

Sean P. Madden
64 Tower Hill Loop
Tuxedo Park, NY 10987

October 17, 2022

Board of Trustees
Village of Tuxedo Park
Tuxedo Park, NY 10987

Madden v. Village of Tuxedo Park

Dear Mr. Mayor and Village Trustees:

In advance of our upcoming meeting to discuss a potential settlement of my FOIL litigation I thought it would be helpful to summarize the case, particularly how former trustee Guazzoni's violations of New York law caused the Village to violate FOIL and ultimately led to the taxpayers' liability for legal fees exceeding \$125,000. Guazzoni is responsible for these costs, and the Board should publicly censure him and demand that he reimburse the Village for them.

This case is quite straightforward. During the relevant time period in the months leading up to the June 2017 Village election, trustees were utilizing private email accounts to conduct official Village business. This practice left the Village vulnerable to an unscrupulous trustee like Guazzoni who had exclusive possession and control of his official Village email communications that were subject to disclosure under FOIL. Solely due to then-trustee Guazzoni's lack of cooperation and candor required of him by New York law, the Village was placed in the untenable position of being unable to comply with my FOIL requests, which in turn led to the court's finding that the Village violated FOIL.

[I should note, and any potential settlement should reflect the fact, that after Mayor McFadden was elected in 2017, the Board rectified this vulnerability by adopting official New York ".gov" email accounts for trustees, thereby providing the records access officer unfettered access to trustee email records.]

The following paragraphs summarize the factual context and relevant law while documenting Guazzoni's violations of his obligations under New York law that directly led to the court's finding that the Village violated FOIL. The facts and law are clear: Guazzoni caused the Village to violate FOIL and is responsible for Village taxpayers' resulting six-figure liability. Shockingly, Village taxpayers have funded Guazzoni's perjury, and the Village has stood behind this perjurious filing with the court since it was filed in June 2021.

I want to acknowledge my respect for the citizen-volunteers that serve our special community on this and other Village boards. I also want to be respectful of your limited time so I have endeavored to keep this summary letter as brief as possible while providing detailed support of Guazzoni's perjury in an appendix for those who have the time and inclination.

Relevant Law

Two related New York statutes impose certain record-keeping obligations on municipal officials, including elected trustees: the Local Government Records Law (the "Records Law") and FOIL.

Records Law. Among the stated purposes of the Records Law is to "document the responsibility of government, protect the rights of citizens, and provide citizens with a means of monitoring government programs and measuring the performance of public officials."¹ To implement these principles, the Records Law mandates that public officials retain, maintain, and protect municipal records and that they cooperate with the local government's records management officer.²

FOIL. Along the same lines, FOIL requires that local governments appoint a records access officer who "is responsible for assuring that agency personnel [which includes elected trustees]...make records promptly available for inspection."³ The statutes thus create two specific obligations for Village trustees: (1) the preservation of municipal records, and (2) the production of such records to the Village records access officer.

Many years ago, the Committee on Open Government (COOG) acknowledged these related obligations, declaring that "the records access officer must 'coordinate' an agency's response to requests....As part of that coordination...[agency] officials and employees are required to cooperate with you as the records access officer in an effort to enable you to carry out your official duties."⁴ This COOG advisory opinion to the Town Clerk of Richland concluded:

"A failure [of Town officials] to share the records or to inform you, as Clerk, of their existence may effectively preclude you from carrying out your duties as records management officer, and as records access officer for purposes of responding to requests under [FOIL]. In short, if you do not know the existence or location of Town records, or cannot obtain them, you would lose the ability to grant or deny access to records in a manner consistent with the requirements of [FOIL]."⁵

This is precisely the situation in this case. Guazzoni repeatedly and knowingly violated these statutory obligations, as established in our FOIL litigation. He consistently ignored his obligation

¹ Arts & Cult. Aff. Law § 57.13.

² Arts & Cult. Aff. Law § 57.25.

³ 21 NYCRR § 1401.2(b).

⁴ New York State Committee on Open Government, FOIL-AO-12001 (Sept. 3, 2004).

⁵ *Id.*; see also New York State Committee on Open Government, FOIL-AO-14883 (Mar. 17, 2000) (Village bank records maintained by bank subject to FOIL and Records Law).

to produce Village records in his sole possession and control. He repeatedly lied to the Village records access officer and the Village Attorney. Ultimately, Guazzoni lied to the Court in a sworn affidavit, filed under penalty of perjury, and paid for by the Village. Reflect on that for a moment: Village taxpayers funded the subornation of perjury.

Background

Context is important to understanding the facts leading to my FOIL lawsuit. After enduring unconscionable abuses of power in 2016 by the former mayor (who appointed Guazzoni as deputy mayor), I documented serial violations of New York's Open Meetings Law they perpetrated, as confirmed in a Committee on Open Government ("COOG") advisory opinion I solicited.

I was keen to communicate my concerns with their failed stewardship of the Village and to publicly oppose their reelection bids. However, I did not have the ability to communicate my concerns broadly to Village residents so, in February 2017, I submitted a FOIL request to the Village for "an electronic file with all the names and email addresses of Tuxedo Park residents that are in the records of the Village for whatever purpose" (the "Initial FOIL Request"). There is no dispute in this case--as it is well-settled law in New York--that names and email addresses of municipal residents are records subject to disclosure under FOIL, as are email distribution lists used by municipal officials to communicate with such residents.⁶

I will not repeat the gory details previously shared with the Board, but it was obvious from the start that Guazzoni was acting in bad faith to obstruct my ability to use his own email distribution list to communicate my vociferous opposition to his reelection bid. Though she was far too professional and discreet to have ever said so directly to me, I had the distinct sense from Village records access officer Debbie Matthews that she was frustrated and embarrassed by Guazzoni's obvious obstruction and dishonesty. Many of you know her; you should ask. Frankly, I hate that the law required me to name Ms. Matthews as a defendant in her official capacity as records access officer because she did everything in her power to comply with FOIL, but she could not produce records created and maintained exclusively by Guazzoni without his cooperation, which was not forthcoming.

Over the course of three months of delay and obfuscation following my Initial FOIL Request, there were three specific Village records I identified for production under FOIL: (1) a June 2016 email, including the email addressees thereof, from Guazzoni to Village residents addressing the proposed Village Light Law (the "2016 Email"); (2) a June 1, 2017 email, including the email addressees thereof, from Guazzoni to Village residents which disputed my (COOG-confirmed) allegations of violations of the Open Meetings Law and which also libeled me (the "2017 Email"); and (3) any resident email distribution list utilized by a trustee to communicate with

⁶ See *Matter of Livson v. Town of Greenburgh*, 34 N.Y.S.2d 612, 615-16 (2d Dept. 2016); see also *DMAC LLC v. City of Peekskill*, 2012 WL 4459290 (S.D.N.Y. 2012) (Local Government Records Law requires retention of city emails).

Village residents regarding official Village business. Guazzoni partially and untimely produced just one of these three records and lied about all three.

The 2016 Email. Despite the fact that my Initial FOIL Request clearly encompassed this and the other records below, Guazzoni did not produce this email record until late May, long after the statutory period to do so had expired. Moreover, Guazzoni produced a scanned paper copy of this email, which he sent from his Gmail account, despite the fact that FOIL requires electronic production where practicable. Guazzoni, who holds himself out as a tech-savvy former CEO of a technology services company, laughably maintained that he could not create an electronic record of the email addressees of this electronic mail. This was an obvious lie, as we demonstrated with an expert affidavit demonstrating that a simple cut and paste from Gmail could accomplish this task in less than a minute.

Finally, I discovered, and our litigation documented, that Guazzoni lied to the Village and the court when he represented that his paper production of the 2016 Email was complete and correct. In fact, there was a second email, substantively identical but sent to a different group of addressees, that Guazzoni did not and still has not produced. My affidavit and those of two other residents established this fact because we were not on the list of addressees in the Bcc line of the paper 2016 Email Guazzoni produced, yet we received an otherwise identical email but with a different time stamp. Having myself sent mass emails, I can attest to the fact that the major email platforms limit the number of addressees for a single email, requiring the sender to split the addressees into multiple emails.

Email Distribution List. On May 24, after the time period required by FOIL for production had passed, the Village Attorney ruled on my FOIL appeal that trustees had an unambiguous obligation to provide, in electronic format, any email distribution list they used to communicate official business with Village residents. The day after the Village Attorney's FOIL ruling, then-trustee McFadden complied by producing his email distribution list in electronic format (Excel). In contrast, Guazzoni produced barely legible scanned photocopies of the St. Mary's and Tuxedo Club directories, which was both under-inclusive and over-inclusive, as I pointed out in an email of the same day. This production was not only unresponsive to Guazzoni's FOIL obligations but violated the privacy policies of these community organizations. Guazzoni's bad faith gamesmanship was manifest, and he still has not produced the email distribution list he used to communicate with Village residents.

It was obvious that Guazzoni, abetted by the former mayor, was trying to run out the clock before the impending election to impede my ability to lawfully communicate with Village residents. As I repeatedly reminded the Village contemporaneously, Gmail, Survey Monkey, and Paperless Post—platforms Guazzoni utilized to communicate with Village residents via email—all facilitate the export of email addresses with virtually no effort or expertise. It is laughable that Guazzoni—who founded and ran a technology services business and has publicly bragged about his tech acumen—could not export email addresses to an Excel file, as then-trustee McFadden did with no apparent difficulty.

The 2017 Email. The same day that Guazzoni sent his June 1, 2017 email that libeled me, I filed a FOIL request for it, including the addressees thereof. The Village never responded to my request, and the 2017 Email has never been produced—a violation of FOIL as confirmed by the court. Instead of simply producing this record, Guazzoni brazenly lied to the Village and to the court—perjuring himself at taxpayer expense—by arguing that the June 2017 Email was sent to the same list of recipients as the 2016 Email so that production of the 2017 Email was duplicative. There is no “duplication defense” under FOIL so the court rejected this argument as a matter of law and therefore never ruled on the underlying factual contention, which was an abject lie and one easily established as such.

As Mayor McFadden was well aware, during the time period in question, Guazzoni was actively and aggressively adding email contacts to his Village resident email distribution list. I am personally aware of several residents who were new to the Village in 2017 whom Guazzoni approached for their email contacts. I also knew that Guazzoni had excluded me from his June 2017 Email whereas I had received previous and subsequent emails from him, demonstrating that he actively manipulated his email addressees contrary to his bogus duplication argument. I ultimately identified numerous residents who received the 2017 Email but not the 2016 Email. Six of these residents filed sworn affidavits with the court together with the relevant emails. Three of these residents were not even resident in the Village when Guazzoni sent the 2016 Email so of course they did not receive it.

I have publicly called Guazzoni a liar and gaslighter so I am hardly surprised by his lies, but even I was stunned that he would go so far as to perjure himself, especially given the likelihood that the 2017 Email would ultimately have to be produced, as the court has now ordered. Our sworn submissions demonstrate beyond doubt Guazzoni’s perjury, but if you have any lingering doubt, you should simply see for yourself: the 2017 Email is and always has been a Village record that the records access officer should have. If you do not already have it, demand it, and then compare the list of recipients to the 2016 Email, and you will see they are not the same. Note that there are likely at least two versions of the 2017 Email given the large number of addressees to whom it was sent.

I do not make allegations of perjury lightly so I have attached hereto additional detail laying out Guazzoni’s perjury. From my perspective, the Village and its counsel have an ethical obligation to withdraw or otherwise disavow the Guazzoni affidavit that the Village submitted and ostensibly still stands behind. Moreover, if we settle this case, it is also the right tactical move. A manifestly false filing with a state court, made under penalty of perjury, and funded by Village taxpayers simply cannot stand. Village residents whom you represent and serve as fiduciaries deserve better, and this is a requirement of any potential settlement.

Thank you for your consideration,



Sean P. Madden

Why Is the Village Suborning Perjury?

On June 2, 2021, Village Attorney Nugent submitted to the Orange County Supreme Court a Supplemental Affirmation "under the penalty of perjury" that declared: "as confirmed in the annexed Affidavit of Claudio Guazzoni, regardless of the timeliness of the appeal as determined by the Appellate Division, the information sought by Petitioner [the June 1, 2017 email] was duplicative and had already been provided to Petitioner in his prior FOIL request." ¶ 7.

Guazzoni's own Affidavit of the same date, also submitted "under the penalty of perjury", likewise declared:

The email list that I provided to the Village from my June 2016 email consisted of the same email list that was utilized for my June 1, 2017 email that was the subject of Mr. Madden's June 1, 2017 FOIL. Any response to Mr. Madden's June 1, 2017 FOIL request would constitute the same email list that was previously provided to Mr. Madden in response to his prior FOIL request." ¶ 5-6.

Guazzoni knew his Affidavit was false and thus perjurious. Attorney Nugent knew or should have known the same. Guazzoni's June 1, 2017 email that was the subject of Madden's Third FOIL Request was a Village record the moment it was created and distributed by Guazzoni to hundreds of Village residents. The Village Records Access Officer should have had a copy of this Village record from its inception.

When Village Attorney Nugent filed his Supplemental Affirmation, why didn't he conduct the barest due diligence by demanding Guazzoni finally turn over this Village record, which he had an obligation to maintain and to produce? I submit that counsel for the Village chose willful ignorance so they could make the only argument remaining for the Village as to this email record, namely that it was duplicative (which is not a valid defense to production under FOIL in any event, as the court held). Better to be sloppy and maintain your only remaining argument than to conduct basic due diligence and then lose it?

However, once we filed Affidavits from nine residents, with supporting email documentation, that demonstrated the falsity of Guazzoni's Affidavit, willful ignorance was and is no longer tenable.

As Mayor McFadden is well aware, during the relevant time period, Guazzoni was actively collecting email addresses, especially from newer residents. Indeed, among the nine Affidavits we submitted were three (Danielle Bozarth, Enrique Corredor, and Nacole Snoep) from individuals who were not even resident in Tuxedo Park when Guazzoni sent his June 2016 email (which of course they did not receive). We submitted three additional Affidavits of residents who received the June 1, 2017 email but not the June 2016 email (Rich Mueller, Chris Bruner, and Lisa Laukitis).

We also submitted Affidavits of two other residents who received the June 2016 email but did not appear among the list of recipients thereof on the hard copy email record produced by Guazzoni and with a different time stamp, demonstrating that Guazzoni had not even fully complied with his obligation to produce the June 2016 email and all recipients thereof. Finally, and laughably, Guazzoni was stupid enough to proffer this duplication defense despite the fact that he sent me the June 2016 email but excluded me from his libelous June 1, 2017 email, thus demonstrating his knowing manipulation of his email lists and obvious perjury in positing the duplication of the two lists of email recipients.

I am not a litigator so I cannot say with certainty what a lawyer's ethical obligation is when he learns a previous filing with the court, made under the penalty of perjury, is false. I would have thought that withdrawing or otherwise renouncing such a filing would be required, but at a minimum it is the decent and right thing to do. As for this Board, are you willing to stand by as stewards for taxpayers knowing that taxpayers have funded such a perjurious court filing? The Village should do the right thing and withdraw or renounce the Guazzoni Affidavit forthwith.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
In the Matter of the Application of
SEAN MADDEN,

Petitioner,

for a Judgment pursuant to Article 78
of the Civil Practice Laws and Rules

-against-

VILLAGE OF TUXEDO PARK, CLAUDIO GUAZZONI,
solely in his capacity as Village of Tuxedo Park Trustee,
and DEBBIE MATTHEWS, solely in her capacity
as VILLAGE CLERK for the Village of Tuxedo Park.

Respondents.

-----X

**AFFIDAVIT OF
CLAUDIO GUAZZONI**

Index No.: 004229/2017

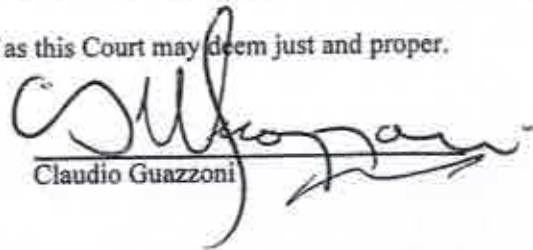
CLAUDIO GUAZZONI, being duly sworn, deposes and states under the penalty of
perjury as follows:

1. Your Deponent is a former Trustee of the Village of Tuxedo Park, New York, whose term ended on or about June 30, 2017.
2. Your Deponent submits this Affidavit based upon personal knowledge.
3. I am informed that the Appellate Division, Second Department had remanded certain matters to this Court for further proceedings. I am further informed that one of the issues remanded to this Court concerned a FOIL request from resident Sean Madden seeking a list of recipients from an email I sent to residents on June 1, 2017.
4. As this Court is aware, I had previously provided a list of the email addresses that I utilized in sending out communications to fellow residents of the Village of Tuxedo Park.

5. The email list that I provided to the Village from my June 2016 email consisted of the same email list that was utilized for my June 1, 2017 email that was the subject request of Mr. Madden's June 1, 2017 FOIL.

6. Any response to Mr. Madden's June 1, 2017 FOIL request would constitute the same email list that was previously provided to Mr. Madden in response to his prior FOIL request.

WHEREFORE, your Deponent respectfully requests the Court grant the relief sought herein; together with such other and further relief as this Court may deem just and proper.


Claudio Guazzoni

Sworn before me on this
2nd day of June, 2021.


NOTARY PUBLIC

BRIAN D. NUGENT
Notary Public, State of New York
No. 02NU6122161
Qualified in Rockland County
Commission Expires February 7, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
In the Matter of the Application of
SEAN MADDEN,

Petitioner,

for a Judgment pursuant to Article 78
of the Civil Practice Laws and Rules

**SUPPLEMENTAL
AFFIRMATION**

-against-

Index No.: 2017-004229

VILLAGE OF TUXEDO PARK, CLAUDIO GUAZZONI,
solely in his capacity as Village of Tuxedo Park Trustee,
and DEBBIE MATTHEWS, solely in her capacity
as VILLAGE CLERK for the Village of Tuxedo Park.

Respondents.

-----X

BRIAN D. NUGENT, an attorney, being duly admitted to practice in the Courts of the State
of New York, hereby affirms, under the penalty of perjury, as follows:

1. I represent the Respondents in the litigation herein and submit this Affirmation in
support of the Amended Answer which is filed herewith along with the Affidavit of Village Clerk
Elizabeth Doherty and former Trustee Claudio Guazzoni.

2. As the Court is aware, the Appellate Division, Second Department issued a Decision
on March 10, 2021 determining that certain claims for relief in the Verified Petition should not have
been dismissed by the lower Court. Specifically, the Appellate Division determined there was a
question of fact as the previously filed Affidavit of (Claudio Guazzoni) "did not address whether any
other employee of the Village could, with a reasonable degree of time and effort, create an excel
spreadsheet that would comply with the terms of the FOIL request." See Exhibit 1 at p.2.

3. The Appellate Division further determined that since there was no advisement to the
Petitioner of the availability of an administrative appeal regarding the denial of his June 1, 2021

FOIL request that his subsequent FOIL appeal should have been deemed timely. The Appellate Division determined that the remaining contentions were either without merit or did not need to be reached in light of its determinations.

4. As set forth in the annexed Affidavit of Village Clerk Elizabeth Doherty, the requested electronic response to the FOIL request of June 29, 2016 could not, with a reasonable degree of time and effort, be generated by the Village Clerk. As further set forth in the Village Clerk's Affidavit, she is the only full-time employee in the Village office and the only employee that would be responsible for creating the requested electronic record.

5. As indicated in the Village Clerk's Affidavit, the only manner in which she could create the requested Excel spreadsheet would be to manually type each email address into an electronic spreadsheet. Since the Village Clerk has no better means than the requester of converting the data into electronic format, there is no basis in law in requiring the Village Clerk to manually create an electronic record from a paper record where the only means of doing so is manual entry requiring the same time and effort as it would take for the requester to accomplish the same task.

6. The decisions or opinions that typically support creation of an electronic record speak of an employee having to enter a few keystrokes (e.g. to export data that is in electronic format already to another form of electronic data where such can be accomplished with reasonable effort). See, e.g., NYS Committee on Open Government FOIL Opinion, FOIL-AO-12741 (June 19, 2001).¹

7. With respect to the second issue addressed by the Appellate Division concerning the June 1, 2017 FOIL appeal, as confirmed in the annexed Affidavit of Claudio Guazzoni, regardless of the timeliness of the appeal as determined by the Appellate Division, the information sought by Petitioner was duplicative and had already been provided to Petitioner in his prior FOIL request.

¹ Available at <https://docs.dos.ny.gov/coog/ftext/fl2741.htm> (Last accessed June 2, 2021).

Respondents were not obligated to provide the same records previously provided to a requester. See Garcia v. Div. of State Police, 302 AD2d 755, 756 [3rd Dept. 2003].

8. Accordingly, any determination with respect to the June 1, 2017 FOIL appeal is academic as the Respondent Village is not obligated to provide duplicative records that have already been provided to the requester, rendering that issue moot and academic.

9. Accordingly, in consideration of the Appellate Division decision and the issues identified therein, the Court should summarily dismiss this proceeding in light of the two identified issues being addressed herein and in the attached Affidavits of the Respondents.

WHEREFORE, it is respectfully requested that this Court dismiss Petitioners' Amended Petition in its entirety; together with such relief that this Court deems just and proper.


BRIAN D. NUGEN

Affirmed on this 2nd
day of June 2021.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----x
SEAN MADDEN,

Petitioner,

Index No.: 004229/2017

for a Judgment pursuant to ARTICLE 78
Of the Civil Practice Laws and Rules

AFFIDAVIT OF
SEAN MADDEN

-against-

Assigned Judge:

VILLAGE OF TUXEDO PARK, CLAUDIO GUAZZONI,
solely in his capacity as Village of Tuxedo Park Trustee,
and DEBBIE MATTHEWS, solely in her capacity
as VILLAGE CLERK for the Village of Tuxedo Park;

Hon. Maria Vasquez-Doles

Respondents,
-----x

STATE OF NORTH CAROLINA }

} ss.:

COUNTY OF MECKLENBURG }

SEAN MADDEN, being duly sworn, deposes and says:

1. I am over the age of 18 years and am the Petitioner in the within Article 78 proceeding.
2. That I reside at 64 Tower Hill Loop, Tuxedo Park, New York 10987 and have been a resident of Tuxedo Park since 2005.
3. That I submit this affidavit in reply to the answer and certified record and return of Respondents Village of Tuxedo Park (the "Village"), Claudio Guazzoni ("Guazzoni"), solely in his capacity as Village of Tuxedo Park Trustee, and Debbie Matthews, solely in her capacity as Village Clerk for the Village of Tuxedo Park to the underlying Amended Petition of this Article 78 proceeding which challenges, among other things, Respondents' failure to comply fully with

the Freedom of Information Law ("FOIL").

4. I have reviewed the amended answer and supplemental submissions filed by Respondents in this Article 78 proceeding, including an affidavit of Guazzoni, dated June 2, 2021 (the "Guazzoni Affidavit").

5. As set forth in the Amended Petition, I made requests through FOIL for, among other things, two email records sent by Guazzoni to Village residents, including their respective recipient lists in electronic format: (1) a June 29, 2016 email and (2) a June 1, 2017 email, each from the email address Guazzoni used to communicate official Village business with Village residents ("trusteeclaudio10987@gmail").

6. Guazzoni produced a paper copy of the June 29, 2016 email with a list of its recipients, a copy of which is annexed hereto as Exhibit "A." (The same document is attached to the Amended Petition as Exhibit "X")

7. The Village never produced anything in response to my request for the June 1, 2017 email.

8. Respondents argue in this proceeding that since Guazzoni produced the June 29, 2016 email, they were not required to produce the June 1, 2021 email since Guazzoni claims he used the same email distribution list for both emails.

9. I have reviewed my emails located in my maddens1@mac.com email account which is my personal account which the Village and Guazzoni have used to communicate with me during the time period from June 1, 2016 through present, to determine whether or not I received the June 29, 2016 and June 1, 2017 emails from Guazzoni.

10. I did not locate any email from Guazzoni dated June 1, 2017 in my maddens1@mac.com

email account nor in any email account that I maintain.

11. I located the attached email from Guazzoni, dated June 29, 2016, which was addressed to me at my maddens1@mac.com email account. (See Exhibit "B")

12. I reviewed the hard copy of the June 29, 2016 email Guazzoni produced (Exhibit A) and observed that my email address does not appear on the email recipient list.

13. The June 29, 2016 email that I received contains the same content as the email version annexed as Exhibit A, but my copy of the email (Exhibit B) contains a time stamp of 10:05 a.m. and Exhibit A, produced by Guazzoni in hard copy, has a time stamp of 10:04 a.m.

14. It is apparent that the June 29, 2016 email was sent to more than one distribution list and thus Guazzoni's partial production was not responsive to my FOIL request, regardless of whether it was produced in the proper electronic format.

15. It is also apparent that since I did not receive the June 1, 2017 email, but was on one of the distribution lists of Guazzoni's June 29, 2016 email, Guazzoni's statement that he utilized the same distribution list to send both emails is false.

16. Guazzoni's knowing manipulation of his Village email recipients is further demonstrated by the fact that I received an email from Guazzoni on June 13, 2017 touting his work developing a new website for the Village.

17. Upon my realization that (i) there was more than one distribution list for the June 29, 2016 email, and (ii) that the June 1, 2017 and June 29, 2016 email distribution lists could not be identical, as Guazzoni maintained, since I had not received both emails, I reached out to numerous Village residents whom I knew to have received the June 1, 2017 email to see whether they also had received the June 29, 2016 email. I knew these residents had received the June 1,

2017 email, the content of which was clearly directed at me and, in my opinion, libeled me, because they had contemporaneously reached out to me in support and to express their outrage at Guazzoni's email.

18. I have identified at least seven Village residents who received Guazzoni's June 1, 2017 email but who did not receive the June 29, 2016 email, demonstrating that Guazzoni's contention that he sent the two emails to the same list of recipients is false. Despite the limited timeframe to do so, most of these seven residents have submitted affidavits in support of my reply in the within proceeding which demonstrate that Guazzoni did not utilize the same distribution lists for both the June 29, 2016 and June 1, 2017 email.

19. In the course of confirming there were certain Village residents who received the June 1, 2017 email but not the June 29, 2016 email, I further identified at least three Village residents who, like me, received Guazzoni's June 29, 2016 email but whose email addresses likewise do not appear on the list of recipients in the hard copy of the June 29, 2016 email Guazzoni produced (Exhibit A), thereby demonstrating that Guazzoni's contention that he produced a complete and correct list of list of recipients to this email is false. Further, these three residents, like me, had a time stamp on Guazzoni's June 29, 2016 email that differed from the time stamp that appears in the hard copy of the June 29, 2016 email Guazzoni produced (Exhibit A). Taken together, these facts demonstrate that there is another June 29, 2016 email sent by Guazzoni, substantively identical to Exhibit A, but containing a wholly different list of resident email addresses. Two of these three residents have submitted affidavits in support of my reply in the within proceeding that demonstrate that the Guazzoni hard copy production of the June 29, 2016


email did not represent a complete and correct list of recipients of his June 29, 2016 email.

Dated: Charlotte, North Carolina
June 10, 2021


SEAN MADDEN

State of North Carolina)
) ss.:
County of Mecklenburg)

On the 10th day of June, 2021 before me, the undersigned, personally appeared Sean Madden, personally known to me, or proved to me on the basis of satisfactory evidence, to be the individual(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individuals acted, executed the instrument and that such individual(s) made such appearance before the undersigned in the city of Charlotte, North Carolina.


Notary Public

Paige Walker
NOTARY PUBLIC
Mecklenburg County
North Carolina
My Commission Expires October 20, 2024