

CITY OF HACKENSACK
 ZONING BOARD OF ADJUSTMENT
 THURSDAY, MARCH 3, 2011
 COMMENCING AT 7:05 P.M.

.....
 IN THE MATTER OF: : TRANSCRIPT
 Application V#23-08 SP# 21-08 : OF
 Address 320 Summit Avenue/ : PROCEEDINGS
 329 Prospect Avenue :
 Block 344, Lots: 3,4,5,14 :
 Zone R-75 & R-3 :
 Applicant requests to demolish :
 the existing structures and :
 Construct a 19 story medical :
 office building. :

B E F O R E:

CITY OF HACKENSACK ZONING BOARD
 THERE BEING PRESENT:

MICHAEL GUERRA, CHAIRMAN

GEORGE DIANA, MEMBER

FRANK RODRIGUEZ, MEMBER

HUMBERTO GOEZ, MEMBER

LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
 CERTIFIED COURT REPORTERS
 P.O. BOX 505
 SADDLE BROOK, NJ 07663
 201-641-1812
 201-843-0515 FAX
 laccsr2@aol.com

1 A L S O P R E S E N T:

2 AL BORRELLI, ZONING OFFICER

3 GREGORY POLYNIAC, P.P., P.E., NEGLIA ENGINEERING

4 FRANK MISKOVICH, P.E., BIRDSALL ENGINEERING

5
6
7 A P P E A R A N C E S:

8 THE LAW OFFICES OF RICHARD MALAGIERE, P.C.

9 RICHARD MALAGIERE ESQUIRE

10 14 Bergen Street, 1st Floor

Hackensack, New Jersey 07601

Counsel to the Board

11 201-261-1414

12 WINNE, BANTA, HETHERINGTON, BASRALIAN & KAHN, P.C.

13 BY: JOSEPH L. BASRALIAN, ESQ.

21 Main Street

14 Court Plaza South

Hackensack, New Jersey 07601

15 Counsel to the Applicant

16 201-487-3800

17 McCARTER & ENGLISH, ESQS.

18 BY: THEODORE MOSKOWITZ, ESQ.

100 Mulberry Street

Newark, New Jersey 07102

19 973-639-2048

Counsel for Interested Party, Prospect Avenue

20 Coalition, LLC

21 DIKTAS, SCHANDLER GILLEN, ESQS.

22 BY: CHRISTOS J. DIKTAS, ESQ.

596 Anderson Avenue

23 Cliffside Park, New Jersey 07010

Counsel for Interested Party, Anastasia Burlyuk

24 201-943-8020

I N D E XWITNESSSWORNPAGE

STAN LACZ, P.P.	15
Direct Examination by Mr. Diktas:	16, 52
Voir Dire Examination by Mr. Basralian:	20

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVID</u>
A-1	Division of Community Affairs Planner License Search	22	
A-2	Division of Community Affair Engineer License Search	25	
B-1	Notes of Mr. Lacz (3 pgs.)	100	

CHAIRMAN GUERRA: Application V#23-08,
SP#21-08, Address, 320 Summit Avenue/329 Prospect
Avenue, Hackensack, New Jersey, Block 344, Lots 3, 4,
5, 14, Zone R-75 and R-3, Bergen Passaic Long Term
Acute Health Care Hospital L.L.C.

Applicant requests to demolish the
structures and construct a 19 floor medical office
building. The following were found to be deficient:

One, use variance required pursuant to
40:55D(1).

Two, insufficient lot area, required
30,000 square feet, proposed 20,000 square feet.

Three, insufficient lot width, required
125 feet, proposed 100 feet.

Four, insufficient rear yard setback,
required 40 feet, proposed zero feet to edge of R-3
district.

Five, exceeds maximum lot coverage,
permitted 30 percent, proposed 40.5 percent for R-3
district.

Six, exceeds maximum height ratio
side-yard, permitted 4 to 1, proposed 19 to 1.

Seven, insufficient buffer zone,
required 6 feet, proposed zero feet to edge R-3
district.

1 Eight, insufficient parking spaces,
2 required 562, proposed 402.

3 Nine, insufficient driveway width,
4 required 18 to 22 feet for two-way, proposed 10 feet.

5 Ten, no paving in side-yard.

6 Eleven; insufficient area for back up
7 aisle spaces.

8 Twelve, exceeds maximum sign area,
9 permitted 12 square feet, proposed 96 square feet.

10 Thirteen, insufficient sign setback,
11 required 20 feet, proposed zero feet.

12 Fourteen, any other variance or waivers
13 that may be required.

14 MR. MALAGIERE: Counsel?

15 CHAIRMAN GUERRA: Good evening.

16 MR. BASRALIAN: Good evening, Mr.
17 Chairman, Members of the Board.

18 Just a procedural question, I see we
19 have four Board Members, I'm not quite sure how many
20 Board Members we have sitting on this application any
21 more. I presume it's a minimum of five, if that's
22 the case, if someone would advise me?

23 MR. MALAGIERE: The issue -- the issue
24 that transpired, Mr. Basralian, you and I spoke about
25 this at the end of the last year, is that Vice Chair

1 DiMinno resigned from the Board, which only left us
2 with four on this application because now Vice Chair
3 Hurwitz and Board Member Pemberton have recused
4 themselves from this application.

5 CHAIRMAN GUERRA: Mr. Carroll.

6 MR. MALAGIERE: And Mr. Carroll is
7 sitting on this application?

8 CHAIRMAN GUERRA: Yes.

9 MR. RODRIGUEZ: Yes.

10 CHAIRMAN GUERRA: So we have --

11 MR. MALAGIERE: We have five?

12 CHAIRMAN GUERRA: Five, yes.

13 MR. MALAGIERE: I always thought we had
14 an issue with that.

15 CHAIRMAN GUERRA: So did I.

16 MR. MALAGIERE: No? Okay.

17 So thankfully, Mr. Basralian, if I may
18 backtrack for a moment, fortunately we do have five
19 which is the minimum that you need.

20 CHAIRMAN GUERRA: We didn't until,
21 Frank, right, you started catching up on...

22 MR. RODRIGUEZ: I may not have -- I
23 don't remember if I was here for the very first
24 hearing, but I signed the --

25 MR. MALAGIERE: But you'll certify --

1 you'll read and certify it --

2 MR. RODRIGUEZ: I think I did already.

3 MR. MALAGIERE: -- you will catch up
4 with the application?

5 CHAIRMAN GUERRA: I think that was the
6 issue.

7 MR. RODRIGUEZ: I think I did already,
8 Mr. Basralian. But if somebody can check on that,
9 but I had read --

10 MR. MALAGIERE: Al, check that out.

11 MR. BORRELLI: Certainly.

12 MR. MALAGIERE: We'll check that out.
13 We'll make sure that that's all taken care of.

14 Mr. Basralian, that's all we can field
15 for you when we go to a vote on this, is five
16 members.

17 MR. BASRALIAN: And I presume Mr.
18 Carroll will --

19 MR. MALAGIERE: He's just not here this
20 evening.

21 MR. BASRALIAN: We'll get the
22 transcript and certify. And anyone else who has not
23 read any transcripts should read them and be
24 certified accordingly.

25 MR. MALAGIERE: Of course.

1 MR. BASRALIAN: Just an editorial
2 comment, one of the -- one of the lapses, if you
3 will, in the Municipal Land Use Law is that if you
4 only have four members on a Board of Adjustment that
5 you can get one from the Planning Board to give you
6 five on a use variance.

7 Unfortunately, the law doesn't say that
8 you can -- you can draft additional people so that
9 you could have a full board of seven, which at least
10 gives an applicant a better chance of five of seven
11 than four of five which defeats the whole purpose.

12 So I've often thought about just trying
13 to get the legislation changed because it makes no
14 sense to do that, especially when it's more
15 difficult, the burden of proof is higher.

16 I think for tonight's hearing, I
17 believe it was Mr. Ditzkas who had a witness that he
18 was going to present. And I think we should proceed
19 with that, unless the Board has another issue.

20 CHAIRMAN GUERRA: Mr. Malagiere, you
21 wanted to address the whole subpoena issue?

22 MR. MALAGIERE: I'd like the -- while
23 you're there, Mr. Basralian, characterize some of the
24 events that have transpired between the last hearing
25 and this.

1 At the last hearing, I believe --
2 Counsel, why don't you make your appearances so we
3 have everybody on the record.

4 MR. DIKTAS: Good evening, Mr.
5 Chairman, Members of the Board, Christos Diktas on
6 behalf of Anastasia Burluk.

7 MR. MOSKOWITZ: Good evening Members of
8 the Board, Counsel, Ted Moskowitz of McCarter &
9 English, Counsel to the Prospect Avenue Coalition,
10 and on behalf of Sandra, my wife and I, owners of the
11 unit in Baridge House.

12 MR. MALAGIERE: Thank you, Counsel.
13 What had happened last time was the Mr.
14 Diktas' firm made an application to suppress the
15 report of Mr. Keller and to -- well, strike the
16 report and suppress Mr. Keller's testimony based upon
17 an argument that his testimony was based upon
18 inadmissible hearsay.

19 I asked Mr. Diktas to provide us with
20 some briefing on that issue and he was good enough to
21 do that.

22 Mr. Basralian provided briefing on the
23 issue as well.

24 And we've decided, and my office issued
25 a letter, of course, Mr. Chairman, you were copied on

1 that letter, which sided with Mr. Basralian and
2 denied Mr. Diktas' application.

3 So Mr. Diktas is of course free to
4 appeal that in any way he deems appropriate or to
5 seek review of that at a later time, but that's --
6 that's the opinion that we offered.

7 And with the Chairman's province we
8 issued that opinion on the ruling.

9 Mr. Diktas?

10 MR. DIKTAS: I just want to be heard
11 for a minute on that.

12 I accept the ruling of Counsel, of
13 course, for the evening. And just for the record
14 that we take exception to that ruling.

15 I've litigated that issue two times in
16 the Superior Court in Essex County Chancery and I was
17 successful. And I want to put that on the record.
18 And if we are to proceed to a prerogative writ I
19 reserve my right to move that motion either
20 immediately or prior to -- pursuant to the case
21 management order to address by the Court whether or
22 not Mr. Keller's report and testimony arising from
23 the compound hearsay should be excluded.

24 Thank you, Mr. Chairman.

25 MR. MALAGIERE: And that is perfectly

1 appropriate.

2 Thank you, Mr. Diktas.

3 Now, also the Chairman issued a
4 subpoena to Mr. Keller, the traffic expert, to
5 produce documents, these notes and so forth incident
6 to his opinion and testimony here.

7 Mr. Basralian produced, on behalf of
8 his client and his client's expert Mr. Keller, a body
9 of notes, some of them in redacted form, crossed out,
10 arguing and taking a position that those documents
11 were protected by the attorney/client privilege and,
12 therefore, not discoverable and to be used in the
13 hearing.

14 What we've worked out with Mr.
15 Basralian, with his cooperation, is that we would
16 have Mr. Basralian provide these redacted notes in
17 unredacted form, clean, to a retired judge, Judge
18 Gerald Escala who is at the Herten Burstein firm here
19 in Hackensack. And we would share the cost between
20 the Board and Mr. Basralian for the Judge's time in
21 analyzing these purported privileged excerpts and
22 making a determination, which would be binding and
23 unappealable on all of us, as to whether or not the
24 privilege attaches to all of what Mr. Basralian
25 suggests it's attached to or to a portion or none of

1 it. And that's -- that's where we stand. And we're
2 going to go about the process of doing that so we can
3 resolve that issue. And I think it's appropriate
4 while that's, if you will, cooking, to allow Mr.
5 Basralian to call anyone else he'd like to call. I
6 don't -- I don't think he has any more witnesses.
7 And if he does not, to allow Objector Counsel to call
8 whatever witnesses they may deem appropriate.

9 Mr. Basralian?

10 MR. BASRALIAN: Yes, and when I was
11 listening to you I lost my train of thought.

12 MR. MALAGIERE: Because I was so
13 soothing.

14 MR. BASRALIAN: Yes. Exactly and
15 you've been soothing through now 18 years.

16 For the record, however I do recall
17 what I wanted to say and that since we've complied
18 with the terms of the subpoena, Mr. Keller who is
19 still recuperating from rather serious surgery, will
20 not present himself on March 17th. We have provided
21 the information, other than what we deem as
22 privileged and that will be resolved by the procedure
23 that was just outlined.

24 My witnesses I have are - I would
25 reserve for rebuttal. I think it's appropriate to

1 move forward for any Objector's witnesses or
2 arguments.

3 MR. MALAGIERE: Thank you.

4 Of course, Mr. Basralian and I
5 discussed, and with the Chairman's edict we agreed
6 that Mr. Keller, who is recovering from a medical
7 procedure would not be here today, because it doesn't
8 make sense for him to be here today, especially if
9 he's convalescing. And also because we don't have
10 the documents that we need.

11 But the Board does reserve the right to
12 require his attendance at a future hearing after
13 Judge Escala makes his determination as to what is
14 allowable to be used to cross examine him further.

15 CHAIRMAN GUERRA: What is March 17th?

16 MR. MALAGIERE: March 17th was a
17 misdate issued by my office. The subpoena should
18 have said today.

19 CHAIRMAN GUERRA: Oh, okay.

20 MR. MALAGIERE: And we, unfortunately,
21 in error, directed the subpoena to Mr. Keller with
22 the wrong date.

23 We, of course, advised Mr. Basralian
24 immediately in correspondence that was a typo.

25 CHAIRMAN GUERRA: Okay.

1 MR. MALAGIERE: So March 17th was an
2 error date. It should have been for this evening.

3 But once we got that straight then Joe
4 said to me: "Look, the guy is sick. He's
5 convalescing and you don' have the documents anyway".

6 So, of course, he not going to be here
7 tonight.

8 MR. BASRALIAN: Yes, and he's really
9 unable to be here.

10 MR. MALAGIERE: Right.

11 MR. BASRALIAN: Okay.

12 MR. MALAGIERE: Okay?

13 MR. BASRALIAN: Sure.

14 That's it procedurally, other than what
15 I have at the end of the case to argue, so I think we
16 should proceed.

17 MR. MALAGIERE: Okay.

18 Mr. Diktas, do you have a witness you
19 would like to call, sir?

20 MR. DIKTAS: Yes, but does Mr.
21 Moskowitz have anything before I --

22 MR. MALAGIERE: Gentlemen, at your
23 pleasure.

24 MR. DIKTAS: Ted, do you have anything
25 before I take the stand for an hour or so.

1 MR. MOSKOWITZ: No.

2 MR. MALAGIERE: We're not going to
3 entertain any more colloquy just witnesses.

4 Thank you.

5 MR. MOSKOWITZ: I think that accurately
6 reflects everything that I agree to.

7 MR. MALAGIERE: In a soothing manner.
8 I appreciate that.

9 Thank you.

10 All right, sir, we're going to swear
11 you in if you don't mind.

12 Do you swear the testimony you're about
13 to give before this Board to be the truth, the whole
14 truth and nothing but the truth, so help you God?

15 MR. LACZ: Yes, I do.

16 S T A N L A C Z,

17 53 Notch Road, Woodland Park, New Jersey, having
18 been duly sworn, testifies as follows:

19 MR. MALAGIERE: Could you please
20 identify yourself for the record, indicate the
21 capacity in which you will offer testimony and give
22 us a business address, sir.

23 MR. LACZ: My name is Stan S-t-a-n,
24 last name Lacz, L-a-c as in cat -z as in zebra.
25 Architect, engineer, planner, 53 Notch Road, Woodland

1 Park, New Jersey.

2 MR. MALAGIERE: Okay. Mr. Lacz,
3 welcome. I'm going to ask you to just get close to
4 that microphone, whatever one you want to use and,
5 Chris, why don't you use that one so that Mr. Nix can
6 hear.

7 And just really speak up, sir, so that
8 we don't -- we have no issues with regard to that,
9 with people not hearing.

10 Thank you so much.

11 CHAIRMAN GUERRA: He's testifying as?

12 MR. DIKTAS: I'm going to qualify him.

13 CHAIRMAN GUERRA: All right.

14 MR. DIKTAS: He has three degrees. So
15 it's one stop for Mr. Lacz.

16 DIRECT EXAMINATION

17 BY MR. DIKTAS:

18 Q. Mr. Lacz, you've been sworn in this
19 evening as an expert; is that correct?

20 A. Yes.

21 Q. First of all, are you a licensed
22 architect in the State of New Jersey?

23 A. Yes, I was licensed in 1964 in New
24 Jersey as an architect. Also --

25 Q. Where did you attend school?

1 A. I went to the University of Notre Dame.
2 I graduated in 1960 with a bachelor in architecture.

3 Q. And you've been licensed in the State
4 of New Jersey as an the architect.

5 Are you licensed in any other state as
6 an architect?

7 A. I have other -- I have national
8 certification NCRAB in architecture.

9 Q. Are you also a licensed engineer in the
10 State of New Jersey?

11 A. Yes, I received a license in 1965.

12 Q. And your curriculum vitae indicates
13 that you're a licensed planner; is that correct?

14 A. That's correct. Yes.

15 Q. And what year did you get your planning
16 license?

17 A. 1967.

18 Q. Now many planners have the planning
19 license as ancillary to their architectural license,
20 is that you or did you sit for the planning exam?

21 A. No. I've got my -- at the time I got
22 my license by application.

23 Q. Thank you.

24 Have you had an opportunity to testify
25 in the state or federal courts in the State of New

1 Jersey or other states?

2 A. Yes, I have.

3 Q. And what counties have you testified in
4 New Jersey?

5 A. Oh, I have testified before planning
6 boards and boards of adjustment throughout New
7 Jersey.

8 Q. Follow my question. My question is
9 have you testified before state courts or federal
10 counts in the State of New Jersey or any other state?

11 A. Yes.

12 Q. What state courts have you -- counties
13 have you testified in?

14 A. I've testified in Passaic, Bergen,
15 Morris, Hunterdon, with regard to planning matters.

16 Q. Have you testified before planning
17 boards or zoning boards in the State of New Jersey?

18 A. Yes.

19 Q. And what towns have you testified
20 either before the board of adjustment or the planning
21 board?

22 A. I've testified as a consultant for
23 planning boards. I was the planner/advisor to Little
24 Falls, Verona, Wanaque and Stafford Township in New
25 Jersey. As a member of the -- as a consultant to the

1 board.

2 Q. Have you had an opportunity to work on
3 high-rise zoning projects in the State?

4 A. Yes, I've done studies for Woodland
5 Park, West Paterson, New Jersey where Route 80 exits
6 there, you see all the high-rise buildings.

7 Also in Little Falls, you see a large
8 building with a green roof. I did the -- assisted
9 the community with their zoning. And I worked on
10 high-rise projects before.

11 MR. DIKTAS: Before I take Mr. Lacz any
12 further, I would like to move him as a licensed
13 architect, licensed engineer and licensed planner of
14 the State of New Jersey.

15 I'll open it up for --

16 MR. BASRALIAN: Excuse me, I didn't
17 hear him testify that he was a licensed engineer of
18 the State of New Jersey. He said architect and
19 planner.

20 MR. DIKTAS: I'll do it again.

21 MR. BASRALIAN: Okay. I didn't hear
22 any of that.

23 MR. DIKTAS: That's okay.

24 BY MR. DIKTAS:

25 Q. Are you a licensed engineer of State of

1 New Jersey?

2 A. Yes, I am.

3 MR. MALAGIERE: Mr. Lacz, I have to ask
4 you to just put that microphone right up there and
5 just really -- just project if you could, it's
6 important.

7 Thank you, sir. I appreciate that.

8 THE WITNESS: I'm sorry.

9 MR. MALAGIERE: No, no, don't
10 apologize.

11 Thank you.

12 A. Yeah, I'm licensed as an engineer in
13 1965.

14 In fact, I was the municipal engineer
15 for Stafford Township.

16 MR. BASRALIAN: Yes. I would like the
17 opportunity on voir dire to question Mr. Lacz.

18 VOIR DIRE EXAMINATION

19 BY MR. BASRALIAN:

20 Q. Am I pronouncing your name right, Lacz?

21 A. Lacz.

22 Q. Lacz, I apologize.

23 A. Forget the "c".

24 Q. It's nice to formally meet you after
25 seeing you at so many hearings over the course of

1 this application.

2 You indicated that you're a licensed
3 planner of the State of New Jersey, correct?

4 A. Yes, I have been licensed.

5 Q. Well, according to the State Division
6 of Community Affairs your license expired last year
7 and has not been renewed as of today.

8 Are you aware of that?

9 A. No, I'm not. But it really didn't
10 matter because --

11 Q. Excuse me. You indicated that you're a
12 licensed engineer.

13 A. Can I finish?

14 Q. No.

15 MR. MALAGIERE: No, Mr. Lacz, answer
16 his questions and your attorney will be able to
17 redirect you so --

18 THE WITNESS: I'm sorry.

19 MR. MALAGIERE: That's okay.

20 Thank you.

21 Q. Are you currently -- has your licensed
22 lapsed as a planner in the State of New Jersey?

23 A. I can't answer that question.

24 Q. Well, let me show --

25 MR. BASRALIAN: And I have a copy for

1 you if you wish.

2 MR. DIKTAS: I do wish.

3 Q. That the State indicates that your
4 licensed lapsed and expired on May 31st, 2010?

5 MR. DIKTAS: Thank you.

6 MR. MALAGIERE: Do you want to mark it,
7 Joe?

8 MR. BASRALIAN: Sure.

9 I don't know what number we're up to.

10 MR. MALAGIERE: We'll call it
11 Applicant's one with today's date because you want it
12 in the file, right. Joe?

13 MR. BASRALIAN: Yes, I do.

14 MR. MALAGIERE: Applicant's one, 3/03
15 2011.

16 I'll hold on to it and make sure it
17 gets in the file.

18 MR. BASRALIAN: Thank you.

19 (Whereupon, Division of Community
20 Affairs Planner License Search is received and
21 marked as Exhibit A-1 for Identification.)

22 CHAIRMAN GUERRA: Rich, that was his
23 planning license or architect?

24 MR. MALAGIERE: Planner.

25 CHAIRMAN GUERRA: Planner. Thank you.

1 MR. BASRALIAN: Would you just give me
2 the citation how you marked it so I can --

3 MR. MALAGIERE: We marked it as A-1
4 3/03 2011.

5 MR. BASRALIAN: Thank you.

6 BY MR. BASRALIAN:

7 Q. You also testified that you're a
8 licensed engineer of the State of New Jersey?

9 A. Yes.

10 Q. Well, I've got some bad news for you
11 because you're no longer licensed. Your license
12 expired on April 30, 2010, according to the
13 Department of Community Affairs as of today.

14 So you're no longer licensed in the
15 State of New Jersey as an engineer.

16 So I presume that means that you could
17 not submit plans as an engineer sealed by you and
18 signed by you as a licensed engineer?

19 A. That's correct, but I can --

20 Q. Excuse me.

21 A. I can give testimony here.

22 Q. But that's not the question I asked. I
23 asked you are you -- is it correct that you could not
24 submit plans as a licensed engineer in the State of
25 New Jersey today?

1 A. That's correct, if that is so.

2 Q. Well, likewise, you could not submit a
3 report to any board, a planning report as a licensed
4 planner of the State of New Jersey as of today.

5 A. That's incorrect.

6 Q. Well, I said as a licensed planner of
7 the State of New Jersey. You're no longer a licensed
8 planner of the State of New Jersey.

9 A. But I still can give expert testimony.

10 Q. That's not the question. The question
11 is -- and it's not a tricky one. You -- is it so
12 that you could -- is it not so -- is it not so that
13 you could not submit a planning report today as a
14 licensed engineer of the State of New Jersey. That
15 is today, you could not do that?

16 A. I cannot submit a planning report.

17 Q. As a licensed planner of the State of
18 New Jersey?

19 A. If that is so, yes.

20 MR. BASRALIAN: Well, I'd like to
21 submit this to the Board. And you can mark it
22 accordingly. I have I one for you as well?

23 MR. MALAGIERE: A-2 with today's date.
24 Department of Law and Public Safety, Division of
25 Consumer Affairs, Professional License Type Engineers

1 and Land Surveyors Professional Engineers.

2 MR. BASRALIAN: What are you going to
3 use this?

4 MR. MALAGIERE: A-2, 3/03 2011.

5 MR. BASRALIAN: Thank you.

6 (Whereupon, Division of Community
7 Affairs Engineer License Search is received
8 and marked as Exhibit A-2 for Identification.)

9 CHAIRMAN GUERRA: As an architect?

10 Q. Well, there is good news because your
11 license by Division of Community Affairs as an
12 architect is still active.

13 You indicated that you had represented
14 a number municipalities. So let's go as a
15 professional planner, but not a licensed professional
16 planner --

17 MR. DIKTAS: Objection to the question.
18 What date was the question referenced to?

19 MR. BASRALIAN: Well, I'm going to get
20 to it.

21 MR. DIKTAS: Well, let me finish my
22 objection, Mr. Basralian.

23 MR. BASRALIAN: I didn't get to the end
24 of the question, though.

25 MR. DIKTAS: Well, the way you phrased

1 the question he testifies in the past so then
2 rephrase your question as to the point of the
3 expiration to the future. So the issue of your
4 question should be within the time period of May 31,
5 2010 to March 3, 2011.

6 So if you question's within that
7 parameter, that's fine. If it's not then I object to
8 it.

9 MR. BASRALIAN: Well, you can object
10 and I'm going to ask my question. The Board will
11 rule on it.

12 Q. You indicated in the questions asked by
13 Mr. Diktas that you were a licensed planner of the
14 State of New Jersey. And whether it is from 1964,
15 when you indicated that you received your license by
16 way of application rather than as a planner with a
17 planning degree, you indicated that you had testified
18 before numerous boards, et cetera, as a planner.

19 When was the last time you testified
20 before a board as a planner, a licensed planner?

21 A. Last year.

22 Q. What board was that before?

23 A. I don't know.

24 Q. Did you testify as a planner for the
25 applicant or as a planner for the objector?

1 A. As a planner, giving testimony as a
2 planner.

3 Q. But on behalf of an objector or an
4 applicant?

5 A. That had to be an applicant.

6 Q. Thank you.

7 Have you ever testified as a planner on
8 behalf of an objector?

9 A. Yes.

10 Q. What -- when was that and in what
11 matter?

12 A. Oh, I've been doing for it for
13 45 years, many times.

14 Q. Would you say that you testified more
15 as a planner on behalf of an objector or more as a
16 planner on behalf of an applicant?

17 MR. DIKTAS: Objection, relevancy.

18 MR. BASRALIAN: Well, I think it's
19 relevant.

20 MR. MALAGIERE: Mr. Chairman, you
21 should allow the question.

22 CHAIRMAN GUERRA: We are going to allow
23 the question. Keep going.

24 A. Over the period of year it depends,
25 sometimes for the applicant more so, sometimes for

1 interested parties, sometimes as representative of
2 the community. Different times, at different
3 percentages.

4 Q. That's not really responsive. It's
5 your history and you know what you've done.

6 Would you say it's 50 percent of the
7 time for an objector and 50 percent of the time
8 for --

9 A. Well, if you give me a specific period.
10 I can't remember way back 40 years.

11 But I'd say offhand, if I should add
12 all the years of testifying, I would say maybe 50
13 percent for applicants and 50 percent for interested
14 parties.

15 Q. Thank you. I appreciate that.

16 You also testified on behalf of what
17 ultimately was an objector, if you will, in Saratoga
18 versus Borough of West Paterson wherein Saratoga and
19 the City of Clifton were objecting to a zoning
20 ordinance adopted by the City of West Paterson in
21 2005.

22 And the case was in 2006, is that not
23 the case?

24 A. Yes.

25 Q. Thank you.

1 You indicated you had prepared Master
2 Plans. What was the last Master Plan that you
3 prepared?

4 A. Oh, I don't recollect what community I
5 was working in.

6 Q. How about Little Falls? I think that
7 was one of them?

8 A. I think Dumont -- Dumont was the last
9 one, six years ago I was working with Dumont.

10 Q. Well, you say you were working with
11 Dumont. Did you prepare the Master Plan?

12 A. I was working on that Master Plan with
13 the community, yes.

14 Q. Did you prepare a Master Plan for the
15 community?

16 A. Yes.

17 Q. You indicated you were working with it,
18 did you prepare it?

19 A. Yes. But the Master Plan is really
20 prepared by the planning board, the planner is an
21 assistant to the planning board.

22 Q. All right. Did you assist the planning
23 board of the Borough of Dumont in its adoption of a
24 Master Plan based upon the consultation services you
25 provided?

1 A. Yes.

2 Q. Thank you.

3 How about Little Falls, you mentioned
4 that as one of the municipalities that you had
5 represented.

6 A. Yes.

7 Q. How long ago was that?

8 A. Oh, maybe 15 years ago.

9 Q. You also indicated one other
10 municipality, I can't recall the name now?

11 FEMALE AUDIENCE MEMBER: We can't hear
12 you.

13 Q. I said you also indicated --

14 MR. MALAGIERE: Mr. Basralian, we're
15 going to need you to -- you know what may help, Mr.
16 Lacz, if you step back a little bit you'll project
17 more. You're both on top of each other, so if you
18 could just back up towards the young lady it'll help
19 us out a little bit and keep the microphone.

20 THE WITNESS: Sure.

21 MR. MALAGIERE: Thanks so much.

22 Q. You indicated one other municipality
23 and I can't recall what it was, we now hit Dumont and
24 -- and Little Falls.

25 Was there another municipality that you

1 -- you prepared to Master Plan for or consulted with
2 their planning board which adopted the Master Plan.

3 A. Northvale.

4 Q. How long ago was that?

5 A. Oh, maybe 20 years ago.

6 Q. Thank you.

7 Did you all prepare, in your capacity
8 as a consultant to planning boards, various zoning
9 ordinances other than the one you referred to for the
10 high-rise, which I'll get to, in one of the
11 municipalities you just mentioned, I guess it was
12 Clifton high-rise zone, any other town that you did
13 the ordinance work --

14 A. No, I think what I said was Woodland
15 Park --

16 Q. Woodland Park?

17 A. -- that's the past West Paterson.

18 Q. I'm sorry. Woodland Park.

19 A. And also Little Falls.

20 Q. Thank you.

21 In the case of Saratoga versus the West
22 Paterson case, you were representing Saratoga and the
23 Borough -- the City of Clifton just indicated that
24 you also did the zoning ordinances for Woodland Park
25 then known as West Paterson?

1 A. Yes.

2 Q. The same time period?

3 A. No. It was -- the high-rise section
4 where the office buildings are all built already,
5 that was maybe 30 years ago.

6 Q. So some 24, 25 years later you then
7 represented an opposition to Woodland Park's position
8 on whatever zoning ordinance it was adopting?

9 A. Yes. Yes, I've also had occasion to
10 litigate against West Paterson or Woodland Park. And
11 I eliminated probably 50 percent of their zoning
12 ordinance.

13 Q. Very good. That wasn't the question,
14 but I don't object to your answer.

15 You also indicated that you
16 represented, I believe, some counties as a planner or
17 as a consultant?

18 A. I don't have any counties listed.

19 Q. No, I thought that's what you
20 indicated, if I am incorrect then I withdraw the
21 question.

22 You indicated, again, if you had gotten
23 your planner's license by -- by application. Prior
24 to that application, did you receive -- did you
25 attend college or university with specific planning

1 courses in mind as a condition precedent for your
2 application by waiver, if you will, for the planner's
3 license?

4 A. I don't understand the question.

5 Q. Did you take specific courses as a
6 planner, planning courses, prior to your application
7 for and receipt of a planner's license in 1964?

8 A. Yes.

9 Q. What courses were they?

10 A. That was in University of Notre Dame
11 when I took design courses for four years involving
12 architecture as well as planning.

13 Q. But you indicated you degree is in
14 architecture, so what I would presume be correctly
15 presumed that the majority of your cases were with
16 respect to your degree in architecture -- the
17 majority of your courses rather?

18 A. At the time there were very few
19 universities that offered planning degrees.

20 Q. Fine. Thank you. I won't pursue it.
21 Ou also --

22 A. It was included in the architecture
23 degree.

24 Q. Am I correct in interpreting your
25 response to my question as to what planning boards

1 you represented that you were a consultant for
2 planning boards rather than the person who drafted
3 the Master Plan?

4 A. In occasions I was both and sometimes I
5 was the consultant to the planning board and boards
6 of adjustment.

7 Q. Okay. As a consultant you were there
8 as their expert or as a consultant you would sit here
9 as Mr. Polyniak does as a planner and --

10 A. Yes.

11 Q. -- attend meetings on behalf of the
12 board and write reports?

13 A. That's correct.

14 Q. Thank you.

15 At the same time you were also
16 appearing as an objector for other clients?

17 A. Yes.

18 Q. Thank you.

19 You indicated also you were an
20 engineer, although not a licensed engineer at this
21 particular time.

22 Were you a civil engineer?

23 A. The license includes all engineering.
24 The engineering I practiced, if I answer the
25 question, includes that related to architecture,

1 which includes: Structure, heat and ventilation, air
2 conditioning, plumbing, sprinkler systems, fire
3 sprinklers; includes site plan development,
4 horizontal and vertical control, entrance and exits.

5 Q. This is an as engineer, rather than as
6 an architect?

7 A. Yes.

8 Q. Aren't there various specialities
9 within engineering since everybody is a P.E., such as
10 structural engineer or geotechnical engineer and that
11 those lines are rarely crossed going into the
12 professions in terms of preparation of plans?

13 A. I don't understand your question.

14 Q. Well, there are number of disciplines
15 in professional engineering, civil engineering being
16 one of them, geotechnical being another, structural
17 being another.

18 And aren't those lines rarely crossed
19 by engineers since they tend to focus in a particular
20 specificity. Structural engineers on that aspect of
21 it. Geotechnical engineer on geotechnical issues.
22 Civil engineers on site plan, drainage, et cetera.

23 A. I think the -- the -- if I could answer
24 your question properly, the engineers very often go
25 into different parts of it.

1 So in other words the structural
2 engineer very often will go into plumbing or plumbing
3 engineer will go into heating, ventilate and air
4 conditioning or go into electrical.

5 And the line is not very specific as
6 you're trying to -- as your question appears to be.

7 Q. Well, what you're saying then, I guess,
8 is that an engineer you undertook civil engineering,
9 structural engineering, geotechnical engineering?

10 A. I didn't see geotechnical.

11 Q. Well, you said the lines are rarely
12 crossed. So you didn't do geotechnical engineering?

13 A. No, I didn't say that. I did
14 electrical. I -- it related to buildings. I did
15 plumbing related to buildings. I did structural
16 related to buildings. Sprinklers related to
17 buildings. The site work was related to buildings.

18 Q. Did you ever do structural engineering
19 on a 19 story building with five levels of
20 underground parking as is proposed by the Applicant
21 in this matter?

22 A. I -- the highest building, I would say,
23 was as tall as the building that is proposed here.

24 Q. When was that?

25 A. That was a concrete mixed -- that plant

1 was for pipe -- concrete pipe in southern New Jersey
2 in Folsom.

3 Q. Well, that wasn't -- it doesn't seem to
4 me is a building of the type that is the subject
5 of --

6 MR. DIKTAS: Objection. Badgering the
7 witness.

8 MR. BASRALIAN: I don't think I'm
9 badgering the witness. I asked the question if he
10 designed a building similar to this --

11 MR. DIKTAS: Asked and answered.

12 MR. BASRALIAN: No, he said he designed
13 a building as high which was some type of the pipe --

14 Q. And maybe you can describe the
15 distinction between the application here and what you
16 designed and that would help everybody?

17 A. The plant made concrete pipe. That is
18 probably as high or higher than this particular
19 building in the application.

20 Q. The entire plant was 19 stories high or
21 202 --

22 A. Yes.

23 Q. -- 202 feet?

24 A. Yes.

25 Q. Did it contain the kinds of facilities,

1 offices, medical facilities and the like, as
2 described in the application before the Board?

3 A. Probably had heavier loads because it
4 had old aggregate and -- and cement powder and high
5 open portions of the building.

6 So probably it had greater loads,
7 weight-wise than this particular building.

8 Q. Where is this building located?

9 A. This -- this is in Folsom down in
10 central Jersey.

11 Q. And how long ago was that?

12 A. I would say maybe 30 years ago.

13 Q. Is it still there?

14 A. I don't know.

15 Q. Could you please -- just curious?

16 A. Yeah.

17 MR. RODRIGUEZ: Could you please keep
18 your voice up?

19 THE WITNESS: I'm sorry.

20 Q. You also --

21 MR. RODRIGUEZ: Thank you.

22 Q. In you're architectural background you
23 also indicated you are a member of a national
24 architectural --

25 A. Yes, national license, yes, NCRAB.

1 Q. Does that permit to you practice
2 architecture in every state of the Union?

3 A. No. What it does is use it for
4 reciprocity when you're getting your license.

5 Q. So you have to waive in, but based upon
6 a prior application, for example, in the State of New
7 Jersey?

8 A. Yes.

9 Q. Thank you.

10 There is some history that you were
11 also associated with the firm named AEP Associates
12 Inc.

13 Was that your company?

14 A. Yes.

15 Q. I assume that it stands for architect
16 engineer and planner?

17 A. Yes.

18 Q. And is that company still in business?

19 A. Yes.

20 Q. Thank you.

21 According to the HighBeam business
22 reports there is a description of the services you
23 provide. And I show you this and I have a copy for
24 the Board and for your attorney, asking you whether
25 you or an employee of your's prepared this?

1 MR. DIKTAS: Can I see it, Mr.
2 Basralian.

3 MR. BASRALIAN: Sure.
4 You want to mark it?

5 A. I've never seen this.

6 Q. So it wasn't prepared by you or an
7 employee of your's?

8 A. No, I've never seen it.

9 Q. Okay.

10 A. No.

11 Q. All right. Well, look it over. Are
12 these the service that AEP Associates Inc. provided?

13 MR. DIKTAS: I'm going to object to
14 this line of questioning, Mr. Lacz has indicated he's
15 never seen -- this seems like some kind of trade
16 magazine. He testified he's never seen it before.

17 Now Mr. Basralian is attempting to
18 elicit testimony based on a magazine, some type of
19 trade, professional publication.

20 MR. BASRALIAN: No, that's not what I
21 asked him. I asked him if he's ever --

22 MR. MALAGIERE: Wait a minute.

23 Mr. Chairman, I just think we should
24 allow the cross examination. In the redirect it will
25 either become relevant or not relevant pretty quick.

1 CHAIRMAN GUERRA: Yes.

2 Q. Well, let me read the services that it
3 states --

4 A. Okay.

5 Q. -- and you tell me if you don't provide
6 -- if you never provided any of those or never held
7 yourself out as providing those.

8 A. Okay.

9 Q. It's says "provides comprehensive
10 professional service in the following areas:
11 Architectural and building, programming, cost
12 analysis, construction documents, construction
13 inspection, interior design".

14 A. No.

15 Q. Okay. "Landscape architecture"?

16 A. Relative to a site plan, yes.

17 Q. "Engineering site plans"?

18 A. Yes.

19 Q. "Energy studies"?

20 A. I have done energy studies, yes.

21 Q. "Storm drainage"?

22 A. Yes.

23 Q. "Foundations"?

24 A. Yes.

25 Q. "Structures"?

1 A. Yes.

2 Q. "Plumbing and water supply"?

3 A. Yes.

4 Q. I think you already said "heating and
5 air conditioning"?

6 A. Yes.

7 Q. How about "electrical lighting"?

8 A. Yes.

9 Q. "Land subdivision" which would go with
10 the engineering, I presume?

11 A. I've done subdivisions, yes.

12 Q. "Master Plan studies" you've indicated
13 you did.

14 A. Yes.

15 Q. "Zoning ordinances"?

16 A. Yes.

17 Q. "Application to government agencies"?

18 A. Yes.

19 Q. In what form?

20 A. Buildings permits, all different kind
21 of permits or -- or information needed for different
22 kinds of zoning boards, planning boards, building
23 permits, county approvals, Department of
24 Environmental Protection, septic systems.

25 Q. So then a government approval such as a

1 stream encroachment and wetlands would fall within
2 your province as well?

3 A. Yes, I have done some stream
4 encroachment permits. Yes.

5 Q. How many might you have done?

6 A. Over the period of years maybe 10, 15.

7 Q. It also indicates that you have -- your
8 clients include leading corporations; is that a
9 correct statement?

10 A. Yes.

11 Q. What kind of corporations perhaps?

12 A. Oh, it's a long list. I would have to
13 get them together for you.

14 Q. County, state and federal governments?

15 A. Yes.

16 Q. Have you represented --

17 A. Yes, I've -- I've done work with local,
18 counties and federal agencies. Yes.

19 Q. What federal agencies?

20 A. I worked with the United States Post
21 Office. They're considered a federal agency.

22 Q. Was that in conjunction with
23 architectural design, planning or engineering?

24 A. That was in cooperation of architecture
25 and engineering.

1 Q. What kind of work did you do
2 specifically?

3 A. Renovations of post offices.

4 Q. Education and educational projects?

5 A. Yes.

6 Q. Schools?

7 A. Yes.

8 Q. And homeowners?

9 A. You mean homes.

10 Q. Homes?

11 A. Residence, multifamily and single
12 family, yes.

13 Q. Does that include home inspections?

14 A. Yes. I've done home inspections.

15 Q. Are you still doing home inspections?

16 A. No.

17 Q. Do you have -- you have to be licensed
18 as a home inspector, do you know that?

19 A. I think you do, yes.

20 Q. So, presumably, you don't have that
21 license now?

22 A. I could do home inspections as an
23 architect/engineer.

24 Q. Well, as a licensed architect but not
25 as a licensed engineer?

1 CHAIRMAN GUERRA: We established that.
2 Please keep going.

3 Q. Have you been consistently engaged in
4 the profession of architect and engineer and planner
5 since the initial time your licenses were issued in
6 the State of New Jersey?

7 A. Yes.

8 Q. And you continue to be to this day?

9 A. Yes.

10 Q. You said you're still associated with
11 an AEP. I presume you're the principal?

12 A. Yes.

13 Q. How many other employee do you you
14 have?

15 A. I'm the only employee --

16 Q. Thank you.

17 A. -- Right now, presently.

18 Q. Thank you.

19 Do you intend to hire someone? It
20 might help the economy.

21 A. If the -- if there's more money out
22 there available, we certainly will have more people.
23 I've had as many as ten.

24 Q. On your engineering license, did you
25 waive in as well with that because you were an

1 architect?

2 Did you waive in or did you get an
3 application, did you become an engineer?

4 A. No, no, I took the exam.

5 Q. Okay. Did you take specific
6 engineering courses as part of your course of study?

7 A. Yes, I lot of the engineering courses
8 instead of the architectural, say, structures, I took
9 the engineering structure.

10 Q. Thank you.

11 A. I took -- the particular part of the
12 engineering I took was civil engineering.

13 Q. And as an architect have you ever
14 appeared on behalf of an applicant or an objector?

15 A. Yes.

16 And you mean before a board of
17 adjustment?

18 Q. Before any board, whether it's a board
19 of adjustment or a planning board or any other board?

20 A. Yes. Yes, or construction board,
21 county appeals board. Yes, I have.

22 Q. So you've been retained by applicants
23 on behalf of them where you designed the project or
24 you're testifying on their behalf and you've also
25 appeared as an objector to a design or some

1 architectural plan before a governmental body?

2 A. Yes.

3 Q. Do you currently represent a
4 municipality planning board, board of adjustment,
5 county agency, state agency or federal agency, as a
6 consultant, as a planner --

7 A. No.

8 Q. -- or an architect or an engineer?

9 A. I'm sorry. No.

10 Q. Thank you.

11 Over the course if you can remember your
12 -- your career can you recall how many engineering
13 plans you might have prepared?

14 A. Thousands.

15 Q. And architectural plans.

16 A. Same amount, thousands.

17 Q. For commercial structures?

18 A. Yes, many.

19 Q. And how about for buildings similar to
20 this other than the one we just talked about in South
21 Jersey. Have you ever designed any structures of
22 this type that's before the Board today?

23 A. No, I've been up -- I have not been the
24 professional of record on buildings such as this.

25 Q. In one of the matters you testified in

1 in Bernardsville in 2000, I think you were referred
2 to as an historic engineer -- a historic architect.

3 Could you tell me what that term means?

4 MR. DIKTAS: I'm going to object.

5 There's been no foundation to say one of the towns is
6 Bernardsville --

7 MR. BASRALIAN: Well, I'll be very
8 specific. Okay. Okay.

9 MR. DIKTAS: There was no testimony.

10 MR. BASRALIAN: I'll be very specific.

11 Q. In Bernards Township in the matter of
12 the application of Passaic River Coalition, the
13 Estate of Carolyn Lahoff-Gerhard in 2006.

14 A. Yes.

15 Q. You testified as an historic engineer
16 -- I'm sure -- an historic architect?

17 A. Yes.

18 Q. Can you tell me what that term means?

19 A. Well...

20 Q. It's not a trick question. I just
21 don't know.

22 A. Well, I -- I was president of the
23 Passaic County Historical Society. I'm president --
24 I was president and I'm presently a trustee of the
25 Great Falls in Paterson. I'm listed on the

1 Department of Environmental Protection as an historic
2 architect, historical architect.

3 Q. I'm still not quite sure I know what
4 that means.

5 Does that mean that you work on
6 historic buildings for their preservation as an
7 architect rather than as a trustee of an organization
8 that does this --

9 A. That's correct. I have done historic
10 buildings --

11 Q. And you --

12 A. -- for renovation and in preservation.

13 Q. And in the Bernardsville case I just
14 referred to, you then testified as an historic
15 architect?

16 A. It was not Bernardsville. I think that
17 was in --

18 Q. Bernards -- I'm sorry -- Bernards
19 Township, I apologize?

20 A. I think that is in Morristown.

21 Q. Well, it's the application of Pascack
22 Valley Coalition and it's before the Bernards
23 Township --

24 A. That was another one, yes.

25 Q. -- board of adjustment?

1 A. Yes.

2 Q. October 12, 2006, perhaps you recall?

3 A. Okay. Yes, I also testified in
4 Morristown for -- for --

5 Q. But you do recall testifying as an
6 historic architect --

7 A. Yes.

8 Q. -- in that matter?

9 A. Yes.

10 Q. And that is because it was a historic
11 building?

12 A. Yes, that particular deal fell through,
13 though.

14 Q. As so many do.

15 Just give a me a minute to check my
16 notes. (Pause).

17 Just a few more questions.

18 Have you testified -- I withdraw the
19 question. Never mind.

20 Just a few more questions remain, have
21 you written any treatises with respect to
22 architecture, engineering, planning relating to those
23 subjects for general publication and circulation?

24 A. No.

25 Q. The last of the questions, you

1 indicated that you applied to governmental
2 authorities for stream encroachment permits and
3 wetlands permits, I think you said?

4 A. Yes.

5 Q. When was the last time you did an
6 application in conjunction with someone you
7 represented for those permits?

8 A. Oh, maybe ten years ago.

9 MR. BASRALIAN: Thank you.

10 Mr. Chairman, I don't have any further
11 questions.

12 I think it's clearly evident that
13 inadvertently or otherwise Mr. Lacz is not a licensed
14 engineer and nor a licensed planner of the State of
15 New Jersey, notwithstanding his historical background
16 as perhaps a licensed engineer or planner.

17 So I think the Board should bear in
18 mind that his initial answer was that, yes, he was.
19 He's not aware of it. But certainly the State of New
20 Jersey states that he is not licensed in those two
21 professions.

22 I think the Board should take
23 cognizance of that with any testimony that is
24 forthcoming.

25 CHAIRMAN GUERRA: Mr. Malagiere, does

1 it concern us in any way or should it concern us in
2 any way that as far as the testimony -- he could
3 still testify as an engineer or planner or architect
4 without --

5 FEMALE AUDIENCE MEMBER: That's right.

6 CHAIRMAN GUERRA: -- without being
7 licensed.

8 Is that true?

9 MR. MALAGIERE: Mr. Diktas, you want to
10 address that?

11 MR. DIKTAS: Sure.

12 DIRECT EXAMINATION

13 BY MR. DIKTAS:

14 Q. Mr. Lacz, by your testimony today you
15 were unaware that your two licenses -- you haven't
16 paid the filing fees with the DCA?

17 A. That's -- that's correct.

18 Q. Okay. And according to your testimony
19 earlier you graduated 1960 from Notre Dame and you
20 passed the engineering exam in 1965.

21 Is that correct?

22 A. Yes.

23 Q. And the -- excuse me -- the planning
24 waiver is '67.

25 Is that correct?

1 A. Yes.

2 Q. Between '65 and for your planner's
3 license that lapsed on May 31, 2010 and your
4 engineering license that lapsed on April 30, 2010,
5 have you worked in those two professions?

6 A. Not specifically, no.

7 Q. So you haven't don't any reviews in
8 engineering at any time during --

9 A. No, I haven't done engineering work or
10 planning work, but it still does not --

11 Q. From '65 on?

12 A. No. No. No. No. No.

13 Q. My question was from '65 on?

14 A. No, I've done much work since '65.

15 Q. Okay.

16 And you've reviewed -- and the
17 knowledge that you've learned, other than the normal
18 forgetting process that everybody in this room
19 forgets every day, every day we wake up we forget
20 something.

21 All right. Have you -- do you feel
22 your skills and education from Notre Dame and the
23 50 years of experience as an engineer or planner,
24 have they diminished in any sense and you're
25 incapacitated to review the plans of this

1 application?

2 A. No. They haven't diminished.

3 MR. DIKTAS: Mr. Malagiere, in light of
4 the issue --

5 MR. BASRALIAN: Excuse me, before you
6 finish that, I would like an opportunity to --

7 MR. DIKTAS: Well, I'm not done.

8 MR. BASRALIAN: Okay. But before the
9 Board renders an opinion.

10 MR. DIKTAS: Could you give me a little
11 space, Mr. Basralian, step over (indicating).

12 MR. BASRALIAN: Sure. I'll give you as
13 much space as you need.

14 MR. DIKTAS: Thank you.

15 CHAIRMAN GUERRA: Boys, boys, boys.

16 MR. BASRALIAN: It's not the first time
17 for that, Mr. Chairman.

18 CHAIRMAN GUERRA: Oh, my goodness.

19 MR. BASRALIAN: We've actually been on
20 the same side sometimes.

21 CHAIRMAN GUERRA: You couldn't tell
22 that, Counsellor.

23 Okay.

24 MR. DIKTAS: The -- with the issues
25 here, we have a lapse of a filing fee. And in light

1 of an argument with Mr. Basralian if we file --

2 CHAIRMAN GUERRA: Two filing fees.

3 MR. DIKTAS: Two filing fees.

4 CHAIRMAN GUERRA: Yes.

5 MR. BASRALIAN: If you don't pay your
6 filing fee, and since we all live in New Jersey and
7 you know it's just another tax. All right?

8 So this gentleman has gone to school.
9 This gentlemen has worked in the profession. And he
10 hasn't paid the tax to be an engineer or planner.

11 If he pays the tax tomorrow then the
12 DCA, within 60 days or 90 days, a worker in the DCA
13 will change the computer printout and Mr. Lacz will
14 be then reinstated for whatever that fee may be a
15 hundred, 200, just as the attorneys do and the
16 engineers. And the DCA, as the building department,
17 we all have to pay these taxes.

18 Our position is that Mr. Lacz should be
19 permitted to testify as to these issues and that we
20 reserve the right to present the canceled checks or
21 the checks and the cover letters to Mr. Malagiere to
22 the DCA to -- in lack of a better term, to bootstrap
23 his testimony that he's not been disbarred or
24 debarred or penalized and that's why he lost his
25 license, but for the fact that he hasn't paid the

1 filing fee or his licensing fee or the tax.

2 With that, we request to permit Mr.
3 Lacz to present his testimony and to reserve the
4 right, since we are coming back anyway with Mr.
5 Keller, we'll have proof of payment of the licensing
6 fees.

7 CHAIRMAN GUERRA: Just for the record,
8 Counselor. Can you testify that, in fact, the
9 license is just lapsed. I mean you haven't been, for
10 lack of a better word, you know, your license hasn't
11 been taken away for any reason. The two licenses.
12 Can you testify to --

13 THE WITNESS: That's true. That's
14 correct.

15 CHAIRMAN GUERRA: Okay.

16 MR. BASRALIAN: Okay. According to the
17 New Jersey Administrative Code 13:41-5.1 I'm sorry
18 5.5(d).

19 CHAIRMAN GUERRA: Is that (d).

20 MR. BASRALIAN: It states that:

21 "The license that has not been renewed
22 within 30 days of its expiration date shall be
23 suspended without a hearing. Any individual
24 who continues to practice with a suspended
25 license after 30 days following the license

1 expiration date shall be deemed to be engaged
2 in unlicensed practice".

3 CHAIRMAN GUERRA: What's the definition
4 of practice? Does that mean you cannot testify?

5 MR. BASRALIAN: I think -- I think it
6 covers all of the aspects of what the license
7 covered.

8 And if his license is in architecture,
9 and its current, then certainly I don't have an
10 objection to him testifying as an architect.

11 CHAIRMAN GUERRA: So it doesn't --

12 MR. MALAGIERE: I think -- if I may,
13 Mr. Chairman, I think the inquiry with any
14 professional is the weight that you provide to their
15 testimony.

16 So I think the concept is, is that you
17 have of this gentleman. He's clearly not licensed as
18 he sits here today in two of the disciplines in which
19 he indicated he was licensed.

20 Notwithstanding the past 45 years of
21 experience in these professions and was licensed.

22 I think you have to take into account
23 the fact he's not licensed, but I don't think that
24 precludes him from testifying on some level.

25 Now, does it mean that he's -- that you

1 give him as much weight as someone who's licensed?

2 Of course not.

3 But I think he can testify to a certain
4 extent. And the Board can provide whatever weight it
5 wants to the testimony and the discipline.

6 I don't think it would be appropriate
7 to summarily dismiss and disallow his testimony in an
8 area in which he's clearly been a practitioner for
9 over four decades.

10 I just think at the end of the day if
11 someone were to analyze his testimony and provide
12 weight to it as this Board is going to have to do,
13 you have to take into account that his license as
14 lapsed and what that means.

15 And you cannot provide him with as much
16 weight as you would someone who is licensed in the
17 profession.

18 I think his testimony is colored by the
19 fact he doesn't have a license. And you can't
20 separate that from his testimony. I just don't think
21 you can preclude him from opining and observing in
22 these areas, just because he doesn't have a license.
23 You just have to weight it.

24 The administrative code says what it
25 says.

1 CHAIRMAN GUERRA: Yes, 90 days.

2 MR. MALAGIERE: And to the extent that
3 he's not offering an opinion as a professional
4 engineer nor a professional planner because he
5 cannot, he is not -- he is not engaged in a licensed
6 practice of those professions.

7 MR. DIKTAS: If I may, excuse me, Mr.
8 Basralian.

9 MR. BASRALIAN: Clearly -- if I can
10 just have a word.

11 Clearly, if I were standing before you
12 and had no longer had a license to practice law, I
13 wouldn't be able to stand here so.

14 MR. MALAGIERE: Well, that's -- but
15 then you'd be engaging in the --

16 MR. BASRALIAN: In the normal practice.

17 MR. MALAGIERE: -- in the practice of
18 law.

19 But at the same time, if Mr. Basralian
20 let he license lapsed and he were called as an expert
21 lawyer witness in a land use hearing or in some
22 trial, just because his license had lapsed would not
23 erase the 40 years of practice and experience he
24 comes to the table with. And what he says would
25 carry weight based upon his experience and expertise,

1 albeit reduced by the fact that he hadn't maintained
2 his license and it had lapsed.

3 But you couldn't just discount him and
4 erase all his experience and knowledge.

5 MR. BASRALIAN: Except in my opinions I
6 could not grant opinions on the issues that you
7 outlined for Mr. Lacz.

8 MR. MALAGIERE: I think his opinions --
9 he'd have to stop short of offering an opinion as a
10 professional engineer and professional planner.

11 But he can make observations and he can
12 testify.

13 MR. NIX: This is ridiculous.

14 MR. DIKTAS: If I may? What we could
15 do, I'll -- I won't bifurcate, I'll trifurcate Mr.
16 Lacz's testimony. And since we're coming back and
17 it's 8 p.m. already. And I'll present Mr. Lacz
18 tonight, just doing an architectural study.

19 And when we come back again I'll
20 present proof that he's paid his \$300 for both
21 licenses to the DCA. And then I'll put him as an
22 engineer. And then if we finish that at the next
23 hearing we can come back for a third hearing and I
24 can present Mr. Lacz as a planner.

25 So I will take Mr. Basralian's --

1 accept his position, he's correct technically. And
2 I'll just move him tonight as an architect. And
3 we'll pay -- again the 200, \$300, whatever it may be.
4 And we'll be back. We're coming back anyway. So
5 I'll do the engineering and the planning at the next
6 meeting.

7 CHAIRMAN GUERRA: Does paying that fee
8 mean he's automatically reinstated?

9 MR. DIKTAS: I can't speak --

10 CHAIRMAN GUERRA: Is that how it works?

11 MR. DIKTAS: Put it this way, I can
12 speak for Mr. Malagiere, Mr. Basralian and myself.
13 If we don't pay the \$185, okay, whenever we pay that
14 \$185 to the New Jersey State Bar, okay, we're
15 automatically reinstated.

16 So under that presumption, I am making
17 that representation. I can't answer as to the
18 planners and for the engineers but I can --

19 MR. NIX: This has nothing to do with
20 it.

21 MR. DIKTAS: -- answer for the three
22 attorneys.

23 MR. BASRALIAN: I can tell you for the
24 planning, at least, he has to submit certain
25 affidavits, employment background, as conditions

1 precedent for the Department of Community Affairs
2 reinstating his license.

3 On the other hand, it might well be
4 that depending upon what Judge Meehan -- I'm sorry --

5 MR. DIKTAS: Escala.

6 MR. BASRALIAN: Judge Escala determines
7 then we might not be back here with -- with Mr.
8 Keller.

9 So I don't think you could make that
10 presumption and he should move forward and try to do
11 as much as he can because if we don't have Mr. Keller
12 coming back then there's no more testimony that we
13 propose.

14 MR. MALAGIERE: Well, just as an aside,
15 Mr. Chairman, regardless if Judge Escala agrees
16 completely with you and, Mr. Basralian, and maintains
17 the privilege that you've asserted over the redacted
18 portions of what you presented there's still the 20
19 odd pages of new notes that would subject Mr. Keller
20 to cross examination.

21 So just -- just keep that in mind.

22 MR. BASRALIAN: Unless those subjects
23 have already been covered by the cross examination of
24 any parties prior to that.

25 MR. MALAGIERE: Well, I don't

1 necessarily agree with that, but it has nothing to do
2 with Judge Escala he's not going to make that
3 determination.

4 But having said, I mean, Mr. Chairman,
5 you can go forward this witness' testimony. You can
6 give it the weight that you deem appropriate.

7 CHAIRMAN GUERRA: As an architect
8 there's no issue.

9 MR. MALAGIERE: Absolutely.

10 CHAIRMAN GUERRA: So let's approach it
11 as an architect.

12 MR. DIKTAS: That's what I'll do.

13 CHAIRMAN GUERRA: I'm good with that.

14 MR. DIKTAS: You'll stipulate that he's
15 a licensed architect, Mr. Basralian?

16 MR. MALAGIERE: I don't think he needs
17 to.

18 CHAIRMAN GUERRA: It's in the record.
19 It's already done.

20 Let's move forward.

21 MR. DIKTAS: Thank you.

22 CHAIRMAN GUERRA: Let's move forward.

23 MR. MALAGIERE: I just have to say that
24 anybody who passed their professional engineering
25 examination before the use of calculators is somebody

1 whom I have a great deal of respect for.

2 MR. NIX: Maybe. Maybe.

3 (Applause.)

4 MR. BASRALIAN: My issue has nothing to
5 do with respect and --

6 MR. MALAGIERE: Of course.

7 MR. BASRALIAN: -- and everything to do
8 with licensing and his testimony.

9 MR. MALAGIERE: Of course.

10 CHAIRMAN GUERRA: It's understood, we
11 know.

12 MR. DIKTAS: Thank you.

13 BY MR. DIKTAS:

14 Q. Before you -- have you been here for
15 the year and-a-half, almost two years of hearings?
16 Have you been present? And if you weren't present
17 have you reviewed the transcripts?

18 A. Yes.

19 Q. And can you tell us what other
20 materials you reviewed before this evening?

21 A. Yes. I reviewed the New Jersey Land
22 Use Law, the Hackensack Zoning and Site Plan
23 Ordinances. The architect's drawings, the most
24 recent revised ones. The engineer's drawings. The
25 book of development definitions by Moskowitz and

1 Lindbloom. And a book written by Cox and Ross of --
2 about New Jersey zoning.

3 Q. The questions I'm going to ask you,
4 just answer them with your architect hat, please?

5 A. Surely.

6 Q. Thank you.

7 In your review of the zoning ordinance
8 of the City of Hackensack is there a definition as to
9 healthcare facility?

10 A. Yes.

11 Q. And do you recall or do you remember
12 what that definition is as read?

13 A. It's on page 20. It's in the
14 definition section.

15 Q. Now, you're agreeing as an architect, I
16 show you page 20, healthcare facility, the definition
17 (indicating).

18 Is that what you are referring to?

19 A. Yes.

20 Q. Can you read that into the record?

21 MR. BASRALIAN: You want to provide me
22 with a copy of exactly what you're looking at?

23 MR. DIKTAS: That the zoning ordinance
24 of the City of Hackensack.

25 MR. BASRALIAN: So? Do you have a copy

1 for me?

2 MR. DIKTAS: No, I don't.

3 MR. BASRALIAN: Well, it would be nice
4 if I had to know what he was reading from so I could
5 verify it.

6 MR. DIKTAS: I apologize.

7 Do you have a copy in your briefcase?

8 MR. BASRALIAN: No, I don't. You're
9 the one who's presenting it, not me.

10 BY MR. DIKTAS:

11 Q. Did you bring yours?

12 A. Yes.

13 MR. BASRALIAN: Well, I'll take your
14 word for it "Hackensack" although it doesn't say that
15 on here at all.

16 Also, one other question, would you
17 determine please if those notes that Mr. Lacz is
18 reading from were prepared by him or by a third
19 party.

20 MR. DIKTAS: Sure.

21 MR. MALAGIERE: You'll have a chance to
22 cross examine, Mr. Basralian.

23 MR. BASRALIAN: Well, but he's reading
24 from notes and so if these -- they're a note that
25 weren't prepared by him then they're subject to my

1 review and a copy should be provided to me.

2 MR. MALAGIERE: Just as your witnesses
3 that was brought in on cross examine, you'll have
4 your opportunity with this witness.

5 MR. DIKTAS: But it's not hearsay,
6 right?

7 MR. BASRALIAN: But if he's reading --
8 if he's reading from notes prepared by someone else
9 that's inappropriate and I should have a copy of it.
10 If he has noted -- if he prepared the notes I have no
11 objection tonight.

12 MR. MALAGIERE: I don't disagree with
13 you I think you get the chance to inquire about that
14 when you --

15 MR. BASRALIAN: Well, then he will have
16 testified over notes that he didn't prepare at that
17 point.

18 MR. MALAGIERE: Then the testimony will
19 be so taken.

20 MR. DIKTAS: Let me ask him the
21 question.

22 BY MR. DIKTAS:

23 Q. The notes that you're reading from, who
24 prepared them?

25 A. I did.

1 Q. And you finished when?

2 A. Today.

3 Q. Thank you.

4 A. This afternoon.

5 Q. Now, I direct your attention to the
6 page 20 of the zoning ordinance healthcare facility?

7 Why don't you give this to Mr.

8 Basralian?

9 A. Okay. I'd rather hold this one. Okay.

10 Q. Well do one at a time.

11 A. (Complies).

12 MR. BASRALIAN: Thank you.

13 Q. There's a definition of healthcare
14 facility, is there not?

15 A. Yes.

16 Q. Why don't you read that definition into
17 the record?

18 A. "A facility, institution or medical
19 center, whether public or private, principally
20 engaging in providing services for health,
21 maintenance, diagnosis or treatment of human
22 diseases, pain, injury, deformity or physical
23 conditions including, but not limited to: A
24 general hospital, special hospital, mental
25 hospital, public care center, diagnostic

1 center, treatment center, rehabilitation
2 center, extended care facility, skilled
3 nursing home, nursing home, intermediate care
4 facility, tuberculosis hospital, chronic
5 disease hospital, maternity hospital,
6 outpatient clinic, dispensary, home healthcare
7 agency, boarding house or other home or
8 shelter care, and this is bio-analytical
9 laboratory or central service facility serving
10 one or more such institutions, but excluding
11 institutions that provide healing solely by
12 prayer".

13 Q. Thank you.

14 Now, the testimony given by the
15 architect that he designed -- and I say "the
16 architect" generically, the Applicant's architect,
17 that he designed a building, okay, if you were the
18 Applicant's architect and you were directed or
19 charged to design a building and you reviewed
20 Hackensack's Ordinance. As an architect, would the
21 facilities that are in this building rooms, dialysis,
22 lab work, what would your opinion be as an architect
23 and a design stage of this building?

24 A. It would be a -- fall under that
25 definition. It would be a healthcare facility. It

1 would be a hospital.

2 MR. BASRALIAN: Objection, that's a
3 planning result, not an architectural one.

4 CHAIRMAN GUERRA: It is --

5 THE WITNESS: He's now testifying as a
6 planner not as an architect.

7 MR. MALAGIERE: Which is why I've
8 indicated, Mr. Chairman, that I believe it's going be
9 impossible to delineate so that you should allow him
10 to testify on all fronts and afford the appropriate
11 weight to the testimony based upon how he's been
12 established.

13 That's the true calculus of an expect.
14 You give them weight based on their credentials.

15 You don't just take what they say, as
16 this Board never does, as the gospel.

17 So I believe that he has a level of
18 expertise absent a license on engineering and
19 planning. And he has a level of expertise with a
20 license on architecture, accept it all and give it
21 the weight that's it's accorded.

22 CHAIRMAN GUERRA: What do you think?

23 MR. DIANA: Poll us.

24 CHAIRMAN GUERRA: I guess to be honest
25 with you, Mr. Malagiere, I was looking at it, I

1 guess, in more black and white terms.

2 We qualify an expert based on his
3 credentials, we say yes or no.

4 MR. MALAGIERE: Right.

5 CHAIRMAN GUERRA: Usually yes.

6 And then the testimony we're hearing is
7 based on his credentials, but it's always been
8 someone licensed.

9 MR. MALAGIERE: Here's the issue. I
10 thank that -- and Frank and Chris and Joe and I deal
11 with this all the time. Mr. Rodriguez, of course.

12 The issue is this, and this is -- we
13 run into this at trial all the time you know there
14 could be a young man sitting before us who's 28 years
15 old who's got a professional engineering license.
16 And can't give the testimony that this individual can
17 hand us.

18 CHAIRMAN GUERRA: Based on experience.

19 MR. MALAGIERE: Based upon the
20 experience and what he's done.

21 Then you have this individual who
22 clearly was licensed, but no longer is. And you
23 can't say anything other than that.

24 But he does have and has been
25 established has having a great girth of experience

1 and knowledge in this specific field. You take them
2 as he's presented. And I think that's how you do it.

3 MR. RODRIGUEZ: The only thing I would
4 add to that is, you know, I see this situation as
5 inadvertent, the -- I take it, Mr. Diktas, neither
6 you nor your client were aware that --

7 MR. DIKTAS: No.

8 MR. RODRIGUEZ: -- nor Mr. Lacz --
9 Lacz?

10 THE WITNESS: That's Lacz.

11 MR. RODRIGUEZ: Lacz.

12 THE WITNESS: Just through the "c"
13 away.

14 MR. RODRIGUEZ: Thank you.

15 Was aware that the licenses had lapsed.

16 Mr. Malagiere, I think the Courts have
17 looked at this sort of situation as -- and Mr. Diktas
18 has sort of alluded to that he'd put on only
19 architecture testimony tonight.

20 But, I think it's a little difficult to
21 divide the three areas.

22 CHAIRMAN GUERRA: Right.

23 MR. RODRIGUEZ: I think, and what I've
24 seen courts do in this kind of situation, since it is
25 a surprise and since we -- you know if we went

1 forward, may give less weight to the witness than
2 otherwise, that I think he should be afforded the
3 opportunity, Mr. Diktas, to ask for an adjournment of
4 the testimony to correct the defect whether that's
5 bringing on a different expert or correcting the
6 licensure lapses, you know, that's -- but Mr. Diktas
7 could opt to go forward as is.

8 MR. MALAGIERE: The only issue I would
9 have with that -- and I apologize for speak over you,
10 Mr. Rodriguez, is this, clearly we wink at the rules
11 of evidence in land use hearings and -- and I would
12 suggest appropriately so.

13 MR. RODRIGUEZ: Yes.

14 MR. MALAGIERE: The formalities of
15 trials, especially jury trials, are an order of
16 magnitude greater than what we deal with here with
17 regard to evidence and that's appropriate.

18 In light of that and the nature of
19 these hearings, the special meetings, the cost
20 associated, it just makes sense to forge on and do
21 the best we can with the testimony, of course, with
22 Counsel making objection and the record reflecting
23 it.

24 And then at the end of the day, you
25 make the determination you make and you provide the

1 weight you provide.

2 I think that's the most practical
3 solution. And it also would preclude the objections
4 which would naturally flow from trying to separate
5 the testimony from a witness who's purporting to
6 testify in three disciplines.

7 MR. BASRALIAN: May I be heard on that?
8 Excuse me.

9 MR. DIKTAS: Yes. Let at take my stuff
10 away.

11 Excuse me.

12 MR. BASRALIAN: I won't peek at it, Mr.
13 Diktas.

14 There were extensive architectural
15 plans submitted in connection with this application.
16 The last set which is unchanged was in November of
17 2009. There certainly is a large breadth of
18 questions which Mr. Diktas could address solely as to
19 architectural and the building and the plans that are
20 before the Board, which would be -- let's -- this
21 witness would be able to answer without going into
22 engineering and planning aspects of it.

23 And since Mr. Diktas has indicated he
24 would stipulate he will go forward with the
25 architectural part of it only, let's separate them

1 out and let's not throw them in together in one fell
2 swoop.

3 Now, you're only assuming that the
4 license will be reinstated in accordance with the
5 procedures that's have been outlined and don't know
6 for a fact when and how that will be done.

7 So I object to having testimony outside
8 of that area other than an architectural. There's
9 plenty to look at. There's plenty to testify about.

10 MR. MALAGIERE: Again, I would just
11 suggest a practical solution here is to allow him to
12 testify in the three disciplines and afford the
13 weight that you would afford based upon who he is
14 sitting in front of you this evening.

15 FEMALE AUDIENCE MEMBER: Yes.

16 MR. MALAGIERE: And just go forward.

17 And if it appears that he'll
18 reinstitute himself with the payment of some fee and
19 a ministerial filing then so be it and you may -- we
20 may become aware of that and provide more weight to
21 what he testifies too. I think it's a practical
22 solution.

23 FEMALE AUDIENCE MEMBER: Right.

24 MR. MALAGIERE: You do not need to
25 recognize Mr. Moskowitz, he frankly does not have a

1 dog in this fight.

2 MR. MOSKOWITZ: Well -- well, I do
3 because we're all the dogs in this fight.

4 But I think that full testimony should
5 be allowed because I think the question that one
6 really has to ask is if the witness, if Mr. Lacz had
7 retired from practicing in all three fields as of
8 last May, that would not diminish or add to his
9 expertise at all. His credentials are what they are.

10 FEMALE AUDIENCE MEMBER: Right.

11 MR. MOSKOWITZ: His ability to sign
12 plans to exercise certain other ministerial functions
13 of one of these disciplines may be limited by the
14 fact that he no longer has a current license.

15 I think the fact of the matter is,
16 again, if he had retired from all three fields last
17 week that neither adds to nor diminishes his
18 expertise, the depth or lack thereof, or breadth of
19 his expertise.

20 So that determination is for the Board,
21 but I think that the quarrelling over whether or not
22 his license allows him the testify, you don't get a
23 license for that. He has presented his credentials
24 to the Board 40 years of experience, 45 years.

25 The Board can depend upon that.

1 If the Board wishes to think ill of him
2 for some reason for forgetting to send the checks,
3 that's an entirely different question. He doesn't --
4 he is not diminished or aggrandized because of it.

5 CHAIRMAN GUERRA: Okay.

6 MR. RODRIGUEZ: Mr. Moskowitz actually
7 caused me to somewhat change my mind.

8 What I said before about the surprise
9 licensure issues really involve situations where the
10 expert had to actually have their license to testify.
11 There are certain situations where that's actually a
12 statutory requirement.

13 CHAIRMAN GUERRA: All right.

14 MR. RODRIGUEZ: This isn't one of them.

15 MR. BASRALIAN: I -- I just wonder,
16 however, if one of my experts was required to be
17 licensed and stood here and his license had lapsed a
18 year ago, we would have proceeded with his testimony
19 on the same basis and I ask --

20 CHAIRMAN GUERRA: What's your point
21 with that?

22 MR. BASRALIAN: Well, I'm saying if Mr.
23 Keller had stood here and his license had lapsed and
24 if we had found out, would he have testified the same
25 night about that.

1 MR. MALAGIERE: I would have advised --

2 CHAIRMAN GUERRA: Yes.

3 MR. BASRALIAN: Okay.

4 MR. MALAGIERE: I would have advised
5 the same way I advised this evening. And the weight
6 would have been accorded.

7 Mr. Basralian, you would never do that
8 because -- and, of course, Mr. Diktas did not do it
9 intentionally and it was an omission, the issue is
10 the witness is potentially compromised and his
11 testimony is potentially not as powerful as it might
12 be unfortunately.

13 MR. RODRIGUEZ: And his plan may not be
14 acceptable.

15 MR. BASRALIAN: That's right.

16 As an aside, even though my witnesses
17 tell me that they're licensed, I check.

18 It happens.

19 MR. MALAGIERE: Well, it happens.
20 Stuff like that happens. We should just let the
21 witness --

22 CHAIRMAN GUERRA: We're so far into
23 this, here's what we're go to do.

24 Mr. Lacz, it's my opinion you can
25 testify as an architect as we stated earlier, also as

1 a planner, also as an engineer, based upon your
2 experience. I am convinced based on Counsel that it
3 doesn't diminish your 45 years of experience because
4 of forgetting to send in a check.

5 So that's what we're going to do.
6 That's how we're going to proceed.

7 (Applause).

8 CHAIRMAN GUERRA: Okay.

9 MR. DIKTAS: Thank you, Mr. Chairman.

10 CHAIRMAN GUERRA: Let's go, an hour and
11 15-minutes.

12 BY MR. DIKTAS:

13 Q. With the ruling from the Chair, the
14 question presented to you as to page 20 the zoning
15 ordinance, healthcare facility, in your understanding
16 of the ordinance and in your 45 years of experience,
17 what do you consider the building presented by the
18 Applicant in regard to the Hackensack zoning
19 ordinance?

20 A. It is a healthcare facility.

21 Q. An additional issue in the design of
22 the building the Applicant has presented his proofs
23 that the garage is an accessory structure.

24 And you're aware of that testimony?

25 A. Yes.

1 Q. Okay. Now, as an architect this garage
2 is situated where vis-a-vis the building --

3 A. The garage -

4 Q. -- the design?

5 A. The garage is underneath and connected
6 to the hospital.

7 Q. And I'm a laymen, as a lay person, I'm
8 not an architect and I haven't studied engineering
9 for 45 years, and I was never licensed, but in simple
10 lay terms is garage the foundation to this building?

11 A. Yes. The garage is underneath and has
12 to be on the ground, except for the access driveways
13 and the hospital is on top of the garage.

14 Q. And the garage structure, the building
15 of the garage supports the weight of the building.

16 Is that correct?

17 A. That's correct.

18 Q. Based on that premise and the zoning
19 ordinances of the City of Hackensack, what is your
20 understanding of the ordinance vis-a-vis the
21 Applicant's position as an accessory use or as the
22 garage being part of the primary principal structure;
23 i.e. the building?

24 A. The garage is an accessorial use, but
25 since it's connected to the primary structure, it's a

1 primary structure. It's part of it.

2 Q. I direct your attention to page 64 of
3 the Ordinance 175-7.1(b) and this will follow this as
4 part of Mr. Basralian's -- it is here (indicating).

5 Can you read that into the record
6 please?

7 A. Yes.

8 "When an accessory structure is
9 attached to the principal building it shall
10 comply in all respects with the requirements
11 of this ordinance applicable to the principal
12 building including lot coverage".

13 Q. What does that mean to you as an
14 architect? What does that mean to you in your
15 45 years experience as either an engineer or a
16 planner?

17 A. The garage, as well as the building
18 above it, the hospital, must comply with all the bulk
19 standards including setbacks, and coverage, as the
20 primary building does.

21 Q. In other words are there -- and now put
22 on -- review this vis-a-vis the ordinance, in your
23 45 years experience as a planner and engineer and
24 architect are there setback requirements required by
25 this ordinance interpretation?

1 A. Yes. There are setback standards.

2 Q. I direct your attention to -- or any of
3 these structures in non-residential districts?

4 A. The structures are in two districts.

5 Q. And what are those two districts?

6 A. One is a single family, the R-75. And
7 the other is in a multifamily R-3.

8 Q. Does that affect your interpretation or
9 your understanding of the zoning ordinance that we
10 just read, section 175-7.1(b)?

11 A. No.

12 Q. Now, based on the City's ordinance and
13 as a design undertaking and as your understanding as
14 45 years as an engineer and as a planner, the zoning
15 setbacks for the garage, are they different or the
16 same as the entire hospital high-rise building?

17 A. The same. They should be the same.

18 Q. And what is your reference in the
19 zoning ordinance for that?

20 A. Well, that section I just read says
21 that the -- it is a principal building. And the
22 principal building has to comply with the setbacks as
23 in the ordinance.

24 Q. Please give us the citation. Isn't
25 that zoning ordinance 175-7.1(b) and (d).

1 Is that correct?

2 A. Yes.

3 Q. Let's talk about the height in a R-3
4 zone. What is the height requirements in an R-3
5 zone?

6 A. The height requirements in the R-3 zone
7 are governed by two items, one is the setbacks in the
8 distance and the other is a ratio of one-to-four to
9 determine the setback line. That's the height of the
10 building is -- would be divided by four to get the
11 setback line.

12 Q. What does that -- say that in English
13 to us, though, all right. Your 45 years as an
14 architect, engineer and planner, you're way better
15 than mine --

16 A. Yes. So if I can --

17 Q. So I want that broken down --

18 A. So if I can use specific numbers, let's
19 see here I have -- the building is 234 feet high.

20 Q. And you scaled that as an architect,
21 correct?

22 A. I think I read in the memo prepared by
23 Counsel.

24 Q. But you reviewed the plan, did you not?

25 A. Yes, I reviewed the plan.

1 Q. Did you scale them?

2 A. Yes.

3 And the -- the ratio is one-to-four.

4 So, in other words, you divide that number by four to
5 get the setback, that's the setback line.

6 Q. So what does that mean, though,
7 one-to-four? So you got to back four feet,
8 one foot --

9 A. No. No. No.

10 Q. -- 25 percent? I don't understand.
11 Please explain to all of us?

12 A. No, it's the height of the building
13 divided by four.

14 Q. So this building is 238 you said?

15 A. Approximately 230 feet high.

16 Q. It's 230 feet high so divide that by
17 four and let's go through the math.

18 A. Divide it by four, I have the math on
19 here one second (pause).

20 Q. Isn't it 57 feet approximately?

21 A. Yes.

22 Q. Now, 57 feet, what does that mean? Is
23 the setback of design, if you were the architect or
24 the planner -- excuse me -- you're the architect of
25 the Applicant, and based on the ratio, the 57 feet,

1 what does that mean to the footprint off of the
2 property lines?

3 A. In other words, that distance is -- if
4 the distance where the building rises off the ground
5 or goes below the ground, in case of the garage.

6 Q. Okay. So the building then, you tell
7 me, is a pure rectangle up or is it setback like the
8 wedding cake?

9 A. No, it's a setback line, not a wedding
10 cake or a sky plane, it is cut and it's set for the
11 setback line.

12 Q. So what are you telling us, Mr. Lacz?

13 A. It's -- I think that it is explained on
14 the note 11.

15 Q. And what are you referencing, note 11.

16 MR. MALAGIERE: The chairman has
17 indicated to me that he wants to take a break at this
18 point.

19 MR. DIKTAS: Can he jus finish his
20 answer?

21 MR. MALAGIERE: Mr. Chairman?

22 CHAIRMAN GUERRA: Yes. Go ahead. Yes.

23 MR. DIKTAS: He's on page 199.

24 Q. Read that into the record?

25 A. This is note 11.

1 "Whenever the minimum yard area
2 specified by the minimum yard requirement
3 differs from the yard required by using the
4 minimum height ratio, the regulation requires
5 a greater yard shall apply".

6 Q. So what does that mean?

7 A. That means that it is not a wedding
8 cake design, it's a setback determination.

9 Q. Did these plans as presented by the
10 Applicant's architect meet that zoning requirement?

11 A. No.

12 Q. Yes or no?

13 Thank you.

14 MR. DIKTAS: We can break.

15 CHAIRMAN GUERRA: We're going to take a
16 few minutes.

17 (Whereupon, a short recess is taken.)

18 CHAIRMAN GUERRA: We're going to get
19 back on.

20 Please be seated.

21 Counsellor?

22 MR. DIKTAS: Yes, sir?

23 CHAIRMAN GUERRA: You're on, let's
24 roll.

25 MR. DIKTAS: Thank you.

1 BY MR. DIKTAS:

2 Q. Mr. Lacz, have you had an opportunity
3 to review the ordinance as to lot coverage?

4 A. Yes.

5 Q. And we have two different lots, zone
6 lots here, do we not?

7 A. Yes.

8 Q. And what are they, just for the record?

9 A. The -- the zone R-75, single family.
10 And R-3 is multifamily.

11 Q. And in the R-75, what is the lot
12 coverage percentage by the Ordinance of the City of
13 Hackensack?

14 A. Twenty-five percent.

15 Q. And what has the architect for the
16 Applicant designed this building, as what percentage
17 coverage?

18 A. The lot coverage in the R-75 is 81
19 percent.

20 Q. So this building was designed with a 81
21 percent lot coverage.

22 Is that correct?

23 A. On the R-75 portion, yes.

24 Q. And your understanding of the ordinance
25 based on your experience a variance is required for

1 that.

2 Is that correct?

3 A. Yes.

4 Q. And they would also have this building
5 as a split lot, correct?

6 A. Yes.

7 Q. Split zone lot I should say?

8 A. Yes.

9 Q. And would the second part of the
10 property is in the R-3 zone?

11 A. Yes.

12 Q. Again, R-3 zone is what?

13 A. The R-3 is multifamily.

14 Q. And in that multifamily zone what is
15 the lot coverage by the Ordinance of the City of
16 Hackensack?

17 A. Thirty percent.

18 Q. And how has the architect for the
19 Applicant designed this building? What percentage of
20 coverage has he presented to this Board?

21 A. Eight-eight percent.

22 Q. Based on your understanding of the
23 ordinance and as an architect and a person of
24 45 years experience as an engineer and planner, is a
25 variance required?

1 A. Yes.

2 Q. You just testified that we have two
3 different zones. We have the R-75 and the R-3 zones,
4 correct?

5 A. Yes.

6 Q. Can buildings be built across zoning
7 district lines in accordance with the ordinance?

8 A. No.

9 Q. Has the architect designed this
10 building across zoning district lines?

11 A. Yes.

12 Q. And what reference in the zoning
13 ordinance are you referring to?

14 A. This is page 49. The article
15 175-5.1(g).

16 Q. You're getting a little ahead of me.

17 Would you read the section of the
18 zoning ordinance into the record please?

19 A. "Lot located in more than one zone. For
20 any lot which is in more than one zone
21 district all yard, bulk and other requirements
22 shall be measured from the zoned district
23 boundary line and not the true lot line".

24 Q. Has the architect for the Applicant
25 designed the building in conformance with the zoning

1 ordinance?

2 A. No.

3 Q. In fact, how did the architect design
4 the building?

5 A. The building is designed where the
6 garage goes right across the zone district line and
7 also the hospital portion has a zero distance from
8 the lot line.

9 Q. So, therefore, the architect in his
10 design of the building violated the ordinance in they
11 require a variance.

12 Is that correct?

13 A. That's correct.

14 Q. You reviewed the architectural design
15 for the truck dock entrance.

16 Is that correct?

17 A. Yes.

18 Q. What did your review of the
19 architectural plan vis-a-vis the truck dock reveal to
20 you as an architect?

21 A. The truck dock is open, so someone can
22 see it from the residential property next to it and
23 coming down Prospect they could see where the truck
24 loading dock is. It's not screened according to the
25 ordinance.

1 Q. So what is your understanding of the
2 zoning ordinance?

3 A. The zoning ordinance requires parking
4 to been screened.

5 Q. And what is your reference?

6 A. 175-10.2(e).

7 Q. That's on page 128?

8 A. That's correct.

9 Q. Can you read that into the record
10 please?

11 A. "All parking areas required by this
12 ordinance when located in residential
13 districts except for one and two-family
14 structure, shall be screened along the side or
15 sides abutting a public street or either a
16 solid fence or wall. Said fence or wall shall
17 be a minimum of five feet in height,
18 landscaping when required a per Article 9
19 shall be provided. Semi-solid walls shall be
20 permitted with the approval of the
21 construction official".

22 Q. So in your opinion did the architect,
23 when he designed the building architecturally, comply
24 with the zoning ordinance of the City of Hackensack
25 as it pertains to the screening section 175-10.2(e)

1 on page 128 of the ordinance? Yes or no?

2 A. No.

3 Q. As an architect when you design
4 buildings, do you review other codes, electrical
5 codes, building codes, fire codes.

6 Do you do that?

7 A. Yes.

8 Q. Have you had an opportunity to review
9 the fire codes?

10 A. Yes.

11 Q. In your review of the fire codes, what
12 have you determined that the architect for the
13 application incorrectly designed the building
14 vis-a-vis the administrative code, N.J.A.C. 5:70-3.2?

15 A. Yes.

16 Q. Yes, what?

17 A. The -- the -- the driveway -- there --
18 the access for emergency vehicles should be 20-foot
19 wide with a radius, turning radii on the inside of
20 26 feet. And if there is an -- and for a fire ladder
21 which would be the instance, it should be the width
22 of the roadway should be 26 feet.

23 Q. Okay. That's confirmed in the
24 administrative code?

25 A. Yes.

1 Q. Can you read into the record N.J.A.C.
2 5:70-3.2 subsection 503.2.4 turning radius in sites,
3 just read that into the record.

4 A. "Turning radius in sites shall be the,
5 required determined by the Fire Code Official
6 shall be deleted and a minimum of 25 feet
7 shall be inserted following the access road
8 shall be".

9 Q. Did the architect for the Applicant
10 meet the administrative code as it pertains to the
11 turning radius of fire apparatus access?

12 A. No.

13 Q. So the architect mis-designed the plan
14 in accordance with the fire statute, correct --

15 A. Yes.

16 Q. -- regulation, not statute --

17 A. Yes.

18 Q. Excuse me. Regulation?

19 A. Yes.

20 Q. To your knowledge, based on 45 years
21 experience, can this Zoning Board grant either a
22 waiver or a variance to administrative code fire
23 regulations?

24 A. No.

25 Q. Have you had an opportunity to drive by

1 this site or walk passed it?

2 A. Yes.

3 Q. And you reviewed the engineering and
4 the site plan and the architectural plans vis-a-vis
5 the depth of the foundation which is the garage.

6 Is that correct?

7 A. Yes.

8 Q. Based on the architectural plans
9 presented by the Applicant's architect, how deep do
10 they propose, "they" being the Applicant, propose to
11 excavate for this building?

12 A. Approximately 75 feet. The thickness
13 of the footings.

14 Q. And based on the 75-foot excavation
15 what is your experience as an architect, licensed
16 architect and as an engineer, 45 years of experience,
17 as to water tables?

18 A. Say, for instance, there's a water
19 table of just 40 feet, now we're down 75, 80 feet.

20 If the water table were 40 feet, the
21 water weight 64 pounds per cubic foot at 40 feet
22 you'll have approximately 2500 --

23 MR. BASRALIAN: Excuse me. I'd like to
24 object. That's geotechnical and I think this witness
25 said he's not a geotechnical engineer.

1 MR. MALAGIERE: Mr. Chairman, I would
2 allow the testimony. The man's a professional
3 engineer. He's been qualified --

4 MR. BASRALIAN: But he's not a
5 geotechnical engineer.

6 MR. MALAGIERE: That's true.

7 MR. BASRALIAN: And he stated he wasn't
8 so it -- now he's talking geotechnical --

9 MR. MALAGIERE: No, I heard what he
10 said. I think he's testifying as to the weight of
11 water which is something that you identify an
12 engineer to understand by volume, it seems to be
13 appropriate testimony.

14 CHAIRMAN GUERRA: Right.

15 MR. BASRALIAN: I -- I -- I renew --

16 Q. These calculations --

17 MR. BASRALIAN: Excuse me.

18 MR. DIKTAS: I'm sorry.

19 MR. BASRALIAN: I renew my objection.
20 It's geotechnical. It is not weight of water that
21 he's talking about. And he should not be permitted
22 to testify in this venue.

23 CHAIRMAN GUERRA: Okay. Continue.

24 Q. Did you do these calculations --

25 A. Yes, sir.

1 Q. -- that you're testifying to?

2 A. Yes.

3 Q. And the calculation that you did, are
4 they based on your 45 years' experience?

5 A. Yes.

6 Q. Did you review treatises to determine
7 that water at 64 pounds --

8 MR. BASRALIAN: Excuse me, objection.
9 If he's got calculation let's see them.

10 MR. DIKTAS: He's reading them into he
11 record.

12 MR. BASRALIAN: He hasn't read them in.
13 You said you did do calculations.

14 MR. MALAGIERE: Mr. Basralian --

15 MR. BASRALIAN: Might you give me a
16 copy?

17 MR. MALAGIERE: I'd ask you -- excuse
18 me, I'd ask you to reserve for your cross
19 examination.

20 MR. BASRALIAN: But these are things
21 that I should have so I can look at them while he
22 testifies.

23 Q. The 75 feet is that on the -- the
24 75-foot depth, is that on the Applicant's drawings?

25 A. Yes.

1 Q. Okay. And the water pound per square
2 footage is that a standard in -- not in the industry,
3 in physics.

4 Is that correct?

5 A. Correct.

6 MR. MALAGIERE: But, it hasn't changed
7 in 45 years.

8 Are those notes you're reading from,
9 sir, those are your notes generated for your
10 testimony here this evening.

11 THE WITNESS: Yes.

12 MR. MALAGIERE: Mr. Diktas, do you have
13 a problem providing a copy of those to Mr. Basralian
14 and myself and to Mr. Moskowitz.

15 Do you want to assert a privilege over
16 those, do you want to take a position on those?

17 MR. DIKTAS: Do you want to reserve
18 that for the next time we convene? Because Mr.
19 Basralian is correct that to extent that your -- I
20 just have planning data, if I give it to Mr.
21 Basralian he's going to object to all my planning
22 data on this?

23 MR. MALAGIERE: That's what your
24 witness is looking at when he testifies?

25 And, Mr. Moskowitz I think is -- thank

1 you, Mr. Diktas.

2 Thank you.

3 Do you want to mark this so when we
4 ultimately look at it at a later date we can
5 understand what it is.

6 Mr. Diktas?

7 MR. DIKTAS: Yes.

8 MR. MALAGIERE: Would you like to mark
9 this and we can name it --

10 MR. DIKTAS: Sure.

11 MR. MALAGIERE: -- what's your client's
12 name?

13 MR. DIKTAS: Burlyuk.

14 MR. MALAGIERE: "B".

15 MR. DIKTAS: "B."

16 MR. MALAGIERE: "B" as in boy.

17 MR. DIKTAS: Yes.

18 MR. MALAGIERE: Mr. Chairman, with your
19 permission?

20 CHAIRMAN GUERRA: Yes.

21 MR. MALAGIERE: We'll mark this three
22 page -- what don't you authenticate it and we'll mark
23 it.

24 MR. NIX: Can the public look at it?

25 MR. MALAGIERE: It's going to become

1 part of the public record. It's going to be given to
2 Mr. Borrelli. It will be on file. That's why we're
3 going through this.

4 So if you can just authenticate this.

5 MR. DIKTAS: Sure.

6 BY MR. DIKTAS:

7 Q. Mr. Lacz, we testified this evening and
8 Mr. Basralian asked you a question earlier about as
9 to notes you were reading?

10 A. Yes.

11 Q. And you testified earlier that you
12 finished these notes this afternoon, correct?

13 A. Yes.

14 Q. And we discussed them -- don't tell us
15 what we discussed, but you and I discussed these
16 notes, correct?

17 A. Yes.

18 Q. And who helped you or who prepared the
19 information on this document?

20 A. I did.

21 Q. Did anybody else help you?

22 A. No.

23 Q. So all this, the reviews and the site
24 references, were done by you.

25 Is that correct?

1 A. Yes.

2 Q. You prepared this on behalf of our
3 respective client, Anastasia Burlyuk, and it assists
4 you in your testimony this evening, correct?

5 A. Yes.

6 MR. MALAGIERE: We'll mark these notes,
7 they've been authenticated, three pages, B-1 with
8 today's date 3/03 2011. Thank you, sir.

9 (Whereupon, Notes of Mr. Lacz,
10 consisting of three pages are received and
11 marked as Exhibit B-1 for Identification.)

12 Q. On page 3 of your notes, there is a
13 review of the -- what you just testified to a few
14 minutes earlier, as to the excavation of the site at
15 75 feet.

16 A. Yes.

17 Q. And, again, that 75-foot number came
18 from the Applicant's architectural plans; is that
19 correct?

20 A. Yes.

21 Q. Then you talked about that water at 64
22 pounds per cubic foot, that's a physics standard; is
23 that correct?

24 A. Yes.

25 Q. And you've done physics calculations as

1 an architect and also as a gentleman who was a
2 licensed engineer, but 45 years experience.

3 Is that correct?

4 A. Yes.

5 Q. Based on your years of experience as an
6 engineer and your years of experience as an
7 architect, what do you conclude that the
8 architectural requirements of this structure, the
9 foundation which also is part of the garage, which in
10 our opinion on behalf of our client, Mrs. Burlyuk is
11 the foundation of the a structure, not accessory
12 building.

13 What is your understanding and what is
14 your opinion as an architect as to the design of the
15 building?

16 A. With regard to the building, the amount
17 of pressure, 40 feet, could it even be greater than
18 40 feet but it would be --

19 Q. It would 40 feet at the water table,
20 correct?

21 A. -- it would be -- yeah, if the water
22 table were a depth of 40 feet from the -- from the
23 bottom, it would be 2500 pounds per square foot
24 acting in all directions or about a
25 ton-and-a-quarter.

1 Q. What does that mean?

2 A. That means that that pressure would be
3 reacted against with structure. In the architects's
4 plans shows walls that are 18 inches thick. The
5 question is, is an 18 inches wall thick enough.

6 And if the wall is not thick enough it
7 would have to be wider, therefore, it would be less
8 distance inside for parking.

9 Q. Did you hear any testimony or review
10 any testimony in the transcripts where the architect
11 or the engineer or the Applicant opined that the
12 walls as presented meet this issue that you're
13 raising this evening?

14 A. I haven't heard anything that it would
15 be...

16 Q. You have not heard anything?

17 A. I have not heard anything.

18 Q. And if the walls need to be, using your
19 terms, wider or thicker what does that do to the area
20 of the parking garage?

21 A. Reduces it.

22 Q. Okay. Then you also, based on your
23 experience, and you and I discussed this earlier and
24 you put it in your notes here, the dropping of the
25 water table during construction, what could that do

1 to the surrounding buildings and structures that are
2 adjacent to the Applicant's land?

3 A. It's possible that adjacent buildings
4 can settle.

5 Q. Don't tell me it's possible. In your
6 understanding as an architect, okay, in your 45 years
7 of engineering, can it do something? Is it probable
8 or is it not probable, in your understanding and your
9 experience, about dropping water tables --

10 A. It's -- it's probably and it -- I -- I
11 was an expert on a particular case where a building,
12 a residence which was standing straight for about 60
13 years leaned over a three-foot alley onto the
14 neighbor's house because the water table two blocks
15 away was dropped when they put in a storm sewer
16 system.

17 Q. So in your experience you've witnessed
18 this first hand?

19 A. Yes.

20 Q. You've had an opportunity to review the
21 list of variances that the Applicant is petitioning
22 and others that you have found.

23 Is that correct?

24 A. Yes.

25 Q. That's page 2 of your notes.

1 Is that right?

2 A. Yes.

3 Q. And we've come to -- now, you list 15
4 different variances by title.

5 Is that correct?

6 A. Yes.

7 Q. Now I'm asking you to use your 25 years
8 experience --

9 CHAIRMAN GUERRA: Forty-five.

10 MR. NIX: Forty-five.

11 FEMALE AUDIENCE MEMBER: Forty-five.

12 MR. DIKTAS: Forty-five, excuse me.

13 MR. BASRALIAN: Excuse me, just for the
14 record, I'll stipulate it's 45 years. You don't have
15 to keep saying it.

16 MR. DIKTAS: Thank you. I appreciate
17 that.

18 Q. Based on your experience and review of
19 the zoning ordinance by building the building in the
20 R -- or part of the building in the R-75 zone, what
21 type of variance does the Applicant need?

22 A. Needs a (d)(1) variance.

23 Q. And that's a use variance, correct?

24 A. That's correct.

25 Q. And then your second listed variance

1 that by the Applicant -- that's on page 168 of the
2 zoning ordinance, correct?

3 A. Yes.

4 Q. And on the second portion of the zoning
5 ordinance, the property is also in an R-3 zone,
6 correct?

7 A. Yes.

8 Q. The R-3 zone is a multifamily zone,
9 correct?

10 A. Yes.

11 Q. Does the Applicant -- based on your
12 understanding and review and experience of the
13 ordinance, does the Applicant require a variance to
14 build in the R-3 zone?

15 A. Yes.

16 Q. And what type of variance does he need?

17 A. He needs a use variance.

18 Q. A D?

19 A. (D) (1) .

20 Q. Now, you also advised and we discussed
21 that the height of the building is what?

22 A. Two-hundred-and-thirty feet.

23 Q. Two-hundred-and-thirty feet. And in
24 the zone there's a 200-foot number, how did you come
25 about that?

1 A. Well, if you -- you take the width of
2 the lot, which is 100 feet, you take half and
3 multiply it by four you get 200 feet.

4 That's the maximum height.

5 Q. The maximum height.

6 And the maximum height, if it was
7 permitted in that zone, would be 200 feet. But it's
8 not, we're at 230, is that another D variance?

9 A. It's a (d)(6), yes.

10 Q. And a (d)(6) is because it's greater
11 than 10 percent --

12 A. That's correct.

13 Q. -- of the maximum height, if it was
14 even permitted?

15 A. Or 10 feet, I think, also.

16 Q. Thank you.

17 Now, we walk about yards. For the sake
18 of the record, how many yards does each parcel have?

19 A. Four each, total of eight.

20 Q. And explain them to the Board. How do
21 you get eight yards.

22 A. Well, you have both side yards. You
23 can't go across the zoning district boundary line.
24 So, therefore, both lots need rear setbacks.

25 You need setbacks on the side yards.

1 And setbacks on the front yard.

2 So the -- the total amount is eight
3 different variances.

4 Q. So it's your understanding and your
5 opinion that based on the zoning ordinance page 168
6 and 177, that the Applicant required how many side
7 yard or front yard or rear yard variances?

8 A. Total of eight.

9 Q. And also the ordinance section
10 175-9.1(a) indicates buffers.

11 Explain to us what buffers are?

12 A. A buffer is -- what it does is separate
13 an unkindly use from the adjacent uses.

14 Q. What is an unkindly use, they don't
15 like each other? Just tell us for the record, be
16 clear, please?

17 A. The -- the hospital use is very
18 intensive. There's --

19 Q. It's very intensive to what? To the
20 zone?

21 A. Generally very intense.

22 Q. Okay.

23 A. It is what -- and probably a more
24 intense would go into industrial, but taking regular
25 uses of commercial and residential, it's a very

1 intense use.

2 Q. And the City planners have determined
3 that to reduce that impact you have buffers.

4 Is that correct?

5 A. That's correct, which are landscaped
6 and isolate that particular area from the reminder of
7 the district.

8 Q. How many buffers, based on the zoning
9 ordinance of the City of Hackensack --

10 A. It is --

11 Q. -- section 175-9.1(a) on page 110, do
12 you conclude the property has, and how many
13 variances, buffer variances are required?

14 A. You have three property lanes on each
15 side, it'll be a total of six.

16 Q. So you're saying that they need six
17 variances --

18 A. That's correct.

19 Q. -- based on the buffer encroachments on
20 the architectural design of the building?

21 A. Yes.

22 Q. Now, we also have a lot width. Is that
23 correct?

24 A. Yes.

25 Q. And what is the zoning ordinance

1 require for lot width?

2 A. The lot width of the R-75 is 125 feet,
3 It's 100 feet.

4 Q. It's 100 feet.

5 So, therefore, a variance is required.

6 Is that correct?

7 A. Yes.

8 Q. So the architect didn't design the
9 building to meet that part of the zoning ordinance,
10 correct?

11 A. That's correct.

12 Q. And that's on page 177 of the
13 ordinance.

14 Is that correct?

15 A. Yes.

16 Q. Now, let's talk about parking.

17 The parking requirement for this
18 proposed long term acute hospital is how many
19 vehicles?

20 A. One-sixty-eight.

21 MALE BOARD MEMBER: What?

22 A. Oh, oh, oh, no, wait, it's 568.

23 Q. It's 568?

24 A. Sorry, 568.

25 Q. And how many parking spaces does the

1 Applicant propose?

2 A. Four --

3 Q. Strike that. How many parking spaces
4 did the architect design in this project vis-a-vis
5 this building?

6 A. Four-hundred-and-thirteen.

7 Q. Okay. Is a variance required?

8 A. Yes.

9 Q. His architect didn't meet the design
10 criteria of the ordinance.

11 Is that right?

12 A. That's correct.

13 Q. LET'S talk about yard parking. What is
14 yard parking?

15 A. Parking in the yards.

16 Q. In what yards? Front yards?

17 Backyards? Side yards? Any yards?

18 A. All the yards.

19 Q. Does the Applicant propose parking in
20 any yards --

21 A. Yes.

22 Q. -- of this project?

23 What yards does this Applicant propose
24 parking in?

25 MR. MALAGIERE: What -- I'm sorry. Are

1 you reading off the same three page sequence of notes
2 that we are.

3 MR. DIKTAS: Yes, page 2.

4 MR. MALAGIERE: Okay.

5 All through here (indicating) okay.

6 Thank you.

7 MR. BASRALIAN: Did you correct a
8 number here, is that what you did, that's print
9 differently?

10 MR. DIKTAS: No, he said 168 instead of
11 568. He misread it.

12 MR. BASRALIAN: So that are you
13 correcting the language that you had here, instead of
14 168 you're saying that this you corrected to 568?

15 CHAIRMAN GUERRA: I had says 568.

16 MR. DIKTAS: In there, zoning ordinance
17 page, it says the reference to the zone ordinance.
18 (Indicating).

19 Those are the citations.

20 MR. BASRALIAN: I see what you mean.

21 Okay.

22 MR. MALAGIERE: Thank you.

23 MR. DIKTAS: You follow me?

24 MR. BASRALIAN: Yes.

25 BY MR. DIKTAS:

1 Q. We're talking about parking in the
2 yards where the park is up underground.

3 Is that correct?

4 A. Yes.

5 Q. So how did this architect design this
6 building vis-avis parking underground in the
7 respective yards? Did he --

8 A. He -- he put it in all the yards, front
9 yard, side yard, rear yards. All yards contain
10 parking.

11 Q. And how many yards did you count for
12 this --

13 A. Eight.

14 Q. Eight. And how did you come to eight
15 yards?

16 A. Four on each lot.

17 Q. Excuse me?

18 A. Four on each lot.

19 Q. So your understanding that this
20 architect designed the building to require eight
21 variances for parking in each of the respective two
22 front yards, two rear yards and the four side yards?

23 A. Four side yards.

24 Q. Is that correct?

25 A. That's correct.

1 Q. You also have yard driveway?

2 A. The ordinance requires that there be no
3 back up areas into the yards. And I counted at least
4 20 situations where there was backing up into yards.

5 Q. So then your testimony is that the
6 architectural design of the parking configuration
7 underground requires backing up into the respective
8 front yards, side yards and rear yards.

9 Is that correct?

10 A. That's true, yes.

11 Q. And you -- based on your architectural
12 experience, you counted 20 yards and violation of 20
13 side yards, front yards, rear yards, et cetera?

14 A. That's correct.

15 Q. Coverage. We discussed coverage,
16 correct?

17 A. Yes.

18 Q. So we need coverage for the R-75 and
19 coverage for the R-3.

20 Is that correct?

21 A. Yes.

22 Q. Then you discussed earlier buildings
23 across zone lines.

24 Is that happening here?

25 A. Yes.

1 Q. So this architect designed this
2 building crossing the R-75 and R-3 zone.

3 Is that correct?

4 A. Yes.

5 Q. Does the ordinance permit that?

6 A. No.

7 Q. So by not permitting it, the architect
8 does not meet the zoning ordinance for the design of
9 this building.

10 Is that right?

11 A. Yes.

12 Q. Is a variance required?

13 A. Yes.

14 Q. Talking about the sign. We heard
15 testimony pertaining to the Applicant requesting
16 signage for the property. Yes? No?

17 A. Yes.

18 Q. Okay and what is the Applicant
19 proposing and what does the zoning ordinance require?

20 A. Well, two items. One is with regard to
21 the setback of the sign, the other with regard to
22 sign area.

23 The setback is five feet on the
24 drawings. And it should be 28 feet, one half of the
25 setback distance.

1 Q. And what section of the variance code,
2 the ordinance code that you were speaking of?

3 A. Uhmmm, 175 -- page 79, 175-7.1 --
4 7.14(c)(3)(c).

5 Q. So a variance is needed for the sign
6 setback.

7 Is that correct?

8 A. That's correct.

9 Q. So the architect, didn't again, design
10 the building in conformance with the zone?

11 A. Yes. And that --

12 Q. And you have sign area.

13 A. The sign area.

14 Q. How many square feet is the architect
15 proposing --

16 A. The architect --

17 Q. -- or the Applicant?

18 A. The architect is proposing 96 square
19 feet.

20 Q. And what does the zone require?

21 A. Twelve square feet.

22 Q. So another variance is required?

23 A. Yes.

24 Q. And that's in section
25 175-7.14(c)(3)(b).

1 Is that correct?

2 A. Yes.

3 Q. Then we talked about the screening
4 earlier. And that, again, is a violation of the
5 ordinance that you testified to that, correct?

6 A. Yes.

7 Q. Based on your review of the
8 architectural plans as designed by the architect and
9 as the architect reviewed the zoning ordinance, in
10 your opinion as an architect how many violations of
11 zoning variances did this architect violate to
12 present the building as he did in the plans to this
13 Board?

14 A. Fifty-three.

15 Q. I asked you, as an architect, to
16 address the hospital development without bulk
17 variances concerning coverage.

18 Is that correct?

19 A. Yes.

20 Q. So in your architectural experience,
21 okay, you reviewed the zones, the buffers, the
22 setbacks and what was your determination as an
23 architect about building this building without bulk
24 variances?

25 Could it be done and how much area

1 would you require to build it to code?

2 Code meaning, zoning not building
3 codes?

4 A. Okay.

5 Without bulk variances, I come up with
6 approximately four to five acres of land.

7 Q. And how did you do that? Please do the
8 mathematics?

9 A. Yes, I took the R-75 single family,
10 there's 24,300 square feet, divided by the coverage,
11 25 percent. That's 97,200 square feet.

12 The R-3 has 17,590 divided by .3 which
13 is the 30 percent coverage. It's 58,633.

14 The buffer is 450 feet -- that's taking
15 the lineal distance of the property line, times
16 12 feet, times two sides is 10,800 square feet.

17 Storm drain is 10 foot wide by 200 feet
18 by two sides is 4,000 square feet.

19 Q. This one is yours.

20 A. Oh, thank you.

21 And adjusting -- in other words, when
22 you do -- I was just considering coverage. Now
23 adding setbacks into this I added another adjustment
24 of 10 percent, which is 17,063. So a total of
25 187,696 square feet divided by 43,560 that's another

1 square feet in an acre, we come up with 4.3 acres.

2 Q. So that -- stop there.

3 So that to meet the zoning requirement
4 architecturally without bulk variances, because we
5 still need three use variances, correct?

6 A. Yes.

7 Q. This lot area should have been what?

8 A. Should have been four to five acres.

9 Q. What does your calculation -- what did
10 you calculate?

11 A. It comes out to 4.3 acres.

12 Q. So 4.3 acres.

13 And what is proposed here?

14 A. Fifty-thousand square feet which is 1.4
15 acres.

16 Q. I also asked you to did review
17 architecturally, to build the long term acute
18 hospital on the area that the Applicant owns.

19 Is that correct?

20 A. Yes.

21 Q. Did you do the mathematical and
22 architectural calculations to design the building
23 architecturally, an LTACH, a long term acute
24 hospital, on the area in question?

25 A. Yes.

1 Q. So can you go through that mathematical
2 calculation?

3 A. Yes. On the R-75 single family, it's
4 30,000 square feet multiplied by coverages is .25 or
5 25 percent, the 7500 square feet. The R-3 is 2,000
6 square feet --

7 Q. Twenty?

8 A. Twenty-thousand square feet times 30
9 percent is 6,000 square feet. That's a total of
10 13,500, less from that is the buffer, which is
11 10,800 square feet, less storm system is 2,000 square
12 feet. That leaves 700 square feet and that's just
13 too small to put a hospital on it.

14 Q. So it's your opinion architecturally
15 that if the Applicant attempted to meet the zoning
16 requirement on the property, it's not practical.

17 A. That's true.

18 Q. And to build what he wants and what
19 he's proposed this evening or over the course of two
20 years he would require 4.3 acres to do it properly in
21 accordance with the zone and still requiring three
22 (d) variances.

23 Is that right?

24 A. Yes.

25 Q. Now, are you familiar with the purposes

1 of planning under N.J.S.A. 40:55D-2?

2 A. Yes.

3 Q. And those purposes of planning are also
4 codified in the zoning ordinance at section 175-1.4.

5 A. Yes.

6 Q. Is that correct?

7 And -- excuse me?

8 A. Yes.

9 Q. And the statute says, 40:55D-2 the
10 purpose of the Municipal Land Use Act --

11 MR. BASRALIAN: I'm sorry, what section
12 were you referring to?

13 MR. DIKTAS: N.J.S.A. 40:55D-2, the
14 purposes of the Municipal Land Use Act.

15 You okay?

16 MR. BASRALIAN: Yes. Sure.

17 Q. When you read the statute I just cited
18 to, is there any direction or concept through the
19 zoning statute, the land use act, that secure the
20 premises or the building or development of land in
21 this State from fire, et cetera?

22 A. Yes.

23 Q. And where is that?

24 A. That would be article B.

25 Q. Okay.

1 And based on reading article B of the
2 statute what is your interpretation of this project
3 being secure from fire, et cetera?

4 A. The width of the driveway, the oxygen
5 tanks and garbage containers next to the residential
6 use on the residential property line.

7 Q. So in your understanding and experience
8 and architectural design, do you feel professionally
9 -- in your opinion that you can give and in your
10 experienced opinion, that this project meets Section
11 2 as you indicated the statute pertaining to fire,
12 width of driveways, location of the oxygen tank and
13 the garbage container both located in a residential
14 zone?

15 A. Yes.

16 Q. Yes, it does? It does meet?

17 A. It does not meet it.

18 Q. The statute also requires to provide
19 adequate light, air and open space, setback coverage
20 and lot width, have you testified to that before --

21 A. Yes.

22 Q. -- this evening?

23 A. Yes.

24 Q. And what section of the statute is
25 violated?

1 A. The section here, (c).

2 Q. Okay.

3 A. And the site doesn't comply with the
4 concept of adequate light, air and open space because
5 of its reduced setback, lot coverage, it's very
6 extensive lot coverage and lot width.

7 Q. The statute talks about appropriate
8 population density concentrations.

9 Is that correct?

10 A. Yes.

11 Q. Can you tell us about the violation of
12 the statute as this Applicant has presented these
13 architectural plans for this hospital?

14 A. We're putting in an intense hospital
15 use and it's not -- it's not an appropriate
16 population density concentration and it's not to the
17 wellbeing of persons and neighbors and neighborhood.

18 Q. Does the City of Hackensack propose
19 zones for hospitals?

20 A. Yes.

21 Q. Is this proposed hospital in that zone?

22 A. No.

23 Q. Does it violate the statute by doing
24 that?

25 A. Yes.

1 Q. The statute calls for the promotion of
2 free flow of traffic and prevention of congestion.

3 A. Yes.

4 Q. Has this building been designed
5 architecturally to meet the statutory requirements
6 promoting free flow of traffic and to prevent traffic
7 congestion?

8 A. No, it has five driveways in seven
9 total different directions.

10 Q. Has the architectural design promoted a
11 desirable visual environment or element based on the
12 design of the building, the height of the building
13 and the zones that it's located in?

14 A. No. It doesn't.

15 Q. Does it violate the statute that we're
16 referencing there?

17 A. Yes.

18 Q. What section?

19 A. That is (i).

20 Q. Thank you.

21 The variances as to the bulk variances
22 requires in accordance with the statute the negative
23 criteria.

24 Is that correct?

25 A. Yes.

1 Q. And the negative criteria, can you read
2 the statute what the negative criteria -- the
3 definition of it is?

4 A. Negative criteria. Okay.

5 "Relief can never be granted unless it
6 can be granted without substantial detriment
7 to the public good and unless it will not
8 substantially impair the intent and purpose of
9 the zone plan and the zoning ordinance".

10 Q. And that's your reading from the
11 statute, right?

12 A. Yes.

13 Q. And you've addressed your testimony
14 this evening as to this building as it's designed
15 doesn't meet the zone plan or the zoning ordinance.

16 Is that correct?

17 A. Yes.

18 Q. And you've testified architecturally
19 that to meet the zone plan and the zoning ordinance
20 this Applicant would have required to compile 4.3
21 acres of land.

22 Is that correct?

23 A. Yes.

24 Q. So in your opinion, as an architect,
25 did the architect design the building to meet the

1 negative criteria or he cannot satisfy the negative
2 criteria?

3 A. Cannot meet the negative criteria.

4 Q. In addition the statutory provisions
5 under 40:55D talks about granting (c)(2) variances,
6 the bulk variances.

7 And what are the requirements of a C(2)
8 variance?

9 A. Okay.

10 Q. The purposes of that?

11 A. Okay.

12 "Where an application or appeal related
13 to a specific property, the purpose of this
14 act or the purpose of the Educational
15 Facilities Construction Finance Act would be
16 advanced by deviation from the zoning
17 ordinance requirements and the benefits of the
18 deviation would substantially outweigh the
19 detriment to grant a variance to allow
20 departure from the regulation pursuant to
21 article eight of this Act".

22 Q. So the statute requires that the basis
23 for granting the 53 variances, plus meeting the
24 negative criteria, which you said in your opinion
25 they couldn't meet architecturally or planning-wise,

1 would be to the -- the advances by deviation from the
2 zoning ordinance requirement and the benefits of the
3 deviation would substantially outweigh any
4 detriments.

5 You've testified this evening that the
6 building to be designed to meet the ordinance
7 requires 4.3 acre.

8 Is that correct?

9 A. Yes.

10 Q. So if the Applicant presented this
11 application with the understanding that the (d)
12 variances were to be granted or were in place, then
13 he would meet -- there would be no deviation from the
14 zone. There'd be no deviation -- and there wouldn't
15 be any detriments, correct, from the balancing test?

16 A. No, there would be a lot of it, if they
17 were granted to the -- if they were granted the plan
18 as it is, it would be a lot of detriment.

19 Q. And the only way for there not to be
20 detriment is to have 4.3 acres.

21 Is that right?

22 A. That's correct.

23 Q. With the understanding that this Board
24 would have granted three (d) variances?

25 A. Yes.

1 Q. So before we even get to the 53 bulk
2 variances, we have to get through the three (d)
3 variances.

4 Is that right?

5 A. Yes.

6 MR. DIKTAS: I'm almost finished.

7 (Pause)

8 I don't have any further questions.

9 I reserve the right to redirect and --

10 MR. MALAGIERE: Mr. Basralian?

11 MR. DIKTAS: Let me get this out of
12 your way in a minute.

13 You want the ordinance?

14 MR. BASRALIAN: I'm sorry?

15 MR. DIKTAS: You want the ordinance?

16 MR. BASRALIAN: No.

17 MR. MALAGIERE: I was going to reserve
18 for you, if you wanted to coordinate a new time as
19 you indicated?

20 MR BASRALIAN: Yes, I think given the
21 time, I would like to do all the cross examination at
22 one time.

23 MR. MALAGIERE: Okay.

24 MR. BASRALIAN: I think it's probably
25 appropriate to really just try to decide on a date.

1 I did get Mr. Keller's dates for April,
2 if he be required to return.

3 I also would like to make sure that the
4 date and we coordinate Mr. Lacz will be available and
5 --

6 MR. MALAGIERE: What do you got?

7 MR. BASRALIAN: The dates Mr. Keller is
8 not available, 5th, 6th, 7th, 12th.

9 FEMALE AUDIENCE MEMBER: Can you speak
10 into the microphone please?

11 MR. BASRALIAN: Sorry. April 5th, 6th,
12 7th, 12th, 14th and 21st.

13 I'm not available on the 17th -- I'm
14 sorry the 21st.

15 MR. MALAGIERE: When's our regular
16 meeting, Al?

17 MR. BORRELLI: Our regular meeting for
18 --

19 MR. MALAGIERE: For April.

20 MR. BORRELLI: -- for April?

21 CHAIRMAN GUERRA: April 14th.

22 MR. BORRELLI: April 14th, right.

23 MR. BASRALIAN: Well, Mr. Keller isn't
24 available, but I can proceed with cross examination
25 of Mr. Lacz.

1 MR. MALAGIERE: What day?

2 MR. BASRALIAN: The only bad day I have
3 is --

4 MR. MALAGIERE: Could we do it on a
5 Thursday. Is that okay with everybody?

6 MR. BORRELLI: The 21st is --

7 MR. MALAGIERE: How about the 21st?

8 MR. BASRALIAN: The 21st is the day I'm
9 not available.

10 MR. BORRELLI: Okay.

11 MR. MALAGIERE: Okay.

12 CHAIRMAN GUERRA: What about the 28th?

13 MR. BORRELLI: The 28th.

14 MR. BASRALIAN: Yes, the 28th, I'm
15 available.

16 MR. MALAGIERE: Mr. Keller?

17 MR. BASRALIAN: There is nothing here
18 to indicate that he is not.

19 MR. MALAGIERE: Okay.

20 And, Mr. Lacz?

21 THE WITNESS: Yes.

22 CHAIRMAN GUERRA: Greg?

23 MR. MALAGIERE: Mr. Polyniak?

24 MR. POLYNIAK: Yes.

25 CHAIRMAN GUERRA: Frank?

1 MR. MISKOVICH: Yes.

2 MR. BORRELLI: I'll reserve the room
3 for the 28th.

4 MR. DIKTAS: March or April.

5 MR. BORRELLI: April.

6 MR. DIKTAS: I'm available.

7 We're both available, Mr. Malagiere.

8 MR. MALAGIERE: Right.

9 CHAIRMAN GUERRA: I don't want any
10 surprises.

11 MR. MALAGIERE: At least you have a
12 quorum. We have four.

13 MR. BASRALIAN: Is there anything in
14 March, the end of March?

15 CHAIRMAN GUERRA: Don't push it,
16 Counsel.

17 MR. MALAGIERE: At this point we're
18 going to be effectively two months before we get back
19 here. Today is only the third of April -- third of
20 March, and then it's going to be the 28th April.

21 This Board has another meeting this
22 month and then it would have another meeting this
23 month. You know they're meeting twice a month --

24 MR. BASRALIAN: But they're so highly
25 paid I thought you might want to do this.

1 MR. MALAGIERE: I think we're going to
2 stick with the 28th the Chairman seems to like it.

3 MR. BASRALIAN: So Mr. Lacz will be
4 back.

5 CHAIRMAN GUERRA: So you want to do it
6 earlier in April, we can do it. As long as that
7 works out with everybody, but...

8 MR. MALAGIERE: The only requirement I
9 would have is a Thursday.

10 CHAIRMAN GUERRA: It will be a
11 Thursday. It will be a Thursday.

12 So what about the seventh, April 7th?

13 MR. BORRELLI: Mr. Polyniak is not
14 available that day.

15 CHAIRMAN GUERRA: What about -- the
16 14th is our regular meeting so here we go again.

17 It's the 28th. Leave it at April 28th?

18 MR. MALAGIERE: Yes, leave it the 28th.

19 MR. BASRALIAN: I'm not available on
20 the 21st.

21 MR. MALAGIERE: I'm sorry.

22 MR. BASRALIAN: I'm not available on
23 the 21st.

24 MR. MALAGIERE: Okay. You're not
25 available the 21st?

1 MR. BASRALIAN:

2 MR. DIANA: The 28th it is.

3 MR. DIKTAS: Thank you.

4 MR. BASRALIAN: Sounds like it.

5 CHAIRMAN GUERRA: Yes, we can't do
6 three meeting in March.

7 MR. MALAGIERE: With your permission,
8 Mr. Chairman, this application is carried without
9 further notice to 7:00, these chambers, Thursday
10 April 28th, 2011.

11 It will be posted on the website, Al?

12 MR. BORRELLI: I'll have it posted on
13 the website. And I'll e-mail everybody.

14 MR. MALAGIERE: Thank you.

15 Mr. Chairman, motion?

16 CHAIRMAN GUERRA: Motion to adjourn.

17 Do I hear a second?

18 MR. DIANA: Second.

19 MR. MALAGIERE: All in favor?

20 (Whereupon, all present members respond
21 in the affirmative.)

22 (Whereupon, this matter will be
23 continuing at a future date. Time noted 9:30
24 p.m.)
25

C E R T I F I C A T E

I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #15855, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #15855, Notary
Expiration Date March 1, 2014

Dated: _____