then, it was a restaurant but it was still a place of assembly, they actually
11 should be reviewed under the '68. They're allowed to abide by the rules
12 that were present at that time. Now if there's a change in occupancy type,
13 meaning they go from a place of assembly to business building or an
14 office building, it's all (inaudible) when you will inspect on the building.
15 It's when they became that type of occupancy will be your governing
16 factor.

17 Ferland: Okay, I don't see any other hands. All right, thank you sir.

18 Ferland: I'm going to mark the documents that were used during the course of
19 Inspector – Fire Marshal Larocque's testimony that appeared on the
20 projector, on the screen, as a single exhibit. The only proviso is that we
21 will examine the originals to determine whether or not there is a page two
22 to the March 21, 2000 letter on the quote Station letterhead. So we'll

1 mark those all as a single exhibit and you said that's fifty-seven? Fifty-
2 seven. And you're free to go to lunch and we'll see you in an hour.

3