

EXHIBIT D

In The Matter Of:

*Davidson vs
City of Cranston*

*Michael Favicchio
February 25, 2015*



VIDEO CONFERENCE CENTERS

Phone: 401-946-5500

Toll Free: 888-443-3767

www.alliedcourtreporters.com

info@alliedcourtreporters.com

Min-U-Script® with Word Index

**Davidson vs
City of Cranston**

**Michael Favicchio
February 25, 2015**

Page 21

Page 23

1 A. Yes.

2 Q. In an average month, could you estimate how many
3 letters or e-mails you would get from your Ward 6
4 constituents?

5 A. I'm going to say five to ten, you know, some
6 months there are more than others, depending on
7 the time of year.

8 Q. Okay. And do you typically respond to the
9 inquiries and correspondence that you receive?

10 A. Yes.

11 Q. If you respond to an e-mail or to a letter, is a
12 record kept of your response?

13 A. I don't know that I keep all the e-mails or
14 letters, just because it would just get
15 voluminous.

16 Q. Do you have any policies on the city council about
17 retention of records?

18 A. No, not really.

19 Q. So would it be correct to say that you, most of
20 the time, respond in some way or another to the
21 e-mails and letters that you receive from your
22 constituents?

23 A. Yes.

24 Q. What are some examples of things that you've done
25 in response to a request to you by e-mail or by

1 years ago.

2 Q. Okay. Any other examples come to mind?

3 A. There's always some neighborhood disputes.
4 There was some issues with the ballfield right
5 near there, actually with trash, trash issues,
6 people leaving the place a mess after use of the
7 facility. The group that's involved with the sex
8 offenders and the crime watch group combined a few
9 years ago with regard to issues with the medical
10 center and the ACI because we had a big meeting at
11 the police department with the Police Chief, the
12 then Police Chief Palumbo, members of the ACI
13 supervisors, the medical center supervisors,
14 Harrington Hall people, which is a homeless
15 shelter at the medical center, and I'm trying to
16 think of the name of the group that deals with the
17 sex offender issue.

18 But there was a meeting to coordinate, first
19 of all, because there is an agreement, although I
20 don't believe it's by statute, to limit the number
21 of sex offenders that can be housed at that
22 location. Questions were asked concerning what
23 the ACI does when they release prisoners, because
24 everyone is right there on New London Avenue.
25 There's a bus stop there. They don't have to get

Page 22

Page 24

1 letter?

2 A. Well, neighborhood issues do come up where
3 there will be four or five people that may have
4 called or written. Some of the -- one of the
5 issues we had a couple of years ago during the
6 summer was an area along New London Avenue across
7 from Mulligan's Island and the prison where the
8 noise from the prison yard was creating a nuisance
9 for the homeowners along -- I can't remember the
10 name of the street, I think it's Ridgeway, a
11 street that borders New London Avenue.

12 I actually asked the -- went through the
13 solicitor's office who had some contacts with the
14 warden's office at the prison, the people at the
15 ACI, and we asked them to tone down the use of
16 bullhorns and things that they use in the yard, I
17 guess to keep track of who is there, and that
18 created a lot of noise and a bunch of people had
19 complained.

20 The then Solicitor Cipriano became an
21 intermediary for me because he had previously been
22 an attorney at the ACI. So he knew all of the
23 supervisors. So he was instrumental in getting
24 the issue resolved. I don't think we had
25 complaints last year, but that was a couple of

1 on a bus, they can hang around, they go to
2 Harrington whether they're homeless, released from
3 prison.

4 We've had a continuing issue with having many
5 registered sex offenders spend some time at that
6 location.

7 What we came away with was it's very
8 difficult to get information as to who is staying
9 there, whether they have a criminal record,
10 whether they have a sex offender registration.
11 Harrington is not allowed to ask the question,
12 that was my specific question, and they're not
13 allowed to even ask the question when someone
14 gains entrance to that facility. I believe
15 they're only allowed to stay 30 days, and they're
16 only allowed supposedly to have five. The police
17 spend -- I know we have one officer that spends
18 half his time just checking up on that area to
19 make sure that there's no one that's got
20 outstanding warrants or a sex offender living over
21 there.

22 Q. We talked a little bit about your contacts with
23 constituents in terms of letters or
24 correspondence. Do you also get telephone calls?

25 A. Yes. I would say the majority are telephone

Davidson vs
City of Cranston

Michael Favicchio
February 25, 2015

Page 29

1 Q. Did you see yourself as advocating for the
2 interests of persons incarcerated at ACI as part
3 of that initiative?
4 A. No, not really. They were in the yards, you
5 know. I don't think there was any issue as -- it
6 was basically a noise issue. So it would be a
7 select group of neighbors that were affected.
8 Obviously, noise can only travel so far.
9 Q. Right. And the noise was objected to by those
10 outside of ACI, correct?
11 A. Yes.
12 Q. So, ACI, I don't know if we've put it on the
13 record yet, it's located within Ward 6, correct?
14 A. Yes.
15 Q. How many times have you visited the ACI since
16 you've been on the city council?
17 A. The only times I visited were to see clients.
18 Q. I see. So you have a criminal practice?
19 A. No. I don't really do -- I've done a few
20 things over the years, but I've had clients that
21 got locked up on something that I wasn't seeing
22 them on. Bankruptcy clients may have gotten in
23 trouble, they will ask for me to go, and I may
24 refer them to someone else, but I've visited
25 clients there.

Page 31

1 of any kind from any individual incarcerated at
2 the ACI during your terms as councilman?
3 A. I don't believe so.
4 Q. Can you describe any efforts or initiatives you've
5 taken since joining the city council in an effort
6 to determine the concerns of individuals
7 incarcerated at ACI?
8 A. Well, I thought about it because of this
9 lawsuit, some of the issues that may affect them
10 in this whole process. The fact that they would
11 be left not being registered as an inhabitant of
12 anywhere, there is a lot of difficulty in
13 ascertaining the information as to where they're
14 from, whether they make -- would have to make an
15 election as to where they're an inhabitant or
16 resident of during the time of incarceration.
17 We did have an -- I was concerned with the
18 fact that those constituents that were having a
19 problem with the noise actually could understand
20 the names being called out over the bullhorns,
21 they could actually discern who the people were
22 that the officials were yelling out their names.
23 I thought that was a pretty interesting thing that
24 that was being disseminated, you know, where
25 people in the neighborhood could hear the names

Page 30

1 Q. What's the last time you would say you've been at
2 ACI for one of those client visits?
3 A. It's probably within the last four years.
4 Q. Would that have been more than once within the
5 last four years?
6 A. Probably once or twice within the last four
7 years.
8 Q. Apart from visiting clients in your practice at
9 the ACI, have you paid any other visits to the
10 ACI?
11 A. No.
12 Q. Have you attended any community events or meetings
13 of any kind at the ACI?
14 A. No.
15 Q. And have you made any effort to engage in campaign
16 events at the ACI for your campaigns for city
17 council?
18 A. I didn't think that they would allow it, to
19 be honest. I never did because I really didn't
20 believe they would allow it.
21 Q. Have you sent any campaign mailers to anyone
22 incarcerated at ACI?
23 A. No.
24 Q. Have you received any correspondence or e-mails, I
25 guess it wouldn't be e-mails, any correspondence

Page 32

1 being called out.
2 So that wasn't their fault, obviously, the
3 inmates weren't doing it, it was the prison guards
4 or the supervisors. So that was an issue.
5 But with regard to this case, my only -- I'm
6 concerned whether or not they need to be able to
7 make an election before they do a plea bargain,
8 for example, because they're not -- when they plea
9 bargain, they're entering into a contract with the
10 state as far as where they're going. So my
11 question -- I had a question as to whether or not
12 they should be advised at the time of a plea
13 bargain as to where they are a resident of. We're
14 never given any information, for the most part.
15 We have no knowledge of where they're from before,
16 during or after what their intention is.
17 I think there is a lot of confusion over,
18 especially in our dealings with the Harrington
19 Hall people, there may not be a last known
20 address.
21 Q. Okay. So, putting aside your thoughts about a
22 remedy that might be requested in this case, prior
23 to the initiation of the lawsuit that we're here
24 to talk about today, can you identify any efforts
25 you've made to learn about the concerns of

**Davidson vs
City of Cranston**

**Michael Favicchio
February 25, 2015**

Page 33

1 individuals incarcerated at ACI?
 2 A. Well, I used to -- the former spokesperson
 3 for the ACI was a friend of mine, so I used to
 4 hear things. If anything really major occurred, I
 5 could certainly get a little bit of information,
 6 certainly not privileged information, but some
 7 information. But there was really no need to, you
 8 know, to delve into it with prison officials. I'm
 9 not sure whether they would have answered my
 10 questions, anyway.
 11 We did have a solicitor who was a former
 12 attorney for the ACI. So his knowledge -- he had
 13 considerable knowledge about the workings of the
 14 ACI and what was going on. I felt comfortable,
 15 you know, with him being, sitting in city hall in
 16 that position.
 17 Q. So putting aside information you might receive
 18 from talking to persons employed by the ACI, can
 19 you identify any efforts you've made as a council
 20 member to determine the interests of individuals
 21 incarcerated at the ACI?
 22 A. No.
 23 Q. Are you aware of furlough or Work Release programs
 24 that people incarcerated at ACI are eligible for?
 25 A. I know there are programs. I'm not familiar

Page 35

1 A. No, I don't.
 2 Q. Based on your knowledge as a council member, do
 3 Ward 6 residents pay directly for city services in
 4 their ward, or do they pay taxes into the General
 5 Fund?
 6 A. Just General Fund.
 7 Q. So, you've already talked about a few initiatives
 8 or projects that you've dealt with that relate in
 9 one way or another to issues involving the ACI.
 10 You mentioned issues about sex offenders at
 11 Harrington Hall, you mentioned the issue with
 12 excessive noise from the prison yard. Are there
 13 any other community issues that you've been
 14 involved with as a council member relating it
 15 issues at ACI?
 16 A. I don't believe so.
 17 Q. Are you aware of how -- are you aware whether the
 18 issue of how to count the ACI population came up
 19 during the 2012 redistricting process?
 20 A. No.
 21 Q. Did you attend any of the counsel hearings
 22 relating to the redistricting process?
 23 A. Yes.
 24 Q. Any recollection of the ACLU coming to testify
 25 about this issue?

Page 34

1 with the specific programs and how they operate.
 2 Q. Have you, apart from your meetings with clients of
 3 your law practice at the ACI, ever spoken with any
 4 current or former incarcerated person there?
 5 A. I don't know if I've had a conversation, but
 6 I've seen people walking in Garden City that I
 7 knew were probably still on probation, you know,
 8 or been on Work Release -- on Work Release,
 9 actually. Joseph Mollicone comes to mind. I used
 10 to see him walking Garden City quite a bit. I'm
 11 not sure what his status was at the time, but I
 12 know it was under the supervision of the ACI.
 13 Q. If a person incarcerated at ACI wants to send his
 14 or her children to Cranston Public Schools, in
 15 your view, should that be permitted?
 16 A. I would think that they have as much right
 17 as the -- as a tenant in a home.
 18 Q. And should those children have the right to attend
 19 the schools in Ward 6, in particular, based on the
 20 residence of their parent at the ACI?
 21 A. If those are the rules of the school
 22 department, then I guess that's where they would
 23 have to be placed.
 24 Q. Do you know one way or the other what the rules
 25 permit?

Page 36

1 A. They came -- I remember just one
 2 three-to-four-minute commentary from a female
 3 attorney on behalf of the ACLU, at the very end of
 4 the process, it may have been the last day, the
 5 day of the vote, and just about some mention of
 6 some concern, but that was it. That was the only
 7 time I remember anyone even mentioning it.
 8 Q. Can you briefly describe what role the city
 9 council plays in redistricting the city wards?
 10 A. Well, I mean, most of the work is not done by
 11 us, simply because we're not paid for the time
 12 that it would take to do it. There's -- you know,
 13 the city planning office is involved. I know the
 14 state gets involved, I believe, but the maps are
 15 drawn up. We do review them. We do, you know,
 16 adjust here and there. We try to maintain
 17 boundaries so that we're not splitting up plats
 18 and districts. You know, we try to use common
 19 boundaries like Oaklawn Avenue, which is one that
 20 we maintained rather than going over the line,
 21 stay within the line, and just go a little bit
 22 further north. But there are very minor changes
 23 that we made just to make it, you know, comply,
 24 and that's about it. Once we vote on it, then it
 25 goes to -- the state was -- we sent it to the

**Davidson vs
City of Cranston**

**Michael Favicchio
February 25, 2015**

Page 37

1 state for certification.
 2 Q. Okay. And during the 2012 redistricting process,
 3 the most recent one, did you have any
 4 conversations with any member of the Board of
 5 Canvassers about how the boundaries of Ward 6
 6 should be drawn?
 7 A. I didn't speak to the Board of Canvassers
 8 directly at all.
 9 Q. Did you speak to others about how the boundaries
 10 should be drawn?
 11 A. Other council members, the only issue that we
 12 had was that Oaklawn Avenue area. Canvassers
 13 wanted to move it slightly over the line and take
 14 in an apartment complex, because I guess it was
 15 easier to have more people concentrated in one
 16 building to make the number work. But I persuaded
 17 them to keep it inside of Oaklawn Avenue and just
 18 go to the end of the Dean Estates area rather than
 19 leave part of one of the plats in my ward in a
 20 different ward and go across the highway. We kept
 21 the boundary intact and just took the remaining
 22 houses in that area, which was -- seemed to be
 23 much more logical.
 24 Q. Did you make any statements during the
 25 redistricting process or offer any opinions on the

Page 39

1 Q. Has it come up with Counselor Stycos in any way?
 2 A. Not outside of the executive session.
 3 Q. Have any of your Ward 6 constituents brought it up
 4 with you, the subject of this lawsuit?
 5 A. No.
 6 Q. I gather that -- let me just ask you, is it your
 7 opinion that the persons incarcerated at ACI
 8 should be counted in Ward 6 for the purposes of
 9 drawing city wards?
 10 A. Yes.
 11 Q. Can you give me your reasons for that?
 12 A. I think they're inhabitants. You know, the
 13 question -- we have other people who may be
 14 similarly situated. We have a lot of people who
 15 are -- they live in the city, they don't always
 16 have the choice. I mean, children live where
 17 their parents live. They're not free to just go
 18 live in another city. They live where their
 19 parents are because they're told to live there or
 20 forced to live there. They're inhabitants, just
 21 like the children are, maybe some undocumented
 22 aliens that we have that are living there, and
 23 they have the same, you know -- they're getting a
 24 little different service, but they're still there,
 25 they can -- if they need to go to the hospital,

Page 38

1 question of how the ACI population should be
 2 counted?
 3 A. I don't think I did.
 4 Q. Have you made any public statements about that
 5 topic since the time of the redistricting?
 6 A. No.
 7 Q. Okay. Have you been interviewed by the press
 8 about it?
 9 A. No.
 10 Q. Have you discussed the issue of how the ACI
 11 population should be counted with any member of
 12 the State Legislature or their staff?
 13 A. No.
 14 Q. Are you aware of legislation that's been
 15 introduced in the past in the General Assembly
 16 around the issue of how the ACI population should
 17 be counted?
 18 A. No.
 19 Q. Since the filing of this lawsuit, apart from
 20 executive sessions where the city council may have
 21 discussed this issue, have you spoken individually
 22 to any other member of the city council --
 23 A. No.
 24 Q. -- about the issue?
 25 A. No.

Page 40

1 our rescue is very amenable to taking them there.
 2 If there's any disturbances or any issues, work
 3 release, prisoners over near the bus stops on New
 4 London Avenue, our police are there. Our police
 5 are monitoring when people get released, they
 6 monitor Harrington Hall a bit. So I mean, I think
 7 they're part of the community. Obviously, they're
 8 isolated like a group home, I suppose but, you
 9 know, they're under supervision, obviously. But I
 10 don't think it changes -- I don't think it changes
 11 too much our vote to -- our vote counts are pretty
 12 similar in every ward. I don't see any real
 13 difference. They all seem to reflect around the
 14 same numbers. We have a high -- we have more
 15 votes than half the wards. So we had a pretty
 16 high vote count, but they're all pretty
 17 consistent. I think, you know, there are a lot of
 18 other groups that are not -- that may not vote or
 19 may not choose to vote or are not eligible to vote
 20 that are living in the city. So you know, I don't
 21 really see any impact, I don't see a huge impact
 22 on the voting
 23 Q. Can you say a little bit more about what you're
 24 referring to when you say there's an equal number
 25 of votes, what do you mean by that?

Davidson vs
City of Cranston

Michael Favicchio
February 25, 2015

1 A. Well, in looking at our vote totals after the
2 election, they're all pretty close in number from
3 Ward 1 right through Ward 6. In fact, we had
4 more -- the third highest total of actual voters.
5 Q. Apart from the reasons that you just gave for your
6 opinion why incarcerated people should be counted
7 as residents of Ward 6 for redistricting, are
8 there any other reasons that you have for that
9 opinion?
10 A. No, not really. They're living there, so I
11 guess they should be entitled to whatever a
12 resident can be under their circumstances.
13 Obviously, their circumstances are different than
14 other people, but that's not something that we
15 choose.
16 Q. Can you think of any group of residents within
17 Ward 6 that is more isolated from the rest of the
18 community than the people incarcerated at ACI?
19 A. I don't think so. I don't think anyone has
20 more isolation.
21 MS. WRIGHT: No further questions at
22 this time.
23 MR. BENOIT: No questions.
24 (DEPOSITION CLOSED AT 2:14 P.M.)
25

C-E-R-T-I-F-I-C-A-T-E

1
2
3 I, LINDA L. GUGLIELMO, a Notary Public in and for
4 the State of Rhode Island, duly commissioned and
5 qualified to administer oaths, do hereby certify
6 that the foregoing deposition of MICHAEL FAVICCHIO,
7 a Witness in the above-entitled cause, was taken
8 before me on behalf of the Defendant at the
9 offices of Partridge Snow & Hahn, 40 Westminster
10 Street, Providence, Rhode Island, on February 25,
11 2015 at 1:00 P.M., that previous to examination of
12 said witness, who was of lawful age, he was first
13 sworn by me and duly cautioned and sworn to testify
14 the truth, the whole truth, and nothing but the
15 truth, and that he thereupon testified as in the
16 foregoing manner as set out in the aforesaid
17 transcript.
18 I further certify that the foregoing deposition was
19 taken down by me in machine shorthand and was later
20 transcribed by computer and that the foregoing
21 deposition is a true and accurate record of the
22 testimony of said witness.
23 Pursuant to Rule 5 (d) and 30 (f) of the Federal
24 Rules of Civil Procedure, original transcripts
25 shall not be filed in court; therefore, the
original is delivered and retained by Plaintiffs'
attorney.
I have enclosed with a copy of the deposition a
correction and signature page.
IN WITNESS WHEREOF, I have hereunto set my hand
this 3rd day of March 2015.

LINDA L. GUGLIELMO, NOTARY PUBLIC/RPR-RMR
(MY COMMISSION EXPIRES AUGUST 13, 2017)