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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**  
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GREGORY POLYNIAK, P.P., P.E., NEGLIA ENGINEERING

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FRANK MISKOVICH, P.E., BIRDSALL ENGINEERING

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201-943-8020

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I N D E X

<u>WITNESS</u>	<u>SWORN</u>	<u>PAGE</u>
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	

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

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

9                   One, use variance required pursuant to  
10 40:55D(1).

11                   Two, insufficient lot area, required  
12 30,000 square feet, proposed 20,000 square feet.

13                   Three, insufficient lot width, required  
14 125 feet, proposed 100 feet.

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

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

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

23                   Seven, insufficient buffer zone,  
24 required 6 feet, proposed zero feet to edge R-3  
25 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. Ditkas 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 Burllyuk.

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 expert.  
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: Burljuk.

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'  
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 remainder 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. POLYNIK: 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?

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MR. BASRALIAN:

MR. DIANA: The 28th it is.

MR. DIKTAS: Thank you.

MR. BASRALIAN: Sounds like it.

CHAIRMAN GUERRA: Yes, we can't do  
three meeting in March.

MR. MALAGIERE: With your permission,  
Mr. Chairman, this application is carried without  
further notice to 7:00, these chambers, Thursday  
April 28th, 2011.

It will be posted on the website, Al?

MR. BORRELLI: I'll have it posted on  
the website. And I'll e-mail everybody.

MR. MALAGIERE: Thank you.

Mr. Chairman, motion?

CHAIRMAN GUERRA: Motion to adjourn.

Do I hear a second?

MR. DIANA: Second.

MR. MALAGIERE: All in favor?

(Whereupon, all present members respond  
in the affirmative.)

(Whereupon, this matter will be  
continuing at a future date. Time noted 9:30  
p.m.)

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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.

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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: \_\_\_\_\_