

BEFORE THE VILLAGE BOARD
OF THE VILLAGE OF ROUND LAKE PARK
SITTING AS A POLLUTION CONTROL FACILITY
SITING AUTHORITY

IN RE: APPLICATION FOR LOCAL SITING)
APPROVAL FOR GROOT INDUSTRIES) 3-01
LAKE TRANSFER STATION,)

Transcript of proceedings at the hearing
of the above-entitled cause on the 1st day of
October, 2013, at the hour of 12:05 o'clock p.m.
(Proceedings concluded at 3:03 p.m.)

REPORTED BY: LISA M. BRINGLE, CSR

LICENSE NO.: 084-003301

1 APPEARANCES:

2 SCHIROTT, LUETKEHANS & GARNER, LLC,
BY: MR. PHILLIP A. LUETKEHANS

3 The Hearing Officer;

4 MUELLER, ANDERSON & ASSOCIATES,
BY: MR. GEORGE MUELLER

5 On behalf of Groot Industries;
6 THE LAW OFFICES OF RUDOLPH F. MAGNA,
BY: MR. PETER S. KARLOVICS

7 On behalf of Board of Trustees
of the Village of Round Lake
8 Park;

9

10 THE SECHEN LAW GROUP, P.C.,
BY: MR. GLENN C. SECHEN
On behalf of Village of Round Lake
11 Park;

12 TRESSLER, LLP,
BY: MR. STEPHEN T. GROSSMARK
13 On behalf of the Village of
Round Lake;

14

JEEP & BLAZER, LLC,
15 BY: MR. MICHAEL S. BLAZER
On behalf of Timber Creek
16 Homes, Inc.;

17 MR. LARRY M. CLARK
On behalf of the Solid Waste Agency
18 of Lake County, Illinois.

19 ALSO PRESENT:

20 MS. LINDA LUCASSEN, Village of Round Lake
Park Mayor;

21 MR. ROBERT CERRETTI, SR.,
Village of Round Lake Park Trustee;

22 MS. JEAN McCUE,
Village of Round Lake Park Trustee;

23 MS. DONNA WAGNER,
Village of Round Lake Park Trustee

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I N D E X

WITNESS	DX	CX	RDX	RCX
MICHAEL S. MaROUS				
By Mr. Blazer	14			
By Mr. Mueller		49		

E X H I B I T S

NUMBER	ID	RECEIVED
TCH Exhibit		
Nos. 5 and 6		13

1 THE HEARING OFFICER: I'll call the application
2 of Groot Industries for siting approval for a new
3 pollution control facility before the Village of
4 Round Lake Park Pollution Control Board facility --
5 or Board come to order.

6 Would you, please, identify yourselves for
7 the record.

8 MR. MUELLER: George Mueller for the applicant,
9 Groot Industries.

10 MR. SECHEN: Glenn Sechen for the Village of
11 Round Lake Park.

12 MR. KARLOVICS: Peter Karlovics for the Village
13 Board of the Village of Round Lake Park.

14 Present with me today are Trustee Bob
15 Cerretti, Trustee Jean McCue, Trustee Donna Wagner,
16 and Mayor Linda Lucassen.

17 And I would also like to before we begin
18 bring up an Open Meetings Act issue if we are going
19 to go beyond tomorrow. So I'll wait until
20 everybody else introduces themselves.

21 MR. BLAZER: Michael Blazer for Timber Creek
22 Homes.

23 MR. GROSSMARK: Steve Grossmark for Village of
24 Round Lake.

1 MR. CLARK: Larry Clark on behalf of The Solid
2 Waste Agency of Lake County.

3 THE HEARING OFFICER: Mr. Karlovics.

4 MR. KARLOVICS: Mr. Hearing Officer, the
5 Openings Meetings Act requires that we post an
6 agenda 48 hours before any gathering of a majority
7 of a quorum of the corporate authorities. The
8 corporate authorities would like to continue to
9 attend every single hearing date, and we are -- for
10 agenda purposes, we have an agenda posted up until
11 tomorrow. So literally, if we are going to do
12 anything on Thursday, I would need to immediately
13 run out and get an agenda done for that day. We
14 would probably have to hold off until Friday, which
15 would allow me to post an agenda tomorrow.

16 I'm going to have to post it at the
17 Village Hall, which we have been doing
18 consistently, and here at this facility. So if the
19 parties cannot finish by tomorrow, we are going to
20 have to hold off until Friday.

21 MR. BLAZER: Mr. Hearing Officer, just for the
22 record, as it turns out, I have on my schedule an
23 all-afternoon argument in Chancery on Thursday
24 afternoon, the 3rd, in any event. I tried to get

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1 that continued, and my effort was rebuffed.

2 THE HEARING OFFICER: Well, honestly, let's
3 play with it and see how it goes, but I think the
4 goal is for all of us to finish no later than
5 tomorrow. I think we will be finished. We also, I
6 think, have a pretty lengthy time period we could
7 do tomorrow if necessary, but hopefully we will be
8 ready to go. We'll fit in as much as we can to
9 make sure that gets done.

10 MR. KARLOVICS: Well, I would need two pieces
11 of information. I would need the starting time and
12 date of the continuation of the hearing for
13 purposes of posting, and I'll need that in order to
14 post.

15 THE HEARING OFFICER: Okay. Let's deal with
16 that at the end of the day today because I think by
17 whenever we are done today we'll have a pretty good
18 handle on whether we'll be done Wednesday. It
19 looks like we are not going to be able to go
20 Thursday afternoon. So it would be Friday. So if
21 we decide today, you can post it in the morning.
22 Okay?

23 MR. KARLOVICS: Excellent. The other issue I
24 need is the public comment period. We have a

1 to-be-determined for tomorrow, and if we are going
2 to extend out to Friday, we'll need to be thinking
3 about what time our public comment would be.

4 THE HEARING OFFICER: Okay. Great. Thank you.

5 I have one other thing I noticed when I
6 was going through my notes this morning. It
7 appears that we have two TCH Exhibit 41s. We
8 entered the one yesterday and then the prior one
9 with Mr. Mueller's brief, and I don't know if it
10 was before the Pollution Control Board --

11 MR. BLAZER: It was. It was.

12 THE HEARING OFFICER: Neither one of them is
13 highly -- we haven't spent a lot of time on either
14 one of them. We probably spent less time on the
15 second TCH Exhibit 41, which was the MSW Management
16 article. I guess my suggestion would be to call
17 that Exhibit 41A, and I'll mark the original.

18 MR. BLAZER: That's fine.

19 THE HEARING OFFICER: Unless someone has a
20 problem with that.

21 MR. SECHEN: Which one is 41A?

22 THE HEARING OFFICER: 41A will be the one we
23 entered yesterday, which is the MSW Management
24 article.

1 MR. BLAZER: Actually, if I can suggest,
2 Mr. Hearing Officer, because I haven't yet moved on
3 that brief, at such time in the event I do, I'll
4 simply renumber that brief.

5 THE HEARING OFFICER: Okay. That's fine.
6 We'll leave that MSW Management article as
7 Exhibit 41 then, and then the other possible
8 Exhibit 41, we'll see what if you actually move to
9 have that admitted.

10 MR. BLAZER: Right.

11 THE HEARING OFFICER: And then just remember
12 let's make sure we remember before you're done
13 today, Mr. Blazer, that we go through the exhibits
14 of yours that have not been entered into evidence
15 to make sure we don't miss anything.

16 MR. BLAZER: I'm set to do that as soon as we
17 are done with this witness.

18 THE HEARING OFFICER: Okay. At this point, is
19 there any other thing preliminarily that anyone
20 wants to discuss?

21 MR. BLAZER: I did discuss with Mr. Mueller the
22 issue of the map that you've been looking for.

23 First of all, we talked about the proposed
24 findings and conclusions. In light of the fact

1 that you're starting your vacation on the 22nd, I
2 think we both agreed, and if I'm wrong, George,
3 that we will do simultaneous admissions on the
4 21st.

5 THE HEARING OFFICER: Is that acceptable to the
6 rest of the parties?

7 MR. SECHEN: Well, I would like to avoid that
8 if at all possible.

9 THE HEARING OFFICER: Avoid what, Mr. Sechen?

10 MR. SECHEN: I would like to see Groot's
11 submission before ours is due. It may save a lot
12 of work, at least on our part.

13 MR. BLAZER: From my perspective, Mr. Hearing
14 Officer, since these are each party's suggestions
15 to both the Village Board and to you, I really
16 don't think it's appropriate that these be really
17 responsive to each other. That's why I think,
18 frankly, simultaneous admissions are a good idea.

19 THE HEARING OFFICER: Mr. Mueller?

20 MR. MUELLER: We are fine with simultaneous
21 filings.

22 MR. BLAZER: Okay. Mark the date and time
23 George and I agreed on something.

24 THE HEARING OFFICER: We will simultaneously

1 file, file by e-mail, by 4:30 on the 21st, and then
2 we will have -- we will, as we talked -- let's talk
3 about all of these things then while we are talking
4 about it.

5 Seven days after public comment period
6 ends, if anyone has any additional findings of fact
7 or statements that they wish just to those public
8 comments, nothing else. If it goes beyond that, I
9 will strike them. I will on my own motion move to
10 strike those portions that are beyond it. So I
11 expect that anything filed after the public comment
12 period should be at most a couple of pages. I
13 mean, really, we have seen the public comment.
14 With all of the lawyers here, I doubt that the
15 public comment will be raising a lot of new issues,
16 but if there is something that's specific that you
17 need to respond to, we'll go seven days thereafter.

18 Also, and we'll talk about it, I guess,
19 once more probably at the end we'll talk about this
20 again, but we also have a memo on the applicability
21 of Fox Moraine that needs to be filed within seven
22 days after the completion of the hearing, which
23 will either be, I'm guessing, probably tomorrow,
24 but we'll figure that out.

1 So those are the three filings that I'm
2 aware of, and then I will give my proposed
3 recommendation to the Board as soon as possible
4 after those filings.

5 Anything else?

6 MR. BLAZER: The --

7 THE HEARING OFFICER: The aerial issue?

8 MR. BLAZER: Yes, the maps that you had
9 requested. George and I spoke. They have one that
10 doesn't reflect any route at all. It appears to
11 simply be a Google map showing the area roads.

12 I ran three, not to cast aspersions, but
13 you have to do, when you do Google, if you want to
14 run a route, you have to give it an end point. So
15 I ran it from the address of the proposed transfer
16 station to the address of the Winnebago landfill
17 solely to give you an exit point from this facility
18 heading westbound, and I have three different
19 routes describing the area roadways.

20 They seem to believe that giving it a
21 Winnebago landfill endpoint is somehow prejudicial,
22 which is not my intent. But at this point, we've
23 had so much discussion about this thing, that I'm
24 going to leave it to you --

11

1 THE HEARING OFFICER: Here is what I'm going to
2 do, and one of the village board members was nice
3 enough yesterday to point out to me that -- well,
4 let me ask this question. Let's back up for a
5 second.

6 Is there going to be an objection to TCH
7 Exhibit 6 when I assume it's moved and -- or moved
8 to be entered?

9 MR. BLAZER: 6 is already in subject to the --

10 THE HEARING OFFICER: I do not have 6 being in.
11 Did I miss that?

12 MR. BLAZER: 6 is Coulter's report, right?

13 THE HEARING OFFICER: Coulter's report, right.
14 I didn't have 5 or 6 marked as being in.

15 Mr. Mueller, you probably don't have notes
16 on that because I don't know if you were here that
17 day.

18 MR. MUELLER: Well, I was here the day
19 Mr. Coulter testified, and I would object to his
20 report as being applicable because he didn't
21 understand the criterion.

22 THE HEARING OFFICER: I'm going to admit TCH
23 Exhibits 5 and 6 in over objection subject to the
24 briefing that we talked about on Moraine, the Fox

1 Moraine issue.

2 (Whereupon, TCH Exhibit
3 Nos. 5 and 6 were received into
4 evidence on October 1, 2013.)

5 THE HEARING OFFICER: Given that TCH Exhibit 6
6 is in, the figure 1 to that exhibit, other than the
7 point of the 52-mile airline distance that's talked
8 about and the note of Winnebago landfill, which
9 really was not what I was asking for, it appears
10 that what I have been asking for is already in the
11 record in TCH Exhibit 6, figure 1.

12 So I apologize for making the parties go
13 through this, but one of the Board members was kind
14 enough to point this out to me, and this really is
15 all I was looking for was just the major highways
16 in the area. I see 60. I see 59. I see 120, 176,
17 and if I'm not mistaken, those were the major roads
18 that were discussed. So this at least gives some
19 context to Mr. Moose's testimony and I think
20 Mr. Coulter's.

21 So we'll kind of put that by the wayside,
22 that aerial issue. And at this time, unless there
23 is something further, Mr. Blazer can call
24 Mr. MaRous to the stand.

1 MR. BLAZER: Thank you.

2 THE HEARING OFFICER: Swear in the witness,
3 please.

4 (Witness sworn.)

5 MICHAEL S. MaROUS, MAI, CRE,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BLAZER:

10 Q. Would you state your name, please, sir?

11 A. Michael S. MaRous.

12 Q. Could you describe your business, please,
13 Mr. MaRous?

14 A. I am president and owner of MaRous &
15 Company, which is a full-service real estate
16 appraisal consulting firm that has been in business
17 approximately the last 33 years with a
18 specialization in the Chicago metropolitan area.

19 Q. What's your educational background?

20 A. I'm honored to have graduated from
21 University of Illinois Champaign-Urbana in 1976
22 with a bachelor of science in the School of Finance
23 with a specialization in urban land economics.

24 Q. Could you describe your background and

14

1 experience in the fields of real estate appraisal,
2 valuation and compatibility analysis?

3 A. I have been a full-time appraiser, real
4 estate consultant since 1976 and have appraised
5 over about a thousand properties, probably
6 \$15 billion of properties throughout about 30
7 states of the U.S. encompassing virtually all types
8 of properties, residential, vacant land,
9 industrial, specialty, such as shopping centers,
10 hotels, special land use facilities, such as
11 transfer stations. I've also prepared many
12 value-impact studies over this time period. I was
13 awarded the MAI designation in 1980.

14 Q. And could you describe what the MAI
15 designation is and how you get that?

16 A. Simply, the MAI designation is a
17 culmination of a series of about eight courses,
18 peer review of five years when I did it, a couple
19 theses and a comprehensive review.

20 There is about 6,000 MAIs in the world and
21 I think about 350 or 400 in the State of Illinois.
22 It's considered the highest form of real estate
23 valuation skills.

24 Q. How long have you been a member of the

1 MAI?

2 A. Thirty-three years.

3 Q. Have you held any offices with either the
4 Appraisal Institute or any other appraisal
5 institutions?

6 A. Yes. I've had the honor of sitting on the
7 Board of the Chicago Chapter of the Appraisal
8 Institute, and I'm also past president of that
9 organization and probably been on 20 committees
10 over -- in my career.

11 I have also been active on a national
12 basis particularly with publication and have been
13 cited in about 15 books.

14 I have been involved in peer review, also
15 was the first president of the Illinois Coalition
16 of Appraisal Professionals. That pretty much
17 covers all of the appraisal groups in the State of
18 Illinois.

19 Q. Have you received any awards in connection
20 with your practice?

21 A. I have, both on a local and national
22 basis, in regard to quality of service reports and
23 publications.

24 Q. And are you also designated as something

1 known as a counselor of real estate?

2 A. I was invited as a counselor or CRE in
3 1999.

4 Q. And what is the CRE designation?

5 A. It's basically invitation-only peer review
6 of about 1100 professionals in the world. About a
7 third of them are valuation, but many land
8 planners, attorneys, developers, financial
9 analysts, professors, considered to be at the very
10 zenith of the real estate profession.

11 Q. What type of services do CREs provide?

12 A. Generally consulting for public bodies,
13 financial institutions, real estate investment
14 trusts, pension funds, universities in regard to
15 their development acquisition disposition and
16 long-term holding of real estate assets.

17 Q. Have you been qualified to testify as an
18 expert witness in your field?

19 A. I have.

20 Q. How many times?

21 A. Before either federal or circuit courts,
22 over a hundred times. Before bodies such as this
23 and zoning boards, plan commissions, board of
24 reviews, property tax appeal boards, probably in

1 excess of 200 times.

2 Q. Have you taught any seminars or spoken in
3 any programs or on any panels regarding real estate
4 appraisal and valuation?

5 A. I have, probably in excess of 15 times
6 before a variety such as law boards, real estate
7 boards, financial institutions, universities, such
8 as DePaul, in regard to various real estate, real
9 estate land use and valuation issues.

10 Q. Now, you talked about the number of
11 properties that you've been involved with in your
12 career. Has your work included projects in Lake
13 County?

14 A. Many, probably a couple billion dollars'
15 worth of properties and well over a thousand
16 properties in my career.

17 Q. Could you give us some examples say in the
18 last five years?

19 A. Some of the holdings of the Smith family
20 that have about 6,000 acres going from Gurnee up to
21 the state line. Hewitt & Associates' corporate
22 headquarters in Lincolnshire.

23 In the subject area, the Saddlebrook
24 age-restricted residential community of over

1 1200 acres. I think there is 14 to 1500 homes that
2 have been developed so far. Both shopping centers
3 at Route 45 and Rollins Road. The little shopping
4 center just to the east of the subject anchored by
5 the Starbucks as an example.

6 The large development for a planned
7 Wal-Mart at the western end of Mundelein are just a
8 few of the examples.

9 Q. Could you give us an approximation of the
10 number of municipalities or other units of local
11 government that you've worked for?

12 A. Probably well over 40, including numerous
13 in Lake County, including the county and the Lake
14 County Forest Preserve to name a few.

15 Q. And how many of those assignments were
16 market impact studies -- strike that.

17 Excluding the municipalities -- or
18 actually, included all of your work, how many of
19 your assignments were market impact studies related
20 to waste transfer stations, landfills or recycling
21 centers?

22 A. Maybe 10 to 15.

23 Q. And you've also done market impact studies
24 with respect to other types of developments?

1 A. Residential, commercial, industrial, yes.

2 Q. Have you ever done work for the owner or
3 operator of a transfer station, recycling center or
4 landfill?

5 A. Yes.

6 Q. Can you describe those projects?

7 A. I did consulting for Waste Management for
8 a expansion of a landfill in McCook.

9 We did valuation work for a privately held
10 transfer station in Des Plaines just south of
11 Touhy, just north of O'Hare. We appraised the
12 transfer facility in Des Plaines.

13 We did land as part of the landfill for
14 the BFI facility in Zion, and we have provided some
15 consulting for a landfill of Waste Management -- or
16 a proposed landfill in Kankakee that I recall.

17 Q. You have in front of you Exhibit 7. Is
18 that your resume?

19 A. Yes.

20 Q. And does it accurately summarize your
21 background, experience and education?

22 A. Yes.

23 Q. And in general terms, can you describe
24 what you were retained to do in this case?

1 A. Simply, to review and analyze the
2 application for local siting prepared by Groot
3 Industries for a waste transfer station to be
4 located at 201 Porter Drive, to look and understand
5 the proposed development that's approximately
6 3.9 acres and a proposed just under a
7 28,000-square-foot facility, and to look at the
8 reports and particularly looking at their land use
9 and valuation reports and then independently doing
10 my own research in regard to comprehensive plan
11 zonings, land use comparables, impact to
12 development, et cetera.

13 Q. So specifically did you review the reports
14 from Mr. Lannert and Mr. Poletti in connection with
15 Criterion iii of the siting statute?

16 A. I did.

17 Q. Are you familiar with the market area in
18 which the proposed transfer station would be
19 located?

20 A. Yes.

21 Q. And you've already described some of the
22 projects in the area. In this case, did you
23 determine when Groot purchased the property at
24 which they want to establish a transfer station at

1 issue here?

2 A. Yes, I believe 2010.

3 Q. And based on your experience in this
4 field, what are some of the key issues to be
5 considered in developing an opinion as to whether
6 or not the proposed transfer station is located so
7 as to minimize incompatibility with the character
8 of the surrounding area and to minimize the effect
9 on the value of the surrounding property?

10 MR. MUELLER: I'm going to object. The witness
11 hasn't been qualified on the issue of
12 incompatibility with the surrounding area. He's a
13 real estate appraiser, not a land use planner, not
14 an urban planner, not a landscape architect.

15 THE HEARING OFFICER: Objection overruled. You
16 can cross-examination on the issue.

17 BY MR. BLAZER:

18 Q. Do you remember the question, Mr. MaRous?

19 A. Yes. Simply looking at it as with any
20 proposed development and understanding that use as
21 to how it may positively or negatively or not
22 impact any of the uses around it, and essentially
23 looking at traffic, the amount of traffic, the flow
24 of traffic, the comprehensive plans, the zoning,

22

1 what the entitlements of the zoning provides, the
2 proposed use, which I believe there's been
3 significant testimony as to the number of trucks,
4 you know, 24 hours a day or 20 hours a day that the
5 doors are open, and looking at the type of uses and
6 what does that tell a community. You know, trucks
7 are always an issue. Noise is an issue. Obviously
8 prevailing odor or smell is an issue, proximity of
9 residential uses and the location and orientation
10 of uses in the area. And, you know, the fact,
11 looking at what the uses are and 92 percent of this
12 area within a mile is either single-family or open
13 space, and just kind of understanding how these
14 uses go together and how that impacts value.

15 Q. Do you also look at development trends in
16 the area?

17 A. Yes.

18 Q. And do you also look at either city,
19 whichever may be applicable, city or county
20 planning in the area?

21 A. Correct.

22 Q. Would you briefly describe -- you did to
23 some extent, but if could you give us a little more
24 detail -- what you did in order to form your

1 opinions in this case?

2 A. Simply, reviewed the plans, reviewed the
3 professional reports, inspected the subject
4 property in the area, took into consideration my
5 experience in the area, personally viewed the
6 Timber Creek residential development, plus or minus
7 240 residential units with about 700 residents.
8 And that's about just over a thousand feet to the
9 west of the subject property. Looked for any
10 trends of development in the area, took into
11 consideration the traffic, took into consideration
12 transactions for commercial land, industrial land,
13 residential land and value trends.

14 Obviously, not being in a vacuum this last
15 five years has been extremely difficult for all
16 types of real estate values in the whole
17 metropolitan area and particularly in this area,
18 and that was also taken into consideration.

19 Q. Based on your knowledge and experience and
20 your research and the work you did in this case, in
21 your opinion, is there a demand in the area for a
22 community like Timber Creek?

23 A. Absolutely.

24 Q. Could you explain that, please?

1 A. It basically provides affordable housing
2 in an area within a 30 to 40-minute drive time
3 where there is economic or job opportunities. It
4 provides detached living as opposed to apartments,
5 and it provides a more affordable opportunity than
6 the typical detached single-family in Lake County.
7 It also provides an opportunity for other sectors
8 of the economy, the newly into the job market, the
9 divorce issues that are fairly prevalent in our
10 society and retirees. The work we have done in
11 Saddlebrook over the last four years also furthers
12 that experience in showing the demand for these
13 uses.

14 Q. And in your opinion, is the Timber Creek
15 community well situated or well established in the
16 greater community?

17 A. Yes. It, as I said, has over 700
18 residents. It's been established over 40 years.
19 It's attractive. There is trees, mature
20 landscaping, and it's well maintained.

21 Q. Does the fact that the Timber Creek
22 property is 1,038 feet from the proposed transfer
23 station and is on 34 acres have an effect on its
24 market value?

1 MR. MUELLER: I didn't get the last part of the
2 question.

3 BY MR. BLAZER:

4 Q. That was a terrible question. I just went
5 off my script, and I apologize. Let me try it a
6 different way. This is what I get for going off my
7 script.

8 You're familiar with the zoning at Timber
9 Creek?

10 A. Yes, I am. It is industrial but does
11 permit for residential use.

12 Q. And are you familiar with the term highest
13 and best use?

14 A. I am.

15 Q. What is that?

16 A. Simply, from an appraisal standpoint, it
17 is the highest and best use of a property that's
18 legal, that's physically possible, that's
19 financially feasible and that's the highest
20 economic use that a property can be put.

21 Q. And how is that concept or that
22 determination related to value?

23 A. The appraisal generally appraises a
24 property to its highest and best use.

1 As an example, Timber Creek would meet the
2 criteria for physically possible for agricultural
3 use, but quite frankly, it may be worth 6 to
4 \$10,000 per acre, but you go to the next level
5 where it's been engineered as a structure, it has
6 streets and basically has been developed for 240
7 plus or minus units, then that value creates a
8 significantly higher value than this vacant land or
9 any other use without tearing it down or
10 redeveloping.

11 Q. And what kind of a use is a transfer
12 station?

13 A. It's essentially a very heavy industrial
14 use.

15 Q. And in your experience, is it common for
16 heavy industrial uses to be co-located with either
17 open space or residential uses?

18 MR. MUELLER: That's a compound question.

19 THE HEARING OFFICER: Objection as to form
20 sustained.

21 BY MR. BLAZER:

22 Q. Is it common in your experience for heavy
23 industrial uses to be co-located with residential
24 uses?

1 A. Not proximate, not generally within a half
2 a mile or so, no.

3 Q. In your experience, are heavy industrial
4 uses generally concentrated with other heavy
5 industrial uses?

6 A. In my experience, absolutely, yes.

7 Q. Now, you prepared a report in connection
8 with your work in this matter; is that correct?

9 A. I did, which was published in September of
10 2013.

11 Q. And you have that in front of you. That's
12 TCH Exhibit 8?

13 A. Yes.

14 Q. Let's start with Lannert first. You have
15 reviewed Mr. Lannert's land use and planning
16 analysis?

17 A. I have.

18 Q. And based on your review of that report,
19 did Mr. Lannert take into account the fact that the
20 proposed transfer station would operate 24 hours a
21 day, 7 days a week and with its bay doors open
22 20 hours a day?

23 MR. MUELLER: Object. That assumes facts not
24 in evidence. The testimony has been that it may

1 operate that long. The doors may be open in good
2 weather, not that they would be open 20 hours a day
3 or that we would operate 24 hours a day.

4 THE HEARING OFFICER: Objection overruled.

5 BY MR. BLAZER:

6 Q. Do you remember the question?

7 A. Yes. There is no mention by Mr. Lannert
8 in his report of the extremely wide latitude in my
9 opinion of the operations in time.

10 Q. In your opinion based on your knowledge
11 and experience, what would be the impact on the
12 character of the surrounding area of a garbage
13 transfer station operating 24 hours a day, 7 days a
14 week with its bay doors open 20 hours a day?

15 A. In my opinion based on my experience and
16 over 11,000 appraisals, having owned and built and
17 remodeled residential properties, it would be a
18 negative.

19 Q. Based on your review of Mr. Lannert's
20 report and what you know from this record about
21 operating hours, can you, as an expert in your
22 field, draw any conclusions with respect to whether
23 the transfer station is proposed to be located so
24 as to minimize incompatibility with the character

1 of the surrounding area?

2 A. As an appraiser looking at it, obviously,
3 there's been some design and traffic flow design to
4 create -- have some compatibility with its use, but
5 again, being just over a thousand feet away from
6 240 residential units and having such a significant
7 operating time with the doors open and a high
8 degree of heavy truck traffic and all of the
9 attenuated issues as to noise and smell and light
10 and visual impact of these vehicles, this does not
11 appear to be taken into consideration in
12 Mr. Lannert's report.

13 Q. From your review of Mr. Lannert's report,
14 did he include an analysis of the comprehensive
15 plans of the adjoining communities, such as
16 Hainesville and Round Lake?

17 A. No, he did not.

18 Q. And are you familiar with the trend of
19 development in those two communities?

20 A. It's an interesting question, again,
21 looking at --

22 Q. I've never been accused of that in this
23 proceeding.

24 A. -- the effect of the real estate market

1 from 2008 on, but before that time there was a
2 trend of residential development, some commercial
3 development similar to what I described with a
4 Starbucks store that was built by Rubloff to the
5 east of Hainesville and a comprehensive plan
6 reflecting commercial use. Most industrial uses
7 tend to be closer to major interstate systems.

8 Q. Does Mr. Lannert's report discuss the
9 impact of the significant increase in garbage truck
10 traffic on the roads surrounding the proposed
11 facility?

12 MR. MUELLER: I'm going to object. It assumes
13 a fact not in evidence. There's been no testimony
14 that the increase in truck traffic would be
15 significant. The testimony has been that the
16 increase would be minimal.

17 THE HEARING OFFICER: Objection to form
18 sustained as to the word "significant."

19 MR. BLAZER: I'll split it up, Mr. Hearing
20 officer. Thank you.

21 BY MR. BLAZER:

22 Q. Does Lannert's report discuss the impact
23 of the increase in garbage transfer trailer
24 vehicles on the roads surrounding the proposed

1 facility?

2 MR. MUELLER: I'm also going to object because
3 that would make a Criterion xi report, and
4 Mr. Lannert was a Criterion iii witness. We had a
5 witness that discussed the roads.

6 THE HEARING OFFICER: Objection overruled.

7 THE WITNESS: No, there is no mention of the
8 proposed 30 plus transfer trailers as reflected in
9 the KLOA report.

10 BY MR. BLAZER:

11 Q. Or in Mr. Lannert's report?

12 A. Correct.

13 Q. That's what you're talking about, right?

14 A. Correct.

15 Q. And does Mr. Lannert's report address the
16 concentration of regular local haul garbage trucks
17 that would result from the operation of this
18 transfer station?

19 A. It does not.

20 Q. Does the Lannert report address the
21 prevailing land uses within one mile of this
22 proposed facility?

23 A. Yes. He provides a very nice explanation
24 of basically 92 percent of the uses within one mile

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1 of the subject property being either open space or
2 residential with only 4 percent being industrial.

3 Q. And with respect to that 4 percent
4 industrial, did Mr. Lannert identify them as either
5 heavy or light industrial uses?

6 A. He does not.

7 Q. Let's move on to Poletti's report. Have
8 you reviewed the real estate impact study prepared
9 for the siting application by Mr. Poletti?

10 A. I have.

11 Q. And does his impact study consider the
12 trend of development in the immediate area in
13 arriving at his opinion regarding the impact of the
14 proposed transfer station?

15 A. No, it does not. And looking at his
16 report and also his transcript, it appears that he
17 heavily relies on Mr. Lannert for the trend of
18 development.

19 Q. And in your opinion, is Mr. Lannert's --
20 are Mr. Lannert's statements with respect to the
21 trend of development accurate?

22 A. They are very inconsistent with reality.
23 His own numbers, as an example, the 92 percent of
24 land uses being either open space or residential.

1 Q. And is what Mr. Poletti did with respect
2 to the trend of development as a basis for his
3 opinion consistent with the accepted methods for
4 conducting that type of an analysis in your field?

5 MR. MUELLER: I'm going to object. That's not
6 what Mr. Poletti did. Trend of development is
7 irrelevant to Criterion iii. So the question is,
8 in essence, a non sequitur.

9 THE HEARING OFFICER: I'm going to sustain the
10 objection as to the question as phrased. If you
11 wish to break it down, we'll look at it a little
12 bit at a time.

13 BY MR. BLAZER:

14 Q. Sure. I think I asked this question
15 before and you answered yes, but I'll ask it again.

16 In the context of this type of a
17 proceeding, and looking at Criterion iii and
18 minimization of impact both on the character of the
19 surrounding area and property values, is trend of
20 development an aspect that you -- or that a
21 professional in this field that conducted both a
22 compatibility and valuation analysis take into
23 account -- that's a terrible question. I'll
24 withdraw it.

1 In your experience in the context of
2 Criterion iii, is trend of development a factor
3 that should be considered?

4 MR. MUELLER: I'm going to object. The witness
5 hasn't testified that he has Criterion iii
6 experience. The criterion speaks for itself. And
7 the criterion does not talk about future
8 development. It talks about the existing
9 conditions and property values.

10 MR. BLAZER: May I be heard on that,
11 Mr. Hearing Officer?

12 THE HEARING OFFICER: Yes.

13 MR. BLAZER: Several things. Number one, he's
14 already testified that he has conducted Criterion
15 iii analyses and that he did take trend development
16 in account.

17 More important in this context, both
18 Poletti and Lannert in their reports and in their
19 testimony discussed trend of development. You may
20 recall we had extensive discussions about the
21 trends at Round Lake Park, in Hainesville, in Round
22 Lake. There is extensive testimony in this case.
23 It may not be accurate testimony so far, but there
24 is extensive testimony about the trends of

1 development.

2 THE HEARING OFFICER: Mr. Mueller.

3 MR. MUELLER: Criterion iii talks about
4 minimizing incompatibility with character of the
5 surrounding area, not the future character of the
6 surrounding area, same with property values.

7 THE HEARING OFFICER: Objection will be
8 overruled.

9 BY MR. BLAZER:

10 Q. Do you remember the question that started
11 all of this, Mr. MaRous? Probably not. Let me try
12 it again.

13 A. No, I can answer.

14 Q. You got it? Okay.

15 A. Trend of development is something that is
16 given significant and critical analysis of
17 importance in the appraisal and analysis of all
18 properties and is consistent with this type of
19 analysis, so the answer is yes.

20 Q. Does the Poletti impact study
21 differentiate between different types of uses?

22 A. No.

23 Q. Is that consistent with the accepted
24 methods for conducting this type of analysis in

1 your field?

2 MR. MUELLER: I'm going to object because now
3 the question has been expanded to accepted methods.
4 He can talk about his own methods, but he's no
5 expert in what the accepted methods are for
6 analysis of pollution control facility sitings with
7 regard to Criterion iii.

8 THE HEARING OFFICER: Well, I'll ask Mr. Blazer
9 to lay a foundation as to the accepted methods.
10 I'm not sure right now this witness' -- kind of
11 like we did with Mr. McGinley yesterday, this
12 witness really goes to a particular element of
13 Criterion iii, not all of Criterion iii in my mind.
14 So I'll let him testify if you can lay the
15 foundation as to the particular element that's
16 within his expertise, which is, in essence, the
17 appraisal process, which is where his expertise
18 lies.

19 MR. BLAZER: Well, except that he's already
20 testified, Mr. Hearing Officer, that he has
21 experience with both incompatibility --

22 THE HEARING OFFICER: I understand. I'm
23 talking right now about this section of testimony,
24 not about Mr. Lannert's. I'm not striking anything

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1 he said about Mr. Lannert's report.

2 MR. BLAZER: I understand. Thank you.

3 BY MR. BLAZER:

4 Q. So since we are focusing on Mr. Poletti,
5 in your experience in the field of appraisal and
6 specifically in connection with the second half of
7 Criterion iii, minimization of impact on the values
8 of surrounding properties, in that experience,
9 should one take the different types of uses into
10 account?

11 A. Yes.

12 Q. Why?

13 A. Because the uses and trends generally
14 impact highest and best use and impact demand and
15 impact value as an appraisal.

16 Q. Now, I asked you before about Mr. Poletti
17 and the operating hours and conditions -- excuse
18 me, about Mr. Lannert and the operating hours and
19 conditions. In your review of Mr. Poletti's report
20 and testimony, did he take into account the fact
21 that the proposed transfer station would operate
22 24 hours a day, 7 days a week and with its bay
23 doors open 20 hours a day?

24 MR. MUELLER: Again, assumes facts not in

1 evidence.

2 THE HEARING OFFICER: Objection overruled.

3 THE WITNESS: No, he did not.

4 BY MR. BLAZER:

5 Q. And based on your knowledge and
6 experience, what would be the impact on the values
7 of properties in the surrounding area, and
8 specifically residential properties, of a garbage
9 transfer station operating 24 hours a day, 7 days a
10 week with its bay doors open 20 hours a day?

11 A. It would be a negative impact.

12 Q. Now, you recall Mr. MaRous, that
13 Mr. Poletti in his report claims to have done a
14 matched pair analysis?

15 A. Yes.

16 MR. MUELLER: I'm going to object. Mr. Poletti
17 didn't do a matched pair analysis. That misstates
18 the evidence. He did a control area, target area
19 study.

20 MR. BLAZER: That's called a matched pair
21 analysis. Let me try it this way.

22 THE HEARING OFFICER: Please.

23

24 BY MR. BLAZER:

1 Q. First of all, could you explain what a
2 matched pair analysis is?

3 A. Simply, where an appraiser attempts to
4 take two properties that are essentially identical
5 except for one difference.

6 An easy example would be a suburban
7 property, same size, same design, same age. One
8 has a basement. One does not. And you would have
9 the control area, and you would have a target area
10 so that you would be looking at the sale prices.
11 And then you generally will have to adjust for some
12 differentials, whether it be time or other factors
13 that are not so prevalent to show what the
14 differential is based on those differences.

15 Q. And one of those differentiating factors
16 often in analyses like this is what's called a
17 detrimental condition?

18 A. Correct.

19 Q. And what is, generally speaking, what is a
20 detrimental condition?

21 A. It's generally an item that is considered
22 to be a negative to real estate, whether it be
23 proximity to a noisy, heavy traffic arterial to the
24 presence of a very active freight line, to the

1 proximity possibly of a very active runway, to the
2 potential of nature, power lines. Those are some
3 examples. Obviously, landfills, quarries are other
4 examples of potential detrimental conditions or
5 whether it's been an environmental impact, such as
6 an oil spill, et cetera.

7 Q. And what you've described, is that the
8 type of analysis that Mr. Poletti did?

9 A. Yes.

10 Q. You've reviewed the matched pairs that he
11 discussed in his report?

12 A. Yes.

13 Q. Did any of the matched pair analyses in
14 the Poletti study meet the key components of a
15 matched pair analysis?

16 MR. MUELLER: I'm going to object. Mr. Poletti
17 didn't do a matched pair analysis. He looked at
18 areas.

19 THE HEARING OFFICER: Well, let's -- the
20 objection is overruled. The witness described it
21 as a matched pair analysis. Whether Mr. Poletti
22 did or not, we understand at this point, we're
23 talking about the same thing. However, I would
24 kind of like a foundation on what are those keys

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1 before you get to the question.

2 MR. BLAZER: Absolutely.

3 BY MR. BLAZER:

4 Q. If you could go through those again,
5 Mr. MaRous, could you explain what the key
6 components are of conducting a market study based
7 on a matched pair analysis and why they are
8 important.

9 A. You have a control and target area for
10 looking at a situation such as the subject. We are
11 attempting to have a set of comparables that are
12 impacted or potentially impacted by an existing
13 negative condition and then looking as close as
14 possible to an area that has similar houses,
15 similar ages, sold in similar times, similar flood
16 plain issues, similar sewer and water issues and
17 that they sold in the similar times to see if there
18 is any differential.

19 Q. So if I can summarize what you're doing,
20 your control area --

21 MR. MUELLER: I'm going to object him
22 summarizing. That's restating testimony.

23

24 BY MR. BLAZER:

1 Q. All right. Fine. I'll withdraw.

2 Do any of the matched pair analyses in
3 Mr. Poletti's study meet the criteria that you've
4 described?

5 A. In my opinion, no --

6 Q. Could you explain --

7 A. -- as elaborated on multiple pages in my
8 report.

9 Q. Let's go through those very briefly. Did
10 he -- he looked at three different sites, correct?

11 A. Correct.

12 Q. Let's start with the Glenview transfer
13 station. What in your view was inappropriate about
14 Mr. Poletti's study with respect to the Glenview
15 transfer station?

16 A. First of all, and I described the weak
17 nature of the economy, but he eliminated
18 foreclosures and short sales from the data, and
19 however, there is no discussion as to differential
20 if the amount of foreclosures and short sales on a
21 percentage basis was similar. And that's a very
22 important fact because if you have an area that has
23 virtually no short sales or foreclosures compared
24 to one that does, that reflects, obviously, a

1 difference in strength in the demand for the
2 market.

3 Then the market conditions generally in
4 2010 and '11 were weaker than those in 2012 as the
5 residential market was improving. There is a
6 higher percentage of 2012 sales in the target area
7 than those in the control area. So you basically
8 have this huge issue of market conditions, and you
9 really should try and have your sale dates
10 consistent. So taking sales in a stronger period
11 and not having as many sales in that stronger
12 period, again, would distort the conclusions.

13 A very important factor that most of the
14 sales in the target area are served by private well
15 water compared to the Lake Michigan water in the
16 control area. And the septic systems in the target
17 area, the differential between generally well and
18 septic in this area of Cook County compared to city
19 sewer water is a significant demand issue and cost
20 issue. And there is nothing in the Poletti study
21 reflecting the differences in public utilities.

22 Also, and I provided on page 11, that a
23 significant number of properties in the target area
24 are actually within a flood plain associated with

1 the Des Plaines River, and the control area is not.
2 The differential between being in a flood plain and
3 not being in a flood plain is a significant issue
4 and needs major analysis and discussion.

5 These points alone basically in my opinion
6 make the Glenview analysis not able to be relied on
7 or considered.

8 Q. The next one he did was the Elburn
9 transfer station?

10 A. Yes.

11 Q. Did you review that?

12 A. Yes.

13 Q. And did you have issues with his analysis
14 of the Elburn transfer station?

15 A. Well, first of all, the subject property
16 is 1,038 feet from the Timber Creek 240-resident
17 development.

18 The residential target area at Elburn was
19 2500 feet southeast of the waste transfer station.
20 That's two and a half times the distance. It's
21 significant.

22 On page 21, Mr. Poletti notes the waste
23 transfer station was already in operation the time
24 the subdivision was developed indicating the

1 purchasers of both the target and control areas
2 were aware of alleged existence. Obviously, that
3 is not the case here, and the Elburn is far more
4 rural than the subject property in Round Lake Park.

5 Also, just on the same issue, I had the
6 Wheeling analysis, that the comps were not
7 consistent based on the dates and impacts on the
8 economies and there is no discussion of number of
9 sales between the target and the two control areas.

10 The foreclosures and short sales were
11 removed from the data set. There is no discussion
12 whether there were similar numbers of such sales in
13 the target area versus the two control areas.
14 Again, it may be very poor. It may not be.

15 Q. But he didn't discuss it?

16 A. No. And then the houses in the control
17 area also enjoy an industrial use, including a
18 rather large fuel storage tank as shown in the
19 aerial, which again, just needs some discussion or
20 analysis, but that could be something that could
21 significantly impact value.

22 Q. What page of your report is the aerial on
23 for the benefit of the Board?

24 A. Page 13. The fuel storage area is marked.

1 The control area is marked on the right.

2 Q. And let's go to the third one that he
3 purported to analyze, the Bluff City transfer
4 station.

5 A. This basically is Bartlett and close in
6 the transfer stations in Elgin. And again, the
7 target area is twice as far from the residential
8 area as the subject property.

9 The same comment as far as dates and
10 consistency of the sales from 2012 compared to ones
11 before.

12 The other issue is the northernmost
13 control area is actually closer to the waste
14 transfer facility than portions of the target group
15 and are north adjacent to a quarry operation, which
16 I had been involved in multiple quarries. The
17 blasting and the dust and the dirt is not a
18 positive for residential development.

19 Also, portions of the southern control
20 area are proximate to industrial uses and adjacent
21 to Com Ed high wires and another quarry beyond
22 that.

23 Again, because of all of these different
24 impacts and the other criticisms that I had, this

1 study, in my opinion, would not be able to be
2 relied on.

3 Q. Do you agree with Mr. Poletti's
4 conclusions regarding the impact of the transfer
5 station, of this proposed transfer station, on the
6 surrounding property values?

7 MR. MUELLER: I'm going to object. Mr. Poletti
8 didn't make a conclusion about the impact. He made
9 a conclusion about whether or not the applicant has
10 minimized the potential impact.

11 MR. BLAZER: He testified that there was, in
12 fact, no impact.

13 THE HEARING OFFICER: I think he did testify to
14 the lack of impact. I'll overrule the objection.

15 THE WITNESS: Based on my review of all of the
16 documents, inspecting the site, reviewing the
17 various reports and the various criteria, I do not
18 see support for Mr. Poletti's conclusion,
19 particularly as it impacts the very close proximity
20 of Timber Creek.

21 BY MR. BLAZER:

22 Q. In your professional opinion, does the
23 Lannert report demonstrate that the facility is
24 located so as to minimize incompatibility with the

1 character of the surrounding area?

2 A. It does not.

3 Q. In your professional opinion, does the
4 Poletti report demonstrate that the facility is
5 located so as to minimize the effect on the value
6 of the surrounding property?

7 A. It does not.

8 MR. BLAZER: I have no further questions.

9 THE HEARING OFFICER: Mr. Mueller?

10 CROSS EXAMINATION

11 BY MR. MUELLER:

12 Q. Mr. MaRous, how much have you been paid
13 for your testimony?

14 MR. BLAZER: Objection.

15 THE HEARING OFFICER: Overruled.

16 THE WITNESS: My professional fee to do the
17 research and to do the report was \$4,000.

18 BY MR. MUELLER:

19 Q. And for your testimony?

20 A. I have not charged or billed for my
21 testimony. I will do that when complete. My
22 anticipated cost will probably be in the range of a
23 thousand to \$2,000, including additional
24 preparation, review and appearance and testimony,

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1 but that has not been done yet.

2 Q. Sir, who are you going to bill for your
3 fees?

4 A. I am going to send a bill to Mr. Blazer.

5 Q. Do you know who is paying the bill on his
6 behalf?

7 MR. BLAZER: Objection, privileged. It's my
8 retained expert, Mr. Hearing Officer.

9 THE HEARING OFFICER: Mr. Mueller.

10 MR. MUELLER: I am entitled to know who paid
11 him or who is going to pay him in terms of any bias
12 this witness may have.

13 THE HEARING OFFICER: Well, actually, I agree
14 with that premise. The problem is I'm not -- I
15 wanted your opinion on the privilege issue rather
16 than that.

17 MR. MUELLER: There is no privilege with
18 respect to payment of experts. That's always fair
19 game.

20 THE HEARING OFFICER: I agree that there is no
21 privilege as to the payment of experts. That's not
22 what Mr. Blazer is arguing. Mr. Blazer, do you
23 want to state your argument?

24 MR. BLAZER: That is correct. As you know,

1 Mr. Hearing Officer, as is clear from this record,
2 my firm retained Mr. MaRous, not my client. As
3 Mr. MaRous testified, he is sending his invoice to
4 us. My firm will be paying his invoice. Where my
5 firm may obtain the funds to pay that invoice is a
6 different issue and an issue of privilege.

7 THE HEARING OFFICER: I guess the question is
8 has that privilege been -- if Mr. MaRous is aware
9 of that information, is there any privilege I guess
10 is really the underlying question for me.

11 MR. BLAZER: Well, if he, in fact, is my
12 retained expert, which he is, any knowledge that he
13 might have gained about whatever the financial
14 arrangement may be or not be between myself and my
15 client is a matter of privilege. He is my retained
16 expert.

17 THE HEARING OFFICER: Mr. Mueller?

18 MR. MUELLER: The identity of the deep pocket
19 that is paying is relevant in terms of the bias of
20 this witness. So if he knows, then the privilege
21 is gone.

22 MR. BLAZER: What's usually covered here,
23 Mr. Hearing Officer, as you know, is how many hours
24 have you spent, what's he being paid.

1 THE HEARING OFFICER: I understand that, but
2 the underlying issue and the one I'm concerned
3 about is that if your conversations with Mr. MaRous
4 are clearly not privileged, he's now an expert.
5 He's not a consulting expert. He's a testifying
6 expert.

7 So if he has knowledge or any statement he
8 relates to you or you've related to him I think are
9 fair game, and that's the question I think that is
10 being asked at this point.

11 MR. BLAZER: To satisfy Mr. Mueller,
12 Mr. Hearing Officer, I will state for the record
13 that when I invoice my client, I will include
14 Mr. MaRous' invoice for reimbursement to my firm.

15 Does that satisfy you, Mr. Mueller?

16 MR. MUELLER: I asked the witness if he knows
17 who is going to be the ultimate source of the funds
18 to pay you.

19 MR. BLAZER: I think I just said that for the
20 record.

21 MR. MUELLER: Well, that's what Mr. Blazer
22 said. The question is to the witness.

23 THE HEARING OFFICER: Mr. MaRous, you may
24 answer to the extent you know.

1 THE WITNESS: I know with certainty
2 Mr. Blazer's firm is paying me. My understanding
3 is there may be some contribution from other
4 parties, including possibly ownership of the Timber
5 Creek residential development, but I do not know
6 the specifics and who else is involved.

7 BY MR. MUELLER:

8 Q. Now, you've done work for Waste Management
9 in the past, correct?

10 A. Yes.

11 Q. Do you know whether there will be
12 contribution from Waste Management in connection
13 with your fees in this matter?

14 A. I am not aware of that, no.

15 Q. Have you talked to anyone from Waste
16 Management in connection with your report, your
17 work or your testimony?

18 A. No.

19 Q. Sir, you've got a bachelor's degree; is
20 that correct?

21 A. Correct.

22 Q. In finance?

23 A. Correct.

24 Q. And you do not have a master's degree in

1 anything, right?

2 A. Correct.

3 Q. You are not an engineer, are you?

4 A. No.

5 Q. You're not an architect, are you?

6 A. No.

7 Q. You are not an urban planner?

8 A. No.

9 Q. You do not have a degree in urban
10 planning, do you?

11 A. Correct.

12 Q. You are also not a statistician, right?

13 A. Correct.

14 Q. How many employees do you have, sir?

15 A. Approximately ten.

16 Q. And did they work on this report for you?

17 A. One professional worked on it with me and
18 several support staff assisted in editing and the
19 production of the report.

20 Q. You signed the report, so is it fair to
21 say that you're familiar with all of its contents
22 and are responsible for them?

23 A. Correct.

24 Q. Have you ever appraised a transfer

1 station, sir?

2 A. Yes.

3 Q. Which one?

4 A. The facility in Des Plaines, Illinois.

5 Q. And when did you do that appraisal?

6 A. Approximately three years ago, maybe four
7 years ago.

8 Q. What's the name of that facility?

9 A. It's privately owned. I don't recall the
10 specific name.

11 Q. Well, is it a municipal solid waste,
12 municipal transfer station?

13 A. Yes.

14 Q. Do you know what its daily volume was?

15 A. It was several years ago. I don't recall
16 the volumes.

17 Q. Do you know what the square footage of the
18 operation was?

19 A. Please clarify what you mean.

20 Q. Well, what was the square footage of the
21 building?

22 A. Under 10,000 feet.

23 Q. Was that facility near a residential
24 development?

1 A. No.

2 Q. What was in the immediate area of the
3 facility?

4 A. Office, a variety of heavy industrial and
5 a major land use called O'Hare International
6 Airport.

7 Q. Was the facility permitted by the State of
8 Illinois?

9 A. It was permitted. I don't recall by who.

10 Q. Permitted for what purpose?

11 A. Waste management.

12 Q. And who was the owner of the facility?

13 A. I don't recall the name.

14 Q. Three years ago, you don't recall who you
15 worked for?

16 A. I recall the name of the law firm I worked
17 for.

18 Q. Did the lawyers own the transfer station?

19 A. No, but they represented the owner.

20 Q. Was that an operating, functioning
21 transfer station at the time?

22 A. Correct.

23 Q. Sir, if I were to tell you that the State
24 of Illinois shows no permanent transfer stations in

1 Des Plaines, Illinois, would that surprise you?

2 A. The permit is gone because the City of
3 Chicago bought the facility and the permit
4 approximately three or four years ago. So I
5 would -- that wouldn't surprise me at all because
6 they bought the permit.

7 Q. So you're saying the City of Chicago now
8 owns the transfer station?

9 A. Well, O'Hare Airport. The O'Hare Airport
10 authority owns the transfer station, yes.

11 Q. And was your appraisal for the purpose of
12 trying to set a sale price?

13 A. My appraisal was to estimate market value.

14 Q. Of the facility, correct?

15 A. Correct.

16 Q. You didn't look on impact on surrounding
17 facilities, did you?

18 A. No.

19 Q. Do you know whether that transfer station
20 generated traffic?

21 A. Yes, it did.

22 Q. And you've indicated that traffic has a
23 negative impact on surrounding property values?

24 A. I indicated that it may based on the

1 volume of the use, correct.

2 Q. Let me jump ahead for a second. Are you
3 familiar with distribution centers?

4 A. Yes.

5 Q. Do they generate traffic?

6 A. Operating ones do, yes.

7 Q. Would that be more traffic than the 30
8 trucks per day that the proposed transfer station
9 would generate?

10 MR. BLAZER: Object to the form of the
11 question, assumes facts not in evidence. The
12 evidence already is it will generate substantially
13 higher numbers of trucks.

14 THE HEARING OFFICER: I have an objection as to
15 form. Actually, before we get there, Mr. Mueller,
16 I'm concerned about form. I'm not really sure what
17 kind of distribution center we are trying to
18 compare this to yet. So the generic distribution
19 center is where I think I get lost.

20 MR. MUELLER: I think I'll follow up on that in
21 a bit. I'll go back to some other items.

22 THE HEARING OFFICER: Okay. Thank you.

23

24 BY MR. MUELLER:

1 Q. Have you ever appraised a landfill, sir?

2 A. I have appraised land entitled for a
3 landfill, but I don't recall appraising an
4 operating landfill.

5 Q. You say you appraised land intended for a
6 landfill?

7 A. No. That's not what I said.

8 Q. What did you say? I didn't understand
9 your answer.

10 A. Entitled means zoned and approved. That's
11 what I said.

12 Q. Are you aware that the landfills are not
13 dependent upon local zoning?

14 A. In general, yes.

15 Q. What property did you appraise that you
16 call or describe as being entitled for a landfill?

17 A. The BFI facility of Zion.

18 Q. And who did you do that appraisal for?

19 A. BFI.

20 Q. How long ago?

21 A. Probably over ten years.

22 Q. Well, sir, isn't it true that BFI has not
23 been an operating company since about 1997?

24 A. It's possible.

1 MR. BLAZER: I'll object to that
2 characterization. That is fundamentally incorrect
3 as a matter of fact.

4 THE HEARING OFFICER: He said it's possible.
5 The answer will stand.

6 BY MR. MUELLER:

7 Q. And what was the purpose of that appraisal
8 you conducted?

9 A. Acquisition by the Lake County Forest
10 Preserve for additional land to increase their
11 holdings.

12 Q. And who were you working for, Lake County
13 Forest Preserve or BFI?

14 A. Again, it was a long time ago, but I
15 thought it was BFI.

16 Q. Have you ever testified at a pollution
17 control facility siting?

18 A. Yes.

19 Q. Which ones besides this?

20 A. A hearing for a proposed facility in Carol
21 Stream, Illinois.

22 Q. When was that?

23 A. Three to five years ago.

24 Q. Who did you testify for?

1 A. Village of Glendale Heights.

2 Q. What was the nature of the facility?

3 A. It was a proposed waste transfer station,
4 and I think the developer was Flood Brothers for
5 the waste company.

6 Q. And you opposed that facility; is that
7 correct?

8 A. I didn't --

9 MR. BLAZER: Object to characterization.

10 THE WITNESS: I didn't oppose any facility.
11 That's not my -- I'm not a lobbyist.

12 BY MR. MUELLER:

13 Q. Did you testify that the facility
14 application did not meet Criterion iii?

15 A. Certain parts of it, correct.

16 Q. What other pollution control facility
17 sitings have you testified at?

18 A. I don't believe I have testified in any
19 other pollution control facilities. I have reports
20 that had been submitted. I may have actually
21 testified with the expansion of a U.S.A landfill
22 site in unincorporated Lake County maybe 15 plus
23 years ago as I recall now.

24 Q. Who did you testify for in connection with

1 that?

2 A. I believe it was a combination of clients,
3 including the Village of Round Lake Park and the
4 Alter Group, among others.

5 Q. Do you remember what the conclusion in
6 your testimony was in that case?

7 A. That's a very, very long time ago. I
8 don't recall the specifics. There were concerns as
9 to traffic height and visibility and duration of
10 the use, including smell, and that was the focus of
11 concern in my report. So it probably was not
12 positive.

13 As I'm standing here today, I also was
14 involved in an incinerator proposed development
15 that I did testify at.

16 Q. And when was that?

17 A. It could be 20 years ago.

18 Q. Where?

19 A. Robinson, Illinois.

20 Q. And who did you testify for in connection
21 with that proposal?

22 A. The applicant.

23 Q. And did you testify that an incinerator
24 would not negatively impact surrounding property

1 values?

2 A. Based on the control procedures, plus the
3 existing impact of the car facility and the hours
4 of implementation, my conclusions were that there
5 would be no negative impact.

6 Q. Now, incinerators generate air emissions,
7 don't they?

8 MR. GROSSMARK: Objection, vague, foundation.

9 THE HEARING OFFICER: Objection overruled.

10 THE WITNESS: I believe most pollution control
11 facilities all emit emissions.

12 BY MR. MUELLER:

13 Q. Do you have any concern about the air
14 emissions from a solid waste transfer station?

15 A. I am not a scientist, so I don't have
16 opinions on that point.

17 Q. Do you have any concerns about it?

18 A. I have concerns about anything that will
19 impact health and property value.

20 Q. How is this transfer station going to
21 impact health?

22 A. I am not a scientist. I haven't read or
23 done a study on that, so I can't give you that -- I
24 can't give you an answer. That's not my expertise.

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1 Q. Do you have concerns that this facility
2 will impact health, as we have just said?

3 MR. BLAZER: Objection, asked and answered.

4 THE HEARING OFFICER: The objection is
5 sustained.

6 BY MR. MUELLER:

7 Q. Sir, you have no basis for concluding that
8 this facility will impact health, do you?

9 MR. BLAZER: Objection, asked and answered.

10 MR. MUELLER: Different question.

11 MR. BLAZER: No, it's not.

12 THE HEARING OFFICER: Objection overruled.
13 Just get to it.

14 THE WITNESS: I have no basis for that
15 conclusion.

16 BY MR. MUELLER:

17 Q. Were you involved in any way with the
18 Saddlebrook development?

19 A. Yes.

20 Q. What was your involvement with that
21 development?

22 A. I provided valuation opinions for
23 financing purposes, for a settlement with the State
24 of Illinois, the Illinois Department of

1 Transportation, for taking of land and also a
2 current lawsuit with the County of Lake in regard
3 to change of impact of damage.

4 Q. Sir, how far is Saddlebrook from the
5 proposed facility?

6 A. Several miles. I can't give you an exact
7 description.

8 Q. Do you believe that this transfer station,
9 if developed, would impact the Saddlebrook
10 development?

11 A. No.

12 Q. Now, you say that you've done 10 to 15
13 studies of transfer stations, landfills and
14 recycling facilities. By studies, you mean
15 appraisals?

16 A. That's two questions.

17 Q. Well, you testified that you've done 10 to
18 15 studies.

19 A. Some involved valuation. Some involved
20 consulting. Some involved value impact, and I
21 believe I added quarries in that list.

22 Q. How many value impact studies have you
23 done in connection with transfer stations?

24 A. Several.

1 Q. Several would be two?

2 A. That's your definition. My definition of
3 several is higher than two.

4 Q. Well, tell us which transfer stations you
5 did value impact studies on.

6 A. I believe full studies with conclusions,
7 probably two to three, including Des Plaines, Carol
8 Stream, possibly one in Bartlett.

9 Q. Des Plaines I thought you said was an
10 appraisal.

11 A. But there is impact studies and
12 consideration of the uses, but the purpose was to
13 establish market value.

14 Q. Did you do a study in Des Plaines on the
15 impact of that facility on surrounding property
16 values or the character of the surrounding area?

17 A. No.

18 Q. Did you do a study in Carol Stream on the
19 impact of that proposed facility on surrounding
20 property values or the compatibility of that
21 facility with the surrounding area?

22 A. Yes.

23 Q. What did your study consist of?

24 A. It consisted of reviewing the application,

1 reviewing the professional reports, looking at
2 trend of development, looking at sales activity,
3 looking at rent levels, looking at comprehensive
4 plans, looking at zoning, looking at history of the
5 market, taking into consideration traffic patterns,
6 traffic counts, impacts as to time of the
7 development, the layout, the flow of the
8 development and the issues with future trends of
9 development. And I assume there probably was some
10 type of match pair analysis done. I don't recall.

11 Q. You don't recall whether you did a matched
12 pair analysis?

13 MR. BLAZER: He just testified to that,
14 Mr. Hearing Officer.

15 THE WITNESS: I can happily say it again. I
16 don't recall having done a matched pair analysis in
17 mine.

18 BY MR. MUELLER:

19 Q. Had you ever done a target group/control
20 group analysis?

21 A. Yes.

22 Q. Where?

23 A. I've done over 11,000 reports, so to be
24 specific, I've looked at facilities in Palatine.

1 I've done several quarries, a couple in Belvidere
2 Township -- or Belvidere County, Illinois, or maybe
3 that's Boone County. I apologize. I've looked at
4 landfill and quarry expansions down in the
5 Yorkville area, and many of those I've done matched
6 pairs.

7 Where I've done that specifically, I would
8 have to do some additional research to give you
9 your answer.

10 Q. Well, you mentioned three places,
11 Yorkville, Palatine and Belvidere, I believe,
12 right?

13 A. Correct.

14 Q. In Yorkville, did you do a target
15 area/control area study where you looked at sales
16 data from the two areas?

17 A. I would have to look at my report.

18 Q. You don't remember?

19 A. I would have to look at my report.

20 Q. In Palatine, did you do a target
21 area/control area study where you identified areas
22 and looked at and compared sales data from the two
23 areas?

24 A. I recall doing it there, yes.

1 Q. Who did you do it for there?

2 A. I don't recall who the client was.

3 Q. What was the conclusion of the study?

4 A. I don't recall a conclusion.

5 Q. What type of facility were you doing the
6 study for at Palatine?

7 A. I believe it was a waste transfer, but I'm
8 not positive.

9 Q. How long ago was that?

10 A. Several years ago.

11 Q. Sir, do you have anything that impairs
12 your memory?

13 A. Having done probably 11,000 appraisals and
14 of all different types of property and focusing on
15 specifics, once I'm done with a project, I don't
16 attempt to memorize it. So and I'm 59, so I guess
17 you could take a shot at age if you would like.
18 That would be fine.

19 Q. Sir, would it surprise you to learn that
20 there is no waste transfer station in Palatine?

21 A. Palatine area, it's a big area.

22 Q. And in Belvidere, what kind of facility
23 did you do a control area/target area study for
24 there?

1 A. You don't remember? Two quarries.

2 Q. Two quarries? How big was your target
3 area?

4 A. I don't recall.

5 Q. Who were you working for in Belvidere?

6 A. State's attorney.

7 Q. So that was not a pollution control
8 facility. It was a proposed quarry or an operating
9 quarry?

10 A. One was an expansion of an existing
11 quarry. One was a proposed quarry.

12 Q. Let's skip ahead for a second. If you
13 look at your report, you identify on page 13 what
14 you call a fuel storage tank?

15 A. Yes.

16 Q. What kind of fuel is stored there?

17 A. It appears to be liquid of a petroleum
18 base, but I don't know the specifics.

19 Q. Did you go look at that tank?

20 A. Did I go on the site and look at it? No.
21 Just looked at it from aerials.

22 Q. Do you know who owns that tank?

23 A. I do not.

24 Q. And you determined that a fuel storage

1 tank is a negative land use that adversely affects
2 surrounding property?

3 A. It's a potential detrimental condition.
4 It's something that should be looked into by the
5 person doing the report, correct.

6 Q. Sir, would it surprise you to learn that
7 what you've identified from the aerial photo as a
8 petroleum-based fuel storage tank is, in fact, an
9 irrigation holding tank that services the adjacent
10 golf course?

11 MR. BLAZER: Objection, assumes facts not in
12 evidence.

13 MR. MUELLER: Oh, we'll get that fact.

14 THE HEARING OFFICER: You can ask the question.

15 BY MR. MUELLER:

16 Q. Would it surprise you or not, sir?

17 A. Again, I explained that I didn't know the
18 specific content of the material in the tank. I
19 just said it was liquid.

20 Q. You said it was a fuel storage tank in
21 your report, right?

22 A. I did.

23 Q. Irrigation water is not fuel, is it?

24 A. In my opinion, no.

1 Q. So you put that in your report without
2 verifying that fact; isn't that true?

3 A. If you're -- if your information is
4 correct, I would stand corrected.

5 Q. Is there any other information that you
6 put in your report without verifying whether it was
7 factual?

8 A. I didn't verify a lot of Mr. Poletti and
9 Mr. Lannert's general comments, no.

10 Q. Would you consider a golf course to be a
11 land use that negatively impacts surrounding
12 residential property values?

13 A. In my opinion, no.

14 Q. Would you consider irrigation water tank
15 for the golf course to be a land use that
16 negatively impacts surrounding residential property
17 values?

18 A. They are generally fairly unsightly.
19 Generally communities, such as Park Ridge, where we
20 were going to do a 10-million-gallon reservoir, we
21 buried it for that very reason, and that's a water
22 reservoir. So the answer is they are not the most
23 sightly or aesthetic or desirable feature.

24 Q. Sir, you indicated that you worked for

1 Waste Management at the McCook landfill?

2 A. That's correct.

3 Q. What did you do for them there?

4 A. Provided them with consulting opinions as
5 to potential expansion of land use issues.

6 Q. Would you be surprised that you learned
7 that there is no landfill in McCook?

8 A. No, not surprised at all.

9 Q. Would you be surprised to learn there
10 never was a landfill in McCook?

11 A. Not surprised.

12 Q. You indicated that you consulted for Waste
13 Management at Kankakee?

14 A. Yes.

15 Q. What did you do for them there?

16 A. Just very general consulting on a
17 preliminary basis, never really completed a report.

18 Q. Now, you testified at the Groot North
19 zoning hearings, right?

20 A. You mean the facility across the street?

21 Q. Yes.

22 A. Yes, I did.

23 Q. And you testified at that time for
24 Mr. Blazer's law firm also?

1 A. Correct.

2 Q. And you looked at the Timber Ridge trailer
3 park in connection with that facility, right?

4 A. Timber Creek, yes, I did.

5 Q. Timber Creek. Okay.

6 A. Unless you're talking about something
7 else, we can talk about that.

8 Q. When did you do that testimony?

9 A. During the hearing several years ago.

10 Q. Have you looked at any sales data from
11 Timber Creek to see if the value of those lots has
12 gone up or down?

13 A. It appears that the rent levels have
14 generally increased but generally been stable,
15 somewhat kept up with the price of inflation.

16 Q. So the --

17 A. And just to be -- just to explain, the
18 lots aren't sold individually, so really your
19 question is irrelevant.

20 Q. So have you looked at rent levels at
21 Timber Creek?

22 A. I have.

23 Q. And they have not suffered as a result of
24 the development of Groot North?

1 A. Based on the controls and the changes of
2 the development, no.

3 Q. And Groot North is about 30 feet away from
4 the closest Timber Creek trailer?

5 A. From the residents, yes.

6 THE HEARING OFFICER: Mr. MaRous, I am sorry.
7 I missed the distance.

8 MR. MUELLER: Thirty feet.

9 THE HEARING OFFICER: Thank you.

10 BY MR. MUELLER:

11 Q. Now, you know what the tax base is of the
12 Timber Creek development?

13 A. Please specifically explain your question.

14 Q. The assessed valuation for real estate tax
15 purposes of the entire development.

16 A. I do not.

17 Q. Do you know what the assessed valuation
18 per resident is?

19 A. If I don't know the specific number, then
20 I wouldn't know that answer.

21 Q. Do you know whether that assessed
22 valuation has gone up, down or stayed the same
23 since Groot North was built?

24 A. I haven't studied it, but I looked at it.

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1 I believe it has had some increase.

2 Q. Do you know whether that development based
3 upon the assessed valuation per resident puts a
4 light, medium or heavy burden on local
5 infrastructures such as schools, police and fire
6 protection?

7 A. Fascinating question. That really
8 involves a physical impact study. So I guess we
9 can go taxing body by taxing body and ask them
10 specific questions, but I haven't done it.

11 Q. And I believe it's at least the
12 implication of your testimony today that this
13 proposed transfer station will negatively impact
14 real estate values at the Timber Creek development;
15 is that correct?

16 A. As I think you've asked and I've answered,
17 I have not done a value impact study. I have
18 commented on the proposed plan and the conclusions
19 in the Poletti and Lannert reports, particularly in
20 regard to the hours of operation and the doors and
21 other issues which in my opinion are not a
22 positive, but I have not come to an overall
23 conclusion.

24 Q. Well, sir, do you have an opinion either

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1 way as to whether or not the proposed facility will
2 negatively impact property values at Timber Creek?

3 A. Again, I have not done my independent
4 study of this, but based on the observations and
5 the comments and the lack of information provided
6 by the Poletti and Lannert reports, I have concern.

7 Q. Now, have you been at the proposed site?

8 A. Yes.

9 Q. Is Timber Creek visible from the proposed
10 site?

11 A. Because of the existing buildings of the
12 Groot North and a very high wall which they built
13 at the western end to provide them a visual barrier
14 immediately, then it's possible that this stuff is
15 potentially but not clearly visible.

16 Q. Are any residential structures visible
17 from the grounds of the proposed transfer station
18 property?

19 A. Assuming as you described the proposed
20 facility, if you got higher on the building or on
21 the roof, they would be clearly visible, yes, not
22 as it sits as vacant land, no.

23 Q. So as it sits now, you couldn't see any
24 houses from there?

1 A. No, but we are talking about the proposed
2 development. As it sits now, no, but to answer
3 your question, the proposed development, yes.

4 Q. What is the proposed height of the
5 development?

6 A. The parapet wall appears to be approaching
7 over 30 feet.

8 Q. And are there industrial activities
9 visible from the grounds of the proposed transfer
10 station?

11 A. Yes.

12 Q. Would you say that the immediate
13 surrounding area to the proposed transfer station
14 is essentially industrial in character?

15 A. It's mixed industrial and commercial from
16 a visibility standpoint, yes.

17 Q. Are commercial uses incompatible with
18 industrial uses?

19 A. Fascinating question. Heavy industrial
20 use is generally not a compatible use with
21 high-quality commercial uses, as I explained with a
22 Starbucks down the street, high-end restaurants,
23 high-end retail use.

24 Q. What's the closest high-end restaurant to

1 the proposed Groot transfer station?

2 A. There is nothing within a mile.

3 Q. Talking about Starbucks, is that visible
4 from the proposed new transfer station?

5 A. No.

6 Q. In fact, isn't it several stoplights away
7 down 120?

8 A. Correct.

9 Q. So it wouldn't be impacted by this
10 transfer station, would it?

11 A. No. I was just answering your question as
12 to use.

13 Q. Now, what are the criteria for whether or
14 not a use is light or heavy industrial?

15 A. Most zoning ordinances have specific
16 classifications, and the zoning ordinance based on
17 my observation, light industrial use is generally
18 office, light distribution, warehouse, light
19 assembly. Heavy industrial use jumps to another
20 level, which would be heavy manufacturing, cranes,
21 forges, more what I would say a dirty industrial
22 use.

23 Q. Now, an office is actually not a light
24 industrial use. That's a commercial use, isn't it?

1 A. Virtually all industrial uses have a
2 component of office, so they have no market demand.
3 So the offices are actually part of the industrial
4 use. An office that is separate freestanding can
5 be part of a commercial use.

6 Q. So an office building, is that a
7 commercial use or an industrial use?

8 A. If it's attached to an industrial
9 building, it's basically an industrial use. If
10 it's freestanding, it's an office or a commercial
11 use.

12 Q. Now, to go back to your definition, you
13 said cranes, forges, heavy manufacturing, those are
14 heavy industrial uses, right?

15 A. Among others, yes.

16 Q. We don't have cranes at a transfer
17 station, do we?

18 A. No.

19 Q. We don't have forges?

20 A. No.

21 Q. We don't make anything?

22 A. No.

23 Q. When you studied the Yorkville area, did
24 you familiarize yourself with a Menards

1 distribution center up in Yorkville?

2 A. I actually appraised it for Menards. I'm
3 very familiar with it, yes.

4 Q. Is that a light industrial use or heavy
5 industrial use in your opinion?

6 A. It's kind of on the edge because it's
7 mainly distribution, but they actually manufacture
8 paper, bricks, and they build roof trusses. Most
9 of that is enclosed. So for the most part, it's
10 light industrial, but they have got certain
11 components, but that facility is over 2 million
12 square feet on probably a hundred plus acre site.
13 So it's a little different characteristic of
14 something that's on 3.9 acres.

15 Q. All right. So a use that is 2 million
16 square feet and has some manufacturing with bricks,
17 in your opinion, is an on-the-edge use, but a fully
18 enclosed, 30,000-square-foot transfer station is a
19 heavy industrial use?

20 A. Fully enclosed with very heavy truck
21 traffic with vehicles weighing over 40,000 pounds,
22 many times with doors open potentially 20 hours a
23 day, yes, it would be heavy industrial use, far
24 more intensive than the Menards facility that I'm

1 quite familiar with.

2 Q. The Menards facility also was going to
3 have transfer trailers coming in and out both with
4 supplies and with merchandise, correct?

5 A. That is correct.

6 Q. And do you know how many transfer trailers
7 were scheduled to go in and out of that facility
8 per day?

9 A. It depends on the day. It depends on the
10 season. It depends on the demand. It depends on
11 the store.

12 Q. On the average day, do you know what that
13 number was going to be?

14 A. They couldn't give us a number for that.

15 Q. In fact, wasn't that going to be hundreds
16 of trucks per day in and out?

17 A. You may be talking about proposed. I'm
18 talking about actual and giving you the answer I
19 got when I interviewed the head of operations.

20 Q. Sir, as a distribution center, did you
21 have an opinion as to whether or not it would
22 generate light or heavy traffic?

23 A. The Menards?

24 Q. Yes.

1 A. Heavy traffic.

2 Q. Heavy traffic?

3 A. That's correct.

4 Q. All right. Now, this facility, I believe
5 you testified, would generate 30 transfer trailers
6 out per day, correct?

7 A. As one component of multiple types of
8 truck traffic, correct.

9 Q. And did you read Mr. Werthmann's report to
10 say that the heaviest truck traffic would be about
11 three per hour?

12 A. Can you, please, define the trucks you're
13 talking about?

14 Q. Sir, would you consider three transfer
15 trailers per hour leaving the facility as heavy
16 truck traffic?

17 A. You're only describing part of it, so I
18 can't answer the question. You have to ask the
19 question as the totality because vehicles weighing
20 30 to 40,000 pounds have to be considered. Maybe
21 that's the issue here; you're not considering those
22 vehicles.

23 Q. No. My question is do you consider three
24 transfer trailers out per hour to be heavy truck

1 traffic? That's a yes or no question.

2 A. Individually and only, I would say no.

3 Q. Now, isn't it true, Mr. MaRous, that any
4 land development will generate traffic?

5 A. I would say that's a safe answer, yes.

6 Q. And isn't it true that based upon
7 Mr. Werthmann's truck projections, the traffic
8 generated by this facility on a per-square-foot
9 basis is less than almost any commercial use that
10 could be put on that property?

11 A. For the number of trucks, I don't recall
12 seeing that on a per-square-foot basis. Can you
13 clarify per square foot, building or land?

14 Q. Sir, isn't it true that a gas station
15 would generate more traffic than a transfer
16 station?

17 A. Not on major trucks, no.

18 Q. On total vehicles, though, wouldn't it?

19 A. Well, those are cars. That's apples and
20 oranges. Of course.

21 Q. Now, Route 120, which is where the trucks
22 come in and exit, is a state truck route, isn't it?

23 A. Correct.

24 Q. It's designed to handle trucks?

1 A. Correct.

2 Q. You're not opining that there is going to
3 be traffic problems as a result of truck traffic
4 generated by this facility on Route 120, are you?

5 A. No.

6 Q. But you're concerned about Timber Creek,
7 right?

8 A. Correct.

9 Q. Well, isn't it true, sir, that Timber
10 Creek access is from Porter and Route 134?

11 A. Correct.

12 Q. And isn't it true that there will be no
13 transfer station traffic going through that
14 intersection?

15 A. Just as you couldn't guarantee hours, I
16 can't guarantee none. I would assume minimal at
17 best.

18 Q. So assuming that there is no traffic out
19 from the transfer station or to the transfer
20 station through the Porter and 134 intersection,
21 does that alleviate your concerns about traffic
22 impacts of Timber Creek?

23 A. No. I was aware of that already.

24 Q. Now, from the site itself, the proposed

1 site, which you said you visited, you can also see
2 some open space, correct?

3 A. Correct.

4 Q. Now, is that open space or what we would
5 call undeveloped open space?

6 A. Predominantly undeveloped open space.

7 Q. And you expected that open space likely to
8 ultimately be developed as industrial and
9 commercial open space?

10 A. Please define your term of years of
11 "ultimately."

12 Q. When it develops.

13 A. I'm not -- I can't guarantee when
14 something is going to develop or not develop, so I
15 can't answer that question as asked.

16 Q. Well, you said that you could look at the
17 comprehensive plans for the area, correct?

18 A. Correct.

19 Q. And don't those comprehensive plans call
20 for commercial and industrial development in the
21 area around the proposed facility?

22 A. Correct.

23 Q. Now, I think you indicated that you
24 studied the Lannert report, right?

1 A. I read the Lannert report, yes.

2 Q. He proposes automatic doors to minimize
3 odors and sounds. Did you see that?

4 A. I did.

5 Q. Would that tend to minimize
6 incompatibility with the surrounding area?

7 A. I think it's a benefit, but as I
8 understand it, it's open 20 hours a day, so that's
9 a conflicting answer.

10 Q. Where in the report does it say it will be
11 open 20 hours a day?

12 A. It doesn't say that in his report. My
13 understanding is that's initial testimony that's
14 gone on during these hearings.

15 Q. Well, let me ask you to assume that you
16 have quick acting automatic doors that can open and
17 close as needed and as conditions warrant. Is that
18 type of amenity something that would tend to
19 minimize incompatibility with the surrounding area?

20 A. I would add further that they immediately
21 close upon a truck entering and exiting. I would
22 think that would be a benefit, but that wasn't part
23 of your question.

24 Q. Well, I ask if you can answer my question.

1 Is the existence of those doors by itself something
2 that tends to minimize incompatibility?

3 A. Depending on use, I can't answer that.
4 You need to provide me specifics and guarantees and
5 stipulations that I can answer the question.
6 You're asking for generalities. I'm not here to
7 guess.

8 Q. But you guessed about whether or not that
9 irrigation tank for the golf course was a fuel
10 storage tank, right?

11 MR. BLAZER: Object to the form of the
12 question.

13 THE HEARING OFFICER: Sustained.

14 BY MR. MUELLER:

15 Q. Mr. MaRous, does the Lannert report
16 propose landscaping for the facility?

17 A. Yes.

18 Q. Is that something that would tend to
19 minimize incompatibility with the surrounding area?

20 A. Properly done and properly maintained and
21 good quality, I would agree with that.

22 Q. Does the Lannert report propose that the
23 building be oriented in such a way that the
24 entrance to the facility will be away from other

1 developments?

2 A. I think that goes to characterization and
3 specifics, but I would say generally yes.

4 Q. And does an orientation like that tend to
5 minimize incompatibility of an activity with the
6 surrounding environment?

7 A. I think that's a good start, yes.

8 Q. And are you aware that the facility is
9 buffered on one side by the Groot North property?

10 A. Yes.

11 Q. And does the existence of that buffer tend
12 to minimize incompatibility with the character of
13 the surrounding area?

14 A. Yes.

15 Q. And are you aware that Groot owns other
16 property adjacent to the proposed facility which
17 can be used to buffer the facility from surrounding
18 land uses?

19 A. I haven't interviewed Mr. Groot as to what
20 his future specific plans and guarantees and
21 stipulations are. I'm aware he has other holdings,
22 but I am happy to review any stipulations he might
23 make as to what he's going to do to buffer.

24 Q. Let's call it Groot Industries rather than

1 Mr. Groot, but are you in agreement that buffering
2 an activity with other holdings owned by the
3 developer is a way of minimizing incompatibility
4 with the character of the surrounding area?

5 A. In my opinion, that's an incredible
6 stretch for me to speculate what ownership might do
7 in the future unless they make guarantees. I think
8 if they make guarantees, I think that's a positive.

9 Q. Now, are you aware that there is a
10 significant line of mature trees to the east of the
11 proposed property?

12 MR. BLAZER: Object to the form of the
13 question.

14 THE HEARING OFFICER: Objection sustained.

15 BY MR. MUELLER:

16 Q. Is the area east of the proposed site a
17 wooded area?

18 A. There are areas of woods, yes.

19 Q. And is a location near a wooded area that
20 would buffer the facility from other land uses
21 something that would tend to minimize
22 incompatibility with the character of the
23 surrounding area?

24 A. It's a benefit, particularly of the

1 deciduous season, which is probably late April
2 until mid October. Obviously, unless it's pine
3 trees that are hardy and will survive, those other
4 times it's fairly irrelevant.

5 Q. Near the proposed facility there is a rail
6 line, correct?

7 A. Yes.

8 Q. Is the proposed facility incompatible with
9 a rail line?

10 A. No.

11 Q. There is also a state highway, right?

12 A. There are several state highways, but --

13 Q. Immediately adjacent there is Route 120,
14 correct?

15 A. Correct.

16 Q. Is the facility incompatible with an
17 adjacent state highway?

18 A. No.

19 Q. Does the state highway generate noise?

20 A. Practically, yes.

21 Q. Does the railroad generate noise?

22 A. In my observation, yes. If you listen to
23 railroad sound engineering experts, they may have
24 different opinions. That's a whole different

1 question.

2 Q. Does the design of the facility as a
3 drive-through facility where un-tarping, unloading,
4 loading and tarping are all done indoors tend to
5 minimize the incompatibility with the character of
6 the surrounding area?

7 A. For what it is, yes.

8 Q. Now, sir, do you know what Criterion iii
9 is?

10 A. Yes.

11 Q. What is it?

12 A. I do not have it in front of me, but it
13 basically goes to land use and value impact.

14 Q. And the criterion allows for some impact
15 to occur, doesn't it?

16 A. Yes.

17 MR. BLAZER: Objection.

18 MR. MUELLER: He's answered the question.

19 BY MR. MUELLER:

20 Q. And the objective of the criterion is not
21 to demonstrate the absence of impact but to
22 minimize impact; isn't that right?

23 A. I believe the determination is for the
24 hearing officer, but, obviously, minimization is

1 part of the criterion.

2 Q. In fact, isn't minimization the entire
3 criterion?

4 MR. BLAZER: Objection, calls for legal
5 conclusion.

6 THE HEARING OFFICER: Sustained.

7 BY MR. MUELLER:

8 Q. What more could Mr. Lannert have done to
9 minimize the impact -- well, strike that.

10 Have you ever written a confidential plan
11 for an area?

12 THE HEARING OFFICER: Mr. Mueller, are you
13 going to be much longer with this witness?

14 MR. MUELLER: I'm going to be a while. Let's
15 stop.

16 THE HEARING OFFICER: Is this a good time for a
17 break then?

18 MR. MUELLER: Yes.

19 THE HEARING OFFICER: Okay. We'll come back at
20 2:00 o'clock.

21 (A short break was taken.)

22 THE HEARING OFFICER: Mr. Mueller, you may
23 continue.

24 BY MR. MUELLER:

1 Q. Mr. MaRous, are there written objective
2 criteria that you are aware of for designating an
3 activity as either a light or heavy industrial use,
4 or is that designation pretty much subjective?

5 A. As I explained earlier, most zoning
6 ordinances are pretty specific to the designation.
7 There are some referral to light industrial use in
8 real estate and I assume probably some other real
9 estate treatises, but I would really refer to
10 specific zoning ordinances. And in the Chicago
11 metropolitan area, there is over 220 communities,
12 and most have their own zoning ordinance.

13 Q. So if a piece of property is located in an
14 area zoned for heavy industrial, it's automatically
15 a heavy industrial use?

16 A. No.

17 Q. Well, that's my question then. With
18 regard to a specific activity, are there objective
19 criteria in your industry for evaluating whether
20 that activity is a light or heavy industrial use?

21 A. Was the last part just the question?

22 Q. Yes.

23 A. And for a specific use, the first
24 reference would be to look at the zoning map to

1 look at the zoning designation, to look at the uses
2 in the zoning designation for the use.

3 Q. So what you're saying is you are unaware
4 of any objective criteria in the real estate
5 appraisal discipline that help identify whether a
6 use is light or heavy industrial?

7 A. Again, in the real estate appraisal
8 criteria, the guide is to look at the various
9 zoning ordinances, and those dictate.

10 Q. And I think I asked you right before the
11 break whether you've ever written a comprehensive
12 plan.

13 A. I've participated in a comprehensive plan,
14 yes.

15 Q. Have you ever prepared one?

16 A. Fully authored it, no. I believe my name
17 may be on one, but I am not the author.

18 Q. Do you remember whose plan your name is
19 on?

20 A. Park Ridge.

21 Q. And that's because you were the mayor?

22 A. That would help, yes. And it may not be
23 even on it. I don't recall. I had some
24 involvement when the last plan was made up.

1 Q. Now, in looking at your resume, I go to
2 the third page. Do you have in front of you the
3 one that says, Representative work of Michael
4 MaRous?

5 A. Yes.

6 Q. It doesn't tell me what work you did, sir.
7 It just indicates office buildings in Chicago. Did
8 you build them?

9 A. No.

10 Q. Did you design them?

11 A. Are you done?

12 Q. Did you plan them?

13 MR. BLAZER: Mr. Hearing Officer --

14 THE HEARING OFFICER: Objection sustained. One
15 question at a time, Mr. Mueller.

16 MR. MUELLER: Well, he won't answer them.

17 THE HEARING OFFICER: You know what; he started
18 to, and you went to the next one.

19 BY MR. MUELLER:

20 Q. Did you build any of those office
21 buildings?

22 A. No.

23 Q. Did you design any of them?

24 A. No.

1 Q. Did you do a property value impact
2 assessment for surrounding properties with regard
3 to any of them?

4 A. No.

5 Q. Basically, you did appraisal work on these
6 projects, right?

7 A. That's correct.

8 Q. And at the bottom right of that page, you
9 have, Landfill expansion Lake County. Which
10 landfill again was that?

11 A. I believe it was the USA.

12 Q. If I go to the fifth page of your resume,
13 you've got representative client listing. Do you
14 see that?

15 A. Yes.

16 Q. And you've got them broken out by
17 categories, law firms, financial institutions,
18 corporations, public entities?

19 A. Correct.

20 Q. Sir, it would appear to me, and tell me if
21 you disagree, that the category of clients that
22 you've worked for the most is law firms. Is that
23 true?

24 A. I would say the pure numbers, probably,

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1 yes.

2 Q. And I don't even see Jeep and Blazer on
3 that list. Is there a reason why you've omitted
4 them?

5 MR. BLAZER: We're too small.

6 THE WITNESS: I can't really win with this
7 answer, but we do not do that much work for them.

8 BY MR. MUELLER:

9 Q. So it would appear that more than anything
10 else, you're a hired gun for lawyers, right?

11 MR. BLAZER: Objection.

12 THE WITNESS: I --

13 MR. BLAZER: There is an objection pending.

14 THE HEARING OFFICER: Objection overruled.

15 BY MR. MUELLER:

16 Q. You may please answer, Mr. MaRous.

17 A. That question doesn't deserve an answer,
18 but the answer is incorrect, but it's your
19 opportunity to name-call if you like.

20 Q. Going to your report, sir, just to respond
21 to that, the first category of representative
22 clients you list are law firms?

23 A. That's correct. It doesn't make them bad
24 guys.

1 Q. Now, on your actual report, you indicated
2 that you studied the plan for the proposed waste
3 transfer facility, correct?

4 A. Correct.

5 Q. Did you look at the design?

6 A. I saw conceptual drawings, but I didn't
7 see full-finished plans, if that's the question.

8 Q. Did you look at the operating plan?

9 A. I was made aware of it. I don't think
10 I've seen the final operating plan.

11 Q. Well, I've got the application in front of
12 me, sir. Did you review the operating plan as set
13 forth in the application?

14 A. Yes.

15 Q. Is there anything about that operating
16 plan in the application that in your opinion will
17 negatively impact surrounding property values?

18 A. Yes.

19 Q. What part of that operating plan
20 negatively impacts property values?

21 A. No limitation on hours.

22 Q. And what --

23 A. And the no limitation on doors being
24 opened.

1 Q. And what do you expect the percentage
2 impact on property values to be?

3 A. I don't understand the question.

4 Q. Well, if it's going to negatively impact,
5 is it going to reduce it by 10 percent, by a
6 hundred percent, by 1 percent?

7 A. I didn't provide a study showing a
8 negative impact on value. I think we discussed
9 that multiple times, but we can keep talking about
10 it, but that's not --

11 Q. But you're opining that the operational
12 plan will negatively impact values, correct?

13 A. I'm opining that the applicant didn't
14 provide specific operating hours or limitations on
15 operating hours or limitation on the truck doors,
16 and if you provide me a stipulation as to what
17 they'll agree to, I'll study it, analyze it, and
18 then I can answer it, but I keep asking for
19 specifics, and you don't provide them.

20 Q. Well, I'm the one asking you for
21 specifics, and my specific is do you have an
22 opinion as to whether or not the operating plan
23 will negatively impact property values?

24 MR. BLAZER: Objection, asked and answered.

1 THE HEARING OFFICER: Sustained.

2 MR. MUELLER: And he said yes. Then my next
3 question is to what degree will that impact occur?

4 MR. BLAZER: Objection, asked and answered.

5 THE HEARING OFFICER: Sustained.

6 BY MR. MUELLER:

7 Q. Are you able to quantify any impact that
8 you opined about?

9 A. Again, I need specifics from you as to the
10 operating hours and the amount of time the doors
11 will be open, and then I will analyze it.

12 Q. No. Sir, based upon the opinion that you
13 have that the unlimited operating hours and the
14 unlimited open doors will negatively impact
15 property values, are you able to quantify the
16 amount of the impact?

17 MR. BLAZER: Objection, asked and answered.

18 THE HEARING OFFICER: Objection sustained.

19 BY MR. MUELLER:

20 Q. Now, you state in your report that the
21 Lannert report addresses the impact of proposed
22 waste transfer station on the character of the
23 surrounding area. Actually, sir, that's not true,
24 is it?

1 A. Not true that he doesn't consider the
2 surrounding area? He does and provides 92 percent
3 open space and residential use as a character of
4 the area.

5 Q. Sir, let me read the sentence. The
6 Lannert Group report addresses the impact of the
7 proposed waste transfer station on the character of
8 the surrounding area.

9 That's not a true statement about the
10 Lannert report; is it, sir?

11 A. In my opinion, it is a true statement.

12 Q. In fact, doesn't the Lannert report
13 address how the facility is located and designed so
14 as to minimize the impact on the character of the
15 surrounding area?

16 A. I believe we are saying the same thing, so
17 I'm not sure I can answer the question. I agree
18 with your comment. I agree with my answer.

19 Q. Now, in your opinion, does an applicant
20 have to demonstrate minimization of the impact on
21 the character of the surrounding area as it exists
22 or minimization on the impact of the character of
23 the surrounding area as it is projected to be in
24 the future?

1 A. As it exists.

2 Q. And right now the immediate surrounding
3 area of the proposed transfer station is open
4 space, commercial and industrial, correct?

5 MR. BLAZER: Objection, asked and answered.

6 THE HEARING OFFICER: You may answer.

7 THE WITNESS: Please define the immediate area.
8 Your planner described it as one mile, and back to
9 his numbers is 92 percent open space is
10 residential. If we talk within 950 feet, I would
11 agree with your question.

12 BY MR. MUELLER:

13 Q. If we talk within the visible area, would
14 you agree with my question?

15 A. On the surface of the site, yes.

16 Q. Then your second bullet point on page 2 of
17 your report talks about significant increases in
18 truck traffic. Can you tell me what the percentage
19 increase in truck traffic will be at its highest on
20 any road adjacent to the property?

21 A. Percentage, I would have to review the
22 KLOA report, but the answer is in a given day, I
23 believe there is 143 large vehicles that will be
24 introduced onto Porter that aren't there now, which

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1 is a significant increase.

2 Q. How many vehicles are on Porter Road now?

3 A. The exact number?

4 Q. Yes.

5 A. I don't know.

6 Q. What's the percentage increase that that
7 represents?

8 A. If I gave you an "I don't know," I'm not
9 good enough to give you a percentage increase.

10 Q. Well, since you said "significant," what
11 in your mind is the percentage that correlates with
12 significant?

13 A. Probably over 10 percent.

14 Q. Would a one-half of 1 percent increase in
15 traffic in your opinion be significant?

16 A. Please define "traffic." Are you talking
17 vehicles over 20,000 pounds, or are you describing
18 all traffic?

19 Q. All traffic.

20 A. That's a whole different question -- line
21 of questioning. That's a whole different answer.
22 I'm talking about the numbers that we keep seaming
23 to have a discussion on of the hundred forty
24 something very large vehicles being introduced onto

1 Porter.

2 Q. And your data indicates that's over a
3 10 percent increase in truck traffic on Porter?

4 A. I didn't do a traffic study.

5 Q. Well, but you're the one that
6 characterized the traffic increase as significant
7 and that said significant is more than 10 percent,
8 right?

9 A. I was answering your question, and I was,
10 again, referring to the larger vehicles.

11 Q. Do you have any numbers to support your
12 conclusion that the increase in truck traffic is
13 significant?

14 A. Traffic study, I don't have it.

15 Q. You also say significant increase on the
16 roads, plural. Do you see that in your second
17 bullet point, sir?

18 A. Yes.

19 Q. So is there a significant increase on any
20 road besides Porter?

21 A. Again, the introduction of 143 large
22 vehicles on a daily basis is a significant increase
23 in heavy truck traffic, but again, I didn't do a
24 traffic report.

1 Q. Would that be a significant increase on
2 State Route 120?

3 A. I would have to look at a traffic study.

4 Q. Which you didn't do, but you conclude that
5 it was significant anyway, right?

6 A. I read the KLOA report as a basis for my
7 conclusion, but I did not memorize the KLOA report.
8 But, again, I'm talking about heavy truck traffic,
9 I'm not talking about all vehicles.

10 Q. Now, you refer to a misleading
11 representation that industrial uses are well
12 established within the area.

13 A. What bullet point are you referring to?

14 Q. I'm on your third bullet point now, sir.
15 Can you point to any language in the Lannert report
16 that constitutes a misrepresentation?

17 A. Yes. There is 92 percent open space and
18 residential use within a one-mile district. That's
19 my criticism.

20 Q. No. What did Mr. Lannert say that is a
21 misrepresentation because you accused him of it
22 here?

23 A. In his report, he clearly shows 92 percent
24 open space in residential use.

1 Q. And that's a correct statement, right?

2 A. That is correct.

3 Q. He didn't misrepresent anything, did he?

4 A. I don't think you read this, but it says,
5 Leading to a misleading representation that
6 industrial uses are well established within the
7 area. 4 percent out of 100 is a low percentage.

8 Q. Did Mr. Lannert say industrial uses are
9 well established within the area?

10 A. Again, my statement says "representation."
11 It doesn't say that he said that.

12 Q. Let's cut to the chase here.

13 A. That would be good.

14 Q. Can you point to any statement in
15 Mr. Lannert's report, any allegation of fact, that
16 you believe to be incorrect?

17 A. I believe my criticism had to do with
18 omissions rather than incorrect statements.

19 Q. So it's true that Mr. Lannert's report is
20 factually accurate; is that right?

21 A. For the facts that were presented, yes.

22 Q. By the way, the Groot North facility, is
23 that a light or a heavy industrial use?

24 A. Light.

1 Q. Why would that be a light use and the
2 transfer station, which is going to be much
3 smaller, is a heavy use?

4 A. Because of the transfer of garbage.

5 Q. All of which occurs indoors, right?

6 A. That's correct, but industrial use, just
7 for your knowledge, doesn't mean that it all has to
8 take place outside. Many heavy industrial uses,
9 such as auto manufacturing plants, the whole
10 manufacturing plant/manufacturing operation takes
11 place inside.

12 Q. Sir, can you direct me to any learned
13 treatise, article or other source that says a
14 municipal solid waste transfer station ought to be
15 considered a heavy industrial use?

16 A. I would have to go and do research on
17 that, counsel.

18 Q. Have you done that research?

19 A. I don't believe I have.

20 Q. Now, in Mr. Poletti's report, he reviews
21 literature, correct?

22 A. Correct.

23 Q. And you indicate that the literature that
24 he reviews is flawed?

1 A. That's what I said.

2 Q. What's flawed about the literature he
3 used?

4 A. Page 7 and 8 of my report goes into
5 detail. I'm happy to read through that to explain
6 my conclusions there on the sources that he
7 referred to. First of all, it was the Appraisal
8 Journal article of 1983 and then the studies that
9 were done by William McCann & Associates, and then
10 the Integra report that was done in 2003.

11 Q. Sir, isn't it true that Mr. Poletti
12 testified that he did not rely on any of those
13 studies but simply reported other literature
14 because literature review is a sound element in his
15 methodology?

16 A. I didn't review his testimony. I wasn't
17 here during his testimony.

18 Q. You would agree that reviewing literature
19 in an area is a good element to use in your
20 methodology in understanding an area?

21 A. I agree.

22 Q. So your opinion regarding Mr. Poletti is
23 based on his report, and you did not consider his
24 testimony; is that right?

1 A. That's correct.

2 Q. Now, you indicate that the study of the
3 Timber Creek or the -- Mr. Poletti's study
4 misrepresents the zoning of Timber Creek?

5 A. Yes.

6 Q. In fact, did Mr. Poletti correctly
7 identify the zoning of Timber Creek?

8 A. I would have to go back to his report, the
9 zoning.

10 Q. Why don't you do that.

11 A. Okay. What page are you referring to?

12 Q. I don't know. You're the one that said he
13 misrepresented it. Find me the misrepresentation.

14 A. Page 14, fourth paragraph, first sentence,
15 The subject property is located such that most
16 proximate residential areas are industrial zoned,
17 mobile home park located to the northwest and
18 several townhome units located along the Buckingham
19 Drive and Chatham Lane.

20 In no way did he say that it's a legal
21 conforming use.

22 Q. Sir, is his statement a factually correct
23 statement?

24 A. It's incomplete. He didn't --

1 Q. Is it a factually correct statement?

2 MR. BLAZER: Objection, Mr. Hearing Officer.

3 He wasn't done answering.

4 THE HEARING OFFICER: Please proceed. Finish
5 your answer, Mr. MaRous.

6 THE WITNESS: He doesn't say that it's legal
7 conforming. He just says it's industrial zone. So
8 his --

9 BY MR. MUELLER:

10 Q. So he's incorrect?

11 MR. BLAZER: Again, Mr. Hearing Officer.

12 THE HEARING OFFICER: Mr. MaRous, please
13 finish.

14 THE WITNESS: Again, when reporting zoning,
15 you're supposed to -- if something has a different
16 zoning than what is allowed and it's provided as
17 legal conforming, it's supposed to be described.
18 He did not do it.

19 BY MR. MUELLER:

20 Q. Where is there a guidance on what is
21 supposed to be described that you're referring to
22 now?

23 A. The Appraisal of Real Estate, 13th
24 edition.

1 Q. What is the zoning of Timber Creek?

2 A. Industrial with legal conforming for
3 residential use, 48011.

4 Q. It's, actually, legal nonconforming,
5 correct?

6 A. That's correct.

7 Q. And you will not find that on a zoning
8 map, will you?

9 A. No.

10 Q. On a zoning map, you'll see the industrial
11 classification, right?

12 A. That's correct.

13 Q. Now, you indicate that Mr. Poletti's work
14 is flawed because he didn't consider the impact on
15 commercial property values, right?

16 A. What bullet point are you referring to?

17 Q. I'm just asking you a question. Is one of
18 your critiques of Mr. Poletti's work that he did
19 not consider the potential impact on commercial
20 property values?

21 A. Yes.

22 Q. Would you agree that residential property
23 values tend to be the most sensitive to negative
24 adjoining land uses?

1 A. That's a very broad characterization, and
2 I can give you a very broad answer.

3 Q. What's your very broad answer?

4 A. Can I answer before you keep interrupting?
5 The answer is generally yes, but for higher quality
6 commercial uses, negative in harmonious industrial
7 uses are a negative factor.

8 Q. Would they be as negative as they would on
9 residential?

10 A. It depends on the development. I would
11 have to study it.

12 Q. Are there any commercial uses within
13 one mile of the subject property that in your
14 opinion would be more sensitive to negative land
15 uses than residential properties would be?

16 A. You're just talking one mile, not the
17 area, not the county. I would say probably not.

18 Q. Now, the Wheeling transfer station that
19 you referred to where Mr. Poletti did some work,
20 your criticism there is the target area has some
21 problems not experienced by the control area,
22 right, the flood plain, not Lake Michigan water?

23 A. I didn't realize Mr. Poletti -- he must
24 have done a revision in the report because I don't

1 have a Wheeling transfer station.

2 Q. I'm looking at your report, sir. You make
3 a reference to the Wheeling transfer station.

4 A. Isn't it the Glenview transfer station?

5 Q. I'm looking at your report, sir.

6 A. I'm looking at my report, too.

7 Q. How about fifth bullet point down on page
8 2, the critique of Mr. Poletti.

9 A. Okay. The Wheeling and the Glenview, yes,
10 for clarification, we are talking about the same
11 one.

12 Q. You said Wheeling and Glenview. It
13 doesn't say Glenview there, does it?

14 A. Later in the report it says Glenview.

15 Q. Did you prepare this report, or did
16 somebody do it for you?

17 A. I prepared the report.

18 Q. Why did you call it the Wheeling transfer
19 station?

20 A. Because it's right in an area of Glenview
21 and Wheeling.

22 Q. Well, is it in Glenview, or is it in
23 Wheeling?

24 A. I believe it's actually unincorporated

1 Cook County, and it's right on the edge of Wheeling
2 and Glenview.

3 Q. Would it surprise you to learn it's in
4 Glenview and been in Glenview for a long, long
5 time?

6 A. It's possible.

7 Q. In any event, your criticism of his target
8 area and control area is that the target area has
9 significant flaws, right?

10 A. Correct.

11 Q. Which would lead one to believe that sales
12 data for the target area should show lower prices,
13 correct?

14 A. It's possible that when it's flawed data,
15 you have to make due with the assumptions to come
16 to a conclusion.

17 Q. Well, my point is that Mr. Poletti's work
18 showed the prices approximately equal for both
19 areas, and you're telling me that the target area
20 is significantly worse in terms of amenities; is
21 that right?

22 A. Yes.

23 Q. So it sounds like the Glenview -- or you
24 can call it the Wheeling transfer station must be

1 having a positive impact on property values there
2 to offset the fact that it lacks amenities?

3 A. I think that's wildly speculative. I'll
4 let you make that decision.

5 Q. Well, sir, do you have an opinion as to
6 whether that transfer station negatively impacts
7 property values around it?

8 A. I just reviewed Mr. Poletti's work. I
9 didn't do a study of Wheeling transfer station. As
10 I cited with specifics, there is flawed data here
11 with knowing the area that makes his conclusions
12 incomplete.

13 Q. Mr. Poletti said that his identical
14 analysis allowed him to opine with 95 percent
15 confidence that the Glenview transfer station was
16 not negatively impacting the target area. Can you
17 tell me how much that competence is reduced in you
18 based upon the flaws you pointed out?

19 A. With specific confidence, I really don't
20 have any confidence in it. I can't give you a
21 specific.

22 Q. You didn't do any mathematical analysis,
23 correct?

24 A. The data was flawed. To use flawed data

1 to do mathematical calculations will bring out a
2 multiply flawed conclusion.

3 Q. Well, the data was actually correct. Are
4 you saying he used incorrect numbers?

5 A. No, I did not.

6 Q. So his data was correct, right?

7 A. That's correct.

8 Q. Would you consider it to be a flawed
9 analysis if you don't know what town the facility
10 is in?

11 MR. BLAZER: Objection, argumentative.

12 THE HEARING OFFICER: Objection overruled.

13 THE WITNESS: I think based on the location, I
14 would say no.

15 BY MR. MUELLER:

16 Q. Now, in the Elburn waste transfer station,
17 you made a point that residential uses were
18 developed as subsequent to the transfer station
19 being there, right?

20 A. Correct.

21 Q. Which would indicate that the transfer
22 station did not impair the development of
23 residential property nearby, right?

24 A. It did not totally limit it. I didn't say
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1 it didn't impair. Obviously, development was done
2 at a later time. So it meant that future
3 development did occur, and I haven't made the
4 statement here that no development will ever occur
5 in this area because of the transfer station. It's
6 the issue as to the magnitude impacting --

7 Q. And then you indicate that there is a
8 portion of the control area by Elburn that is
9 negatively impacted by an industrial use?

10 A. Yes.

11 Q. What industrial use is that?

12 A. The name of the company I don't recall.

13 Q. But you believe it negatively impacted
14 part of the control area?

15 A. No. I'm just discussing how it impacts
16 the presence of the industrial area. I'm just
17 commenting on it.

18 Q. So you're saying that all industrial uses,
19 regardless of what they are, or even if you don't
20 know what they are, negatively impact residential
21 areas nearby?

22 A. No. They have to be considered and
23 understood and explained and analyzed.

24 Q. And you did not understand or explain the

1 industrial use nearby because you can't even tell
2 me what it is, correct?

3 A. No. I'm referring to Mr. Poletti's report
4 who didn't explain what it was.

5 Q. You didn't do anything on this project
6 other than critique the two reports; isn't that
7 true?

8 A. That is correct.

9 Q. You did no independent research of your
10 own; is that right?

11 A. There is independent research in here.
12 There was some checking, but I did not check every
13 fact that was provided. I did not have my own
14 traffic study, but independent research was done.

15 Q. What independent research did you do, sir?

16 A. Looked at trend of development, looked at
17 comprehensive plans, looked at traffic counts,
18 looked at information and aerials in regard to the
19 areas of the test, the target areas of the three
20 comparables that Mr. Poletti utilized, did some
21 additional research as to sale and transfer
22 activity in those areas.

23 Q. Bluff City, you also indicate that
24 portions of the control area are more significantly

1 impacted by having industrial uses than the target
2 area, right?

3 A. Correct.

4 Q. So what industrial uses are more
5 significantly impacting that area than the transfer
6 station is impacting the target area?

7 A. Well, this had quarries, and this had Com
8 Ed use.

9 Q. So power lines are a more negative use
10 than the transfer station?

11 A. I didn't say that. I said --

12 Q. Well, you said it had Com Ed.

13 THE HEARING OFFICER: Mr. MaRous, please finish
14 your answer. Mr. Mueller, try and wait until he
15 finishes, please.

16 THE WITNESS: High tension lines generally are
17 considered to be potentially a negative use,
18 particularly a residential development.

19 BY MR. MUELLER:

20 Q. You consider a high tension line to be a
21 heavy industrial use?

22 A. No, no. It's a service. It's a utility.

23 Q. What are the heavy industrial uses
24 referred to?

1 MR. BLAZER: Mr. Hearing Officer, I know it
2 probably is pointless, but if you could admonish
3 him again to let him finish answering.

4 MR. MUELLER: If could you admonish the witness
5 to answer the questions, this would be a lot
6 easier.

7 THE HEARING OFFICER: Gentlemen, that's enough.

8 Mr. MaRous, were you finished with your
9 answer?

10 THE WITNESS: Yes.

11 THE HEARING OFFICER: Mr. Mueller, please
12 proceed.

13 BY MR. MUELLER:

14 Q. What heavy industrial uses are you
15 referring to in your last bullet point on page 2?

16 A. The quarries.

17 Q. Do you know whether those are operating or
18 closed?

19 A. I don't know.

20 Q. Would it make a difference?

21 A. The answer is having been involved in a
22 lot of quarries, they can be mothballed or closed
23 and then reopened based on demand in the market.

24 So there are operating quarries that have the

1 opportunity to be active, and during winter months
2 they will be closed. It's just a matter of
3 operations. So I can't give you a yes or no answer
4 unless they have been closed for good.

5 Q. You don't know whether these are closed
6 for good or not, do you?

7 A. I do not.

8 Q. Don't you think that's something you
9 should have known before you opined that they are
10 more negatively impacting the control area than the
11 Bluff City transfer station is impacting the target
12 area?

13 A. Actually, that should have been in the
14 Poletti report if we get to specifics, and it
15 wasn't in there.

16 Q. Would it surprise you to learn, sir, that
17 those quarries are played out and no longer being
18 mined?

19 A. Without seeing the final closure plan and
20 knowing the ability to extract sand and gravel, I
21 would need more information to answer that
22 question.

23 Q. Now, if we turn to your next page, we
24 talked about the scope of work and --

1 A. We were on page 13 and 14.

2 Q. Well, I am on page 3.

3 A. Okay. I'm just listening to your
4 question.

5 Q. Turn to page 3, scope of work performed.
6 It says that you looked at data on the market for
7 single-family manufactured houses in the immediate
8 general area. Does that mean trailers?

9 A. It can mean trailers, or it can be
10 manufactured houses similar to Saddlebrook.

11 Q. Well, what data did you look at that
12 relates to this project regarding manufactured
13 houses?

14 A. I looked at general trends in the mobile
15 home industry. I looked at information as to
16 manufactured houses at Saddlebrook. There is
17 another somewhat similar community that's also just
18 to the south of Saddlebrook that has been developed
19 by another major residential developer out of
20 Arizona.

21 Q. Well, it says you looked at MLS data?

22 A. Is that a question?

23 Q. Yes. Did you look at MLS data for
24 manufactured houses?

1 A. Yes.

2 Q. And are there -- were there any
3 manufactured house transactions in the immediate
4 area of the proposed site?

5 A. The immediate area, no. Just Saddlebrook.

6 Q. And you've already testified that
7 Saddlebrook will not be impacted by this
8 development?

9 A. That's correct.

10 Q. You looked at no other county or
11 village-specific real estate sales data in
12 connection with your review of the Poletti report;
13 isn't that true?

14 A. No, it's not true.

15 Q. What other specific sales data did you
16 look at?

17 A. I looked online and didn't print out sales
18 data. I looked at industrial and commercial land
19 sales that I have in my files in my office that I
20 did not print out.

21 Q. You didn't mention those in your report,
22 did you?

23 A. I don't believe so.

24 Q. Why not?

1 A. I was just answering your question. It's
2 part of the normal process. I don't put everything
3 in my report that I consider in doing research.

4 Q. Now, if we go to the next page of your
5 report, you indicate in the third line, middle
6 paragraph on the page, that screening is planned
7 along both Porter Drive and Belvidere Road,
8 including berms and landscaping. Do you think
9 that's something that would tend to minimize the
10 potential impact or incompatibility of the property
11 of the surrounding land uses?

12 A. It's a benefit, yes.

13 MR. MUELLER: Almost done, Mr. Hearing Officer.

14 BY MR. MUELLER:

15 Q. Now, then on page 8 of your report, let's
16 look at that. You indicate that the Lannert report
17 does not address the lack of compatibility of a
18 waste transfer station with the planned development
19 in the area.

20 Are you saying a waste transfer station is
21 inherently incompatible with commercial and
22 industrial uses?

23 A. No.

24 Q. Do you have an opinion that a transfer

1 station will automatically be incompatible with the
2 planned uses along Belvidere Road?

3 A. No.

4 Q. And then in the last line of page 8, you
5 indicate that 92 percent of the area -- of uses in
6 the area are incompatible with a waste transfer
7 station?

8 A. That's not what my page 8 says.

9 THE HEARING OFFICER: Mr. Mueller, do you want
10 to reask the question? I think we are at different
11 places in the report.

12 BY MR. MUELLER:

13 Q. Let's go to page 6 I mean, page 6, the
14 bottom of page 6. See the last line there about
15 the 92 percent?

16 A. Yes.

17 Q. Is it your opinion that 92 percent of the
18 uses in the area surrounding the proposed site are
19 incompatible with a waste transfer station?

20 A. Not necessarily, but it's a concern when
21 the industrial use is only 4 percent of the open
22 space, and residential is 92 percent.

23 Q. Well, is open space incompatible with a
24 waste transfer station?

1 A. It depends as to the future use.

2 Q. Is --

3 A. And actually -- actually, within the
4 thousand-foot setback for residential use, it is.

5 Q. Sir, is undeveloped open space inherently
6 incompatible with a transfer station?

7 A. It depends on the future potential use for
8 residential, which is so defined as being at least
9 within a thousand feet of the proposed use, and
10 high-quality commercial, very potentially so.

11 Q. But general commercial and other
12 industrial, it would not be incompatible, right?

13 A. Not necessarily, no.

14 Q. And that's, in fact, the general plan for
15 the area is general commercial and other
16 industrial, right?

17 A. That's the comprehensive plan, yes. There
18 is no specific guarantees as to what is going to be
19 developed.

20 Q. Now, then on page 7, you state that under
21 some circumstances, a waste transfer station can be
22 considered incompatible with even other industrial
23 uses?

24 A. Yes.

1 Q. What industrial uses would a waste
2 transfer station be incompatible with?

3 A. A high-profile lab, engineering-type
4 property that deals with a lot of clientele
5 generally want to be in a more attractive setting,
6 do not want to be in basically a down-and-dirty
7 industrial park, don't generally want to be with
8 metal buildings. Those type uses would not be
9 compatible with a waste transfer station.

10 Q. Can you give me an example of an actual
11 operation that you're aware of that constitutes
12 such a high-quality lab?

13 A. Yes.

14 Q. Go ahead.

15 A. I am a general partner in a business park
16 down in Crete, Illinois, Will County. We were able
17 to enter into an agreement with Silliker,
18 Incorporated, a European firm that is also in South
19 Holland, that built a 62,000 square foot high-end
20 lab industrial testing facility, and they wanted
21 service uses. They wanted all clean industrial
22 uses. They wanted no metal. They wanted no
23 outside storage. And they would have rejected our
24 site if we had a waste transfer station on the

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1 site. They bought the site from us, and they built
2 it and are highly successful.

3 Q. Do you see that type of use coming out to
4 the area at Belvidere and Porter Road?

5 A. Interesting question, Lake County -- and
6 the answer is possibly. Lake County has been a hot
7 bed of medical development, and I believe Baxter
8 bought from Wade Light a very large parcel in
9 central western Lake County for research and lab
10 development in an area that I wouldn't have
11 anticipated that would happen, and obviously,
12 Abbott has a significant presence. I would say
13 probably not, but you never know.

14 Q. All right. Fair enough. Now, moving on
15 again to the -- now we call it the Glenview
16 transfer station, can you tell the Village Board
17 how you would have designated the target control
18 areas since you're apparently not happy with the
19 way Mr. Poletti did it?

20 A. I wouldn't have included this because of
21 all of the influences on the target and control
22 groups.

23 Q. Now, you indicate that there were more
24 sales in 2012 in the target group than in the

1 control group?

2 A. Yes.

3 Q. By what percentage?

4 A. There were more. I don't recall the
5 specific percentage.

6 Q. Well, is it one more, or was it a million
7 more?

8 A. It wasn't a million more.

9 Q. How about a hundred?

10 A. It wasn't a hundred.

11 Q. Do you have a number?

12 A. Without going back through the research, I
13 can't give you that answer.

14 Q. Do you have your research with you today?

15 A. I have Poletti's report.

16 Q. You don't have your research, though, do
17 you?

18 A. I believe the numbers are in Poletti's
19 report if you want to go through that.

20 Q. What is the significant difference
21 number-wise between 2012 and previous years in your
22 opinion?

23 A. 2006 and 2007 were strong years. 2008 was
24 a medium year. 2009 and 2010 were very weak years.

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1 A lot of things were starting to come back. '12
2 got better, particularly in built-up markets like
3 Glenview.

4 Q. Right, but didn't Mr. Poletti look at
5 sales from all of those years in both his control
6 and target groups?

7 A. Yes, but the more recent data was better
8 market conditions. That's all.

9 Q. But there was more recent data for both
10 groups, right?

11 A. Yes, but more -- the target area for 2012
12 data.

13 Q. Was the difference a statistically
14 significant difference?

15 A. As I recall, there was, but to give you
16 the specifics, I can't do it without going back
17 through the information.

18 Q. Can you do the computation to determine
19 statistical significance?

20 A. Yes, I can.

21 Q. But you don't have that computation with
22 you now?

23 A. That's correct.

24 Q. Let's go to page 14. On the third line,

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1 you refer to a quarry operation. What do you mean
2 by "operation"?

3 A. It's a quarry.

4 Q. Well, "operation" means it's operating,
5 doesn't it?

6 A. If there is a quarry there, I could call
7 it a quarry. I can call it operation. I don't
8 believe that necessarily means operating quarry.

9 Q. So your term "quarry operation" doesn't
10 necessarily imply an operating quarry?

11 A. That's correct.

12 Q. Do you think maybe that can lead to a
13 misrepresentation such as you accused Mr. Lannert
14 and Mr. Poletti of making?

15 A. Absolutely not.

16 Q. They made misrepresentations; you didn't,
17 correct?

18 A. In my opinion, no.

19 Q. You made some factual errors, such as the
20 alleged reservoir or fuel tank, to use your words.
21 They didn't make any factual errors, did they?

22 MR. BLAZER: Objection, assumes facts not in
23 evidence. We still don't have the evidence
24 Mr. Mueller suggested they were going to provide.

1 THE HEARING OFFICER: Objection sustained.

2 MR. MUELLER: Thank you, Mr. MaRous. That's
3 all.

4 THE WITNESS: Thank you, counsel.

5 THE HEARING OFFICER: We will take a ten-minute
6 break while we change reporters. Thank you.

7 (Whereupon, further proceedings
8 in said cause were adjourned to
9 October 1, 2013, at the hour of
10 3:10 p.m.)

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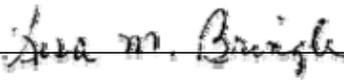
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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4

5 LISA M. BRINGLE, being first duly sworn,
6 on oath says that she is a court reporter doing
7 business in the City of Chicago; and that she
8 reported in shorthand the proceedings of said
9 hearing, and that the foregoing is a true and
10 correct transcript of her shorthand notes so taken
11 as aforesaid and contains the proceedings given at
12 said hearing.

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Lisa M. Bringle, CSR

Lic. No. 084-003301



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