

TOWNSHIP OF CRANFORD  
PLANNING BOARD  
WEDNESDAY, JUNE 5, 2019  
COMMENCING AT 8:00 P.M.

.....  
IN THE MATTER OF: : TRANSCRIPT  
: OF  
: PROCEEDING  
  
APPLICATION #PBA-17-00004 :  
Hartz Mountain Industries :  
750 Walnut Avenue :  
Block 541, Lot 2, C-3 Zone :  
.....  
B E F O R E:

THE TOWNSHIP OF CRANFORD PLANNING BOARD  
THERE BEING PRESENT:

KATHLEEN MURRAY, CHAIRWOMAN

PATRICK GIBLIN, MAYOR

ANN DOOLEY, DEPUTY MAYOR

LYNDA FEDER, MEMBER

BOBBI ANDERSON, MEMBER

DONNA PEDDE, MEMBER

PETER TAYLOR, MEMBER

CHRISTOPHER CHAPMAN, MEMBER

ANDREW COSSA, MEMBER

DANIEL J. ASCHENBACH, ALTERNATE #1 MEMBER

Magna Legal Services  
866-624-6221  
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<div>Page 2</div> <div> 1 2 APPEARANCES: 3 4 MARK ROTHMAN, ESQ. 5 Counsel for the Board 6 JAMES RHATICAN, ESQUIRE 7 Counsel for Hartz Mountain 8 9 ALSO PRESENT: 10 11 KATHY LENAHAAN, SECRETARY 12 13 BILL MASOL, BOARD ENGINEER 14 15 E. MAURICE RACHED, BOARD TRAFFIC ENGINEER 16 17 RAY LIOTTA, BOARD PLANNER 18 19 20 21 RONALD JOHNSON, ZONING OFFICER 22 23 24 25 </div>	<div>Page 3</div> <div> 1 2 INDEX 3 4 BOARD DELIBERATIONS PAGE 5 Dr. Chapman 12, 87, 6 124 7 Mr. Taylor 26, 86 8 Ms. Anderson 47 9 Mr. Cossa 51 10 Mr. Aschenbach 54, 88, 11 123, 138 12 Deputy Mayor Dooley 57, 81, 13 98, 120 14 Ms. Feder 60, 68 15 137 16 Ms. Pedde 62, 78 17 Mayor Giblin 63, 89 18 Charwoman Murray 64, 84, 19 113 20 PUBLIC COMMENT 21 Rita LaBrutto 155 22 104 Arlington Road 23 Mark Zucker 156 24 19 Persian Avenue 25 26 EXHIBITS 27 NO. DESCRIPTION ID EVID 28 (No Exhibits Marked.) 29 30 </div>
<div>Page 4</div> <div> 1 CHAIRWOMAN MURRAY: Good evening, 2 welcome to the Cranford Planning Board for June 5, 3 2019. 4 Ms. Lenahan, would you read the 5 statement of Open Public Meetings? 6 MS. LENAHAAN: Sure. 7 This meeting is in compliance with the 8 Open Public Meetings Act, as adequate notice of this 9 meeting has been provided by publishing of the 10 board's annual schedule of meetings in the Westfield 11 Leader and the Star Ledger. 12 The agenda specifying the time, place 13 and matters to be heard has been posted on the 14 bulletin board in the Town Hall reserved for such 15 announcements, and the filing of said agenda with the 16 Township Clerk of Cranford. Formal action may be 17 taken at this meeting. 18 CHARWOMAN MURRAY: Thank you. 19 Please join me for the Pledge of 20 Allegiance. 21 (All rise for a recitation of the 22 Pledge of Allegiance.) 23 CHARWOMAN MURRAY: Ms. Lenahan, could 24 we have a roll call? 25 MS. LENAHAAN: Mr. Aschenbach? </div>	<div>Page 5</div> <div> 1 MR. ASCHENBACH: Here. 2 MS. LENAHAAN: Mr. Taylor? 3 MR. TAYLOR: Here. 4 MS. LENAHAAN: Ms. Pedde? 5 MS. PEDDE: Here. 6 MS. LENAHAAN: Mayor Giblin? 7 MAYOR GIBLIN: Here. 8 MS. LENAHAAN: Ms. Feder? 9 MS. FEDER: Here. 10 MS. LENAHAAN: Deputy Mayor Dooley? 11 DEPUTY MAYOR DOOLEY: Here. 12 MS. LENAHAAN: Mr. Cossa? 13 MR. COSSA: Present. 14 MS. LENAHAAN: Dr. Chapman? 15 DR. CHAPMAN: Present. 16 MS. LENAHAAN: Ms. Anderson? 17 MS. ANDERSON: Here. 18 MS. LENAHAAN: Ms. Murray? 19 CHAIRWOMAN MURRAY: Here. 20 MS. LENAHAAN: Mr. Rothman? 21 MR. ROTHMAN: Present. 22 MS. LENAHAAN: I am here. 23 Please state that Ms. Didzbalis is 24 absent. 25 CHARWOMAN MURRAY: Thank you. </div>

<p style="text-align: right;">Page 6</p> <p>1 Ms. Pedde, could we have the 2 application before us this evening? 3 MS. PEDDE: Yes. 4 Application PBA 1700004, continued from 5 May 15, 2019, Hartz Mountain Industries, 750 Walnut 6 Avenue, Block 541, Lot 2, C-3 zone. 7 Applicant is seeking to rezone the 8 subject property to eliminate the office and 9 warehousing uses in favor of multifamily residential 10 use, 136-13. 11 CHARWOMAN MURRAY: Thank you. 12 So we've been coming here quite a 13 while, 14 nights over a year, to listen to testimony 14 related to this application, and tonight the board 15 will be deliberating and voting on the application 16 presented by Hartz Mountain to rezone their property 17 at 750 Walnut. 18 The board will consider all the 19 testimony and exhibits provided by the applicant, the 20 board's professionals, the board of education and the 21 public. 22 Our decision will be based on 23 Cranford's Land Development Ordinance Chapter 136, 24 Article VIII, Sections 59 through 68. And I am going 25 to read some of them here just so we're all clear on</p>	<p style="text-align: right;">Page 7</p> <p>1 what we're doing. 2 And I did want to take a moment, in 3 case I forget later, to thank the board and our 4 attorney, Mr. Rothman, for the work, the dedication 5 that you've provided in this unusual application. 6 And I think for all of us it has been quite different 7 than what we're used to. 8 To our applicant for his 9 professionalism, thank you, Mr. Rhatican. 10 And to the public, you've been very 11 engaged and we welcome that. We are interested. We 12 come here and some nights there's no one out there. 13 It's wonderful to live in a community where people 14 care about what's going on enough to spend their 15 evenings here with us. 16 So I am going to do a little bit of 17 reading here from our code so it's clear what we're 18 doing. 136-64, "Proofs and findings of the report. 19 "After hearing the application, the 20 Planning Board shall determine whether any 21 action other than rezoning will properly 22 protect the interest of the community, of the 23 municipality. The Planning Board shall review 24 the application in light of the existing 25 Master Plan, the conditions existing within</p>
<p style="text-align: right;">Page 8</p> <p>1 the community and the expertise of the 2 Planning Board in matters of land development 3 to determine whether the applicant's proposal 4 should be favorably recommended to the 5 Township Committee." 6 And that is something I'd like to 7 emphasize what we're going to be doing today is 8 deliberating and voting on whether we are 9 recommending this to the Township Committee. The 10 final determination on whether to approve this 11 request will be made by the Township Committee. 12 We will make specific detailed findings 13 of fact and conclusions of law concerning the 14 applicant's proposal as it relates to the review 15 standards set below. 16 It shall be the applicant's burden of 17 proof to present sufficient, credible evidence to the 18 Planning Board for the board to make appropriate 19 findings, conclusions and recommendations. 20 We will then make a report, as stated 21 in 136-66, to the governing body of our findings. 22 And in 136-67 are the review standards 23 that we will be following. The first review standard 24 is "necessity," and that is simply that the rezoning 25 cannot -- they cannot find relief, except by coming</p>	<p style="text-align: right;">Page 9</p> <p>1 to the Planning Board, which is what the applicant 2 has done. 3 The "Master Plan: 4 "In submitting its recommendation, the 5 Planning Board shall submit a report in 6 accordance with..." the appropriate 7 regulations. "The governing body shall comply 8 with the sections and acting on the 9 application. 10 "Modification: In its 11 recommendations, the Planning Board may 12 recommend that the applicant for rezone be 13 granted in whole or in part or be modified. 14 "If the Planning Board recommends the 15 granting of the application with modifications 16 or conditions, the Planning Board shall set 17 out such modifications or conditions in 18 detail." 19 The effect on current zoning is D: 20 "The applicant must demonstrate by 21 proper proof that absent the rezoning, the 22 property will be zoned into inutility, or that 23 rezoning will substantially and meaningfully 24 benefit the municipality and further the 25 purposes of the Municipal Land Use Law."</p>

<p style="text-align: right;">Page 10</p> <p>1 And those are the two central questions</p> <p>2 we'll be focusing on this evening.</p> <p>3 "Municipal services. In</p> <p>4 demonstrating that the proposed rezoning will</p> <p>5 substantially benefit the municipality or</p> <p>6 advance the MLUL, the applicant shall</p> <p>7 demonstrate that the proposed rezoning will</p> <p>8 not unduly burden the planned and orderly</p> <p>9 development of the municipality or place an</p> <p>10 undue burden on the community, services and</p> <p>11 facilities."</p> <p>12 So as I mentioned, the two primary</p> <p>13 standards we're going to use -- and we're going to be</p> <p>14 following a jury charge that was on the website, and</p> <p>15 Mr. Rothman, that's available to the public --</p> <p>16 MR. ROTHMAN: Yes.</p> <p>17 CHARWOMAN MURRAY: -- at the podium?</p> <p>18 The -- we'll be reviewing the</p> <p>19 applicant's proposed request for rezoning. We'll</p> <p>20 continue to consider the two primary standards:</p> <p>21 "One, absent rezoning, there is a</p> <p>22 substantial likelihood that the zoning</p> <p>23 regulations currently in existence will zone</p> <p>24 the property into inutility; or, two, the</p> <p>25 rezoning proposed by the applicant will</p>	<p style="text-align: right;">Page 11</p> <p>1 substantially and meaningfully benefit the</p> <p>2 municipality and further the purposes of the</p> <p>3 Municipal Land Use Law."</p> <p>4 So those are the two questions that are</p> <p>5 before us. Our deliberations will focus on each of</p> <p>6 the members' findings with respect to whether the</p> <p>7 applicant has or has not met the burden of proof, and</p> <p>8 what evidence or lack of evidence was relied upon in</p> <p>9 making that finding.</p> <p>10 "The Planning Board is permitted to</p> <p>11 recommend rezoning if the Planning Board</p> <p>12 concludes that one or the other of both</p> <p>13 primary standards stated below have been</p> <p>14 proven, or if the Planning Board determines</p> <p>15 that the primary standards have been met, we</p> <p>16 will then consider secondary standards."</p> <p>17 And those are outlined in the jury</p> <p>18 charge.</p> <p>19 So we'll be going through the jury</p> <p>20 charge in that order. Following those two central</p> <p>21 questions we will take a vote, and then move on to</p> <p>22 the following questions.</p> <p>23 The outcome of those two votes will</p> <p>24 determine the necessity for moving on to secondary</p> <p>25 standards.</p>
<p style="text-align: right;">Page 12</p> <p>1 Do you have anything to add,</p> <p>2 Mr. Rothman?</p> <p>3 MR. ROTHMAN: No.</p> <p>4 CHARWOMAN MURRAY: Very good.</p> <p>5 So following the jury charge we will</p> <p>6 move on to our first question regarding inutility:</p> <p>7 "Has the applicant met its burden of</p> <p>8 demonstrating through the presentation of</p> <p>9 sufficient, credible evidence that absent a</p> <p>10 rezoning, there is a substantial likelihood</p> <p>11 that the zoning regulations currently in</p> <p>12 existence will zone the property into</p> <p>13 inutility."</p> <p>14 And in this, the definition of</p> <p>15 inutility means uselessness or having no practical</p> <p>16 use.</p> <p>17 Members of the board, when you're ready</p> <p>18 to speak if you could indicate and I'll recognize</p> <p>19 you.</p> <p>20 Mr. Chapman? Dr. Chapman?</p> <p>21 DR. CHAPMAN: Thank you, Madame Chair.</p> <p>22 During this nearly two-year hearing</p> <p>23 there has been conflicting testimony between Hartz</p> <p>24 experts and the Planning Board's experts, as well as</p> <p>25 citizen objectors relating to the ultimate question:</p>	<p style="text-align: right;">Page 13</p> <p>1 Has the current Commercial 3 District Zoning</p> <p>2 regulations, which encompass the 750 Walnut Avenue</p> <p>3 property, zoned the property into inutility.</p> <p>4 Inutility, as I will use it during</p> <p>5 these deliberations, is operationalized to simply</p> <p>6 mean the property is unusable for any permitted use</p> <p>7 currently identified within the C-3 zone, and the</p> <p>8 property cannot be reasonably adapted to a conforming</p> <p>9 use. And as a result, the property has no practical</p> <p>10 use.</p> <p>11 Mr. James Brunette, who was retained by</p> <p>12 the Planning Board, I found him to be competent as a</p> <p>13 result of his 30 years of knowledge -- excuse me --</p> <p>14 30 years of knowledge not only of commercial and</p> <p>15 office marketing within New Jersey, but also his</p> <p>16 particular familiarity with commercial and industrial</p> <p>17 markets in Cranford.</p> <p>18 Mr. Brunette testified credibly and</p> <p>19 specifically provided expert testimony regarding to</p> <p>20 the inutility question, which he supported with both</p> <p>21 quantitative and qualitative real-world experiential</p> <p>22 data. Mr. Brunette's ultimate opinion was that the</p> <p>23 current zoning of the 750 Walnut Avenue property has</p> <p>24 not placed the property into inutility.</p> <p>25 Other witnesses proffered by Hartz, the</p>

<p style="text-align: right;">Page 14</p> <p>1 Planning Board, as well as many citizen objectors,  2 commented and/or opined as to economic inutility, and  3 not as precise as Mr. Brunette had, relating to  4 ultimate inutility.  5 A significant portion of this hearing  6 was related to the applicant's application attempted  7 to answer the question: Is 750 Walnut Avenue  8 suitable for office or industrial use?  9 The testimony is clear to me that Hartz  10 believes, due to its inability to lease office and/or  11 industrial space within a square-foot parameter and a  12 price per square foot, that it has established, that  13 they are suffering and will continue to suffer an  14 economic hardship.  15 Many citizen objectors and residents  16 who participated in these hearings appropriately  17 framed the question which is: If they, as  18 homeowners, are unable to receive top dollar for the  19 rent or sale of their property, would it be  20 appropriate to recommend rezoning of that area where  21 their home is located so as to provide that specific  22 homeowner with a more favorable economic benefit?  23 Simply because a homeowner elects not  24 to make updates to their property, and as a result  25 they're unable to rent or sell their home at a</p>	<p style="text-align: right;">Page 15</p> <p>1 desirable price, does not mean that the rest of the  2 community should be negatively affected by their  3 choices.  4 It is my opinion that Hartz, just like  5 residential homeowners, are not entitled to have  6 their property rezoned for the most favorable or  7 economical benefit. Because Hartz has presented  8 testimony which identified hardships and Hartz  9 anticipates continuing suffering undue hardships  10 because of the current zoning regulations where 750  11 Walnut is located, I have considered the testimony of  12 Hartz experts in the light most favorable to the  13 applicant and accepted Hartz experts' opinions as  14 facts, except when contradicted by other reliable  15 units of analysis, citizen objector comments or more  16 reliable expert testimony.  17 I will now discuss the basis of my  18 opinions that one, the current C-3 commercial  19 regulations have not zoned 750 Walnut into inutility;  20 and, two, there are viable uses for 750 Walnut Avenue  21 which conform with C-3 commercial zoning regulations  22 which could cause the property to be usable for a  23 variety of permitted purposes.  24 Mr. Brunette opined that there are some  25 shortcomings with the 750 Walnut Avenue property as</p>
<p style="text-align: right;">Page 16</p> <p>1 testified to by Hartz experts.  2 However, Mr. Brunette testified that  3 the current C-3 zoning is not placing the property  4 into inutility. And Mr. Brunette went on to opine  5 that the property is far from economic inutility.  6 Mr. Sitar, in response to a question  7 posed by Ms. LaBrutto regarding if 750 Walnut could  8 be leased to a company to engage in services which  9 are not currently provided on the property, but are  10 in conformance with the current C-3 regulations,  11 Mr. Sitar indicated that there are other types of  12 industrial use that could be accommodated on the 750  13 Walnut Avenue property.  14 When accepting Mr. Brunette's opinion  15 that the current C-3 zoning is not placing 750 Walnut  16 into inutility or economic inutility, and accepting  17 Mr. Sitar's opinion that 750 Walnut Avenue could be  18 utilized for other C-3 permitted uses, and accepting  19 other reliable testimony that during the time when  20 the applicant's application was being heard by the  21 Planning Board and before, that sections of 750  22 Walnut Avenue have been leased and occupied. It's  23 reasonable to consider that the current C-3 zoning  24 has not and will not place the 750 Walnut Avenue into  25 inutility.</p>	<p style="text-align: right;">Page 17</p> <p>1 While I could stop my deliberations  2 regarding inutility at this point because both  3 Mr. Brunette and Mr. Sitar provided sufficient,  4 reliable evidence to lead me to find that 750 Walnut  5 is not currently in inutility, nor will it be placed  6 into inutility, if the current C-3 regulations are  7 not changed; however, I choose not to at this time,  8 in part because the hearing relating to the  9 applicant's application took almost two years, and  10 Hartz, through its attorney, Mr. Rhatican, proffered  11 experts which caused me to consider perspectives  12 which were different than the board's experts and  13 some of the citizen objectors.  14 I will now briefly compare and contrast  15 the testimony within the hearing which I considered  16 and/or relied upon to support my opinion regarding  17 the inutility question.  18 Mr. Hughes testified that the property  19 at 750 Walnut Avenue is not suitable for office or  20 industrial space due to its location.  21 As I previously indicated, Mr. Sitar,  22 in response to Ms. LaBrutto's question, indicated  23 that there are other types of industrial uses that  24 could be accommodated on the property.  25 Several citizen objectors identified</p>

<p style="text-align: right;">Page 18</p> <p>1 industrial uses of the property which could conform 2 to the current C-3 zoning regulations.</p> <p>3 Mr. Hughes also indicated that there is 4 a weakness in the suburban office market.</p> <p>5 Mr. Matthew McDowell in -- is 6 recognized as indicating that the office space market 7 in the Union/Parkway corridor of New Jersey is 8 strong, and year over year rents in general have 9 rebounded to near record highs according to 10 TransWestern second quarter 2018 market report.</p> <p>11 I find that most of the hardships Hartz 12 has identified in its experience in leasing space at 13 750 Walnut Avenue are self-imposed. I will explain 14 and expand upon that opinion later on during my 15 deliberation.</p> <p>16 However, at this point it's important 17 to note that I find that Mr. Hughes' testimony that 18 750 Walnut Avenue is not suitable for office or 19 industrial use due to its location is not supported 20 with credible or convincing evidence.</p> <p>21 Mr. Charles Reiss who also testified, 22 Mr. Reiss indicated that 750 Walnut has not been 23 marketed for sale and there is no desire to sell the 24 property.</p> <p>25 He also indicated that PSE&amp;G offered to</p>	<p style="text-align: right;">Page 19</p> <p>1 purchase a portion of property for a substation and 2 Hartz is currently in discussion with PSE&amp;G.</p> <p>3 It is reasonable to consider that Hartz 4 is attempting to have the property rezoned not 5 because the current zoning is placing the property 6 into inutility, but that Hartz is attempting to 7 utilize the property in a manner which is most 8 profitable to Hartz.</p> <p>9 Mr. Reiss also indicated that there is 10 an inability to lease space within the suburban 11 office location and this inability will continue for 12 the foreseeable future.</p> <p>13 However, Mr. Reiss also testified that 14 Hartz has come close, a few times, in leasing space 15 at 750 Walnut Avenue. My independent recollection is 16 that Ms. LaBrutto also complimented him on coming 17 close those several times in satisfying leases.</p> <p>18 Some of the examples he provided was 19 Bank of America, LabCorp, and I believe there was 20 discussion regarding Summit Medical Group or similar 21 type of medical facilities.</p> <p>22 According to Mr. Brunette, in response 23 to Mr. Reiss' testimony about the suburban market, 24 Mr. Brunette indicated that the commercial office 25 market has improved between 2006 to 2008, and that</p>
<p style="text-align: right;">Page 20</p> <p>1 there was a 21 -- 25 percent vacancy rate. Now the 2 vacancy rate is about 15 to 16 percent.</p> <p>3 Within the office market it is 4 difficult to find big block users, so as a result the 5 current trend is to rent smaller square feet of space 6 which Hartz, via its testimony, indicated it's not 7 willing to do.</p> <p>8 The decision of Hartz not to lease 9 smaller square feet of space may be a cause of their 10 inability to rent space, and as a result the 11 inability to lease space is caused by their own 12 doing.</p> <p>13 Mr. Brunette also indicated that larger 14 square foot office-type buildings are being 15 retrofitted so as to accommodate renters looking for 16 smaller square feet of space.</p> <p>17 Mr. Reiss testified that Hartz would 18 only entertain lease offers if an individual were 19 desirous of leasing a significant portion of the 20 property.</p> <p>21 The threshold requirement is around -- 22 or he testified was around 30,000 square feet. He 23 also indicated that the main component of any lease 24 deal is the number of square feet, and Hartz is 25 willing to subdivide the office space into blocks of</p>	<p style="text-align: right;">Page 21</p> <p>1 50,000 square feet.</p> <p>2 According to Mr. Brunette, LabCorp, who 3 occupied 85,000 square feet of space at 750 Walnut, 4 would have stayed at Hartz had Hartz agreed to lease 5 them a smaller space. It is reasonable to consider 6 that had Hartz agreed to lower the square foot lease 7 minimum requirements, several companies such as 8 LabCorp would have leased space from Walnut.</p> <p>9 I agree with Mr. Brunette's opinion 10 that difficulty in renting large space of property 11 does not place the property into inutility based upon 12 current zoning.</p> <p>13 According to Mr. Brunette, there is a 14 healthy market below the square foot which Hartz is 15 willing to lease. The current market trend for 16 warehouse and distribution center space is for square 17 feet between 5,000 to 40 or 50,000 square feet which 18 are in demand. Hartz, due to its own doing, business 19 or operational decisions, has made it difficult for 20 them to lease space at 750 Walnut, not the C-3 21 zoning.</p> <p>22 In addition, the Union County vacancy 23 rates for industrial space, warehouse and 24 distribution, is between 4 to 5 percent, and brokers 25 like Mr. Brunette are experiencing difficulties and</p>

<p style="text-align: right;">Page 22</p> <p>1 an inability to locate warehouse and distribution  2 center space in the ranges of 5,000 to 40,000 square  3 feet.  4 Mr. Reiss also indicated that the  5 location of the building is not in a good location  6 even when considering the amenities within the area  7 such as the golf course, restaurants and Clark  8 Commons. I find this testimony of Mr. Reiss not to  9 be credible and it's not based on any accepted  10 methodology.  11 Mr. Reiss also testified that they have  12 not looked into converting the property into Class A  13 office space or industrial space.  14 According to Mr. Brunette, there are  15 companies such as Saddle Brook Realty, Toll Far  16 (phonetic) which purchase outdated buildings and  17 retrofit them to be sold or leased in smaller spaces;  18 an example that was provided was 2 Laurel Drive in  19 Flanders or Mount Olive.  20 Mr. Reiss testified that the rates are  21 compatible at 750 Walnut Avenue, and he said that  22 they're more than fair when comparing them to other  23 industrial properties.  24 Mr. Brunette testified that 750 Walnut  25 advertises space for between \$20.00 to \$25.00 per</p>	<p style="text-align: right;">Page 23</p> <p>1 square foot per year. He indicated this number is  2 way out of whack with reality.  3 He indicated that a reasonable price  4 per square foot would be somewhere between \$5.00 to  5 \$8.50 per square foot. Mr. Brunette provided  6 examples of industrial properties which included a  7 property in Carteret which had an \$8.50-square-foot  8 price.  9 Mr. William Sitar testified. He  10 testified that the existing Bank of America building  11 is not suitable for industrial building because of  12 the ceiling heights and product loading capabilities.  13 Again, according to Mr. Brunette, there  14 are companies such as Toll Far which would purchase  15 outdated buildings and retrofit them to be sold or  16 leased in smaller spaces.  17 There's also been testimony that has  18 been provided within this hearing that suggests that  19 Hartz has the capabilities and talent to retrofit the  20 building, themselves, as opposed to using a third  21 party.  22 Mr. Sitar indicated if the building was  23 taken down, the location of the property would not be  24 suitable for industrial use due to the number of  25 large vehicles, trucks, that would need to access</p>
<p style="text-align: right;">Page 24</p> <p>1 Route 1, the Turnpike, and other major highways which  2 allow large trucks.  3 According to Mr. Brunette, as well as  4 numerous situation objectors, 750 Walnut, as an  5 industrial use distribution center, is usable without  6 the use of large tractor trailers. There were  7 numerous examples of companies which utilize smaller  8 vans while making deliveries and utilizing industrial  9 space.  10 Mr. Brunette, in total, indicated that  11 LabCorp, again, previously occupied 85,000 square  12 feet of space. They would have stayed if Hartz would  13 have allowed them to lease less space.  14 Mr. Brunette indicated that the  15 industrial market is on fire. There is a strong need  16 for warehouse and distribution space.  17 Mr. Brunette testified that there is a  18 5 percent vacancy rate in industrial warehouse and  19 distribution center space. Mr. Brunette supports his  20 vacancy rate with claims, with Sitar Realty Company  21 Market Watch 2018 first quarter publication, which  22 indicates the industrial market in the Northern and  23 Central New Jersey area has a 4.6 vacancy rate.  24 In addition, MarketBeat, Cushman and  25 Wakefield, indicate that the industrial vacancy rates</p>	<p style="text-align: right;">Page 25</p> <p>1 are 4.5 percent; however, for the second quarter of  2 2018, the industrial vacancy rates were 3.7 percent.  3 Sitar and MarketBeat are acceptable  4 publications of reliable industrial vacancy rates for  5 brokers such as Mr. Brunette, and he frequently  6 relies upon Sitar's publications.  7 In addition, Mr. Brunette testified  8 that he contacted Mr. Reiss in an attempt to rent  9 space at 750 Walnut Avenue, a significant portion of  10 space of 750 Walnut Avenue, for clients that he had  11 that were looking for 100,000 square feet. And  12 Mr. Reiss advised Mr. Brunette that there was no  13 space available.  14 In addition, Mr. Brunette indicated  15 that several companies such as All State Legal and  16 National Christmas Tree considered leasing space at  17 750 Walnut Avenue.  18 There was discussion as to the  19 classifications of the building, if the building was  20 a Class A or Class B. Based on all of the testimony  21 that I have heard throughout the hearing, it seems  22 that the classification of the building -- there's no  23 general industry standard as to the classification of  24 the building and it's determined by the broker.  25 The difficulty in renting large office</p>

<p style="text-align: right;">Page 26</p> <p>1 space does not place the property into inutility  2 based upon the current zoning. Simply because it  3 would be easier for Hartz to have a few large tenants  4 which occupy over 28,000 square feet, than  5 retrofitting or updating their building to  6 accommodate numerous leasers looking for space from  7 5,000 to 50,000 square feet, does not place the  8 property into inutility.</p> <p>9 Based upon the testimony and documents  10 I reviewed and considered during this hearing, I find  11 that the applicant has not demonstrated with  12 sufficient, credible evidence, that absent a rezoning  13 there is a substantial likelihood that the C-3 zoning  14 regulations currently in existence would zone the  15 property located at 750 Walnut Avenue into inutility.</p> <p>16 Madame Chair, that's all I have at this  17 time.</p> <p>18 CHARWOMAN MURRAY: Thank you,  19 Dr. Chapman.</p> <p>20 Do we have any other comments?  21 Mr. Taylor?</p> <p>22 MR. TAYLOR: I concur with the  23 statements that were just provided by Dr. Chapman,  24 and unless I am convinced otherwise, after hearing  25 tonight's comments by the board members, I find the</p>	<p style="text-align: right;">Page 27</p> <p>1 applicant, Hartz Mountain, did not meet its burden of  2 demonstrating through presentation of evidence by  3 Mr. Rhatican and Hartz experts that absent a rezoning  4 there is a substantial likelihood that the zoning  5 regulations currently in existence will zone the  6 property into inutility.</p> <p>7 In order to explain how I arrived at  8 this conclusion, I have prepared a summary of  9 relevant testimony from some of Hartz experts, which  10 I found lacked credibility, much of the testimony was  11 also contradicted by the Planning Board experts.</p> <p>12 I will be referring to the direct  13 testimony and citing comments that pertained to the  14 issues of whether 750 Walnut Avenue site is in a  15 state of inutility.</p> <p>16 I will be interjecting my own personal  17 comments after some of the direct cited testimony, so  18 for tonight's record I will note my comment when  19 statements are mine, to distinguish those statements  20 from what the individual experts testified to.</p> <p>21 At the first meeting on May 16th, 2018,  22 Mr. Charles Reiss, who was the vice president of  23 sales and leasing for Hartz was a fact witness and  24 testified to the following: Summit Medical Group was  25 interested in leasing 80,000 to 100,000 square feet</p>
<p style="text-align: right;">Page 28</p> <p>1 in 2012. Had Summit Medical Group leased the space,  2 he thought that Hartz could easily backfill the  3 balance of the site once Summit Medical Group moved  4 onto the site.</p> <p>5 When asked if Hartz reached out to any  6 other entity similar to Summit Medical Group after  7 that deal fell through, such as Robert Wood Johnson,  8 Overlook Hospital or anyone else with a similar  9 concept, Mr. Reiss responded:</p> <p>10 "I did not reach out to Overlook or St.  11 Barnabas or any other medical facility, no."</p> <p>12 Hartz came close to renting the space a  13 few additional times. Hartz had discussions with  14 Bank of America to retain 37,000 square feet in 2016.</p> <p>15 In 2016, LabCorp was looking to expand  16 and Hartz made an unsolicited offer to them. LabCorp  17 seemed interested.</p> <p>18 Currently, LabCorp occupies  19 approximately 80,000 square feet in the rear of  20 building Condo 5.</p> <p>21 PSE&amp;G occupies approximately 22,000  22 square feet for a primary call center.</p> <p>23 Condo 6 is a warehouse/industrial unit  24 a little over 40,000 square feet. The lease was just  25 renewed with the tenant, Jagro.</p>	<p style="text-align: right;">Page 29</p> <p>1 Mr. Reiss also testified:  2 "I think, you know, could you design  3 something that was 50,000 square feet, 40,000  4 square feet and maybe divide that down into  5 smaller units? It's possible that that would  6 be successful."</p> <p>7 My comments: Hartz would need to spend  8 money to do that, and based on all the expert  9 testimony to date, Hartz is unwilling to make that  10 type of substantial investment in this commercial  11 property.</p> <p>12 Mr. Reiss also testified as follows,  13 when asked if any attempt had been made to contact  14 any of the five different colleges or universities  15 within nine miles of the site, Mr. Reiss responded:  16 "I have not reached out to any of those  17 colleges or universities. We did have a trade  18 school that visited the site about a year ago  19 looking for about 50,000 to 60,000 square  20 feet, but nothing came of it."</p> <p>21 Later in that testimony he said that  22 the trade school had found Hartz.</p> <p>23 My comments: Mr. Reiss's statements  24 show the passive approach Hartz has taken, and  25 confirms to me that they were going through the</p>



<p style="text-align: right;">Page 30</p> <p>1 motions to lease the available space, when the real 2 long-term planning, dating back several years, was to 3 convert the site to residential development. 4 When asked if PSE&amp;G offered to buy a 5 portion of the property, Mr. Reiss testified: 6 "They does through a broker, a portion 7 of the property." 8 When asked when that occurred, he 9 responded: 10 "Maybe a year ago. I'm guessing." 11 In response to a follow-up question 12 regarding the size of the property that PSE&amp;G was 13 interested in, Mr. Reiss stated: 14 "Eight to ten acres." 15 On a follow-up question by myself 16 related to selling nearly one-third of the property 17 to PSE&amp;G, Mr. Rhatican was sworn in before the board 18 and testified to the following: 19 "I understand the question. PSE&amp;G made 20 an initial offer and it was for a substation. 21 They made an initial inquiry to acquire a 22 portion of the property. They weren't really 23 sure of the configuration, the size. There 24 were some discussions and I don't want to say 25 too much, but we are currently in discussions</p>	<p style="text-align: right;">Page 31</p> <p>1 with PSE&amp;G. And I will leave it at that, 2 because we know that there is a potential for 3 them to take it, whether we want to sell it to 4 them or not." 5 My comment: The potential use of this 6 site for the installation of a PSE&amp;G substation, 7 which is an approved use under the current C-3 zone, 8 provides substantiating evidence that this site, as 9 currently zoned, is not in a state of inutility. 10 At the July 18th meeting of 2018, 11 Matthew McDonough was the applicant's commercial 12 office leasing real estate expert. Per 13 Mr. Rhatican's introduction, Mr. McDonough's purpose 14 was to provide testimony about the state of the 15 office market in Northern New Jersey, and this site 16 in particular as it relates, and the way it's 17 improved to potential or how it would be received or 18 how attractive or not attractive the project would be 19 to office users. 20 Mr. McDonough testified that his 21 expertise was commercial office space leasing. With 22 respect to industrial warehouse, he testified: 23 "That's industrial space and my 24 bailiwick is really office space." 25 He also testified that:</p>
<p style="text-align: right;">Page 32</p> <p>1 "I'm not an industrial expert." 2 In 2004, he attempted to find 3 subtenants for the Bank of America office space. His 4 involvement with that stopped in 2012. 5 Mr. McDonough testified that during the 6 time he was responsible to find subtenants, Trinitas 7 Hospital leased 28,000 square feet and Jagro 8 subleased an additional 4,000 square feet. 9 My comment: Therefore, a portion of 10 the site was utilized and the property was not in a 11 state of inutility at that time in 2012. Since that 12 time, the primary change to the site has been the 13 Hartz concept plan and application to this board to 14 request a change in zoning. 15 Mr. McDonough testified that he mounted 16 a very diligent marketing campaign. "You know, 17 flyers and brochures," to sublease approximately 18 140,000 square feet. 19 My comment: While Mr. McDonough was 20 working for the Bank of America, not Hartz at that 21 time, the preparation of flyers and brochures and the 22 subsequent website advertising which has been 23 provided as evidence in this matter and distributed 24 to real estate brokers by Hartz were at best the bare 25 minimum attempt to show the property.</p>	<p style="text-align: right;">Page 33</p> <p>1 The marketing material was passive in 2 nature and lacked creative -- and lacked creativity, 3 and clearly showed the lackluster attempt made by 4 Hartz and their agents to find suitable tenants. 5 Additionally, as we came to learn from 6 Mr. Brunette, the commercial real estate consultant 7 retained by the Planning Board, much of the Hartz 8 marketing material was misleading and in error. The 9 applicant's expert testimony revealed no initiative 10 was made to be proactive and to search for or lure 11 tenants in any way. 12 As a resident of Cranford, I've driven 13 by the site often and not once observed a sign on the 14 property indicating that any space was available for 15 lease. Mr. Brunette explained why signs are common 16 in the commercial real estate industry and a viable 17 way to advertise the property. 18 With respect to why signage was 19 important, Mr. Brunette stated: 20 "Well, I think it's not general 21 knowledge, as I said, for me who goes to 22 CoStar on a daily basis, or LoopNet, or the 23 professionals in the industry, many of those 24 don't rely on just websites to go to. I 25 oftentimes ride around, look for a sign,</p>

<p style="text-align: right;">Page 34</p> <p>1 because some brokers today don't post it on  2 websites with the shortage right now on the  3 industrial space. So brokers set up signs  4 without submitting to the market because they  5 want their own buyers so they get both ends of  6 the deal."  7 Mr. Rothman asked the question:  8 "Is signage a standard practice in your  9 industry?"  10 And Mr. Brunette responded:  11 "For the most part, yes."  12 After 2012, Mr. McDonough was no longer  13 involved with the property. He was unaware what  14 square foot price was advertising for the space or if  15 Hartz had the property priced as a Class A office,  16 even though he considered it Class C office space.  17 Mr. McDonough testified that the  18 existing office building could be torn down and new  19 office building could be constructed; however, he  20 felt the cost per square foot to do so would be  21 excessive.  22 When asked about change in trends for  23 office locations, he testified that:  24 "Not unless it was completely  25 redeveloped would it be leased."</p>	<p style="text-align: right;">Page 35</p> <p>1 My comment: Based on Mr. McDonough's  2 testimony, one can infer that a redeveloped office,  3 industrial, warehouse park would have utility, be  4 marketable, and capable of being leased. However,  5 that would take an investment by Hartz which, to  6 date, Hartz has been unwilling to do.  7 In reviewing the jury charge for the  8 Planning Board deliberation and the township  9 ordinances, I did not identify any statement or  10 requirement that inutility would exist if an owner  11 deliberately chose not to invest in their property.  12 A Cranford resident provided what I  13 believe was a very appropriate analogy during the  14 final comment period in this hearing. She compared  15 this application to that of a Cranford resident who  16 made no effort to maintain their house and after many  17 years, and in a state of disrepair, made an  18 application to this board to rezone their property to  19 construct a WaWa, because it would generate more  20 money for her than a dilapidated house. In my  21 opinion, Hartz has attempted the same thing.  22 The highest and best use for this  23 property may not be traditional office space, but  24 revitalized space which Mr. Brunette testified has  25 been successful in many areas.</p>
<p style="text-align: right;">Page 36</p> <p>1 Mr. McDonough did not have the required  2 expertise in industrial warehouse leasing to provide  3 credible testimony in that area.  4 At the September 12, 2018, meeting,  5 William Sitar, a North Jersey industrial marketing  6 expert, testified to the following:  7 "Generally, the industrial market is  8 strong in New Jersey."  9 Mr. Sitar's testimony primarily focused  10 on whether the 750 Walnut site could be converted to  11 a large warehouse distribution center.  12 He testified that the buildings on-site  13 at 750 Walnut are not conducive to a warehouse  14 distribution. In summary, he said ceiling heights  15 were too low, building loads -- filling load only one  16 side and the building it too deep, and that the truck  17 traffic in proximity to 1 &amp; 9 and New Jersey Turnpike  18 was not adequate.  19 My comment: Mr. Sitar's testimony  20 regarding large box-type warehouse distribution  21 centers was not a surprise or unexpected. Neither I  22 nor the residents of Cranford would expect a large  23 Amazon-type warehouse distribution center, the likes  24 of which are found along the New Jersey Turnpike, to  25 be constructed at 750 Walnut.</p>	<p style="text-align: right;">Page 37</p> <p>1 However, other types of uses fall  2 within the industrial market such as flex  3 warehousing, light manufacturing or use for a public  4 utility. Jagro currently uses a portion of the site  5 for warehousing. Many large tractor trailers can be  6 seen traveling on- and off-site and parked in the  7 rear of the building on a daily basis. This facility  8 has thrived and shows that the site is not in a state  9 of inutility.  10 No testimony was proffered by Mr. Sitar  11 as to why additional companies like Jagro could not  12 utilize this site. LabCorp has a lease agreement and  13 has been prosperous for many years on-site.  14 Mr. Sitar did not provide any testimony  15 as to why LabCorp or other companies like LabCorp  16 could not find a permanent home at 750.  17 PSE&amp;G has an operation call center  18 on-site. Mr. Sitar did not explain or provide  19 testimony that other areas of the site could not be  20 converted or utilized as call centers for other  21 utilities or companies that had such a need.  22 Testimony by the applicant revealed  23 that PSE&amp;G has shown specific interest in purchasing  24 eight to ten acres. Mr. Sitar provided no testimony  25 regarding the potential use of a portion of the site</p>

<p style="text-align: right;">Page 38</p> <p>1 as an industrial substation.</p> <p>2 At the November 28, 2018 meeting,</p> <p>3 Mr. Charles Reiss spoke for the second time. He</p> <p>4 testified to the following, with respect to the Hartz</p> <p>5 decision with PSE&amp;G's offer to purchase eight to ten</p> <p>6 acres of the site, he testified:</p> <p>7 "There have been discussions, although</p> <p>8 I'm not part of those negotiations."</p> <p>9 In a follow-up question relating to</p> <p>10 Hartz Mountain's discussions with PSE&amp;G, Mr. Reiss</p> <p>11 responded to the following question:</p> <p>12 "Why wouldn't you have anything to do</p> <p>13 with the negotiations if PSE&amp;G were interested</p> <p>14 in the property with --</p> <p>15 "I'm just not part of that. I mean,</p> <p>16 I'm not the only person that works on leases</p> <p>17 and sales and things of that nature. So there</p> <p>18 are many transactions in our company that I'm</p> <p>19 not intimately involved with. And there are</p> <p>20 -- this is not my particular -- I'm not the</p> <p>21 only person who handles that."</p> <p>22 My comment: I do not believe the</p> <p>23 testimony of Mr. Reiss. I believe Mr. Reiss who has</p> <p>24 been VP of sales and leasing for Hartz for 16 years,</p> <p>25 and has been with Hartz for 30 years, was holding</p>	<p style="text-align: right;">Page 39</p> <p>1 back vital information from the Planning Board</p> <p>2 regarding specific interest by PSE&amp;G to purchase</p> <p>3 eight to ten acres of land, which would completely</p> <p>4 negate the application at hand.</p> <p>5 First, the application alleges that the</p> <p>6 property is in a state of inutility. PSE&amp;G's desire</p> <p>7 to acquire eight to ten acres for an industrial</p> <p>8 purpose proves that a large portion of the site can</p> <p>9 be utilized under the current C-3 zone, thereby</p> <p>10 negating the primary standard of 255-64D.</p> <p>11 Secondly, the Hartz application before</p> <p>12 us proposes a high-density residential development in</p> <p>13 order to maximize, not only profits for Hartz, but to</p> <p>14 artificially inflate an alleged benefit to the</p> <p>15 Township of Cranford by means of a maximized</p> <p>16 generation of tax revenue.</p> <p>17 Should the site density be reduced by</p> <p>18 either the number of units per acre or by the number</p> <p>19 of acres available for development, the tax revenue</p> <p>20 produced would be less than what the current</p> <p>21 application states and may not provide a benefit to</p> <p>22 the township which Hartz is trying in vain to sell.</p> <p>23 The testimony by the applicant's</p> <p>24 experts raises a few obvious questions. Why did</p> <p>25 LabCorp not renew its lease? Why is Jagro not</p>
<p style="text-align: right;">Page 40</p> <p>1 renewing their lease? Why did PSE&amp;G and the call</p> <p>2 center decide to leave? Why might a prospective</p> <p>3 tenant not be interested in this specific property?</p> <p>4 The.</p> <p>5 Answer to me is obvious. And Mr. Reiss</p> <p>6 articulated it perfectly and concisely on pages 74</p> <p>7 and 75 of the transcript record of September 12th,</p> <p>8 2018.</p> <p>9 During that meeting a member of the</p> <p>10 public, Mr. Grillo, asked:</p> <p>11 "My question is very simple. Do you</p> <p>12 think it is imperative, or legal is a better</p> <p>13 term, to disclose to a prospective tenant that</p> <p>14 there's a pending application for a</p> <p>15 residential project at the site where the same</p> <p>16 tenant is asking you about commercial space."</p> <p>17 Mr. Reiss's response:</p> <p>18 "If -- as I'm marketing the space, sir,</p> <p>19 I'm not going to. I'm going to show the</p> <p>20 space. If someone wants to lease the</p> <p>21 property, I'm going to lease it. I'm not</p> <p>22 going to sign a lease with someone and tell</p> <p>23 them by the way, we decided to build</p> <p>24 residential on it -- on the site.</p> <p>25 "If I am going to put down there that,</p>	<p style="text-align: right;">Page 41</p> <p>1 oh, by the way, I'm going to show you the</p> <p>2 space, but I'm also going to tear down the</p> <p>3 building and build residential, how many</p> <p>4 people would be interested in the property?"</p> <p>5 Mr. Grillo responded:</p> <p>6 "But that's the exact point we're</p> <p>7 trying to make here."</p> <p>8 It's my opinion that for years the</p> <p>9 application to rezone, which we are deliberating on</p> <p>10 tonight, was a significant deterrent to any</p> <p>11 prospective tenant that did the slightest bit of due</p> <p>12 diligence and to existing or current tenants on the</p> <p>13 site.</p> <p>14 Additionally, I believe that most, if</p> <p>15 not all, licensed commercial real estate brokers</p> <p>16 would feel obligated to tell any prospective tenant</p> <p>17 about finding -- about the pending application.</p> <p>18 Mr. Brunette was asked the same</p> <p>19 question and he testified he would be obligated to</p> <p>20 disclose that fact.</p> <p>21 Therefore, any inutility the 750 Walnut</p> <p>22 site may be experiencing has been self-imposed by</p> <p>23 Hartz.</p> <p>24 At the March 16, 2019, meeting,</p> <p>25 Mr. Brunette testified on behalf of the Cranford</p>

<p style="text-align: right;">Page 42</p> <p>1 Planning Board stated he has been involved with  2 commercial real estate for over 40 years. He was  3 qualified by this board, without exception by the  4 applicant, as an expert in consulting with commercial  5 real estate.</p> <p>6 He explained how the industrial rental  7 rates have increased because of the high demand in  8 this part of New Jersey. He gave an example of a  9 nearby warehouse tenant that had been paying 575 per  10 square foot for four years and renewed at 850 per  11 square foot.</p> <p>12 He explained how he viewed the Hartz  13 Mountain website, researched industrial property, and  14 was directed to a link to LoopNet -- to the LoopNet  15 website which advertised the 750 Walnut Avenue site.</p> <p>16 He felt the brochure was misleading.  17 The brochure, which was marked in evidence as  18 Brunette-2, advertised the site as industrial;  19 however, the price quoted for the space was \$20.00  20 to \$25.00 per square foot, which far exceeds the  21 going rate and in the words of Mr. Brunette, were  22 "way out of whack."</p> <p>23 Additionally, Mr. Brunette testified  24 that the rates listed on the Hartz website for 750  25 Walnut were substantially higher than the estimates</p>	<p style="text-align: right;">Page 43</p> <p>1 published by Cushman and Wakefield and CB Ridge for  2 industrial use.</p> <p>3 The brochure for the property  4 advertised the space as having 96,000 square feet  5 with 2,555 or 558 square feet as the smallest space  6 available to lease.</p> <p>7 A reasonable retrofit, and one that  8 Mr. Brunette testified that he has seen done  9 successfully, is to cut up larger office spaces into  10 multiple reduced-size office spaces because more  11 offices have open work spaces and not individual  12 offices anymore, thereby increasing the density.</p> <p>13 Mr. Brunette described how Sloan  14 Kettering opened a new \$185-million facility in an  15 old, obsolete center, 225 Summit Avenue. He  16 testified to the following:  17 "Sloan Kettering, okay, opened a  18 \$185-million facility. They had bought up an  19 old center, one that was obsolete, one at 225  20 Summit Avenue. And they're developing it into  21 a new cancer center, you know, they're over in  22 New York, but they're now coming to New  23 Jersey.  24 "I don't know if this property was ever  25 marketed out there for medical use or not, but</p>
<p style="text-align: right;">Page 44</p> <p>1 certainly it would make a great campus for  2 something such as that, and it would be  3 permitted use, by the way, under the land use  4 ordinance. Also, New Jersey hospital buys  5 Fort Monmouth, St. Barnabas Hospital with  6 Robert Wood Johnson joined forces to buy  7 spaces at North Monmouth IN developing it. So  8 we got over 30 acres here.</p> <p>9 "But alternative uses for the property  10 that would have been considered if it was  11 possibly marketed the way it should have  12 been."</p> <p>13 My comment: As stated earlier by  14 Mr. Reiss, he testified that Hartz did not reach out  15 to Overlook Hospital, St. Barnabas, or any medical  16 facility.</p> <p>17 Mr. Brunette testified that many  18 companies do not want higher ceiling heights than  19 currently exist at 750 Walnut. The ceilings could be  20 raised at this facility if Hartz so desired, and it  21 would make it more desirable for other people and  22 other people who are currently there.</p> <p>23 He gave examples of success stories and  24 companies that specialize in converted, antiquated  25 space.</p>	<p style="text-align: right;">Page 45</p> <p>1 Mr. Brunette confirmed that there was a  2 healthy commercial market below the big box  3 multi-thousand square foot warehouses. Mr. Brunette  4 referenced previous testimony by Mr. McDonough  5 regarding the state of office buildings in New Jersey  6 and testified as follows:  7 "Matthew McDonough was here and he was  8 discussing the fact that office space market  9 was not all that great and it would be very  10 difficult to lease this space.  11 "Yet Global Street or Real Share in New  12 Jersey, a paragraph says here, by strong  13 quarterly and yearly rents increase in Newark,  14 the Parsippany submarket, and Union/Parkway  15 corridor. Union/Parkway corridor, which is  16 right here.  17 "New Jersey office rents in general  18 have rebounded to near record highs according  19 to TransWestern second quarter 2018 office  20 market report. So you know it's a little  21 different than what he said when he stood up  22 here in front of you. It is in print that it  23 has improved considerably based on what's  24 happening in New York."  25 In conclusion, Mr. Brunette was asked</p>

<p style="text-align: right;">Page 46</p> <p>1 by Mr. Rothman, the board attorney, if, within a  2 reasonable degree of certainty, he had an opinion  3 whether or not this site, 750 Walnut Avenue, as  4 currently zoned, has left the property without  5 economic utility. Mr. Brunette responded:  6 "In my professional opinion, this  7 property is far from inutility."  8 I believe Mr. Brunette's testimony.  9 The 750 Walnut site is not in a state of inutility.  10 However, it is my opinion, based on the testimony  11 provided by all experts, that Hartz appears to be  12 doing everything in its power to make it incapable of  13 being leased.  14 While Mr. Reiss may not have had the  15 ethical problem of trying to lease the property in  16 part of a redevelopment application to this board to  17 unsuspecting or unknowing tenants, many real estate  18 brokers would not have that much audacity.  19 It is reasonable to conclude that this  20 site is known throughout the commercial real estate  21 industry as off-limits, for lack of a better term.  22 As Mr. Reiss testified in a similar way:  23 "Who in their right mind would move  24 their company or expand an existing company on  25 a site with such a black cloud overhead? The</p>	<p style="text-align: right;">Page 47</p> <p>1 potential eviction from the site, if Hartz  2 successfully gets their application for  3 rezoning approved."  4 As I stated at the start of my  5 deliberation, I do not feel that Hartz met its  6 burden. And I am not recommending that Hartz -- that  7 the 750 Walnut site be rezoned.  8 Thank you.  9 CHARWOMAN MURRAY: Thank you,  10 Mr. Taylor.  11 Anyone else?  12 Ms. Anderson?  13 MS. ANDERSON: Very briefly.  14 I would like to thank Dr. Chapman and  15 Mr. Taylor for providing such detailed testimony that  16 I concur with. I just wanted to cite a few things  17 that stood out to me during the course of the last  18 year of listening to witnesses.  19 Particularly for me, being in the real  20 estate business, listening to Mr. Reiss, I actually  21 found his testimony kind of disturbing as far as  22 talking about the marketing of this property that  23 they attempted to do in order to find tenants for it.  24 He talked about mass mailers and sending things out  25 every few weeks and having a listing online, yet had</p>
<p style="text-align: right;">Page 48</p> <p>1 no idea of what the marketing budget for that  2 property is, nor the marketing budget in total for  3 Hartz Mountain for marketing all of their properties.  4 To reiterate what Mr. Taylor said, when  5 the Summit Medical Group negotiations fell through,  6 nobody reached out to try to lease that property to  7 any other medical facilities. It would seem to be a  8 no-brainer to go out and try to find someone else who  9 might be interested in such a thing.  10 And, similarly, when they were  11 contacted by a technical trade school, nothing came  12 of it. Even if they hadn't thought of the idea  13 themselves, they neglected to go out and actively  14 pursue finding someone in an educational realm that  15 might be interested in that property after seeing  16 that one person was interested in that.  17 As far as Mr. McDonough, he testified  18 about trying to sublet for eight years. He went on  19 to talk about, that the trend is to go into more  20 urban areas for office space. He testified that he  21 did not know -- that when that trend started, he  22 didn't predict that, that he did not predict that  23 that would happen. He didn't realize it would happen  24 before it did. But that he was -- could testify as  25 an expert on the cycles in the industry.</p>	<p style="text-align: right;">Page 49</p> <p>1 But -- and then he went on to say that  2 he suspected that the move to more urban areas would  3 continue in the future.  4 There are numerous articles talking  5 about the trends in the industry, and the trend --  6 there's an article in Forbes from October 2017 that  7 talks about how the millennials are now -- the next  8 trend is to be more suburban office space because the  9 millennials are starting to have kids and moving to  10 the suburbs.  11 So, you know, as far as his prediction  12 of what is trending in the future, I have no real  13 faith in what he has to say.  14 As far as the brokers who show the  15 property, they're -- the brokers -- as each of our  16 witnesses testified to, the broker that comes in with  17 a client has a fiduciary responsibility to that  18 client, and it is their job to do their due diligence  19 and make sure that they know everything about the  20 property that they are about to show their client.  21 Someone who may be coming in to look -- to lease for  22 five or ten years.  23 Any quality broker who is coming in  24 would do their due diligence and would know that  25 there is a pending application for this site to be</p>

<p style="text-align: right;">Page 50</p> <p>1 rezoned.</p> <p>2 And in most cases, the discovery of</p> <p>3 that information would lead any quality broker to</p> <p>4 direct their client away from this property.</p> <p>5 As we've also discussed, the building</p> <p>6 was built in the 1940s. Hartz has had the building</p> <p>7 for the last 30 years -- the property, I'm sorry.</p> <p>8 And there's been no -- no money put into it.</p> <p>9 And, you know, with the exception of</p> <p>10 adapting things for Bank of America, they have not</p> <p>11 updated. And the world has changed drastically since</p> <p>12 1988.</p> <p>13 It is my opinion that the property has</p> <p>14 not been zoned into inutility, but that because they</p> <p>15 have not chosen to update things and market things to</p> <p>16 normal standards that they have missed an opportunity</p> <p>17 to have this property be profitable. And there is</p> <p>18 still a great opportunity for this property to be an</p> <p>19 amazing campus-like facility which is, you know, a</p> <p>20 growing trend in the suburban real estate industry.</p> <p>21 So that's just my thought as far as</p> <p>22 inutility.</p> <p>23 CHARWOMAN MURRAY: Thank you,</p> <p>24 Ms. Anderson.</p> <p>25 Any other comments on inutility?</p>	<p style="text-align: right;">Page 51</p> <p>1 Mr. Cossa?</p> <p>2 MR. COSSA: All right. I'd first like</p> <p>3 to thank everyone who's attended these planning board</p> <p>4 meetings over the last year and tuned in on Channel</p> <p>5 35. Your input and inquiries are important to and</p> <p>6 valued by all of the Planning Board members.</p> <p>7 We have an important decision in front</p> <p>8 of us and obligation to do what is best -- what is in</p> <p>9 the best interest of the Township of Cranford.</p> <p>10 The criteria which we are to assess</p> <p>11 Hartz Mountain application has been explained to you</p> <p>12 earlier by Ms. Murray. Currently -- let's see...</p> <p>13 Hartz Mountain's application for rezoning is based on</p> <p>14 their argument that the property, as it's currently</p> <p>15 zoned, is inutility. And that rezoning the site</p> <p>16 would not only be a solution to the low tenancy of</p> <p>17 the space, but also benefit to the Township of</p> <p>18 Cranford. Let's first ask ourselves what the</p> <p>19 definition of inutility is. In this case inutility</p> <p>20 means that the property is useless or having no</p> <p>21 practical use.</p> <p>22 Mr. Reiss testified that the building</p> <p>23 spaces at 750 Walnut are a tough site to market the</p> <p>24 way that they are currently constructed and it is not</p> <p>25 a site which can be considered -- but this is not a</p>
<p style="text-align: right;">Page 52</p> <p>1 site that can be considered inutility.</p> <p>2 Retrofitting the current buildings or</p> <p>3 rebuilding to suit the current demand for commercial</p> <p>4 and industrial space are options that would benefit</p> <p>5 Hartz in the long term, while not placing undue</p> <p>6 burden on the municipal services and facilities.</p> <p>7 Mr. Brunette testified on 3/16/2019</p> <p>8 that the industrial market is on fire. Reduction in</p> <p>9 vacancy has gone -- or vacancy has been reduced 10 to</p> <p>10 15 percent since 2007. And that there is currently</p> <p>11 less than 5 percent vacancy rate on</p> <p>12 commercial/industrial warehouse space in Northeast</p> <p>13 New Jersey.</p> <p>14 While there are current problems with</p> <p>15 the property at 750, that is not something that can't</p> <p>16 be rectified with retrofitting the current space.</p> <p>17 Hartz's refusal to lease smaller amounts of square</p> <p>18 footage has been contributing to their low vacancy.</p> <p>19 The testimony given by Mr. Carfagno,</p> <p>20 Cranford School District business administrator on</p> <p>21 the 3rd of April, 2019, also corroborates the concern</p> <p>22 that many Cranford residents have with regard to</p> <p>23 sudden influx of students in the Cranford school</p> <p>24 system.</p> <p>25 As it currently stands, the Cranford</p>	<p style="text-align: right;">Page 53</p> <p>1 school system has approximately 4,000 students with a</p> <p>2 1 to 2 percent increase annually, not including the</p> <p>3 projected students from the developments that are</p> <p>4 currently being built in Cranford. The school system</p> <p>5 facilities are essentially near capacity and certain</p> <p>6 students with special needs are already being</p> <p>7 redirected toward other private facilities that have</p> <p>8 resources that Cranford does not.</p> <p>9 Introducing another high density</p> <p>10 residential development, which has a projected 353</p> <p>11 students as per Dr. Haber, Cranford Board of Ed</p> <p>12 demographer, in a township that is already in the</p> <p>13 process of being asked to absorb potentially hundreds</p> <p>14 more students in these same schools, would place an</p> <p>15 undue burden on taxpayers of Cranford and place a</p> <p>16 strain on the municipal facilities and services.</p> <p>17 The additional infrastructure needed to</p> <p>18 absorb an increase of 353 students, approximately 20</p> <p>19 to 25 additional classrooms, is currently not in</p> <p>20 place.</p> <p>21 A short-term solution would be</p> <p>22 installing trailers at the existing schools for</p> <p>23 overflow while the department of ed, board of ed and</p> <p>24 Cranford residents go through the arduous process of</p> <p>25 designing and constructing additional building space</p>

<p style="text-align: right;">Page 54</p> <p>1 for the additional students, whose population is  2 being projected at an increase, again, of 1 to 2  3 percent annually. This process can often take many  4 years.</p> <p>5 I have the utmost faith that Hartz  6 Mountain will find a solution to the tenancy woes at  7 750 Walnut, one that does not involve rezoning, which  8 would place a burden on the municipality of Cranford.  9 Unless otherwise concerned, I cannot recommend this  10 application for Township Committee review.</p> <p>11 CHARWOMAN MURRAY: Thank you,  12 Mr. Cossa.</p> <p>13 MR. ASCHENBACH: I have just a few  14 comments.</p> <p>15 CHARWOMAN MURRAY: Yes, Mr. Aschenbach.  16 MR. ASCHENBACH: Thank you.</p> <p>17 The only question to be addressed here,  18 in my view, is whether the current 750 Walnut Avenue  19 zoning meets the communities and the township's  20 Master Plan and Land Use Plan, and whether the  21 current zone restricts the ability of the current  22 owner to operate their business successfully. This  23 is the only question, I believe, has to be addressed  24 tonight.</p> <p>25 My conclusion was formed the other</p>	<p style="text-align: right;">Page 55</p> <p>1 night when the Hartz attorney attempted to silence a  2 resident about comparable properties and their  3 success at being redeveloped into commercial space.  4 I wondered why did the attorney do that.</p> <p>5 The reason is that this is the weakness  6 of the rezoning application that Hartz didn't want to  7 show. That since day one they have limited interest  8 in 750 Walnut and have done minimal investment, and  9 that is what's wrong with this application.</p> <p>10 So here are some comps that the  11 Planning Board is aware of, in 2019 that came before  12 the Planning Board, industrial properties in the  13 Cranford Business Park, less than a mile away from  14 750 Walnut, were brought before the Planning Board  15 for applications for expansion of warehouse property.  16 128 Moen in our business park did a building  17 expansion for tenants. Nuts.com is the name of the  18 tenant. A property that is well maintained and  19 attracts tenants.</p> <p>20 Then there is the National Christmas  21 Tree company expansion on Myrtle that had tenants  22 such as American -- Anderson Windows.</p> <p>23 Both of these are successful, occupied  24 industrial warehouses that employ many area residents  25 and contribute to the tax base.</p>
<p style="text-align: right;">Page 56</p> <p>1 There are examples of economic  2 rezonings or -- and Planning Board applications, so  3 all the expert testimony by Hartz about why 750  4 Walnut zone has to be changed to residential, to me,  5 is suspect when viewed against today's reality.</p> <p>6 Cranford is a great location for  7 business, and it is unfortunate Hartz thinks this to  8 the contrary.</p> <p>9 I just also want to mention that  10 Cranford has been a leader in redevelopment. Just  11 look as our downtown. Also look at the Cranford  12 Business Park. If you've lived in Cranford a long  13 time you know -- you refer to that as the Cranford  14 Industrial Park. But we call it the Cranford  15 Business Park because of the redevelopment that's  16 taken place over many years.</p> <p>17 And I just cite the IBM building that  18 went into misuse -- lack of use, was abandoned, and  19 now it's a signature building because of the efforts  20 on that -- of that property owner understanding there  21 is value of locating in this community and this area.  22 It's called the Clock Tower Building. It's a recent  23 new applicant there, that's moving in, that's a  24 global recognized law firm.</p> <p>25 So my point is Hartz lost interest in</p>	<p style="text-align: right;">Page 57</p> <p>1 750 a long time ago. I would have liked to ask the  2 owners why, but they did not appear before the  3 Planning Board like most residents or commercial  4 property owners are required to do.</p> <p>5 So on the question of the rezoning, I  6 urge the Planning Board to reject it because the  7 potential of the site remains very strong with the  8 current zoning and the commercial uses are valuable  9 for area jobs and revenues.</p> <p>10 Thank you.</p> <p>11 CHARWOMAN MURRAY: Thank you,  12 Mr. Aschenbach.</p> <p>13 DEPUTY MAYOR DOOLEY: Madame Chair?  14 CHARWOMAN MURRAY: Ms. Dooley. Yes.  15 DEPUTY MAYOR DOOLEY: Mr. Taylor and  16 Dr. Chapman and Ms. Anderson were very thorough in  17 reviewing the record, and I don't need to rehash much  18 of what they said. I'll simply supplement it with a  19 few additional things.</p> <p>20 I found it very telling that Mr. Reiss  21 stated:  22 "We just try to keep things clean  23 rather than upgrade."  24 To me, that tells the whole story of  25 how this application, how this applicant has</p>

<p style="text-align: right;">Page 58</p> <p>1 approached trying to or not trying to rent this  2 property consistent with the current zoning.  3 As Mr. -- I think it was Mr. Taylor  4 used the word, it was a "passive" approach, which is  5 exactly the same adjective I had written down when I  6 heard the testimony. A very passive approach to  7 sales and marketing.  8 I want to mention that Mr. Brunette  9 also testified that the New Jersey rental rates have  10 rebounded in the Garden State Parkway corridor to  11 near record rates. It's really important here  12 because some of the testimony -- a lot of the  13 testimony we heard from the applicant and the  14 applicant's witnesses was that the location here is a  15 problem because we don't have immediate access to the  16 Turnpike or Route 1, although we are not very far  17 whatsoever from either.  18 So the Parkway has rebounded to near  19 record rates. The company -- one of the companies  20 that is currently in the site is relocating -- a  21 trucking company is relocating. It is relocating to  22 Irvington, which is also in the Garden State Parkway  23 zone.  24 Accordingly, I do not accept the  25 testimony that our location near the Garden State</p>	<p style="text-align: right;">Page 59</p> <p>1 Parkway renders this site into inutility for  2 industrial use.  3 I would further mention that in  4 rebuttal testimony to Mr. Brunette, the applicant  5 presented their engineer, Mr. Martell, to address the  6 issues of conversion and retrofitting. Mr. Martell  7 testified that none of the structural issues at the  8 property are insurmountable to conversion or  9 retrofitting.  10 I would also say that while I think  11 that that is quite -- that is probably the truth,  12 Mr. Martell did testify that he is not an expert in  13 structural engineering. And, furthermore, while not  14 being an expert in structural engineering -- he is a  15 professional engineer, that is not his area, he  16 admitted that he did not review any plans of the  17 buildings on-site to determine if the things he  18 discussed regarding loads or increased roof size --  19 he just didn't even do it. So we don't know that his  20 testimony -- or actually we do know that his  21 testimony is not actually reliable or of substantial  22 or sufficiently credible evidentiary value to us.  23 So I add those things in concert with  24 what our colleagues have already said and find,  25 unless I hear something to the contrary from another</p>
<p style="text-align: right;">Page 60</p> <p>1 one of our colleagues, that this applicant has not  2 proved or shown by substantial credible evidence that  3 this property has been zoned into inutility.  4 CHARWOMAN MURRAY: Thank you,  5 Ms. Dooley.  6 Ms. Feder?  7 MS. FEDER: Thank you.  8 I want to thank my colleagues for their  9 very thorough testimony that Mr. Taylor, Dr. Chapman,  10 Ms. Anderson and Deputy Mayor Dooley for presenting a  11 very thorough and factual compilation of evidence.  12 There are -- and I won't -- I don't  13 want to repeat all that they've said, but there are a  14 couple of salient points that -- that I'd like to  15 bring forward that were very -- made an impression on  16 me.  17 And one of those things, major things,  18 was the testimony by Mr. Brunette, and also that  19 substantiation with Ms. Anderson's deliberation that  20 the Union County office market is improving. If the  21 Union County market is improving, why aren't we more  22 aggressively marketing this property.  23 The testimony of Mr. Reiss indicated to  24 me that there has not been an aggressive effort to  25 market this property beyond the normal brochures and</p>	<p style="text-align: right;">Page 61</p> <p>1 such.  2 Another salient point was  3 Mr. Brunette's testimony that warehouse vacancies in  4 Union County are below 5 percent. That tells me that  5 a site like this would be very attractive to  6 something like Nuts.com which is an E-commerce  7 operation that utilizes a warehouse space in our  8 town.  9 So with that, I won't reiterate what my  10 colleagues have said. I think they've done a stellar  11 job in pointing out that Hartz has not made  12 substantial improvements, by the testimony of  13 Mr. McDonough, since 2009 when Bank of America  14 renovated their entire lobby. 2009 is fully ten  15 years ago, things have changed. Bank of America is  16 gone. And I think that Hartz has not put forth an  17 effort to upgrade the space for the current market  18 conditions.  19 With that, I would agree with my  20 colleagues that Hartz has not demonstrated that the C  21 -- the zone, it has not been zoned into inutility.  22 Thank you.  23 CHARWOMAN MURRAY: Thank you,  24 Ms. Feder.  25 Ms. Pedde?</p>



<p style="text-align: right;">Page 62</p> <p>1 MS. PEDDE: Yes.</p> <p>2 So I do commend also my fellow board</p> <p>3 members for such clarity in their deliberation, and</p> <p>4 also the residents of the town coming out repeatedly</p> <p>5 and being heard. We hear you. We do.</p> <p>6 Again, I am not going to reiterate what</p> <p>7 everybody has said, just a few points. Concurring</p> <p>8 with Mrs. Anderson saying that no improvements were</p> <p>9 made on this property in the past 25-plus years.</p> <p>10 Nothing has been retrofitted to work with potential</p> <p>11 tenants to make -- to fit the needs of these</p> <p>12 potential tenants to retrofit.</p> <p>13 Also Mr. Taylor talking about the</p> <p>14 signage and these simple flyers, brochures, that</p> <p>15 advertising, misleading. Same thing with the</p> <p>16 website, CoStar, LoopNet; under industrial listings</p> <p>17 there's minimal information on 750 compared to many</p> <p>18 of the other industrial listings that are there.</p> <p>19 Another thing that has been said is one</p> <p>20 of the detriments to this site of 750 is that it is</p> <p>21 not located near an accessible truck route, yet there</p> <p>22 are trucks currently in and out every day. I pass it</p> <p>23 several times a day for many years. Box trucks,</p> <p>24 tractor trailers, accessible to Route 1 &amp; 9, the</p> <p>25 Turnpike. Large truck traffic has been going in and</p>	<p style="text-align: right;">Page 63</p> <p>1 out of that site long before Hartz Mountain owned it.</p> <p>2 J.B. Williams before, a large manufacturing company,</p> <p>3 had tractor trailers going back and forth using these</p> <p>4 current roadways.</p> <p>5 So there are many development options.</p> <p>6 Hartz Mountain has to be willing to put forth, in my</p> <p>7 opinion, effort and money into their property and not</p> <p>8 to put the burden on Cranford.</p> <p>9 So in my opinion, 750 site is not</p> <p>10 deemed inutility.</p> <p>11 Thank you.</p> <p>12 CHARWOMAN MURRAY: Thank you,</p> <p>13 Ms. Pedde.</p> <p>14 Mayor Giblin?</p> <p>15 MAYOR GIBLIN: Yes.</p> <p>16 I would also like to thank the members</p> <p>17 of the public that have been coming to these</p> <p>18 meetings.</p> <p>19 Thank Ms. Lenahan for all of her work,</p> <p>20 I get to sit next to her and see her working her tail</p> <p>21 off over here for us preparing us for these meetings</p> <p>22 and so on, so thank you.</p> <p>23 As well as Ed and the crew from TV 35</p> <p>24 for all of the work that they do so that the</p> <p>25 residents of Cranford and concerned citizens can tune</p>
<p style="text-align: right;">Page 64</p> <p>1 in and watch this from home or watch it live stream.</p> <p>2 It goes a long way to keeping our residents aware of</p> <p>3 everything, so thank you to them.</p> <p>4 I want to concur with many of the</p> <p>5 comments and the detailed comments that were made</p> <p>6 tonight by Dr. Chapman, Mr. Taylor, Deputy Mayor and</p> <p>7 others, about their concerns about the lack of effort</p> <p>8 for Hartz to maintain this property in a proper way</p> <p>9 to market properly. We are in the middle of one of</p> <p>10 the most talented and educated work forces in the</p> <p>11 country.</p> <p>12 That's the hard part. That's what</p> <p>13 employers are looking for. All they had to do was to</p> <p>14 maintain the property, market it, market it properly,</p> <p>15 and employers and companies would have been happy</p> <p>16 to -- in my opinion, to come and to establish a work</p> <p>17 force.</p> <p>18 So, again, I want to thank the others</p> <p>19 for their detailed comments.</p> <p>20 Thank you.</p> <p>21 CHARWOMAN MURRAY: Thank you, Mayor</p> <p>22 Giblin.</p> <p>23 I'll just echo a few points that have</p> <p>24 largely been made by my colleagues. The burden to</p> <p>25 establish inutility is a high one, and the definition</p>	<p style="text-align: right;">Page 65</p> <p>1 that we've used is uselessness or having no practical</p> <p>2 value.</p> <p>3 When Hartz Mountain purchased this</p> <p>4 property in 1988, they initially made quite a few</p> <p>5 improvements to it, expanded the building,</p> <p>6 retrofitted portions of the building for specific</p> <p>7 tenants, but it has been many years since they have</p> <p>8 made investments in the building.</p> <p>9 We had compelling testimony from both</p> <p>10 the board's consultant, Mr. Brunette, and the</p> <p>11 applicant's consultant, Mr. Sitar, that the</p> <p>12 commercial real -- the commercial real estate market</p> <p>13 is quite competitive in New Jersey, despite what some</p> <p>14 of the other testimony by the applicant had been.</p> <p>15 Claims that the property is unrentable</p> <p>16 is not, in fact, true since approximately 140,000</p> <p>17 square feet are currently rented, which means the</p> <p>18 property is not useless.</p> <p>19 And while this might not be optimal for</p> <p>20 a property with over 400,000 square feet, it does not</p> <p>21 meet the definition of inutility.</p> <p>22 Hartz appears to have failed to provide</p> <p>23 alternatives to the multifamily residential that they</p> <p>24 have been proposing, alternatives that would be</p> <p>25 consistent with the zone as defined. The purpose of</p>

<p style="text-align: right;">Page 66</p> <p>1 the application appears to be maximizing profits and</p> <p>2 not because of inutility.</p> <p>3 Does anyone else have any further</p> <p>4 comments?</p> <p>5 (No Response.)</p> <p>6 CHARWOMAN MURRAY: Hearing none, the</p> <p>7 jury charge provides a motion on page 3.</p> <p>8 DR. CHAPMAN: Madame Chair, I'd like to</p> <p>9 make a motion.</p> <p>10 CHARWOMAN MURRAY: Go ahead,</p> <p>11 Dr. Chapman.</p> <p>12 DR. CHAPMAN: Madame Chair, I'd like to</p> <p>13 make a motion that the board consider the question:</p> <p>14 Has the applicant met its burden of demonstrating</p> <p>15 through the presentation of sufficient credible</p> <p>16 evidence that absent a rezoning there is a</p> <p>17 substantial likelihood that the zoning regulations</p> <p>18 currently in existence will zone the property into</p> <p>19 inutility.</p> <p>20 CHARWOMAN MURRAY: Do we have a second?</p> <p>21 MS. PEDDE: I'll second.</p> <p>22 CHAIRWOMAN MURRAY: Ms. Pedde second</p> <p>23 the motion.</p> <p>24 So to be clear, a no vote would mean</p> <p>25 that the applicant has not met its burden, and a yes</p>	<p style="text-align: right;">Page 67</p> <p>1 vote would mean that the applicant has met its</p> <p>2 burden.</p> <p>3 Are we clear on that?</p> <p>4 Do you agree, Mr. Rothman?</p> <p>5 MR. ROTHMAN: Yes.</p> <p>6 CHAIRWOMAN MURRAY: Can we have a roll</p> <p>7 call?</p> <p>8 MS. LENAHAN: Mr. Taylor?</p> <p>9 MR. TAYLOR: I'm trying to get the mic</p> <p>10 to work.</p> <p>11 My vote is no.</p> <p>12 MS. LENAHAN: Ms. Pedde?</p> <p>13 MS. PEDDE: No.</p> <p>14 MS. LENAHAN: Mayor Giblin?</p> <p>15 MAYOR GIBLIN: No.</p> <p>16 MS. LENAHAN: Ms. Feder?</p> <p>17 MS. FEDER: No.</p> <p>18 MS. LENAHAN: Deputy Mayor Dooley?</p> <p>19 DEPUTY MAYOR DOOLEY: No.</p> <p>20 MS. LENAHAN: Mr. Cossa?</p> <p>21 MR. COSSA: No.</p> <p>22 MS. LENAHAN: Dr. Chapman?</p> <p>23 DR. CHAPMAN: No.</p> <p>24 MS. LENAHAN: Ms. Anderson?</p> <p>25 MS. ANDERSON: No.</p>
<p style="text-align: right;">Page 68</p> <p>1 MS. LENAHAN: And Ms. Murray?</p> <p>2 CHARWOMAN MURRAY: No.</p> <p>3 So having established that the first</p> <p>4 primary question has -- the burden has not been met,</p> <p>5 and following the jury charge, we'll move on to the</p> <p>6 second review standard which is No. 8 if you're</p> <p>7 following along on the jury charge. And we will be</p> <p>8 seeking to answer the question: Has the applicant</p> <p>9 met its burden of demonstrating, through the</p> <p>10 presentation of credible evidence that the rezoning</p> <p>11 proposed by the applicant will substantially and</p> <p>12 meaningfully benefit the township and further the</p> <p>13 purposes of the Municipal Land Use Law.</p> <p>14 Ms. Feder?</p> <p>15 MS. FEDER: Thank you.</p> <p>16 And thank you members of the public for</p> <p>17 being faithful through 14-plus meetings and many</p> <p>18 hours of testimony.</p> <p>19 I would like to draw on my years of</p> <p>20 experience as a member of this Planning Board to</p> <p>21 answer this question. I was first appointed in 2003</p> <p>22 and served until 2007, and appointed then again in</p> <p>23 2001 [sic] through the present.</p> <p>24 This board and all of the previous</p> <p>25 boards of which I have been a member, as well as</p>	<p style="text-align: right;">Page 69</p> <p>1 various township committees, has worked hard to</p> <p>2 develop and maintain a vision for Cranford.</p> <p>3 This vision is contained in our Master</p> <p>4 Plan which was adopted in 2009 after a thorough</p> <p>5 process. It is currently being re-examined by this</p> <p>6 Planning Board with community interaction and</p> <p>7 involvement. We had a meeting last week where the</p> <p>8 public was invited to come out and talk about their</p> <p>9 thoughts and visions for Cranford. We take that into</p> <p>10 account when we finalize our Master Plan</p> <p>11 re-examination.</p> <p>12 Again, the Master Plan sets the basis</p> <p>13 for development in the town for the town's vision for</p> <p>14 itself now and into the future. The 2009 Master Plan</p> <p>15 vision for 2020 defines 14 major goals. I'd like to</p> <p>16 address two of those in terms of evaluating this</p> <p>17 application.</p> <p>18 The first is concentrate -- this is the</p> <p>19 goal -- concentrate dense residential development in</p> <p>20 the downtown core with less density emanating out</p> <p>21 from the core. Throughout my years on the Planning</p> <p>22 Board we have worked hard to fulfill this goal. This</p> <p>23 project clearly, in my mind, does not meet it.</p> <p>24 Cranford implemented projects like</p> <p>25 Cranford Crossing and Riverfront in the downtown and</p>

<p style="text-align: right;">Page 70</p> <p>1 approved some new projects, notably one currently  2 under construction on Walnut Avenue, which further  3 this goal.</p> <p>4 In addition, the Township Committee and  5 Planning Board worked with a developer to reduce  6 density at Birchwood, which is currently under  7 construction. Cranford is serious about allowing for  8 diverse housing types and rental units in a way that  9 furthers the Master Plan goal in question.</p> <p>10 The subject application would add 905  11 rental units which is over a 10 percent overall  12 increase of rental units at the very edge of town.  13 It is very dense by Cranford standards at 30 units  14 per acre, and separated from the downtown by  15 single-family long-established neighborhoods.</p> <p>16 Since I agree that the applicant has  17 not demonstrated inutility under the current zone, I  18 cannot concur with the applicant's planner's, Keenan  19 Hughes', assertion that it will fulfill Purpose A of  20 the MLUL, the Municipal Land Use Law.</p> <p>21 Purpose A states that it is to  22 encourage municipal actions to guide the appropriate  23 use for development of all lands in the state in a  24 manner which will promote public health, safety,  25 morals and general welfare. And, thus, would justify</p>	<p style="text-align: right;">Page 71</p> <p>1 a diversion from our Master Plan goals. I have come  2 to the conclusion that this project will not do that.</p> <p>3 In support of this assertion,  4 Mr. Hughes testified that Hartz will provide  5 recreational amenities and a shuttle to the train.  6 These features do not benefit Cranford as they will  7 not be accessible to current residents. Cranford  8 currently maintains two municipal pool complexes and  9 a thriving community center that are available to all  10 residents. This development, with its restricted  11 access pools and community rooms, brings no benefit  12 to Cranford in that regard.</p> <p>13 Mr. Hughes further testified that the  14 project, quote:  15 "Ensures adequate separation from the  16 surrounding land uses and facilitates  17 necessary improvements to traffic circulation  18 on Walnut Avenue."  19 I see the notion of separation from the  20 surrounding community as a detriment to the  21 township's goals.</p> <p>22 Cranford has always been an  23 inclusionary community by providing recreational  24 opportunities and events that serve to bring  25 residents together to form strong community bonds.</p>
<p style="text-align: right;">Page 72</p> <p>1 This proposal seeks to insert 905 dwelling units and  2 at least 1600 people into an isolated setting.</p> <p>3 In terms of the assertion that it  4 facilitates necessary improvements to Walnut Avenue  5 traffic, I'd say that although I agree that the  6 Walnut Avenue traffic situation is in need of  7 improvement, I am convinced that adding 905 dwellings  8 and 1600-plus people is not needed to accomplish  9 this.</p> <p>10 Conditions along Walnut are being  11 consider by the Pedestrian Safety Committee and by  12 residents who live in the area. I'm confident that  13 Cranford has the willingness and ability to address  14 this issue without diverting from our Master Plan  15 goals.</p> <p>16 Mr. Hughes also testified that the  17 proposed project fulfills Purpose E of the MLUL,  18 promotion of appropriate population densities in  19 concentrations that will contribute to the well-being  20 of persons, neighborhoods and communities in the  21 region. I think that this project does the opposite  22 in that it establishes a density that is in direct  23 opposition to Cranford's stated goal to provide this  24 density in or adjacent to the downtown core.</p> <p>25 Mr. Hughes testified that the opinion</p>	<p style="text-align: right;">Page 73</p> <p>1 of his team is that the potential impacts, and I am  2 quoting:  3 "Could be managed or mitigated on-site  4 and not arise to the level of anything  5 detrimental."  6 In my opinion, that is a low bar to  7 justify such a significant change to the zone. It  8 says to me we are creating problems, but we will fix  9 them. This seems like a counterproductive approach.</p> <p>10 Mr. Hughes goes on to discuss Purpose G  11 of the MLUL to provide sufficient space in  12 appropriate locations for a variety of agricultural,  13 residential, commercial and industrial uses in open  14 space, both public and private, according to their  15 respective environmental requirements in order to  16 meet the needs of all New Jersey citizens.</p> <p>17 He maintains that the self-contained  18 nature of this dense -- dense residential community  19 serves to fulfill the stated goal.</p> <p>20 Actually, in my opinion, the current  21 zoning is far more appropriate in terms of providing  22 a commercial opportunity that does not conflict with  23 Cranford's vision to provide density in and adjacent  24 to the downtown core.</p> <p>25 In addition, Hartz proposes adding</p>

<p style="text-align: right;">Page 74</p> <p>1 1640-or-so to 1800 residents, depending on which of  2 their reports you use, but not additional park space  3 for the community at large.  4 I'd like to reiterate and emphasize  5 that Cranford is not averse to appropriately dense  6 development in and adjacent to our downtown core. We  7 have affirmed this in our Master Plan and in our  8 recently adopted Housing Plan Element where we  9 outline our future plans for affordable housing.  10 This has also been further affirmed by  11 recent actions taken by the Township Committee and  12 both land use boards in approving various projects in  13 the town.  14 In my opinion, Mr. Hughes' testimony  15 and Hartz's plans are in direct conflict with  16 Cranford's stated vision for 2020.  17 In listening to my fellow citizens  18 throughout this process, and in working with them in  19 the re-examination of our master plan, I've come to  20 the conclusion that this vision remains unchanged.  21 This project is in direct conflict with that vision.  22 The second goal of the master plan that  23 I would like to touch on briefly says: Work to  24 preserve the small-town character and historical  25 architecture.</p>	<p style="text-align: right;">Page 75</p> <p>1 It's impossible for me to agree that  2 adding 905 units, again, over a 10 percent increase  3 in dwelling units, and 16 to 1800 residents in an  4 area that is a longstanding residential area of  5 single-family homes serves to fulfill this goal and  6 it's, in my mind, in direct conflict with it.  7 The Planning Board and Township  8 Committee have worked with the Historic Preservation  9 Board and have, in fact, designated the adjacent  10 neighborhood a historic district. Five-story  11 buildings towering over Sunny Acres is hardly  12 furthering the goal of preserving town character. I  13 note that the project density is four times greater  14 than that of the surrounding neighborhoods.  15 My conclusion is that this proposal is  16 in direct conflict with both our Master Plan vision  17 and stated goals. I refer specifically to Goal No. 3  18 on page G(2) of the Master Plan which recognizes the  19 economic value of multi story buildings and density  20 in the downtown core.  21 Goal No. 6 which encourages development  22 along existing rail and bus lines to encourage use of  23 mass transit. This subject property is not near a  24 rail -- a passenger rail line.  25 And Goal No. 7, which encourages a</p>
<p style="text-align: right;">Page 76</p> <p>1 diversified economic base.  2 I also refer to residential goals on  3 G(3) of the Master Plan. No. 4:  4 "Concentrate higher density residential  5 uses in the downtown to take advantage of  6 transportation in infrastructure."  7 We hear this over and over again that  8 Cranford is not averse to density, but wants that  9 density appropriately in the downtown core, near the  10 bus and the train lines.  11 Also, Goal Number -- Residential Goal  12 No. 6:  13 "Require all in-fill development to be  14 done in a manner that is consistent and  15 compatible with the surrounding neighborhood  16 and environment."  17 I think the testimony has proved to me  18 that five-story buildings, at the edge of town,  19 hardly fulfills the goals of development in and  20 around the downtown core.  21 Finally, that we have community  22 identity goals on page G(6) of the Master Plan.  23 No. 4 is:  24 "To preserve and protect Cranford's  25 small-town character, historic elements and</p>	<p style="text-align: right;">Page 77</p> <p>1 natural amenities."  2 Encourage quality -- and Goal No. 6 is:  3 "Encourage quality architectural and  4 landscape design through the use of design  5 standards that are consistent with the  6 architectural history of the surrounding  7 neighborhood."  8 My opinion is that the applicant has  9 not demonstrated in any way, through testimony of his  10 -- of their planner, that this self-contained  11 development is consistent with the surrounding  12 neighborhood.  13 For reasons stated, I, therefore,  14 conclude that the applicant has not met the burden of  15 proof that this application will substantially and  16 meaningfully benefit the Township of Cranford and  17 further the purposes of the MLUL.  18 It is not consistent with our Master  19 Plan as it stands today, nor with what I have taken  20 from citizens that we've discussed the future -- our  21 future visions.  22 And, in fact, this project is a  23 detriment in that it would require a material  24 diversion from our stated goals in our Master Plan.  25 I thank you, Madame Chair.</p>

<p style="text-align: right;">Page 78</p> <p>1 CHARWOMAN MURRAY: Thank you,  2 Ms. Feder.  3 Ms. Pedde?  4 MS. PEDDE: Yes.  5 So Cranford is 3,072 acres. 750 Walnut  6 is 30.5 acres. Excuse me. By adding 905 units to  7 this site, it would increase the population of  8 Cranford between 8 and 10 percent. Cranford has  9 never had a sudden population increase like this  10 before.  11 The increase of the dwelling units on  12 1 percent acreage of the town is more than 10  13 percent.  14 In addition, the population numbers are  15 conflicting. One report says 1846 proposed residents  16 and another states 1622. That's a 224-person  17 difference. This does not inspire any confidence in  18 your report.  19 According to the Master Plan, under  20 residential goals:  21 "Require all in-fill development to be  22 done in a manner that is consistent and  23 compatible with the surrounding neighborhood  24 and environment. In existing residential  25 zones, encourage the preservation of existing</p>	<p style="text-align: right;">Page 79</p> <p>1 housing structure and limit new development  2 that increases density."  3 Mr. Hughes testified that they  4 researched other existing development within  5 Cranford, multifamily developments including Cranford  6 Crossings, Woodmont Station, which was a court order,  7 and Riverfront, which is included in the downtown.  8 And according to the Master Plan, density is  9 encouraged to be kept in those areas. These  10 locations cannot compare to 750 Walnut Avenue. 750  11 is far removed from the downtown center. Excuse me.  12 Mr. Hughes goes on to say:  13 "Any potential impact concerns relative  14 to things like traffic, visual impacts, fiscal  15 impacts can be managed and mitigated, and none  16 of those issues rise to a level of being  17 substantially detrimental to the community."  18 How does a development propose two  19 four-story buildings and three five-story buildings  20 to fit into a town that is coined as quaint?  21 How is this proposal compatible and  22 beneficial to our surrounding neighborhoods?  23 Across from 750 Walnut site is Sunny  24 Acres. This board was involved in the decisionmaking  25 of designing that neighborhood, Sunny Acres Historic</p>
<p style="text-align: right;">Page 80</p> <p>1 District. These proposed five-story buildings  2 destroy the charm of that whole area. Excuse me.  3 Cranford's Master Plan 2009 standards  4 for recreation, park, and open space standards and  5 guidelines state that there should be 10.5 acres per  6 1,000 people. This application proposes to generate  7 approximately 1800-plus residents, but provides no  8 park space outside of the two clubhouses and pools  9 which is only used about 90 days out of the year.  10 This translates to approximately 19 acres of park  11 space to serve the proposed population; more than  12 half of the 30 acres. There is already a shortfall  13 of open space and this application is making it  14 worse.  15 There is a physical separation from the  16 residential neighborhood, an impact on schools,  17 traffic and the town's services. It is proposed that  18 135 additional students to our schools, which is on  19 the extreme low end. Dr. Haber estimates 353  20 additional students. Because of this difference, our  21 schools will be impacted and the town and the tax  22 revenue would be slashed by well over half of what is  23 proposed.  24 In conclusion, my opinion that I find  25 this application, this applicant has not met its</p>	<p style="text-align: right;">Page 81</p> <p>1 burden of proving that the rezoning will  2 substantially and meaningfully benefit Cranford.  3 Thank you.  4 CHARWOMAN MURRAY: Thank you,  5 Ms. Pedde.  6 Any other comments on the topic of the  7 consistency to the Master Plan?  8 DEPUTY MAYOR DOOLEY: I would like to  9 echo please --  10 CHARWOMAN MURRAY: Is your mic on?  11 DEPUTY MAYOR DOOLEY: Yes. I don't  12 have one, so I'm sharing.  13 I am going to say that I agree with my  14 two colleagues that have stated many of the facts and  15 their rationale already, and I adopt them.  16 In addition to that, I just want to  17 emphasize a couple of things, that even if Sunny  18 Acres had not been designated a historic district, it  19 still is, in its nature, historic, architecturally  20 significant, and that historic designation does not  21 make a difference in my analysis.  22 I want to talk about the density  23 situation with respect to the Master Plan and the  24 goals and principles that Mrs. Feder pointed out.  25 There are 905 units in the concept plan for this</p>

<p style="text-align: right;">Page 82</p> <p>1 project, a density of 30 acres. As we know, density  2 is supposed to be downtown by the Transit Village.  3 That is, in and of itself, a sound planning  4 principle. Keep the density where the mass transit  5 is.  6 We're not only talking about a project,  7 concept project, that would use a 30-unit per acre  8 density, which is what belongs in our downtown core  9 per our Master Plan, it is being borrowed from the  10 densities downtown. Woodmont, 32-and-a-half units  11 per acre; Riverfront, 47 units per acre; Cranford  12 Crossing, 38.5.  13 And -- but what is missing here,  14 besides the fact that this is not in the downtown  15 core, are the absolute numbers. Forget about the  16 ratio for a minute and just look at the absolute  17 numbers.  18 905 units is 745 units more than what  19 is at Woodmont. That is a 565-percent difference  20 from what our Master Plan -- from what Woodmont  21 presents to us and what density downtown is supposed  22 to be. What density is supposed to be period.  23 Riverfront, there are 778 more units  24 between what is at Riverfront and what's at --  25 proposed for Birch -- I'm sorry -- for Hartz</p>	<p style="text-align: right;">Page 83</p> <p>1 Mountain. That is a 710-percent difference.  2 Cranford Crossing, it's 851 units more in the 750  3 Walnut concept plan than what is at Cranford  4 Crossing, an 1800-percent difference.  5 It is inappropriate. It is not sound  6 planning. And it is totally inconsistent with our  7 Master Plan to borrow the densities from that area,  8 especially -- from the downtown core, especially when  9 you look at these extraordinary numbers. It is  10 apples to not even oranges; it's apples to some other  11 species, probably an elephant.  12 On the issue of people, as Ms. Pedde  13 was mentioning, we have 1846 people in one report,  14 1761 in the second report, and 1622 in the third  15 report. These are all from Mr. Hughes, the planner.  16 They went down, down, down, the population.  17 Nevertheless, it is about 8 percent of our population  18 that would be on that site as conceived by this  19 application.  20 As Ms. Pedde mentioned, it would be 8  21 percent increase on less than 1 percent of Cranford's  22 land.  23 Beyond that, this particular piece of  24 property is uniquely situated. It is in our  25 southwest corner and it is between a freight railroad</p>
<p style="text-align: right;">Page 84</p> <p>1 berm, a freight railroad, a golf course, a  2 transitioning four- to five-lane road between us and  3 our Clark neighbor. It is the border.  4 And then there's Walnut Avenue, across  5 from which is Little Indian Village and Sunny Acres.  6 They're trying to -- they have  7 presented a concept that cannot be said to be orderly  8 planning or consistent with any of our goals and  9 principles as set forth in our Master Plan and as  10 reiterated by Ms. Feder.  11 When you're talking about putting 1846  12 people into that area of town, it simply isn't a  13 sound, orderly or consistent planning process.  14 And for those reasons, I cannot agree  15 that it is consistent with our Master Plan.  16 I would like to talk about fiscal  17 impact, but I'll take a step back for a minute if  18 anybody else wanted to say anything about the Master  19 Plan.  20 CHARWOMAN MURRAY: Thank you,  21 Commissioner Dooley, we'll discuss fiscal impact  22 after we have finished discussing the Master Plan.  23 I have a few comments regarding the  24 Master Plan. I would like to reiterate that I think  25 that our plan is crystal clear on the pattern for</p>	<p style="text-align: right;">Page 85</p> <p>1 high density and that is to be in the downtown area  2 where -- it couldn't be more clear that that is the  3 goal of the Master Plan.  4 And to the extent that that has not  5 occurred, it has been in developments that were out  6 of the control of this board.  7 The other area I was going to touch on,  8 Ms. Pedde mentioned, which is regarding open space.  9 In the Master Plan, Conservation Goal 3 states that:  10 "Cranford should aggressively seek to  11 acquire additional open space and  12 opportunities to preserve open space."  13 Now, the property that we're discussing  14 is not an undeveloped property, but, nevertheless,  15 they are looking to, if the project were approved,  16 and depending on which numbers you look at, I have  17 used an average of 1,743 residents.  18 In the Master Plan it's talked about  19 using the core system standard, created by the  20 National Parks and Recreation Association, to  21 determine the appropriate amount of open space and  22 recreational areas in a community.  23 The Master Plan, in 2009, concluded  24 that Cranford was already deficient in this area and  25 we should be looking to, as they said, aggressively</p>

<p style="text-align: right;">Page 86</p> <p>1 seek additional open space.</p> <p>2 The core standard calls for providing</p> <p>3 local residents at a ratio of ten-and-a-half acres of</p> <p>4 parkland per 1,000 people. To add an average</p> <p>5 population for this development of 1743 would mean to</p> <p>6 add over 18 acres of public park space and recreation</p> <p>7 to accommodate that population.</p> <p>8 The applicant has presented that there</p> <p>9 will be recreational facilities at the proposed</p> <p>10 development. There will be some open space in the</p> <p>11 form of grass, lawns. But that is not public space.</p> <p>12 It is not open to the public. It's open to the</p> <p>13 residents who live there. And it's certainly far</p> <p>14 below the 18-and-a-half acres that the Master Plan</p> <p>15 calls for using as a guideline. So that's among the</p> <p>16 reasons why this development is inconsistent with the</p> <p>17 goals of the Master Plan.</p> <p>18 Does anyone on the board have other</p> <p>19 comments in this regard?</p> <p>20 Mr. Taylor?</p> <p>21 MR. TAYLOR: I would just like to thank</p> <p>22 my colleagues on their research and review of the</p> <p>23 record of this hearing.</p> <p>24 I concur with all of the statements</p> <p>25 that were proffered; specifically, that the proposed</p>	<p style="text-align: right;">Page 87</p> <p>1 development is in direct conflict with the Master</p> <p>2 Plan of the Township of Cranford, and for those</p> <p>3 reasons I also agree that this application would not</p> <p>4 substantially and meaningfully benefit Cranford, nor</p> <p>5 further the purpose of the Municipal Land Use Law.</p> <p>6 Thank you.</p> <p>7 CHARWOMAN MURRAY: Thank you,</p> <p>8 Mr. Taylor.</p> <p>9 Any other comments on this portion of</p> <p>10 our discussions?</p> <p>11 Dr. Chapman?</p> <p>12 DR. CHAPMAN: Just briefly.</p> <p>13 The subject property is not compatible</p> <p>14 with the -- the subject application is not compatible</p> <p>15 with the area around 750 Walnut Avenue for a variety</p> <p>16 of reasons which include the density which everyone</p> <p>17 has talked about, but also the surrounding area homes</p> <p>18 are single-family homes, homes 2.5 stories or 32</p> <p>19 feet, while the proposed project suggests buildings</p> <p>20 five-stories high or 67 feet which are incompatible</p> <p>21 and inconsistent with the area.</p> <p>22 The proposed project will have a</p> <p>23 substantial detriment to the property values</p> <p>24 surrounding the properties because the property is</p> <p>25 incompatible, and the proposed project will</p>
<p style="text-align: right;">Page 88</p> <p>1 substantially change the character of the surrounding</p> <p>2 properties, causing a substantial detriment because</p> <p>3 of the projected incompatibilities.</p> <p>4 Thank you.</p> <p>5 CHARWOMAN MURRAY: Thank you,</p> <p>6 Dr. Chapman.</p> <p>7 Any other comments?</p> <p>8 MR. ASCHENBACH: Yes, just briefly.</p> <p>9 I just agree with everyone that's</p> <p>10 spoken so far in that the application will not</p> <p>11 benefit Cranford.</p> <p>12 Again, my view is that the current zone</p> <p>13 as-is, with a willing owner, property owner, the</p> <p>14 tools are there to make a successful redevelopment</p> <p>15 site. And I think that is, you know, what we should</p> <p>16 be considering here.</p> <p>17 But I think the Planning Board should</p> <p>18 reject any rezoning request.</p> <p>19 CHARWOMAN MURRAY: Thank you,</p> <p>20 Mr. Aschenbach.</p> <p>21 If there are no other questions -- I</p> <p>22 mean -- statements regarding the Master Plan, we'll</p> <p>23 move on to the other aspect of this question which is</p> <p>24 under the fiscal impact statements that were</p> <p>25 presented.</p>	<p style="text-align: right;">Page 89</p> <p>1 MAYOR GIBLIN: If I could, I'm sorry, I</p> <p>2 just want to echo Ms. Feder's comments about not</p> <p>3 being consistent with the Master Plan and the current</p> <p>4 Master Plan review process and the way, as Mayor of</p> <p>5 the town and part of that process for starting the</p> <p>6 review of the Master Plan, I found no willingness to</p> <p>7 significantly alter some of the things that you've</p> <p>8 mentioned.</p> <p>9 And I agree with your comments.</p> <p>10 CHARWOMAN MURRAY: Thank you, Mayor</p> <p>11 Giblin.</p> <p>12 Mr. Rothman, do you have a statement?</p> <p>13 MR. ROTHMAN: Well, on page 2 of the</p> <p>14 jury charge, part of the board's obligation is under</p> <p>15 both standards, the Planning Board must determine</p> <p>16 whether the proposed rezoning is consistent or</p> <p>17 inconsistent with the Master Plan.</p> <p>18 If the proposed rezoning is</p> <p>19 inconsistent with the Master Plan, the Planning Board</p> <p>20 must include in their recommendation whether it's in</p> <p>21 the best interest of the township to amend the Master</p> <p>22 Plan.</p> <p>23 This may be a good moment just to</p> <p>24 consider that, so that by way of housekeeping the</p> <p>25 resolution we develop later on includes a response</p>

<p style="text-align: right;">Page 90</p> <p>1 here.</p> <p>2 So based on the comments, I would like</p> <p>3 an affirmative, I guess, response, if we could do it,</p> <p>4 whether it's inconsistent if there's no majority for</p> <p>5 that, we could rephrase it so that the next would be</p> <p>6 is it consistent.</p> <p>7 But, initially, I would ask that the</p> <p>8 board determine, by way of a vote, that the rezoning</p> <p>9 is inconsistent with the Master Plan.</p> <p>10 And if the proposed rezoning is</p> <p>11 inconsistent with the Master Plan, should the</p> <p>12 Planning Board include with its recommendation</p> <p>13 whether or not it's in the best interest to amend the</p> <p>14 Master Plan.</p> <p>15 I just want everyone to understand</p> <p>16 that.</p> <p>17 MS. FEDER: I don't -- do you mean for</p> <p>18 us to answer that now?</p> <p>19 MR. ROTHMAN: To answer --</p> <p>20 MS. FEDER: Because, I mean, I've</p> <p>21 thought about this a lot in terms of developing my</p> <p>22 deliberative statements, but I would go back to the</p> <p>23 fact that we are re-examining the Master Plan as we</p> <p>24 speak, and that I -- I have been part of some of</p> <p>25 those outreach sessions and also done a lot of</p>	<p style="text-align: right;">Page 91</p> <p>1 thinking about the last, almost, 20 years of my</p> <p>2 tenure on the Planning Board in which the Master Plan</p> <p>3 had changed in 2009.</p> <p>4 But based on work that we're doing</p> <p>5 right now, it is my opinion that we should not amend</p> <p>6 the Master Plan. I think that those goals and</p> <p>7 visions are working for us, and they provide an</p> <p>8 opportunity to -- as Commissioner Dooley mentioned,</p> <p>9 to develop the town, to encourage investment in the</p> <p>10 town, in an orderly and well-planned way.</p> <p>11 So to answer the question, in my mind</p> <p>12 we should not be considering amending the Master Plan</p> <p>13 in terms of this application.</p> <p>14 MR. ROTHMAN: Right. So we --</p> <p>15 DEPUTY MAYOR DOOLEY: I --</p> <p>16 MR. ROTHMAN: Go ahead.</p> <p>17 DEPUTY MAYOR DOOLEY: I also think</p> <p>18 this particular concept that has been brought before</p> <p>19 us is of such size that revisiting the Master Plan</p> <p>20 would be more than revisiting, it would be a drastic</p> <p>21 change to the Master Plan, and thus, I don't --</p> <p>22 CHARWOMAN MURRAY: If I understand</p> <p>23 Mr. Rothman correctly, I think what he is looking for</p> <p>24 is a motion --</p> <p>25 DEPUTY MAYOR DOOLEY: I understand.</p>
<p style="text-align: right;">Page 92</p> <p>1 I just wanted to say that before we</p> <p>2 make that motion --</p> <p>3 CHARWOMAN MURRAY: Okay.</p> <p>4 DEPUTY MAYOR DOOLEY: -- what my view</p> <p>5 is on amending the Master Plan to accommodate this</p> <p>6 particular concept.</p> <p>7 CHARWOMAN MURRAY: Understood.</p> <p>8 DEPUTY MAYOR DOOLEY: And I'd be happy</p> <p>9 to make a motion if no one else has any comment to</p> <p>10 make.</p> <p>11 CHAIRWOMAN MURRAY: Yes.</p> <p>12 To be clear, I think that my -- the</p> <p>13 comments that I made earlier are -- I would hope it</p> <p>14 would be clear in the record that I think that the</p> <p>15 proposal is inconsistent with the Master Plan.</p> <p>16 MR. ASCHENBACH: Yeah. So why would</p> <p>17 you amend it then, right?</p> <p>18 CHAIRWOMAN MURRAY: Excuse me?</p> <p>19 MR. ASCHENBACH: Why would you be</p> <p>20 amending the Master Plan?</p> <p>21 CHAIRWOMAN MURRAY: I would not</p> <p>22 recommend that.</p> <p>23 MR. ASCHENBACH: Right?</p> <p>24 DEPUTY MAYOR DOOLEY: I think what</p> <p>25 we're being asked is, is there anything to suggest to</p>	<p style="text-align: right;">Page 93</p> <p>1 us that it would be in the best interest of the</p> <p>2 township to amend the Master Plan to accommodate this</p> <p>3 concept.</p> <p>4 MR. ASCHENBACH: What concept?</p> <p>5 DEPUTY MAYOR DOOLEY: And that's what</p> <p>6 we've just discussed for number one.</p> <p>7 MR. ASCHENBACH: What concept?</p> <p>8 DEPUTY MAYOR DOOLEY: The concept of</p> <p>9 the applicant --</p> <p>10 MR. ROTHMAN: Right.</p> <p>11 DEPUTY MAYOR DOOLEY: -- the 905</p> <p>12 units, 30 acre per unit [sic] density.</p> <p>13 MR. ROTHMAN: Right. Under both</p> <p>14 standards it's an obligation --</p> <p>15 MR. ASCHENBACH: Okay.</p> <p>16 MR. ROTHMAN: -- to include in the</p> <p>17 recommendation.</p> <p>18 MR. ASCHENBACH: I don't think you'd</p> <p>19 want it.</p> <p>20 DR. CHAPMAN: Madame Chair?</p> <p>21 CHAIRWOMAN MURRAY: Dr. Chapman?</p> <p>22 DR. CHAPMAN: Just for a point of</p> <p>23 clarification, I want to address the -- I guess the</p> <p>24 first part of the question, the applicant will</p> <p>25 substantially and meaningfully benefit the township.</p>



<p style="text-align: right;">Page 94</p> <p>1 DEPUTY MAYOR DOOLEY: We're here.</p> <p>2 CHARWOMAN MURRAY: That question we're</p> <p>3 going to address --</p> <p>4 DEPUTY MAYOR DOOLEY: Next.</p> <p>5 CHARWOMAN MURRAY: -- later.</p> <p>6 DR. CHAPMAN: Thank you.</p> <p>7 CHAIRWOMAN MURRAY: So what we're</p> <p>8 talking about at this point is a motion that: Has</p> <p>9 the board determined whether the proposed rezoning is</p> <p>10 consistent or inconsistent with the Master Plan.</p> <p>11 And if the proposed rezoning is</p> <p>12 inconsistent with the Master Plan, the Planning Board</p> <p>13 must include with its recommendation whether or not</p> <p>14 it is in the best interest of the township to amend</p> <p>15 the plan.</p> <p>16 That sounds like two separate questions</p> <p>17 to me.</p> <p>18 MR. ROTHMAN: Right. So we phrase just</p> <p>19 inconsistent; if that vote doesn't produce a majority</p> <p>20 we could amend the proposed motion.</p> <p>21 But for now, the comments appear to be</p> <p>22 that it's inconsistent. And if it is inconsistent,</p> <p>23 is there a -- should the recommendation ultimately to</p> <p>24 the governing body include a recommendation to amend</p> <p>25 the Master Plan? To include it.</p>	<p style="text-align: right;">Page 95</p> <p>1 DEPUTY MAYOR DOOLEY: I'm ready to make</p> <p>2 a motion.</p> <p>3 MR. ROTHMAN: Thank you.</p> <p>4 DEPUTY MAYOR DOOLEY: I move that the</p> <p>5 proposed rezoning is inconsistent with our Master</p> <p>6 Plan.</p> <p>7 MS. ANDERSON: Second.</p> <p>8 CHARWOMAN MURRAY: So a yes vote would</p> <p>9 be to agree that the proposed rezoning is</p> <p>10 inconsistent with the Master Plan.</p> <p>11 MR. ROTHMAN: And is it in the best</p> <p>12 interest of the township to --</p> <p>13 DEPUTY MAYOR DOOLEY: That's the second</p> <p>14 question. So can we at least stick with the first</p> <p>15 one?</p> <p>16 MR. ROTHMAN: Okay.</p> <p>17 MS. LENAHAAN: Mr. Taylor?</p> <p>18 DEPUTY MAYOR DOOLEY: I'll restate it</p> <p>19 if you'd like me to.</p> <p>20 MR. TAYLOR: I agree with you, I just</p> <p>21 -- can you repeat which is the appropriate answer</p> <p>22 for -- like, what yes means?</p> <p>23 CHAIRWOMAN MURRAY: So the question is,</p> <p>24 is the rezoning --</p> <p>25 MR. TAYLOR: Inconsistent.</p>
<p style="text-align: right;">Page 96</p> <p>1 CHARWOMAN MURRAY: -- inconsistent with</p> <p>2 the Master Plan?</p> <p>3 So if you agree that it is</p> <p>4 inconsistent, one would vote yes.</p> <p>5 MR. TAYLOR: Yes, it is inconsistent.</p> <p>6 MS. LENAHAAN: Ms. Pedde?</p> <p>7 MS. PEDDE: Yes, it is inconsistent</p> <p>8 with the Master Plan.</p> <p>9 MS. LENAHAAN: Mayor Giblin?</p> <p>10 MAYOR GIBLIN: Yes.</p> <p>11 MS. LENAHAAN: Ms. Feder?</p> <p>12 MS. FEDER: Yes.</p> <p>13 MS. LENAHAAN: Deputy Mayor Dooley?</p> <p>14 DEPUTY MAYOR DOOLEY: Yes, it is</p> <p>15 inconsistent with the Master Plan.</p> <p>16 MS. LENAHAAN: Mr. Cossa?</p> <p>17 MR. COSSA: Yes, it is inconsistent</p> <p>18 with the Master Plan.</p> <p>19 MS. LENAHAAN: Dr. Chapman?</p> <p>20 DR. CHAPMAN: Yes.</p> <p>21 MS. LENAHAAN: Ms. Anderson?</p> <p>22 MS. ANDERSON: Yes.</p> <p>23 MS. LENAHAAN: And, Ms. Murray?</p> <p>24 CHARWOMAN MURRAY: Yes.</p> <p>25 So then the second portion of that</p>	<p style="text-align: right;">Page 97</p> <p>1 question would be, since we have determined that it</p> <p>2 is inconsistent, does the Planning Board believe that</p> <p>3 the -- it would be in the best interest of the</p> <p>4 township to amend the Master Plan?</p> <p>5 DEPUTY MAYOR DOOLEY: I would propose,</p> <p>6 and I'll make a motion as follows, unless somebody</p> <p>7 else has something to say, that the motion should be,</p> <p>8 would it be in the best interest of the township to</p> <p>9 amend the Master Plan and so recommend to the</p> <p>10 Township Committee?</p> <p>11 CHAIRWOMAN MURRAY: So if you would be</p> <p>12 in favor of recommending the Master Plan be changed,</p> <p>13 you would vote yes.</p> <p>14 DEPUTY MAYOR DOOLEY: Correct.</p> <p>15 CHARWOMAN MURRAY: And if you think the</p> <p>16 Master Plan should not be changed, you would vote no.</p> <p>17 DEPUTY MAYOR DOOLEY: Correct.</p> <p>18 MS. FEDER: I'll second that.</p> <p>19 CHARWOMAN MURRAY: Ms. Lenahan?</p> <p>20 MS. LENAHAAN: Sure.</p> <p>21 Mr. Taylor?</p> <p>22 MR. TAYLOR: No.</p> <p>23 MS. LENAHAAN: Ms. Pedde?</p> <p>24 MS. PEDDE: No, I do not think it's in</p> <p>25 the best interest of the Township to amend the Master</p>

<p style="text-align: right;">Page 98</p> <p>1 Plan at this time. We are going through a  2 re-examination and it's not the right time, no.  3 MS. LENAHAN: Mayor Giblin?  4 MAYOR GIBLIN: No.  5 MS. LENAHAN: Ms. Feder?  6 MS. FEDER: No.  7 MS. LENAHAN: Deputy Mayor Dooley?  8 DEPUTY MAYOR DOOLEY: No.  9 MS. LENAHAN: Mr. Cossa?  10 MR. COSSA: No.  11 MS. LENAHAN: Dr. Chapman?  12 DR. CHAPMAN: No.  13 MS. LENAHAN: Ms. Anderson?  14 MS. ANDERSON: No.  15 MS. LENAHAN: And Ms. Murray?  16 CHARWOMAN MURRAY: No.  17 Thank you.  18 So we will move on to the issues of the  19 financial [sic] impact statement which speak to the  20 -- whether the application will substantially and  21 meaningfully benefit the township and advance the  22 purposes of the MLUL.  23 DEPUTY MAYOR DOOLEY: I'd like to speak  24 to that.  25 CHAIRWOMAN MURRAY: Commissioner</p>	<p style="text-align: right;">Page 99</p> <p>1 Dooley.  2 DEPUTY MAYOR DOOLEY: I'd like to speak  3 to fiscal impact in particular, and begin with the  4 methodologies that were used to determine the net  5 fiscal impact of this proposed concept on our  6 township.  7 To determine net fiscal impact, which I  8 may from time to time lapse into using initials, NFI,  9 I apologize if I do, the applicant's planner looked  10 at the development project's cost to the municipality  11 in terms of services and operating costs versus the  12 revenue projected to be generated, taxes.  13 Applicant's planner prepared three  14 reports; one in 2017, one in August of 2018; and  15 another in October of 2018. Notably, his numbers  16 changed in each successive report always to Hartz  17 Mountain's advantage, in connection with doing this  18 calculation to determine NFI.  19 Looking at the revenue side first, of  20 this equation, and his methodology, I refer to his  21 three reports and to the report of the Planning  22 Board's expert, Ray Liotta, of April 2019. Revenue,  23 that's taxes, are fundamentally a function of the  24 valuation of the property. As the valuation goes up,  25 the tax revenue to the town goes up and all other</p>
<p style="text-align: right;">Page 100</p> <p>1 things being equal, the net fiscal beneficial impact  2 of the project increases.  3 Please, just bear with me on that.  4 Mr. Hughes, Hartz's planner and  5 financial [sic] impact expert for purpose of this  6 application, did the following: In his first two  7 reports he used a capitalization rate of 6 percent.  8 In his third report he used a cap rate of  9 5.5 percent. Cap rate and valuation are inversely  10 related: As the cap rate goes down, the valuation  11 goes up. So by moving it from 6 percent down to 5  12 percent, that meant the valuation went up, which is  13 to the advantage of a positive net fiscal impact  14 calculation.  15 Mr. Hughes did not provide any factual  16 explanation as to why he lowered the cap rate in his  17 third report, other than that he had asked  18 Mr. Rhatican, the applicant's lawyer here and an  19 executive of Hartz Mountain, for the third report.  20 Ends up getting lowered to 5.5. No elaboration was  21 provided.  22 It is almost an inescapable inference,  23 this is my comment, that Mr. Rhatican, who submitted  24 Mr. Hughes' reports to this board, had reviewed all  25 three and was thus aware that the first two reports</p>	<p style="text-align: right;">Page 101</p> <p>1 had a 6 percent cap rate in them. He couldn't --  2 Mr. Hughes could not cite any specific studies,  3 reports, articles or even peer communications that  4 caused him to lower the cap rate.  5 Lowering the cap rate to 5.5 percent  6 was a major driving factor in his valuation  7 increasing in excess of \$24 million between his  8 second and his third reports. The first project  9 valuation from Hartz Mountain was \$266.46 million.  10 That is more than 9 percent increase by taking a  11 unilateral .5 percent reduction in the cap rate.  12 By doing that, Mr. Hughes' new number  13 for valuation became \$290,687,127 -- 687,127.00,  14 290,687,127.00.  15 Notably and importantly to the quality  16 of the evidence presented to us by Mr. Hughes, he did  17 not show the math for how he arrived at that \$290.687  18 million valuation.  19 The board's expert, Mr. Liotta, had to  20 engage in a deconstruction exercise to figure that  21 out. And when he did, he derived a number,  22 \$264,020.00 less than what Mr. Hughes had calculated.  23 Mr. Liotta could only figure that the difference  24 between their two calculations was due to rounding  25 errors.</p>

<p style="text-align: right;">Page 102</p> <p>1           On rebuttal, Mr. Hughes did not offer a 2 different explanation for that differential or 3 challenge Mr. Liotta's calculation, instead accepting 4 that it was a rounding error of \$264,020.00. That's 5 more than a quarter of a million dollars. When you 6 look at that compared to what the net fiscal impact 7 number is at the end of the calculations, it's 10 8 percent in that one error. 9           Thus, Hartz Mountain's expert produced 10 a rounding error of over a quarter million dollars. 11 I think this is indicative of the quality, 12 credibility and weight of his work, which is not 13 high, in my opinion, as a result of these types of 14 errors and the changes, without explication, of the 15 cap rate number. 16           So just to sum up on the revenue 17 generation -- on the revenue projection side of Mr. 18 Hughes' work, he artificially increased the value 19 which increased the tax rate, which increased the 20 revenues. He lowered the cap rate without credible 21 explanation, lowered the cap rate, increased the 22 valuation, increasing the valuation increases the 23 taxes and so on. And this did not occur until his 24 third report. \$24 million difference between the 25 second and third reports.</p>	<p style="text-align: right;">Page 103</p> <p>1           Now, let's go to the cost side. The 2 cost side also changed substantially from report one 3 to report three; Mr. Hughes' reports. As costs go 4 up, the net fiscal impact turns more negative or 5 detrimental to the applicant. The higher the 6 valuation and the lower the costs, the better the NFI 7 is. So the planner's valuations kept going up from 8 report one to report three, and the costs kept going 9 down. 10           So as not to bury the lead here, 11 between the first report and the third, his cost 12 projections declined report to report to report and 13 his net fiscal impact improved report to report to 14 report. 15           One element of his calculations looked 16 at the cost per resident to the municipality. 17           In his first report, that number was 18 \$918.00 per resident. By his third report, it was 19 \$937.00 per resident. 20           You would think, oh, well, that's to 21 Hartz Mountain's detriment. However, that increase 22 would be a disadvantage to Hartz, except for that 23 Mr. Hughes determined to apply a discount to it. He 24 discounted that \$937.00 all the way down to \$562.00 25 per resident, a full 40-percent reduction.</p>
<p style="text-align: right;">Page 104</p> <p>1           The explanation given was that a 2 discount is appropriate to account for sunk costs, 3 those in the municipal budget that would not be 4 affected by the project, and thus, not increased due 5 to it. 6           The problem with this being done is 7 with the integrity of the methodology that was used. 8 Mr. Hughes testified he used the per capita cost 9 method in Berchal, B-E-R, I think it's C-H-A-L, in 10 calculating the per resident cost. That method does 11 not allow or include a method for discounting that 12 figure. 13           Mr. Liotta explained this in his 14 testimony. Mr. Hughes did not rebut this on May 8th 15 in his rebuttal testimony to Mr. Liotta and 16 Dr. Haber's testimony. And he never explained to us 17 that he had deviated from the Berchal method he had 18 selected to use in the first place. 19           Mr. Liotta testified that in his 20 30 years as a licensed planner in New Jersey, he has 21 not seen another professional purportedly use the 22 Berchal method and discount the per capita cost. 23           Thus, unless I hear something from 24 someone else tonight, I reject the discounted figure 25 of \$562.00 per resident as not being based upon</p>	<p style="text-align: right;">Page 105</p> <p>1 sufficient credible evidence. 2           Without disclosing that he had gone 3 outside the bounds of the relevant Berchal 4 methodology by unilaterally taking that 40 percent 5 per capita discount, he then also lowered his numbers 6 on the population to be generated by the project. 7 It's important. You take the per resident cost times 8 the population and that's how you get the cost total, 9 right? 10           So by lowering the population and 11 lowering the per capita cost, the overall cost to the 12 township that goes into that calculation is to the 13 advantage of the applicant. 14           As the per capita cost goes down, also 15 the net fiscal impact improves. 16           In Hughes' report one, his population 17 number for the project was 1846. By the second 18 report it was down to 1761. That's 85 people or a 19 4.6-percent reduction. By the third report he was 20 down to 1622 people, 139 fewer people and another 21 7.5-percent reduction. 22           In total, between his first report and 23 his third report, the project population number 24 decreased by 224 people or 12.5 percent. These are 25 all significant percentages. And when you put them</p>

<p style="text-align: right;">Page 106</p> <p>1 all together, it becomes an even more significant 2 result.</p> <p>3 So now instead of multiplying 1846 4 people by a per resident cost of \$918.00 per 5 resident, he's using 1622 people times 562 per person 6 cost. Thus, he lowered the overall cost per resident 7 from a total of \$1.7 million to \$911,000.00 with 8 those two changes over the reports. He virtually 9 halved the per resident cost.</p> <p>10 Now let's focus on the changes in 11 project population. The applicant's planner had used 12 the 2006 study of the Rutgers Center for Urban Policy 13 for determining the total population in both the 14 first and the second of his reports, and despite a 15 drop of 85 people or 4.6 percent between those two 16 reports, no explanation was included for the reason 17 why the same study methods resulted in that change.</p> <p>18 In his third and final report, he 19 switched methods from the Rutgers study to the PUMS, 20 P-U-M-S, PUMA, P-U-M-A, approach. He testified that 21 this switch in study methods was to allow for a more 22 granular look at populations based upon communities 23 with similar characteristics. I don't know why he 24 did not use it before, and he did not explain why he 25 did not.</p>	<p style="text-align: right;">Page 107</p> <p>1 Mr. Liotta explained that PUMS method 2 has three different studies that are used depending 3 upon the purpose. This is to determine multipliers 4 that you use in figuring out populations: The 5 one-year, the three-year and the five-year.</p> <p>6 The one-year is used, Mr. Liotta 7 explained, when current or contemporaneous 8 information is sought, and the five-year when 9 accuracy is most important.</p> <p>10 Mr. Hughes' report, that third report, 11 did not identify which PUMS study method he used, nor 12 did he tell us in his January 30th, 2019 testimony.</p> <p>13 It was not until Mr. Hughes appeared 14 before us on May 8th, as a rebuttal witness, that we 15 learned he chose to use the one-year study and not 16 the more accurate study, the five-year study.</p> <p>17 He did not offer that information.</p> <p>18 This board had to ask him which of those studies he 19 used; the one-, the three- or the five-.</p> <p>20 Further, when asked by the board, he 21 could not remember if he ran the figures, his 22 figures, also using the three- and the five-year PUMS 23 to see what the differential results would be.</p> <p>24 I find that difficult to accept under 25 the circumstances of this application, what is it</p>
<p style="text-align: right;">Page 108</p> <p>1 for, and the purposes -- the very purposes of those 2 reports; the one- versus the five-.</p> <p>3 Even curiosity, I would think, would 4 have driven him to have done those calculations using 5 the three- and the five-.</p> <p>6 I am left to infer that if Mr. Hughes 7 indeed did know about the PUMS method when he 8 prepared his first and second reports, he did not use 9 it because the five-year PUMS would have been less 10 advantageous to the applicant than the Rutgers study.</p> <p>11 Either way, I find Mr. Hughes' total 12 population projections to be unreliable, and I do not 13 accept them as supported by substantial, credible 14 evidence.</p> <p>15 I would have expected that the more 16 accurate methodology of the five-year report would 17 have been the PUMS approach he would have taken in 18 this matter.</p> <p>19 Next I look at the per municipal 20 employee cost that is for non-residents. Mr. Hughes 21 did, in fact, drop the per municipal employee cost 22 between reports when he changed methodologies from 23 Rutgers to PUMS, but he should have also dropped the 24 corresponding benefit to Hartz Mountain of the tax 25 revenues generated by the non-resident component.</p>	<p style="text-align: right;">Page 109</p> <p>1 Thus, his analysis is deficient and 2 unreliable there, as well, keeping the benefit of the 3 revenues.</p> <p>4 He did use the 2018 Rutgers Center for 5 Real Estate Study to project school-age children.</p> <p>6 So now we've talked about the total 7 resident population; very important, the other major 8 factor here is what is the impact on our school 9 system. And to do that, he had to make a 10 determination as to the population of school-age 11 children to be anticipated to be generated by the 12 concept project.</p> <p>13 This revision was essentially mandated, 14 the 2018 report -- and this revision in his reports 15 was mandated because there was a 2018 update to the 16 Rutgers study. Hughes said he applied the Rutgers 17 methodology category for average household incomes of 18 \$50,000.00 to \$100,000.00 in selecting the 19 multipliers he chose to use from the Rutgers study.</p> <p>20 He does not say why he chose that 21 income range and he doesn't support it. We've been 22 given no basis for why that was a proper selection or 23 how the numbers would change if he had selected the 24 next higher range.</p> <p>25 And, notably, for a family of three or</p>

<p style="text-align: right;">Page 110</p> <p>1 four, a good part of that 50-to-\$100,000.00 income  2 range falls in the category of low income in Union  3 County according to the published tables. That is an  4 aside.</p> <p>5 This 2018 Rutgers study resulted in  6 increased projection over the 2006 Rutgers  7 multipliers. The 2018 study resulted in 152  8 school-age children versus 136 in the first study.</p> <p>9 So the 2018 Rutgers study pushed the  10 school-age children projection up to 152, but  11 Mr. Hughes reduced that 152 number to 135 by applying  12 Cranford's private school enrollment's percentage of  13 11 percent.</p> <p>14 Said another way, 89 percent of  15 Cranford school-age children are enrolled in our  16 public schools.</p> <p>17 No testimony was provided as to whether  18 Cranford's private school enrollment is spread evenly  19 over the grades K through 12 or has an upper or  20 elementary school bias.</p> <p>21 We, therefore, do not know if it is  22 proper to take that 11 percent reduction since it is  23 agreed by both Mr. Hughes and the board of ed's  24 demographer, Dr. Haber, that the majority of  25 school-age children generated by developments are in</p>	<p style="text-align: right;">Page 111</p> <p>1 the lowest grades.</p> <p>2 Further, private school enrollment is  3 not likely to be consistent with the rest of the  4 township's rate of 11 percent; assuming that  5 Mr. Hughes is correct about that 89 percent and 11  6 percent in the 50- to \$100,000.00-household income  7 range, as that encompasses low-income families.</p> <p>8 But be that as it may, with further  9 respect to the reliability of his use of the Rutgers  10 study, Hughes acknowledged in response to  11 Dr. Chapman's questions that he did not even know the  12 limitation errors of the 2018 Rutgers study. They're  13 published.</p> <p>14 The issue then presented is whether  15 Mr. Hughes applied Rutgers appropriately. He  16 referred to it as an order-of-magnitude study.  17 Coupling this with his use of the one-year PUMS which  18 is not the PUMS you use when you want accurate  19 numbers, I am not confident that Mr. Hughes' work was  20 done with accuracy in mind. Rather it appears that  21 the order-of-magnitude results, what order of  22 magnitude I don't know -- I don't know, was what was  23 sought.</p> <p>24 Again, this renders his work  25 unreliable, and certainly not at the level of the</p>
<p style="text-align: right;">Page 112</p> <p>1 requisite substantial credible evidence that the  2 applicant is required to present to meet its burden.</p> <p>3 As a result, the applicant has not  4 established a reliable school-age child population  5 figure.</p> <p>6 I want to take one minute to just  7 mention that he did use, Mr. Hughes, a second method  8 to project school-age children comparable -- he  9 called it, I think, a comparable-projects analysis.  10 I note that he acknowledged that he did not know what  11 the private versus public school enrollment  12 percentages are at any of the supposedly comparable  13 developments he cited, nor has he done population  14 yield studies at those purported comparable  15 developments, Woodmont, Cranford Crossing or  16 Riverfront, all of which we all know are in the  17 Transit Village and not truly comparable as a result.</p> <p>18 Assuming for a moment that Hartz  19 Mountain did establish, which it didn't, a reliable  20 school-age child population number, the next issue to  21 look at would be the cost per student.</p> <p>22 Just wrapping up on Mr. Hughes' reports  23 thus far, for the reasons I just went through, his  24 testimony and reports lack substantial credible  25 evidence to support his valuation figure, his total</p>	<p style="text-align: right;">Page 113</p> <p>1 population figure, his student population figure, his  2 per capita cost figures, his per municipal employee  3 cost figure, even though he dropped it, it still  4 causes a reliability problem because it kept -- it  5 looks like it kept the revenue advantage, or any  6 combination of the above. I do not find his net  7 fiscal impact projections to be reliable.</p> <p>8 And though it is the applicant's burden  9 to demonstrate a positive net fiscal impact, I note  10 that Mr. Liotta's testimony was compelling, sound,  11 and in my opinion, reliable. His calculations  12 resulted in a negative fiscal impact of an excess of  13 \$2 million to the township. We would have to look at  14 the per student cost involved in that.</p> <p>15 I've spoken quite a bit at this point.  16 If there's anybody who wants to jump in, please do  17 so. I'd like to come back after I rest my voice a  18 little bit, and stop boring you all to death, to talk  19 about those -- more regarding the school system.</p> <p>20 CHARWOMAN MURRAY: Thank you,  21 Commissioner Dooley.</p> <p>22 I'll add a few comments that have to do  23 with the board of Ed. One of the central questions  24 regarding whether the proposed zone change will  25 substantially and meaningfully benefit the township</p>

<p style="text-align: right;">Page 114</p> <p>1 and further the purposes of that MLUL is the impact 2 on educational programs and facilities in the 3 township. 4 We heard testimony from the applicant's 5 planner, Keenan Hughes, and representatives of 6 Cranford's Board of Education, including the 7 superintendent, Dr. Scott Rubin, business 8 administrator, Dr. -- excuse me, Mr. Robert Carfagno, 9 and the board of education's demographer, Dr. Russ 10 Haber. 11 A number of factors were discussed for 12 our consideration, including the likely number of 13 students to be generated by the proposed rezone and 14 development, the facilities and capacity of the 15 existing schools to receive students, the state 16 imposed board of education constraints on raising 17 funds, and the impact to Cranford's students. 18 Regarding the future student 19 population, as Commission Dooley was discussing, 20 Mr. Hughes, the applicant's expert, provided 21 testimony that the proposed project would yield an 22 estimated 110 to 135 students at full build out. 23 Dr. Haber, the board of education's demographer, 24 provided testimony that the estimated yield would be 25 353. How are we to make sense of these disparate</p>	<p style="text-align: right;">Page 115</p> <p>1 estimates? 2 The board accepted Mr. Hughes, 3 Dr. Rubin, Mr. Carfagno and Dr. Haber as experts. 4 The applicant offered no objections. As was 5 indicated when the board introduced both Dr. Rubin 6 and Mr. Carfagno prior to their testimony, a 7 significant portion of their responsibilities is to 8 plan and anticipate future impacts to the school 9 district. To that end, they retained Dr. Haber to 10 calculate student population projections town-wide as 11 well as for the proposed development at 750 Walnut 12 Avenue. 13 Dr. Rubin, Mr. Carfagno and Dr. Haber 14 do not benefit from inflating estimates. Accuracy is 15 their only goal. However, Mr. Hughes' projections 16 benefit the applicant, his client, by being as low as 17 possible. This difference in point of view gives 18 additional weight to the testimony of Dr. Rubin, 19 Mr. Carfagno and Dr. Haber. 20 Mr. Rhatigan and Mr. Hughes attacked 21 Dr. Haber's methodology as flawed. However, 22 projection of student populations is Dr. Haber's area 23 of expertise, unlike Mr. Hughes who is a general 24 planner. 25 In addition, Dr. Haber's projections</p>
<p style="text-align: right;">Page 116</p> <p>1 have been accepted by over 200 school districts. 2 Further, he has conducted post-mortem 3 evaluations of his projections and they have been 4 found to be within 2 to 3 percent of his estimates. 5 Mr. Hughes stated he has never conducted post-mortem 6 analyses, so the accuracy of his estimates remain 7 unknown. 8 Given Dr. Haber's proven track record 9 in over 200 districts, I am inclined to accept his 10 projections as more likely to be accurate than those 11 of Mr. Hughes. 12 When considering facilities, as those 13 who live and work here know, Cranford's schools are 14 neighborhood schools. Students who would live at the 15 proposed development would primarily attend either 16 the Walnut Avenue school or Livingston Avenue school. 17 Dr. Rubin, Mr. Carfagno and Dr. Haber are familiar 18 with the current use and availability in those 19 schools. Mr. Hughes testified that he has never 20 visited any of the Cranford schools. 21 In the testimony provided by 22 Mr. Hughes, he concluded that there would be no need 23 for additional school facilities; however, as I 24 stated, under examination he admitted that he had 25 never visited or inspected the facilities in making</p>	<p style="text-align: right;">Page 117</p> <p>1 this judgment. 2 Mr. Carfagno, who is the board 3 administrator, visits the buildings regularly in his 4 function. He stated in his April 3, 2019, testimony 5 that, I quote: 6 "Our buildings are full. Not only are 7 our classrooms full, we are sharing spaces and 8 multiple use is happening all over the 9 district and in classrooms, which isn't fair 10 to teachers and students." 11 Based on the testimony of those most 12 familiar with the school facilities most likely to be 13 affected, Walnut and Livingston schools, even the 14 110- to 135-student projections provided by 15 Mr. Hughes could not be accommodated by the existing 16 facilities. The more likely projections of Dr. Haber 17 would be catastrophic. 18 Further, if the -- Mr. Carfagno 19 explained that if construction of new schools were 20 required, the process would take at least three to 21 five years, if not longer, and is not really within 22 the total control of the board of ed as applications 23 have to be made to the state, and it's possible that 24 it would take even longer than that. 25 Another point that was made is</p>

<p style="text-align: right;">Page 118</p> <p>1 constraints on funding.</p> <p>2 As Commissioner Dooley was explaining,</p> <p>3 part of the fiscal impact statement was to indicate</p> <p>4 how much money and tax revenue this proposed</p> <p>5 development would generate. The implication was that</p> <p>6 that tax revenue would go to the schools, but that's</p> <p>7 not the way it works.</p> <p>8 Mr. Carfagno provided a detailed</p> <p>9 explanation of how school budgets in New Jersey</p> <p>10 operate, that the state board has placed a strict</p> <p>11 2-percent cap on budget increases from one year to</p> <p>12 the next. An influx of students does not permit a</p> <p>13 proportionate increase in the amount budgeted.</p> <p>14 Further, the number of studies included</p> <p>15 in the budget for the following year is based on the</p> <p>16 students who are in place in the current year.</p> <p>17 So when projecting their costs, who is</p> <p>18 in place in March of 2019, is going to govern the</p> <p>19 funds for the school year starting in the fall. You</p> <p>20 don't -- you don't get to change it afterwards.</p> <p>21 If there is a subsequent increase in</p> <p>22 students, there's no mechanism to increase the</p> <p>23 budget. The board of education must make do with</p> <p>24 what they have. Mr. Carfagno explained mechanisms to</p> <p>25 increase the amount, but the processes are</p>	<p style="text-align: right;">Page 119</p> <p>1 complicated and do not permit for the adjustment of</p> <p>2 future expected students, only those currently</p> <p>3 enrolled.</p> <p>4 Although the tax revenue that would be</p> <p>5 generated to the municipality as a result of the</p> <p>6 proposed development would not provide -- as I said,</p> <p>7 would not provide funds to the Cranford Board of</p> <p>8 Education.</p> <p>9 As stated by Mr. Carfagno on April 3,</p> <p>10 2019:</p> <p>11 "There is a hard cap on the amount that</p> <p>12 can be raised through taxation for school</p> <p>13 budget of 2 percent. Assuming this project</p> <p>14 comes on board and that extra money is raised</p> <p>15 that exceeds the 2 percent, it is not</p> <p>16 available to the school budget. I know of no</p> <p>17 mechanism to receive that money."</p> <p>18 Regarding the impact to Cranford</p> <p>19 students, given the funding constraints placed on the</p> <p>20 board of education by the State, the influx of</p> <p>21 students from a proposed development at 750 Walnut</p> <p>22 Avenue to principally Walnut Avenue and Livingston</p> <p>23 Avenue schools would be catastrophic. Current class</p> <p>24 sizes in these schools is 20 to 25 students. The</p> <p>25 projected increases in students at these schools</p>
<p style="text-align: right;">Page 120</p> <p>1 could result in class sizes exceeding 35 students.</p> <p>2 Dedicated rooms for art, music,</p> <p>3 physical and occupational therapy, speech, resource</p> <p>4 room and ESL would be eliminated. The negative</p> <p>5 impact on our students' education would be felt for</p> <p>6 years to come.</p> <p>7 Cranford has long been known for its</p> <p>8 excellent school system. The effect of this sudden</p> <p>9 influx on students would also impact housing values,</p> <p>10 and thereby lower the property tax income.</p> <p>11 I think it's clear from that, that</p> <p>12 there would be a -- not a benefit to the education in</p> <p>13 Cranford from the proposed development.</p> <p>14 DEPUTY MAYOR DOOLEY: Just to finish on</p> <p>15 that --</p> <p>16 MR. ASCHENBACH: I have a comment.</p> <p>17 DEPUTY MAYOR DOOLEY: -- the net -- to</p> <p>18 tie her numbers into mine, I'll just finish that.</p> <p>19 So, I -- thank you. That saved me a</p> <p>20 lot of speaking.</p> <p>21 So based upon what Ms. Murray said</p> <p>22 about Dr. Carfagno's testimony in particular,</p> <p>23 Mr. Hughes used the per student cost of \$14,179.00.</p> <p>24 Dr. Carfagno, as Ms. Murray pointed out, has to be</p> <p>25 right, and has a more accurate number of \$15,915.00</p>	<p style="text-align: right;">Page 121</p> <p>1 per student. So that resulted in a significant</p> <p>2 increase to the cost that this project, as conceived,</p> <p>3 could have on the school system.</p> <p>4 When you take that per cost number,</p> <p>5 which is 12.2 percent higher than the one that</p> <p>6 Mr. Hughes used, you get a very significant</p> <p>7 difference when you multiply it by the number of</p> <p>8 students that the project could create.</p> <p>9 And with respect to Dr. Haber's</p> <p>10 numbers, I just want to emphasize, besides what</p> <p>11 Ms. Murray said, Dr. Haber is a demographer and a</p> <p>12 school demographer. That's what he does for a</p> <p>13 living. The New Jersey School District Authority has</p> <p>14 approved his projections in order to authorize</p> <p>15 construction funding. The New Jersey SDA accepts his</p> <p>16 projections for both the disbursement of public funds</p> <p>17 or bonding. That's a very significant thing to me</p> <p>18 because the department of education does not want to</p> <p>19 have empty seats or empty classrooms or tax or</p> <p>20 otherwise put financial burdens on the citizens and</p> <p>21 residents of the state or a particular town, so the</p> <p>22 accuracy of Haber's numbers have a higher level of</p> <p>23 reliability to me as a result of NJSDA accepting his</p> <p>24 projections.</p> <p>25 And I'd also say that Mr. Carfagno,</p>

<p style="text-align: right;">Page 122</p> <p>1 given what his position is with the township, he has  2 a fiduciary duty to the taxpayers of this town and  3 this district, and that, again, gives him a  4 heightened -- his evidence and his projection of  5 \$15,915.00 to be more reliable to me.  6 And so when you use Haber's number of  7 353 students and Carfagno's per cost -- per student  8 cost of \$15,915.00, as Mr. Liotta did in his  9 testimony and in his report, it is a very significant  10 negative net fiscal impact to this town in contrast  11 to Mr. Hughes' determination that it would be a  12 positive net fiscal impact.  13 I think this is very important for  14 everyone to understand. I agree with everything that  15 Ms. Murray said. And that, I think, a really  16 important thing here is the weight that we give --  17 each of us determines to give to Dr. Haber, a  18 demographer, versus Mr. Hughes. And Mr. Carfagno,  19 the weight, we give to his number of 15,915 students.  20 And the last thing I want to just say  21 on that is I believe it was Mr. Carfagno who  22 testified that a single student who has to go out of  23 district costs us \$87,000.00. If that student has  24 transportation, it's \$107,000.00 or more.  25 With the 2-percent cap that the school</p>	<p style="text-align: right;">Page 123</p> <p>1 system is confronted with on the budget every year, a  2 single out of district student would be more than 10  3 percent of the amount of cap increase we can have  4 year to year. And there is no way to project, you  5 know, how many of those out of district students we  6 have. We currently have 50. But a single one takes  7 10 percent of the cap, the 2-percent cap.  8 CHARWOMAN MURRAY: Thank you,  9 Commissioner.  10 MR. ASCHENBACH: I just would like to  11 make a comment.  12 As I have been listening to the very  13 good presentation here, I, you know, certainly have  14 become more supportive of maintaining the zone as  15 commercial.  16 I've had 36 years of experience of  17 valuing the credit of local governments. I was  18 Cranford's financial commissioner nine years, on the  19 governing board 18 years. I have more experience at  20 doing this type of fiscal calculation than lawyers  21 and experts.  22 So maintaining the current zone at 750  23 Walnut at a 60, 70, 80, 90 percent capacity --  24 occupancy rate, will have no school children.  25 So the fiscal impact of that will</p>
<p style="text-align: right;">Page 124</p> <p>1 always be positive. And it will help strengthen our  2 existing school systems.  3 So I think that's an important  4 consideration of why we're considering leaving the  5 current zoning in place and to try to strengthen that  6 zoning, not just with the application was, was to --  7 and rightly so, evaluating the impacts of what was  8 proposed.  9 Thank you.  10 DR. CHAPMAN: Madame Chair?  11 CHARWOMAN MURRAY: Dr. Chapman.  12 DR. CHAPMAN: Yes, ma'am.  13 So I want to briefly reiterate some of  14 my concerns dealing with the school system, but I  15 also want to touch on traffic on-site and circulation  16 within the proposed project.  17 Which do you prefer I start with?  18 CHARWOMAN MURRAY: Dealer's choice.  19 DR. CHAPMAN: So I'll start with the  20 traffic and then I'll go back into the school to  21 change it a little bit.  22 So there was testimony from Hartz  23 experts regarding traffic impacts both on-site and  24 off-site, as well as the planning board's expert.  25 There was also traffic testimony.</p>	<p style="text-align: right;">Page 125</p> <p>1 I think according to Mr. Martell, there  2 are no current conditions on-site which are causing a  3 negative impact to the surrounding communities.  4 There were expert traffic testimony  5 provided by Hartz, as well as the Planning Board,  6 regarding the circulation within 750 Walnut's  7 proposed project based upon projections of Phase I  8 and Phase II.  9 Most of the concerns dealing with the  10 circulation on-site of the proposed project were  11 adequately addressed by Mr. Martell.  12 However, it was identified that there  13 is no parking for any of the amenities within the  14 site, and that the lanes of travel are not sufficient  15 to accommodate multiple emergency vehicles. There  16 was a lot of testimony and a lot of discussion  17 regarding whether or not a fire truck could get down  18 the lane, if it would be able to turn, and then there  19 were resubmissions of plans.  20 And then, again, that circulation for  21 fire truck during a time/life critical event at any  22 of the industrial properties or homes, there is not  23 going to be one emergency services vehicle. There's  24 not going to be one police car. There's not going to  25 be one fire truck. There's not going to be one</p>



<p style="text-align: right;">Page 126</p> <p>1 ambulance. You're also going to have advanced 2 paramedic units that are going to be there. You may 3 have mutual aids. So you may have multiple emergency 4 services vehicles that need be able to not only 5 access the site, but also to be able to leave the 6 site. So I think that that needs to also be -- 7 causes me a concern as well.</p> <p>8 The testimony regarding the on-site -- 9 the off-site traffic provided by Mr. Penke indicated 10 that based upon a Traffic Impact Study performed in 11 connection with 750 Walnut Avenue, he concluded that 12 a change to the use would not have a material 13 off-site traffic impact based upon quantitative ITE 14 data, which is an acceptable traffic engineering 15 standard.</p> <p>16 I accept that the quantitative traffic 17 data is a reliable method of predicting traffic; 18 however, quantitative data supported with qualitative 19 data may provide for a more accurate projection of 20 off-site traffic impacts generated by the proposed 21 project.</p> <p>22 Hartz has proposed providing shuttle 23 services to and from Cranford train station to 24 minimize the number of individual occupant trips 25 generated. However, Hartz has provided no testimony</p>	<p style="text-align: right;">Page 127</p> <p>1 as to how many school buses or how often they project 2 will be needed to transport either 135 or 353 school 3 children each day to three or more schools within the 4 town.</p> <p>5 My personal observation and the real 6 world observations and lived experiences of numerous 7 objectors who have testified and provided comments 8 during these hearings regarding the current traffic 9 conditions on Walnut Avenue and other parts of the 10 township must be seriously considered because of our 11 specific and peculiar knowledge of the traffic 12 conditions on Walnut Avenue as well as throughout the 13 town.</p> <p>14 The qualitative data citizens provided 15 during the hearing may be more reliable than the ITE 16 data projections utilized by Mr. Penke.</p> <p>17 Again, my personal life experiences of 18 walking on Walnut Avenue several days a week during 19 peak hours and during school hours, as well as the 20 numerous citizen objectors real world experiences 21 within the area of Walnut Avenue and the surrounding 22 areas are that the proposed project, as a result of 23 shuttles and/or buses entering and exiting the 24 proposed project location to take residents to and 25 from the train station and from -- and buses to take</p>
<p style="text-align: right;">Page 128</p> <p>1 students to three or more schools, as well as 2 residents of the project who may elect not to take 3 the shuttle, but to drive, will not be a meaningful, 4 substantial benefit to the individuals living in the 5 area of Walnut Avenue.</p> <p>6 I do not consider the use of shuttles 7 and/or buses to mitigate conditions produced as a 8 result of the proposed project as a substantial or 9 meaningful benefit to the Township of Cranford 10 because not but for this project, no mitigation would 11 be necessary.</p> <p>12 I agree with Mr. Martell who testified 13 that there are no current conditions on-site which 14 are causing a negative impact to the surrounding 15 neighborhoods. It is reasonable to consider that 16 prior to the construction of the Starbucks located on 17 North Avenue East at Elizabeth Avenue, that there was 18 some type of Traffic Impact Study, and it probably 19 generated or the conclusion was that it would cause 20 no -- have no negative impact to the surrounding 21 area.</p> <p>22 My personal observations of the North 23 Avenue and Elizabeth Avenue Starbucks is that it is 24 producing a negative impact on the community due to 25 vehicles attempting to access the property. I point</p>	<p style="text-align: right;">Page 129</p> <p>1 to the Starbucks to highlight that statistical data, 2 such as traffic engineering data do not always tell 3 us what will happen, they only suggest what may 4 happen.</p> <p>5 When the data is incorrect, the project 6 is built. The cars are there. The community suffers 7 the negative consequences. Therefore, I find that 8 the proposed multifamily project at 750 Walnut, with 9 the projection of up to 30 units per acre, will 10 change the traffic conditions in and about Walnut 11 Avenue and the township. And that such a project 12 would not substantially and meaningfully benefit the 13 individuals residing in the area of Walnut Avenue or 14 other parts of the township.</p> <p>15 It's important to note that I have not 16 rejected the expert testimony of Mr. Penke, as I 17 found him to be credible, articulate, and his 18 methodologies to be reliable from a quantitative 19 perspective; however, Mr. Penke only utilized 20 quantitative data to support his opinion regarding 21 traffic impacts.</p> <p>22 In forming my opinion, I considered 23 both Mr. Penke's quantitative data, as well as the 24 qualitative data of my personal observation and 25 knowledge of the area, as well as numerous citizen</p>

<p style="text-align: right;">Page 130</p> <p>1 objectors real world experiences relating to the  2 traffic on Walnut Avenue, as well as other parts of  3 the town.</p> <p>4 It would be inappropriate for  5 Mr. Penke, Hartz or any other non-Cranford residents  6 to replace my real world observations or the lived  7 experiences of citizens objectors in and about the  8 area of Walnut Avenue, with subjective assessments  9 relating to how such a project will substantially and  10 meaningfully benefit the township in terms of  11 off-site traffic impacts.</p> <p>12 I'll now briefly -- it's a lot, I'm  13 going to take a long time. No.</p> <p>14 I will now talk about the school  15 system. The impact of the project possibly having on  16 the school system.</p> <p>17 Dr. Rubin, the school superintendent,  18 as well as Mr. Carfagno, the business administrator,  19 both provided credible testimony as to the current  20 staffing and census levels of students in the  21 Cranford school systems within its eight buildings.  22 They testified that there's 3,867 students and 500  23 employees.</p> <p>24 Dr. Rubin and Mr. Carfagno accepted and  25 relied upon Dr. Haber's projections related to the</p>	<p style="text-align: right;">Page 131</p> <p>1 total number of students the proposed multifamily  2 development will cause to be registered in the  3 Cranford school system.</p> <p>4 Dr. Haber is an expert. Dr. Haber is a  5 school demographer. Again, a school demographer is  6 an individual that studies the makeup and  7 distribution of trends of school population, then  8 makes projections based upon that statistical data.</p> <p>9 Dr. Haber has been accepted as an  10 expert. Dr. -- he works with the New Jersey School  11 Development Authority. He has been accepted as an  12 expert by the State of New Jersey, as well as the  13 State of New York.</p> <p>14 Dr. Haber has been retained by over 200  15 school districts, the school construction board; some  16 of those school districts in which he was retained,  17 Madison, Westfield, Summit, Ridgewood, Glenwood, and  18 I think, most importantly, Springfield. The Township  19 of Springfield, he was retained and he made  20 projections relating to the number of school-age  21 students.</p> <p>22 Dr. Haber understands the limitation  23 errors of statistical data. He goes back and he  24 validates his projections. Dr. Haber indicated that  25 his plus or minus success rate or accuracy in</p>
<p style="text-align: right;">Page 132</p> <p>1 projecting the number of school students that will be  2 enrolled in a particular school system is anywhere  3 from, during a three-year period, 2 to 2-and-a-half  4 -- 2.5 percent margin or error; over four years it's  5 3 to 3-and-a-half percent margin of error; and within  6 five years, five-year period, his margin of error was  7 3 to 4 percent.</p> <p>8 There was a lot of talk about the  9 Rutgers study. Dr. Haber, again, testified  10 accurately, and I think, most importantly, where he  11 explained the Rutgers study by saying that the  12 Rutgers study is used to generate baseline numbers of  13 individuals that would occupy a particular housing  14 unit and not necessarily the total number of students  15 that would enter a school's educational system.</p> <p>16 He also indicated that the Rutgers  17 study utilizes macro statewide data, while he  18 utilizes micro community-based data. He identified  19 that the Rutgers study has a history of under  20 projecting the number of students which are  21 anticipated to enter a school system based upon macro  22 statewide data.</p> <p>23 An example that he gave relating to the  24 Township of Cranford, if you have an individual that  25 lives in a four-bedroom home that has no kids, but</p>	<p style="text-align: right;">Page 133</p> <p>1 they're still maintaining that home and they elect to  2 move to another facility within town where it's  3 one-bedroom, there's a possibility that four  4 additional children -- four or more additional  5 children will register for the school system.</p> <p>6 Well, you can say that the project  7 indirectly was a result of those four additional  8 students.</p> <p>9 Dr. Haber indicated that in 2009, he  10 identified the deficiencies with the Rutgers study so  11 he stopped using it. He stopped using the Rutgers  12 studies in 2009.</p> <p>13 So I find that Dr. Haber, who is  14 specifically a school demographer, to be credible in  15 his methodology of projecting the total number of  16 students who would enter the Cranford school system  17 directly from the proposed 750 Walnut multifamily  18 project and indirectly to be more reliable than the  19 numbers generated by Hartz experts who utilized the  20 Rutgers study.</p> <p>21 And then briefly, Dr. Rubin and  22 Mr. Carfagno testified as to the impact of the  23 proposed project. Since a lot has been already said,  24 I'll just point on -- just touch on two things.  25 Dr. Rubin indicated that students are</p>

<p style="text-align: right;">Page 134</p> <p>1 assigned to specific schools based upon their 2 attendant zone.</p> <p>3 So the result of the proposed new 4 project would overload Livingston School and Hillside 5 Avenue school. The building could not handle the 6 projected increase in the number of students. The 7 likely 353-student enrollment resulting from the 8 project would be more than any of the current 9 elementary schools currently have.</p> <p>10 Dr. Rubin also testified that the full 11 build-out of the project would result in the 12 following numbers of students by grade level: K 13 through 5, 247; sixth grade to seventh grade, 700 -- 14 excuse me -- 71; and 9 through 12, 35 students.</p> <p>15 Dr. Rubin testified that all available 16 space is being utilized within all of the Cranford 17 school buildings. Of the testimony which I 18 considered from Dr. Rubin, Hartz has only challenged 19 Dr. Rubin relating to the projected number of 20 students the proposed project will generate.</p> <p>21 Mr. Carfagno, again, testified that the 22 Cranford school system's capital reserve account has 23 a total amount of \$1.00. He also, again, testified 24 that the budgetary cost for one student is 25 \$15,950.00. Of the testimony which I considered for</p>	<p style="text-align: right;">Page 135</p> <p>1 Mr. Carfagno, Hartz only challenged -- did not 2 challenge any of Mr. Carfagno's opinions or 3 testimony.</p> <p>4 So the correct question or concern for 5 me regarding the possible impact the proposed 6 multifamily development at 750 Walnut will have on 7 the Cranford school system is not -- is the Cranford 8 -- or is not can the Cranford school system 9 accommodate the students generated from the proposed 10 project regardless which of the numbers we use; 135 11 or 353.</p> <p>12 For me, the question is will the 13 proposed project substantially and meaningfully 14 benefit the township? To answer this question I 15 looked to the testimony again of Dr. Rubin and 16 Mr. Carfagno. Dr. Rubin indicated the State of New 17 Jersey does not regulate maximum class size. So it 18 is reasonable to consider that the proposed project 19 would result in large class size, possibly over 30 20 students per class.</p> <p>21 Dr. Rubin again testified all available 22 space in the building are being utilized. It's 23 reasonable to consider that the proposed project 24 could result in the elimination of dedicated space 25 and/or educational opportunities such as library</p>
<p style="text-align: right;">Page 136</p> <p>1 services, art, music, and other meaningful 2 educational disciplines. Dr. Rubin's testimony was 3 unrefuted by any competent or reliable testimony.</p> <p>4 Mr. Carfagno indicated if there is a 5 deficit in funds, there would be a need to reallocate 6 -- there would be a reallocation of resources or a 7 reduction of services.</p> <p>8 Again, it's reasonable to consider that 9 the proposed project could result in elimination of 10 some of the current educational opportunities, 11 termination of administrators, faculty and staff, and 12 high student numbers.</p> <p>13 Mr. Carfagno indicates that the 14 proposed project would not have an economic benefit 15 to the school district; however, Hartz provided 16 testimony which asserts that the Cranford school 17 system would receive an economic benefit from the 18 project.</p> <p>19 I reject Hartz testimony and find 20 Mr. Carfagno's testimony regarding the proposed 21 project of not having a economic benefit to the 22 school system to be more reliable and accurate.</p> <p>23 Again, it is my opinion that regardless 24 of which numbers we use, 135 or 353, relating to the 25 number of school students, the additional students</p>	<p style="text-align: right;">Page 137</p> <p>1 will not substantially and meaningfully be a benefit 2 to the township or the educational goals of the 3 Cranford school system, in part because of the 4 possible increased class sizes, the reduction of 5 educational space, the reduction of educational 6 opportunities, the need to increase the number of 7 faculty and staff without having the financial means 8 of doing it.</p> <p>9 But I think it's most -- and the last 10 thing, it's important to note that my opinion is not 11 that the Cranford school system cannot absorb the 12 number of projected students regardless if it's 135 13 or 353. It's the, at what cost? And the cost, as I 14 said before, it's the large class sizes, the 15 elimination of dedicated educational space and the 16 reduction of educational opportunities.</p> <p>17 Thank you.</p> <p>18 CHAIRWOMAN MURRAY: Thank you, 19 Dr. Chapman.</p> <p>20 Anyone else like to comment on this 21 topic?</p> <p>22 Ms. Feder?</p> <p>23 MS. FEDER: Just briefly, I want to 24 thank my colleagues, Dr. Chapman and Deputy Mayor 25 Dooley for presenting a very thorough analysis of</p>

<p style="text-align: right;">Page 138</p> <p>1 this fiscal impact of this proposed project.</p> <p>2 I think they have gone through the</p> <p>3 details. I just wanted to reiterate the fact that as</p> <p>4 I listened to our expert, Mr. Liotta, he pointed out</p> <p>5 the -- as did Commissioner Dooley, the discrepancies</p> <p>6 in the three reports that were presented by the</p> <p>7 applicant.</p> <p>8 In my mind, this is significant. Each</p> <p>9 of the reports increased the benefit to the town. So</p> <p>10 it left me -- each -- each of the reports showed an</p> <p>11 increased benefit to the town with less residents --</p> <p>12 each successive report, is what I'm trying to -- it's</p> <p>13 late so, in conclusion, I would just like to say that</p> <p>14 without getting into the facts, again, that I had</p> <p>15 very little faith in the fiscal analysis presented by</p> <p>16 the applicant. And I think that our applicant [sic]</p> <p>17 was credible in pointing out these discrepancies and</p> <p>18 thereby I do not believe that this project will have</p> <p>19 a positive fiscal impact on the town, and may, in</p> <p>20 fact, have a detrimental effect on our school system</p> <p>21 as outlined by Dr. Chapman.</p> <p>22 Thank you.</p> <p>23 CHAIRWOMAN MURRAY: Thank you,</p> <p>24 Ms. Feder.</p> <p>25 DEPUTY MAYOR DOOLEY: I think you meant</p>	<p style="text-align: right;">Page 139</p> <p>1 --</p> <p>2 MS. FEDER: Yeah, I did.</p> <p>3 DEPUTY MAYOR DOOLEY: -- yes, that the</p> <p>4 population number from report to report to report --</p> <p>5 MS. FEDER: I did mean that.</p> <p>6 DEPUTY MAYOR DOOLEY: -- of Mr. Hughes</p> <p>7 went down, which would have indicated -- when you</p> <p>8 said a benefit to the town, it meant that fewer</p> <p>9 people, there's going to be a positive net fiscal</p> <p>10 impact.</p> <p>11 MS. FEDER: Right.</p> <p>12 DEPUTY MAYOR DOOLEY: But we challenge</p> <p>13 those numbers.</p> <p>14 In fact, I rejected those numbers after</p> <p>15 going through the analysis that the population number</p> <p>16 should have been 1622.</p> <p>17 Without reiterating those reasons, it</p> <p>18 is late, I will say that what Dr. -- what Mr. Liotta</p> <p>19 did on slides, particularly slide 14 which I think is</p> <p>20 the most relevant, is he was caught in a conundrum</p> <p>21 with these changing populations numbers so he chose</p> <p>22 the one in the middle, which was over 1700.</p> <p>23 And even using the one in the middle,</p> <p>24 and I mean, Mr. Hughes' had one, two and three</p> <p>25 population numbers, Mr. Liotta, running the</p>
<p style="text-align: right;">Page 140</p> <p>1 calculations, found a net fiscal impact that was</p> <p>2 quite negative to the town.</p> <p>3 And with respect to Dr. Haber, because</p> <p>4 he is the other one who presented a critical number</p> <p>5 of the number of school-age children, the Hartz</p> <p>6 planner, Mr. Hughes, criticized Dr. Haber for not</p> <p>7 applying a 5 percent vacancy rate to his 353</p> <p>8 school-age children number.</p> <p>9 If you were, in fact, to do that, you'd</p> <p>10 still come up with 335.5 students, and the number is</p> <p>11 still overwhelmingly a net fiscal impact that is</p> <p>12 negative to the school system, and then combined with</p> <p>13 the negative impact to the township, a large negative</p> <p>14 fiscal impact to the totality of the town.</p> <p>15 I would also say, if you were to take</p> <p>16 Haber's number of 353 students and Hughes' of 135 and</p> <p>17 split that baby, it's 244 students. Again, still a</p> <p>18 negative fiscal impact to the school system and to</p> <p>19 the town.</p> <p>20 Hughes also criticized Dr. Haber's</p> <p>21 methodology, and I would say he -- when I reread his,</p> <p>22 being Mr. Hughes', rebuttal and Dr. Haber's</p> <p>23 testimony, he mischaracterized Dr. Haber's</p> <p>24 methodology as not being project-based and being a</p> <p>25 simple per capita mathematical equation.</p>	<p style="text-align: right;">Page 141</p> <p>1 But Haber was very careful and very</p> <p>2 thorough in explaining how his approach does, in</p> <p>3 fact, consider developments and projects and all</p> <p>4 housing stock of all kinds and many other factors</p> <p>5 that he found through his decades as a school</p> <p>6 demographer to be relevant. And he uses that</p> <p>7 district factor group approach and he gets the</p> <p>8 district factor group from the State of New Jersey.</p> <p>9 He didn't pull it out of thin air. The school of New</p> <p>10 Jersey's Department of Education produces the</p> <p>11 district factor groups. And he used those in coming</p> <p>12 up with his 353 school-age children.</p> <p>13 So the rebuttal -- on rebuttal the</p> <p>14 criticism of Dr. Haber's methodology and his</p> <p>15 calculations did not resonate with me. And I, on</p> <p>16 balance, rejected them.</p> <p>17 So I wanted to add those few things.</p> <p>18 And I thank you for indulging me.</p> <p>19 CHARWOMAN MURRAY: Thank you,</p> <p>20 Commissioner.</p> <p>21 Any other comments?</p> <p>22 (No Response.)</p> <p>23 CHARWOMAN MURRAY: Hearing none.</p> <p>24 MR. ROTHMAN: So I would like to add,</p> <p>25 as the board considers this second standard, whether</p>

<p style="text-align: right;">Page 142</p> <p>1 the applicant has met its burden demonstrating</p> <p>2 through the presentation of sufficient credible</p> <p>3 evidence that the rezoning proposed by the applicant</p> <p>4 will substantially and meaningfully benefit the</p> <p>5 township and further the purposes of the MLUL, the</p> <p>6 Planning Board should consider or determine whether</p> <p>7 the applicant has demonstrated that the proposed</p> <p>8 zoning will not unduly burden the planned and orderly</p> <p>9 development of the township or place an undue burden</p> <p>10 on municipal services and facilities, including</p> <p>11 traffic, fiscal impact and the like.</p> <p>12 As the motion on the second standard is</p> <p>13 considered, it should include what I just cited from</p> <p>14 page 2 of the jury charge.</p> <p>15 DEPUTY MAYOR DOOLEY: You're talking</p> <p>16 about the phraseology of the motion?</p> <p>17 MR. ROTHMAN: Yes.</p> <p>18 CHAIRWOMAN MURRAY: And that being that</p> <p>19 the Planning Board must determine whether the</p> <p>20 applicant has demonstrated that the proposed zoning</p> <p>21 will not --</p> <p>22 MR. ROTHMAN: Rezoning.</p> <p>23 CHAIRWOMAN MURRAY: Rezoning, excuse</p> <p>24 me, will not unduly burden the planned and orderly</p> <p>25 development of the township or place an undue burden</p>	<p style="text-align: right;">Page 143</p> <p>1 on municipal services and facilities, including</p> <p>2 traffic impact, fiscal impact and the like.</p> <p>3 DEPUTY MAYOR DOOLEY: So I would just</p> <p>4 note that the way this jury charge is written, if you</p> <p>5 go to No. 9, just looking at if your answer to No. 8</p> <p>6 is no, then you've concluded that the proposed</p> <p>7 rezoning is not warranted.</p> <p>8 So when we phrase this motion, to be</p> <p>9 consistent with this jury charge and how it triggers</p> <p>10 and cascades to further questions, it has to be</p> <p>11 phrased consistently with No. 9.</p> <p>12 So I'll give it a crack.</p> <p>13 CHARWOMAN MURRAY: No. 9 or No. 8?</p> <p>14 MR. ROTHMAN: Well --</p> <p>15 DEPUTY MAYOR DOOLEY: No, number --</p> <p>16 look at No. 9 below.</p> <p>17 CHAIRWOMAN MURRAY: Okay. Are you in</p> <p>18 agreement?</p> <p>19 DEPUTY MAYOR DOOLEY: So I move that</p> <p>20 the Planning Board -- I'm sorry -- I move that --</p> <p>21 let me try again.</p> <p>22 MR. ROTHMAN: I'll try.</p> <p>23 DEPUTY MAYOR DOOLEY: You think you got</p> <p>24 it, Bobbi? We could break it out.</p> <p>25 Do you suggest we break it out?</p>
<p style="text-align: right;">Page 144</p> <p>1 MR. ROTHMAN: You can. I mean, if you</p> <p>2 go back to 8 --</p> <p>3 DEPUTY MAYOR DOOLEY: That's -- oh, I</p> <p>4 thought you wanted us to do 2, on page 2.</p> <p>5 MR. ROTHMAN: Well, it needs to be, you</p> <p>6 know, determined so that when the board considers has</p> <p>7 the applicant met its burden of demonstrating through</p> <p>8 the presentation of sufficient credible evidence that</p> <p>9 the zone -- rezoning proposed by the applicant will</p> <p>10 substantially and meaningfully benefit the township</p> <p>11 and further the purposes of the Municipal Land Use</p> <p>12 Law, the Planning Board must determine whether the</p> <p>13 applicant has demonstrated that the proposed rezoning</p> <p>14 will not unduly burden the planned and orderly</p> <p>15 development of the township or place an undue burden</p> <p>16 upon municipal services and facilities.</p> <p>17 DEPUTY MAYOR DOOLEY: Give it a shot,</p> <p>18 if you think you can.</p> <p>19 DR. CHAPMAN: Madame Chair?</p> <p>20 CHARWOMAN MURRAY: Dr. Chapman.</p> <p>21 DR. CHAPMAN: I'd like to make a</p> <p>22 motion.</p> <p>23 CHARWOMAN MURRAY: Please.</p> <p>24 DR. CHAPMAN: I'd like to make a motion</p> <p>25 that we pose the question: Has the applicant met its</p>	<p style="text-align: right;">Page 145</p> <p>1 burden of demonstrating through the presentation of</p> <p>2 sufficient credible evidence that the rezoning</p> <p>3 proposed by the applicant will substantially and</p> <p>4 meaningfully benefit the township and further the</p> <p>5 purposes of the Municipal Land Use Law.</p> <p>6 CHARWOMAN MURRAY: And if you believe</p> <p>7 that that statement is correct, that the applicant</p> <p>8 has met the burden of proof, you would vote yes; and</p> <p>9 if you disagree that the burden of proof has not been</p> <p>10 met, you would vote no.</p> <p>11 MR. TAYLOR: I think we just need to</p> <p>12 add to that, upon the municipal services and</p> <p>13 facilities, including traffic impact, fiscal impact</p> <p>14 and the like.</p> <p>15 DEPUTY MAYOR DOOLEY: I think --</p> <p>16 MR. TAYLOR: Or are we doing it in</p> <p>17 multiple questions?</p> <p>18 Oh, sorry about that.</p> <p>19 CHAIRWOMAN MURRAY: Did we not just</p> <p>20 clarify that the substantial and meaningful benefit,</p> <p>21 what the standard is, as on page 2, No. 2?</p> <p>22 DEPUTY MAYOR DOOLEY: Perhaps we do it</p> <p>23 as: Has the applicant demonstrated that the proposed</p> <p>24 rezoning will unduly burden the planned and orderly</p> <p>25 development of the township, or demonstrated that it</p>

<p style="text-align: right;">Page 146</p> <p>1 will place an undue burden on municipal services --</p> <p>2 that's not worded right.</p> <p>3 CHARWOMAN MURRAY: No.</p> <p>4 MR. ROTHMAN: So if -- if the Planning</p> <p>5 Board determines that the applicant has failed to</p> <p>6 produce or through its presentation sufficient</p> <p>7 credible evidence that the rezoning proposed by the</p> <p>8 applicant, of course, substantial and meaningful</p> <p>9 benefit to the township in the further purpose of the</p> <p>10 MLUL, then the Planning Board would have, in essence,</p> <p>11 determined that the applicant is not entitled to a</p> <p>12 recommendation to rezone the property based on the</p> <p>13 meaningful benefit.</p> <p>14 And in determining that, the Planning</p> <p>15 Board must determining --</p> <p>16 DEPUTY MAYOR DOOLEY: Let me give it a</p> <p>17 shot.</p> <p>18 I move that the applicant has not</p> <p>19 demonstrated --</p> <p>20 CHAIRWOMAN MURRAY: Okay, so we're --</p> <p>21 DEPUTY MAYOR DOOLEY: Striking.</p> <p>22 CHARWOMAN MURRAY: -- where do we stand</p> <p>23 with Chris's motion?</p> <p>24 DEPUTY MAYOR DOOLEY: Oh. Sorry,</p> <p>25 Chris.</p>	<p style="text-align: right;">Page 147</p> <p>1 DR. CHAPMAN: So I'll withdraw my</p> <p>2 motion.</p> <p>3 CHAIRWOMAN MURRAY: Thank you.</p> <p>4 DEPUTY MAYOR DOOLEY: I move that the</p> <p>5 applicant has not demonstrated that the proposed</p> <p>6 rezoning will not unduly burden the planned and</p> <p>7 orderly development of the township --</p> <p>8 MS. ANDERSON: Double negatives.</p> <p>9 CHARWOMAN MURRAY: I'm sorry, there's</p> <p>10 two nots.</p> <p>11 DEPUTY MAYOR DOOLEY: Two negatives.</p> <p>12 CHARWOMAN MURRAY: Yes.</p> <p>13 MS. ANDERSON: Yeah.</p> <p>14 MR. TAYLOR: Dr. Chapman, I think if</p> <p>15 you give it another go, and just if we separated this</p> <p>16 into two different questions, so we stop at township</p> <p>17 as you had done initially and I interrupted,</p> <p>18 inadvertently.</p> <p>19 MS. PEDDE: Keep going.</p> <p>20 MR. TAYLOR: So I'm sorry about that,</p> <p>21 but the first --</p> <p>22 DR. CHAPMAN: Okay. I do that often at</p> <p>23 home often also, I interrupt, so...</p> <p>24 MR. TAYLOR: So if you can repeat that</p> <p>25 motion, I think that worked out well when it started</p>
<p style="text-align: right;">Page 148</p> <p>1 with, "Has the applicant."</p> <p>2 Thank you.</p> <p>3 DR. CHAPMAN: Okay.</p> <p>4 I make the motion that we pose the</p> <p>5 question: Has the applicant met its burden of</p> <p>6 demonstrating through the presentation of sufficient</p> <p>7 credible evidence that the rezoning proposed by the</p> <p>8 applicant will substantially and meaningfully benefit</p> <p>9 the township.</p> <p>10 MR. ROTHMAN: And?</p> <p>11 DEPUTY MAYOR DOOLEY: No, is that okay,</p> <p>12 Mark?</p> <p>13 MR. ROTHMAN: Yes. And further the</p> <p>14 purposes --</p> <p>15 CHARWOMAN MURRAY: And further the</p> <p>16 purposes...</p> <p>17 DR. CHAPMAN: And further the purposes</p> <p>18 of the Municipal Land Use Law.</p> <p>19 CHARWOMAN MURRAY: That is our motion.</p> <p>20 DEPUTY MAYOR DOOLEY: Second.</p> <p>21 CHARWOMAN MURRAY: Second.</p> <p>22 So to vote, yes, would mean that the</p> <p>23 applicant has proven their burden and to vote, no,</p> <p>24 would mean that the applicant has not met that</p> <p>25 burden.</p>	<p style="text-align: right;">Page 149</p> <p>1 Ms. Lenahan?</p> <p>2 MS. LENAHA: Mr. Taylor?</p> <p>3 MR. TAYLOR: No.</p> <p>4 MS. LENAHA: Ms. Pedde?</p> <p>5 MS. PEDDE: No.</p> <p>6 MS. LENAHA: Mayor Giblin?</p> <p>7 MAYOR GIBLIN: No.</p> <p>8 MS. LENAHA: Ms. Feder?</p> <p>9 MS. FEDER: No.</p> <p>10 MS. LENAHA: Deputy Mayor Dooley?</p> <p>11 DEPUTY MAYOR DOOLEY: No.</p> <p>12 MS. LENAHA: Mr. Cossa?</p> <p>13 MR. COSSA: No.</p> <p>14 MS. LENAHA: Dr. Chapman?</p> <p>15 DR. CHAPMAN: No.</p> <p>16 MS. LENAHA: Ms. Anderson?</p> <p>17 MS. ANDERSON: No.</p> <p>18 MS. LENAHA: And Ms. Murray?</p> <p>19 CHARWOMAN MURRAY: No.</p> <p>20 MS. LENAHA: Unanimous no.</p> <p>21 DEPUTY MAYOR DOOLEY: Now, do we go to</p> <p>22 page 2 or we're done?</p> <p>23 CHARWOMAN MURRAY: Yes,</p> <p>24 MR. ROTHMAN: Yes, please.</p> <p>25 CHAIRWOMAN MURRAY: Yes.</p>

<p style="text-align: right;">Page 150</p> <p>1 DEPUTY MAYOR DOOLEY: All right. You</p> <p>2 want to do that, I'll turn this off?</p> <p>3 MS. ANDERSON: And so I move that the</p> <p>4 applicant has not demonstrated that the proposed</p> <p>5 rezoning -- oh no, forget that. Sorry.</p> <p>6 I move that the applicant has</p> <p>7 demonstrated that the proposed rezoning will not</p> <p>8 unduly burden the planned and orderly -- no.</p> <p>9 MR. ROTHMAN: No.</p> <p>10 If I may?</p> <p>11 MS. ANDERSON: All right.</p> <p>12 MR. ROTHMAN: Has the applicant</p> <p>13 demonstrated that the proposed rezoning will not</p> <p>14 unduly burden the planned and orderly development of</p> <p>15 the township or place an undue burden upon municipal</p> <p>16 services and facilities?</p> <p>17 DEPUTY MAYOR DOOLEY: So moved.</p> <p>18 CHARWOMAN MURRAY: Do we have a second?</p> <p>19 DR. CHAPMAN: Yes.</p> <p>20 CHARWOMAN MURRAY: So to vote yes would</p> <p>21 mean that the applicant has demonstrated that the</p> <p>22 proposed rezone will not unduly burden the planned</p> <p>23 and orderly development, and to vote no would mean</p> <p>24 that the applicant has not met that burden of proof.</p> <p>25 Are we in agreement on that?</p>	<p style="text-align: right;">Page 151</p> <p>1 Ms. Lenahan?</p> <p>2 MS. LENAHAAN: Mr. Taylor?</p> <p>3 MR. TAYLOR: No.</p> <p>4 MS. LENAHAAN: Ms. Pedde?</p> <p>5 MS. PEDDE: No.</p> <p>6 MS. LENAHAAN: Mayor Giblin?</p> <p>7 MAYOR GIBLIN: No.</p> <p>8 MS. LENAHAAN: Ms. Feder?</p> <p>9 MS. FEDER: No.</p> <p>10 MS. LENAHAAN: Deputy Mayor Dooley?</p> <p>11 DEPUTY MAYOR DOOLEY: No.</p> <p>12 MS. LENAHAAN: Mr. Cossa?</p> <p>13 MR. COSSA: No.</p> <p>14 MS. LENAHAAN: Dr. Chapman?</p> <p>15 DR. CHAPMAN: No.</p> <p>16 MS. LENAHAAN: Ms. Anderson?</p> <p>17 MS. ANDERSON: No.</p> <p>18 MS. LENAHAAN: Ms. Murray?</p> <p>19 CHARWOMAN MURRAY: No.</p> <p>20 MS. LENAHAAN: It's a unanimous no.</p> <p>21 CHARWOMAN MURRAY: So based on the</p> <p>22 board's votes this evening regarding --</p> <p>23 DEPUTY MAYOR DOOLEY: We did not move</p> <p>24 on the second part of that, would place an undue</p> <p>25 burden upon municipal services and facilities.</p>
<p style="text-align: right;">Page 152</p> <p>1 MR. TAYLOR: Make a motion.</p> <p>2 CHARWOMAN MURRAY: Make another motion.</p> <p>3 DEPUTY MAYOR DOOLEY: The second part</p> <p>4 of that. Okay. I move that the applicant --</p> <p>5 MR. ROTHMAN: Has the applicant.</p> <p>6 DEPUTY MAYOR DOOLEY: Has the applicant</p> <p>7 demonstrated that the propose rezoning will not place</p> <p>8 an undue burden upon municipal services and</p> <p>9 facilities, including traffic impact, fiscal impact</p> <p>10 and the like?</p> <p>11 DR. CHAPMAN: Second.</p> <p>12 CHARWOMAN MURRAY: Thank you. And once</p> <p>13 again, to vote yes would mean that the applicant has</p> <p>14 met the burden, and to vote no would mean that the</p> <p>15 applicant has not met the burden.</p> <p>16 Ms. Lenahan?</p> <p>17 MS. LENAHAAN: Mr. Taylor?</p> <p>18 MR. TAYLOR: No.</p> <p>19 MS. LENAHAAN: Ms. Pedde?</p> <p>20 MS. PEDDE: No.</p> <p>21 MS. LENAHAAN: Mayor Giblin?</p> <p>22 MAYOR GIBLIN: No.</p> <p>23 MS. LENAHAAN: Ms. Feder?</p> <p>24 MS. FEDER: No.</p> <p>25 MS. LENAHAAN: Deputy Mayor Dooley?</p>	<p style="text-align: right;">Page 153</p> <p>1 DEPUTY MAYOR DOOLEY: No.</p> <p>2 MS. LENAHAAN: Mr. Cossa?</p> <p>3 MR. COSSA: No.</p> <p>4 MS. LENAHAAN: Dr. Chapman?</p> <p>5 DR. CHAPMAN: No.</p> <p>6 MS. LENAHAAN: Ms. Anderson?</p> <p>7 MS. ANDERSON: No.</p> <p>8 MS. LENAHAAN: Ms. Murray?</p> <p>9 CHARWOMAN MURRAY: No.</p> <p>10 MS. LENAHAAN: That's a unanimous no.</p> <p>11 CHARWOMAN MURRAY: So based on the</p> <p>12 board's votes this evening regarding inutility and</p> <p>13 the substantial or meaningful benefit to the township</p> <p>14 and further purposes of the MLUL, the application to</p> <p>15 recommend the property known as 750 Walnut Avenue,</p> <p>16 Cranford, New Jersey is denied.</p> <p>17 (Applause.)</p> <p>18 CHARWOMAN MURRAY: That concludes our</p> <p>19 business for this evening.</p> <p>20 Are there any comments from the public?</p> <p>21 Once again, this application is closed. It's no</p> <p>22 longer before the board.</p> <p>23 Are there any public comments on other</p> <p>24 matters before the board?</p> <p>25 MR. ZUCKER: Do we know when this will</p>

<p style="text-align: right;">Page 154</p> <p>1 go to the Township Committee for a vote?</p> <p>2 MR. ROTHMAN: They do their own</p> <p>3 agenda.</p> <p>4 MR. ZUCKER: They do their own</p> <p>5 agenda?.</p> <p>6 CHARWOMAN MURRAY: Yes, I can't speak</p> <p>7 to their agenda.</p> <p>8 Seeing none.</p> <p>9 MAYOR GIBLIN: Does this need to be</p> <p>10 formalized in a resolution by the Planning Board?</p> <p>11 MR. ROTHMAN: Yes.</p> <p>12 MAYOR GIBLIN: So when would you -- I</p> <p>13 just want to give him a clear answer on that</p> <p>14 question.</p> <p>15 MR. ROTHMAN: Is that your question?</p> <p>16 MAYOR GIBLIN: This now needs to --</p> <p>17 CHARWOMAN MURRAY: Excuse me. We have</p> <p>18 someone at the podium.</p> <p>19 MS. LaBRUTTO: I just wanted to thank</p> <p>20 the board.</p> <p>21 CHARWOMAN MURRAY: Okay. Could you</p> <p>22 hold on a second?</p> <p>23 MS. LaBRUTTO: Sure.</p> <p>24 MAYOR GIBLIN: I want to -- I want to,</p> <p>25 first of all, maybe we could have his question at the</p>	<p style="text-align: right;">Page 155</p> <p>1 microphone.</p> <p>2 Let Ms. LaBrutto speak and then we can</p> <p>3 come up and state your name instead of shouting from</p> <p>4 the audience.</p> <p>5 MS. LaBRUTTO: It's going to be real</p> <p>6 quick. I just wanted to thank the board --</p> <p>7 CHARWOMAN MURRAY: We need your name</p> <p>8 and your address.</p> <p>9 MS. LaBRUTTO: Rita LaBrutto, 104</p> <p>10 Arlington Road.</p> <p>11 MS. LENAHAAN: Yes.</p> <p>12 MS. LaBRUTTO: I just wanted to thank</p> <p>13 the board and just wanted to give you an update on</p> <p>14 something that Clark did -- actually it's in the</p> <p>15 Local Source dated May 16th, 2019. You should know</p> <p>16 that there obviously is a market for office space or</p> <p>17 industrial space. "Clark," it says -- the title is,</p> <p>18 "Clark gives initial okay to L'Oreal Terminal</p> <p>19 expansion."</p> <p>20 Basically L'Oreal is expanding their</p> <p>21 space on Terminal Avenue, 95,000 square feet. So</p> <p>22 there definitely is a market for this stuff in Union</p> <p>23 County, so I just wanted to mention that.</p> <p>24 Thank you.</p> <p>25 CHARWOMAN MURRAY: Thank you,</p>
<p style="text-align: right;">Page 156</p> <p>1 Ms. LaBrutto.</p> <p>2 Sir?</p> <p>3 MR. ZUCKER: Mark Zucker, 19 Persian</p> <p>4 Avenue.</p> <p>5 I thank you all for all your time and</p> <p>6 effort and for keeping this to finish before</p> <p>7 midnight.</p> <p>8 And I just have a question as to if</p> <p>9 there's any idea as to when the Township Committee</p> <p>10 will be voting on this matter?</p> <p>11 CHARWOMAN MURRAY: I have none.</p> <p>12 MAYOR GIBLIN: So what I wanted to ask</p> <p>13 Mr. Rothman is this now needs to be formalized into</p> <p>14 -- maybe you could spell that out and let us know</p> <p>15 when that will come to us. I want to make sure</p> <p>16 everyone leaves with a good answer today on that</p> <p>17 question.</p> <p>18 MR. ROTHMAN: Yes.</p> <p>19 So the obligation for the board is to</p> <p>20 offer a report. It will be in the form of a</p> <p>21 resolution, that form of resolution will have to be</p> <p>22 considered at the Planning Board's next meeting and</p> <p>23 adopted. And then it's forwarded to the governing</p> <p>24 body, the Township Committee. And then the Township</p> <p>25 Committee would be responsible for putting it on</p>	<p style="text-align: right;">Page 157</p> <p>1 their agenda to consider the Planning Board's</p> <p>2 recommendation.</p> <p>3 MR. ZUCKER: Okay.</p> <p>4 MR. ROTHMAN: And that's part of the</p> <p>5 MLUL.</p> <p>6 MR. ZUCKER: Thank you.</p> <p>7 MAYOR GIBLIN: Okay. So --</p> <p>8 CHAIRWOMAN MURRAY: Thank you.</p> <p>9 MAYOR GIBLIN: So just to clarify, when</p> <p>10 would we expect to have that resolution at the</p> <p>11 Planning Board level? Do we have an approximate</p> <p>12 date, and then --</p> <p>13 CHARWOMAN MURRAY: Our next meeting</p> <p>14 would be --</p> <p>15 MR. ROTHMAN: The 19th.</p> <p>16 CHARWOMAN MURRAY: -- the 19th.</p> <p>17 FEMALE AUDIENCE MEMBER: Good luck, Mr.</p> <p>18 Rothman.</p> <p>19 MAYOR GIBLIN: So you've got some work</p> <p>20 to do.</p> <p>21 Would you expect to be completed by</p> <p>22 then or do you think that's something that's going to</p> <p>23 take some more time?</p> <p>24 MR. ROTHMAN: It may take some more</p> <p>25 time --</p>



1 MAYOR GIBLIN: Okay.  
 2 MR. ROTHMAN: -- but I'm planning -- I  
 3 spoke to counsel about the 19th.  
 4 MAYOR GIBLIN: Okay.  
 5 MR. ROTHMAN: I think that would be  
 6 the plan.  
 7 MAYOR GIBLIN: Once it's passed at this  
 8 level, it would be at the next Township Committee  
 9 meeting, so...  
 10 MR. ROTHMAN: It would be forwarded to  
 11 --  
 12 MAYOR GIBLIN: I don't want to put any  
 13 pressure on Mr. Rothman because we want to make sure  
 14 he does the resolution correct and I'm sure it's  
 15 quite time-consuming, so...  
 16 CHARWOMAN MURRAY: Thank you.  
 17 Seeing no further comments, could I  
 18 have a motion to adjourn?  
 19 MAYOR GIBLIN: So moved.  
 20 CHAIRWOMAN MURRAY: Second?  
 21 MR. TAYLOR: Second.  
 22 CHAIRWOMAN MURRAY: We are adjourned.  
 23 (Whereupon, the hearing concluded; time  
 24 noted, 11:20 p.m.)  
 25

## C E R T I F I C A T E

1  
 2  
 3 I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary  
 4 Public of the State of New Jersey, Notary ID.  
 #50094914, Certified Court Reporter of the State of  
 5 New Jersey, and a Registered Professional Reporter,  
 6 hereby certify that the foregoing is a verbatim  
 7 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  
 8 involved in this action; I have no financial  
 interest, nor am I related to an agent of or employed  
 9 by anyone with a financial interest in the outcome of  
 this action.

10 This transcript complies with  
 regulation 13:43-5.9 of the New Jersey Administrative  
 Code.  
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 12  
 13  
 14

15 LAURA A. CARUCCI, C.C.R., R.P.R.  
 License #XI02050, and Notary Public  
 of New Jersey #50094914, Notary  
 Expiration Date December 3, 2023

16 Dated:  
 17 /#RE7B end /PREPB /TKRERT /KREURT  
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A				
<b>abandoned</b> 56:18	<b>accurately</b> 132:10	125:11	<b>ago</b> 29:18 30:10	<b>amount</b> 85:21
<b>ability</b> 54:21 72:13	<b>acknowledged</b>	<b>adequate</b> 4:8 36:18	57:1 61:15	118:13,25 119:11
<b>able</b> 125:18 126:4,5	111:10 112:10	71:15	<b>agree</b> 21:9 61:19	123:3 134:23
<b>absent</b> 5:24 9:21	<b>acquire</b> 30:21 39:7	<b>adequately</b> 125:11	67:4 70:16 72:5	<b>amounts</b> 52:17
10:21 12:9 26:12	85:11	<b>adjacent</b> 72:24	75:1 81:13 84:14	<b>analogy</b> 35:13
27:3 66:16	<b>acre</b> 39:18 70:14	73:23 74:6 75:9	87:3 88:9 89:9	<b>analyses</b> 116:6
<b>absolute</b> 82:15,16	82:7,11,11 93:12	<b>adjective</b> 58:5	95:9,20 96:3	<b>analysis</b> 15:15
<b>absorb</b> 53:13,18	129:9	<b>adjourn</b> 158:18	122:14 128:12	81:21 109:1 112:9
137:11	<b>acreage</b> 78:12	<b>adjourned</b> 158:22	<b>agreed</b> 21:4,6	137:25 138:15
<b>accept</b> 58:24	<b>acres</b> 30:14 37:24	<b>adjustment</b> 119:1	110:23	139:15
107:24 108:13	38:6 39:3,7,19	<b>Administrative</b>	<b>agreement</b> 37:12	<b>Anderson</b> 1:14 3:7
116:9 126:16	44:8 75:11 78:5,6	159:10	143:18 150:25	5:16,17 47:12,13
<b>acceptable</b> 25:3	79:24,25 80:5,10	<b>administrator</b>	<b>agricultural</b> 73:12	50:24 55:22 57:16
126:14	80:12 81:18 82:1	52:20 114:8 117:3	<b>ahead</b> 66:10 91:16	60:10 62:8 67:24
<b>accepted</b> 15:13	84:5 86:3,6,14	130:18	<b>aids</b> 126:3	67:25 95:7 96:21
22:9 115:2 116:1	<b>Act</b> 4:8	<b>administrators</b>	<b>air</b> 141:9	96:22 98:13,14
130:24 131:9,11	<b>acting</b> 9:8	136:11	<b>alleged</b> 39:14	147:8,13 149:16
<b>accepting</b> 16:14,16	<b>action</b> 4:16 7:21	<b>admitted</b> 59:16	<b>alleges</b> 39:5	149:17 150:3,11
16:18 102:3	159:8,9	116:24	<b>Allegiance</b> 4:20,22	151:16,17 153:6,7
121:23	<b>actions</b> 70:22 74:11	<b>adopt</b> 81:15	<b>allow</b> 24:2 104:11	<b>Anderson's</b> 60:19
<b>accepts</b> 121:15	<b>actively</b> 48:13	<b>adopted</b> 69:4 74:8	106:21	<b>ANDREW</b> 1:18
<b>access</b> 23:25 58:15	<b>adapted</b> 13:8	156:23	<b>allowed</b> 24:13	<b>and/or</b> 14:2,10
71:11 126:5	<b>adapting</b> 50:10	<b>advance</b> 10:6 98:21	<b>allowing</b> 70:7	17:16 127:23
128:25	<b>add</b> 12:1 59:23	<b>advanced</b> 126:1	<b>alter</b> 89:7	128:7 135:25
<b>accessible</b> 62:21,24	70:10 86:4,6	<b>advantage</b> 76:5	<b>ALTERNATE</b>	<b>ANN</b> 1:12
71:7	113:22 141:17,24	99:17 100:13	1:19	<b>announcements</b>
<b>accommodate</b>	145:12	105:13 113:5	<b>alternative</b> 44:9	4:15
20:15 26:6 86:7	<b>adding</b> 72:7 73:25	<b>advantageous</b>	<b>alternatives</b> 65:23	<b>annual</b> 4:10
92:5 93:2 125:15	75:2 78:6	108:10	65:24	<b>annually</b> 53:2 54:3
135:9	<b>addition</b> 21:22	<b>advertise</b> 33:17	<b>amazing</b> 50:19	<b>answer</b> 14:7 40:5
<b>accommodated</b>	24:24 25:7,14	42:18 43:4	<b>Amazon-type</b>	68:8,21 90:18,19
16:12 17:24	70:4 73:25 78:14	<b>advertises</b> 22:25	36:23	91:11 95:21
117:15	81:16 115:25	<b>advertising</b> 32:22	<b>ambulance</b> 126:1	135:14 143:5
<b>accomplish</b> 72:8	<b>additional</b> 28:13	34:14 62:15	<b>amend</b> 89:21 90:13	154:13 156:16
<b>account</b> 69:10	32:8 37:11 53:17	<b>advised</b> 25:12	91:5 92:17 93:2	<b>anticipate</b> 115:8
104:2 134:22	53:19,25 54:1	<b>affirmative</b> 90:3	94:14,20,24 97:4	<b>anticipated</b> 109:11
<b>accuracy</b> 107:9	57:19 74:2 80:18	<b>affirmed</b> 74:7,10	97:9,25	132:21
111:20 115:14	80:20 85:11 86:1	<b>affordable</b> 74:9	<b>amending</b> 91:12	<b>anticipates</b> 15:9
116:6 121:22	115:18 116:23	<b>agenda</b> 4:12,15	92:5,20	<b>antiquated</b> 44:24
131:25	133:4,4,7 136:25	154:3,5,7 157:1	<b>amenities</b> 22:6 71:5	<b>anybody</b> 84:18
<b>accurate</b> 107:16	<b>Additionally</b> 33:5	<b>agent</b> 159:8	77:1 125:13	113:16
108:16 111:18	41:14 42:23	<b>agents</b> 33:4	<b>America</b> 19:19	<b>anymore</b> 43:12
116:10 120:25	<b>address</b> 59:5 69:16	<b>aggressive</b> 60:24	23:10 28:14 32:3	<b>apologize</b> 99:9
126:19 136:22	72:13 93:23 94:3	<b>aggressively</b> 60:22	32:20 50:10 61:13	<b>appear</b> 57:2 94:21
	155:8	85:10,25	61:15	<b>appeared</b> 107:13
	<b>addressed</b> 54:17,23		<b>American</b> 55:22	<b>appears</b> 46:11

65:22 66:1 111:20 <b>Applause</b> 153:17 <b>apples</b> 83:10,10 <b>applicant</b> 6:7,19 7:8 9:1,12,20 10:6 10:25 11:7 12:7 15:13 26:11 27:1 37:22 42:4 56:23 57:25 58:13 59:4 60:1 65:14 66:14 66:25 67:1 68:8 68:11 70:16 77:8 77:14 80:25 86:8 93:9,24 103:5 105:13 108:10 112:2,3 115:4,16 138:7,16,16 142:1 142:3,7,20 144:7 144:9,13,25 145:3 145:7,23 146:5,8 146:11,18 147:5 148:1,5,8,23,24 150:4,6,12,21,24 152:4,5,6,13,15 <b>applicant's</b> 8:3,14 8:16 10:19 14:6 16:20 17:9 31:11 33:9 39:23 58:14 65:11 70:18 99:9 99:13 100:18 106:11 113:8 114:4,20 <b>application</b> 1:5 6:2 6:4,14,15 7:5,19 7:24 9:9,15 14:6 16:20 17:9 32:13 35:15,18 39:4,5 39:11,21 40:14 41:9,17 46:16 47:2 49:25 51:11 51:13 54:10 55:6 55:9 57:25 66:1 69:17 70:10 77:15 80:6,13,25 83:19 87:3,14 88:10 91:13 98:20 100:6	107:25 124:6 153:14,21 <b>applications</b> 55:15 56:2 117:22 <b>applied</b> 109:16 111:15 <b>apply</b> 103:23 <b>applying</b> 110:11 140:7 <b>appointed</b> 68:21,22 <b>approach</b> 29:24 58:4,6 73:9 106:20 108:17 141:2,7 <b>approached</b> 58:1 <b>appropriate</b> 8:18 9:6 14:20 35:13 70:22 72:18 73:12 73:21 85:21 95:21 104:2 <b>appropriately</b> 14:16 74:5 76:9 111:15 <b>approve</b> 8:10 <b>approved</b> 31:7 47:3 70:1 85:15 121:14 <b>approving</b> 74:12 <b>approximate</b> 157:11 <b>approximately</b> 28:19,21 32:17 53:1,18 65:16 80:7,10 <b>April</b> 52:21 99:22 117:4 119:9 <b>architectural</b> 77:3 77:6 <b>architecturally</b> 81:19 <b>architecture</b> 74:25 <b>arduous</b> 53:24 <b>area</b> 14:20 22:6 24:23 36:3 55:24 56:21 57:9 59:15 72:12 75:4,4 80:2 83:7 84:12 85:1,7	85:24 87:15,17,21 115:22 127:21 128:5,21 129:13 129:25 130:8 <b>areas</b> 35:25 37:19 48:20 49:2 79:9 85:22 127:22 <b>argument</b> 51:14 <b>Arlington</b> 3:18 155:10 <b>arrived</b> 27:7 101:17 <b>art</b> 120:2 136:1 <b>article</b> 6:24 49:6 <b>articles</b> 49:4 101:3 <b>articulate</b> 129:17 <b>articulated</b> 40:6 <b>artificially</b> 39:14 102:18 <b>Aschenbach</b> 1:19 3:9 4:25 5:1 54:13 54:15,16 57:12 88:8,20 92:16,19 92:23 93:4,7,15 93:18 120:16 123:10 <b>aside</b> 110:4 <b>asked</b> 28:5 29:13 30:4,8 34:7,22 40:10 41:18 45:25 53:13 92:25 100:17 107:20 <b>asking</b> 40:16 <b>aspect</b> 88:23 <b>assertion</b> 70:19 71:3 72:3 <b>asserts</b> 136:16 <b>assess</b> 51:10 <b>assessments</b> 130:8 <b>assigned</b> 134:1 <b>Association</b> 85:20 <b>assuming</b> 111:4 112:18 119:13 <b>as-is</b> 88:13 <b>attacked</b> 115:20 <b>attempt</b> 25:8 29:13	32:25 33:3 <b>attempted</b> 14:6 32:2 35:21 47:23 55:1 <b>attempting</b> 19:4,6 128:25 <b>attend</b> 116:15 <b>attendant</b> 134:2 <b>attended</b> 51:3 <b>attorney</b> 7:4 17:10 46:1 55:1,4 <b>attractive</b> 31:18,18 61:5 <b>attracts</b> 55:19 <b>audacity</b> 46:18 <b>audience</b> 155:4 157:17 <b>August</b> 99:14 <b>Authority</b> 121:13 131:11 <b>authorize</b> 121:14 <b>availability</b> 116:18 <b>available</b> 10:15 25:13 30:1 33:14 39:19 43:6 71:9 119:16 134:15 135:21 <b>Avenue</b> 1:6 3:20 6:6 13:2,23 14:7 15:20,25 16:13,17 16:22,24 17:19 18:13,18 19:15 22:21 25:9,10,17 26:15 27:14 42:15 43:15,20 46:3 54:18 70:2 71:18 72:4,6 79:10 84:4 87:15 115:12 116:16,16 119:22 119:22,23 126:11 127:9,12,18,21 128:5,17,17,23,23 129:11,13 130:2,8 134:5 153:15 155:21 156:4 <b>average</b> 85:17 86:4	109:17 <b>averse</b> 74:5 76:8 <b>aware</b> 55:11 64:2 100:25 <hr/> <b>B</b> <b>B</b> 1:7 3:22 25:20 <b>baby</b> 140:17 <b>back</b> 30:2 39:1 63:3 84:17 90:22 113:17 124:20 131:23 144:2 <b>backfill</b> 28:2 <b>bailiwick</b> 31:24 <b>balance</b> 28:3 141:16 <b>Bank</b> 19:19 23:10 28:14 32:3,20 50:10 61:13,15 <b>bar</b> 73:6 <b>bare</b> 32:24 <b>Barnabas</b> 28:11 44:5,15 <b>base</b> 55:25 76:1 <b>based</b> 6:22 21:11 22:9 25:20 26:2,9 29:8 35:1 45:23 46:10 51:13 90:2 91:4 104:25 106:22 117:11 118:15 120:21 125:7 126:10,13 131:8 132:21 134:1 146:12 151:21 153:11 <b>baseline</b> 132:12 <b>Basically</b> 155:20 <b>basis</b> 15:17 33:22 37:7 69:12 109:22 <b>bear</b> 100:3 <b>behalf</b> 41:25 <b>believe</b> 19:19 35:13 38:22,23 41:14 46:8 54:23 97:2 122:21 138:18 145:6
---	--	---	--	---

<b>believes</b> 14:10 <b>belongs</b> 82:8 <b>beneficial</b> 79:22 100:1 <b>benefit</b> 9:24 10:5 11:1 14:22 15:7 39:14,21 51:17 52:4 68:12 71:6 71:11 77:16 81:2 87:4 88:11 93:25 98:21 108:24 109:2 113:25 115:14,16 120:12 128:4,9 129:12 130:10 135:14 136:14,17,21 137:1 138:9,11 139:8 142:4 144:10 145:4,20 146:9,13 148:8 153:13 <b>Berchal</b> 104:9,17 104:22 105:3 <b>berm</b> 84:1 <b>best</b> 32:24 35:22 51:8,9 89:21 90:13 93:1 94:14 95:11 97:3,8,25 <b>better</b> 40:12 46:21 103:6 <b>beyond</b> 60:25 83:23 <b>bias</b> 110:20 <b>big</b> 20:4 45:2 <b>BILL</b> 2:11 <b>Birch</b> 82:25 <b>Birchwood</b> 70:6 <b>bit</b> 7:16 41:11 113:15,18 124:21 <b>black</b> 46:25 <b>block</b> 1:6 6:6 20:4 <b>blocks</b> 20:25 <b>board</b> 1:1,8 2:4,11 2:12,13 3:3 4:2,14 6:14,18,20 7:3,20 7:23 8:2,18,18 9:1 9:5,11,14,16	11:10,11,14 12:17 13:12 14:1 16:21 26:25 27:11 30:17 32:13 33:7 35:8 35:18 39:1 42:1,3 46:1,16 51:3,6 53:11,23 55:11,12 55:14 56:2 57:3,6 62:2 66:13 68:20 68:24 69:6,22 70:5 75:7,9 79:24 85:6 86:18 88:17 89:15,19 90:8,12 91:2 94:9,12 97:2 100:24 107:18,20 110:23 113:23 114:6,9,16,23 115:2,5 117:2,22 118:10,23 119:7 119:14,20 123:19 125:5 131:15 141:25 142:6,19 143:20 144:6,12 146:5,10,15 153:22,24 154:10 154:20 155:6,13 156:19 157:11 159:6 <b>boards</b> 68:25 74:12 <b>board's</b> 4:10 6:20 12:24 17:12 65:10 89:14 99:22 101:19 124:24 151:22 153:12 156:22 157:1 <b>Bobbi</b> 1:14 143:24 <b>body</b> 8:21 9:7 94:24 156:24 159:6 <b>bonding</b> 121:17 <b>bonds</b> 71:25 <b>border</b> 84:3 <b>boring</b> 113:18 <b>borrow</b> 83:7 <b>borrowed</b> 82:9 <b>bought</b> 43:18 <b>bounds</b> 105:3	<b>box</b> 45:2 62:23 <b>box-type</b> 36:20 <b>break</b> 143:24,25 <b>briefly</b> 17:14 47:13 74:23 87:12 88:8 124:13 130:12 133:21 137:23 <b>bring</b> 60:15 71:24 <b>brings</b> 71:11 <b>brochure</b> 42:16,17 43:3 <b>brochures</b> 32:17,21 60:25 62:14 <b>broker</b> 25:24 30:6 49:16,23 50:3 <b>brokers</b> 21:24 25:5 32:24 34:1,3 41:15 46:18 49:14 49:15 <b>Brook</b> 22:15 <b>brought</b> 55:14 91:18 <b>Brunette</b> 13:11,18 14:3 15:24 16:2,4 17:3 19:22,24 20:13 21:2,13,25 22:14,24 23:5,13 24:3,10,14,17,19 25:5,7,12,14 33:6 33:15,19 34:10 35:24 41:18,25 42:21,23 43:8,13 44:17 45:1,3,25 46:5 52:7 58:8 59:4 60:18 65:10 <b>Brunette's</b> 13:22 16:14 21:9 46:8 61:3 <b>Brunette-2</b> 42:18 <b>budget</b> 48:1,2 104:3 118:11,15 118:23 119:13,16 123:1 <b>budgetary</b> 134:24 <b>budgeted</b> 118:13 <b>budgets</b> 118:9	<b>build</b> 40:23 41:3 114:22 <b>building</b> 22:5 23:10 23:11,20,22 25:19 25:19,22,24 26:5 28:20 34:18,19 36:15,16 37:7 41:3 50:5,6 51:22 53:25 55:16 56:17 56:19,22 65:5,6,8 134:5 135:22 <b>buildings</b> 20:14 22:16 23:15 36:12 45:5 52:2 59:17 75:11,19 76:18 79:19,19 80:1 87:19 117:3,6 130:21 134:17 <b>build-out</b> 134:11 <b>built</b> 50:6 53:4 129:6 <b>bulletin</b> 4:14 <b>burden</b> 8:16 10:8 10:10 11:7 12:7 27:1 47:6 52:6 53:15 54:8 63:8 64:24 66:14,25 67:2 68:4,9 77:14 81:1 112:2 113:8 142:1,8,9,24,25 144:7,14,15 145:1 145:8,9,24 146:1 147:6 148:5,23,25 150:8,14,15,22,24 151:25 152:8,14 152:15 <b>burdens</b> 121:20 <b>bury</b> 103:10 <b>bus</b> 75:22 76:10 <b>buses</b> 127:1,23,25 128:7 <b>business</b> 21:18 47:20 52:20 54:22 55:13,16 56:7,12 56:15 114:7 130:18 153:19	<b>buy</b> 30:4 44:6 <b>buyers</b> 34:5 <b>buys</b> 44:4 <b>B-E-R</b> 104:9
<b>C</b>				
<b>C</b> 2:2 34:16 61:20 159:1,1 <b>calculate</b> 115:10 <b>calculated</b> 101:22 <b>calculating</b> 104:10 <b>calculation</b> 99:18 100:14 102:3 105:12 123:20 <b>calculations</b> 101:24 102:7 103:15 108:4 113:11 140:1 141:15 <b>call</b> 4:24 28:22 37:17,20 40:1 56:14 67:7 <b>called</b> 56:22 112:9 <b>calls</b> 86:2,15 <b>campaign</b> 32:16 <b>campus</b> 44:1 <b>campus-like</b> 50:19 <b>cancer</b> 43:21 <b>cap</b> 100:8,9,10,16 101:1,4,5,11 102:15,20,21 118:11 119:11 122:25 123:3,7,7 <b>capabilities</b> 23:12 23:19 <b>capable</b> 35:4 <b>capacity</b> 53:5 114:14 123:23 <b>capita</b> 104:8,22 105:5,11,14 113:2 140:25 <b>capital</b> 134:22 <b>capitalization</b> 100:7 <b>car</b> 125:24 <b>care</b> 7:14 <b>careful</b> 141:1				

<b>Carfagno</b> 52:19 114:8 115:3,6,13 115:19 116:17 117:2,18 118:8,24 119:9 120:24 121:25 122:18,21 130:18,24 133:22 134:21 135:1,16 136:4,13 <b>Carfagno's</b> 120:22 122:7 135:2 136:20 <b>cars</b> 129:6 <b>Carteret</b> 23:7 <b>CARUCCI</b> 159:3 159:14 <b>cascades</b> 143:10 <b>case</b> 7:3 51:19 <b>cases</b> 50:2 <b>catastrophic</b> 117:17 119:23 <b>category</b> 109:17 110:2 <b>caught</b> 139:20 <b>cause</b> 15:22 20:9 128:19 131:2 <b>caused</b> 17:11 20:11 101:4 <b>causes</b> 113:4 126:7 <b>causing</b> 88:2 125:2 128:14 <b>CB</b> 43:1 <b>ceiling</b> 23:12 36:14 44:18 <b>ceilings</b> 44:19 <b>census</b> 130:20 <b>center</b> 21:16 22:2 24:5,19 28:22 36:11,23 37:17 40:2 43:15,19,21 71:9 79:11 106:12 109:4 <b>centers</b> 36:21 37:20 <b>central</b> 10:1 11:20 24:23 113:23 <b>certain</b> 53:5	<b>certainly</b> 44:1 86:13 111:25 123:13 <b>certainty</b> 46:2 <b>Certified</b> 159:4 <b>certify</b> 159:5 <b>Chair</b> 12:21 26:16 57:13 66:8,12 77:25 93:20 124:10 144:19 <b>CHAIRWOMAN</b> 1:10 4:1 5:19 66:22 67:6 92:11 92:18,21 93:21 94:7 95:23 97:11 98:25 137:18 138:23 142:18,23 143:17 145:19 146:20 147:3 149:25 157:8 158:20,22 <b>challenge</b> 102:3 135:2 139:12 <b>challenged</b> 134:18 135:1 <b>change</b> 32:12,14 34:22 73:7 88:1 91:21 106:17 109:23 113:24 118:20 124:21 126:12 129:10 <b>changed</b> 17:7 50:11 56:4 61:15 91:3 97:12,16 99:16 103:2 108:22 <b>changes</b> 102:14 106:8,10 <b>changing</b> 139:21 <b>Channel</b> 51:4 <b>Chapman</b> 1:17 3:4 5:14,15 12:20,20 12:21 26:19,23 47:14 57:16 60:9 64:6 66:8,11,12 67:22,23 87:11,12 88:6 93:20,21,22	94:6 96:19,20 98:11,12 124:10 124:11,12,19 137:19,24 138:21 144:19,20,21,24 147:1,14,22 148:3 148:17 149:14,15 150:19 151:14,15 152:11 153:4,5 <b>Chapman's</b> 111:11 <b>Chapter</b> 6:23 <b>character</b> 74:24 75:12 76:25 88:1 <b>characteristics</b> 106:23 <b>charge</b> 10:14 11:18 11:20 12:5 35:7 66:7 68:5,7 89:14 142:14 143:4,9 <b>Charles</b> 18:21 27:22 38:3 <b>charm</b> 80:2 <b>Charwoman</b> 3:15 4:18,23 5:25 6:11 10:17 12:4 26:18 47:9 50:23 54:11 54:15 57:11,14 60:4 61:23 63:12 64:21 66:6,10,20 68:2 78:1 81:4,10 84:20 87:7 88:5 88:19 89:10 91:22 92:3,7 94:2,5 95:8 96:1,24 97:15,19 98:16 113:20 123:8 124:11,18 141:19,23 143:13 144:20,23 145:6 146:3,22 147:9,12 148:15,19,21 149:19,23 150:18 150:20 151:19,21 152:2,12 153:9,11 153:18 154:6,17 154:21 155:7,25 156:11 157:13,16	158:16 <b>child</b> 112:4,20 <b>children</b> 109:5,11 110:8,10,15,25 112:8 123:24 127:3 133:4,5 140:5,8 141:12 <b>choice</b> 124:18 <b>choices</b> 15:3 <b>choose</b> 17:7 <b>chose</b> 35:11 107:15 109:19,20 139:21 <b>chosen</b> 50:15 <b>Chris</b> 146:25 <b>Christmas</b> 25:16 55:20 <b>CHRISTOPHER</b> 1:17 <b>Chris's</b> 146:23 <b>circulation</b> 71:17 124:15 125:6,10 125:20 <b>circumstances</b> 107:25 <b>cite</b> 47:16 56:17 101:2 <b>cited</b> 27:17 112:13 142:13 <b>citing</b> 27:13 <b>citizen</b> 12:25 14:1 14:15 15:15 17:13 17:25 127:20 129:25 <b>citizens</b> 63:25 73:16 74:17 77:20 121:20 127:14 130:7 <b>claims</b> 24:20 65:15 <b>clarification</b> 93:23 <b>clarify</b> 145:20 157:9 <b>clarity</b> 62:3 <b>Clark</b> 22:7 84:3 155:14,17,18 <b>class</b> 22:12 25:20 25:20 34:15,16	119:23 120:1 135:17,19,20 137:4,14 <b>classification</b> 25:22 25:23 <b>classifications</b> 25:19 <b>classrooms</b> 53:19 117:7,9 121:19 <b>clean</b> 57:22 <b>clear</b> 6:25 7:17 14:9 66:24 67:3 84:25 85:2 92:12,14 120:11 154:13 <b>clearly</b> 33:3 69:23 <b>Clerk</b> 4:16 <b>client</b> 49:17,18,20 50:4 115:16 <b>clients</b> 25:10 <b>Clock</b> 56:22 <b>close</b> 19:14,17 28:12 <b>closed</b> 153:21 <b>cloud</b> 46:25 <b>clubhouses</b> 80:8 <b>code</b> 7:17 159:11 <b>coined</b> 79:20 <b>colleagues</b> 59:24 60:1,8 61:10,20 64:24 81:14 86:22 137:24 <b>colleges</b> 29:14,17 <b>combination</b> 113:6 <b>combined</b> 140:12 <b>come</b> 7:12 19:14 64:16 69:8 71:1 74:19 113:17 120:6 140:10 155:3 156:15 <b>comes</b> 49:16 119:14 <b>coming</b> 6:12 8:25 19:16 43:22 49:21 49:23 62:4 63:17 141:11 <b>COMMENCING</b> 1:2
---	---	---	---	--

<b>commend</b> 62:2 <b>comment</b> 3:17 27:18 31:5 32:9 32:19 35:1,14 36:19 38:22 44:13 92:9 100:23 120:16 123:11 137:20 <b>commented</b> 14:2 <b>comments</b> 15:15 26:20,25 27:13,17 29:7,23 50:25 54:14 64:5,5,19 66:4 81:6 84:23 86:19 87:9 88:7 89:2,9 90:2 92:13 94:21 113:22 127:7 141:21 153:20,23 158:17 <b>commercial</b> 13:1 13:14,16 15:18,21 19:24 29:10 31:11 31:21 33:6,16 40:16 41:15 42:2 42:4 45:2 46:20 52:3 55:3 57:3,8 65:12,12 73:13,22 123:15 <b>commercial/indu...</b> 52:12 <b>commission</b> 114:19 159:6 <b>commissioner</b> 84:21 91:8 98:25 113:21 118:2 123:9,18 138:5 141:20 <b>Committee</b> 8:5,9 8:11 54:10 70:4 72:11 74:11 75:8 97:10 154:1 156:9 156:24,25 158:8 <b>committees</b> 69:1 <b>common</b> 33:15 <b>Commons</b> 22:8 <b>communications</b>	101:3 <b>communities</b> 54:19 72:20 106:22 125:3 <b>community</b> 7:13,22 8:1 10:10 15:2 56:21 69:6 71:9 71:11,20,23,25 73:18 74:3 76:21 79:17 85:22 128:24 129:6 <b>community-based</b> 132:18 <b>companies</b> 21:7 22:15 23:14 24:7 25:15 37:11,15,21 44:18,24 58:19 64:15 <b>company</b> 16:8 24:20 38:18 46:24 46:24 55:21 58:19 58:21 63:2 <b>comparable</b> 55:2 112:8,12,14,17 <b>comparable-proj...</b> 112:9 <b>compare</b> 17:14 79:10 <b>compared</b> 35:14 62:17 102:6 <b>comparing</b> 22:22 <b>compatible</b> 22:21 76:15 78:23 79:21 87:13,14 <b>compelling</b> 65:9 113:10 <b>competent</b> 13:12 136:3 <b>competitive</b> 65:13 <b>compilation</b> 60:11 <b>completed</b> 157:21 <b>completely</b> 34:24 39:3 <b>complexes</b> 71:8 <b>compliance</b> 4:7 <b>complicated</b> 119:1	<b>complies</b> 159:10 <b>complimented</b> 19:16 <b>comply</b> 9:7 <b>component</b> 20:23 108:25 <b>comps</b> 55:10 <b>conceived</b> 83:18 121:2 <b>concentrate</b> 69:18 69:19 76:4 <b>concentrations</b> 72:19 <b>concept</b> 28:9 32:13 81:25 82:7 83:3 84:7 91:18 92:6 93:3,4,7,8 99:5 109:12 <b>concern</b> 52:21 126:7 135:4 <b>concerned</b> 54:9 63:25 <b>concerning</b> 8:13 <b>concerns</b> 64:7 79:13 124:14 125:9 <b>concert</b> 59:23 <b>concisely</b> 40:6 <b>conclude</b> 46:19 77:14 <b>concluded</b> 85:23 116:22 126:11 143:6 158:23 <b>concludes</b> 11:12 153:18 <b>conclusion</b> 27:8 45:25 54:25 71:2 74:20 75:15 80:24 128:19 138:13 <b>conclusions</b> 8:13,19 <b>concur</b> 26:22 47:16 64:4 70:18 86:24 <b>Concurring</b> 62:7 <b>conditions</b> 7:25 9:16,17 61:18 72:10 125:2 127:9	127:12 128:7,13 129:10 <b>Condo</b> 28:20,23 <b>conducive</b> 36:13 <b>conducted</b> 116:2,5 <b>confidence</b> 78:17 <b>confident</b> 72:12 111:19 <b>configuration</b> 30:23 <b>confirmed</b> 45:1 <b>confirms</b> 29:25 <b>conflict</b> 73:22 74:15,21 75:6,16 87:1 <b>conflicting</b> 12:23 78:15 <b>conform</b> 15:21 18:1 <b>conformance</b> 16:10 <b>conforming</b> 13:8 <b>confronted</b> 123:1 <b>connection</b> 99:17 126:11 <b>consequences</b> 129:7 <b>Conservation</b> 85:9 <b>consider</b> 6:18 10:20 11:16 16:23 17:11 19:3 21:5 66:13 72:11 89:24 128:6 128:15 135:18,23 136:8 141:3 142:6 157:1 <b>considerably</b> 45:23 <b>consideration</b> 114:12 124:4 <b>considered</b> 15:11 17:15 25:16 26:10 34:16 44:10 51:25 52:1 127:10 129:22 134:18,25 142:13 156:22 <b>considering</b> 22:6 88:16 91:12 116:12 124:4 <b>considers</b> 141:25	144:6 <b>consistency</b> 81:7 <b>consistent</b> 58:2 65:25 76:14 77:5 77:11,18 78:22 84:8,13,15 89:3 89:16 90:6 94:10 111:3 143:9 <b>consistently</b> 143:11 <b>constraints</b> 114:16 118:1 119:19 <b>construct</b> 35:19 <b>constructed</b> 34:19 36:25 51:24 <b>constructing</b> 53:25 <b>construction</b> 70:2,7 117:19 121:15 128:16 131:15 <b>consultant</b> 33:6 65:10,11 <b>consulting</b> 42:4 <b>contact</b> 29:13 <b>contacted</b> 25:8 48:11 <b>contained</b> 69:3 <b>contemporaneous</b> 107:7 <b>continue</b> 10:20 14:13 19:11 49:3 <b>continued</b> 6:4 <b>continuing</b> 15:9 <b>contradicted</b> 15:14 27:11 <b>contrary</b> 56:8 59:25 <b>contrast</b> 17:14 122:10 <b>contribute</b> 55:25 72:19 <b>contributing</b> 52:18 <b>control</b> 85:6 117:22 <b>conundrum</b> 139:20 <b>conversion</b> 59:6,8 <b>convert</b> 30:3 <b>converted</b> 36:10 37:20 44:24
--	--	---	---	--

<b>converting</b> 22:12 <b>convinced</b> 26:24 72:7 <b>convincing</b> 18:20 <b>core</b> 69:20,21 72:24 73:24 74:6 75:20 76:9,20 82:8,15 83:8 85:19 86:2 <b>corner</b> 83:25 <b>correct</b> 97:14,17 111:5 135:4 145:7 158:14 <b>correctly</b> 91:23 <b>corresponding</b> 108:24 <b>corridor</b> 18:7 45:15 45:15 58:10 <b>corroborates</b> 52:21 <b>Cossa</b> 1:18 3:8 5:12 5:13 51:1,2 54:12 67:20,21 96:16,17 98:9,10 149:12,13 151:12,13 153:2,3 <b>cost</b> 34:20 99:10 103:1,2,11,16 104:8,10,22 105:7 105:8,11,11,14 106:4,6,6,9 108:20,21 112:21 113:2,3,14 120:23 121:2,4 122:7,8 134:24 137:13,13 <b>CoStar</b> 33:22 62:16 <b>costs</b> 99:11 103:3,6 103:8 104:2 118:17 122:23 <b>counsel</b> 2:4,6 158:3 <b>counterproductive</b> 73:9 <b>country</b> 64:11 <b>County</b> 21:22 60:20,21 61:4 110:3 155:23 <b>couple</b> 60:14 81:17 <b>Coupling</b> 111:17 <b>course</b> 22:7 47:17	84:1 146:8 <b>court</b> 79:6 159:4,6 <b>crack</b> 143:12 <b>Cranford</b> 1:1,8 4:2 4:16 13:17 33:12 35:12,15 36:22 39:15 41:25 51:9 51:18 52:20,22,23 52:25 53:4,8,11 53:15,24 54:8 55:13 56:6,10,11 56:12,13,14 63:8 63:25 69:2,9,24 69:25 70:7,13 71:6,7,12,22 72:13 74:5 76:8 77:16 78:5,8,8 79:5,5 81:2 82:11 83:2,3 85:10,24 87:2,4 88:11 110:15 112:15 116:20 119:7,18 120:7,13 126:23 128:9 130:21 131:3 132:24 133:16 134:16,22 135:7,7,8 136:16 137:3,11 153:16 <b>Cranford's</b> 6:23 72:23 73:23 74:16 76:24 80:3 83:21 110:12,18 114:6 114:17 116:13 123:18 <b>create</b> 121:8 <b>created</b> 85:19 159:7 <b>creating</b> 73:8 <b>creative</b> 33:2 <b>creativity</b> 33:2 <b>credibility</b> 27:10 102:12 <b>credible</b> 8:17 12:9 18:20 22:9 26:12 36:3 59:22 60:2 66:15 68:10	102:20 105:1 108:13 112:1,24 129:17 130:19 133:14 138:17 142:2 144:8 145:2 146:7 148:7 <b>credibly</b> 13:18 <b>credit</b> 123:17 <b>crew</b> 63:23 <b>criteria</b> 51:10 <b>critical</b> 125:21 140:4 <b>criticism</b> 141:14 <b>criticized</b> 140:6,20 <b>Crossing</b> 69:25 82:12 83:2,4 112:15 <b>Crossings</b> 79:6 <b>crystal</b> 84:25 <b>curiosity</b> 108:3 <b>current</b> 9:19 13:1 13:23 15:10,18 16:3,10,15,23 17:6 18:2 19:5 20:5 21:12,15 26:2 31:7 39:9,20 41:12 52:2,3,14 52:16 54:18,21,21 57:8 58:2 61:17 63:4 70:17 71:7 73:20 88:12 89:3 107:7 116:18 118:16 119:23 123:22 124:5 125:2 127:8 128:13 130:19 134:8 136:10 <b>currently</b> 10:23 12:11 13:7 16:9 17:5 19:2 26:14 27:5 28:18 30:25 31:9 37:4 44:19 44:22 46:4 51:12 51:14,24 52:10,25 53:4,19 58:20 62:22 65:17 66:18	69:5 70:1,6 71:8 119:2 123:6 134:9 <b>Cushman</b> 24:24 43:1 <b>cut</b> 43:9 <b>cycles</b> 48:25 <b>C-H-A-L</b> 104:9 <b>C-3</b> 1:6 6:6 13:7 15:18,21 16:3,10 16:15,18,23 17:6 18:2 21:20 26:13 31:7 39:9 <b>C.C.R</b> 159:3,14	<b>decisions</b> 21:19 <b>declined</b> 103:12 <b>deconstruction</b> 101:20 <b>decreased</b> 105:24 <b>dedicated</b> 120:2 135:24 137:15 <b>dedication</b> 7:4 <b>deemed</b> 63:10 <b>deep</b> 36:16 <b>deficiencies</b> 133:10 <b>deficient</b> 85:24 109:1 <b>deficit</b> 136:5 <b>defined</b> 65:25 <b>defines</b> 69:15 <b>definitely</b> 155:22 <b>definition</b> 12:14 51:19 64:25 65:21 <b>degree</b> 46:2 <b>deliberately</b> 35:11 <b>deliberating</b> 6:15 8:8 41:9 <b>deliberation</b> 18:15 35:8 47:5 60:19 62:3 <b>deliberations</b> 3:3 11:5 13:5 17:1 <b>deliberative</b> 90:22 <b>deliveries</b> 24:8 <b>demand</b> 21:18 42:7 52:3 <b>demographer</b> 53:12 110:24 114:9,23 121:11 121:12 122:18 131:5,5 133:14 141:6 <b>demonstrate</b> 9:20 10:7 113:9 <b>demonstrated</b> 26:11 61:20 70:17 77:9 142:7,20 144:13 145:23,25 146:19 147:5 150:4,7,13,21
---	---	--	--	---

152:7 <b>demonstrating</b> 10:4 12:8 27:2 66:14 68:9 142:1 144:7 145:1 148:6 <b>denied</b> 153:16 <b>dense</b> 69:19 70:13 73:18,18 74:5 <b>densities</b> 72:18 82:10 83:7 <b>density</b> 39:17 43:12 53:9 69:20 70:6 72:22,24 73:23 75:13,19 76:4,8,9 79:2,8 81:22 82:1 82:1,4,8,21,22 85:1 87:16 93:12 <b>department</b> 53:23 121:18 141:10 <b>depending</b> 74:1 85:16 107:2 <b>Deputy</b> 1:12 3:10 5:10,11 57:13,15 60:10 64:6 67:18 67:19 81:8,11 91:15,17,25 92:4 92:8,24 93:5,8,11 94:1,4 95:1,4,13 95:18 96:13,14 97:5,14,17 98:7,8 98:23 99:2 120:14 120:17 137:24 138:25 139:3,6,12 142:15 143:3,15 143:19,23 144:3 144:17 145:15,22 146:16,21,24 147:4,11 148:11 148:20 149:10,11 149:21 150:1,17 151:10,11,23 152:3,6,25 153:1 <b>derived</b> 101:21 <b>described</b> 43:13 <b>DESCRIPTION</b> 3:23	<b>design</b> 29:2 77:4,4 <b>designated</b> 75:9 81:18 <b>designation</b> 81:20 <b>designing</b> 53:25 79:25 <b>desirable</b> 15:1 44:21 <b>desire</b> 18:23 39:6 <b>desired</b> 44:20 <b>desirous</b> 20:19 <b>despite</b> 65:13 106:14 <b>destroy</b> 80:2 <b>detail</b> 9:18 <b>detailed</b> 8:12 47:15 64:5,19 118:8 <b>details</b> 138:3 <b>determination</b> 8:10 109:10 122:11 <b>determine</b> 7:20 8:3 11:24 59:17 85:21 89:15 90:8 99:4,7 99:18 107:3 142:6 142:19 144:12 <b>determined</b> 25:24 94:9 97:1 103:23 144:6 146:11 <b>determines</b> 11:14 122:17 146:5 <b>determining</b> 106:13 146:14,15 <b>deterrent</b> 41:10 <b>detriment</b> 71:20 77:23 87:23 88:2 103:21 <b>detrimental</b> 73:5 79:17 103:5 138:20 <b>detriments</b> 62:20 <b>develop</b> 69:2 89:25 91:9 <b>developer</b> 70:5 <b>developing</b> 43:20 44:7 90:21 <b>development</b> 6:23	8:2 10:9 30:3 39:12,19 53:10 63:5 69:13,19 70:23 71:10 74:6 75:21 76:13,19 77:11 78:21 79:1 79:4,18 86:5,10 86:16 87:1 99:10 114:14 115:11 116:15 118:5 119:6,21 120:13 131:2,11 135:6 142:9,25 144:15 145:25 147:7 150:14,23 <b>developments</b> 53:3 79:5 85:5 110:25 112:13,15 141:3 <b>deviated</b> 104:17 <b>Didzbalis</b> 5:23 <b>difference</b> 78:17 80:20 81:21 82:19 83:1,4 101:23 102:24 115:17 121:7 <b>different</b> 7:6 17:12 29:14 45:21 102:2 107:2 147:16 <b>differential</b> 102:2 107:23 <b>difficult</b> 20:4 21:19 45:10 107:24 <b>difficulties</b> 21:25 <b>difficulty</b> 21:10 25:25 <b>dilapidated</b> 35:20 <b>diligence</b> 41:12 49:18,24 <b>diligent</b> 32:16 <b>direct</b> 27:12,17 50:4 72:22 74:15 74:21 75:6,16 87:1 <b>directed</b> 42:14 <b>directly</b> 133:17 <b>disadvantage</b>	103:22 <b>disagree</b> 145:9 <b>disbursement</b> 121:16 <b>disciplines</b> 136:2 <b>disclose</b> 40:13 41:20 <b>disclosing</b> 105:2 <b>discount</b> 103:23 104:2,22 105:5 <b>discounted</b> 103:24 104:24 <b>discounting</b> 104:11 <b>discovery</b> 50:2 <b>discrepancies</b> 138:5,17 <b>discuss</b> 15:17 73:10 84:21 <b>discussed</b> 50:5 59:18 77:20 93:6 114:11 <b>discussing</b> 45:8 84:22 85:13 114:19 <b>discussion</b> 19:2,20 25:18 125:16 <b>discussions</b> 28:13 30:24,25 38:7,10 87:10 <b>disparate</b> 114:25 <b>disrepair</b> 35:17 <b>distinguish</b> 27:19 <b>distributed</b> 32:23 <b>distribution</b> 21:16 21:24 22:1 24:5 24:16,19 36:11,14 36:20,23 131:7 <b>district</b> 13:1 52:20 75:10 80:1 81:18 115:9 117:9 121:13 122:3,23 123:2,5 136:15 141:7,8,11 <b>districts</b> 116:1,9 131:15,16 <b>disturbing</b> 47:21	<b>diverse</b> 70:8 <b>diversified</b> 76:1 <b>diversion</b> 71:1 77:24 <b>diverting</b> 72:14 <b>divide</b> 29:4 <b>documents</b> 26:9 <b>doing</b> 7:1,18 8:7 20:12 21:18 46:12 91:4 99:17 101:12 123:20 137:8 145:16 <b>dollar</b> 14:18 <b>dollars</b> 102:5,10 <b>DONNA</b> 1:15 <b>Dooley</b> 1:12 3:10 5:10,11 57:13,14 57:15 60:5,10 67:18,19 81:8,11 84:21 91:8,15,17 91:25 92:4,8,24 93:5,8,11 94:1,4 95:1,4,13,18 96:13,14 97:5,14 97:17 98:7,8,23 99:1,2 113:21 114:19 118:2 120:14,17 137:25 138:5,25 139:3,6 139:12 142:15 143:3,15,19,23 144:3,17 145:15 145:22 146:16,21 146:24 147:4,11 148:11,20 149:10 149:11,21 150:1 150:17 151:10,11 151:23 152:3,6,25 153:1 <b>Double</b> 147:8 <b>downtown</b> 56:11 69:20,25 70:14 72:24 73:24 74:6 75:20 76:5,9,20 79:7,11 82:2,8,10 82:14,21 83:8
--	--	--	--	---



85:1 <b>Dr</b> 3:4 5:14,15 12:20,21 26:19,23 47:14 53:11 57:16 60:9 64:6 66:8,11 66:12 67:22,23 80:19 87:11,12 88:6 93:20,21,22 94:6 96:19,20 98:11,12 104:16 110:24 111:11 114:7,8,9,23 115:3,3,5,9,13,13 115:18,19,21,22 115:25 116:8,17 116:17 117:16 120:22,24 121:9 121:11 122:17 124:10,11,12,19 130:17,24,25 131:4,4,9,10,14 131:22,24 132:9 133:9,13,21,25 134:10,15,18,19 135:15,16,21 136:2 137:19,24 138:21 139:18 140:3,6,20,22,23 141:14 144:19,20 144:21,24 147:1 147:14,22 148:3 148:17 149:14,15 150:19 151:14,15 152:11 153:4,5 <b>drastic</b> 91:20 <b>drastically</b> 50:11 <b>draw</b> 68:19 <b>drive</b> 22:18 128:3 <b>driven</b> 33:12 108:4 <b>driving</b> 101:6 <b>drop</b> 106:15 108:21 <b>dropped</b> 108:23 113:3 <b>due</b> 14:10 17:20 18:19 21:18 23:24 41:11 49:18,24	101:24 104:4 128:24 <b>duty</b> 122:2 <b>dwelling</b> 72:1 75:3 78:11 <b>dwellings</b> 72:7 <hr/> <b>E</b> <b>E</b> 1:7,7 2:2,2,9,9,12 3:2,22 72:17 159:1,1 <b>earlier</b> 44:13 51:12 92:13 <b>easier</b> 26:3 <b>easily</b> 28:2 <b>East</b> 128:17 <b>echo</b> 64:23 81:9 89:2 <b>economic</b> 14:2,14 14:22 16:5,16 46:5 56:1 75:19 76:1 136:14,17,21 <b>economical</b> 15:7 <b>ed</b> 53:11,23,23 63:23 113:23 117:22 <b>edge</b> 70:12 76:18 <b>educated</b> 64:10 <b>education</b> 6:20 114:6,16 118:23 119:8,20 120:5,12 121:18 141:10 <b>educational</b> 48:14 114:2 132:15 135:25 136:2,10 137:2,5,5,15,16 <b>education's</b> 114:9 114:23 <b>ed's</b> 110:23 <b>effect</b> 9:19 120:8 138:20 <b>effort</b> 35:16 60:24 61:17 63:7 64:7 156:6 <b>efforts</b> 56:19 <b>eight</b> 30:14 37:24	38:5 39:3,7 48:18 130:21 <b>either</b> 39:18 58:17 108:11 116:15 127:2 <b>elaboration</b> 100:20 <b>elect</b> 128:2 133:1 <b>elects</b> 14:23 <b>element</b> 74:8 103:15 <b>elementary</b> 110:20 134:9 <b>elements</b> 76:25 <b>elephant</b> 83:11 <b>eliminate</b> 6:8 <b>eliminated</b> 120:4 <b>elimination</b> 135:24 136:9 137:15 <b>Elizabeth</b> 128:17 128:23 <b>emanating</b> 69:20 <b>emergency</b> 125:15 125:23 126:3 <b>emphasize</b> 8:7 74:4 81:17 121:10 <b>employ</b> 55:24 <b>employed</b> 159:8 <b>employee</b> 108:20 108:21 113:2 <b>employees</b> 130:23 <b>employers</b> 64:13,15 <b>empty</b> 121:19,19 <b>encompass</b> 13:2 <b>encompasses</b> 111:7 <b>encourage</b> 70:22 75:22 77:2,3 78:25 91:9 <b>encouraged</b> 79:9 <b>encourages</b> 75:21 75:25 <b>ends</b> 34:5 100:20 <b>engage</b> 16:8 101:20 <b>engaged</b> 7:11 <b>engineer</b> 2:11,12 59:5,15 <b>engineering</b> 59:13	59:14 126:14 129:2 <b>enrolled</b> 110:15 119:3 132:2 <b>enrollment</b> 110:18 111:2 112:11 134:7 <b>enrollment's</b> 110:12 <b>Ensures</b> 71:15 <b>enter</b> 132:15,21 133:16 <b>entering</b> 127:23 <b>entertain</b> 20:18 <b>entire</b> 61:14 <b>entitled</b> 15:5 146:11 <b>entity</b> 28:6 <b>environment</b> 76:16 78:24 <b>environmental</b> 73:15 <b>equal</b> 100:1 <b>equation</b> 99:20 140:25 <b>error</b> 33:8 102:4,8 102:10 132:4,5,6 <b>errors</b> 101:25 102:14 111:12 131:23 <b>ESL</b> 120:4 <b>especially</b> 83:8,8 <b>ESQ</b> 2:3 <b>ESQUIRE</b> 2:6 <b>essence</b> 146:10 <b>essentially</b> 53:5 109:13 <b>establish</b> 64:16,25 112:19 <b>established</b> 14:12 68:3 112:4 <b>establishes</b> 72:22 <b>estate</b> 31:12 32:24 33:6,16 41:15 42:2,5 46:17,20 47:20 50:20 65:12	109:5 <b>estimated</b> 114:22 114:24 <b>estimates</b> 42:25 80:19 115:1,14 116:4,6 <b>ethical</b> 46:15 <b>evaluating</b> 69:16 124:7 <b>evaluations</b> 116:3 <b>evening</b> 4:1 6:2 10:2 151:22 153:12,19 <b>evenings</b> 7:15 <b>evenly</b> 110:18 <b>event</b> 125:21 <b>events</b> 71:24 <b>everybody</b> 62:7 <b>eviction</b> 47:1 <b>EVID</b> 3:23 <b>evidence</b> 8:17 11:8 11:8 12:9 17:4 18:20 26:12 27:2 31:8 32:23 42:17 60:2,11 66:16 68:10 101:16 105:1 108:14 112:1,25 122:4 142:3 144:8 145:2 146:7 148:7 <b>evidentiary</b> 59:22 <b>exact</b> 41:6 <b>exactly</b> 58:5 <b>examination</b> 116:24 <b>example</b> 22:18 42:8 132:23 <b>examples</b> 19:18 23:6 24:7 44:23 56:1 <b>exceeding</b> 120:1 <b>exceeds</b> 42:20 119:15 <b>excellent</b> 120:8 <b>exception</b> 42:3 50:9 <b>excess</b> 101:7 113:12
---	---	---	---	---

<p><b>excessive</b> 34:21</p> <p><b>excuse</b> 13:13 78:6 79:11 80:2 92:18 114:8 134:14 142:23 154:17</p> <p><b>executive</b> 100:19</p> <p><b>exercise</b> 101:20</p> <p><b>exhibits</b> 3:24 6:19</p> <p><b>exist</b> 35:10 44:19</p> <p><b>existence</b> 10:23 12:12 26:14 27:5 66:18</p> <p><b>existing</b> 7:24,25 23:10 34:18 41:12 46:24 53:22 75:22 78:24,25 79:4 114:15 117:15 124:2</p> <p><b>exiting</b> 127:23</p> <p><b>expand</b> 18:14 28:15 46:24</p> <p><b>expanded</b> 65:5</p> <p><b>expanding</b> 155:20</p> <p><b>expansion</b> 55:15,17 55:21 155:19</p> <p><b>expect</b> 36:22 157:10,21</p> <p><b>expected</b> 108:15 119:2</p> <p><b>experience</b> 18:12 68:20 123:16,19</p> <p><b>experiences</b> 127:6 127:17,20 130:1,7</p> <p><b>experiencing</b> 21:25 41:22</p> <p><b>experiential</b> 13:21</p> <p><b>expert</b> 13:19 15:16 29:8 31:12 32:1 33:9 36:6 42:4 48:25 56:3 59:12 59:14 99:22 100:5 101:19 102:9 114:20 124:24 125:4 129:16 131:4,10,12 138:4</p> <p><b>expertise</b> 8:1 31:21</p>	<p>36:2 115:23</p> <p><b>experts</b> 12:24,24 15:12,13 16:1 17:11,12 27:3,9 27:11,20 39:24 46:11 115:3 123:21 124:23 133:19</p> <p><b>Expiration</b> 159:16</p> <p><b>explain</b> 18:13 27:7 37:18 106:24</p> <p><b>explained</b> 33:15 42:6,12 51:11 104:13,16 107:1,7 117:19 118:24 132:11</p> <p><b>explaining</b> 118:2 141:2</p> <p><b>explanation</b> 100:16 102:2,21 104:1 106:16 118:9</p> <p><b>explication</b> 102:14</p> <p><b>extent</b> 85:4</p> <p><b>extra</b> 119:14</p> <p><b>extraordinary</b> 83:9</p> <p><b>extreme</b> 80:19</p> <p><b>E-commerce</b> 61:6</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>F</b> 1:7 159:1</p> <p><b>facilitates</b> 71:16 72:4</p> <p><b>facilities</b> 10:11 19:21 48:7 52:6 53:5,7,16 86:9 114:2,14 116:12 116:23,25 117:12 117:16 142:10 143:1 144:16 145:13 150:16 151:25 152:9</p> <p><b>facility</b> 28:11 37:7 43:14,18 44:16,20 50:19 133:2</p> <p><b>fact</b> 8:13 27:23 41:20 45:8 65:16</p>	<p>75:9 77:22 82:14 90:23 108:21 138:3,20 139:14 140:9 141:3</p> <p><b>factor</b> 101:6 109:8 141:7,8,11</p> <p><b>factors</b> 114:11 141:4</p> <p><b>facts</b> 15:14 81:14 138:14</p> <p><b>factual</b> 60:11 100:15</p> <p><b>faculty</b> 136:11 137:7</p> <p><b>failed</b> 65:22 146:5</p> <p><b>fair</b> 22:22 117:9</p> <p><b>faith</b> 49:13 54:5 138:15</p> <p><b>faithful</b> 68:17</p> <p><b>fall</b> 37:1 118:19</p> <p><b>falls</b> 110:2</p> <p><b>familiar</b> 116:17 117:12</p> <p><b>familiarity</b> 13:16</p> <p><b>families</b> 111:7</p> <p><b>family</b> 109:25</p> <p><b>far</b> 16:5 22:15 23:14 42:20 46:7 47:21 48:17 49:11 49:14 50:21 58:16 73:21 79:11 86:13 88:10 112:23</p> <p><b>favor</b> 6:9 97:12</p> <p><b>favorable</b> 14:22 15:6,12</p> <p><b>favorably</b> 8:4</p> <p><b>features</b> 71:6</p> <p><b>Feder</b> 1:13 3:12 5:8 5:9 60:6,7 61:24 67:16,17 68:14,15 78:2 81:24 84:10 90:17,20 96:11,12 97:18 98:5,6 137:22,23 138:24 139:2,5,11 149:8 149:9 151:8,9</p>	<p>152:23,24</p> <p><b>Feder's</b> 89:2</p> <p><b>feel</b> 41:16 47:5</p> <p><b>feet</b> 20:5,9,16,22,24 21:1,3,17,17 22:3 24:12 25:11 26:4 26:7 27:25 28:14 28:19,22,24 29:3 29:4,20 32:7,8,18 43:4,5 65:17,20 87:19,20 155:21</p> <p><b>fell</b> 28:7 48:5</p> <p><b>fellow</b> 62:2 74:17</p> <p><b>felt</b> 34:20 42:16 120:5</p> <p><b>FEMALE</b> 157:17</p> <p><b>fewer</b> 105:20 139:8</p> <p><b>fiduciary</b> 49:17 122:2</p> <p><b>figure</b> 101:20,23 104:12,24 112:5 112:25 113:1,1,3</p> <p><b>figures</b> 107:21,22 113:2</p> <p><b>figuring</b> 107:4</p> <p><b>filing</b> 4:15</p> <p><b>filling</b> 36:15</p> <p><b>final</b> 8:10 35:14 106:18</p> <p><b>finalize</b> 69:10</p> <p><b>Finally</b> 76:21</p> <p><b>financial</b> 98:19 100:5 121:20 123:18 137:7 159:8,9</p> <p><b>find</b> 8:25 17:4 18:11,17 20:4 22:8 26:10,25 32:2,6 33:4 37:16 47:23 48:8 54:6 59:24 80:24 107:24 108:11 113:6 129:7 133:13 136:19</p> <p><b>finding</b> 11:9 41:17 48:14</p>	<p><b>findings</b> 7:18 8:12 8:19,21 11:6</p> <p><b>finish</b> 120:14,18 156:6</p> <p><b>finished</b> 84:22</p> <p><b>fire</b> 24:15 52:8 125:17,21,25</p> <p><b>firm</b> 56:24</p> <p><b>first</b> 8:23 12:6 24:21 27:21 39:5 51:2,18 68:3,21 69:18 93:24 95:14 99:19 100:6,25 101:8 103:11,17 104:18 105:22 106:14 108:8 110:8 147:21 154:25</p> <p><b>fiscal</b> 79:14 84:16 84:21 88:24 99:3 99:5,7 100:1,13 102:6 103:4,13 105:15 113:7,9,12 118:3 122:10,12 123:20,25 138:1 138:15,19 139:9 140:1,11,14,18 142:11 143:2 145:13 152:9</p> <p><b>fit</b> 62:11 79:20</p> <p><b>five</b> 29:14 49:22 107:19 108:2,5 117:21 132:6</p> <p><b>five-lane</b> 84:2</p> <p><b>five-stories</b> 87:20</p> <p><b>five-story</b> 75:10 76:18 79:19 80:1</p> <p><b>five-year</b> 107:5,8 107:16,22 108:9 108:16 132:6</p> <p><b>fix</b> 73:8</p> <p><b>Flanders</b> 22:19</p> <p><b>flawed</b> 115:21</p> <p><b>flex</b> 37:2</p> <p><b>flyers</b> 32:17,21 62:14</p>
---	--	--	--	--

<b>focus</b> 11:5 106:10 <b>focused</b> 36:9 <b>focusing</b> 10:2 <b>following</b> 8:23 10:14 11:20,22 12:5 27:24 30:18 36:6 38:4,11 43:16 68:5,7 100:6 118:15 134:12 <b>follows</b> 29:12 45:6 97:6 <b>follow-up</b> 30:11,15 38:9 <b>foot</b> 14:12 20:14 21:6,14 23:1,4,5 34:14,20 42:10,11 42:20 45:3 <b>footage</b> 52:18 <b>Forbes</b> 49:6 <b>force</b> 64:17 <b>forces</b> 44:6 64:10 <b>foregoing</b> 159:5 <b>foreseeable</b> 19:12 <b>forget</b> 7:3 82:15 150:5 <b>form</b> 71:25 86:11 156:20,21 <b>Formal</b> 4:16 <b>formalized</b> 154:10 156:13 <b>formed</b> 54:25 <b>forming</b> 129:22 <b>Fort</b> 44:5 <b>forth</b> 61:16 63:3,6 84:9 <b>forward</b> 60:15 <b>forwarded</b> 156:23 158:10 <b>found</b> 13:12 27:10 29:22 36:24 47:21 57:20 89:6 116:4 129:17 140:1 141:5 <b>four</b> 42:10 75:13 84:2 110:1 132:4	133:3,4,7 <b>four-bedroom</b> 132:25 <b>four-story</b> 79:19 <b>framed</b> 14:17 <b>freight</b> 83:25 84:1 <b>frequently</b> 25:5 <b>front</b> 45:22 51:7 <b>fulfill</b> 69:22 70:19 73:19 75:5 <b>fulfills</b> 72:17 76:19 <b>full</b> 103:25 114:22 117:6,7 134:10 <b>fully</b> 61:14 <b>function</b> 99:23 117:4 <b>fundamentally</b> 99:23 <b>funding</b> 118:1 119:19 121:15 <b>funds</b> 114:17 118:19 119:7 121:16 136:5 <b>further</b> 9:24 11:2 59:3 66:3 68:12 70:2 71:13 74:10 77:17 87:5 107:20 111:2,8 114:1 116:2 117:18 118:14 142:5 143:10 144:11 145:4 146:9 148:13,15,17 153:14 158:17 <b>furthering</b> 75:12 <b>furthermore</b> 59:13 <b>further</b> 70:9 <b>future</b> 19:12 49:3 49:12 69:14 74:9 77:20,21 114:18 115:8 119:2	<b>general</b> 18:8 25:23 33:20 45:17 70:25 115:23 <b>Generally</b> 36:7 <b>generate</b> 35:19 80:6 118:5 132:12 134:20 <b>generated</b> 99:12 105:6 108:25 109:11 110:25 114:13 119:5 126:20,25 128:19 133:19 135:9 <b>generation</b> 39:16 102:17 <b>getting</b> 100:20 138:14 <b>Giblin</b> 1:11 3:14 5:6,7 63:14,15 64:22 67:14,15 89:1,11 96:9,10 98:3,4 149:6,7 151:6,7 152:21,22 154:9,12,16,24 156:12 157:7,9,19 158:1,4,7,12,19 <b>give</b> 122:16,17,19 143:12 144:17 146:16 147:15 154:13 155:13 <b>given</b> 52:19 104:1 109:22 116:8 119:19 122:1 <b>gives</b> 115:17 122:3 155:18 <b>Glenwood</b> 131:17 <b>global</b> 45:11 56:24 <b>go</b> 33:24 48:8,13,19 53:24 66:10 90:22 91:16 103:1,3 118:6 122:22 124:20 143:5 144:2 147:15 149:21 154:1 <b>goal</b> 69:19,22 70:3 70:9 72:23 73:19	74:22 75:5,12,17 75:21,25 76:11,11 77:2 85:3,9 115:15 <b>goals</b> 69:15 71:1,21 72:15 75:17 76:2 76:19,22 77:24 78:20 81:24 84:8 86:17 91:6 137:2 <b>goes</b> 33:21 64:2 73:10 79:12 99:24 99:25 100:10,11 105:12,14 131:23 <b>going</b> 6:24 7:14,16 8:7 10:13,13 11:19 29:25 40:19 40:19,21,22,25 41:1,2 42:21 62:6 62:25 63:3 81:13 85:7 94:3 98:1 103:7,8 118:18 125:23,24,24,25 126:1,2 130:13 139:9,15 147:19 155:5 157:22 <b>golf</b> 22:7 84:1 <b>good</b> 4:1 12:4 22:5 89:23 110:1 123:13 156:16 157:17 <b>govern</b> 118:18 <b>governing</b> 8:21 9:7 94:24 123:19 156:23 <b>governments</b> 123:17 <b>grade</b> 134:12,13,13 <b>grades</b> 110:19 111:1 <b>granted</b> 9:13 <b>granting</b> 9:15 <b>granular</b> 106:22 <b>grass</b> 86:11 <b>great</b> 44:1 45:9 50:18 56:6 <b>greater</b> 75:13	<b>Grillo</b> 40:10 41:5 <b>group</b> 19:20 27:24 28:1,3,6 48:5 141:7,8 <b>groups</b> 141:11 <b>growing</b> 50:20 <b>guess</b> 90:3 93:23 <b>guessing</b> 30:10 <b>guide</b> 70:22 <b>guideline</b> 86:15 <b>guidelines</b> 80:5 <b>G(2)</b> 75:18 <b>G(3)</b> 76:3 <b>G(6)</b> 76:22
<b>H</b>				
<b>H 3:22</b> <b>Haber</b> 53:11 80:19 110:24 114:10,23 115:3,9,13,19 116:17 117:16 121:11 122:17 131:4,4,9,14,22 131:24 132:9 133:9,13 140:3,6 141:1 <b>Haber's</b> 104:16 115:21,22,25 116:8 121:9,22 122:6 130:25 140:16,20,22,23 141:14 <b>half</b> 80:12,22 <b>Hall</b> 4:14 <b>halved</b> 106:9 <b>hand</b> 39:4 <b>handle</b> 134:5 <b>handles</b> 38:21 <b>happen</b> 48:23,23 129:3,4 <b>happening</b> 45:24 117:8 <b>happy</b> 64:15 92:8 <b>hard</b> 64:12 69:1,22 119:11 <b>hardship</b> 14:14				

<b>hardships</b> 15:8,9 18:11 <b>Hartz</b> 1:5 2:6 6:5 6:16 12:23 13:25 14:9 15:4,7,8,12 15:13 16:1 17:10 18:11 19:2,3,6,8 19:14 20:6,8,17 20:24 21:4,4,6,14 21:18 23:19 24:12 26:3 27:1,3,9,23 28:2,5,12,13,16 29:7,9,22,24 32:13,20,24 33:4 33:7 34:15 35:5,6 35:21 38:4,10,24 38:25 39:11,13,22 41:23 42:12,24 44:14,20 46:11 47:1,5,6 48:3 50:6 51:11,13 52:5 54:5 55:1,6 56:3,7 56:25 61:11,16,20 63:1,6 64:8 65:3 65:22 71:4 73:25 82:25 99:16 100:19 101:9 102:9 103:21,22 108:24 112:18 124:22 125:5 126:22,25 130:5 133:19 134:18 135:1 136:15,19 140:5 <b>Hartz's</b> 52:17 74:15 100:4 <b>health</b> 70:24 <b>healthy</b> 21:14 45:2 <b>hear</b> 59:25 62:5 76:7 104:23 <b>heard</b> 4:13 16:20 25:21 58:6,13 62:5 114:4 <b>hearing</b> 7:19 12:22 14:5 17:8,15 23:18 25:21 26:10	26:24 35:14 66:6 86:23 127:15 141:23 158:23 <b>hearings</b> 14:16 127:8 <b>heightened</b> 122:4 <b>heights</b> 23:12 36:14 44:18 <b>help</b> 124:1 <b>high</b> 42:7 53:9 64:25 85:1 87:20 102:13 136:12 <b>higher</b> 42:25 44:18 76:4 103:5 109:24 121:5,22 <b>highest</b> 35:22 <b>highlight</b> 129:1 <b>highs</b> 18:9 45:18 <b>highways</b> 24:1 <b>high-density</b> 39:12 <b>Hillside</b> 134:4 <b>historic</b> 75:8,10 76:25 79:25 81:18 81:19,20 <b>historical</b> 74:24 <b>history</b> 77:6 132:19 <b>hold</b> 154:22 <b>holding</b> 38:25 <b>home</b> 14:21,25 37:16 64:1 132:25 133:1 147:23 <b>homeowner</b> 14:22 14:23 <b>homeowners</b> 14:18 15:5 <b>homes</b> 75:5 87:17 87:18,18 125:22 <b>hope</b> 92:13 <b>hospital</b> 28:8 32:7 44:4,5,15 <b>hours</b> 68:18 127:19 127:19 <b>house</b> 35:16,20 <b>household</b> 109:17 <b>housekeeping</b> 89:24	<b>housing</b> 70:8 74:8,9 79:1 120:9 132:13 141:4 <b>Hughes</b> 17:18 18:3 18:17 70:19 71:4 71:13 72:16,25 73:10 74:14 79:3 79:12 83:15 100:4 100:15,24 101:2 101:12,16,22 102:1,18 103:3,23 104:8,14 105:16 107:10,13 108:6 108:11,20 109:16 110:11,23 111:5 111:10,15,19 112:7,22 114:5,20 115:2,15,20,23 116:5,11,19,22 117:15 120:23 121:6 122:11,18 139:6,24 140:6,16 140:20,22 <b>hundreds</b> 53:13 <hr/> <b>I</b> <hr/> <b>IBM</b> 56:17 <b>ID</b> 3:23 159:4 <b>idea</b> 48:1,12 156:9 <b>identified</b> 13:7 15:8 17:25 18:12 125:12 132:18 133:10 <b>identify</b> 35:9 107:11 <b>identity</b> 76:22 <b>II</b> 125:8 <b>immediate</b> 58:15 <b>impact</b> 79:13 80:16 84:17,21 88:24 98:19 99:3,5,7 100:1,5,13 102:6 103:4,13 105:15 109:8 113:7,9,12 114:1,17 118:3 119:18 120:5,9	122:10,12 123:25 125:3 126:10,13 128:14,18,20,24 130:15 133:22 135:5 138:1,19 139:10 140:1,11 140:13,14,18 142:11 143:2,2 145:13,13 152:9,9 <b>impacted</b> 80:21 <b>impacts</b> 73:1 79:14 79:15 115:8 124:7 124:23 126:20 129:21 130:11 <b>imperative</b> 40:12 <b>implemented</b> 69:24 <b>implication</b> 118:5 <b>important</b> 18:16 33:19 51:5,7 58:11 105:7 107:9 109:7 122:13,16 124:3 129:15 137:10 <b>importantly</b> 101:15 131:18 132:10 <b>imposed</b> 114:16 <b>impossible</b> 75:1 <b>impression</b> 60:15 <b>improved</b> 19:25 31:17 45:23 103:13 <b>improvement</b> 72:7 <b>improvements</b> 61:12 62:8 65:5 71:17 72:4 <b>improves</b> 105:15 <b>improving</b> 60:20 60:21 <b>inability</b> 14:10 19:10,11 20:10,11 22:1 <b>inadvertently</b> 147:18 <b>inappropriate</b> 83:5 130:4 <b>incapable</b> 46:12	<b>inclined</b> 116:9 <b>include</b> 87:16 89:20 90:12 93:16 94:13 94:24,25 104:11 142:13 <b>included</b> 23:6 79:7 106:16 118:14 <b>includes</b> 89:25 <b>including</b> 53:2 79:5 114:6,12 142:10 143:1 145:13 152:9 <b>inclusionary</b> 71:23 <b>income</b> 109:21 110:1,2 111:6 120:10 <b>incomes</b> 109:17 <b>incompatibilities</b> 88:3 <b>incompatible</b> 87:20 87:25 <b>inconsistent</b> 83:6 86:16 87:21 89:17 89:19 90:4,9,11 92:15 94:10,12,19 94:22,22 95:5,10 95:25 96:1,4,5,7 96:15,17 97:2 <b>incorrect</b> 129:5 <b>increase</b> 45:13 53:2 53:18 54:2 70:12 75:2 78:7,9,11 83:21 101:10 103:21 118:13,21 118:22,25 121:2 123:3 134:6 137:6 <b>increased</b> 42:7 59:18 102:18,19 102:19,21 104:4 110:6 137:4 138:9 138:11 <b>increases</b> 79:2 100:2 102:22 118:11 119:25 <b>increasing</b> 43:12 101:7 102:22
---	---	--	--	--

<b>independent</b> 19:15 <b>Indian</b> 84:5 <b>indicate</b> 12:18 12:25 118:3 <b>indicated</b> 16:11 17:21,22 18:3,22 18:25 19:9,24 20:6,13,23 22:4 23:1,3,22 24:10 24:14 25:14 60:23 115:5 126:9 131:24 132:16 133:9,25 135:16 136:4 139:7 <b>indicates</b> 24:22 136:13 <b>indicating</b> 18:6 33:14 <b>indicative</b> 102:11 <b>indirectly</b> 133:7,18 <b>individual</b> 20:18 27:20 43:11 126:24 131:6 132:24 <b>individuals</b> 128:4 129:13 132:13 <b>indulging</b> 141:18 <b>industrial</b> 13:16 14:8,11 16:12 17:20,23 18:1,19 21:23 22:13,23 23:6,11,24 24:5,8 24:15,18,22,25 25:2,4 31:22,23 32:1 34:3 35:3 36:2,5,7 37:2 38:1 39:7 42:6,13,18 43:2 52:4,8 55:12 55:24 56:14 59:2 62:16,18 73:13 125:22 155:17 <b>Industries</b> 1:5 6:5 <b>industry</b> 25:23 33:16,23 34:9 46:21 48:25 49:5 50:20	<b>inescapable</b> 100:22 <b>infer</b> 35:2 108:6 <b>inference</b> 100:22 <b>inflate</b> 39:14 <b>inflating</b> 115:14 <b>influx</b> 52:23 118:12 119:20 120:9 <b>information</b> 39:1 50:3 62:17 107:8 107:17 <b>infrastructure</b> 53:17 76:6 <b>initial</b> 30:20,21 155:18 <b>initially</b> 65:4 90:7 147:17 <b>initials</b> 99:8 <b>initiative</b> 33:9 <b>input</b> 51:5 <b>inquiries</b> 51:5 <b>inquiry</b> 30:21 <b>insert</b> 72:1 <b>inspected</b> 116:25 <b>inspire</b> 78:17 <b>installation</b> 31:6 <b>installing</b> 53:22 <b>insurmountable</b> 59:8 <b>integrity</b> 104:7 <b>interaction</b> 69:6 <b>interest</b> 7:22 37:23 39:2 51:9 55:7 56:25 89:21 90:13 93:1 94:14 95:12 97:3,8,25 159:8,9 <b>interested</b> 7:11 27:25 28:17 30:13 38:13 40:3 41:4 48:9,15,16 <b>interjecting</b> 27:16 <b>interrupt</b> 147:23 <b>interrupted</b> 147:17 <b>intimately</b> 38:19 <b>introduced</b> 115:5 <b>Introducing</b> 53:9 <b>introduction</b> 31:13	<b>inutility</b> 9:22 10:24 12:6,13,15 13:3,4 13:20,24 14:2,4 15:19 16:4,5,16 16:16,25 17:2,5,6 17:17 19:6 21:11 26:1,8,15 27:6,15 31:9 32:11 35:10 37:9 39:6 41:21 46:7,9 50:14,22 50:25 51:15,19,19 52:1 59:1 60:3 61:21 63:10 64:25 65:21 66:2,19 70:17 153:12 <b>inversely</b> 100:9 <b>invest</b> 35:11 <b>investment</b> 29:10 35:5 55:8 91:9 <b>investments</b> 65:8 <b>invited</b> 69:8 <b>involve</b> 54:7 <b>involved</b> 34:13 38:19 42:1 79:24 113:14 159:8 <b>involvement</b> 32:4 69:7 <b>in-fill</b> 76:13 78:21 <b>Irvington</b> 58:22 <b>isolated</b> 72:2 <b>issue</b> 72:14 83:12 111:14 112:20 <b>issues</b> 27:14 59:6,7 79:16 98:18 <b>ITE</b> 126:13 127:15	45:12,17 52:13 58:9 65:13 73:16 104:20 118:9 121:13,15 131:10 131:12 135:17 141:8 153:16 159:4,5,7,10,15 <b>Jersey's</b> 141:10 <b>job</b> 49:18 61:11 <b>jobs</b> 57:9 <b>Johnson</b> 2:14 28:7 44:6 <b>join</b> 4:19 <b>joined</b> 44:6 <b>judgment</b> 117:1 <b>July</b> 31:10 <b>jump</b> 113:16 <b>June</b> 1:2 4:2 <b>jury</b> 10:14 11:17,19 12:5 35:7 66:7 68:5,7 89:14 142:14 143:4,9 <b>justify</b> 70:25 73:7 <b>J.B</b> 63:2	82:1 88:15 106:23 108:7 110:21 111:11,22,22 112:10,16 116:13 119:16 123:5,13 144:6 153:25 155:15 156:14 <b>knowledge</b> 13:13 13:14 33:21 127:11 129:25 <b>known</b> 46:20 120:7 153:15 <b>KREURT</b> 159:17
<b>L</b>				
<b>L</b> 2:9 <b>LabCorp</b> 19:19 21:2,8 24:11 28:15,16,18 37:12 37:15,15 39:25 <b>LaBrutto</b> 3:18 16:7 19:16 154:19,23 155:2,5,9,9,12 156:1 <b>LaBrutto's</b> 17:22 <b>lack</b> 11:8 46:21 56:18 64:7 112:24 <b>lacked</b> 27:10 33:2,2 <b>lackluster</b> 33:3 <b>land</b> 6:23 8:2 9:25 11:3 39:3 44:3 54:20 68:13 70:20 71:16 74:12 83:22 87:5 144:11 145:5 148:18 <b>lands</b> 70:23 <b>landscape</b> 77:4 <b>lane</b> 125:18 <b>lanes</b> 125:14 <b>lapse</b> 99:8 <b>large</b> 21:10 23:25 24:2,6 25:25 26:3 36:11,20,22 37:5 39:8 62:25 63:2 74:3 135:19 137:14 140:13				
<b>K</b>				
<b>K</b> 110:19 134:12 <b>KATHLEEN</b> 1:10 <b>KATHY</b> 2:10 <b>Keenan</b> 70:18 114:5 <b>keep</b> 57:22 82:4 147:19 <b>keeping</b> 64:2 109:2 156:6 <b>kept</b> 79:9 103:7,8 113:4,5 <b>Kettering</b> 43:14,17 <b>kids</b> 49:9 132:25 <b>kind</b> 47:21 <b>kinds</b> 141:4 <b>know</b> 29:2 31:2 32:16 43:21,24 45:20 48:21 49:11 49:19,24 50:9,19 56:13 59:19,20				
<b>J</b>				
<b>J</b> 1:19 <b>Jagro</b> 28:25 32:7 37:4,11 39:25 <b>James</b> 2:6 13:11 <b>January</b> 107:12 <b>Jersey</b> 13:15 18:7 24:23 31:15 36:5 36:8,17,24 42:8 43:23 44:4 45:5				

<p><b>largely</b> 64:24  <b>larger</b> 20:13 43:9  <b>late</b> 138:13 139:18  <b>LAURA</b> 159:3,14  <b>Laurel</b> 22:18  <b>law</b> 8:13 9:25 11:3  56:24 68:13 70:20  87:5 144:12 145:5  148:18  <b>lawns</b> 86:11  <b>lawyer</b> 100:18  <b>lawyers</b> 123:20  <b>lead</b> 17:4 50:3  103:10  <b>leader</b> 4:11 56:10  <b>learn</b> 33:5  <b>learned</b> 107:15  <b>lease</b> 14:10 19:10  20:8,11,18,23  21:4,6,15,20  24:13 28:24 30:1  33:15 37:12 39:25  40:1,20,21,22  43:6 45:10 46:15  48:6 49:21 52:17  <b>leased</b> 16:8,22 21:8  22:17 23:16 28:1  32:7 34:25 35:4  46:13  <b>leasers</b> 26:6  <b>leases</b> 19:17 38:16  <b>leasing</b> 18:12 19:14  20:19 25:16 27:23  27:25 31:12,21  36:2 38:24  <b>leave</b> 31:1 40:2  126:5  <b>leaves</b> 156:16  <b>leaving</b> 124:4  <b>Ledger</b> 4:11  <b>left</b> 46:4 108:6  138:10  <b>legal</b> 1:23 25:15  40:12  <b>Lenahan</b> 2:10 4:4,6  4:23,25 5:2,4,6,8</p>	<p>5:10,12,14,16,18  5:20,22 63:19  67:8,12,14,16,18  67:20,22,24 68:1  95:17 96:6,9,11  96:13,16,19,21,23  97:19,20,23 98:3  98:5,7,9,11,13,15  149:1,2,4,6,8,10  149:12,14,16,18  149:20 151:1,2,4  151:6,8,10,12,14  151:16,18,20  152:16,17,19,21  152:23,25 153:2,4  153:6,8,10 155:11  <b>let's</b> 51:12,18 103:1  106:10  <b>level</b> 73:4 79:16  111:25 121:22  134:12 157:11  158:8  <b>levels</b> 130:20  <b>library</b> 135:25  <b>License</b> 159:15  <b>licensed</b> 41:15  104:20  <b>life</b> 127:17  <b>light</b> 7:24 15:12  37:3  <b>liked</b> 57:1  <b>likelihood</b> 10:22  12:10 26:13 27:4  66:17  <b>likes</b> 36:23  <b>limit</b> 79:1  <b>limitation</b> 111:12  131:22  <b>limited</b> 55:7  <b>line</b> 75:24  <b>lines</b> 75:22 76:10  <b>link</b> 42:14  <b>Liotta</b> 2:13 99:22  101:19,23 104:13  104:15,19 107:1,6  122:8 138:4</p>	<p>139:18,25  <b>Liotta's</b> 102:3  113:10  <b>listed</b> 42:24  <b>listen</b> 6:13  <b>listened</b> 138:4  <b>listening</b> 47:18,20  74:17 123:12  <b>listing</b> 47:25  <b>listings</b> 62:16,18  <b>little</b> 7:16 28:24  45:20 84:5 113:18  124:21 138:15  <b>live</b> 7:13 64:1 72:12  86:13 116:13,14  <b>lived</b> 56:12 127:6  130:6  <b>lives</b> 132:25  <b>living</b> 121:13 128:4  <b>Livingston</b> 116:16  117:13 119:22  134:4  <b>load</b> 36:15  <b>loading</b> 23:12  <b>loads</b> 36:15 59:18  <b>lobby</b> 61:14  <b>local</b> 86:3 123:17  155:15  <b>locate</b> 22:1  <b>located</b> 14:21 15:11  26:15 62:21  128:16  <b>locating</b> 56:21  <b>location</b> 17:20  18:19 19:11 22:5  22:5 23:23 56:6  58:14,25 127:24  <b>locations</b> 34:23  73:12 79:10  <b>long</b> 52:5 56:12  57:1 63:1 64:2  120:7 130:13  <b>longer</b> 34:12  117:21,24 153:22  <b>longstanding</b> 75:4  <b>long-established</b></p>	<p>70:15  <b>long-term</b> 30:2  <b>look</b> 33:25 49:21  56:11,11 82:16  83:9 85:16 102:6  106:22 108:19  112:21 113:13  143:16  <b>looked</b> 22:12 99:9  103:15 135:15  <b>looking</b> 20:15  25:11 26:6 28:15  29:19 64:13 85:15  85:25 91:23 99:19  143:5  <b>looks</b> 113:5  <b>LoopNet</b> 33:22  42:14,14 62:16  <b>lost</b> 56:25  <b>lot</b> 1:6 6:6 58:12  90:21,25 120:20  125:16,16 130:12  132:8 133:23  <b>low</b> 36:15 51:16  52:18 73:6 80:19  110:2 115:16  <b>lower</b> 21:6 101:4  103:6 120:10  <b>lowered</b> 100:16,20  102:20,21 105:5  106:6  <b>lowering</b> 101:5  105:10,11  <b>lowest</b> 111:1  <b>low-income</b> 111:7  <b>luck</b> 157:17  <b>lure</b> 33:10  <b>LYNDA</b> 1:13  <b>L'Oreal</b> 155:18,20</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>macro</b> 132:17,21  <b>Madame</b> 12:21  26:16 57:13 66:8  66:12 77:25 93:20  124:10 144:19</p>	<p><b>Madison</b> 131:17  <b>Magna</b> 1:23  <b>magnitude</b> 111:22  <b>mailers</b> 47:24  <b>main</b> 20:23  <b>maintain</b> 35:16  64:8,14 69:2  <b>maintained</b> 55:18  <b>maintaining</b> 123:14  123:22 133:1  <b>maintains</b> 71:8  73:17  <b>major</b> 24:1 60:17  69:15 101:6 109:7  <b>majority</b> 90:4  94:19 110:24  <b>makeup</b> 131:6  <b>making</b> 11:9 24:8  80:13 116:25  <b>managed</b> 73:3  79:15  <b>mandated</b> 109:13  109:15  <b>manner</b> 19:7 70:24  76:14 78:22  <b>manufacturing</b>  37:3 63:2  <b>March</b> 41:24  118:18  <b>margin</b> 132:4,5,6  <b>Mark</b> 2:3 3:19  148:12 156:3  <b>marked</b> 3:24 42:17  <b>market</b> 18:4,6,10  19:23,25 20:3  21:14,15 24:15,21  24:22 31:15 34:4  36:7 37:2 45:2,8  45:20 50:15 51:23  52:8 60:20,21,25  61:17 64:9,14,14  65:12 155:16,22  <b>marketable</b> 35:4  <b>MarketBeat</b> 24:24  25:3  <b>marketed</b> 18:23</p>
--	---	---	--	--

43:25 44:11	<b>maximum</b> 135:17	136:1 145:20	<b>mentioning</b> 83:13	<b>misleading</b> 33:8
<b>marketing</b> 13:15	<b>Mayor</b> 1:11,12 3:10	146:8,13 153:13	<b>met</b> 11:7,15 12:7	42:16 62:15
32:16 33:1,8 36:5	3:14 5:6,7,10,11	<b>meaningfully</b> 9:23	47:5 66:14,25	<b>missed</b> 50:16
40:18 47:22 48:1	57:13,15 60:10	11:1 68:12 77:16	67:1 68:4,9 77:14	<b>missing</b> 82:13
48:2,3 58:7 60:22	63:14,15 64:6,21	81:2 87:4 93:25	80:25 142:1 144:7	<b>misuse</b> 56:18
<b>markets</b> 13:17	67:14,15,18,19	98:21 113:25	144:25 145:8,10	<b>mitigate</b> 128:7
<b>Martell</b> 59:5,6,12	81:8,11 89:1,4,10	129:12 130:10	148:5,24 150:24	<b>mitigated</b> 73:3
125:1,11 128:12	91:15,17,25 92:4	135:13 137:1	152:14,15	79:15
<b>MASOL</b> 2:11	92:8,24 93:5,8,11	142:4 144:10	<b>method</b> 104:9,10	<b>mitigation</b> 128:10
<b>mass</b> 47:24 75:23	94:1,4 95:1,4,13	145:4 148:8	104:11,17,22	<b>MLUL</b> 10:6 70:20
82:4	95:18 96:9,10,13	<b>means</b> 12:15 39:15	107:1,11 108:7	72:17 73:11 77:17
<b>master</b> 7:25 9:3	96:14 97:5,14,17	51:20 65:17 95:22	112:7 126:17	98:22 114:1 142:5
54:20 69:3,10,12	98:3,4,7,8,23 99:2	137:7	<b>methodologies</b> 99:4	146:10 153:14
69:14 70:9 71:1	120:14,17 137:24	<b>meant</b> 100:12	108:22 129:18	157:5
72:14 74:7,19,22	138:25 139:3,6,12	138:25 139:8	<b>methodology</b> 22:10	<b>Modification</b> 9:10
75:16,18 76:3,22	142:15 143:3,15	<b>mechanism</b> 118:22	99:20 104:7 105:4	<b>modifications</b> 9:15
77:18,24 78:19	143:19,23 144:3	119:17	108:16 109:17	9:17
79:8 80:3 81:7,23	144:17 145:15,22	<b>mechanisms</b>	115:21 133:15	<b>modified</b> 9:13
82:9,20 83:7 84:9	146:16,21,24	118:24	140:21,24 141:14	<b>Moen</b> 55:16
84:15,18,22,24	147:4,11 148:11	<b>medical</b> 19:20,21	<b>methods</b> 106:17,19	<b>moment</b> 7:2 89:23
85:3,9,18,23	148:20 149:6,7,10	27:24 28:1,3,6,11	106:21	112:18
86:14,17 87:1	149:11,21 150:1	43:25 44:15 48:5	<b>mic</b> 67:9 81:10	<b>money</b> 29:8 35:20
88:22 89:3,4,6,17	150:17 151:6,7,10	48:7	<b>micro</b> 132:18	50:8 63:7 118:4
89:19,21 90:9,11	151:11,23 152:3,6	<b>meet</b> 27:1 65:21	<b>microphone</b> 155:1	119:14,17
90:14,23 91:2,6	152:21,22,25	69:23 73:16 112:2	<b>middle</b> 64:9 139:22	<b>Monmouth</b> 44:5,7
91:12,19,21 92:5	153:1 154:9,12,16	<b>meeting</b> 4:7,9,17	139:23	<b>morals</b> 70:25
92:15,20 93:2	154:24 156:12	27:21 31:10 36:4	<b>midnight</b> 156:7	<b>motion</b> 66:7,9,13
94:10,12,25 95:5	157:7,9,19 158:1	38:2 40:9 41:24	<b>mile</b> 55:13	66:23 91:24 92:2
95:10 96:2,8,15	158:4,7,12,19	69:7 156:22	<b>miles</b> 29:15	92:9 94:8,20 95:2
96:18 97:4,9,12	<b>ma'am</b> 124:12	157:13 158:9	<b>millennials</b> 49:7,9	97:6,7 142:12,16
97:16,25	<b>McDonough</b> 31:11	<b>meetings</b> 4:5,8,10	<b>million</b> 101:7,9,18	143:8 144:22,24
<b>material</b> 33:1,8	31:20 32:5,15,19	51:4 63:18,21	102:5,10,24 106:7	146:23 147:2,25
77:23 126:12	34:12,17 36:1	68:17	113:13	148:4,19 152:1,2
<b>math</b> 101:17	45:4,7 48:17	<b>meets</b> 54:19	<b>mind</b> 46:23 69:23	158:18
<b>mathematical</b>	61:13	<b>member</b> 1:13,14,15	75:6 91:11 111:20	<b>motions</b> 30:1
140:25	<b>McDonough's</b>	1:16,17,18,19	138:8	<b>Mount</b> 22:19
<b>matter</b> 1:3 32:23	31:13 35:1	40:9 68:20,25	<b>mine</b> 27:19 120:18	<b>Mountain</b> 1:5 2:6
108:18 156:10	<b>McDowell</b> 18:5	157:17	<b>minimal</b> 55:8 62:17	6:5,16 27:1 42:13
<b>matters</b> 4:13 8:2	<b>mean</b> 13:6 15:1	<b>members</b> 11:6	<b>minimize</b> 126:24	48:3 51:11 54:6
153:24	38:15 66:24 67:1	12:17 26:25 51:6	<b>minimum</b> 21:7	63:1,6 65:3 83:1
<b>Matthew</b> 18:5	86:5 88:22 90:17	62:3 63:16 68:16	32:25	100:19 101:9
31:11 45:7	90:20 139:5,24	<b>mention</b> 56:9 58:8	<b>minus</b> 131:25	108:24 112:19
<b>MAURICE</b> 2:12	144:1 148:22,24	59:3 112:7 155:23	<b>minute</b> 82:16 84:17	<b>Mountain's</b> 38:10
<b>maximize</b> 39:13	150:21,23 152:13	<b>mentioned</b> 10:12	112:6	51:13 99:17 102:9
<b>maximized</b> 39:15	152:14	83:20 85:8 89:8	<b>mischaracterized</b>	103:21
<b>maximizing</b> 66:1	<b>meaningful</b> 128:3,9	91:8	140:23	<b>mounted</b> 32:15

<b>move</b> 11:21 12:6 46:23 49:2 68:5 88:23 95:4 98:18 133:2 143:19,20 146:18 147:4 150:3,6 151:23 152:4 <b>moved</b> 28:3 150:17 158:19 <b>moving</b> 11:24 49:9 56:23 100:11 <b>multi</b> 75:19 <b>multifamily</b> 6:9 65:23 79:5 129:8 131:1 133:17 135:6 <b>multiple</b> 43:10 117:8 125:15 126:3 145:17 <b>multipliers</b> 107:3 109:19 110:7 <b>multiply</b> 121:7 <b>multiplying</b> 106:3 <b>multi-thousand</b> 45:3 <b>municipal</b> 9:25 10:3 11:3 52:6 53:16 68:13 70:20 70:22 71:8 87:5 104:3 108:19,21 113:2 142:10 143:1 144:11,16 145:5,12 146:1 148:18 150:15 151:25 152:8 <b>municipality</b> 7:23 9:24 10:5,9 11:2 54:8 99:10 103:16 119:5 <b>Murray</b> 1:10 3:15 4:1,18,23 5:18,19 5:25 6:11 10:17 12:4 26:18 47:9 50:23 51:12 54:11 54:15 57:11,14 60:4 61:23 63:12	64:21 66:6,10,20 66:22 67:6 68:1,2 78:1 81:4,10 84:20 87:7 88:5 88:19 89:10 91:22 92:3,7,11,18,21 93:21 94:2,5,7 95:8,23 96:1,23 96:24 97:11,15,19 98:15,16,25 113:20 120:21,24 121:11 122:15 123:8 124:11,18 137:18 138:23 141:19,23 142:18 142:23 143:13,17 144:20,23 145:6 145:19 146:3,20 146:22 147:3,9,12 148:15,19,21 149:18,19,23,25 150:18,20 151:18 151:19,21 152:2 152:12 153:8,9,11 153:18 154:6,17 154:21 155:7,25 156:11 157:8,13 157:16 158:16,20 158:22 <b>music</b> 120:2 136:1 <b>mutual</b> 126:3 <b>Myrtle</b> 55:21	<b>necessarily</b> 132:14 <b>necessary</b> 71:17 72:4 128:11 <b>necessity</b> 8:24 11:24 <b>need</b> 23:25 24:15 29:7 37:21 57:17 72:6 116:22 126:4 136:5 137:6 145:11 154:9 155:7 <b>needed</b> 53:17 72:8 127:2 <b>needs</b> 53:6 62:11 73:16 126:6 144:5 154:16 156:13 <b>negate</b> 39:4 <b>negating</b> 39:10 <b>negative</b> 103:4 113:12 120:4 122:10 125:3 128:14,20,24 129:7 140:2,12,13 140:13,18 <b>negatively</b> 15:2 <b>negatives</b> 147:8,11 <b>neglected</b> 48:13 <b>negotiations</b> 38:8 38:13 48:5 <b>neighbor</b> 84:3 <b>neighborhood</b> 75:10 76:15 77:7 77:12 78:23 79:25 80:16 116:14 <b>neighborhoods</b> 70:15 72:20 75:14 79:22 128:15 <b>Neither</b> 36:21 <b>net</b> 99:4,7 100:1,13 102:6 103:4,13 105:15 113:6,9 120:17 122:10,12 139:9 140:1,11 <b>never</b> 78:9 104:16 116:5,19,25 <b>nevertheless</b> 83:17	85:14 <b>new</b> 13:15 18:7 24:23 31:15 34:18 36:8,17,24 42:8 43:14,21,22,22 44:4 45:5,11,17 45:24 52:13 56:23 58:9 65:13 70:1 73:16 79:1 101:12 104:20 117:19 118:9 121:13,15 131:10,12,13 134:3 135:16 141:8,9 153:16 159:4,5,7,10,15 <b>Newark</b> 45:13 <b>NFI</b> 99:8,18 103:6 <b>night</b> 55:1 <b>nights</b> 6:13 7:12 <b>nine</b> 29:15 123:18 <b>NJSDA</b> 121:23 <b>non-Cranford</b> 130:5 <b>non-resident</b> 108:25 <b>non-residents</b> 108:20 <b>normal</b> 50:16 60:25 <b>North</b> 36:5 44:7 128:17,22 <b>Northeast</b> 52:12 <b>Northern</b> 24:22 31:15 <b>notably</b> 70:1 99:15 101:15 109:25 <b>Notary</b> 159:3,4,15 159:15 <b>note</b> 18:17 27:18 75:13 112:10 113:9 129:15 137:10 143:4 <b>noted</b> 158:24 <b>notice</b> 4:8 <b>notion</b> 71:19 <b>nots</b> 147:10 <b>November</b> 38:2	<b>no-brainer</b> 48:8 <b>number</b> 20:24 23:1 23:24 39:18,18 76:11 93:6 101:12 101:21 102:7,15 103:17 105:17,23 110:11 112:20 114:11,12 118:14 120:25 121:4,7 122:6,19 126:24 131:1,20 132:1,14 132:20 133:15 134:6,19 136:25 137:6,12 139:4,15 140:4,5,8,10,16 143:15 <b>numbers</b> 78:14 82:15,17 83:9 85:16 99:15 105:5 109:23 111:19 120:18 121:10,22 132:12 133:19 134:12 135:10 136:12,24 139:13 139:14,21,25 <b>numerous</b> 24:4,7 26:6 49:4 127:6 127:20 129:25 <b>Nuts.com</b> 55:17 61:6
<b>N</b>				
<b>N</b> 2:2,9 3:2 <b>name</b> 55:17 155:3,7 <b>National</b> 25:16 55:20 85:20 <b>natural</b> 77:1 <b>nature</b> 33:2 38:17 73:18 81:19 <b>near</b> 18:9 45:18 53:5 58:11,18,25 62:21 75:23 76:9 <b>nearby</b> 42:9 <b>nearly</b> 12:22 30:16				
<b>O</b>				
<b>O</b> 1:7 2:9 <b>oath</b> 159:6 <b>objections</b> 115:4 <b>objector</b> 15:15 <b>objectors</b> 12:25 14:1,15 17:13,25 24:4 127:7,20 130:1,7 <b>obligated</b> 41:16,19 <b>obligation</b> 51:8 89:14 93:14 156:19 <b>observation</b> 127:5 129:24				



<b>observations</b> 127:6 128:22 130:6 <b>observed</b> 33:13 <b>obsolete</b> 43:15,19 <b>obvious</b> 39:24 40:5 <b>obviously</b> 155:16 <b>occupancy</b> 123:24 <b>occupant</b> 126:24 <b>occupational</b> 120:3 <b>occupied</b> 16:22 21:3 24:11 55:23 <b>occupies</b> 28:18,21 <b>occupy</b> 26:4 132:13 <b>occur</b> 102:23 <b>occurred</b> 30:8 85:5 <b>October</b> 49:6 99:15 <b>offer</b> 28:16 30:20 38:5 102:1 107:17 156:20 <b>offered</b> 18:25 30:4 115:4 <b>offers</b> 20:18 <b>office</b> 6:8 13:15 14:8,10 17:19 18:4,6,18 19:11 19:24 20:3,25 22:13 25:25 31:12 31:15,19,21,24 32:3 34:15,16,18 34:19,23 35:2,23 43:9,10 45:5,8,17 45:19 48:20 49:8 60:20 155:16 <b>OFFICER</b> 2:14 <b>offices</b> 43:11,12 <b>office-type</b> 20:14 <b>off-limits</b> 46:21 <b>off-site</b> 37:6 124:24 126:9,13,20 130:11 <b>oftentimes</b> 33:25 <b>oh</b> 41:1 103:20 144:3 145:18 146:24 150:5 <b>okay</b> 43:17 92:3 93:15 95:16	143:17 146:20 147:22 148:3,11 152:4 154:21 155:18 157:3,7 158:1,4 <b>old</b> 43:15,19 <b>Olive</b> 22:19 <b>once</b> 28:3 33:13 152:12 153:21 158:7 <b>one-bedroom</b> 133:3 <b>one-third</b> 30:16 <b>one-year</b> 107:5,6 107:15 111:17 <b>online</b> 47:25 <b>on-site</b> 36:12 37:13 37:18 59:17 73:3 124:15,23 125:2 125:10 126:8 128:13 <b>open</b> 4:5,8 43:11 73:13 80:4,13 85:8,11,12,21 86:1,10,12,12 <b>opened</b> 43:14,17 <b>operate</b> 54:22 118:10 <b>operating</b> 99:11 <b>operation</b> 37:17 61:7 <b>operational</b> 21:19 <b>operationalized</b> 13:5 <b>opine</b> 16:4 <b>opined</b> 14:2 15:24 <b>opinion</b> 13:22 15:4 16:14,17 17:16 18:14 21:9 35:21 41:8 46:2,6,10 50:13 63:7,9 64:16 72:25 73:6 73:20 74:14 77:8 80:24 91:5 102:13 113:11 129:20,22 136:23 137:10 <b>opinions</b> 15:13,18	135:2 <b>opportunities</b> 71:24 85:12 135:25 136:10 137:6,16 <b>opportunity</b> 50:16 50:18 73:22 91:8 <b>opposed</b> 23:20 <b>opposite</b> 72:21 <b>opposition</b> 72:23 <b>optimal</b> 65:19 <b>options</b> 52:4 63:5 <b>oranges</b> 83:10 <b>order</b> 11:20 27:7 39:13 47:23 73:15 79:6 111:21 121:14 <b>orderly</b> 10:8 84:7 84:13 91:10 142:8 142:24 144:14 145:24 147:7 150:8,14,23 <b>order-of-magnit...</b> 111:16,21 <b>ordinance</b> 6:23 44:4 <b>ordinances</b> 35:9 <b>outcome</b> 11:23 159:9 <b>outdated</b> 22:16 23:15 <b>outline</b> 74:9 <b>outlined</b> 11:17 138:21 <b>outreach</b> 90:25 <b>outside</b> 80:8 105:3 <b>overall</b> 70:11 105:11 106:6 <b>overflow</b> 53:23 <b>overhead</b> 46:25 <b>overload</b> 134:4 <b>Overlook</b> 28:8,10 44:15 <b>overwhelmingly</b> 140:11 <b>owned</b> 63:1	<b>owner</b> 35:10 54:22 56:20 88:13,13 <b>owners</b> 57:2,4 <hr/> <b>P</b> <hr/> <b>P</b> 2:2,2,9 <b>page</b> 3:3 66:7 75:18 76:22 89:13 142:14 144:4 145:21 149:22 <b>pages</b> 40:6 <b>paragraph</b> 45:12 <b>paramedic</b> 126:2 <b>parameter</b> 14:11 <b>park</b> 35:3 55:13,16 56:12,14,15 74:2 80:4,8,10 86:6 <b>parked</b> 37:6 <b>parking</b> 125:13 <b>parkland</b> 86:4 <b>Parks</b> 85:20 <b>Parkway</b> 58:10,18 58:22 59:1 <b>Parsippany</b> 45:14 <b>part</b> 9:13 17:8 34:11 38:8,15 42:8 46:16 64:12 89:5,14 90:24 93:24 110:1 118:3 137:3 151:24 152:3 157:4 <b>participated</b> 14:16 <b>particular</b> 13:16 31:16 38:20 83:23 91:18 92:6 99:3 120:22 121:21 132:2,13 <b>particularly</b> 47:19 139:19 <b>parties</b> 159:7 <b>parts</b> 127:9 129:14 130:2 <b>party</b> 23:21 <b>pass</b> 62:22 <b>passed</b> 158:7 <b>passenger</b> 75:24	<b>passive</b> 29:24 33:1 58:4,6 <b>PATRICK</b> 1:11 <b>pattern</b> 84:25 <b>paying</b> 42:9 <b>PBA</b> 6:4 <b>PBA-17-00004</b> 1:5 <b>peak</b> 127:19 <b>peculiar</b> 127:11 <b>Pedde</b> 1:15 3:13 5:4 5:5 6:1,3 61:25 62:1 63:13 66:21 66:22 67:12,13 78:3,4 81:5 83:12 83:20 85:8 96:6,7 97:23,24 147:19 149:4,5 151:4,5 152:19,20 <b>Pedestrian</b> 72:11 <b>peer</b> 101:3 <b>pending</b> 40:14 41:17 49:25 <b>Penke</b> 126:9 127:16 129:16,19 130:5 <b>Penke's</b> 129:23 <b>people</b> 7:13 41:4 44:21,22 72:2,8 80:6 83:12,13 84:12 86:4 105:18 105:20,20,24 106:4,5,15 139:9 <b>percent</b> 20:1,2 21:24 24:18 25:1 25:2 52:10,11 53:2 54:3 61:4 70:11 75:2 78:8 78:12,13 83:17,21 83:21 100:7,9,11 100:12 101:1,5,10 101:11 102:8 105:4,24 106:15 110:13,14,22 111:4,5,6 116:4 119:13,15 121:5 123:3,7,23 132:4 132:5,7 140:7
---	--	--	--	--

<b>percentage</b> 110:12	69:12,14 70:9	125:5 142:6,19	96:25 115:7	<b>presented</b> 6:16
<b>percentages</b> 105:25	71:1 72:14 74:7,8	143:20 144:12	<b>portions</b> 65:6	15:7 59:5 84:7
112:12	74:19,22 75:16,18	146:4,10,14	<b>pose</b> 144:25 148:4	86:8 88:25 101:16
<b>perfectly</b> 40:6	76:3,22 77:19,24	154:10 156:22	<b>posed</b> 16:7	111:14 138:6,15
<b>performed</b> 126:10	78:19 79:8 80:3	157:1,11 158:2	<b>position</b> 122:1	140:4
<b>period</b> 35:14 82:22	81:7,23,25 82:9	<b>plans</b> 59:16 74:9,15	<b>positive</b> 100:13	<b>presenting</b> 60:10
132:3,6	82:20 83:3,7 84:9	125:19	113:9 122:12	137:25
<b>permanent</b> 37:16	84:15,19,22,24,25	<b>please</b> 4:19 5:23	124:1 138:19	<b>presents</b> 82:21
<b>permit</b> 118:12	85:3,9,18,23	81:9 100:3 113:16	139:9	<b>preservation</b> 75:8
119:1	86:14,17 87:2	144:23 149:24	<b>possibility</b> 133:3	78:25
<b>permitted</b> 11:10	88:22 89:3,4,6,17	<b>Pledge</b> 4:19,22	<b>possible</b> 29:5	<b>preserve</b> 74:24
13:6 15:23 16:18	89:19,22 90:9,11	<b>plus</b> 131:25	115:17 117:23	76:24 85:12
44:3	90:14,23 91:2,6	<b>podium</b> 10:17	135:5 137:4	<b>preserving</b> 75:12
<b>Persian</b> 3:20 156:3	91:12,19,21 92:5	154:18	<b>possibly</b> 44:11	<b>president</b> 27:22
<b>person</b> 38:16,21	92:15,20 93:2	<b>point</b> 17:2 18:16	130:15 135:19	<b>pressure</b> 158:13
48:16 106:5	94:10,12,15,25	41:6 56:25 61:2	<b>post</b> 34:1	<b>previous</b> 45:4
<b>personal</b> 27:16	95:6,10 96:2,8,15	93:22 94:8 113:15	<b>posted</b> 4:13	68:24
127:5,17 128:22	96:18 97:4,9,12	115:17 117:25	<b>post-mortem</b> 116:2	<b>previously</b> 17:21
129:24	97:16 98:1 115:8	128:25 133:24	116:5	24:11
<b>persons</b> 72:20	158:6	<b>pointed</b> 81:24	<b>potential</b> 31:2,5,17	<b>price</b> 14:12 15:1
<b>perspective</b> 129:19	<b>planned</b> 10:8 142:8	120:24 138:4	37:25 47:1 57:7	23:3,8 34:14
<b>perspectives</b> 17:11	142:24 144:14	<b>pointing</b> 61:11	62:10,12 73:1	42:19
<b>pertained</b> 27:13	145:24 147:6	138:17	79:13	<b>priced</b> 34:15
<b>PETER</b> 1:16	150:8,14,22	<b>points</b> 60:14 62:7	<b>potentially</b> 53:13	<b>primarily</b> 36:9
<b>Phase</b> 125:7,8	<b>planner</b> 2:13 77:10	64:23	<b>power</b> 46:12	116:15
<b>phonetic</b> 22:16	83:15 99:9,13	<b>police</b> 125:24	<b>practical</b> 12:15	<b>primary</b> 10:12,20
<b>phrase</b> 94:18 143:8	100:4 104:20	<b>Policy</b> 106:12	13:9 51:21 65:1	11:13,15 28:22
<b>phrased</b> 143:11	106:11 114:5	<b>pool</b> 71:8	<b>practice</b> 34:8	32:12 39:10 68:4
<b>phraseology</b> 142:16	115:24 140:6	<b>pools</b> 71:11 80:8	<b>precise</b> 14:3	<b>principally</b> 119:22
<b>physical</b> 80:15	<b>planner's</b> 70:18	<b>population</b> 54:1	<b>predict</b> 48:22,22	<b>principle</b> 82:4
120:3	103:7	72:18 78:7,9,14	<b>predicting</b> 126:17	<b>principles</b> 81:24
<b>piece</b> 83:23	<b>planning</b> 1:1,8 4:2	80:11 83:16,17	<b>prediction</b> 49:11	84:9
<b>place</b> 4:12 10:9	7:20,23 8:2,18 9:1	86:5,7 105:6,8,10	<b>prefer</b> 124:17	<b>print</b> 45:22
16:24 21:11 26:1	9:5,11,14,16	105:16,23 106:11	<b>preparation</b> 32:21	<b>prior</b> 115:6 128:16
26:7 53:14,15,20	11:10,11,14 12:24	106:13 108:12	<b>prepared</b> 27:8	<b>private</b> 53:7 73:14
54:8 56:16 104:18	13:12 14:1 16:21	109:7,10 112:4,13	99:13 108:8	110:12,18 111:2
118:16,18 124:5	27:11 30:2 33:7	112:20 113:1,1	<b>preparing</b> 63:21	112:11
142:9,25 144:15	35:8 39:1 42:1	114:19 115:10	<b>PREPB</b> 159:17	<b>proactive</b> 33:10
146:1 150:15	51:3,6 55:11,12	131:7 139:4,15,25	<b>present</b> 1:9 5:13,15	<b>probably</b> 59:11
151:24 152:7	55:14 56:2 57:3,6	<b>populations</b> 106:22	5:21 8:17 68:23	83:11 128:18
<b>placed</b> 13:24 17:5	68:20 69:6,21	107:4 115:22	112:2	<b>problem</b> 46:15
118:10 119:19	70:5 75:7 82:3	139:21	<b>presentation</b> 12:8	58:15 104:6 113:4
<b>placing</b> 16:3,15	83:6 84:8,13	<b>portion</b> 14:5 19:1	27:2 66:15 68:10	<b>problems</b> 52:14
19:5 52:5	88:17 89:15,19	20:19 25:9 30:5,6	123:13 142:2	73:8
<b>plan</b> 7:25 9:3 32:13	90:12 91:2 94:12	30:22 32:9 37:4	144:8 145:1 146:6	<b>PROCEEDING</b>
54:20,20 69:4,10	97:2 99:21 124:24	37:25 39:8 87:9	148:6	1:4

<b>process</b> 53:13,24 54:3 69:5 74:18 84:13 89:4,5 117:20 <b>processes</b> 118:25 <b>produce</b> 94:19 146:6 <b>produced</b> 39:20 102:9 128:7 <b>produces</b> 141:10 <b>producing</b> 128:24 <b>product</b> 23:12 <b>professional</b> 46:6 59:15 104:21 159:5 <b>professionalism</b> 7:9 <b>professionals</b> 6:20 33:23 <b>proffered</b> 13:25 17:10 37:10 86:25 <b>profitable</b> 19:8 50:17 <b>profits</b> 39:13 66:1 <b>programs</b> 114:2 <b>project</b> 31:18 40:15 69:23 71:2,14 72:17,21 74:21 75:13 77:22 82:1 82:6,7 85:15 87:19,22,25 100:2 101:8 104:4 105:6 105:17,23 106:11 109:5,12 112:8 114:21 119:13 121:2,8 123:4 124:16 125:7,10 126:21 127:1,22 127:24 128:2,8,10 129:5,8,11 130:9 130:15 133:6,18 133:23 134:4,8,11 134:20 135:10,13 135:18,23 136:9 136:14,18,21 138:1,18 <b>projected</b> 53:3,10	54:2 88:3 99:12 119:25 134:6,19 137:12 <b>projecting</b> 118:17 132:1,20 133:15 <b>projection</b> 102:17 110:6,10 115:22 122:4 126:19 129:9 <b>projections</b> 103:12 108:12 113:7 115:10,15,25 116:3,10 117:14 117:16 121:14,16 121:24 125:7 127:16 130:25 131:8,20,24 <b>projects</b> 69:24 70:1 74:12 141:3 <b>project's</b> 99:10 <b>project-based</b> 140:24 <b>promote</b> 70:24 <b>promotion</b> 72:18 <b>proof</b> 8:17 9:21 11:7 77:15 145:8 145:9 150:24 <b>Proofs</b> 7:18 <b>proper</b> 9:21 64:8 109:22 110:22 <b>properly</b> 7:21 64:9 64:14 <b>properties</b> 22:23 23:6 48:3 55:2,12 87:24 88:2 125:22 <b>property</b> 6:8,16 9:22 10:24 12:12 13:3,3,6,8,9,23,24 14:19,24 15:6,22 15:25 16:3,5,9,13 17:18,24 18:1,24 19:1,4,5,7 20:20 21:10,11 22:12 23:7,23 26:1,8,15 27:6 29:11 30:5,7 30:12,16,22 32:10	32:25 33:14,17 34:13,15 35:11,18 35:23 38:14 39:6 40:3,21 41:4 42:13 43:3,24 44:9 46:4,7,15 47:22 48:2,6,15 49:15,20 50:4,7 50:13,17,18 51:14 51:20 52:15 55:15 55:18 56:20 57:4 58:2 59:8 60:3,22 60:25 62:9 63:7 64:8,14 65:4,15 65:18,20 66:18 75:23 83:24 85:13 85:14 87:13,23,24 88:13 99:24 120:10 128:25 146:12 153:15 <b>proportionate</b> 118:13 <b>proposal</b> 8:3,14 72:1 75:15 79:21 92:15 <b>propose</b> 79:18 97:5 152:7 <b>proposed</b> 10:4,7,19 10:25 68:11 72:17 78:15 80:1,11,17 80:23 82:25 86:9 86:25 87:19,22,25 89:16,18 90:10 94:9,11,20 95:5,9 99:5 113:24 114:13,21 115:11 116:15 118:4 119:6,21 120:13 124:8,16 125:7,10 126:20,22 127:22 127:24 128:8 129:8 131:1 133:17,23 134:3 134:20 135:5,9,13 135:18,23 136:9 136:14,20 138:1	142:3,7,20 143:6 144:9,13 145:3,23 146:7 147:5 148:7 150:4,7,13,22 <b>proposes</b> 39:12 73:25 80:6 <b>proposing</b> 65:24 <b>prospective</b> 40:2,13 41:11,16 <b>prosperous</b> 37:13 <b>protect</b> 7:22 76:24 <b>proved</b> 60:2 76:17 <b>proven</b> 11:14 116:8 148:23 <b>proves</b> 39:8 <b>provide</b> 14:21 31:14 36:2 37:14 37:18 39:21 65:22 71:4 72:23 73:11 73:23 91:7 100:15 119:6,7 126:19 <b>provided</b> 4:9 6:19 7:5 13:19 16:9 17:3 19:18 22:18 23:5,18 26:23 32:23 35:12 37:24 46:11 100:21 110:17 114:20,24 116:21 117:14 118:8 125:5 126:9 126:25 127:7,14 130:19 136:15 159:6 <b>provides</b> 31:8 66:7 80:7 <b>providing</b> 47:15 71:23 73:21 86:2 126:22 <b>proving</b> 81:1 <b>proximity</b> 36:17 <b>PSE&amp;G</b> 18:25 19:2 28:21 30:4,12,17 30:19 31:1,6 37:17,23 38:10,13 39:2 40:1 <b>PSE&amp;G's</b> 38:5 39:6	<b>public</b> 3:17 4:5,8 6:21 7:10 10:15 37:3 40:10 63:17 68:16 69:8 70:24 73:14 86:6,11,12 110:16 112:11 121:16 153:20,23 159:4,15 <b>publication</b> 24:21 <b>publications</b> 25:4,6 <b>published</b> 43:1 110:3 111:13 <b>publishing</b> 4:9 <b>pull</b> 141:9 <b>PUMA</b> 106:20 <b>PUMS</b> 106:19 107:1,11,22 108:7 108:9,17,23 111:17,18 <b>purchase</b> 19:1 22:16 23:14 38:5 39:2 <b>purchased</b> 65:3 <b>purchasing</b> 37:23 <b>purported</b> 112:14 <b>purportedly</b> 104:21 <b>purpose</b> 31:13 39:8 65:25 70:19,21 72:17 73:10 87:5 100:5 107:3 146:9 <b>purposes</b> 9:25 11:2 15:23 68:13 77:17 98:22 108:1,1 114:1 142:5 144:11 145:5 148:14,16,17 153:14 <b>pursue</b> 48:14 <b>pushed</b> 110:9 <b>put</b> 40:25 50:8 61:16 63:6,8 105:25 121:20 158:12 <b>putting</b> 84:11 156:25 <b>P-U-M-A</b> 106:20
---	---	---	---	---

<b>P-U-M-S</b> 106:20 <b>p.m</b> 1:2 158:24	<b>quoting</b> 73:2	<b>reallocation</b> 136:6 <b>really</b> 30:22 31:24 58:11 117:21 122:15 <b>realm</b> 48:14 <b>Realty</b> 22:15 24:20 <b>real-world</b> 13:21 <b>rear</b> 28:19 37:7 <b>reason</b> 55:5 106:16 <b>reasonable</b> 16:23 19:3 21:5 23:3 43:7 46:2,19 128:15 135:18,23 136:8 <b>reasonably</b> 13:8 <b>reasons</b> 77:13 84:14 86:16 87:3 87:16 112:23 139:17 <b>rebounded</b> 18:9 45:18 58:10,18 <b>rebuilding</b> 52:3 <b>rebut</b> 104:14 <b>rebuttal</b> 59:4 102:1 104:15 107:14 140:22 141:13,13 <b>receive</b> 14:18 114:15 119:17 136:17 <b>received</b> 31:17 <b>recitation</b> 4:21 <b>recognize</b> 12:18 <b>recognized</b> 18:6 56:24 <b>recognizes</b> 75:18 <b>recollection</b> 19:15 <b>recommend</b> 9:12 11:11 14:20 54:9 92:22 97:9 153:15 <b>recommendation</b> 9:4 89:20 90:12 93:17 94:13,23,24 146:12 157:2 <b>recommendations</b> 8:19 9:11 <b>recommended</b> 8:4	<b>recommending</b> 8:9 47:6 97:12 <b>recommends</b> 9:14 <b>record</b> 18:9 27:18 40:7 45:18 57:17 58:11,19 86:23 92:14 116:8 159:6 <b>recreation</b> 80:4 85:20 86:6 <b>recreational</b> 71:5 71:23 85:22 86:9 <b>rectified</b> 52:16 <b>redeveloped</b> 34:25 35:2 55:3 <b>redevelopment</b> 46:16 56:10,15 88:14 <b>redirected</b> 53:7 <b>reduce</b> 70:5 <b>reduced</b> 39:17 52:9 110:11 <b>reduced-size</b> 43:10 <b>reduction</b> 52:8 101:11 103:25 105:19,21 110:22 136:7 137:4,5,16 <b>refer</b> 56:13 75:17 76:2 99:20 <b>referee</b> 159:6 <b>referenced</b> 45:4 <b>referred</b> 111:16 <b>referring</b> 27:12 <b>refusal</b> 52:17 <b>regard</b> 52:22 71:12 86:19 <b>regarding</b> 12:6 13:19 16:7 17:2 17:16 19:20 30:12 36:20 37:25 39:2 45:5 59:18 84:23 85:8 88:22 113:19 113:24 114:18 119:18 124:23 125:6,17 126:8 127:8 129:20 135:5 136:20	151:22 153:12 <b>regardless</b> 135:10 136:23 137:12 <b>region</b> 72:21 <b>register</b> 133:5 <b>registered</b> 131:2 159:5 <b>regularly</b> 117:3 <b>regulate</b> 135:17 <b>regulation</b> 159:10 <b>regulations</b> 9:7 10:23 12:11 13:2 15:10,19,21 16:10 17:6 18:2 26:14 27:5 66:17 <b>rehash</b> 57:17 <b>Reiss</b> 18:21,22 19:9 19:13,23 20:17 22:4,8,11,20 25:8 25:12 27:22 28:9 29:1,12,15 30:5 30:13 38:3,10,23 38:23 40:5 44:14 46:14,22 47:20 51:22 57:20 60:23 <b>Reiss's</b> 29:23 40:17 <b>reiterate</b> 48:4 61:9 62:6 74:4 84:24 124:13 138:3 <b>reiterated</b> 84:10 <b>reiterating</b> 139:17 <b>reject</b> 57:6 88:18 104:24 136:19 <b>rejected</b> 129:16 139:14 141:16 <b>related</b> 6:14 14:6 30:16 100:10 130:25 159:7,8 <b>relates</b> 8:14 31:16 <b>relating</b> 12:25 14:3 17:8 38:9 130:1,9 131:20 132:23 134:19 136:24 <b>relative</b> 79:13 <b>relevant</b> 27:9 105:3 139:20 141:6
<b>Q</b>	<b>R</b>			
<b>quaint</b> 79:20 <b>qualified</b> 42:3 <b>qualitative</b> 13:21 126:18 127:14 129:24 <b>quality</b> 49:23 50:3 77:2,3 101:15 102:11 <b>quantitative</b> 13:21 126:13,16,18 129:18,20,23 <b>quarter</b> 18:10 24:21 25:1 45:19 102:5,10 <b>quarterly</b> 45:13 <b>question</b> 12:6,25 13:20 14:7,17 16:6 17:17,22 30:11,15,19 34:7 38:9,11 40:11 41:19 54:17,23 57:5 66:13 68:4,8 68:21 70:9 88:23 91:11 93:24 94:2 95:14,23 97:1 135:4,12,14 144:25 148:5 154:14,15,25 156:8,17 <b>questions</b> 10:1 11:4 11:21,22 39:24 88:21 94:16 111:11 113:23 143:10 145:17 147:16 <b>quick</b> 155:6 <b>quite</b> 6:12 7:6 59:11 65:4,13 113:15 140:2 158:15 <b>quote</b> 71:14 117:5 <b>quoted</b> 42:19	<b>R</b> 1:7 2:2,9 159:1 <b>RACHED</b> 2:12 <b>rail</b> 75:22,24,24 <b>railroad</b> 83:25 84:1 <b>raised</b> 44:20 119:12 119:14 <b>raises</b> 39:24 <b>raising</b> 114:16 <b>ran</b> 107:21 <b>range</b> 109:21,24 110:2 111:7 <b>ranges</b> 22:2 <b>rate</b> 20:1,2 24:18 24:20,23 42:21 52:11 100:7,8,9 100:10,16 101:1,4 101:5,11 102:15 102:19,20,21 111:4 123:24 131:25 140:7 <b>rates</b> 21:23 22:20 24:25 25:2,4 42:7 42:24 58:9,11,19 <b>ratio</b> 82:16 86:3 <b>rationale</b> 81:15 <b>Ray</b> 2:13 99:22 <b>reach</b> 28:10 44:14 <b>reached</b> 28:5 29:16 48:6 <b>read</b> 4:4 6:25 <b>reading</b> 7:17 <b>ready</b> 12:17 95:1 <b>real</b> 30:1 31:12 32:24 33:6,16 41:15 42:2,5 45:11 46:17,20 47:19 49:12 50:20 65:12,12 109:5 127:5,20 130:1,6 155:5 <b>reality</b> 23:2 56:5 <b>realize</b> 48:23 <b>reallocate</b> 136:5			

<b>reliability</b> 111:9 113:4 121:23	102:24 103:2,3,8 103:8,11,12,12,12 103:13,13,14,17 103:18 105:16,18 105:19,22,23 106:18 107:10,10 108:16 109:14 122:9 138:12 139:4,4,4 156:20	76:2,4,11 78:20 78:24 80:16	<b>result</b> 13:9,13 14:24 20:4,10 102:13 106:2 112:3,17 119:5 120:1 121:23 127:22 128:8 133:7 134:3,11 135:19,24 136:9	<b>rezoned</b> 15:6 19:4 47:7 50:1
<b>reliable</b> 15:14,16 16:19 17:4 25:4 59:21 112:4,19 113:7,11 122:5 126:17 127:15 129:18 133:18 136:3,22	<b>Reporter</b> 159:4,5 <b>reports</b> 74:2 99:14 99:21 100:7,24,25 101:3,8 102:25 103:3 106:8,14,16 108:2,8,22 109:14 112:22,24 138:6,9 138:10	<b>residents</b> 14:15 36:22 52:22 53:24 55:24 57:3 62:4 63:25 64:2 71:7 71:10,25 72:12 74:1 75:3 78:15 80:7 85:17 86:3 86:13 121:21 127:24 128:2 130:5 138:11	<b>resulted</b> 106:17 110:5,7 113:12 121:1	<b>rezoning</b> 7:21 8:24 9:21,23 10:4,7,19 10:21,25 11:11 12:10 14:20 26:12 27:3 47:3 51:13 51:15 54:7 55:6 57:5 66:16 68:10 81:1 88:18 89:16 89:18 90:8,10 94:9,11 95:5,9,24 142:3,22,23 143:7 144:9,13 145:2,24 146:7 147:6 148:7 150:5,7,13 152:7
<b>relied</b> 11:8 17:16 130:25	<b>representatives</b> 114:5	<b>residing</b> 129:13	<b>resulting</b> 134:7	<b>rezonings</b> 56:2
<b>relief</b> 8:25	<b>request</b> 8:11 10:19 32:14 88:18	<b>resolution</b> 89:25 154:10 156:21,21 157:10 158:14	<b>results</b> 107:23 111:21	<b>re-examination</b> 69:11 74:19 98:2
<b>relies</b> 25:6	<b>require</b> 76:13 77:23 78:21	<b>resonate</b> 141:15	<b>retain</b> 28:14	<b>re-examined</b> 69:5
<b>relocating</b> 58:20,21 58:21	<b>required</b> 36:1 57:4 112:2 117:20	<b>resource</b> 120:3	<b>retained</b> 13:11 33:7 115:9 131:14,16 131:19	<b>re-examining</b> 90:23
<b>rely</b> 33:24	<b>requirement</b> 20:21 35:10	<b>resources</b> 53:8 136:6	<b>retrofit</b> 22:17 23:15 23:19 43:7 62:12	<b>RE7B</b> 159:17
<b>remain</b> 116:6	<b>requirements</b> 21:7 73:15	<b>respect</b> 11:6 31:22 33:18 38:4 81:23 111:9 121:9 140:3	<b>retrofitted</b> 20:15 62:10 65:6	<b>Rhatican</b> 2:6 7:9 17:10 27:3 30:17 100:18,23 115:20
<b>remains</b> 57:7 74:20	<b>requisite</b> 112:1	<b>respected</b> 28:9 29:15 30:9 34:10 38:11 41:5 46:5	<b>retrofitting</b> 26:5 52:2,16 59:6,9	<b>Rhatican's</b> 31:13
<b>remember</b> 107:21	<b>research</b> 86:22	<b>responded</b> 28:9 29:15 30:9 34:10 38:11 41:5 46:5	<b>revealed</b> 33:9 37:22	<b>ride</b> 33:25
<b>removed</b> 79:11	<b>researched</b> 42:13 79:4	<b>response</b> 16:6 17:22 19:22 30:11 40:17 66:5 89:25 90:3 111:10 141:22	<b>revenue</b> 39:16,19 80:22 99:12,19,22 99:25 102:16,17 113:5 118:4,6 119:4	<b>Ridge</b> 43:1
<b>renders</b> 59:1 111:24	<b>reserve</b> 134:22	<b>responsibilities</b> 115:7	<b>review</b> 7:23 8:14,22 8:23 54:10 59:16 68:6 86:22 89:4,6	<b>Ridgewood</b> 131:17
<b>renew</b> 39:25	<b>reserved</b> 4:14	<b>responsibility</b> 49:17	<b>revenues</b> 57:9 102:20 108:25 109:3	<b>right</b> 34:2 45:16 46:23 51:2 91:5 91:14 92:17,23 93:10,13 94:18 98:2 105:9 120:25 139:11 146:2 150:1,11
<b>renewed</b> 28:25 42:10	<b>resident</b> 33:12 35:12,15 55:2 103:16,18,19,25 104:10,25 105:7 106:4,5,6,9 109:7	<b>responsible</b> 32:6 156:25	<b>reviewed</b> 26:10 100:24	<b>rightly</b> 124:7
<b>renewing</b> 40:1	<b>residential</b> 6:9 15:5 30:3 39:12 40:15 40:24 41:3 53:10 56:4 65:23 69:19 73:13,18 75:4	<b>rest</b> 15:1 111:3 113:17	<b>reviewing</b> 10:18 35:7 57:17	<b>rise</b> 4:21 79:16
<b>renovated</b> 61:14		<b>restate</b> 95:18	<b>revision</b> 109:13,14	<b>Rita</b> 3:18 155:9
<b>rent</b> 14:19,25 20:5 20:10 25:8 58:1		<b>restaurants</b> 22:7	<b>revisiting</b> 91:19,20	<b>Riverfront</b> 69:25 79:7 82:11,23,24 112:16
<b>rental</b> 42:6 58:9 70:8,11,12		<b>restricted</b> 71:10	<b>revitalized</b> 35:24	<b>road</b> 3:18 84:2 155:10
<b>rented</b> 65:17		<b>restricts</b> 54:21	<b>rezone</b> 6:7,16 9:12 35:18 41:9 114:13 146:12 150:22	<b>roadways</b> 63:4
<b>renters</b> 20:15		<b>resubmissions</b> 125:19		<b>Robert</b> 28:7 44:6
<b>renting</b> 21:10 25:25 28:12				
<b>rents</b> 18:8 45:13,17				
<b>repeat</b> 60:13 95:21 147:24				
<b>repeatedly</b> 62:4				
<b>rephrase</b> 90:5				
<b>replace</b> 130:6				
<b>report</b> 7:18 8:20 9:5 18:10 45:20 78:15,18 83:13,14 83:15 99:16,21 100:8,17,19				

114:8 <b>roll</b> 4:24 67:6 <b>RONALD</b> 2:14 <b>roof</b> 59:18 <b>room</b> 120:4 <b>rooms</b> 71:11 120:2 <b>Rothman</b> 2:3 5:20 5:21 7:4 10:15,16 12:2,3 34:7 46:1 67:4,5 89:12,13 90:19 91:14,16,23 93:10,13,16 94:18 95:3,11,16 141:24 142:17,22 143:14 143:22 144:1,5 146:4 148:10,13 149:24 150:9,12 152:5 154:2,11,15 156:13,18 157:4 157:15,18,24 158:2,5,10,13 <b>rounding</b> 101:24 102:4,10 <b>route</b> 24:1 58:16 62:21,24 <b>Rubin</b> 114:7 115:3 115:5,13,18 116:17 130:17,24 133:21,25 134:10 134:15,18,19 135:15,16,21 <b>Rubin's</b> 136:2 <b>running</b> 139:25 <b>Russ</b> 114:9 <b>Rutgers</b> 106:12,19 108:10,23 109:4 109:16,16,19 110:5,6,9 111:9 111:12,15 132:9 132:11,12,16,19 133:10,11,20 <b>R.P.R</b> 159:3,14	<b>safety</b> 70:24 72:11 <b>sale</b> 14:19 18:23 <b>sales</b> 27:23 38:17 38:24 58:7 <b>salient</b> 60:14 61:2 <b>satisfying</b> 19:17 <b>saved</b> 120:19 <b>saying</b> 62:8 132:11 <b>says</b> 45:12 73:8 74:23 78:15 155:17 <b>schedule</b> 4:10 <b>school</b> 29:18,22 48:11 52:20,23 53:1,4 109:8 110:12,18,20 111:2 112:11 113:19 115:8 116:1,16,16,23 117:12 118:9,19 119:12,16 120:8 121:3,12,13 122:25 123:24 124:2,14,20 127:1 127:2,19 130:14 130:16,17,21 131:3,5,5,7,10,15 131:15,16 132:1,2 132:21 133:5,14 133:16 134:4,5,17 134:22 135:7,8 136:15,16,22,25 137:3,11 138:20 140:12,18 141:5,9 <b>schools</b> 53:14,22 80:16,18,21 110:16 114:15 116:13,14,19,20 117:13,19 118:6 119:23,24,25 127:3 128:1 134:1 134:9 <b>school's</b> 132:15 <b>school-age</b> 109:5 109:10 110:8,10 110:15,25 112:4,8	112:20 131:20 140:5,8 141:12 <b>Scott</b> 114:7 <b>SDA</b> 121:15 <b>search</b> 33:10 <b>seats</b> 121:19 <b>second</b> 18:10 25:1 38:3 45:19 66:20 66:21,22 68:6 74:22 83:14 95:7 95:13 96:25 97:18 101:8 102:25 105:17 106:14 108:8 112:7 141:25 142:12 148:20,21 150:18 151:24 152:3,11 154:22 158:20,21 <b>secondary</b> 11:16,24 <b>Secondly</b> 39:11 <b>SECRETARY</b> 2:10 <b>sections</b> 6:24 9:8 16:21 <b>see</b> 51:12 63:20 71:19 107:23 <b>seeing</b> 48:15 154:8 158:17 <b>seek</b> 85:10 86:1 <b>seeking</b> 6:7 68:8 <b>seeks</b> 72:1 <b>seen</b> 37:6 43:8 104:21 <b>selected</b> 104:18 109:23 <b>selecting</b> 109:18 <b>selection</b> 109:22 <b>self-contained</b> 73:17 77:10 <b>self-imposed</b> 18:13 41:22 <b>sell</b> 14:25 18:23 31:3 39:22 <b>selling</b> 30:16 <b>sending</b> 47:24 <b>sense</b> 114:25 <b>separate</b> 94:16	<b>separated</b> 70:14 147:15 <b>separation</b> 71:15 71:19 80:15 <b>September</b> 36:4 40:7 <b>serious</b> 70:7 <b>seriously</b> 127:10 <b>serve</b> 71:24 80:11 <b>served</b> 68:22 <b>serves</b> 73:19 75:5 <b>services</b> 1:23 10:3 10:10 16:8 52:6 53:16 80:17 99:11 125:23 126:4,23 136:1,7 142:10 143:1 144:16 145:12 146:1 150:16 151:25 152:8 <b>sessions</b> 90:25 <b>set</b> 8:15 9:16 34:3 84:9 <b>sets</b> 69:12 <b>setting</b> 72:2 <b>seventh</b> 134:13 <b>Share</b> 45:11 <b>sharing</b> 81:12 117:7 <b>shortage</b> 34:2 <b>shortcomings</b> 15:25 <b>shortfall</b> 80:12 <b>short-term</b> 53:21 <b>shot</b> 144:17 146:17 <b>shouting</b> 155:3 <b>show</b> 29:24 32:25 40:19 41:1 49:14 49:20 55:7 101:17 <b>showed</b> 33:3 138:10 <b>shown</b> 37:23 60:2 <b>shows</b> 37:8 <b>shuttle</b> 71:5 126:22 128:3 <b>shuttles</b> 127:23	128:6 <b>sic</b> 68:23 93:12 98:19 100:5 138:16 <b>side</b> 36:16 99:19 102:17 103:1,2 <b>sign</b> 33:13,25 40:22 <b>signage</b> 33:18 34:8 62:14 <b>signature</b> 56:19 <b>significant</b> 14:5 20:19 25:9 41:10 73:7 81:20 105:25 106:1 115:7 121:1 121:6,17 122:9 138:8 <b>significantly</b> 89:7 <b>signs</b> 33:15 34:3 <b>silence</b> 55:1 <b>similar</b> 19:20 28:6 28:8 46:22 106:23 <b>similarly</b> 48:10 <b>simple</b> 40:11 62:14 140:25 <b>simply</b> 8:24 13:5 14:23 26:2 57:18 84:12 <b>single</b> 122:22 123:2 123:6 <b>single-family</b> 70:15 75:5 87:18 <b>sir</b> 40:18 156:2 <b>sit</b> 63:20 <b>Sitar</b> 16:6,11 17:3 17:21 23:9,22 24:20 25:3 36:5 37:10,14,18,24 65:11 <b>Sitar's</b> 16:17 25:6 36:9,19 <b>site</b> 27:14 28:3,4 29:15,18 30:3 31:6,8,15 32:10 32:12 33:13 36:10 37:4,8,12,19,25 38:6 39:8,17
--	--	---	--	--

## S

S 2:2,9,9 3:22  
Saddle 22:15

40:15,24 41:13,22 42:15,18 46:3,9 46:20,25 47:1,7 49:25 51:15,23,25 52:1 57:7 58:20 59:1 61:5 62:20 63:1,9 78:7 79:23 83:18 88:15 125:14 126:5,6 <b>situated</b> 83:24 <b>situation</b> 24:4 72:6 81:23 <b>sixth</b> 134:13 <b>size</b> 30:12,23 59:18 91:19 135:17,19 <b>sizes</b> 119:24 120:1 137:4,14 <b>slashed</b> 80:22 <b>slide</b> 139:19 <b>slides</b> 139:19 <b>slightest</b> 41:11 <b>Sloan</b> 43:13,17 <b>smaller</b> 20:5,9,16 21:5 22:17 23:16 24:7 29:5 52:17 <b>smallest</b> 43:5 <b>small-town</b> 74:24 76:25 <b>sold</b> 22:17 23:15 <b>solution</b> 51:16 53:21 54:6 <b>somebody</b> 97:6 <b>sorry</b> 50:7 82:25 89:1 143:20 145:18 146:24 147:9,20 150:5 <b>sought</b> 107:8 111:23 <b>sound</b> 82:3 83:5 84:13 113:10 <b>sounds</b> 94:16 <b>Source</b> 155:15 <b>southwest</b> 83:25 <b>space</b> 14:11 17:20 18:6,12 19:10,14 20:5,9,10,11,16	20:25 21:3,5,8,10 21:16,20,23 22:2 22:13,13,25 24:9 24:12,13,16,19 25:9,10,13,16 26:1,6 28:1,12 30:1 31:21,23,24 32:3 33:14 34:3 34:14,16 35:23,24 40:16,18,20 41:2 42:19 43:4,5 44:25 45:8,10 48:20 49:8 51:17 52:4,12,16 53:25 55:3 61:7,17 73:11,14 74:2 80:4,8,11,13 85:8 85:11,12,21 86:1 86:6,10,11 134:16 135:22,24 137:5 137:15 155:16,17 155:21 <b>spaces</b> 22:17 23:16 43:9,10,11 44:7 51:23 117:7 <b>speak</b> 12:18 90:24 98:19,23 99:2 154:6 155:2 <b>speaking</b> 120:20 <b>special</b> 53:6 <b>specialize</b> 44:24 <b>species</b> 83:11 <b>specific</b> 8:12 14:21 37:23 39:2 40:3 65:6 101:2 127:11 134:1 <b>specifically</b> 13:19 75:17 86:25 133:14 <b>specifying</b> 4:12 <b>speech</b> 120:3 <b>spell</b> 156:14 <b>spend</b> 7:14 29:7 <b>split</b> 140:17 <b>spoke</b> 38:3 158:3 <b>spoken</b> 88:10	113:15 <b>spread</b> 110:18 <b>Springfield</b> 131:18 131:19 <b>square</b> 14:12 20:5,9 20:14,16,22,24 21:1,3,6,14,16,17 22:2 23:1,4,5 24:11 25:11 26:4 26:7 27:25 28:14 28:19,22,24 29:3 29:4,19 32:7,8,18 34:14,20 42:10,11 42:20 43:4,5 45:3 52:17 65:17,20 155:21 <b>square-foot</b> 14:11 <b>St</b> 28:10 44:5,15 <b>staff</b> 136:11 137:7 <b>staffing</b> 130:20 <b>stand</b> 146:22 <b>standard</b> 8:23 25:23 34:8 39:10 68:6 85:19 86:2 126:15 141:25 142:12 145:21 <b>standards</b> 8:15,22 10:13,20 11:13,15 11:16,25 50:16 70:13 77:5 80:3,4 89:15 93:14 <b>stands</b> 52:25 77:19 <b>Star</b> 4:11 <b>Starbucks</b> 128:16 128:23 129:1 <b>start</b> 47:4 124:17 124:19 <b>started</b> 48:21 147:25 <b>starting</b> 49:9 89:5 118:19 <b>state</b> 5:23 25:15 27:15 31:9,14 32:11 35:17 37:8 39:6 45:5 46:9 58:10,22,25 70:23	80:5 114:15 117:23 118:10 119:20 121:21 131:12,13 135:16 141:8 155:3 159:4 159:4,7 <b>stated</b> 8:20 11:13 30:13 33:19 42:1 44:13 47:4 57:21 72:23 73:19 74:16 75:17 77:13,24 81:14 116:5,24 117:4 119:9 <b>statement</b> 4:5 35:9 89:12 98:19 118:3 145:7 <b>statements</b> 26:23 27:19,19 29:23 86:24 88:22,24 90:22 <b>states</b> 39:21 70:21 78:16 85:9 <b>statewide</b> 132:17 132:22 <b>station</b> 79:6 126:23 127:25 <b>statistical</b> 129:1 131:8,23 <b>statute</b> 159:7 <b>stayed</b> 21:4 24:12 <b>stellar</b> 61:10 <b>step</b> 84:17 <b>stick</b> 95:14 <b>stock</b> 141:4 <b>stood</b> 45:21 47:17 <b>stop</b> 17:1 113:18 147:16 <b>stopped</b> 32:4 133:11,11 <b>stories</b> 44:23 87:18 <b>story</b> 57:24 75:19 <b>strain</b> 53:16 <b>stream</b> 64:1 <b>Street</b> 45:11 <b>strengthen</b> 124:1,5 <b>strict</b> 118:10	<b>Striking</b> 146:21 <b>strong</b> 18:8 24:15 36:8 45:12 57:7 71:25 <b>structural</b> 59:7,13 59:14 <b>structure</b> 79:1 <b>student</b> 112:21 113:1,14 114:18 115:10,22 120:23 121:1 122:7,22,23 123:2 134:24 136:12 <b>students</b> 52:23 53:1 53:3,6,11,14,18 54:1 80:18,20 114:13,15,17,22 116:14 117:10 118:12,16,22 119:2,19,21,24,25 120:1,5,9 121:8 122:7,19 123:5 128:1 130:20,22 131:1,21 132:1,14 132:20 133:8,16 133:25 134:6,12 134:14,20 135:9 135:20 136:25,25 137:12 140:10,16 140:17 <b>studies</b> 101:2 107:2 107:18 112:14 118:14 131:6 133:12 <b>study</b> 106:12,17,19 106:21 107:11,15 107:16,16 108:10 109:5,16,19 110:5 110:7,8,9 111:10 111:12,16 126:10 128:18 132:9,11 132:12,17,19 133:10,20 <b>stuff</b> 155:22 <b>subdivide</b> 20:25 <b>subject</b> 6:8 70:10
--	--	---	---	---

75:23 87:13,14 <b>subjective</b> 130:8 <b>sublease</b> 32:17 <b>subleased</b> 32:8 <b>sublet</b> 48:18 <b>submarket</b> 45:14 <b>submit</b> 9:5 <b>submitted</b> 100:23 <b>submitting</b> 9:4 34:4 <b>subsequent</b> 32:22 118:21 <b>substantial</b> 10:22 12:10 26:13 27:4 29:10 59:21 60:2 61:12 66:17 87:23 88:2 108:13 112:1 112:24 128:4,8 145:20 146:8 153:13 <b>substantially</b> 9:23 10:5 11:1 42:25 68:11 77:15 79:17 81:2 87:4 88:1 93:25 98:20 103:2 113:25 129:12 130:9 135:13 137:1 142:4 144:10 145:3 148:8 <b>substantiating</b> 31:8 <b>substantiation</b> 60:19 <b>substation</b> 19:1 30:20 31:6 38:1 <b>subtenants</b> 32:3,6 <b>suburban</b> 18:4 19:10,23 49:8 50:20 <b>suburbs</b> 49:10 <b>success</b> 44:23 55:3 131:25 <b>successful</b> 29:6 35:25 55:23 88:14 <b>successfully</b> 43:9 47:2 54:22 <b>successive</b> 99:16	138:12 <b>sudden</b> 52:23 78:9 120:8 <b>suffer</b> 14:13 <b>suffering</b> 14:13 15:9 <b>suffers</b> 129:6 <b>sufficient</b> 8:17 12:9 17:3 26:12 66:15 73:11 105:1 125:14 142:2 144:8 145:2 146:6 148:6 <b>sufficiently</b> 59:22 <b>suggest</b> 92:25 129:3 143:25 <b>suggests</b> 23:18 87:19 <b>suit</b> 52:3 <b>suitable</b> 14:8 17:19 18:18 23:11,24 33:4 <b>sum</b> 102:16 <b>summary</b> 27:8 36:14 <b>Summit</b> 19:20 27:24 28:1,3,6 43:15,20 48:5 131:17 <b>sunk</b> 104:2 <b>Sunny</b> 75:11 79:23 79:25 81:17 84:5 <b>superintendent</b> 114:7 130:17 <b>supplement</b> 57:18 <b>support</b> 17:16 71:3 109:21 112:25 129:20 <b>supported</b> 13:20 18:19 108:13 126:18 <b>supportive</b> 123:14 <b>supports</b> 24:19 <b>supposed</b> 82:2,21 82:22 <b>supposedly</b> 112:12	<b>sure</b> 4:6 30:23 49:19 97:20 154:23 156:15 158:13,14 <b>surprise</b> 36:21 <b>surrounding</b> 71:16 71:20 75:14 76:15 77:6,11 78:23 79:22 87:17,24 88:1 125:3 127:21 128:14,20 <b>suspect</b> 56:5 <b>suspected</b> 49:2 <b>switch</b> 106:21 <b>switched</b> 106:19 <b>sworn</b> 30:17 <b>system</b> 52:24 53:1,4 85:19 109:9 113:19 120:8 121:3 123:1 124:14 130:15,16 131:3 132:2,15,21 133:5,16 135:7,8 136:17,22 137:3 137:11 138:20 140:12,18 <b>systems</b> 124:2 130:21 <b>system's</b> 134:22	<b>talent</b> 23:19 <b>talented</b> 64:10 <b>talk</b> 48:19 69:8 81:22 84:16 113:18 130:14 132:8 <b>talked</b> 47:24 85:18 87:17 109:6 <b>talking</b> 47:22 49:4 62:13 82:6 84:11 94:8 142:15 <b>talks</b> 49:7 <b>tax</b> 39:16,19 55:25 80:21 99:25 102:19 108:24 118:4,6 119:4 120:10 121:19 <b>taxation</b> 119:12 <b>taxes</b> 99:12,23 102:23 <b>taxpayers</b> 53:15 122:2 <b>Taylor</b> 1:16 3:6 5:2 5:3 26:21,22 47:10,15 48:4 57:15 58:3 60:9 62:13 64:6 67:8,9 86:20,21 87:8 95:17,20,25 96:5 97:21,22 145:11 145:16 147:14,20 147:24 149:2,3 151:2,3 152:1,17 152:18 158:21 <b>teachers</b> 117:10 <b>team</b> 73:1 <b>tear</b> 41:2 <b>technical</b> 48:11 <b>tell</b> 40:22 41:16 107:12 129:2 <b>telling</b> 57:20 <b>tells</b> 57:24 61:4 <b>ten</b> 30:14 37:24 38:5 39:3,7 49:22 61:14 <b>tenancy</b> 51:16 54:6	<b>tenant</b> 28:25 40:3 40:13,16 41:11,16 42:9 55:18 <b>tenants</b> 26:3 33:4 33:11 41:12 46:17 47:23 55:17,19,21 62:11,12 65:7 <b>tenure</b> 91:2 <b>ten-and-a-half</b> 86:3 <b>term</b> 40:13 46:21 52:5 <b>Terminal</b> 155:18 155:21 <b>termination</b> 136:11 <b>terms</b> 69:16 72:3 73:21 90:21 91:13 99:11 130:10 <b>testified</b> 13:18 16:1 16:2 17:18 18:21 19:13 20:17,22 22:11,20,24 23:9 23:10 24:17 25:7 27:20,24 29:1,12 30:5,18 31:20,22 31:25 32:5,15 34:17,23 35:24 36:6,12 38:4,6 41:19,25 42:23 43:8,16 44:14,17 45:6 46:22 48:17 48:20 49:16 51:22 52:7 58:9 59:7 71:4,13 72:16,25 79:3 104:8,19 106:20 116:19 122:22 127:7 128:12 130:22 132:9 133:22 134:10,15,21,23 135:21 <b>testify</b> 48:24 59:12 <b>testimony</b> 6:13,19 12:23 13:19 14:9 15:8,11,16 16:19 17:15 18:17 19:23 20:6 22:8 23:17
--	--	---	--	---



25:20 26:9 27:9 27:10,13,17 29:9 29:21 31:14 33:9 35:2 36:3,9,19 37:10,14,19,22,24 38:23 39:23 45:4 46:8,10 47:15,21 52:19 56:3 58:6 58:12,13,25 59:4 59:20,21 60:9,18 60:23 61:3,12 65:9,14 68:18 74:14 76:17 77:9 104:14,15,16 107:12 110:17 112:24 113:10 114:4,21,24 115:6 115:18 116:21 117:4,11 120:22 122:9 124:22,25 125:4,16 126:8,25 129:16 130:19 134:17,25 135:3 135:15 136:2,3,16 136:19,20 140:23 159:6 <b>thank</b> 4:18 5:25 6:11 7:3,9 12:21 26:18 47:8,9,14 50:23 51:3 54:11 54:16 57:10,11 60:4,7,8 61:22,23 63:11,12,16,19,22 64:3,18,20,21 68:15,16 77:25 78:1 81:3,4 84:20 86:21 87:6,7 88:4 88:5,19 89:10 94:6 95:3 98:17 113:20 120:19 123:8 124:9 137:17,18,24 138:22,23 141:18 141:19 147:3 148:2 152:12 154:19 155:6,12	155:24,25 156:5 157:6,8 158:16 <b>themselves</b> 23:20 <b>therapy</b> 120:3 <b>thin</b> 141:9 <b>thing</b> 35:21 48:9 62:15,19 121:17 122:16,20 137:10 <b>things</b> 38:17 47:16 47:24 50:10,15,15 57:19,22 59:17,23 60:17,17 61:15 79:14 81:17 89:7 100:1 133:24 141:17 <b>think</b> 7:6 29:2 33:20 40:12 58:3 59:10 61:10,16 72:21 76:17 84:24 88:15,17 91:6,17 91:23 92:12,14,24 93:18 97:15,24 102:11 103:20 104:9 108:3 112:9 120:11 122:13,15 124:3 125:1 126:6 131:18 132:10 137:9 138:2,16,25 139:19 143:23 144:18 145:11,15 147:14,25 157:22 158:5 <b>thinking</b> 91:1 <b>thinks</b> 56:7 <b>third</b> 23:20 83:14 100:8,17,19 101:8 102:24,25 103:11 103:18 105:19,23 106:18 107:10 <b>thorough</b> 57:16 60:9,11 69:4 137:25 141:2 <b>thought</b> 28:2 48:12 50:21 90:21 144:4 <b>thoughts</b> 69:9 <b>three</b> 79:19 99:13	99:21 100:25 103:3,8 107:2,19 107:22 108:5 109:25 117:20 127:3 128:1 138:6 139:24 <b>three-year</b> 107:5 132:3 <b>threshold</b> 20:21 <b>thrived</b> 37:8 <b>thriving</b> 71:9 <b>tie</b> 120:18 <b>time</b> 4:12 16:19 17:7 26:17 32:6 32:11,12,21 38:3 56:13 57:1 98:1,2 99:8,8 130:13 156:5 157:23,25 158:23 <b>times</b> 19:14,17 28:13 62:23 75:13 105:7 106:5 <b>time-consuming</b> 158:15 <b>time/life</b> 125:21 <b>title</b> 155:17 <b>TKRERT</b> 159:17 <b>today</b> 8:7 34:1 77:19 156:16 <b>today's</b> 56:5 <b>Toll</b> 22:15 23:14 <b>tonight</b> 6:14 41:10 54:24 64:6 104:24 <b>tonight's</b> 26:25 27:18 <b>tools</b> 88:14 <b>top</b> 14:18 <b>topic</b> 81:6 137:21 <b>torn</b> 34:18 <b>total</b> 24:10 48:2 105:8,22 106:7,13 108:11 109:6 112:25 117:22 131:1 132:14 133:15 134:23 <b>totality</b> 140:14	<b>totally</b> 83:6 <b>touch</b> 74:23 85:7 124:15 133:24 <b>tough</b> 51:23 <b>Tower</b> 56:22 <b>towering</b> 75:11 <b>town</b> 4:14 61:8 62:4 69:13 70:12 74:13 75:12 76:18 78:12 79:20 80:21 84:12 89:5 91:9,10 99:25 121:21 122:2,10 127:4,13 130:3 133:2 138:9 138:11,19 139:8 140:2,14,19 <b>township</b> 1:1,8 4:16 8:5,9,11 35:8 39:15,22 51:9,17 53:12 54:10 68:12 69:1 70:4 74:11 75:7 77:16 87:2 89:21 93:2,25 94:14 95:12 97:4 97:8,10,25 98:21 99:6 105:12 113:13,25 114:3 122:1 127:10 128:9 129:11,14 130:10 131:18 132:24 135:14 137:2 140:13 142:5,9,25 144:10 144:15 145:4,25 146:9 147:7,16 148:9 150:15 153:13 154:1 156:9,24,24 158:8 <b>township's</b> 54:19 71:21 111:4 <b>town's</b> 69:13 80:17 <b>town-wide</b> 115:10 <b>track</b> 116:8 <b>tractor</b> 24:6 37:5 62:24 63:3 <b>trade</b> 29:17,22	48:11 <b>traditional</b> 35:23 <b>traffic</b> 2:12 36:17 62:25 71:17 72:5 72:6 79:14 80:17 124:15,20,23,25 125:4 126:9,10,13 126:14,16,17,20 127:8,11 128:18 129:2,10,21 130:2 130:11 142:11 143:2 145:13 152:9 <b>trailers</b> 24:6 37:5 53:22 62:24 63:3 <b>train</b> 71:5 76:10 126:23 127:25 <b>transactions</b> 38:18 <b>transcript</b> 1:3 40:7 159:10 <b>transit</b> 75:23 82:2,4 112:17 <b>transitioning</b> 84:2 <b>translates</b> 80:10 <b>transport</b> 127:2 <b>transportation</b> 76:6 122:24 <b>TransWestern</b> 18:10 45:19 <b>travel</b> 125:14 <b>traveling</b> 37:6 <b>Tree</b> 25:16 55:21 <b>trend</b> 20:5 21:15 48:19,21 49:5,8 50:20 <b>trending</b> 49:12 <b>trends</b> 34:22 49:5 131:7 <b>triggers</b> 143:9 <b>Trinitas</b> 32:6 <b>trips</b> 126:24 <b>truck</b> 36:16 62:21 62:25 125:17,21 125:25 <b>trucking</b> 58:21 <b>trucks</b> 23:25 24:2
---	---	---	---	---

62:22,23 <b>true</b> 65:16 <b>truly</b> 112:17 <b>truth</b> 59:11 <b>try</b> 48:6,8 57:22 124:5 143:21,22 <b>trying</b> 39:22 41:7 46:15 48:18 58:1 58:1 67:9 84:6 138:12 <b>tune</b> 63:25 <b>tuned</b> 51:4 <b>turn</b> 125:18 150:2 <b>Turnpike</b> 24:1 36:17,24 58:16 62:25 <b>turns</b> 103:4 <b>TV</b> 63:23 <b>two</b> 10:1,12,20,24 11:4,20,23 15:20 17:9 69:16 71:8 79:18 80:8 81:14 94:16 100:6,25 101:24 106:8,15 133:24 139:24 147:10,11,16 <b>two-year</b> 12:22 <b>type</b> 19:21 29:10 123:20 128:18 <b>types</b> 16:11 17:23 37:1 70:8 102:13	<b>understands</b> 131:22 <b>Understood</b> 92:7 <b>undeveloped</b> 85:14 <b>undue</b> 10:10 15:9 52:5 53:15 142:9 142:25 144:15 146:1 150:15 151:24 152:8 <b>unduly</b> 10:8 142:8 142:24 144:14 145:24 147:6 150:8,14,22 <b>unexpected</b> 36:21 <b>unfortunate</b> 56:7 <b>unilateral</b> 101:11 <b>unilaterally</b> 105:4 <b>Union</b> 21:22 60:20 60:21 61:4 110:2 155:22 <b>Union/Parkway</b> 18:7 45:14,15 <b>uniquely</b> 83:24 <b>unit</b> 28:23 93:12 132:14 <b>units</b> 15:15 29:5 39:18 70:8,11,12 70:13 72:1 75:2,3 78:6,11 81:25 82:10,11,18,18,23 83:2 93:12 126:2 129:9 <b>universities</b> 29:14 29:17 <b>unknowing</b> 46:17 <b>unknown</b> 116:7 <b>unrefuted</b> 136:3 <b>unreliable</b> 108:12 109:2 111:25 <b>unrentable</b> 65:15 <b>unsolicited</b> 28:16 <b>unsuspecting</b> 46:17 <b>unusable</b> 13:6 <b>unusual</b> 7:5 <b>unwilling</b> 29:9 35:6 <b>update</b> 50:15	109:15 155:13 <b>updated</b> 50:11 <b>updates</b> 14:24 <b>updating</b> 26:5 <b>upgrade</b> 57:23 61:17 <b>upper</b> 110:19 <b>urban</b> 48:20 49:2 106:12 <b>urge</b> 57:6 <b>usable</b> 15:22 24:5 <b>use</b> 6:10 9:25 10:13 11:3 12:16 13:4,6 13:9,10 14:8 16:12 18:19 23:24 24:5,6 31:5,7 35:22 37:3,25 43:2,25 44:3,3 51:21 54:20 56:18 59:2 68:13 70:20 70:23 74:2,12 75:22 77:4 82:7 87:5 104:18,21 106:24 107:4,15 108:8 109:4,19 111:9,17,18 112:7 116:18 117:8 122:6 126:12 128:6 135:10 136:24 144:11 145:5 148:18 <b>useless</b> 51:20 65:18 <b>uselessness</b> 12:15 65:1 <b>users</b> 20:4 31:19 <b>uses</b> 6:9 15:20 16:18 17:23 18:1 37:1,4 44:9 57:8 71:16 73:13 76:5 141:6 <b>utilities</b> 37:21 <b>utility</b> 35:3 37:4 46:5 <b>utilize</b> 19:7 24:7 37:12 <b>utilized</b> 16:18	32:10 37:20 39:9 127:16 129:19 133:19 134:16 135:22 <b>utilizes</b> 61:7 132:17 132:18 <b>utilizing</b> 24:8 <b>utmost</b> 54:5	<b>VIII</b> 6:24 <b>Village</b> 82:2 84:5 112:17 <b>virtually</b> 106:8 <b>vision</b> 69:2,3,13,15 73:23 74:16,20,21 75:16 <b>visions</b> 69:9 77:21 91:7 <b>visited</b> 29:18 116:20,25 <b>visits</b> 117:3 <b>visual</b> 79:14 <b>vital</b> 39:1 <b>voice</b> 113:17 <b>vote</b> 11:21 66:24 67:1,11 90:8 94:19 95:8 96:4 97:13,16 145:8,10 148:22,23 150:20 150:23 152:13,14 154:1 <b>votes</b> 11:23 151:22 153:12 <b>voting</b> 6:15 8:8 156:10 <b>VP</b> 38:24
<b>U</b> <b>ultimate</b> 12:25 13:22 14:4 <b>ultimately</b> 94:23 <b>unable</b> 14:18,25 <b>unanimous</b> 149:20 151:20 153:10 <b>unaware</b> 34:13 <b>unchanged</b> 74:20 <b>understand</b> 30:19 90:15 91:22,25 122:14 <b>understanding</b> 56:20				<b>W</b> <b>Wakefield</b> 24:25 43:1 <b>walking</b> 127:18 <b>Walnut</b> 1:6 6:5,17 13:2,23 14:7 15:11,19,20,25 16:7,13,15,17,22 16:24 17:4,19 18:13,18,22 19:15 21:3,8,20 22:21 22:24 24:4 25:9 25:10,17 26:15 27:14 36:10,13,25 41:21 42:15,25 44:19 46:3,9 47:7 51:23 54:7,18 55:8,14 56:4 70:2

71:18 72:4,6,10 78:5 79:10,23 83:3 84:4 87:15 115:11 116:16 117:13 119:21,22 123:23 126:11 127:9,12,18,21 128:5 129:8,10,13 130:2,8 133:17 135:6 153:15 <b>Walnut's</b> 125:6 <b>want</b> 7:2 30:24 31:3 34:5 44:18 55:6 56:9 58:8 60:8,13 64:4,18 81:16,22 89:2 90:15 93:19 93:23 111:18 112:6 121:10,18 122:20 124:13,15 137:23 150:2 154:13,24,24 156:15 158:12,13 <b>wanted</b> 47:16 84:18 92:1 138:3 141:17 144:4 154:19 155:6,12,13,23 156:12 <b>wants</b> 40:20 76:8 113:16 <b>warehouse</b> 21:16 21:23 22:1 24:16 24:18 31:22 35:3 36:2,11,13,20,23 42:9 52:12 55:15 61:3,7 <b>warehouses</b> 45:3 55:24 <b>warehouse/indus...</b> 28:23 <b>warehousing</b> 6:9 37:3,5 <b>warranted</b> 143:7 <b>watch</b> 24:21 64:1,1 <b>WaWa</b> 35:19 <b>way</b> 23:2 31:16 33:11,17 40:23	41:1 42:22 44:3 44:11 46:22 51:24 64:2,8 70:8 77:9 89:4,24 90:8 91:10 103:24 108:11 110:14 118:7 123:4 143:4 <b>weakness</b> 18:4 55:5 <b>website</b> 10:14 32:22 42:13,15,24 62:16 <b>websites</b> 33:24 34:2 <b>WEDNESDAY</b> 1:2 <b>week</b> 69:7 127:18 <b>weeks</b> 47:25 <b>weight</b> 102:12 115:18 122:16,19 <b>welcome</b> 4:2 7:11 <b>welfare</b> 70:25 <b>well-being</b> 72:19 <b>well-planned</b> 91:10 <b>went</b> 16:4 48:18 49:1 56:18 83:16 100:12 112:23 139:7 <b>weren't</b> 30:22 <b>Westfield</b> 4:10 131:17 <b>we'll</b> 10:2,18,19 11:19 68:5 84:21 88:22 <b>we're</b> 6:25 7:1,7,17 8:7 10:13,13 41:6 82:6 85:13 91:4 92:25 94:1,2,7 124:4 146:20 149:22 <b>we've</b> 6:12 50:5 65:1 77:20 93:6 109:6,21 <b>whack</b> 23:2 42:22 <b>whatsoever</b> 58:17 <b>William</b> 23:9 36:5 <b>Williams</b> 63:2 <b>willing</b> 20:7,25 21:15 63:6 88:13	<b>willingness</b> 72:13 89:6 <b>Windows</b> 55:22 <b>withdraw</b> 147:1 <b>witness</b> 27:23 107:14 <b>witnesses</b> 13:25 47:18 49:16 58:14 <b>woes</b> 54:6 <b>wondered</b> 55:4 <b>wonderful</b> 7:13 <b>Wood</b> 28:7 44:6 <b>Woodmont</b> 79:6 82:10,19,20 112:15 <b>word</b> 58:4 <b>worded</b> 146:2 <b>words</b> 42:21 <b>work</b> 7:4 43:11 62:10 63:19,24 64:10,16 67:10 74:23 91:4 102:12 102:18 111:19,24 116:13 157:19 <b>worked</b> 69:1,22 70:5 75:8 147:25 <b>working</b> 32:20 63:20 74:18 91:7 <b>works</b> 38:16 118:7 131:10 <b>world</b> 50:11 127:6 127:20 130:1,6 <b>worse</b> 80:14 <b>wouldn't</b> 38:12 <b>wrapping</b> 112:22 <b>written</b> 58:5 143:4 <b>wrong</b> 55:9 <b>www.MagnaLS.c...</b> 1:24	147:13 <b>year</b> 6:13 18:8,8 23:1 29:18 30:10 47:18 51:4 80:9 118:11,15,16,19 123:1,4,4 <b>yearly</b> 45:13 <b>years</b> 13:13,14 17:9 30:2 35:17 37:13 38:24,25 41:8 42:2,10 48:18 49:22 50:7 54:4 56:16 61:15 62:9 62:23 65:7 68:19 69:21 91:1 104:20 117:21 120:6 123:16,18,19 132:4,6 <b>yield</b> 112:14 114:21 114:24 <b>York</b> 43:22 45:24 131:13	<b>Zucker</b> 3:19 153:25 154:4 156:3,3 157:3,6 <hr/> <b>\$</b> <b>\$1.00</b> 134:23 <b>\$1.7</b> 106:7 <b>\$100,000.00</b> 109:18 110:1 <b>\$100,000.00-hous...</b> 111:6 <b>\$107,000.00</b> 122:24 <b>\$14,179.00</b> 120:23 <b>\$15,915.00</b> 120:25 122:5,8 <b>\$15,950.00</b> 134:25 <b>\$185-million</b> 43:14 43:18 <b>\$2</b> 113:13 <b>\$20.00</b> 22:25 42:19 <b>\$24</b> 101:7 102:24 <b>\$25.00</b> 22:25 42:20 <b>\$264,020.00</b> 101:22 102:4 <b>\$266.46</b> 101:9 <b>\$290,687,127</b> 101:13 <b>\$290.687</b> 101:17 <b>\$5.00</b> 23:4 <b>\$50,000.00</b> 109:18 <b>\$562.00</b> 103:24 104:25 <b>\$8.50</b> 23:5 <b>\$8.50-square-foot</b> 23:7 <b>\$87,000.00</b> 122:23 <b>\$911,000.00</b> 106:7 <b>\$918.00</b> 103:18 106:4 <b>\$937.00</b> 103:19,24 <hr/> <b>#</b> <b>#1</b> 1:19 <b>#50094914</b> 159:4 159:15
---	---	--	---	--

<p><b>1</b></p> <p>1 24:1 36:17 53:2 54:2 58:16 62:24 78:12 83:21 <b>1,000</b> 80:6 86:4 <b>1,743</b> 85:17 <b>10</b> 52:9 70:11 75:2 78:8,12 102:7 123:2,7 <b>10.5</b> 80:5 <b>100,000</b> 25:11 27:25 <b>104</b> 3:18 155:9 <b>11</b> 110:13,22 111:4 111:5 <b>11:20</b> 158:24 <b>110</b> 114:22 117:14 <b>113</b> 3:16 <b>12</b> 3:4 36:4 110:19 134:14 <b>12th</b> 40:7 <b>12.2</b> 121:5 <b>12.5</b> 105:24 <b>120</b> 3:11 <b>123</b> 3:9 <b>124</b> 3:5 <b>128</b> 55:16 <b>13:43-5.9</b> 159:10 <b>135</b> 80:18 110:11 114:22 127:2 135:10 136:24 137:12 140:16 <b>135-student</b> 117:14 <b>136</b> 6:23 110:8 <b>136-13</b> 6:10 <b>136-64</b> 7:18 <b>136-66</b> 8:21 <b>136-67</b> 8:22 <b>137</b> 3:12 <b>138</b> 3:9 <b>139</b> 105:20 <b>14</b> 6:13 69:15 139:19 <b>14-plus</b> 68:17 <b>140,000</b> 32:18</p>	<p>65:16 <b>15</b> 6:5 20:2 52:10 <b>15,915</b> 122:19 <b>152</b> 110:7,10,11 <b>155</b> 3:18 <b>156</b> 3:19 <b>16</b> 20:2 38:24 41:24 75:3 <b>16th</b> 27:21 155:15 <b>1600</b> 72:2 <b>1600-plus</b> 72:8 <b>1622</b> 78:16 83:14 105:20 106:5 139:16 <b>1640-or-so</b> 74:1 <b>1700</b> 139:22 <b>1700004</b> 6:4 <b>1743</b> 86:5 <b>1761</b> 83:14 105:18 <b>18</b> 86:6 123:19 <b>18th</b> 31:10 <b>18-and-a-half</b> 86:14 <b>1800</b> 74:1 75:3 <b>1800-percent</b> 83:4 <b>1800-plus</b> 80:7 <b>1846</b> 78:15 83:13 84:11 105:17 106:3 <b>19</b> 3:20 80:10 156:3 <b>19th</b> 157:15,16 158:3 <b>1940s</b> 50:6 <b>1988</b> 50:12 65:4</p> <p><b>2</b></p> <p><b>2</b> 1:6 6:6 22:18 53:2 54:2 89:13 116:4 119:13,15 132:3 142:14 144:4,4 145:21,21 149:22 <b>2,555</b> 43:5 <b>2-and-a-half</b> 132:3 <b>2-percent</b> 118:11 122:25 123:7 <b>2.5</b> 87:18 132:4</p>	<p><b>20</b> 53:18 91:1 119:24 <b>200</b> 116:1,9 131:14 <b>2001</b> 68:23 <b>2003</b> 68:21 <b>2004</b> 32:2 <b>2006</b> 19:25 106:12 110:6 <b>2007</b> 52:10 68:22 <b>2008</b> 19:25 <b>2009</b> 61:13,14 69:4 69:14 80:3 85:23 91:3 133:9,12 <b>2012</b> 28:1 32:4,11 34:12 <b>2016</b> 28:14,15 <b>2017</b> 49:6 99:14 <b>2018</b> 18:10 24:21 25:2 27:21 31:10 36:4 38:2 40:8 45:19 99:14,15 109:4,14,15 110:5 110:7,9 111:12 <b>2019</b> 1:2 4:3 6:5 41:24 52:21 55:11 99:22 107:12 117:4 118:18 119:10 155:15 <b>2020</b> 69:15 74:16 <b>2023</b> 159:16 <b>21</b> 20:1 <b>22,000</b> 28:21 <b>224</b> 105:24 <b>224-person</b> 78:16 <b>225</b> 43:15,19 <b>244</b> 140:17 <b>247</b> 134:13 <b>25</b> 20:1 53:19 119:24 <b>25-plus</b> 62:9 <b>255-64D</b> 39:10 <b>26</b> 3:6 <b>28</b> 38:2 <b>28,000</b> 26:4 32:7 <b>290,687,127.00</b> 101:14</p>	<p><b>3</b></p> <p><b>3</b> 13:1 66:7 75:17 85:9 116:4 117:4 119:9 132:5,7 159:16 <b>3rd</b> 52:21 <b>3,072</b> 78:5 <b>3,867</b> 130:22 <b>3-and-a-half</b> 132:5 <b>3.7</b> 25:2 <b>3/16/2019</b> 52:7 <b>30</b> 13:13,14 38:25 44:8 50:7 70:13 80:12 82:1 93:12 104:20 129:9 135:19 <b>30th</b> 107:12 <b>30,000</b> 20:22 <b>30-unit</b> 82:7 <b>30.5</b> 78:6 <b>32</b> 87:18 <b>32-and-a-half</b> 82:10 <b>335.5</b> 140:10 <b>35</b> 51:5 63:23 120:1 134:14 <b>353</b> 53:10,18 80:19 114:25 122:7 127:2 135:11 136:24 137:13 140:7,16 141:12 <b>353-student</b> 134:7 <b>36</b> 123:16 <b>37,000</b> 28:14 <b>38.5</b> 82:12</p> <p><b>4</b></p> <p><b>4</b> 21:24 76:3,23 132:7 <b>4,000</b> 32:8 53:1 <b>4.5</b> 25:1 <b>4.6</b> 24:23 106:15 <b>4.6-percent</b> 105:19 <b>40</b> 21:17 42:2 105:4 <b>40,000</b> 22:2 28:24 29:3</p>	<p><b>40-percent</b> 103:25 <b>400,000</b> 65:20 <b>47</b> 3:7 82:11</p> <p><b>5</b></p> <p><b>5</b> 1:2 4:2 21:24 24:18 28:20 52:11 61:4 100:11 101:11 134:13 140:7 <b>5,000</b> 21:17 22:2 26:7 <b>5.5</b> 100:9,20 101:5 <b>50</b> 111:6 123:6 <b>50,000</b> 21:1,17 26:7 29:3,19 <b>50-to</b> 110:1 <b>500</b> 130:22 <b>51</b> 3:8 <b>54</b> 3:9 <b>541</b> 1:6 6:6 <b>558</b> 43:5 <b>562</b> 106:5 <b>565-percent</b> 82:19 <b>57</b> 3:10 <b>575</b> 42:9 <b>59</b> 6:24</p> <p><b>6</b></p> <p><b>6</b> 28:23 75:21 76:12 77:2 100:7,11 101:1 <b>60</b> 3:12 123:23 <b>60,000</b> 29:19 <b>62</b> 3:13 <b>63</b> 3:14 <b>64</b> 3:15 <b>67</b> 87:20 <b>68</b> 3:12 6:24 <b>687,127.00</b> 101:13</p> <p><b>7</b></p> <p><b>7</b> 75:25 <b>7.5-percent</b> 105:21 <b>70</b> 123:23 <b>700</b> 134:13</p>
--	---	---	---	---

**71** 134:14  
**710-percent** 83:1  
**74** 40:6  
**745** 82:18  
**75** 40:7  
**750** 1:6 6:5,17 13:2  
 13:23 14:7 15:10  
 15:19,20,25 16:7  
 16:12,15,17,21,24  
 17:4,19 18:13,18  
 18:22 19:15 21:3  
 21:20 22:21,24  
 24:4 25:9,10,17  
 26:15 27:14 36:10  
 36:13,25 37:16  
 41:21 42:15,24  
 44:19 46:3,9 47:7  
 51:23 52:15 54:7  
 54:18 55:8,14  
 56:3 57:1 62:17  
 62:20 63:9 78:5  
 79:10,10,23 83:2  
 87:15 115:11  
 119:21 123:22  
 125:6 126:11  
 129:8 133:17  
 135:6 153:15  
**778** 82:23  
**78** 3:13

---

**8**


---

**8** 68:6 78:8 83:17  
 83:20 143:5,13  
 144:2  
**8th** 104:14 107:14  
**8:00** 1:2  
**80** 123:23  
**80,000** 27:25 28:19  
**81** 3:10  
**84** 3:15  
**85** 105:18 106:15  
**85,000** 21:3 24:11  
**850** 42:10  
**851** 83:2  
**86** 3:6  
**866-624-6221** 1:23

**87** 3:4  
**88** 3:9  
**89** 3:14 110:14  
 111:5

---

**9**


---

**9** 36:17 62:24  
 101:10 134:14  
 143:5,11,13,16  
**90** 80:9 123:23  
**905** 70:10 72:1,7  
 75:2 78:6 81:25  
 82:18 93:11  
**95,000** 155:21  
**96,000** 43:4  
**98** 3:11