

CITY OF HACKENSACK
 ZONING BOARD OF ADJUSTMENT
 THURSDAY, APRIL 29, 2010
 COMMENCING AT 7:15 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

DAN GILMORE, ALTERNATE MEMBER

LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
CERTIFIED COURT REPORTERS
P.O. BOX 505
SADDLE BROOK, NJ 07663
201-641-1812
201-664-6339 FAX
laccsr2@aol.com

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

MARCELLA SBARBARO, LAND USE SECRETARY

GREGORY POLYNIAC, P.E., NEGLIA ENGINEERING

FRANK MISKOVICH, P.E., BIRDSALL ENGINEERING

A P P E A R A N C E S:

THE LAW OFFICES OF RICHARD MALAGIERE, P.C.

RICHARD MALAGIERE ESQUIRE

14 Bergen Street, 1st Floor

Hackensack, New Jersey 07601

Counsel to the Board

201-261-1414

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

JOSEPH L. BASRALIAN, ESQ.

21 Main Street

Court Plaza South

Hackensack, New Jersey 07601

Counsel to the Applicant

201-487-3800

McCARTER & ENGLISH, ESQS.

THEODORE D. MOSKOWITZ, ESQ.

100 Mulberry Street

Newark, New Jersey 07102

Counsel for Interested Party, Prospect Avenue

Coalition, LLC

973-639-2048

DIKTAS, SCHANDLER GILLEN, ESQS.

CHRISTOS J. DIKTAS, ESQ.

596 Anderson Avenue

Cliffside Park, New Jersey 07010

Counsel for Interested Party, Anastasia Burluk

201-943-8020

I N D E X

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVID</u>
(NO EXHIBITS MARKED)			

1 CHAIRMAN GUERRA: I'll read in the
2 case. Application V# 23-08, SP# 21-08, address, 320
3 Summit Avenue, 329 Prospect Avenue, Hackensack, Block
4 344, Lot 3, 4, 5, 14, Zone R-75 and R-3 Bergen
5 Passaic Long Term Acute Care Hospital L.L.C.

6 Counsellor?

7 MR. BASRALIAN: Good evening, Mr.
8 Chairman. Joseph Basralian for the Applicant.

9 I have brought back Eric Keller our
10 traffic consultant for cross examination by Mr.
11 Moskowitz who asked that he be brought back for this
12 hearing.

13 So I think we -- then the next step in
14 the process.

15 Mr. Keller?

16 MR. DIKTAS: Mr. Chairman, point of
17 order?

18 CHAIRMAN GUERRA: Please.

19 MR. DIKTAS: Just a housekeeping.

20 MR. MALAGIERE: I just ask you to make
21 your appearance, Mr. Diktas?

22 MR. DIKTAS: Sure, Chris Diktas on
23 behalf of Anastasia Burlyuk. At the last hearing Mr.
24 Basralian indicated that there were to be site plans
25 delivered to all the Board Members because there

1 weren't enough that night.

2 Were those plans delivered to the Board
3 Member so that we can review the file during the
4 week, even though it's not applicable tonight for my
5 client's appearance, but it would be in the future.

6 CHAIRMAN GUERRA: Well, let's
7 specifically say what site plan and revision. Let's
8 make sure we're all looking at the same thing.

9 MR. MALAGIERE: Mr. Basralian, do you
10 want to respond?

11 MS. SBARBARO: Yes, they were.

12 MR. BASRALIAN: Yes, they were all
13 delivered. Marcella has the delivery date and the
14 number of plans that were provided to your office.

15 CHAIRMAN GUERRA: Can be make sure
16 we're looking at -- how do I know this is the right
17 one?

18 MR. BASRALIAN: The latest revision
19 date which has -- I'll pull Mr. Polyniak's report.

20 CHAIRMAN GUERRA: Do you have this?

21 MR. MALAGIERE: Let's let the --

22 CHAIRMAN GUERRA: That's what he's
23 talking about, right?

24 MR. GILMORE: Yes.

25 MR. BASRALIAN: Revised February 3rd,

1 2010.

2 Is that the date you have?

3 MR. POLYNIAK: Correct.

4 MR. MALAGIERE: Mr. Basralian, what's
5 the latest revision date?

6 MR. BASRALIAN: Revision date
7 February 3, 2010.

8 MR. MALAGIERE: April what?

9 MR. BASRALIAN: Revised date
10 February 3rd, 2010.

11 CHAIRMAN GUERRA: Wait, oh, we're
12 looking at the survey, is that what you're talking
13 about?

14 MR. BASRALIAN: No, no, we're talking
15 about the site plan. The next page.

16 MR. POLYNIAK: February 3rd, we got it.

17 MR. BASRALIAN: February 3, 2010,
18 that's the plan.

19 MR. DIKTAS: Thank you.

20 MR. BASRALIAN: Those are the plans.

21 MR. MALAGIERE: Mr. Moskowitz, would
22 you like to make your appearance, sir?

23 MR. MOSKOWITZ: Yes. Thank you.

24 I have -- someone else has left some of
25 their papers here.

1 Good evening, Chairman Guerra,
2 Counsellor Malagiere, Mr. Basralian. My name is Ted
3 Moskowitz. I'm a resident of 307 Prospect Avenue,
4 Hackensack, New Jersey. An attorney at law of the
5 State of New Jersey, work for McCarter & English law
6 firm headquartered in Newark, New Jersey.

7 MR. MALAGIERE: And who are you here on
8 behalf of, sir?

9 MR. MOSKOWITZ: I am here on behalf of
10 the Prospect Avenue Coalition an L.L.C. that was
11 formed on November 11th or 10th of the 2009 for the
12 purposes in the name opposing this present
13 application before the Board.

14 MR. MALAGIERE: I'm going to swear in
15 your witness again, I'm not going to re-qualify him
16 --

17 MR. BASRALIAN: Yes.

18 MR. MALAGIERE: -- but I'm going to
19 re-swear him.

20 MR. BASRALIAN: Point of order, though,
21 I would like a list of the persons who constitute the
22 coalition L.L.C. so I know who Mr. Moskowitz is
23 representing, because they do not have the right to
24 cross examine the witnesses, only he does on their
25 behalf.

1 MR. MALAGIERE: Would you provide that
2 Mr. Moskowitz under separate letter?

3 MR. MOSKOWITZ: A list of the persons?

4 MR. MALAGIERE: Yes, for whom you
5 represent.

6 MR. MOSKOWITZ: I promise you I will
7 provide a response to Mr. Basralian's request.

8 MR. BASRALIAN: Well, I had requested
9 this on two separate occasions both in January and in
10 December and I still haven't had a response to it.

11 I think what Mr. Moskowitz is saying,
12 if I read his statement correctly, he will prepare a
13 response to my request for a list. But that doesn't
14 mean I will get the list of people he represents.
15 And I'd like to clarified.

16 MR. MALAGIERE: We'll see what Mr.
17 Moskowitz provides. I don't think the issue is
18 relevant now because this witness is only here for
19 Mr. Moskowitz to cross examine, so no one else is
20 going to ask him any questions.

21 Mr. Basralian, in my estimation, is
22 entitled to disclosure.

23 Mr. Moskowitz provide your submission,
24 and we'll deal with it next time we convene.

25 I'm going swear you in again, sir.

1 MR. KELLER: Sure.

2 MR. MALAGIERE: Just put your hand on
3 the Bible.

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

7 MR. KELLER: I do.

8 E R I C K E L L E R, P.E. P.P.

9 54 Horsehill Road, Cedar Knolls, New Jersey,
10 having been duly sworn, testifies as follows:

11 MR. MALAGIERE: Would you please
12 identify yourself for the record, indicate for the
13 record the capacity in which you will offer
14 testimony.

15 MR. KELLER: Certainly, Eric Keller,
16 Omland Engineering Associates traffic engineer.

17 MR. MALAGIERE: Just for the record, Mr.
18 Keller has testified at least one complete hearing
19 before this --

20 VICE CHAIRMAN DIMINNO: Three.

21 MR. MALAGIERE: More. And he's
22 currently here and sworn in again for cross
23 examination.

24 Mr. Moskowitz?

25 MR. MOSKOWITZ: Thank you.

1

2 CROSS EXAMINATION

3 BY MR. MOSKOWITZ.

4 Q. Good evening, Mr. Keller.

5 A. Good evening, Mr. Moskowitz.

6 Q. With reference to Omland Engineering's
7 engagement in these matters and the production of
8 these reports of 9/28 and 11/23/09, when was Omland
9 first retained by the LTACH to become their traffic
10 and parking expert?

11 A. May of last year.

12 Q. In May.

13 By whom were you -- were you the
14 primary contact?

15 A. No. My partner Stan Omland was the
16 initial contact.

17 Q. One of the principals of your firm?

18 A. Yes.

19 Q. And who are the other two principals?
20 You're one also?

21 A. I'm one also.

22 Chuck Thomas who's testified here is
23 another principal.

24 And Bill Hamilton who has not testified
25 is a fourth principal of the firm.

1 Q. And from the initial point of the
2 engagement, have you been the main contact at Omland?

3 A. It's shared between myself and Mr.
4 Thomas --

5 Q. And who --

6 A. -- depending on the area of the
7 engagement.

8 Q. During your retention or just prior to
9 and as you were being retained, were you given an
10 assignment or an engagement listing by the LTACH?

11 A. I -- I don't understand your question,
12 sir.

13 Q. Well, how did you learn from them what
14 they wanted you to do? Did they give you specific
15 requests to what your duties would be?

16 A. Yes. Yes, we did receive that.

17 Q. Was that a written request?

18 A. No, it was discussed in a meeting with
19 the -- with Mr. Basralian and Mr. Pineles.

20 Q. Has the nature of your assignment, and
21 by "your" in this instance I'm speaking your personal
22 areas, ever in writing?

23 A. Yes.

24 Q. And you were given a manifest or a list
25 of what you were expected to do?

1 A. No.

2 They -- they described what they
3 wanted. We wrote a proposal outlining what was our
4 understanding of the request. And they accepted it.
5 And that's what we based your engagement upon.

6 Q. Have you ever produced your engagement
7 paper?

8 A. To this -- to the Zoning Board?

9 Q. Yes.

10 A. No.

11 Q. Might I request that you produce that?

12 A. I defer to the -- our attorney.

13 MR. BASRALIAN: I object to that. It's
14 an engagement letter between a client and an
15 engineering firm outlining the fees, the services
16 that would be provided.

17 MR. NIX: Can't hear.

18 AUDIENCE MEMBERS: What? Can't hear.
19 Can't hear.

20 MR. BASRALIAN: It's an engagement
21 little between an engineer and a client as to the
22 cost of the services that are going to be provided
23 and at outline of the things that he would undertake
24 as a traffic consultant.

25 If your -- and I object to providing

1 that as privileged, if you will as an engagement
2 letter between an attorney and a client.

3 MR. MOSKOWITZ: I would represent --

4 MR. MALAGIERE: What's the -- just if
5 you would, Mr. Moskowitz, without providing the
6 strategy of your cross examination, of course, can
7 you give us a proffer on that?

8 MR. MOSKOWITZ: Yes.

9 My proffer is that it's very difficult
10 to tell exactly -- (cell phone rings) -- whose cell
11 phone is ringing.

12 MR. MALAGIERE: No, no, it's not mine.
13 Thank you. Someone's was.

14 MR. MOSKOWITZ: Yes. But I think it's
15 important for the public and for the Board to
16 understand the full nature and the scope and
17 magnitude of Omland's work here because we can't
18 forget that there was initially another traffic
19 report. And although in form and the shape of the
20 English and the writing, there is no question, but
21 that the Omland report looks nicer and sounds nicer,
22 excepting it utilizes just about all of the same
23 material.

24 And I think it would be important to
25 know if Omland came in and basically was told do not

1 restudy, do not create any new assumptions, use all
2 the old data. We need something new, we'll tell you
3 -- you tell us what you want and we'll let you know.

4 So that's my proffer is to know exactly
5 what work was to be done here. I will deal with some
6 of that in my cross.

7 MR. MALAGIERE: Let me just -- right.

8 MR. MOSKOWITZ: But also, I might add,
9 if there is no such privilege --

10 MR. MALAGIERE: Yes, I would agree with
11 that.

12 MR. MOSKOWITZ: -- as Mr. Malagiere
13 (sic) was suggesting.

14 MR. MALAGIERE: Mr. Basralian.

15 Why don't you just keep moving on with
16 your cross examination and we'll reserve on the
17 request.

18 MR. BASRALIAN: May I make a
19 suggestion?

20 MR. MALAGIERE: Yes.

21 MR. BASRALIAN: Why doesn't he just ask
22 Mr. --

23 AUDIENCE MEMBER: Can't hear.

24 MR. BASRALIAN: Why doesn't he just ask
25 Mr. Keller if he was --

1 MR. MALAGIERE: Well --

2 MR. BASRALIAN: -- given instructions
3 on a conclusion that he reach instead of going about
4 the -- and wasting all this time --

5 MR. MALAGIERE: Well, he's entitled --

6 MR. BASRALIAN: -- I mean that's really
7 interesting.

8 MR. MALAGIERE: He's entitled to
9 document, to challenge the witness.

10 Why don't we reserve on the request and
11 at the end of the cross examination, Mr. Chairman,
12 we'll deal with the issues, one of them being that
13 request for that document.

14 I think it's easily dealt with if we
15 could have the document redacted. And that's
16 probably what I'm going to suggest to you, but we'll
17 move forward.

18 BY MR. MOSKOWITZ:

19 Q. Mr. Keller, were you asked to prepare a
20 budget for this project?

21 A. A budget for what part of it?

22 Q. The traffic and parking parts.

23 Unless --

24 A. For our services?

25 Q. Yes. Unless I state otherwise you can

1 assume I'm asking about the traffic and parking,
2 essentially those matters about which you've
3 testified previously?

4 A. We -- we gave them a -- a budget to
5 produce the original traffic report and I believe we
6 gave them a budget to prepare the revised traffic
7 report when the program, the building program, was
8 reduced.

9 Q. And that was a budget for fees and
10 whatever expected outside services would be involved?

11 A. It was for our service to prepare the
12 report.

13 Q. Did you propose taking a new traffic
14 study?

15 A. You mean traffic counts?

16 Q. Yes.

17 A. Okay. We did not propose to redo the
18 intersection traffic counts. We proposed -- because
19 there had been some time since the counts were done
20 to validate them by installing the machine counters,
21 to tube counters on Summit Avenue and Prospect
22 Avenue. So we did not redo the intersection counts
23 because we felt that they were representative and
24 reasonable to use. And we just validated them by
25 using the tube counters.

1 Q. You know that by know they're about two
2 years old?

3 A. Yes.

4 I also know that Mr. Miskovich did
5 counts and his were equal to or lower than the counts
6 from 2008, which I think bears out the fact that the
7 counts used in our study are representative and
8 appropriate.

9 Q. Did you review the Boswell report?

10 A. Yes, I did.

11 Q. Did you speak with Mr. Tombalakian
12 about it?

13 A. I did.

14 Q. Did you have meetings with him?

15 A. I believe I did.

16 Q. How many times did you meet with him?

17 A. I don't remember.

18 Q. Was is five --

19 A. I don't remember it's -- it's been
20 almost a year since we were engaged.

21 Q. Did you meet with Mr. Pineles with
22 respect to your review of the Boswell report?

23 A. Yes, a number of times.

24 Q. When you spoke to Mr. Tombalakian and
25 you looked the assumptions as contained in his

1 report, you do recall that there was some 20, 22
2 assumptions identified in his report, correct?

3 A. I -- I don't recall. My conversations
4 with Mr. Tombalakian were to gather information, the
5 basis -- the base data that he used in preparing the
6 reports, so that I had a complete package of
7 information from him.

8 I did not discuss the conclusions of
9 his report, the findings for the report, what he did.

10 In discussions with Mr. Pineles,
11 essentially, what we did is, because I have to sign
12 this, it's my name on this report, I went through the
13 -- the report and, essentially, redid it to my
14 satisfaction, so that I could stand here for the
15 fourth night and testify as to the contents of that
16 report.

17 Q. Well, I don't know how many nights you
18 testified has to do with anything.

19 But my question was, did you review the
20 assumptions contained in the Boswell report with Mr.
21 Tombalakian, about 20 or so assumptions?

22 A. I -- I don't believe that I sat down
23 and went through each page of his report.

24 Q. Do you --

25 A. I don't know.

1 Q. Is that a no or you don't know or you
2 may have forgotten?

3 A. I don't know.

4 Q. You did know enough to incorporate all
5 22 of them in your report?

6 A. I don't know that there's 22 in there.

7 Q. Well, I counted them.

8 A. Okay.

9 Q. And after the meeting, if you'd like a
10 copy of those pages, I'll let you count them.

11 A. Okay.

12 Q. And if there were 19 of them instead of
13 22, how would that change the answer to my question?

14 A. It wouldn't.

15 Q. Well, you incorporated those
16 assumptions in your report, correct?

17 A. I know I --

18 Q. Would you like a copy of your report?

19 A. I have a copy.

20 Q. Well, take a look.

21 A. What I'm saying is I don't remember how
22 many assumptions there are; what the assumptions are.
23 And if you want to be more specific about the -- what
24 those assumptions are and what relevance that has to
25 my report, I'd be happy to answer it --

1 Q. Well -- -

2 A. -- but I can't answer in general
3 whether I took all of his assumptions and used them
4 in the same manner.

5 Q. Did you ever question him about any of
6 his assumptions?

7 A. No.

8 I discussed -- I reviewed the materials
9 he gave me and then discussed with Mr. Pineles the
10 operations of his facility and asked the questions
11 that I needed to produce this report. I did not
12 review it with Mr. --

13 MR. MOSKOWITZ: Might I ask the
14 reporter to read my question back?

15 (Whereupon, the Court Reporter reads
16 back the requested portion.)

17 A. No, not that I recall.

18 Q. Did you ever question Mr. Pineles about
19 the basis of Mr. Tombalakian's assumptions?

20 A. No.

21 Q. Did you every test the factual nature
22 of any of those assumptions?

23 A. I don't understand the question.

24 Q. Well, if there's an assumption that
25 says there will be one visitor every two days and you

1 read it and you include that in your report, does
2 that mean that you took the least trouble to check
3 whether or not that assumption was correct?

4 A. No. In that case now that you used a
5 specific example we discussed that with Mr. Pineles
6 about the functions and type of operation that exist
7 with this type of facility. Because there is no
8 industry documentation about these types of
9 facilities in the traffic engineering references
10 world.

11 MR. MOSKOWITZ: I apologize, but I'd
12 like the reporter to read that question back.

13 MR. NIX: I couldn't hear what he said.

14 I couldn't hear what you said.

15 MR. MOSKOWITZ: What I said.

16 MR. NIX: Apologize?

17 MR. MOSKOWITZ: I apologized to the
18 reporter, because I wanted her to read my question
19 again for Mr. Keller.

20 (Whereupon the Court Reporter reads
21 back the requested portion.)

22 Q. Would you answer the question?

23 A. Oh, I -- I'm sorry. Now I'm going to
24 ask you to read it back because I didn't realize he
25 wanted me to respond in a different way than I have

1 already responded.

2 (Whereupon the Court Reporter reads
3 back the requested portion.)

4 MR. NIX: I can't -- I cannot hear it.

5 Q. Maybe I can help you. This is an
6 assumption that was included in the Boswell report
7 and --

8 FEMALE AUDIENCE MEMBER: Use the mike.
9 The mike.

10 Q. -- the incorporated in your report.

11 "At the LTACH visitors 8 to 8, 7:30 to
12 7:30 departure 8:00 p.m. assumption number
13 one" --

14 I can share it with you, sir. Would
15 you like to come over here and look?

16 "Each patient receives one visitor
17 every other day".

18 A. Yes.

19 Q. Yes, you recognize that?

20 A. Yes.

21 Q. And, yes, it was in the Boswell report?

22 A. Correct.

23 Q. And yes it's incorporated in your
24 reports?

25 A. And we discussed that with Mr. Pineles

1 as to the operations of an LTACH and his experiences
2 with that.

3 Q. Does he operate other LTACs?

4 A. I don't recall.

5 Q. Well --

6 A. I don't believe so.

7 Q. -- you -- oh --

8 A. But, it's --

9 Q. -- so his experience with it was
10 nothing then. It must have been an interesting
11 discussion.

12 So now, what did you do to try to
13 objectively verify anything at all about that fairly
14 important assumption which was one of a pack of 20
15 others in the Boswell report that you took lock,
16 stock and barrel into your report?

17 A. The -- the statement or your position
18 that the visitors is an important part of the study,
19 I take exception to.

20 Q. Well, I figured you would because you
21 don't think very many people come to see the sick the
22 last time as I recall.

23 So you don't get --

24 A. Well --

25 Q. -- to take that exception.

1 What did you do to try the factually
2 check out the correctness of that assumption besides
3 talk to Mr. Pineles about his experience in an LTACH
4 that he never had?

5 A. The -- there is no information, no
6 published information, as far as I know, as far as
7 the frequency of visitors to a hospital in -- in this
8 particular case to a long term acute care hospital.
9 This is not somebody who's had heart surgery at
10 Hackensack University and is being visited by their
11 family every day. This is long term.

12 Q. Well, they're sick enough to be there
13 an average that 25 days, right?

14 A. That's correct.

15 Q. So it's not a bad cold?

16 A. That's correct. That's why it's long
17 term acute care.

18 Q. So let me ask you again, it sounds to
19 me like you're telling us that you did nothing to
20 check up the factual basis of that assumption; is
21 that correct?

22 A. What I'm saying is there is no factual
23 -- there is no basis on which to check it. There is
24 no published information.

25 So it was a reasonable assumption of

1 the likelihood of visitors.

2 We had -- and Mr. Miskovich made a
3 comment about he thought that our visitor load was
4 low. So we added people during the midday period and
5 during the evening period. So we actually -- what we
6 ended up using in the revised report is more than
7 each person getting a visitor every other day.

8 Q. So you know that Mr. Pineles is the
9 operator, I guess, about five medical care
10 facilities, correct?

11 A. I -- I don't know how many, but I know
12 he's in that business, yes, obviously.

13 Q. Did you ever ask him if you could just
14 take a peak at the visitor log book in any of those
15 five so you could get a better handle than just
16 guessing how many people you felt would come?

17 A. Well, I don't believe it was guessing.
18 But, no, I did not look -- ask to look at his visitor
19 logs.

20 Q. Did you look at his visitor log from
21 across the street, from his place across the street?

22 A. No.

23 Q. You know there are other LTACs,
24 correct?

25 A. I do.

1 Q. Did you reach out of any of them to
2 check their visitors' logs?

3 A. I did not, no.

4 Q. So when you read this in the Boswell
5 report you thought it looked pretty good like the
6 rest of it and you took it lock, stock and barrel
7 again into your report?

8 A. No, I did not.

9 Q. Did you change any of the assumptions
10 in the Boswell report?

11 A. Yes.

12 Q. Apart from making the adjustment for
13 the size of the LTACH?

14 A. No, we made some adjustments to the
15 calculations and -- and to the underlying basis for
16 the trip generation and the parking. Yes, we made
17 changes.

18 Q. You made adjustments, but not in the
19 assumptions.

20 A. Without comparing the two reports I
21 couldn't tell you that.

22 Q. Well, didn't you decide what went into
23 your report?

24 A. Yes, absolutely.

25 Q. Wasn't --

1 A. Seven months ago. I don't remember.

2 Q. Wasn't it you that decided to take all
3 of the assumptions from the Boswell report and
4 include them in your own?

5 A. You're presuming that I included all of
6 Boswell's assumption. I'm not saying that I did and
7 we may have made other adjustments.

8 I don't recall because I don't remember
9 what Boswell had in their report as compared to
10 what's in my report.

11 I reviewed all of it with Mr. Pineles
12 and produced a report under my signature.

13 MR BASRALIAN: Excuse me. I'd like to
14 interpose an objection here just for the record
15 Mr. Keller prepared a report dated September 28,
16 2009.

17 AUDIENCE MEMBERS: Microphone.
18 Microphone. Talk into the mike.

19 MR. BASRALIAN: Mr. Keller prepared a
20 report dated September 28, 2009, revised
21 November 23rd, 2009. It is signed by him and sealed
22 by him. Those are the assumption that he made based
23 upon what he's doing and the report he prepared.

24 The cross examination should be on his
25 report, and not a comparison to one that is not in

1 the record and not testified to.

2 So whatever assumptions that are there,
3 let him direct his questions to the specific
4 assumptions that are in Mr. Keller's report, not in
5 the Boswell report that was never utilized in this
6 hearing.

7 MR. MALAGIERE: Mr. Basralian, he can
8 cross examine on whatever he'd like to and use any
9 premise he wants. That's not --

10 MR. MOSKOWITZ: I would --

11 MR. MALAGIERE: -- there's no response
12 to that, sir.

13 You can cross examine.

14 MR. MOSKOWITZ: I would just say as a
15 clarifying point --

16 MR. BASRALIAN: I continue the
17 objection for the record, though.

18 MR. MOSKOWITZ: -- as a clarifying
19 point of order, the Boswell report was submitted
20 prior to the resignation of Boswell so --

21 MR. MALAGIERE: So noted.

22 MR. MOSKOWITZ: So the Boswell report
23 is a part of this record whether Mr. Basralian likes
24 it or not.

25 MR. BASRALIAN: Just for the record it

1 was superseded and we referenced it was superseded --

2 MR. MALAGIERE: Hold on. Hold on.

3 Hold on.

4 MR. BASRALIAN: -- by the --

5 MR. MALAGIERE: -- Mr. Basralian.

6 You can cross examine. You can object
7 on evidence basis no lawyers testify.

8 Please continue with cross examination.

9 MR. BASRALIAN: No, but it was
10 superceded --

11 MR. MALAGIERE: The record speaks for
12 itself.

13 MR. BASRALIAN: -- and it noted on the
14 record.

15 MR. MALAGIERE: Thank you.

16 BY MR. MOSKOWITZ:

17 Q. Can you point me -- well, have you read
18 the transcripts of the prior hearings, any, all,
19 some?

20 A. Some.

21 Q. Can you identify them --

22 A. I've read some.

23 Q. -- if you can?

24 A. I've read some.

25 Q. They're hard to keep track?

1 A. Yes.

2 Q. Have you read all of yours?

3 A. At some point, yes.

4 Q. Well, where -- I am assuming that where
5 you adopted the Boswell or Mr. Tombalakian's
6 assumption that your assumptions were the same as
7 his, where they're identical.

8 And I represent to you -- well, we'll
9 give you and your Counsel a chart that they are
10 virtually a hundred percent identical, but that can
11 be for another time.

12 Did you do any research personally on
13 the corrections of the assumptions in your -- the
14 collection of assumptions in your own report. The
15 factual basis for it.

16 A. I -- I don't understand your question
17 at all.

18 Q. To what reference to objective external
19 data did you make with reference to the employee
20 composition, to the parking needs, to the traffic
21 flow, to the visitors, to the number of ambulances or
22 ambulettes that are going to be required each year?
23 What industry guides did you check?

24 A. The -- other than the -- the dialysis
25 and the adult day care there is no state regulations

1 that specify the employee composition for an LTACH
2 that is not governed by state regulations. We --
3 we've reviewed the state regulations for these
4 various facilities. We reviewed the State's website
5 under the Department of Health and Senior Services
6 that governs LTACs and adult day care centers, but
7 because they are a -- the operational characteristics
8 of them, where they're not regulated by the State are
9 subject to the operator's feeling and have -- feeling
10 -- analysis of the appropriate employee needs, what
11 they need to have in the full range from
12 administration to nursing to doctors to support staff
13 and so on.

14 I'm not qualified to -- I'm not a
15 health services consultant. I can't tell what is an
16 appropriate employee basis, what the numbers are.

17 And Mr. Pineles, at the beginning of
18 this process, went through, from what I understand,
19 because of some it was before we were retained, quite
20 a detailed discussion on the operations of the
21 facility, which we used as a basis for our studies.

22 Q. Well, just to get back the our other
23 discussion, you know there are other LTACs?

24 A. I do.

25 Q. And you have never taken any steps to

1 talk with management or to try to talk with
2 management concerning their personnel needs, their
3 staffing needs, their traffic flows, you've not
4 spoken to anyone in the industry.

5 I understand that you didn't find
6 someone in Trenton that knew -- that has a report or
7 a form or an answer.

8 What affirmative steps, if any, did you
9 take to investigate or find out about what actually
10 goes on at any other LTACH?

11 A. We -- we did not.

12 Q. And with any other --

13 A. And that's a --

14 Q. I understand.

15 A. And that's -- and that's appropriate.

16 Q. I understand and I know that's the
17 answer. That's what I've been trying to get --

18 A. But, could I --

19 Q. -- you to tell me for a while?

20 A. -- could I -- could I -- well, maybe...

21 Well, let me finish my -- my response.

22 But that question is better -- would
23 have been better directed to Mr. Pineles because he's
24 in the health care industry. He's operating these
25 facilities. He knows better how to put a program

1 together, from an operational standpoint.

2 I take those numbers and say we have a
3 staff population and what are their traffic and
4 parking generation characteristics going to be.

5 We've done other hospitals before and
6 they provide information.

7 Q. Mr. LTACH -- Mr. LTACH.

8 Mr. Pineles and his organization run a
9 medical facility across the street, correct?

10 A. That's correct.

11 Q. Di you go over and look at it?

12 A. I've driven through the property, but I
13 did not go inside. It's -- it's not relevant to go
14 inside, it's a nursing home. It's not similar in
15 character to this operation that is being proposed.

16 Q. It is a nursing home a hundred percent?

17 A. I don't know that it's a hundred
18 percent. I know that it is a --

19 Q. Do you know what percent?

20 A. No.

21 Q. So you don't know what it is because
22 you didn't go in it.

23 And you just told me it's a nursing
24 home a hundred percent --

25 A. I --

1 Q. -- but it's not a nursing home. I've
2 been in it. I know what it is.

3 So it never crossed your mind to check
4 any visitor data there, any staffing data there or
5 any parking data there?

6 A. It's not relevant because it's not the
7 same uses that are proposed in this facility.

8 Q. You think coming and going from work is
9 different, you're in a car and you need to park it.

10 Does your car know where you work?

11 So would it be fair to say that you
12 took the data that you were given, the assumptions
13 that were given either by Boswell or by Mr. Pineles
14 or another member of his group, without any test
15 whatsoever of its validity?

16 A. As far as the healthcare aspects of it,
17 no, I...

18 Q. No, as far as parking, working,
19 traveling and visiting.

20 A. That's not true, no.

21 Q. Well, what did you do to try to prove
22 out the parking data, the assumptions that you were
23 operating under?

24 A. The -- the parking analysis that we did
25 is we looked at the number of employees, which was

1 provided by Mr. Pineles. So, yes, that's an
2 assumption from my perspective that he's providing
3 the information that is appropriate from a dialysis
4 and the adult day care. It's governed by state
5 regulations.

6 We look at it in a very methodical
7 manner. There's two pages in the back of the report
8 that looks at it in half hour increments of when
9 people arrive. I know, unfortunately from too much
10 personal experience, that the shifts of medical staff
11 and other staff in a hospital situation 7 to 3, 3 to
12 11, 11 to 7, that's the norm.

13 The dialysis is somewhat flexible
14 depending on the specifics of the program. Other
15 than the fact that if you're getting dialysis you're
16 there for three-and-a-half to four hours. So you're
17 coming in and there's a -- you got to have a specific
18 amount of time for that.

19 The adult day care is like child day
20 care, is a little bit more flexible. But you have
21 certain start times.

22 That's what we used in doing a parking
23 generation to look at what the parking demands would
24 be for this facility, because it's not like an office
25 building and say, okay, there's 8,000 square feet and

1 there's -- you need four spaces per thousand. I -- I
2 need 32 parking spaces for this building. You can't
3 do that for a facility that runs 24/7 365 and has
4 shift work. You can't do it that way. It doesn't
5 work.

6 Q. I don't think that's responsive, but
7 that's fine.

8 Let me get to something --

9 A. That's your opinion.

10 Q. -- that's a little easier now.

11 Table 8, mode of travel at Prospect
12 Heights Care Center?

13 A. Yes.

14 Q. Now, that's not from Mr. Tombalakian,
15 is it?

16 A. No, it's not.

17 Q. This is a new report and a new chart
18 from you, correct?

19 A. We -- yes. We asked a -- that a survey
20 be taken of the employees of Prospect Heights so they
21 could tell us how they get to work.

22 Q. Did you design the questionnaire?

23 A. I discussed it with Mr. Pineles and he
24 distributed it to his employees.

25 Q. Did you design the questionnaire?

1 A. I answered the question.

2 Q. No, you didn't. You told me who you
3 discussed it with.

4 Did you design the questionnaire?

5 MR. MALAGIERE: Please answer.

6 A. I told him the questions to ask.

7 Q. Did you see the questionnaire before it
8 was presented to the employees?

9 A. No. It was pretty simple: Do you
10 drive to work? Do you get dropped off? Do you take
11 the bus or do you walk or take -- ride a bike?

12 It's not a -- it's not a difficult
13 questionnaire.

14 Q. Well, it was little difficult because I
15 think you told us that you forgot a very important
16 question, didn't you?

17 A. In -- when I reviewed the census data I
18 realized I should have asked whether people shared a
19 ride to work.

20 Q. Right. And you forgot.

21 A. Yeah.

22 Q. So would you have forgotten if you
23 reviewed a draft of the questionnaire?

24 A. I don't know. Maybe, maybe not.

25 Q. You thought it's important enough to

1 include it in your report as Table 8 and if my count
2 is correct, you answered in reference to Table 8
3 between 30 and 40 times at a couple of the meetings
4 it's very critical this mode to work thing.

5 But how many employees work at Prospect
6 Heights?

7 A. I don't know. I don't recall.

8 Q. Any rough idea?

9 A. No.

10 We may have discussed it at one point,
11 but I don't -- I don't remember.

12 Q. How many answered the questionnaire?

13 A. I don't know.

14 MR. NIX: Where are we going?

15 Q. How many responses did you expect? I
16 mean you've given us a chart that says 84 percent, 11
17 percent, 3 percent and 2 percent. They're just
18 pretty precise percentages, doesn't sound like
19 someone's guessing.

20 A. I --

21 Q. And yet you don't know how many people
22 work there. And you don't know how many answered it.
23 You don't know what percentage of the employees
24 answered the questionnaire?

25 A. It -- it was 10, 11 months ago.

1 I mean I --

2 Q. Did you ever ask?

3 A. I don't remember. It was 10 or
4 11 months ago. What I can tell --

5 Q. Is your firm in possession of the
6 tabulation of the results?

7 A. Yes.

8 Q. So you could tell us how many people
9 work there and how many people answered the
10 questionnaire?

11 A. Well, it may not have how many people
12 work there. It would have how many people responded
13 to the questionnaire.

14 Q. So how would you know how much validity
15 to place on a questionnaire response when you don't
16 know if 5, 10, 20, 50 or 80 percent of the people
17 responded to the questionnaire?

18 A. Well, what we did is compared it to the
19 census data, the journey to work data for the census
20 for Hackensack. And this is conservative when I
21 compare it to the census data.

22 Q. Well, perhaps I would like --

23 MR. MOSKOWITZ: I'm sorry, but I have
24 to ask you to read my question back again.

25 MR. NIX: Why can't he read his own

1 questions back.

2 (Whereupon, the Court Reporter reads
3 back the requested portion.)

4 A. It's a representative sample of -- of
5 the employees.

6 Q. How do you know if you don't know how
7 many answered it?

8 How do you know it was a representative
9 sample if you have no idea how many people answered
10 it?

11 A. Not standing here tonight, I haven't
12 looked at it in 10 or 11 months.

13 Q. You didn't look at this before you gave
14 testimony and referenced it 20, 30 times in these
15 hearings?

16 Well, I guess that's your statement.

17 Now, I asked you before if you reviewed
18 transcripts from prior proceedings. And you said
19 yes.

20 Do you recall if you read the
21 transcript from one of Mr. Pineles' early appearances
22 when he was outlining the project, trying to help us
23 to understand the nature of the project?

24 A. I don't recall if I did.

25 Q. Do you recall reading Mr. Pineles'

1 admission that Prospect Heights parking, planning and
2 assumptions varied sharply from their present use,
3 that he was wrong and the assumptions used for
4 parking at Prospect Heights were wrong.

5 A. I did -- I did not read that.

6 Well, I don't recall reading that in
7 the transcripts. I've heard that mentioned at
8 various meetings. I don't recall that Mr. Pineles
9 said that they were wrong, but...

10 Q. Doesn't that suggest there may be a
11 little bit something wrong with your questionnaire?

12 You do know, and I'm sure you must have
13 noticed it in the transcripts, that at Prospect
14 Heights Mr. Pineles has confirmed that employees are
15 not allowed to park there. You know that, don't you?

16 A. No, I don't know that.

17 Q. Didn't anybody ever tell you that?

18 A. I did not focus on Prospect Heights.

19 Q. Well, that's a different question.

20 Did anybody ever tell you that Prospect
21 Park Height employees couldn't park there?

22 A. Not that I recall.

23 Q. Well --

24 MR. BASRALIAN: I'd like to ask Mr.
25 Moskowitz to point out in the transcript.

1 AUDIENCE MEMBERS: Microphone.

2 Microphone.

3 MR. BASRALIAN: -- in the transcript
4 where that was stated. That is not my recollection
5 of Mr. Pineles' testimony.

6 MR. MALAGIERE: He's asking him what
7 his recollection is of the testimony. He can say he
8 doesn't recall.

9 MR. BASRALIAN: No, Mr. Moskowitz asked
10 do recall that Mr. Pineles said that the employees
11 were not permitted to park on the site. That's not
12 the testimony, as I recall it.

13 MR. MALAGIERE: Right. But he's just
14 saying he doesn't recall that either, so you may very
15 well be right.

16 MR. MOSKOWITZ: I will provide those
17 pages of testimony to Mr. Basralian.

18 MR. BASRALIAN: Thank you.

19 Q. Well, let me ask you another
20 hypothetical related to that.

21 Make believe that what I just said is
22 true, not just about Mr. Pineles confirming it, but
23 that it's also objectively true.

24 MR. BASRALIAN: I object to the use of
25 a hypothetical for a facility that is not part of the

1 discussion here. There's a full report on an LTACH
2 facility and the direction of the question should be
3 to the traffic report, not hypothetical about a
4 nursing home across the street that happens to share
5 common ownership.

6 MR. MALAGIERE: Understood, Mr.
7 Basralian, he's an expert.

8 You're allowed to cross examine him
9 with hypotheticals.

10 Thank you.

11 MR. BASRALIAN: But not as to
12 facilities that aren't before the Board.

13 MR. MALAGIERE: I don't agree with
14 that.

15 MR. BASRALIAN: Well, I post my
16 objection.

17 MR. MALAGIERE: Thank you.

18 BY MR. MOSKOWITZ:

19 Q. All right. So now if you had known, if
20 anyone had told you or you had read the transcript,
21 do you think that would have made you change the
22 questionnaire?

23 A. No.

24 Q. So what you're telling me is it would
25 be a valid questionnaire on how people are likely to

1 come to work at a facility across the street?

2 So you could use these modes of travel
3 as modes?

4 A. Yes.

5 Q. Which is what you did.

6 Don't you think your questionnaire
7 answers would be quite different if you put in a line
8 how would you come to work if you were allowed to
9 park where you work?

10 Your asking a bunch of people that
11 aren't allowed to park where they work how they come
12 to work. And it would seem to me that their answers
13 might be different if they could drive and park where
14 they work.

15 A. Well, I disagree with that. We asked a
16 question --

17 AUDIENCE MEMBERS: Ohhhh.

18 A. We asked a question --

19 MR. MALAGIERE: Hold on. Hold on.
20 Let the witness answer the question
21 please.

22 Thank you.

23 THE WITNESS: Thank you.

24 A. What we said was what mode of
25 transportation do you use to travel from your home to

1 work. And 84 percent of them said that they drove to
2 work. We didn't ask whether they parked on-site or
3 they parked in a public lot.

4 We said how do you get to work. They
5 drive. Eleven percent said that they were dropped
6 off by somebody. And the rest said that they took
7 the bus. And others said that they walked or rode
8 their bikes.

9 So I -- it's -- it's not relevant as to
10 where you parked. The question is how do you get to
11 work.

12 Q. And you do think that's affected by
13 whether or not you can park your car there?

14 A. No. Not -- not -- not when I
15 substantiate it and verify it by looking at the
16 census data, the journey to work in the census data.

17 As a matter of fact it's posted right
18 over here (indicating) on the bulletin board.

19 And when I compare what we found here
20 to the City of Hackensack, these are very
21 conservative.

22 I mean in the City of Hackensack almost
23 11 percent of the people car pool to work. Almost
24 16 percent use public transportation. Seven percent
25 walked.

1 And we have half those numbers. So to
2 me, that validates the data that's in here, whether
3 it was a sample of 20 or a sample of 200.

4 Q. You have in your report a truck traffic
5 table for expected truck use and truck deliveries,
6 correct?

7 A. Yes.

8 Q. That's exactly the same one that was in
9 the Boswell report, correct?

10 A. That's correct.

11 Q. Did you ask Mr. Tombalakian where this
12 data came from?

13 A. No, I reviewed it -- I reviewed it with
14 Mr. Pineles.

15 Q. And then you printed out copies of Mr.
16 Tombalakian's list?

17 A. Actually, I believe it was Mr. Pineles'
18 list that he provided to Mr. Tombalakian and to
19 myself.

20 Q. Did either you or to our knowledge Mr.
21 Tombalakian ever do anything to verify the
22 correctness of this list?

23 A. I -- I can't testify to what Mr.
24 Tombalakian did or didn't do.

25 I did not verify it. Again it's an

1 operational issue. Mr. Pineles is in the business.
2 And I -- I reviewed it in general and it seemed
3 appropriate. But I defer to him and his experience
4 in the field.

5 Q. Well, this is a new lift. This is a
6 new business. I mean you told us a number of times
7 that this business operation is new and unique,
8 correct? That there's none other like it?

9 A. Well, there's -- there's -- there's no
10 other facility that brings all three of these
11 facilities together.

12 There are certainly adult day cares in
13 this State. There's certainly dialysis centers. And
14 there's certainly LTACs.

15 Most of the LTACs in the State are
16 associated with hospitals.

17 Now, what research Mr. Pineles did, I'm
18 sure he testified at length during his testimony
19 about how he got to that point, you know. And we're
20 relying upon his efforts and research in that matter
21 in putting together our report.

22 Q. Did you examine this list when you
23 first saw it?

24 A. What do you mean? I --

25 Q. Did you look at it? Did you read it?

1 A. Yeah, I did.

2 Q. Seem right to you?

3 A. Seemed reasonable, yes.

4 Q. Just on a quick look, you think they're
5 boycotting FedEx for example?

6 A. I --

7 Q. Well, I mean I see a United Parcel
8 delivery, but no FedEx.

9 A. It's -- it's a generic term.

10 Q. I don't think it is to either United
11 Parcel or FedEx, but if that's your view that's fine?

12 A. Well, that --

13 Q. Does that count as one truck or two?

14 A. What do you mean one truck or two?

15 Q. Well, if it's generic does that include
16 all outside delivery service trucks? Is that -- how
17 many trucks? When it says United Parcel Service one
18 time a day, does that mean every truck also one time
19 a day? And when you read it, what did it mean to
20 you or did you just not pay much attention?

21 A. It's a typical day. I mean on some day
22 you may get a FedEx truck and the UPS truck that
23 come. And the next day they don't get any
24 deliveries.

25 Q. How do you know that?

1 A. Specifically?

2 Q. Yeah.

3 A. I don't.

4 Q. Well, I know that's my thing. I
5 understand that?

6 A. I am do you know how many UPS trucks
7 come to your office on a daily basis?

8 Q. If I got paid to do a report I sure
9 would. (Applause).

10 Do you know if there's -- are there lab
11 facilities in the proposed LTACH?

12 A. I don't recall offhand. I don't know.
13 They would be support to the LTACH or
14 to the dialysis, but I don't specifically --

15 Q. Well, you're just -- I mean you're
16 guessing at that that -- I'd probably share that
17 guess that there might be lab facilities, there might
18 not. Do you know?

19 A. I don't know.

20 Q. Do you know whether or not there would
21 be daily pick up or delivery of materials to go to a
22 lab, to come back?

23 A. I don't know.

24 Q. Do you ever bother to ask?

25 A. That level of detail, to worry about

1 whether one vehicle came in or not, it doesn't make a
2 material difference.

3 Q. I know you don't worry about one
4 vehicle at a time, I know that?

5 A. See, I -- I would appreciate it if you
6 would let me finish my answer because I let you
7 finish your questions.

8 Thank you.

9 Q. The answer was you don't know.

10 A. I don't know specifically. I mean if I
11 look at -- at the list.

12 Q. Well, you looked at it before you put
13 it in your report, didn't you?

14 A. Yes, I did, 10 or 11 months ago. I
15 don't remember every page of this, you know, 200 page
16 report --

17 Q. Understood.

18 A. -- after being here for four nights.

19 Q. Understood.

20 A. Thank you.

21 Q. Did you ask to see the log of truck
22 deliveries to the facility across the street?

23 A. No.

24 Q. Did you ever ask to see the traffic log
25 from any single freestanding LTACH?

1 A. No.

2 Q. Did you ever ask to see the traffic log
3 from any dialysis center --

4 A. No.

5 Q. -- or any adult day care center?

6 A. No.

7 And the reason -- and the reason that I
8 didn't is if it's a stand alone facility, the traffic
9 to that facility is going there just for that use.

10 When you have multiple uses in the
11 building it creates economy of scale and that then
12 can get -- they can make arrangements with the
13 supplier to make trip for the whole facility and not
14 one trip for the LTACH, one trip for the dialysis.

15 So it's not relevant to look at what
16 might happen in a stand alone dialysis center.

17 Q. You don't know what's going on with
18 deliveries and trucks and economies of scale of all
19 of these facilities that you've never even bothered
20 to check on --

21 A. From --

22 Q. -- that's your guess?

23 A. From a general operating perspective
24 looking at businesses, you could have as many truck
25 deliveries to a very small building as to a building

1 that's four times as big because of the size of the
2 building.

3 Q. So, in sum then, would it be fair to
4 say your answer is that you just have no idea how
5 many trucks are coming and going and you never took
6 any steps to find out?

7 FEMALE AUDIENCE MEMBER: Right.

8 A. I wouldn't say that I don't know --
9 have any idea of how many trucks are coming and
10 going. We reviewed --

11 Q. Well, how many do you think?

12 A. We have them listed in the table.

13 Q. Yes, but you don't know about labs.
14 You don't know about what other deliveries are
15 coming. You don't know what deliveries anybody is
16 getting because you never checked this data
17 objectively anywhere so that you could even make an
18 adjustment to it. And I'm sure you would make a
19 meaningful adjustment. You looked at no other truck
20 delivery data at any medical facility whatsoever, did
21 you?

22 A. There's not a facility like this.

23 Q. Any facility whatsoever, did you?

24 A. No.

25 Q. I just wanted to ask briefly a little

1 bit about some of your commentaries when you were
2 asked questions about school buses, school children,
3 and school traffic.

4 You recall you were asked a few thing
5 like that?

6 A. Yes.

7 Q. And you did say as with respect to
8 student crossings that your counters didn't see
9 anyone.

10 Do you remember that?

11 A. No, I -- that's not what I said.

12 Q. Your counter didn't see any children --

13 A. That's not what I said.

14 MR. MALAGIERE: Let him give a
15 response, Mr. Moskowitz.

16 A. That's not what I said.

17 I said I don't know whether they did
18 see anybody or not, what they did not record in their
19 -- in the count forms whether any children crossed.
20 That doesn't mean that none crossed, but they did not
21 tabulate that information.

22 Q. Fair enough.

23 That was during that week of, I guess,
24 June 6th to 13th, that's when you had your counters
25 out there, correct?

1 A. Well, they weren't my counters they
2 were done by Boswell.

3 Q. Well, no the second -- the counts that
4 were done later?

5 A. Oh, the --

6 Q. The post --

7 A. The later counts? Those were tube
8 counters. They don't -- they don't see anything.

9 Q. Well, I knew that when you said your
10 counters didn't report they saw anything, which is
11 why I asked you about it.

12 A. You asked me about the intersection
13 counts and that's what I assumed.

14 Q. No. Well, the record will be what it
15 is.

16 That isn't what I asked you.

17 A. That's fine.

18 Q. I was asking about yours.

19 You mentioned in your report and in
20 some of your testimony that you've looked at the
21 schools and there was only the one school in the
22 impact area, I think it's the Nellie Parker School?

23 A. That's correct.

24 Q. And who gave you that information?

25 A. I researched that myself.

1 Q. And how did you research that?

2 A. I reviewed the Hackensack Board of
3 Education website.

4 Q. You didn't --

5 A. And I also drove around the community.

6 Q. Yeah. Well, you know there's other
7 schools, don't you?

8 A. I said within the impact area of this
9 study.

10 Q. Like within a ten block radius?

11 A. No, within the impact area those four
12 -- within a block or two of those four intersections
13 that we studied.

14 Q. Well, suppose I suggest to you that
15 within a ten block radius of that -- of your -- Mr.
16 Pineles' proposed facility, there is not just one
17 school, but that there are eight more child --

18 AUDIENCE MEMBERS: Use the mike.

19 Q. -- eight more child learning and school
20 centers?

21 Did you know there's the Hackensack
22 Christian school?

23 A. Well, let me -- let me take a step
24 back. You're saying -- you're saying within a ten
25 block radius.

1 I'm saying that the ten block radius is
2 outside the area of influence of this project.

3 FEMALE AUDIENCE MEMBER: Oh, come on.

4 Q. I understand that's your testimony.
5 And it will be given whatever weight it deserves, but
6 now did you know of the Hackensack Christian school?

7 A. Yes.

8 Q. The Bergen Child Development Center?

9 A. I don't recall. I don't recall the
10 name of it, I might have seen it.

11 Q. Early Impressions Day Care?

12 A. I know there's a day care center, I
13 don't know the name of it.

14 Q. Do you know where it is?

15 A. I know there's one --

16 Q. On Passaic Street?

17 A. Yeah, Passaic near Summit.

18 Q. Hackensack Head Start?

19 A. I'm not aware of that one. I don't
20 recall that one.

21 Q. Happy Day Child Care Center?

22 A. Can't say that I do.

23 Q. Holy Trinity Elementary School?

24 A. That I believe I recall.

25 Q. Learning Place Child Care?

1 A. I didn't focus on the child care
2 centers. I focused on the elementary and secondary
3 schools of the city as well as the private schools,
4 not child care centers.

5 Q. Well, if you focussed on it why did you
6 say in your report there's just one school?

7 A. Where did I say that?

8 Q. I'll supply the page and reference
9 number to your Counsel, but that's what you said.
10 There is one school the Nellie Parker School period.

11 A. What I was implying was that there was
12 one elementary school. I wasn't looking at child
13 care centers.

14 I was looking at schools where children
15 may walk to school.

16 Q. Like Holy Trinity?

17 A. Right.

18 Q. And Hackensack Christian?

19 A. Right. But they're not within the area
20 where the children would likely cross the streets in
21 our -- with -- at the four that we studied.

22 MR. MALAGIERE: Mr. Chairmans, has
23 indicated to me that what he'd like to do Mr.
24 Moskowitz and Mr. Basralian was conclude your cross
25 examination, to the extent we can, at 8:30, take a

1 short break and convene with the Board's traffic
2 expert.

3 MR. MOSKOWITZ: I'll convene it subject
4 right now to a reservation so that you can go on and
5 I will then be able to provide a few of these missing
6 pieces that Mr. Basralian would like and that Mr.
7 Keller would like.

8 MR. MALAGIERE: Mr. Basralian?

9 MR. BASRALIAN: Yes, I'd like this
10 cross examination to be concluded and not interrupt
11 it so that we can finish with this aspect of it.

12 I don't have any desire to have pages
13 provided to me afterward. I will look them up
14 myself.

15 But Mr. Moskowitz is making assertions
16 and statements and asking questions based upon he
17 thinks that they are so.

18 If they are incorrect then we'll find
19 out they're incorrect.

20 I want to conclude his cross
21 examination and not have to come back for him with
22 this witness.

23 MR. MALAGIERE: What I would suggest we
24 do is that we conclude Mr. Moskowitz' cross
25 examination at 8:30, the Board take a short break and

1 reconvene with the Board's expert. Mr. Basralian, I
2 would ask that you hold in abeyance your redirect of
3 your witness for another day.

4 MR. BASRALIAN: Well --

5 MR. MALAGIERE: Let me just get it out,
6 you can weigh in on it.

7 And the only cross examination I would
8 suggest the Chairman allow to Mr. Moskowitz is just
9 recross based on the scope of your redirect.

10 MR. MOSKOWITZ: Well, if Mr. Basralian
11 would be speaking to the -- let's precede it this
12 evening, my examination, I won't have any recross on
13 that. I do have another very long, large area on
14 traffic checks and analysis, which will take a fair
15 amount of time. And I would like not to start that
16 and stop it in the middle.

17 I would proffer to the Board, I would
18 ask the Board, that I would restrict my remaining
19 cross to that on the next occasion. I would not like
20 to start that and stop it in the middle. And it will
21 be a pretty lengthy examination because it goes to
22 the heart of that.

23 MR. MALAGIERE: Let me do this, Mr.
24 Chairman, I recommend you do the following,
25 respectfully, conclude Mr. Moskowitz at 8:30, take a

1 short break, reconvene and reserve on Mr. Moskowitz'
2 application to carry this witness for further cross.
3 And we'll literally cross that bridge at another
4 time.

5 MR. BASRALIAN: May I make a response
6 before the Chair answers?

7 CHAIRMAN GUERRA: Yes. Go ahead, Mr.
8 Basralian.

9 MR. BASRALIAN: In all fairness to the
10 applicant, we brought the witness back who had
11 concluded his testimony and the cross by everybody
12 else because Mr. Moskowitz was unable to attend the
13 last hearing.

14 I don't want to have to bring my
15 consultant back again and again to accommodate Mr.
16 Moskowitz' cross examination.

17 CHAIRMAN GUERRA: Mr. Basralian, would
18 you agree that traffic is an important part of this
19 application?

20 MR. BASRALIAN: Of course I would.

21 CHAIRMAN GUERRA: So if we have to
22 bring him back ten more times, we're going to need to
23 that do. (Applause).

24 MR. BASRALIAN: Excuse me. There is a
25 difference between bringing him back at the Board's

1 request and bringing him back because Mr. Moskowitz
2 wasn't here last month and couldn't conclude it or
3 the month before because he didn't have a transcript
4 and didn't want to do it.

5 There' a difference between those
6 things, Mr. Chairman.

7 CHAIRMAN GUERRA: I understand your
8 point.

9 MR. MALAGIERE: I think we should do
10 that a conserve time for the applicant's benefit and
11 for the public's benefit and for the Board's benefit.

12 CHAIRMAN GUERRA: Right.

13 MR. MALAGIERE: So, Mr. Moskowitz,
14 please continue, we'll ask you to break at 8:30. And
15 then we'll take a short break and reconvene with Mr.
16 Miskovich.

17 Thank you.

18 MR. MOSKOWITZ: Thank you. Thank you,
19 Mr. Chairman.

20 Thank you, Mr. Malagiere.

21 BY MR. MOSKOWITZ:

22 Q. Mr. Keller, is it your understanding
23 that the purpose of the traffic checking and analysis
24 is to provide an impact baseline and project future
25 traffic in the impact area given the addition or

1 non-addition of the facility?

2 A. That's correct.

3 Q. And Boswell report was based on
4 intersection and traffic counts of April 30th and
5 May 1st, 2008, correct?

6 A. Correct.

7 Q. Did you recall reviewing the hearing
8 transcript of May 14, 2009?

9 A. I don't recall that, no.

10 Q. Well, that was the one we were talking
11 a bit about traffic, not with you, but we did talk a
12 bit about traffic at that time.

13 Are you aware now or were you aware
14 then that during that period of time, end of May
15 beginning of June of 2008 Hackensack especially --
16 well throughout, but this end, was undergoing the
17 most disruptive and distorting conditions and worse
18 realignment of traffic in years on end in the areas
19 affected by the closing of the Essex Street bridge?

20 A. I was aware of the Essex Street bridge
21 closure, yes.

22 Q. Did you do any driving around this area
23 then?

24 A. At that point I can't say that I did.
25 I don't recall.

1 I travel a lot of parts of this state
2 in my business.

3 Q. You know at least it was The Bergen
4 Record reported that 70,000 drivers a day were
5 affected by that closure?

6 A. I don't read The Bergen Record so I
7 don't know that.

8 Q. You do know that Essex Street was
9 closed?

10 A. The bridge was, yes.

11 Q. Well, the -- yeah, I mean, that's the
12 way you got over --

13 A. Right.

14 Q. -- the other highway.

15 A. And that was the reason that we did the
16 machine counts on Summit and on Prospect to -- to
17 make sure that those counts were not affected by the
18 closure.

19 And, again, I go back to Mr.
20 Miskovich's counts that he took in January of this
21 year that again show that the numbers that were used
22 in our study were, you know, the bridge is open now.
23 We're not affected materially by the disruption
24 related to Essex Street.

25 His counts are consistent with ours

1 and, if anything, ours are higher than the counts
2 that he did.

3 So I'm comfortable that the counts that
4 were done in 2008 are representative of typical
5 conditions that one would find at those four
6 intersections.

7 Q. You did not do turning counts --

8 A. We did not, no.

9 Q. -- in 2009?

10 A. No, because we verified that they were
11 appropriate and representative with no need to redo
12 them in our opinion.

13 Q. Well, you did the counters?

14 A. Yes.

15 Q. And at that time when you did the
16 counters you had decided not to do the turning
17 counts?

18 A. No, I did not decide to not do the
19 turning counts, until after we did the tube counters.

20 Once I reviewed the tube counters, I
21 said -- and looked at the volumes along Summit and
22 Prospect I was comfortable that the count data that
23 we had at those four intersections was representative
24 and appropriate.

25 Q. Did you read the discussion that we had

1 concerning Bergen Town Center in any of the records
2 that you've...

3 A. I'm aware of Bergen Town Center and I
4 know that it was an issue that was raised.

5 I reviewed the Bergen Town Center
6 traffic study data. And there is -- from their study
7 there is no significant, if any, traffic that comes
8 down onto these -- into this study area.

9 There may be a few, but there's not
10 anything significant.

11 Q. Well, I don't know what data they have
12 on it. And perhaps you can provide that to us what
13 you reviewed.

14 But let me ask you a more direct
15 personal question, did you ever tried to drive up
16 Essex Street towards Bergen Town Center between 4:30
17 and 6:30 any night?

18 A. Well, I'm not sure I would take Essex
19 Street to get to Bergen Town Center.

20 Q. Well, Bergen Town Center thinks it's a
21 good way to go. But we'll get into that afterwards.

22 A. But I have driven --

23 Q. Or Passaic Street?

24 A. -- I have -- I'm sorry?

25 Q. Excuse me. Passaic Street?

1 CHAIRMAN GUERRA: Big difference.

2 A. Yeah. I'm sure I've driven Passaic
3 Street during the time frame, but not in any recent
4 history.

5 FEMALE AUDIENCE MEMBER: It's not fun.

6 Q. So it's your reports, looking at them
7 alongside of the reports originally prepared for
8 Boswell, tell you that the opening of 180,000-square
9 foot Target store, a 15,000-square foot Nike Factory
10 store, 35,000-foot Nordstrom Rack, 80,000 Whole Foods
11 store and since then Saks, Bloomingdale's, Jared,
12 Nike, on and on. I will provide you with a copy of
13 all of the new people there.

14 A. That's fine.

15 Q. From your study shows that none of that
16 has added materially to traffic on Passaic Street
17 since May of 2008?

18 A. I have the traffic study that was done
19 for Bergen Town Center. I looked at the data that
20 was done for Bergen Town Center.

21 Q. When was that done?

22 A. I don't recall, it was -- the hearings
23 were back in 2005 and 2006 in Paramus which we
24 attended.

25 But, again, I come back to --

1 Q. So you have that data, no one was aware
2 of all the stores that were going to be there, were
3 they? No, they didn't know.

4 A. Well, when -- when you do a traffic
5 study for a regional shopping center it doesn't
6 matter what the stores are they're looking at -- I
7 mean it's based on data -- its based on data from --
8 collected throughout the country. I mean there's --
9 there's hundreds if not thousands of regional
10 shopping centers that the Bergen Town Center is
11 similar to.

12 Q. And they're not all the same?

13 A. No.

14 Q. If you were to look at traffic data,
15 let's say Riverside Square --

16 A. That -- that may be somewhat different.
17 It'd be different than what you find at Short Hills
18 Mall.

19 Q. Because of the nature of the center?

20 A. On a -- on a broad scale, not because
21 there's a Bloomingdale's there or because there's a
22 Saks there.

23 Q. No, because of the nature of the
24 center?

25 A. Because of the size, and the -- and the

1 type of tenants that they attract.

2 Q. Are you aware of any additional major
3 tenants coming to Bergen Town Center or alongside of
4 it? Apparently you thought to get a look at their
5 2005 traffic report?

6 A. Well, I had -- I -- I had their traffic
7 study for their -- for their expansion and
8 development. And as far as I know there's no further
9 development beyond what they got their approvals for.

10 Q. Why did you look at them? I thought
11 you just told me this center had no reference to the
12 location of the LTACH?

13 A. I don't understand that.

14 Q. You just told us that traffic to and
15 from Bergen Town Center wasn't a factor?

16 A. And I determined that by looking at the
17 traffic study for Bergen Town Center. I had it
18 because one -- our client had asked us to review it.
19 He was an adjacent property owner. So I had,
20 fortunately for me, a copy of the report in my files.
21 I didn't have to go to Paramus and get it out of
22 their Planning Board file.

23 Q. Because you thought it might be
24 relevant to these proceedings?

25 A. No, because I knew that it was an issue

1 that had been raised at one of the early meeting as
2 you had stated in your question a number of moments
3 ago.

4 Q. And with the additional 300,000 square
5 feet since 2005, you have looked at an updated
6 report?

7 A. They have not done any updated report.
8 They -- they did the report as part of the Planning
9 Board process like we're doing it here. They didn't
10 do a study afterwards.

11 Q. So the answer to my question is no?

12 A. There is no report.

13 Q. So you don't know what they would
14 report on traffic now after those stores are open?

15 A. Well, what I can say is Mr. Miskovich's
16 counts show that there's been no substantial change
17 to those streets.

18 Q. Does that -- that means no?

19 A. Take it for what you think it's worth.

20 Q. Are you aware that there's also a
21 Lowe's Super store coming to the same location and
22 ground has on the broken for it?

23 A. I'm not aware of that, no.

24 AUDIENCE MEMBERS: Lowes.

25 MR. MOSKOWITZ: Everybody's glad or

1 sad?

2 THE WITNESS: Oh, I'm sorry. A Lowes?

3 Q. Lowes.

4 A. That was part of the approval that was
5 gained in 2006. That was part of the approval.

6 Q. But the traffic to Lowes has not been
7 studied because Lowes isn't built. The effect of it
8 has not been studied for Passaic Street because it
9 hasn't been built, correct?

10 A. The -- the -- no, that's not correct.

11 Q. Did they --

12 A. The traffic study was prepared for the
13 entire expansion of Bergen Town Center, for
14 everything including Lowes.

15 Q. In 2005?

16 A. Correct.

17 You have to do the study before you can
18 get an approval.

19 Q. If you live in Hackensack and you ask
20 Bergen Town Center, through their electronic map and
21 website, how you get from Golf, Berry, Prospect, et
22 cetera, to Bergen Town Center, would it surprise you
23 to know that you get to hit a few of these
24 intersections?

25 So you head north on Prospect towards

1 Berry, make the second left on to East Passaic,
2 that's off Summit.

3 The other way they tell you to go is to
4 start out on Prospect go to Passaic, make a left on
5 Passaic, make a right on Summit.

6 So when you tell me that you might have
7 a different way, I don't know what way you would go.

8 A. No, I think that's a reasonable way if
9 you're going to the Bergen Town Center.

10 But that doesn't mean that there's a
11 significant impact on those intersections from
12 traffic of the renovated and expanded Bergen Town
13 Center.

14 MR. MALAGIERE: I think it's a good
15 time to break in accordance with the Chairman's
16 direction.

17 The Board will take a short recess.

18 And, Mr. Miskovich, I mispronounced
19 your name previously I apologize.

20 We'll get you ready to take off when we
21 reconvene.

22 Mr. Moskowitz, your application is
23 pending and the Chairman will reserve.

24 MR. MOSKOWITZ: Thank you,
25 Mr. Malagiere.

1 Thank you, Mr. Chair.

2 (Whereupon, a brief recess is taken.)

3 MR. MALAGIERE: Back on the record.

4 Thank you.

5 Mr. Chairman, if I may I asked
6 Basralian if he objected to Mr. Moskowitz (sic) going
7 forward as he is still in the middle of his case in
8 chief, as we saw. And I would like Mr. Basralian to
9 respond to that on the record.

10 MR. BASRALIAN: You meant Mr.
11 Miskovich.

12 MR. MALAGIERE: Pardon me.

13 MR. BASRALIAN: I do object to Mr.
14 Moskowitz.

15 MR. MALAGIERE: Mr. Miskovich please,
16 the Board's traffic consultant going forward in the
17 middle of or at the tail end of, but nonetheless, in
18 the process of his case in chief.

19 MR. BASRALIAN: Well, I do have an
20 objection on the following basis.

21 It's a little over two months since our
22 last hearing and apparently Mr. Miskovich has a
23 program that he developed, a visual program, which we
24 haven't seen before.

25 I think that just as we were entitled

1 to have the traffic report prior to a hearing we
2 should be entitled to whatever this display. I
3 believe it's the synchro display, Mr. Miskovich?

4 MR. MISKOVICH: Yes.

5 THE WITNESS: I think we're entitled to
6 that. We're entitled to all the back up information.
7 We're entitled to know what he utilized before he
8 demonstrates it so that we have an opportunity to
9 review it.

10 MR. MALAGIERE: What I -- I'm sorry,
11 were you done, Mr. Basralian?

12 MR. BASRALIAN: Yes.

13 MR. MALAGIERE: What I'd offer is this,
14 in order to just be expeditious, more so than
15 judicious, I would suggest that we allow our traffic
16 consultant to go forward and testify and that we hold
17 Mr. Basralian's right to cross examine him until
18 after Mr. Basralian has been supplied with all the
19 background information and are hard copy or a digital
20 copy of the entire presentation so that he will have
21 the benefit of the transcript and the documents and
22 he can cross examination him the next time we
23 reconvene or sometime thereafter.

24 MR. BASRALIAN: Well, it sounds fair,
25 except that the Board would have a hard time with me

1 coming in with my traffic consultant, plopping down a
2 report that they've never seen before and permitting
3 him to go forward.

4 The Board gave great latitude to Mr.
5 Moskowitz and to the other attorneys so that they
6 didn't have to go forward in January because they
7 didn't have the traffic report so that they were
8 given an opportunity -- or the transcript, they were
9 given an opportunity to go ahead and get the report
10 and then come back and cross examine.

11 And since the Municipal Land Use Law
12 applies to boards as well as applicants and you have
13 a standard for your time period for the submission of
14 reports, so too I should have that right.

15 MR. MALAGIERE: I would just respond
16 that for expediency sake we should go forward.

17 This is obviously a very long
18 application. And it's burdensome on the applicant.
19 And it's also very costly to the applicant. I
20 understand, Mr. Basralian --

21 MR. BASRALIAN: I would offer a
22 compromise, however, he has a written report that
23 he's going to testify as to his written report, so be
24 it, that I'll cross examine him on. I reserve as not
25 show this until I've had an opportunity to look at --

1 and my consultant has an opportunity to look at it.

2 MR. MALAGIERE: I don't see how there's
3 any prejudice visited upon the applicant by letting
4 the direct testimony go in, and then holding off --
5 and as a matter of fact the applicant gets -- or the
6 cross examiner gets an additional benefit by having
7 all of the information and the direct testimony and
8 then a moment of pause to compile cross examination.

9 My request or my advise, Mr. Chairman,
10 is to allow the direct testimony to go forward, and
11 to provide -- and then we will order Mr. Miskovich to
12 provide all -- to Mr. Basralian, all the back up he
13 has here and Mr. Basralian could cross examine him at
14 the next meeting.

15 MR. BASRALIAN: Including the pass out,
16 the handout that he had before --

17 MR. MALAGIERE: Of course, everything.

18 CHAIRMAN GUERRA: Of course.

19 MR. BASRALIAN: In all due respect, I
20 know that everybody's very busy, but I'm entitled to
21 get these things at least a couple of weeks ahead of
22 time. And I would have appreciated if that could
23 have been done.

24 We did, after all, have over two months
25 since the last hearing.

1 MR. MALAGIERE: Thank you, Mr.
2 Basralian.

3 Mr. Chairman, that's my recommendation.

4 CHAIRMAN GUERRA: Yes, we're going to
5 go ahead and watch this.

6 MR. MALAGIERE: Do you have that?

7 CHAIRMAN GUERRA: We need to be sure
8 that Mr. Basralian gets everything.

9 MR. MALAGIERE: Yes, he'll get it.

10 MR. BASRALIAN: Including al the
11 support data, Frank, all the backup in your
12 comparison.

13 MR. MISKOVICH: Yes.

14 MR. BASRALIAN: Thank you.

15 MR. MALAGIERE: I'll make sure.

16 MR. BASRALIAN: All the field data too.

17 MR. MALAGIERE: I'll take the lead on
18 that. And I'll make sure that Mr. Basralian's
19 supplied with everything that's supporting the
20 testimony that's going to go into the record.

21 Thank you.

22 Mr. Miskovich, I'm going to swear you
23 in and put you on the record, sir, if you don't mind.

24 Do you swear the testimony you're about
25 to give before this board to be the truth, the whole

1 truth and nothing but the truth?

2 MR. MISKOVICH: I do.

3 F R A N K M I S K O V I C H, P.E.

4 Having been duly sworn, testifies as follows:

5 MR. MALAGIERE: Would you please
6 identify yourself for the record and indicate the
7 capacity in which you will offer testimony.

8 MR. MISKOVICH: My name is Frank
9 Miskovich, spelled M-i-s-k-o-v-i-c-h. I'm with the
10 firm of Birdsall Engineering.

11 I'm a licensed professional engineer in
12 the State of New Jersey.

13 As far as educational background I have
14 a bachelor of science degree in civil engineering
15 from the Newark College of Engineering. And a
16 masters of science and civil engineering from the New
17 Jersey Institute of Technology.

18 I have been licensed in the State since
19 1976. My primary area of expertise is transportation
20 traffic engineering, highway design. I'm also
21 manager of the transportation department of Birdsall
22 Engineering.

23 My role in this application has been as
24 a consultant to the Zoning Board of Adjustment
25 reviewing the applicant's traffic report and site

1 plans.

2 I was then asked to prepare a separate,
3 independent traffic report based upon our data which
4 I have.

5 And purposed and asked to do what was
6 called a simulation, a traffic simulation which we
7 call the synchro program which is part of the
8 presentation tonight.

9 The pamphlet that I had --

10 MR. MALAGIERE: Let me just interrupt
11 for one second, you've indicated that you've reviewed
12 the application or the relevant parts of the
13 application in connection with your opinion for
14 LTACH, I'm going call; is that accurate?

15 MR. MISKOVICH: That's correct.

16 MR. MALAGIERE: Could you just
17 identify, if you can, the date of the documents or
18 the drawings or whatever they are that you reviewed,
19 so that we could identify -- I don't want you to go
20 into too much detail, but just so we understand that
21 you looked at the most recent stuff.

22 MR. MISKOVICH: What I can say is I --
23 I'll start of with I did review the reports that were
24 prepared by Omland Engineering Associates.

25 MR. MALAGIERE: Just put in the record

1 the date?

2 MR. MISKOVICH: That's the
3 September 28, 2009 report. The revised November 23,
4 2009, report.

5 MR. MALAGIERE: And did you --

6 MR. MISKOVICH: And I --

7 MR. MALAGIERE: I'm sorry. Go head.

8 MR. MISKOVICH: There were also several
9 review letters that I had prepared in the interim
10 since I became involved. I do not had the dates
11 offhand.

12 MR. MALAGIERE: That's okay.

13 MR. MISKOVICH: They're in the file and
14 part of the record.

15 I did prepare --

16 MR. MALAGIERE: I just want to go into
17 what you reviewed first, then you can -- did you also
18 look at any site plan drawings?

19 MR. MISKOVICH: Yes, I did.

20 MR. MALAGIERE: And what was the
21 revision of the site plan drawing that you reviewed
22 or did you review several? Did you review the
23 latest, the February 2010 -- what's the latest, Joe.

24 MR. BASRALIAN: February 3rd, 2010.

25 MR. MALAGIERE: You review the

1 February 10, 2010, site plan drawings?

2 MR. MISKOVICH: Yes, I did.

3 MR. MALAGIERE: Okay.

4 MR. MISKOVICH: I also reviewed what
5 was originally submitted. It was entitled Bergen
6 Passaic LTACH. It was prepared by MD Surbatti
7 Associates Architectural (phonetic) and I believe
8 that was the colored booklet of the number of pages
9 that showed renderings and some of the site layouts.

10 MR. MALAGIERE: Did you review any
11 other documents whether submitted by the applicant or
12 just documents you got on your own in connection with
13 your opinion in this matter?

14 MR. MISKOVICH: Well, we reviewed some
15 of the New Jersey Administrative Code requirements as
16 far as possible staffing for these type of facilities
17 regarding adult day care and dialysis centers.

18 We also conducted or tried to contact a
19 number of similar facilities to obtain information on
20 employment, et cetera. But it was very difficult
21 getting some of that priority or special information
22 from those.

23 So we did attempt to do that. We did
24 do some research as far as looking at the institute
25 of transportation engineers data. We looked on

1 websites to determine if there's similar facilities
2 or similar uses that we could rely on some research
3 data.

4 MR. MALAGIERE: Did you review the
5 proposed site and/or the surrounding environment --

6 MR. MISKOVICH: Yes.

7 MR. MALAGIERE: -- for the proposed
8 site?

9 MR. MISKOVICH: Yes, I did visit the
10 site on a number of occasions, peak hours and some
11 off peak hours.

12 Our firm did conduct traffic counts in
13 the area, that was identified as our study area. The
14 primary intersections surrounding the site.

15 MR. MALAGIERE: Do you know of dates of
16 the traffic counts?

17 MR. MISKOVICH: They were done in
18 January of 2010.

19 They're all in the February 12, 2010
20 report, but --

21 MR. MALAGIERE: That's fine.

22 MR. MISKOVICH: January 13th.

23 MR. MALAGIERE: There were two dates?

24 MR. MISKOVICH: I don't want to hold up
25 your testimony for that. They're in report that's

1 fine.

2 Is there anything else that you
3 reviewed, whether documentary or physical inspection,
4 which you are going to rely upon in giving the
5 opinion with you're going to give over the course of
6 your testimony.

7 MR. MISKOVICH: In attempting to obtain
8 some of the information, let's say, from the dialysis
9 centers, part of that process we did actually talk to
10 some of the ambulance drivers, some of the services
11 that are transporting people to those facilities to
12 gain understanding from them how many they transport
13 per day, et cetera.

14 But that was some of our research in
15 trying to gather some information.

16 As indicated, I will get into the
17 testimony that these uses really did not occur
18 simultaneously in a stand alone facility.

19 You will find parts of them or some of
20 the uses in hospitals or other facilities that have a
21 myriad of other activities.

22 MR. MALAGIERE: And, lastly, were you
23 present during the testimony and cross examination of
24 the applicant's traffic expert?

25 MR. MISKOVICH: Yes, I was.

1 MR. MALAGIERE: For the entire
2 testimony?

3 MR. MISKOVICH: Yes.

4 MR. MALAGIERE: Well, thank you, sir.
5 If you'd like to go forward with your
6 presentation?

7 MR. BASRALIAN: I do have a question.

8 MR. MALAGIERE: Of course.

9 MR. BASRALIAN: You indicated all the
10 reports you reviewed, the site plan you reviewed,
11 some of the data you attempted to gather from other
12 centers and similar types of projects.

13 You also indicated that you prepared
14 your report in consultation with the Board when you
15 were retained.

16 Did you have any meetings with anybody
17 within the Board, the municipality, to discuss the
18 application and its status and its impacts or lack of
19 impacts?

20 MR. MISKOVICH: I'm not sure what you
21 mean. I --

22 MR. BASRALIAN: Were you given any
23 specific direction with respect to the application to
24 Mr. Moskowitz question as to how you were asked to
25 prepare your report?

1 MR. MISKOVICH: No, the answer to that
2 is no. I was retained by the Board. I've listened
3 to, I believe it was one testimony before, before Mr.
4 Keller. And I've heard his testimony.

5 But I was not given any direction by
6 the Board, other than to prepare a review and prepare
7 a separate or independent traffic report.

8 MR. BASRALIAN: Well, I wouldn't have
9 expected any less from the Board or from you, Mr.
10 Miskovich, but I wanted to ask the question.

11 Thank you.

12 MR. MALAGIERE: If you'd like to go
13 forward with your presentation, sir?

14 MR. MISKOVICH: Sure.

15 The presentation that I have here, and
16 I hope to get this to work. It's been sitting for a
17 while.

18 MR. BASRALIAN: Would you -- when you
19 do refer to anything here would you please be very
20 specific so that the transcript, so the reporter can
21 properly reference it.

22 MR. MISKOVICH: Sure.

23 I have here a PowerPoint presentation
24 that I've labeled Bergen/Passaic LTACH being
25 presented to the Hackensack Zoning Board of

1 Adjustment April 29, 2010.

2 Basically this PowerPoint presentation
3 takes my traffic report and takes sections of it,
4 excerpts from certain of the text, it takes some of
5 the tables and put's it just into a PowerPoint rather
6 than going through display boards or trying to
7 verbally go through the report. It also addresses
8 some of the site issues through some of the exhibits
9 that you will see.

10 So this is not a separate independent
11 report, but basically a compilation of everything
12 that is in our 2000 -- our February 12th, 2010,
13 traffic report.

14 MR. MALAGIERE: So this PowerPoint
15 presentation is a collage, if you will, of excerpts
16 of your previously produced report?

17 MR. MISKOVICH: That's correct.

18 MR. MALAGIERE: So there's no new
19 information?

20 MR. MISKOVICH: That's correct.

21 MR. MALAGIERE: Mr. Basralian, you
22 received the February report.

23 MR. BASRALIAN: But are there -- yes,
24 let that explore, are there any pictures or future
25 build, no build, diagrams that are contained in this

1 presentation that are not contained in your report.

2 MR. MISKOVICH: I do not have the
3 volume figures that are contained in the report, if
4 that's your question.

5 I basically have some of the tables and
6 have portions of the text that -- that put together
7 -- that I used to put together the report.

8 I do have a figure where there's an
9 aerial photograph of the site that's not contained in
10 that report. I have a copy of some turning templates
11 --

12 MR. MALAGIERE: Why don't we do this --
13 I'm sorry.

14 MR. BASRALIAN: Why don't we just
15 see --

16 MR. MALAGIERE: Why don't we see it and
17 as you --

18 MR. MISKOVICH: I think that's easier
19 to do it that way.

20 MR. MALAGIERE: And as you put it up,
21 maybe Mr. Basralian's objection will become moot or
22 less intense as your presentation goes forward.

23 MR. MISKOVICH: The PowerPoint also in
24 the handout that I've given to the Board and Mr.
25 Basralian also has page numbers as they go with the

1 slides so if there's any reference to go back to and
2 we can refer to that.

3 Again some of this may be redundant to
4 the public and the Board, but I'd like to go through
5 it anyway.

6 What is being proposed is a 19 story
7 medical building. It's going to house a long term
8 acute hospital with 120 beds, a dialysis center with
9 63 stations, adult day care center with 180 persons.
10 And what I have here is a 400 space underground
11 parking garage which was contained in our report.

12 But the correction is that it's 413
13 spaces when you include the van operating and the
14 medical van parking areas.

15 The site is depicted in this,
16 highlighted in yellow (indicating). Basically it's
17 approximately midway between Golf Place and Berry
18 Street, between Prospect Avenue and Summit Avenue.

19 We have identified some of the areas
20 that we think is in critical intersections around the
21 area, primarily coming from Central Avenue and
22 Summit, Passaic and Summit, down to Prospect Avenue
23 and Passaic, all the way down to Central Avenue and
24 Prospect Avenue.

25 The two streets Golf Place and Berry

1 Street were not counted as part of our study. They
2 were slightly lower volumes than the primary
3 intersections, but obviously they're going have some
4 impact and effect the ability of the traffic on those
5 streets to get out.

6 But by far the volumes on those streets
7 from our observations are -- are minor compared to
8 the four main streets.

9 We have Prospect Avenue which has been
10 labeled an urban collector roadway, obviously
11 everybody knows it's one lane in each direction.

12 There is some parking on the side -- on
13 both sides of the street and a lot of areas that are
14 marked no parking; 35 mile an hour posted speed limit
15 -- I'm sorry -- 25 mile per hour posted speed limit.

16 Summit avenue is also none as County
17 Route 57. Again that's labeled as an urban minor
18 arterial. It provides one lane of travel in each
19 direction with on-street parking. And that posted
20 speed limit, as we found, is 35 miles per hour.

21 Intersections of Prospect with Central
22 Avenue and Passaic Street and Central Avenue with
23 Summit and Passaic and Summit are signalized
24 intersections. They basically operate on a fixed
25 time traffic signal operation, meaning one street

1 goes and then the other street goes. In essence they
2 do provide one lane of travel, although the
3 intersections do have some left turn lanes that
4 Central Avenue -- I'm sorry Passaic and Summit,
5 Passaic Street has two lanes and Prospect -- excuse
6 me. Prospect Avenue northbound very -- two lanes
7 northbound but there's a very short right turn lane
8 which you'll see when we get into some of the
9 simulation.

10 In reviewing the traffic volumes,
11 you've heard some of the testimony earlier tonight.
12 Omland did traffic counts, manual count that were
13 actually done in April and May of 2008 that were
14 included in the report. But they also went out and put
15 out machines on Summit -- excuse me -- Summit and
16 Prospect avenues in June of 2008. And they had those
17 down for a one week period where they record volumes
18 on an hourly basis.

19 We did review those to compare them to
20 the counts that were done in 2008. And they were
21 within what we term a reasonable percentage, probably
22 within 10 percent of the manual counts.

23 Obviously we understand that there are
24 daily variations in traffic, weekly variations in
25 traffic and there's seasonal variations, but when we

1 looked at these 10 percent to 15 percent it was
2 somewhat reasonable.

3 We went out there January 13th, 2010
4 and counted those intersections again.

5 Again we found that our counts were
6 about ten percent of their volumes, though slightly
7 lower. So it's reasonable that comparing traffic in
8 January to traffic in April and May that variation
9 might be reasonable.

10 But we've come to the general
11 conclusion that since we did our counts in what's
12 traditionally a low traffic volume period in January,
13 and Omland did them in what might be considered a
14 higher traffic volume period in the April, spring
15 months, that the analysis if you look at any time
16 throughout the year are going to be similar between
17 those two. You're going to have the peak times and
18 the impacts of say the June, May -- April, May
19 traffic. And you may have other impacts when you do
20 January, February, when things are a bit lower. So
21 there's going to be a range throughout the year.

22 But we did the analysis going forward
23 based upon our counts and you'll see some comparison
24 when we compare those capacity and intersection
25 analyses to the Omland report.

1 You've heard some -- that there's been
2 a number of comparisons or assumption that we were
3 going through in preparing the report.

4 As I indicated, that our research in
5 trying to find a similar facility where you had the
6 long term acute care, a dialysis and an adult day
7 care center in one building that is stand alone, we
8 couldn't find any, at least, on record. That doesn't
9 mean they don't exist, but we had trouble finding one
10 that we could go out and research.

11 The LTACH facilities that we saw were
12 always attached to a hospital, so if we were to try
13 to get some information as far as parking or activity
14 it would be hard to differentiate if they were there
15 for the LTACH versus some other facilities.

16 We did have stand alone dialysis
17 centers, but again we'll get into some of the
18 assumptions, adult day care centers there were some
19 independent ones.

20 But, again, putting that in all one
21 building with the transportation as proposed by the
22 applicant, to find something similar was -- was --
23 was difficult.

24 When we looked at the LTACH, let's
25 discuss the medical vans because we had some concerns

1 as far as the activity that was there. They had one
2 passenger per van. We took that same approach coming
3 for the LTACH. They had vans arriving at the
4 facility and leaving within a half hour of the
5 designated appointment time or where we thought that
6 might be longer because the testimony has been that
7 they will pull in from Prospect Avenue or Summit into
8 the garage, park, unload, take the patient up to the
9 room and then have to leave.

10 What happens is a lot of that time with
11 the attendees, they linger around, there's going to
12 be paperwork. We thought that a half hour turn
13 around was going to be too quick. So that really
14 affects the parking demand because they'll be in the
15 garage a little bit longer.

16 When we looked at the dialysis center,
17 they were assuming ten passengers per van. I believe
18 the van ranged 9 to 12 -- or 12 passenger. There was
19 a diagram in the Omland report, but the assumption
20 was ten passengers per van.

21 We discussed this, like I said with
22 some of the ambulance operators that went to the
23 dialysis centers, and asked them typically what do
24 you transport? How many people in the ambulances
25 that you take to those centers? They said it's

1 typically one. They're either by appointment. They
2 make the rounds. They're taking one person and
3 dropping them off. They may leave to go then pick
4 another one, take them somewhere else. But it's
5 usually one.

6 The testimony has been, by the
7 applicant, that he has a van operation that will be
8 part of his facility that they will be going around
9 transporting them. That's why they had the ten
10 passengers per van.

11 But based upon what we thought to be
12 conservative, instead of using the one, we thought
13 there might be two because they're might be some
14 economy of -- if you're operating you're own
15 transportation system, to try and pick up more than
16 one.

17 Again, we're looking at vans arriving a
18 half hour to an hour before the facility or before
19 the scheduled treatment center. We think they may
20 arrive one to two hours depending on when they're
21 going to drop off.

22 In our discussions, we -- what we were
23 told is a lot of times they'll get there and they'll
24 drop off for the appointment time, but on the return
25 they may be an hour to two hours sometimes before,

1 depending on if they had to make another trip, pick
2 up another patient, or if they dropped off a second
3 patient somewhere and they come back to the facility
4 they would just wait.

5 So there might be a longer time for
6 these medical vans at the dialysis centers to stay in
7 the parking lot a little bit longer.

8 So that would, again, affect some of
9 the parking calculations.

10 And, again, this is the same thing that
11 the -- when they start, all vans starting within a
12 half hour of the start of the next dialysis session,
13 we expanded that to may be a half hour to an hour
14 based upon what we thought might be reasonable.

15 And then, in essence, the final van of
16 the day, they had arriving 5:30 to 6:30, we thought
17 it might be a little bit earlier. Again, they're
18 assuming that a hundred percent of the patients come
19 via their medical vans, if they're not dropped off by
20 a -- the -- the family member or someone else which
21 may work, but on the other hand you're going probably
22 get some percentage that would opt to have their own
23 private transport, either because it's more
24 convenient for them time-wise or the routing doesn't
25 work out. So there's going to be some variation in

1 there.

2 Q. Again, adult day care, they've assumed
3 nine passengers per van, we took six passengers per
4 van, based upon some other facilities that we had
5 discussions with.

6 And you will find a little bit more in
7 the adult day care, especially if hey have -- they're
8 operating their own vans and going around to pick up,
9 so there's going to be some number, but we thought
10 nine is really filling that van. The six might be a
11 little more reasonable.

12 Again, when we looked at the number of
13 cars, again, all traffic -- they went through the
14 report and said that for LTACH that all traffic will
15 be vans dropping patients off from hospitals. We
16 don't necessarily disagree with that because if
17 they're in the hospital, they're being transported to
18 this type of facility. It's not something they're at
19 home and transported to this because it's emergency
20 care.

21 So there's some reasonableness to that,
22 that they're going to be transported from another
23 facility here by some type of medical transport.

24 Again, if you go through our chart the
25 dialysis and the adult day care follows very similar

1 to what we have for the LTACH, that the arrival times
2 were -- we thought were a little bit short or how
3 long they stay, we thought there might be a little
4 bit longer stay coming into the center.

5 And if that is the case, then obviously
6 the parking becomes a little bit more impacted
7 because they're staying in the parking garage longer.

8 Now, when we looked at the staffing,
9 Omland had used 84 percent of employees drive
10 themselves to work. That was based on a study that
11 he had done across at Prospect care center.

12 And there's been testimony about the
13 census data.

14 We did look at the census data. And if
15 you look at the census data it's actually about not
16 16 percent, but about 13 percent that possibly use
17 some type of transportation to travel to work. So
18 that was not unreasonable.

19 However the census data also is based
20 upon these residents that live in the area or the
21 census check that we looked at.

22 So the question is whether that journey
23 to work is going to be the same.

24 It could be a higher percentage
25 actually drive to the facility.

1 But as far as the assumption goes,
2 that's no out of line with the census data.

3 Again, visitors, they had visitor stay
4 for half hour, we thought they were longer. In our
5 analysis we had more visitors arriving to visit
6 patients in the evening then there is in the Omland
7 report, but that was -- that's all calculated into
8 our -- our traffic for our parking study.

9 We heard testimony at one of the prior
10 hearings about our distribution. We have looked at
11 what Omland had submitted and thought that although
12 reasonable based upon looking the traffic volumes on
13 the streets that really we -- we went with a
14 different approach. We looked at a gravity model
15 looking at populations of the neighboring towns
16 within a certain radius, and trying to come up with
17 what might be a reasonable arrival route.

18 All right. And I will point out two
19 things, in the first part where we have Passaic
20 Avenue east and west actually it should be Passaic
21 Street. Our report had this listed as Prospect
22 Street or Prospect Avenue. And where we have
23 Prospect Avenue, we had Passaic Avenue/Street
24 (indicating).

25 Mr. Keller pointed that out to me so in

1 preparing this slide I made that change, and just
2 would explain it to the Board.

3 We also have a slight difference in the
4 percentage that we thought was arriving on Prospect
5 Avenue from the south or the report has 5 percent
6 this is 10 percent. And we had from Summit Avenue
7 from the south 5 percent here, we had 10 percent
8 (indicating).

9 Part of that is because when we looked
10 at the trip percentage figures in our report at
11 Prospect Avenue and Passaic northbound and Central --
12 I mean Summit and Passaic northbound, those were the
13 numbers, so they got transposed into the report
14 accidentally.

15 Having said that, it really is some
16 minor differences, the biggest difference being that
17 we think the Summit Avenue access is going to have a
18 little bit more traffic than was in the Omland
19 report. A, traffic coming from the west was higher
20 in their percentage, traffic coming down Passaic
21 Avenue from the west rather than traveling across
22 Summit Avenue to Prospect and making the right to
23 come into this site, we thought we'd just make the --
24 take the Summit Avenue access to First Street, come
25 down and pull into this site.

1 So it was really a matter of how we
2 distributed and assigned the traffic. So there is
3 some minor difference in that.

4 MR. MALAGIERE: Let's just, on the next
5 one you have, just for the benefit of the record just
6 indicate its a new slide and read the title.

7 MR. MISKOVICH: Okay.

8 MR. MALAGIERE: It's obviously "parking
9 analysis."

10 MR. MISKOVICH: For the -- right. We
11 have a new section it's parking analysis actually
12 Sheet 9 on he the handout and part of the PowerPoint
13 presentation. My report had --

14 MR. MALAGIERE: Yes, just indicate that
15 you have a new sheet up.

16 MR. MISKOVICH: Okay.

17 MR. MALAGIERE: It's just hard for us
18 when we --

19 MR. MISKOVICH: I'm sorry.

20 MR. MALAGIERE: -- and apologize for
21 this, I just want to explain why we do it. When we
22 read the transcript as attorneys, anybody looking at
23 it and you try to follow along as the evidence is
24 presented it's very help to have these benchmarks.

25 Thank you.

1 MR. MISKOVICH: Okay. Sure.

2 We're on slight number ten, "parking
3 requirements".

4 MR. MALAGIERE: Thank you.

5 MR. MISKOVICH: This is also contained
6 in our traffic impact report.

7 But I can give you the reference, page
8 number. This is on page 11 of our report.

9 Since there doesn't -- there is not a
10 parking requirement for this type of facility, the
11 question is what is the appropriate parking
12 requirement by ordinance.

13 As Neglia Engineering had also pointed
14 out that the LTACH use seems to be more equivalent to
15 a hospital type of use.

16 So using the -- applying the hospital
17 rate to the 120 beds that are proposed requires 468
18 spaces.

19 Again, there's nothing for a dialysis
20 center, so the question is what is an appropriate
21 rate for that. Again they used the office rate,
22 which we think is reasonable, 100 spaces required for
23 that.

24 And then allowed adult day care, the
25 closest thing in your ordinance that really is kind

1 of a social hall/community center. And if you apply
2 the calculations there, that's 85 spaces.

3 So using some land uses that are in
4 your ordinance and looking at the parking
5 requirement, we would calculate 653 spaces being
6 required, whereas 407 or the 413 concerning the
7 medical van and delivery spaces, is what's being
8 proposed.

9 Sheet 11 was actually -- is a parking
10 utilization for all of the programs that was handed
11 out at one of the public hearings presented by Omland
12 Engineering by Eric Keller. He had presented that
13 slide or that exhibit which is kind of indicated in
14 the red. It's hard to see this slide, but the lower
15 ones, for lack of a better description in red are
16 what was presented in, A, from his report, but an
17 exhibit that was provided.

18 We had taken our distribution of
19 parking based upon our assumptions as far as number
20 of visitors, number of people per van, et cetera, and
21 went through the same hourly distribution, following
22 the procedure or analysis that Mr. Keller took in his
23 report. And that is represented in the blue or the
24 higher numbers.

25 In essence what it shows is that,

1 obviously, we have peaking times in the morning and
2 in the evening when you have shift changes and a lot
3 of the employees are coming to work in the morning
4 and then obviously the overlap in the evening where
5 it pushes a little bit higher occupancy rate inside
6 the parking garage.

7 The next slide, which is slide number
8 12, is really reflected on page 12 of my report. In
9 essence, taking the graph that you just saw on slide
10 11 and looking at particular times, 9:30 to 10:30
11 slot, 10 to 2 a.m. the average during the middle of
12 the day. And, again, in the afternoon and comparing
13 them, we looked at number of cars parked estimated by
14 Omland and estimated by us and looked at the
15 occupancy as far as number of spaces that would be
16 occupied. And you can see that, in essence, our's
17 wind up being slightly higher. Order of magnitude
18 may be ten to 20 percent higher in certain instances.
19 I was told, and then corrected if I apply that BEI
20 rate based on 413 spaces, those percentages on the
21 right adjust a little bit.

22 For an example the 98.8 percent number
23 drops down to 97.4 percent. From the top of the
24 Table 9:30 to 10:30 the 92.6 actually drops to 91.3
25 percent.

1 So order of magnitude, we're not
2 drastically different as far as those numbers there,
3 may be within a percentage point or so.

4 But saying at certain times that a
5 garage may be experiencing, or close to capacity of
6 the facility.

7 We just took it one step further, even
8 though it was noted that the percentage that was
9 arriving are using some type of public transportation
10 or shared parking, I mean you know riding with
11 somebody else, that that didn't happen. That
12 everybody drove to the facility. We redid the chart
13 and that is what is shown under the BEI column in the
14 right on slide number 13. That if everybody drove
15 and really didn't get dropped off or didn't take mass
16 transit or walk, that the capacity of that facility
17 would be exceeded. All that supplies is the fact
18 that may be the garage doesn't quite have enough
19 parking if that were the case. We wanted to show
20 that here's a possibility of giving that -- that
21 range that if it were pushing 90 percent occupancy
22 we're getting close to really practical capacity of
23 the parking garage. All right?

24 The next section is "site design" which
25 is -- begins a slide 14 continues on number 15.

1 The Summit Avenue drop-off, the
2 applicant has indicated, at least Mr. Keller has,
3 that it's been infrequently used for emergency
4 services and drop-offs. The traffic activity may
5 actually be higher because that entrance into the
6 adult day care over to the dialysis is really, I
7 think, more convenient to the -- to the main entrance
8 versus the garbage.

9 Deliveries, again, this becomes more
10 important, we've heard some testimony, parcel
11 deliveries, UPS, FedEx, those type of vehicles that
12 may not decide to go into the garage and park,
13 deliver, they may just decide to pull into the drop
14 off area park and run in.

15 The same thing as office building. You
16 might have a space designated. They're just going to
17 pull up to the front door.

18 So there's that to potential that
19 you're going to have more activity at that facility
20 than really has been estimated either by Mr. Keller
21 or even what we might anticipate.

22 But then we have this potential for
23 illegal maneuvers. Slide 12 is a portion of the site
24 plan that was submitted by Omland Engineering. I'm
25 not sure of the exact sheet number.

1 MR. NIX: Sixteen.

2 MR. MISKOVICH: I'm sorry.

3 MR. NIX: Slide 16.

4 MR. MALAGIERE: No, it's not really --
5 it may be your slide 12 but it's page 16.

6 MR. MISKOVICH: I'm sorry. Slide 16,
7 but this is a portion of the site plan that is
8 contained and submitted by Omland Engineering that
9 shows the drop-off area, shows the access to the
10 garage.

11 I'll do it that way, let me use this.

12 We have the drop-off area where it's
13 one way in, one driveway, drop-off area here where
14 you come and exit. And this that I'm pointing to now
15 just to the south of the exit drive and drop-off area
16 is the garage entrance and exit (indicating).

17 The plan indicates that we have
18 prohibiting left turns out of the facility, both from
19 the drop-off and the garage area. This somewhat
20 might be a -- it's a reasonable design to have signs
21 and posted as no -- no left turns, but I think the
22 practicality is it becomes an enforcement issue
23 because Summit Avenue at this point is fairly wide
24 enough to not to allow these cars to really make the
25 left out of there.

1 Now, there during peak hours that may
2 not be something desirable, if they're in off peak
3 horse there may be someone dropping off that just
4 might be an attractive -- something that's a
5 attractive nuisance, if you will, to both be making
6 illegal turn.

7 The other issue that was raised by a
8 Neglia Engineering report is that with both car
9 turning out of here, I believe there's a wall, sight
10 distance issues may be there, which precludes good
11 visibility for either movement.

12 But I would defer to Mr. Neglia's
13 representative to may be discuss those site issues
14 when he gets into specifics of it.

15 Again, although, this is a reasonable
16 treatment, really the thing the Board should consider
17 is, is that really practical? Are people really
18 going to be doing that or does it become an
19 enforcement issue?

20 Again when we looked at the parking
21 garage, slide 17, in the area of the garage loading
22 where they have the medical vans and they have the
23 emergency -- not emergency vehicles, but the truck
24 deliveries, it's fairly tight as we can see looking
25 at the turning movement diagrams that were submitted

1 as part of that package. It's in the corner
2 (indicating) there is showing some movement and we've
3 raised some concern as far as the ability of that to
4 really function adequately. I believe that is also
5 in the Neglia Engineering report.

6 Again, we have the truck loading,
7 emergency vehicle parking, medical van, all of that
8 kind of in the same general area. So there's a mix
9 in that one corner of the parking garage.

10 Again, I think the key that we see in
11 this, from a safety aspect, is the Prospect Avenue
12 service driveway. In essence, you have a 10 foot
13 wide driveway where trucks must either -- I
14 apologize. I don't know what's going on. Bear with
15 me a moment. Seems to be in a loop.

16 I guess it's getting tired.

17 CHAIRMAN GUERRA: Me too.

18 MR. MISKOVICH: Slide 19 which is one
19 of the exhibits that was submitted by Omland
20 Engineering shows maneuvering into that driveway
21 heading northbound on Prospect Avenue. The one on
22 the left is a WB40 which is a small tractor trailer
23 that's backing into the facility. The one on -- the
24 exhibit on the right is a single unit truck backing
25 maneuver into that driveway.

1 I think from this exhibit it easily
2 shows that they have to stop and -- not only stop
3 oncoming traffic which is southbound maneuver, but
4 they're going to be backing up into traffic coming up
5 from the south. So that's really a maneuver on a
6 fairly heavy traveled roadway that probably is not
7 desirable.

8 Again if they're coming down from
9 Passaic and coming to the site they're going to have
10 to back up and block the entire street again to pull
11 into this. That maneuver comes into pulling into a
12 10 foot wide driveway and then travelling some
13 distance back into the loading areas.

14 So either they're going to have to do
15 that backing into the site where if they're in there,
16 pulling out.

17 The real issue that I see there is the
18 fact that even though it may happen once or twice a
19 day or even a week, I'm not -- don't recall exactly
20 the testimony as far as the numbers, but you got to
21 stop traffic. Someone has to get out there, stop
22 traffic to make that maneuver and it's always
23 difficult sometimes to really get people to really
24 come at certain times.

25 As a matter of fact when I was out

1 there we were looking at the counts at 5:00 there was
2 an oil delivery at one of the apartments close to
3 Passaic. It took 3 or 4 maneuvers to get into the
4 driveway so -- and that was just a small oil truck.

5 So that can be an issue you may see
6 here. The fact that we have a clear virgin site, or
7 going to be demolished, it is a possibility that may
8 be something could be corrected. So this is not --
9 that this is avoided.

10 We're going -- traffic analysis
11 section, looking at slide number 21, we had done a
12 comparison of the capacities and vehicle delay
13 between no-build and build looking at strictly the
14 a.m. and the p.m. peak hours.

15 The first slide shows that here is
16 Prospect Avenue and Passaic Street, which is also
17 contained in our traffic report. And these would be
18 found on page 7 of the report. The report has
19 everything in one table. We've broken it up into
20 three tables to actually be able to fit on the
21 slides.

22 But you see that, in essence, between
23 the no-build and the build with the facility there's
24 not much difference in levels of service between
25 those, between no-build and build.

1 Some increases in vehicle delay. And I
2 would point out that we have for the westbound
3 Passaic Street, in the build condition, that really
4 should be a C, we're at 26.4 seconds average delay
5 versus the 25.1. It really is a C.

6 We get into the Summit and Passaic
7 Street where we actually have more traffic arriving
8 on the Summit Avenue approach. You start seeing some
9 differences between the no-build and build. You look
10 at the Summit Avenue, especially the northbound left,
11 you start getting significant increases in delay.

12 Here (indicating) almost 60 seconds in
13 the a.m. and an increase of nearly 90 or 80 in p.m.

14 The northbound through sees some
15 increase. Especially, in the evening when traffic is
16 exiting, there's a significant increase in the
17 vehicle delays from 88.2 under no-build up to 94.3 --

18 MR. BASRALIAN: Excuse me, Frank, you
19 ought to look at that because it's a typo.

20 MR. MISKOVICH: What I was looking at
21 it, it did seem high.

22 MR. BASRALIAN: Look at -- look at your
23 data back up you'll find it's supposed to be 94.8.

24 MR. MISKOVICH: So 94.8.

25 MR. BASRALIAN: Yes?

1 MR. MISKOVICH: Okay. Then I would
2 take that back.

3 MR. BASRALIAN: That's off by 10 -- you
4 know, by 10 times.

5 MR. MISKOVICH: Probably working on a
6 day like this evening.

7 But, again, Summit Avenue, you'll see
8 again, southbound you get some increases in delay
9 between no-build and build and that increase
10 southbound really do have -- we have increased
11 traffic northbound. It's now fighting more opposing
12 traffic being able to pass through the intersection.

13 At Summit and Central Avenue, you'll
14 see some similar ones. There will be some changes in
15 vehicle delay, actually some go down, for example,
16 Central Avenue left or a right go down slightly
17 between no-build and build. And that was because of
18 how we route some of the traffic to the site. While
19 you'll see others have some increases in delay.

20 We have Summit Avenue, the southbound
21 left increases probably about 40 vehicles -- 40
22 seconds of delay.

23 And the Summit Avenue through right,
24 again, another 13 seconds or thereabouts.

25 The side driveways as we -- as the

1 analysis found to be really levels of service Bs and
2 Cs and a D at the exit driveway during the p.m. peak
3 hour onto Prospect Avenue.

4 I'm going to talk about the highway
5 capacity software in a moment, but I want to go
6 forward though --

7 MR. BASRALIAN: Just reference please
8 the --

9 MR. MISKOVICH: I'm going to.

10 MR. BASRALIAN: The charts. All right?

11 MR. MISKOVICH: We're talking about
12 slide number 26. I want to go through -- let me back
13 up a minute and talk about the HCS. A highway
14 capacity software looks at intersection capacity
15 analyses. And what we're showing in this table is
16 they're looking at the individual intersections and
17 how the actually operate. Basically separate from
18 being in a network or a system of intersections.

19 So, you know, some of the numbers
20 you'll see some of the delays. When we get into some
21 of the simulations, some of the other portions of the
22 study there'll be some slight difference from what
23 you're depicting in those charts, primarily due to
24 the analysis of a network, rather than an isolated
25 intersection.

1 On slide number 26, there are some
2 difference in the trip generation that we looked at.

3 Again, studies are typically based on
4 the national basis using the Institute of
5 Transportation Engineers Trip Generation Manual.

6 And those are based upon the particular
7 land uses.

8 We cannot find any data available by
9 the ITE or the New Jersey Department of
10 Transportation for separate LTACH facilities or
11 separate dialysis centers or separate health day care
12 centers. So it's reasonable that you'd have to find
13 some other stand alone facilities.

14 Omland's research and ours we really
15 couldn't find any as of this date. So we have to go
16 under certain reasonable assumptions.

17 Omland based a lot of these discussions
18 with the applicant and some of those assumptions may
19 be an overestimate of the operation, which results in
20 some underestimated site traffic generation. That
21 may be the staffing could actually be may be higher
22 than might be estimated over time. Some of the
23 ridership, as we indicated, rather than 60 percent
24 using some other forms of transportation, some of
25 those may actually wind up arriving to the facility.

1 But obviously differences in the
2 assumptions based on the trip generation and some are
3 in the distribution that are going to result in some
4 differences.

5 On slide number 27, which is an
6 estimated trip generation for the site, this is also
7 contained in th report. We did a comparison between
8 a morning peak hour, midday, evening peak hour.

9 And then what daily traffic we would
10 anticipate from the permitted uses. What Omland had
11 projected, what we are projecting.

12 Now the permitted uses allowed in the
13 zone that is on the Passaic Avenue side, which is
14 allowed for residential, high density residential was
15 estimated as 63 residential units could be built in a
16 structure. Again, on the Summit Avenue side which is
17 zoned single family which would allow some of those
18 to be converted to medical office, we had a trip
19 generation based upon those being converted. That's
20 the same numbers that was in the Omland report as far
21 as the type of activity that could be at this
22 facility.

23 If you look at the charts and you see
24 that there's substantial differences between what is
25 being projected for this proposed facility compared

1 to the permitted uses.

2 Where Omland and I are somewhere at 175
3 in the morning and 202 in that morning, permitted
4 uses are about 36 trips. You're talking about five
5 to six times higher with the proposed use compared to
6 what it could be built there under the permitted
7 uses.

8 Again in the midafternoon, those
9 numbers are about four times higher than the
10 permitted uses.

11 And if you go to the chart for the p.m.
12 peak hour again, 57 permitted versus 198 or 204.
13 Again about four times higher than permitted traffic.

14 And over on a daily basis, again, the
15 proposed use will generate more traffic on a daily
16 basis and that's about two, two-and-a-half times
17 higher than the permitted uses.

18 I thin that's critical since the use
19 variance -- cause there are differences between this
20 use and what could be on -- on that particular site.

21 Slide 28 was really, that went to what
22 we did in the traffic analysis. We studied the
23 intersections and analyzed them for capacity and
24 resulting levels of service. We looked at the
25 weekday morning and evening peak hours. We didn't

1 necessarily look at the midafternoon, the midday peak
2 for our analysis because we're at similar volumes
3 that we had in the morning. A little bit less, but
4 we're really similar. And we're looking at the peak
5 hours when we had the higher volume of traffic and
6 from the site and higher volume of traffic on the
7 roadway.

8 So even though there might -- there's
9 going to be an impact midday, an impact throughout
10 the day, the two peak times that we really analyzed
11 are kind of the morning rush hour and the evening
12 rush hour, if you will.

13 We analyzed three conditions. We did a
14 2013 no-build, where there's no traffic from either
15 permitted uses or proposed. We looked at trip
16 generation for the permitted uses. And then we did
17 an analysis for trip generation from the proposed
18 facility.

19 Again, we analyzed the intersections
20 and found that when we compare no-build to what we
21 call permitted build, which is the permitted uses,
22 and proposed build, which is the proposed facility,
23 that there again at the Passaic and Prospect Street
24 we find very little difference in vehicle delay or
25 levels of service at that particular intersection

1 based on the highway capacity analysis.

2 As we move along and look at Summit
3 Avenue and Central Avenue we begin to see some
4 significant differences in -- in the delays.

5 You see where we have the northbound
6 Summit Avenue approach really increases close to
7 40 second of vehicle delay compared from permitted to
8 proposed. Where the permitted and the no-build are
9 relatively the same. So there is an increase in
10 delay for that northbound left turn on Summit. You
11 see an increase for the through right on Summit
12 Avenue. We're at 222.9 seconds delay we've increased
13 by about a second with the permitted use, but just
14 jumped up another 12 seconds, thereabout to 235.4
15 under the proposed condition.

16 Again, Summit Avenue southbound, you
17 will see, again, those similar increases, primarily
18 between the permitted and the proposed, which I don't
19 think is a surprise when we're adding more traffic
20 than is generated by the permitted uses.

21 You'll see some differences, I will
22 point out that -- and we go to comparing the
23 permitted to the proposed in the p.m. peak hour, for
24 an example, the northbound Summit Avenue through
25 right, there's very little difference. But when we

1 look at the southbound left turns there is a
2 difference, where there's actually a decrease with
3 the proposed. And that is because of how we assign
4 traffic onto the area roadway network. But the
5 permitted uses, the medical offices that could be
6 built on a property on -- on Summit Avenue really
7 don't have access directly to Passaic. And the vice
8 versa, the residential on Passaic doesn't have direct
9 access to Summit. Whereas the proposed uses have an
10 internal connection, so it's able to split some of
11 that traffic.

12 So there is some slight differences as
13 we go through with this comparison.

14 Next slide, again, here's Summit and
15 Passaic Street. We're on sheet -- slide number 31.
16 Again, you see the -- the Summit Avenue southbound
17 left turn really increasing with the permitted --
18 proposed use from 122.7 seconds of delay to 253.6 in
19 the proposed condition.

20 So you will see that as you go through
21 the chart, there are some increases obviously from
22 permitted to, proposed which is fairly consistent
23 throughout all of the intersections.

24 This was not in our report, I'm talking
25 about slide 32, but this was some of the information

1 that the police had given me which I did fax out to
2 the Board and to Mr. Basralian and Mr. Keller. It
3 just kind of summarizes the number of accidents at
4 those critical intersections in the area over the
5 last two years.

6 For Prospect Avenue and Passaic Avenue
7 they recorded 48 accidents. At Prospect and Berry
8 one. Prospect and Golf Street only two accidents.
9 Again, you pick up at Prospect and Central we're up
10 to 43. As Summit/Passaic 56 accidents. Summit and
11 Berry, 13. Summit and Golf seven. Summit and
12 Central Avenue 40.

13 So you really look at the key ones of
14 Prospect Avenue and Passaic, and Summit and -- and
15 Summit Avenue and Central and Passaic Avenue, you're
16 averaging just over one a month over that last three
17 year period.

18 It's just a point of reference for the
19 Board.

20 Before I get into the summary, and I
21 guess this is the point here, we have run the synchro
22 simulation, what I saw, that's exactly the capacity
23 analyses we would go through some of the simulation
24 now taking that information that is provided in the
25 report. And we run the simulation program.

1 Where we start at, I think I'm going to
2 look at the evening p.m. given the evening hour.
3 We'll start with the p.m. looking at the no-build
4 analysis.

5 Well, what the synchro program does is
6 take the information that we've input, peak hour
7 volumes, the signal timings, turning movements, et
8 cetera. And starts doing an analysis based upon a
9 network.

10 As I indicated before if you looked at
11 the HCS print-outs that were all in the capacity
12 table it really looks as at isolated intersections
13 and the highway capacity software basically deals
14 with that type of operation using vehicle delay as
15 one of the variables. The synchro software, through
16 th sim traffic program really takes those numbers and
17 basically looks at a network so that one intersection
18 could impact another intersection. And that is
19 basically volume capacity based rather than delay
20 based. So there's some slight difference in the two
21 programs.

22 But the synchro program has been
23 accepted by Federal Highway Administration and
24 accepted by the New Jersey Department of
25 Transportation as a means to evaluate traffic

1 operations on networks.

2 Right now it's just loading and going
3 through.

4 I will try to position this.

5 Right now we're showing if I come to
6 Passaic Street is on the north part of the picture,
7 to my left is Summit, to the right is Passaic Avenue.
8 The first cross street --

9 AUDIENCE MEMBERS: Prospect.

10 MR. MISKOVICH: I'm sorry. Prospect.

11 And the street that we're showing here
12 that is kind of east/west is Berry Street.

13 MR. MALAGIERE: Is that real time or is
14 that on some kind of --

15 MR. MISKOVICH: It's really working on
16 the one hour basis. The timing in here, it takes the
17 one hour volumes, ut the critical part at the top is
18 not so much the hours. It's that peak hour and it's
19 looking at a one hour period.

20 MR. MALAGIERE: It's an accelerated
21 physical view of what's going on --

22 MR. MISKOVICH: Correct.

23 MR. MALAGIERE: -- at the intersection?

24 MR. MISKOVICH: Correct.

25 MR. MALAGIERE: In some multiple.

1 MR. MISKOVICH: Correct.

2 MR. MALAGIERE: Is that queuing that
3 I'm seeing all the way down?

4 MR. MISKOVICH: What we're seeing --
5 right, based on the simulation we're seeing vehicle
6 queuing so it takes -- for an example your arrivals,
7 and we're looking at Summit Avenue northbound, is
8 that it loads up the intersection and runs it through
9 using peak hour factors in the volumes and the timing
10 and runs through in time what the conditions would
11 be.

12 MR. MALAGIERE: Am I --

13 MR. MISKOVICH: We have -- I'm sorry.

14 MR. MALAGIERE: Am I seeing a queue
15 that looks like it's going from Passaic to Berry on
16 Summit?

17 MR. MISKOVICH: Correct.

18 MR. MALAGIERE: The whole distance is
19 queuing?

20 MR. MISKOVICH: Yes.

21 MR. MALAGIERE: Going -- I don't know
22 what that is.

23 MR. MISKOVICH: That's going
24 northbound. South to the bottom. North is to the
25 top.

1 MR. MALAGIERE: And that's the no-build
2 condition.

3 MR. MISKOVICH: That's in the no-build,
4 under current conditions.

5 CHAIRMAN GUERRA: Could we stop, for
6 example, could we stop it right now where that queue
7 -- we kind of passed it. I just -- could we get a
8 count how many cars are sitting there at one point?
9 Is that too difficult to do?

10 MR. MISKOVICH: Well, this is --

11 CHAIRMAN GUERRA: It's hard to see.

12 MR. MISKOVICH: Yeah.

13 I can -- well, I can try enlarging it a
14 little bit, but this is about 500 feet, give or take,
15 of the distance on the blocks (indicating) so if you
16 take just --

17 CHAIRMAN GUERRA: So that's Summit
18 heading north approaching Passaic Street.

19 MR. MISKOVICH: Correct.

20 CHAIRMAN GUERRA: Yes, this is real. I
21 mean this is what I experience.

22 MR. MISKOVICH: Well, I've been out
23 there and watching it both times and you go through
24 the simulation, we have to calibrate it to kind of
25 reflect what is actually happening out there.

1 CHAIRMAN GUERRA: Okay.

2 MR. MISKOVICH: And part of the things
3 that go into the calibration is watching and
4 observing the traffic.

5 Rush hour we know that Passaic
6 Avenue -- Prospect Avenue does back up an gets quite
7 far and tends to back up a little bit before Summit
8 Avenue does, as far as time-wise.

9 So you look at peak hours. So it does
10 show a back up.

11 CHAIRMAN GUERRA: The number of cars
12 there is --

13 MR. MISKOVICH: Part of your problems
14 that you run into at these intersection is, we'll do
15 the Summit Avenue approach, we have a left turn lane
16 to go west onto Passaic Street and a three-way, but
17 we also have parking that goes very close up to that
18 intersection.

19 CHAIRMAN GUERRA: Right.

20 MR. MISKOVICH: The problem you have
21 once you get cars queuing up past the point where
22 through traffic can't get in there you get some of
23 that queuing. That model takes that into effect.

24 CHAIRMAN GUERRA: Is that backing up
25 past Berry? Is it showing heading down Summit like

1 past Berry?

2 MR. MISKOVICH: Well, I'll pan it down.
3 Here's the site access that I'm -- kind of in the
4 lower right-hand corner (indicating) --

5 CHAIRMAN GUERRA: Right.

6 MR. MISKOVICH: -- of the demonstration
7 showing that that is -- that is going past the site.

8 A lot of times up to Golf. Now, this
9 is -- it's going to vary throughout that hour.
10 You're going to have ebb and flow, but you do get
11 queues at different times (indicating).

12 We have the issues at Passaic and
13 Prospect, where similar northbound, we'll go up there
14 in a minute, where this is just striped (indicating)
15 two lanes northbound. It comes to "receiving" lanes,
16 but the traffic and parking is up fairly close to the
17 intersection so the minute you get one car or cars
18 backing up you can't get into this right lane. It's
19 starts the backing up. Secondly, if you do get the
20 two, the receiving lane on the far side is very
21 short. You have to come over very quickly. So that
22 has some effect on the capacity being able to move
23 through the intersection.

24 I'm trying to center it (indicating)
25 but I guess it's the side of it.

1 And then we also have the associated --
2 as part of that, because of the timing and volumes
3 you wind up seeing Passaic Street backing up or
4 queuing both in the eastbound direction and the
5 westbound direction (indicating).

6 And the operation of the intersections
7 really are dependent on one another, when you look at
8 vehicle queues because backups from Summit Avenue on
9 Passaic Street westbound from Summit backs up towards
10 the Passaic Streets intersection it effects that
11 ability to operate so that an interaction between the
12 two intersections.

13 So, again, we're showing some of that
14 queuing. I think we might have missed that in the
15 earlier part of the hour really, Prospect Avenue had
16 a -- queued up earlier. And you'll get some more of
17 that.

18 But Summit Avenue does tend to back up
19 a little bit more later in that period (indicating).

20 Again, I'm trying to look at this over
21 that period. It just takes a little while to go
22 back.

23 Now, we see on the earlier part of the
24 hour, the peak hour, that Passaic Avenue is starting
25 to back up from Berry. We see it coming down to the

1 site access.

2 And at times beyond what would be the
3 site access.

4 Traffic then moves and clears up, but
5 then it gets filled up again. And over the time
6 period it will dissipate. If you travel that way
7 you'll be stuck in a queue, you will move up a little
8 and you'll get through whatever number of cycles you
9 have to, to get to the traffic light. But it does
10 move eventually.

11 AUDIENCE MEMBERS: Eventually.

12 MR. MALAGIERE: Mr. Chairman, it's five
13 of ten.

14 I would suggest that since you've
15 indicated to me that you're going to adjourn at ten
16 that we continue Mr. Miskovich's testimony at the May
17 -- anticipating the May special meeting, Mr.
18 Basralian?

19 CHAIRMAN GUERRA: Rich, we have --

20 MR. MALAGIERE: Would you please come
21 up so we can discuss a date?

22 We circulated some dates with Mr.
23 Basralian and I have Mr. Polyniak's availability. I
24 don't know that we're going to be able to accommodate
25 that. And I circulated it threw Marcella to Mr.

1 Chairman.

2 Mr. Chairman, you indicated a day, I
3 think I provided you with Mr. Basralian's
4 availability?

5 CHAIRMAN GUERRA: Right. Kind of
6 polled the Board here, it looks like May 27th
7 Thursday, does that work?

8 MR. BASRALIAN: Yes, that works.

9 MR. MALAGIERE: The hearing is going to
10 be carried to May 27, 7 p.m. in these chambers but
11 without further notice.

12 And you have problem with that?

13 MR. MISKOVICH: No, just checking.

14 MR. MALAGIERE: Mr. Miskovich, you're
15 going to be available, correct?

16 MR. MISKOVICH: Yes.

17 MR. MALAGIERE: We'll continue with the
18 traffic testimony.

19 MR. BASRALIAN: We're going to continue
20 this and not interrupt for cross examination of my
21 witness or we're going to finish up the night with
22 cross of Mr. Miskovich rather than having Mr.
23 Moskowitz back. I want the finish this and not
24 interrupt.

25 MR. MALAGIERE: I would anticipate that

1 the Chairman would allow this witness to finish his
2 direct and allow you to cross examine him.

3 But I would also anticipate that your
4 traffic expert will be here.

5 MR. BASRALIAN: Yes.

6 MR. MALAGIERE: So may be we'll get
7 that cross in at the end, who knows. We'll see what
8 the Chairman decides to do.

9 Mr. Chairman, do you have any further
10 business?

11 CHAIRMAN GUERRA: No, that's it.

12 MR. MALAGIERE: We're going to open
13 this witness to the public at the next hearing after
14 his direct testimony is finished and Mr. Basralian
15 and any other attorney has had a chance to cross
16 examine him.

17 So I just want to make that clear.

18 Thank you, Mr. Chairman.

19 CHAIRMAN GUERRA: That's it.

20 Motion to adjourn.

21 MR. MALAGIERE: Is there a motion to
22 adjourn?

23 CHAIRMAN GUERRA: Yes.

24 MR. MALAGIERE: Is there a second?

25 MR. DIANA: I'll second.

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MR. MALAGIERE: All in favor?

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

MR. MALAGIERE: Opposed?

(Whereupon, this matter will be
continuing at a future date. Time noted 10
p.m.)

C E R T I F I C A T E

I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #15855, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #15855, Notary
Expiration Date March 1, 2009

Dated: _____

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