

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF DUPAGE)

3 IN THE CIRCUIT COURT
 4 OF THE EIGHTEENTH JUDICIAL CIRCUIT
 DUPAGE COUNTY, ILLINOIS

5 MEGAN CLIFFORD and PETER)
 CLIFFORD, JESSICA COMMO,)
 6 KAREN FRANKEN, JASON)
 FULLER, KIMBERLY A. HESS)
 7 and NANCY HESS, PETER)
 KIENLEN and RACHELLE)
 8 KIENLEN, ANDREW LIVINGSTON)
 and LELAND LIVINGSTON,)
 9 DIANA MARTINEZ, KIRSTIN)
 MASSA and RICHARD MASSA,)
 10 MARK SIMON, and MONTESSORI)
 ACADEMY OF GLEN ELLYN,)
 11 INC., an Illinois)
 Corporation,)

12 Plaintiffs,)

13 -vs-)

14 TRUE NORTH ENERGY, LLC,)
 15 Delaware limited liability)
 company, and the VILLAGE OF)
 16 GLEN ELLYN, a home rule)
 municipal corporation,)

17 Defendants.)

18 _____)

No. 2017-CH-000780

19

20 The deposition of P. BARTON DELACY, called
 21 by the Plaintiffs for examination, pursuant to notice
 22 and pursuant to the Code of Civil Procedure of the
 23 State of Illinois, and the Rules of the Supreme Court
 24 thereof, pertaining to the taking of depositions, for

<div> <div>Page 2</div> <div> <p>1 the purpose of discovery, taken before</p> <p>2 Alexa L. Plate, Certified Shorthand Reporter within</p> <p>3 and for the County of McHenry and State of Illinois,</p> <p>4 at 77 West Wacker Drive, Suite 4400, Chicago,</p> <p>5 Illinois, commencing at the hour of 2:12 p.m. on</p> <p>6 January 28, 2019.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> </div> </div>	<div> <div>Page 4</div> <div> <div> <div>I N D E X</div> <div> <p>1</p> <p>2</p> <p>3 WITNESS</p> <p>4 P. Barton DeLacy</p> <p>5 Examination by Mr. Hartsell</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> </div> <div> <div>EXAMINATION</div> <div>5</div> </div> </div> <div> <div>E X H I B I T S</div> <div> <p>11</p> <p>12 DEPOSITION EXHIBIT</p> <p>13 Nos. 1, 1A-1E</p> <p>14 **All exhibits retained by Plaintiffs' Counsel**</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> </div> <div> <div>MARKED FOR ID</div> <div>5</div> </div> </div> </div> </div>
<div> <div>Page 3</div> <div> <p>1 A P P E A R A N C E S:</p> <p>2 McGUIRE WOODS, LLP, By</p> <p>3 MR. DAVID L. HARTSELL</p> <p>4 77 West Wacker Drive, Suite 4100</p> <p>5 Chicago, Illinois 60601</p> <p>6 (312) 849-8100</p> <p>7 dhartsell@mcguirewoods.com</p> <p>8</p> <p>9 On behalf of the Plaintiffs;</p> <p>10</p> <p>11 ANCEL GLINK, By</p> <p>12 MS. ELLEN K. EMERY</p> <p>13 140 South Dearborn Street, 6th Floor</p> <p>14 Chicago, Illinois 60603</p> <p>15 (312) 782-7606</p> <p>16 eemery@ancelglink.com</p> <p>17</p> <p>18 On behalf of the Defendants.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> </div> </div>	<div> <div>Page 5</div> <div> <p>1 (Whereupon, DeLacy Deposition</p> <p>2 Exhibits Nos. 1, 1A-1E were</p> <p>3 marked for identification, ALP.)</p> <p>4 (Witness duly sworn.)</p> <p>5 P. BARTON DELACY,</p> <p>6 called as a witness herein, having been first duly</p> <p>7 sworn, was examined and testified as follows:</p> <p>8 EXAMINATION</p> <p>9 BY MR. HARTSELL:</p> <p>10 Q. Good afternoon, Mr. DeLacy. We met a few</p> <p>11 minutes ago. My name is David Hartsell. I'm one of</p> <p>12 the attorneys that represents the plaintiffs in this</p> <p>13 case, the residents who are contesting this gas</p> <p>14 station development.</p> <p>15 You understand you're here for your</p> <p>16 deposition today?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And I understand that you've been</p> <p>19 retained by the defendants to prepare a valuation</p> <p>20 report?</p> <p>21 A. Yes.</p> <p>22 Q. For the record, can you spell your full</p> <p>23 name.</p> <p>24 A. Initial P. Barton; B-A-R-T-O-N D-E-L-A-C-Y.</p> </div> </div>

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1 Q. And you are currently employed. It appears
2 you have your own consulting firm, DeLacy Consulting?
3 A. Yes.
4 Q. Okay. And where is that located?
5 A. Well, my mailbox is 40 Chicago. And then I
6 have -- Chicago 60611.
7 Q. Do you work out of your home?
8 A. And I work a lot out of my home and I work a
9 little bit over at Loop Capital as a contractor.
10 Q. Okay. And you reside here in Chicago?
11 A. Yes, I do.
12 Q. Okay. Do you mind giving me your address,
13 please?
14 A. 747 North Wabash, Apartment 2204, Chicago
15 60611.
16 Q. Okay. And what is your relationship,
17 professional or otherwise, with Accurity Valuation?
18 A. I work there occasionally as a contractor
19 with some of their appraisers doing -- they bring me
20 in on complex projects. And as with this, we will
21 often pool our resources and try to help out the
22 client.
23 Q. Okay. And if you could look at what we
24 marked as Exhibit 1.

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1 Is this the report that you prepared for
2 purposes of this case?
3 A. Yes, it is.
4 Q. Okay. And then we marked -- there were
5 various attachments to it that we've marked as
6 Exhibits 1A, 1B, so on and so forth.
7 If you could look at Exhibit 1A, is this
8 your curriculum vitae or your professional
9 qualifications?
10 A. Yes, it is.
11 Q. Okay. And, obviously, you've had a lot of
12 experience in your career and worked on some pretty
13 significant projects. I'm just wondering if you can
14 point me to anything on here in terms of the various
15 kind of projects that you've worked on that you think
16 is comparable in scale to what we're talking about
17 here.
18 A. Well, that's why I prepared that second
19 supplement, to highlight those projects that are more
20 like this in scale or more recent that don't
21 necessarily show up in the C.V. per se. And if you
22 want, I'll walk through these with you.
23 Q. Sure. Take it -- you don't have to -- just
24 kind of summarize it for me.

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1 A. Right. I often get involved with impact
2 studies when there are -- you know, essentially to
3 satisfy the requirements in zoning and planning
4 venues where there will be a question about
5 whether -- deciding something that either requires a
6 variance or was not -- was not foreseen at the time
7 the zoning code or the plan was created and look at
8 whether or not it would have a -- what kind of impact
9 it might have on property values.
10 Q. Okay. So I'm sorry; we just kind of have to
11 share --
12 A. Yeah.
13 Q. -- for purposes of going through it.
14 So this first one, Newmark Frank Knight/DTE
15 Energy --
16 A. Yes.
17 Q. -- it says here that you studied the impact
18 of a utility scale wind farm development. And was
19 your client affected homeowners? Am I reading this
20 correct?
21 A. No, that was -- boy, let me see here.
22 No, that was a -- the way this was set up, I
23 have the client, the project, the client, the
24 project.

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1 Q. Oh, I see.
2 A. Okay. So I just do it by year for the last
3 three years.
4 Q. Got it. So the second one you were
5 representing 55 affected homeowners; is that right?
6 A. Yes.
7 Q. Up in Winthrop Harbor up in Lake County?
8 A. Yes.
9 Q. It had to do with expanding a landfill and
10 the impact that that might have on residential
11 property values?
12 A. Yes.
13 Q. In your study, if I'm understanding this
14 correctly, you found that there would be a
15 significant impact on the neighboring residential
16 properties?
17 A. Yes, I did.
18 Q. Okay. But then you've got a note here that
19 says that a Court disallowed your valuation
20 testimony. Do you know why?
21 A. As I understand it -- and I didn't read the
22 opinion -- there was a case here in Chicago back in
23 the '90s when the river wall was breached and
24 everything flooded and --

<p style="text-align: right;">Page 10</p> <p>1 Q. I remember that. I was here. I watched it 2 happen.</p> <p>3 A. Yeah. So there was -- evidently, the courts 4 ruled that you were able to sue for actual damages 5 but not prospective damages. And the nature of our 6 study was on the prospective loss and value that the 7 prospective expansion of the landfill would cause.</p> <p>8 So both our testimony and the testimony that 9 the landfill had was evidently excluded. I wasn't at 10 the trial. That was just -- I was informed of that 11 by the lawyers.</p> <p>12 Q. So the --</p> <p>13 A. It's on appeal, I think.</p> <p>14 Q. Oh, okay. And when we take a break, I'll 15 tell you my story about the river breach over there. 16 It was really amazing, not unique to me, but it was a 17 very interesting event.</p> <p>18 Okay. So going back to this where you're 19 representing these homeowners. So it sounds like the 20 position that you were advocating for the homeowners 21 in this situation is similar to what the homeowners 22 are claiming in our case.</p> <p>23 A. A lot of similarities. It was just a 24 question of the data very strongly supported</p>	<p style="text-align: right;">Page 12</p> <p>1 And that neighborhood, by the way, was very -- 2 relatively compact and isolated. So it was easy to 3 hold for that. And the -- and in the control 4 neighborhoods, we were able to find that the average 5 prices of homes sold were substantially higher than 6 they had been in this similar neighborhood in 7 Winthrop Harbor that had been adversely impacted from 8 the landfill.</p> <p>9 So we had the prior experience with the 10 landfill. We had the actual sales and resales of the 11 homes that the landfill had bought and then they had 12 just purchased an additional 100 acres to further 13 expand the landfill.</p> <p>14 So part of our job was to project what was 15 going to happen in the next, you know, 20 years based 16 on the expansion of the landfill that was -- at that 17 time, it was complicated, but the city of Zion was 18 annexing the land to bring in the landfill, but they 19 had to -- they had to assure the property owners that 20 their property values weren't going to drop. And 21 like I said, I think it's still in litigation and the 22 matter that we had addressed was -- you know, was 23 appealed, so...</p> <p>24 Q. Do you remember the name of the case?</p>
<p style="text-align: right;">Page 11</p> <p>1 diminution in value in that case.</p> <p>2 Q. And how exactly did you project that when 3 the expansion had not yet happened? How do you do 4 that?</p> <p>5 A. Well, in this case, not to get in the weeds, 6 but in this case, there had been a prior expansion 7 and we were able -- this had been litigated. It had 8 been litigated for more than eight years, I believe, 9 at the time and they -- there were property value 10 protection agreements that had been issued by the 11 landfill to landowners.</p> <p>12 So we had that fact and they had a process 13 for, you know, estimating diminution in value and 14 then paying the homeowner if they didn't get what 15 they thought the value would be. And then we had 16 resales of those properties, which came in even lower 17 values than what people had thought they were worth 18 when the landfill acquired them. And then we had -- 19 we had a control neighbor that was to the west in the 20 town with the village that has the Six Flags.</p> <p>21 Q. Oh, Gurnee.</p> <p>22 A. Gurnee. So we went to Gurnee where we found 23 homes that had, you know, very similar age and 24 quality as was in this Winthrop Harbor neighborhood.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Well, it was -- the landfill is -- the 2 company was Advanced Disposal, I believe. They're 3 really the only landfill in Northeast Lake County. 4 And it's located on Zion Road on -- you know, off 5 Green Bay Road.</p> <p>6 Q. Who was your client?</p> <p>7 A. Well, the attorney -- the law firm was the 8 Collins Law Firm in Naperville.</p> <p>9 Q. Did you have a contact over there at that 10 firm that you dealt with?</p> <p>11 A. Yeah, Shawn Collins, and then his associate, 12 who might be a little easier to reach, John Risvold, 13 R-I-S-V-O-L-D.</p> <p>14 Q. Then I see that in 2016, you represented 15 another homeowners' association up in Mt. Pleasant, 16 Wisconsin --</p> <p>17 A. Yes.</p> <p>18 Q. -- about the impacts of a -- go ahead; 19 please help yourself.</p> <p>20 A. Sorry.</p> <p>21 Q. That's okay.</p> <p>22 It looks like that had to do with a proposed 23 senior living facility and the potential impact on --</p> <p>24 A. Right.</p>

<p style="text-align: right;">Page 14</p> <p>1 -- a residential -- yeah, it's an upper-end 2 residential neighborhood. And we found that all the 3 other facilities like it were in commercial areas and 4 this one was not. So we didn't quantify a number, 5 but we -- we certainly -- we found that there would 6 be impact and this went before their planning board. 7 And my understanding was it was kind of a political 8 vote and the developer prevailed.</p> <p>9 Q. Imagine that.</p> <p>10 A. Imagine that.</p> <p>11 Q. A political vote.</p> <p>12 Okay. So you're -- the position that you 13 advocated in your analysis there was that this senior 14 living facility would have an adverse impact on 15 residential property values.</p> <p>16 A. Right. And, again, I hesitate to use the 17 word "advocate." I would say it was a finding of 18 impact.</p> <p>19 Q. Fair enough; fair enough.</p> <p>20 Did your findings include any explanation or 21 analysis of why in particular a senior living 22 facility would have an impact on neighboring 23 residential property values?</p> <p>24 A. In this case, it was going to do with</p>	<p style="text-align: right;">Page 16</p> <p>1 it involves those kinds of medical services, it 2 becomes kind of a hybrid facility and that was their 3 argument.</p> <p>4 Q. Okay. And you've got another one here where 5 you were involved in the Village of Olympia Fields 6 about the proposed construction of a cell phone 7 tower.</p> <p>8 A. Yes.</p> <p>9 Q. And your client there was the Village, 10 right?</p> <p>11 A. Yes.</p> <p>12 Q. That wanted to build the cell phone tower?</p> <p>13 A. Well, actually, they just wanted a neutral 14 study. They actually thought that we would -- they 15 were surprised at our findings. And we found that 16 there really wouldn't be any impact on value and 17 demonstrated it to the satisfaction of their planning 18 commission. And it was a political thing, so there 19 was a presentation to their village counsel. And it 20 was standing room only and it was very unpopular. 21 And even though the cell phone company said, hey, 22 we've satisfied the criteria, the village counsel 23 said, we don't care and they voted down, so 24 notwithstanding our findings.</p>
<p style="text-align: right;">Page 15</p> <p>1 Alzheimer's capacity. And the assumption I was asked 2 to make was that there would -- in fact, we found 3 that a hospital -- you know, a facility of that size 4 would be more like a hospital so there would be 5 ambulances and, you know, emergency services there.</p> <p>6 And we simply found that that kind of 7 development -- this was sort of a remote, wooded 8 enclave. It was -- the other facilities like it were 9 in urban areas on commercial nodes and that kind of 10 thing where it was common to have urban influence 11 like that. And these people had been -- there was a 12 covenant when they built the -- when they bought the 13 homes in the area that this vacant lot would not be 14 used for that purpose. And so that would -- that was 15 part of -- those were part of the facts of that case 16 that suggested that the introduction of an 17 Alzheimer's, you know, facility would be -- was not 18 in keeping with the covenant that they had agreed to.</p> <p>19 Q. There was a covenant that specifically 20 prohibited the use as an Alzheimer's care facility?</p> <p>21 A. Not Alzheimer's, but I think it prohibited 22 commercial-type activities. And, you know, senior 23 living kind of falls in the middle. If it's just, 24 you know, housing for seniors, that's one thing. If</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. I misunderstood it.</p> <p>2 So your findings in that case when you were 3 asked to undertake a study was that the proposed cell 4 tower would not have any impact on neighboring 5 residential properties?</p> <p>6 A. That's correct.</p> <p>7 Q. Okay. How does that compare to the cell 8 phone tower over in Five Corners that you were kind 9 of critical of in your report?</p> <p>10 A. Well, our findings there was that values had 11 been -- actually, that -- what I found in Glen Ellyn 12 would support we found in the Village of Olympia 13 Fields was that they actually -- they don't appear to 14 adversely affect property values, at least in those 15 two situations.</p> <p>16 Q. But you're critical of that cell tower in 17 your report?</p> <p>18 A. It's a good example of a -- you know, a -- 19 you know, it's a nonresidential use, but it's a 20 necessary facility, like -- you know, it's a -- you 21 know, telephone towers and poles are not necessarily 22 sightly, but we have to have them for provision of 23 the public safety and such. And people -- you know, 24 there's a trade-off for cell phone towers these days.</p>

1 They may be unsightly, but they're -- everyone
2 demands them and you might have a worse problem if
3 you don't have cell service in your neighborhood,
4 so...

5 Q. Well, it didn't improve the cell service in
6 our neighborhood. I can tell you. I live there. It
7 didn't. It did not.

8 A. Yeah.

9 Q. Okay. Well, back to my point here, in your
10 report, you refer to the cell phone tower at Five
11 Corners as a, quote, another incongruous land use.

12 A. Yes.

13 MS. EMERY: What page are you on?

14 MR. HARTSELL: I'm on page 5.

15 THE WITNESS: Well, incongruous for
16 residential property, but it's, in fact, located on
17 the grounds of the Montessori school next to the auto
18 repair shop at the intersection of two commercial
19 arterials. That's usually where cell towers get
20 sited.

21 Had this -- the one in Olympia Fields
22 actually could have been moved several blocks and,
23 had it been sited in a parking lot, would have been
24 fine. It was sited on a church parcel, in the back

1 of a church adjacent to homes. And so that was what
2 was objected to, but we had similar situations in
3 both Homewood and Olympia Fields where we could show
4 over time that the -- the presence of the cell phone
5 tower did not appear to affect property values.

6 BY MR. HARTSELL:

7 Q. Your understanding is that the cell phone
8 tower at Five Corners is built on the property of the
9 Montessori school; is that what you said?

10 A. That was our understanding. I think that
11 the Village told me that and then I -- that's what it
12 looked like to me. So when we interviewed the
13 Village, they said, oh, you know, the Montessori
14 school is objecting, but, you know, they have a cell
15 tower on their site.

16 MR. HARTSELL: Is that what you think? Is
17 it on the Montessori property?

18 MS. EMERY: Am I being deposed?

19 MR. HARTSELL: No. I'm just asking you.

20 MS. EMERY: I don't know. I'll find out;
21 I'll find out.

22 MR. HARTSELL: Because that's news to me.
23 Because there's a lot of people that think that it's
24 built on Alex Damos' property.

1 MS. EMERY: Yeah. You had said that before.

2 I don't know.

3 BY MR. HARTSELL:

4 Q. Okay. So you didn't --

5 A. It really doesn't matter whose property it's
6 on. It's there.

7 Q. Well, you mentioned it.

8 A. I did as just another -- it's a commercial
9 intersection and there are, you know, signal lines.
10 There's four lanes of traffic. There are other
11 commercial uses at that juncture, you know, the
12 Stacy's Corner or whatever it is.

13 Q. Did the Village tell you that that cell
14 phone tower is not on village property and they
15 couldn't do anything about it?

16 A. It didn't come up.

17 Q. You're not aware?

18 A. I'm not aware of that.

19 Q. Are you aware that that cell phone tower
20 went in after all of this took place?

21 A. I -- I just observed it. I'm unaware of the
22 timing of the placement of the cell tower.

23 Q. Okay. Going back to your C.V. for a second,
24 I only -- and this was helpful; thank you for

1 providing that. That sheds a little more -- that's
2 exactly what I was trying to get to, but I saw one
3 other thing on here -- oh, okay. If you go to page 2
4 of your C.V. --

5 A. Uh-huh.

6 Q. -- under relevant dispute resolution and
7 public testimony, the first bulletpoint there, is
8 that the same one we just talked about here?

9 A. Yes, it is.

10 Q. Okay. All right. Other than that reference
11 there on your C.V., is there anything else in the
12 C.V. itself that you would consider to be comparable
13 to the project that we're talking about here today?

14 A. As I indicated on there, I did a lot of this
15 kind of work ten years ago when Wind Farms was being
16 sited around the country and there -- I didn't go
17 into the detail there, but I can, if you wish.

18 I mean, we found -- sometimes they had
19 impact. Sometimes they didn't. Typically they were
20 in rural residential areas, which really isn't
21 comparable to what we have here, but the methodology
22 I used was similar.

23 Q. Okay. Well, I was just going to make that
24 same point about those wind farms are not usually

1 located in urban residential areas; they're out in
2 rural areas, right?

3 A. Yes.

4 Q. Okay. Let's talk about this report for a
5 minute, if we can.

6 It appears that this was coauthored with
7 Dr. Hiton?

8 A. Yeah, Mr. Hiton is a residential appraiser,
9 very well-respected. We've worked together on
10 projects like for the last half dozen years or
11 better. He has access to some data that -- with a
12 multiple listing service that I typically do not.
13 And beyond that, he's very good at identifying --
14 essentially identifying the data and preparing the
15 exhibits that I need to sort of look at to go
16 forward.

17 Q. Who does he work for?

18 A. Well, he has his own firm. Accurity
19 Valuation is a franchise and he's a leader in that.
20 They have offices in various places around the
21 country. They tend to be -- have a residential
22 focus. And I, again, affiliate with him from time to
23 time when they encounter commercial real estate or
24 complex litigation.

1 Q. Okay. So Mr. Hiton has his own firm. Do
2 you know what his firm is called?

3 A. Rick Hiton and Associates. And he also --
4 you know, it's part of the Accurity Valuation
5 network, but it's -- again, it's a franchise.

6 Q. Okay.

7 A. He's had the firm for -- I think he had it
8 for 35 years.

9 Q. Who retained you to prepare this report?

10 A. I think the way it came about was Ms. Emery
11 contacted Mr. Hiton, told him what was going on.
12 Mr. Hiton got ahold of me immediately and said could
13 I help; this is a lot like what we did for Village of
14 Olympia Fields.

15 And so then we both went out and looked at
16 the property and then -- he more or less kind of
17 turned the files over to me and then I directed him
18 on doing the research.

19 Q. Okay. And when was this when you were first
20 contacted?

21 A. I think early December.

22 Q. Okay. How much did you charge or are you
23 charging for this report?

24 A. I believe -- we went through Rick's firm. I

1 believe we charged 9,500 for the report and then any
2 testimony and dep preparation, all that, is on top of
3 that and is charged hourly.

4 Q. At what rate?

5 A. 325.

6 Q. Okay. I just kind of want to walk through
7 the report. I've got some questions.

8 A. Sure.

9 Q. So under scope of work, you have several
10 bulletpoints there of the various documents you
11 reviewed and the inspections you made and the
12 meetings you had and so on and so forth.

13 Under bulletpoint one, it says, reviewed
14 relevant documents including Village board approvals,
15 conditions, plans, specifications, the traffic study,
16 et cetera. Did you actually review the traffic
17 study?

18 A. I just saw that. I believe it was sent to
19 us. I don't recall right now that I looked at that.
20 I certainly looked at the other documents.

21 Q. Okay. And the second bulletpoint says site
22 and neighborhood inspections. You told me a minute
23 ago that you visited the site. And I take it by that
24 you mean 825 North Main Street where the gas station

1 is proposed to be constructed?

2 A. Right. Well, we also -- a couple of things
3 going on there.

4 Q. Sure.

5 A. We went -- we looked at each of the homes of
6 the -- at that stage in the report, we looked at each
7 of the homes that were on the record as for testing
8 the placement. So just wanted to see what the houses
9 looked like and where they were in relationship to
10 the site.

11 Q. So you went and looked at the plaintiffs'
12 houses?

13 A. Yes, we did.

14 Q. Okay. And those addresses are all right in
15 the complaint?

16 A. Exactly. So we went and looked at that.
17 And then -- that was the two of us. I sent you --
18 you know, we didn't have a lot of time. I kind of
19 gave Rick marching instructions on data that I needed
20 and then I spent a couple of hours driving around
21 Glen Ellyn looking at the various neighborhoods, went
22 down to the village hall, interviewed the chief
23 planner there.

24 Q. Who? Staci Holtsberg --

1 A. Staci --

2 Q. Springer?

3 A. Staci Springer Holtsberg, yes, and also
4 John Sterrett.

5 Q. Sterrett?

6 A. Sterrett, yes. And I was there well over an
7 hour. I asked them -- as we talked about the
8 situation, I asked them about other situations where
9 there had been similar neighborhood opposition to
10 changes in land use. And they volunteered several.
11 And I said, gee, could I -- any chance you could send
12 me those files to take a look at? And they did.
13 They forwarded -- besides the ones in the report,
14 there were three or four others.

15 What I did is I looked at what had been
16 proposed and then I went to look -- then we did -- we
17 went to look to see if we could find paired sale data
18 in those areas. Sometimes there's just not any
19 transactions and, you know, there just isn't data
20 either way. And the areas that we did include in the
21 report, we had sufficient data to test whether or not
22 those events had adversely affected property values.

23 Q. When you were driving around the
24 neighborhood, did you drive by Forest Glen Elementary

1 School?

2 A. Yes, I did.

3 Q. And did you meet with anybody else at the
4 village other than Ms. Springer or Mr. Sterrett?

5 A. I think that was it.

6 Q. What about Mark Franz?

7 A. I did not meet with him.

8 Q. Have you ever met or talked to any of the
9 village board members?

10 A. I did not. I -- you know, like -- in those
11 situations, I like to talk to the, you know, the
12 professional officials as opposed to a politician or
13 advocate.

14 Q. Okay. I understand.

15 And did I understand you to say that when
16 you asked Ms. Springer and Mr. Sterrett for examples
17 of other land use changes where there was resident
18 opposition, that they gave you several examples?

19 A. Yes.

20 Q. And are those the four examples that are
21 included in your report?

22 A. Those are the major ones. There were two
23 others that we simply couldn't -- there wasn't market
24 data that was available in those areas that we could

1 look at.

2 Q. What were the other two; do you remember?

3 A. You know, it's in my file. There were -- we
4 had a set of files. We then went to look at -- we
5 downloaded maps and then we went to look at multiple
6 listings to see whether there was any data there.
7 And I think on those, you know, again, Rick wasn't
8 able to find anything. There was a proposed -- there
9 is a proposed gas station that is on the east side of
10 Glen Ellyn surrounded by Lombard where they --
11 it's -- we looked at that and I drove by it, but I --
12 there wasn't any market data in the vicinity that we
13 could use. There weren't recent sales.

14 Q. Because that's on Roosevelt Road, isn't it?

15 A. No, it's not, no. This is off of North --
16 it's -- well, it might be.

17 Yes, it is off Roosevelt Road, the south
18 side of Roosevelt Road.

19 Q. Just east of 355?

20 A. Yes. And it's a proposed use. It's -- you
21 know, again, the area around it, the homes are not of
22 the quality or price point that are in our subject
23 area, but that's not what we're looking for. We're
24 looking for changes in value, even if it's at a

1 lower -- at a lower plan.

2 Q. Well, that's a -- that quarter of Roosevelt
3 Road is almost exclusively commercial and industrial,
4 isn't it?

5 A. That's what we found, yeah. I think that
6 was part of the reason, we didn't have a lot of good
7 residential data we could work with.

8 Q. Do you remember what other example they gave
9 you? You said there were two more.

10 A. Again, I can -- if you want, I can check. I
11 have my laptop here. I have the files. I have a
12 folder. That will refresh my memory. I gave
13 Ms. Emery a thumbdrive with my files, if you need to
14 look them up. I just can't recall right now.

15 Q. Okay. Well, I can possibly follow up with
16 her about that, but I take it that you had the same
17 problem with that site, you couldn't develop enough
18 data to support it?

19 A. Right. I think the other one was the lights
20 on the high school ball field, the lights -- the
21 lights and the bleachers and -- Staci had indicated
22 that there had been a lot of opposition about that
23 going in. So we went to look at that area to see
24 if -- since -- you know, if there had been any

<p style="text-align: right;">Page 30</p> <p>1 market -- if there was any transactional data to look 2 at to see if values went either way. And we weren't 3 able to find a sufficient number of sales that were 4 helpful. So -- I mean, in this case, I thought we 5 had four really good examples in the subject area. 6 And given the time we had, that was sufficient.</p> <p>7 Q. And did Ms. Springer and/or Mr. Sterrett 8 tell you that these -- that they thought that those 9 four examples that you focused on in your report were 10 comparable to this gas station development?</p> <p>11 A. That was my decision. I asked them for 12 where was their resident opposition. And it's been 13 my experience that, you know, any change in land use 14 or if somebody's going to pave over a park, there's 15 going to be opposition and it really doesn't matter 16 what is actually built there. It's all about the 17 apprehension and the loss of views and things that 18 people tend to appropriate.</p> <p>19 You know, looking out their backyard and 20 they want to -- you know, they don't want to see a 21 tree cut down. They don't want to see something 22 paved. I mean, that's -- you know, we call it "not 23 in my backyard" and it's a very prevalent emotion 24 that residents have. We all have. I think if</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Okay. Did you review any of the video of, 2 for instance, the village board meetings where those 3 projects were on the agenda?</p> <p>4 A. I did not have a chance to look at the 5 videos.</p> <p>6 Q. What about the minutes from those meetings 7 where those projects were on the agenda?</p> <p>8 A. Well, I mean, they sent me the electronic 9 file, so I think minutes were included in that. Some 10 of them were pretty voluminous, so, you know, I 11 wasn't -- and there's a lot of litany regurgitation 12 that is in staff reports. So I tried to flip through 13 that to get to the substance of the concerns.</p> <p>14 Q. Okay. Well, what I'm trying to get at is 15 how were you able to discern the nature of the 16 residents' objections, for instance, with the 17 football field at Memorial Field, the practice field, 18 with the lights. Have you been by there?</p> <p>19 A. Yes, but I didn't -- that was one of the 20 ones that we weren't able to find any data, so I 21 didn't go into a lot of the objections because there 22 wasn't any data that we could look at that was going 23 to -- I just --</p> <p>24 Q. Okay.</p>
<p style="text-align: right;">Page 31</p> <p>1 somebody's going to -- you know, I live downtown and 2 if somebody is going to stick a tower in my view 3 corridor, I'll object to it, you know, whether it's 4 right or not. That's just human nature.</p> <p>5 Q. When you say that Ms. Springer and 6 Mr. Sterrett gave you the files on those four 7 projects, what are you referring to?</p> <p>8 A. Okay. I simply was looking for the stamped 9 report and then any written objections which were 10 included in this file staff report, which typically 11 would go to a planning commission to review.</p> <p>12 Q. Did you review any of the planning 13 commission meetings or board meetings where residents 14 spoke with respect to those proposed projects?</p> <p>15 A. Yes. I had copies of the staff reports, 16 which had written objections. And in some cases, 17 they may have had somebody quoting somebody on it, 18 but generally those are written documents. You know, 19 you take -- I've been a planning commissioner. 20 Normally we would take -- somebody will bring -- you 21 know, they'll give -- they'll present it orally and 22 then they'll have a written statement and the written 23 statement goes on the record and that's what I had to 24 look at.</p>	<p style="text-align: right;">Page 33</p> <p>1 A. If I had more time -- I mean, I focused on 2 those areas where we had data and we had to -- a lot 3 of work in processing the data we had.</p> <p>4 Q. Okay. Let's go back to these bulletpoints 5 here because we have a lot of stuff to try to cover.</p> <p>6 A. Yeah.</p> <p>7 Q. The next bulletpoint, a couple down, it 8 talks about outline criteria for demonstrating 9 adverse impact on residential property values. Can 10 you just describe for me what that criteria is, how 11 you go about doing that?</p> <p>12 A. Well, the -- the main data point that we 13 have found as persuasive is the sale and resale of 14 the same property over a period of time that will -- 15 one will indicate whether values went up or down, 16 assuming, again, and we have a way of -- we filter. 17 So if the house was torn down and they built a new 18 one and they have a sale of the lot and the sale of 19 the house, obviously, that -- you know, we'd throw 20 that one out, but where there was, you know, only 21 modest change, if any at all, between the sale and 22 the resale of the house, we go, well, that's a good 23 data point. We used that.</p> <p>24 Secondly, we looked at the trend of values</p>

1 in the submarket itself. So in this case, MRED has
2 pretty good consistent data for a market area that
3 encompassed most of Glen Ellyn. And then so --
4 again, we can use that as a benchmark, how are things
5 overall in that community.

6 Q. Well, let me ask you this. As to the first
7 point where you're looking at what you call paired
8 data, okay, which is where you're looking at one sale
9 point and then looking at a subsequent sale point and
10 you're looking at the difference, in the case where
11 there is an increase in the property value, how are
12 you able -- and it's a house that is, you know, next
13 to whatever this use is that people are objecting to,
14 whether it's the Walgreens or the gas station or
15 whatever, and you say, well, but there was a four
16 percent increase or three percent increase over this
17 period of time, how are you able to tell whether --
18 notwithstanding that three or four percent increase,
19 that that increase was nonetheless still suppressed
20 by the impact of this objected-to use?

21 A. That's what we have, the overall -- we have
22 the sales. We look at the submarket itself. So if
23 property values in Glen Ellyn went up ten percent a
24 year and in our test they only went up three percent,

1 we'd say, gee, there's something wrong here or maybe
2 there was an impact. In fact, it was the other way
3 around. We found that values in Glen Ellyn as a
4 whole over -- from 2013 to present went up, I think,
5 two percent every year. And we actually found around
6 the Walgreens and the quarter mile that values went
7 up even taking on a couple that went down. So most
8 went up, a couple go down. That's going to happen.
9 We found that that average was actually higher than
10 Glen Ellyn as a whole.

11 So that was -- again, that doesn't mean --
12 again, what that goes to support is that the adverse
13 impact of a Walgreens shopping center, you know, on
14 the corner is not going -- did not appear to suppress
15 property values in that area.

16 Q. Okay. So if you go down a couple of
17 bulletpoints there where you talk about consider
18 overall residential value trends in greater Wheaton,
19 Glen Ellyn, Lombard submarkets, is that what you were
20 just describing?

21 A. Yes.

22 Q. So that's how you -- that's the methodology
23 that you employed to try to take account for that
24 delta?

1 A. Yes, yes.

2 Q. Okay. And then the last bulletpoint on that
3 page, you say, survey similar gas station, C-store,
4 convenience store --

5 A. Uh-huh.

6 Q. -- developments elsewhere in DuPage and
7 western Cook Counties. Which ones did you survey?

8 A. We only were able to do the ones that's in
9 the report. We simply did not have the time to go
10 further. We had a little difficulty getting ahold of
11 North --

12 MS. EMERY: True North.

13 THE WITNESS: True North. We were running
14 into the holidays and we were unable to get other
15 data points from them to look at. If we had another
16 month, we would have expanded the survey beyond that.
17 The fact that we were able to find the Mobil station
18 on, you know, North Avenue was fortunate. So we had
19 actually a similar kind of use with an albeit fairly
20 comparable, nice subdivision development around it
21 and we didn't find any adverse impact value there.

22 Again, you can -- if you have more time,
23 there's a lot more data that you can do. We had,
24 like, three weeks and I was -- I've done a lot of

1 these and I was very satisfied with the data that we
2 had, you know, in the immediate area.

3 BY MR. HARTSELL:

4 Q. Okay. Well, we'll talk about the Mobil
5 development, but I guess my question is, whatever
6 your time limitations were, I'm taking it that the
7 only comparable convenience store/gas station
8 development that you were able to locate was the
9 Mobil station on North Avenue in Lombard?

10 A. Correct.

11 Q. If we can turn to page 2 of the report in
12 the executive summary --

13 A. Uh-huh.

14 Q. -- in the first paragraph there, second
15 sentence, you say, today most municipal land planning
16 processes give broad latitude or standing to the
17 public or at least property owners to bring
18 complaints or concerns whenever change is introduced.

19 What's your basis for saying that?

20 A. I have a Master's in urban planning. I
21 served two terms as a planning commissioner. I have,
22 throughout my career, you know, been hired one way or
23 another to address impacts on property value for
24 various kinds of land use changes in both urban and

1 rural and agricultural areas.

2 And, you know, in general, it's been my
3 experience that public policy errs on the side of
4 being inclusive and affording standing to a broad
5 category of people to weigh in when there's a change
6 in land use. And that's for a lot of political
7 reasons. Again, that's -- whenever it's narrowly
8 construed, that can create political problems. And I
9 think public policy finds it's better to be inclusive
10 and let everyone have a chance to say their peace and
11 then apply criteria to the proposed change and go
12 forward. Some changes are not going to be popular,
13 but they're necessary.

14 Q. Are you offering any opinion today about
15 whether the Village of Glen Ellyn gave broad latitude
16 or standing to the public to bring complaints
17 regarding this particular project?

18 A. No.

19 Q. Were you aware or are you aware that the
20 Village Planning Commission voted 8-0 to deny this
21 project?

22 A. I think I saw that.

23 Q. Are you aware that the project was approved
24 on a 4-2 vote?

1 corner site where the proposed use is essentially
2 allowed outright.

3 When you say that the proposed use is
4 essentially allowed outright, that's not correct, is
5 it?

6 A. Well, from a valuation perspective, it's
7 commercial zoned. And as I read the zoning,
8 they're -- you know, it looks like a gas station
9 would conform. There had been a gas station.

10 Q. Well, if the gas station --

11 A. It truly looked outright to me.

12 Q. Okay. If a gas station was a conforming use
13 for that site, there wouldn't be the need for a
14 special use permit, would there?

15 A. Well, that's the question.

16 Q. Is that a question in your mind?

17 A. Well, I -- it is, frankly, a question why it
18 would even -- this would even be an issue in this
19 location. I'd expect this kind of controversy if we
20 were -- where it was being introduced into an area
21 that had not had that kind of use before that was not
22 a commercial node, as we have here. And so it was
23 kind of surprising to me that this is an issue.

24 Q. Well, it's a function of the zoning code,

1 MS. EMERY: Objection; relevance.

2 MR. HARTSELL: I'm just asking. You said
3 you reviewed everything.

4 THE WITNESS: I'm aware there was a lot of
5 contention about it and that it -- I didn't pay that
6 much attention, counsel, to the way the votes went.
7 It's still obviously at issue.

8 BY MR. HARTSELL:

9 Q. Are you aware that at least three of the
10 "yes" votes were leaving office within a matter of a
11 couple of weeks after the vote?

12 MS. EMERY: Objection; relevance.

13 THE WITNESS: That doesn't surprise me.
14 These are very political citing NIMBYS or citing
15 LULUS in neighborhoods that don't want them. It's
16 always contentious.

17 BY MR. HARTSELL:

18 Q. Does that sound like a political vote to
19 you?

20 A. Yes, it does.

21 Q. Okay. Let's go to the next paragraph. It
22 says -- where you say here the Village of Glen Ellyn
23 is merely restoring -- and I want to come back to
24 that -- a gas station and convenience store to a

1 isn't it?

2 MS. EMERY: Objection. This is not what the
3 witness is being deposed for or held out for or was
4 retained for in his expert capacity.

5 MR. HARTSELL: Well, it's what he wrote.
6 I'm asking about what you wrote. And I'm trying to
7 get to your understanding why you wrote here that the
8 proposed use is essentially allowed outright.
9 Wouldn't you --

10 MS. EMERY: He explained it.

11 BY MR. HARTSELL:

12 Q. You understand that there was a special use
13 permit required for this proposed use?

14 A. Yes.

15 Q. But you still think your statement is
16 correct?

17 A. I do.

18 Q. Okay. And what do you mean by, quote,
19 merely restoring? What does that mean?

20 A. Well, what it says. There was a gas station
21 there. The City, as I understand it, bought the
22 property, have been trying to resell it and, you
23 know, restore the roles as some kind of a productive
24 activity. I mean, again, in a situation where this

1 was a gas station site, had been a gas station site,
2 this is what you'd have -- traditionally have had in
3 commercial -- at a commercial node.

4 What you have here is a site that's a mile
5 from North Avenue and another mile from the CVD,
6 thereabouts. And so it's not a -- you would have
7 commercial uses there. And a convenience store, a
8 gas station, didn't seem to me to be not in keeping
9 with the pattern of use of the neighborhood, which is
10 one of the factors that we also take into account
11 when we're looking at these things.

12 Q. You mentioned it's a mile from North Avenue.
13 How far is this gas station from Forest Glen
14 Elementary School?

15 A. A block.

16 Q. About 300 feet?

17 A. Probably. I mean, it's a block to my eye.

18 Q. Is Forest Glen Elementary School even
19 mentioned in your report?

20 A. No. I mean, it's -- no -- I -- no, it's
21 not.

22 Q. But you observed the school, right --

23 A. Yes, I did.

24 Q. -- when you did your drive-around?

1 A. Yes, I did.

2 Q. Were you there on a weekday when you were
3 driving around?

4 A. I was.

5 Q. Were you there during the school pickup or
6 dropoff times?

7 A. No, I was not.

8 Q. Are you aware that there are children that
9 walk to school at Forest Glen from the surrounding
10 neighbors'?

11 A. Yes, I'm sure they do.

12 Q. Are you aware that there's a crossing guard
13 that's posted there at Elm and Main during pickup and
14 dropoff hours?

15 A. Well, I think that's fairly customary at any
16 school, you have those.

17 Q. I mean, at the back of your report, if you
18 just want to jump to the conclusion for a minute --

19 MS. EMERY: Page?

20 MR. HARTSELL: 9.

21 -- the second to last paragraph, you talk
22 about the concept of the so-called walking score?

23 THE WITNESS: Yes.

24 BY MR. HARTSELL:

1 Q. Okay. And this is the idea that
2 neighborhoods are walkable neighborhoods, that you
3 don't have to drive everywhere, that you can walk to
4 the various locations in your neighborhood?

5 A. Yes.

6 Q. It makes them more desirable?

7 A. Yes.

8 Q. Okay. Being able to walk to school would be
9 an important factor, right?

10 A. That's correct.

11 Q. Do people walk to gas stations?

12 A. Well, it's going to be more than a gas
13 station. It's a convenience store.

14 Q. Well, my question is, do people walk to gas
15 stations?

16 A. No, they don't walk to gas stations.

17 Q. All right. If we can go back to page 2, did
18 you ever see the gas station that existed on this
19 site previously?

20 A. We had some images that we were able to look
21 at. I was not -- did not have personal experience
22 with that gas station.

23 Q. Okay. And do you know how big it was?

24 A. I believe from the images I looked at, it

1 appeared that it was on two-thirds of the site. And
2 from the records, there had been several changes in
3 ownership over the years.

4 Q. Okay. Do you know how many pumps it had?

5 A. Fewer than are being planned, four to six
6 maybe. And now I think there are going to be ten or
7 something.

8 Q. 12?

9 A. 12.

10 Q. So that's considerably larger, what's being
11 planned, right?

12 A. Yes.

13 Q. And the footprint of what's being planned is
14 considerably larger, isn't it?

15 A. Apparently, yes.

16 Q. Well, is it?

17 A. I think so. Again -- yeah, I -- as I
18 understand, it's going to be a larger footprint, but
19 they're also doing -- they may be doing more with the
20 buffer based on the images that I had in terms of the
21 back side of it.

22 Q. Are you aware that the City rezoned the
23 easternmost lot in order to make this proposed site
24 even larger?

<p style="text-align: right;">Page 46</p> <p>1 A. Yes.</p> <p>2 Q. Do you have an idea what the total square</p> <p>3 footage is?</p> <p>4 A. Well, it's in my notes. It was 20,000,</p> <p>5 25,000 feet, I believe, but I -- less than what the</p> <p>6 Walgreens site had been when it was put in there.</p> <p>7 Q. Well, let's stick with the old gas station</p> <p>8 that was there.</p> <p>9 Do you know when the last time that gas</p> <p>10 station operated?</p> <p>11 A. I believe it was -- I don't have my notes --</p> <p>12 2005 or 2006.</p> <p>13 Q. Where did you get that information from?</p> <p>14 A. From, I think, the, you know, applicant's --</p> <p>15 either the applicant's testimony -- it was in one of</p> <p>16 the documents I received from the Village. I may</p> <p>17 have come across it somewhere else. I keep kind of</p> <p>18 an electronic note, you know, notes -- they're in my</p> <p>19 file that kind of go through all that. You know, I</p> <p>20 know it had been -- it was -- the information I had</p> <p>21 was it was -- oh, I know. I think it was CoStar. I</p> <p>22 think I looked up -- CoStar had a record of it.</p> <p>23 Q. What is CoStar?</p> <p>24 A. CoStar is a commercial database that we --</p>	<p style="text-align: right;">Page 48</p> <p>1 has to be that a gas station -- in my experience, the</p> <p>2 gas stations that are built today are built with</p> <p>3 environmental safeguards that perhaps weren't there</p> <p>4 in the 1970s and that they're much less likely to</p> <p>5 have a problem relative to the kinds of gas stations</p> <p>6 that were put in half a century ago.</p> <p>7 Q. Okay. Well, you're not an expert on that,</p> <p>8 are you?</p> <p>9 A. No, no. I'm a real estate -- you know,</p> <p>10 that's what we -- if we see a -- our common practice,</p> <p>11 if we have a no further action letter, then we assume</p> <p>12 the site is buildable, you know, within the</p> <p>13 constraints of -- you know, whether for --</p> <p>14 particularly for industrial or commercial reuse. I</p> <p>15 mean, that happens all the time.</p> <p>16 Q. So you understand that it wasn't fully</p> <p>17 remediated?</p> <p>18 A. I didn't see the full report. It may not</p> <p>19 have been fully remediated. There was no further</p> <p>20 action is what I was --</p> <p>21 Q. Are you aware of any barriers or were there</p> <p>22 any identified for you that would have prevented the</p> <p>23 Village from fully remediating the site so its uses</p> <p>24 weren't limited?</p>
<p style="text-align: right;">Page 47</p> <p>1 it's proprietary. We subscribe to it. For most</p> <p>2 commercial properties, you can go in and you can pull</p> <p>3 up a profile of the property. Sometimes it will have</p> <p>4 its history and walk you through. So that was one of</p> <p>5 the...</p> <p>6 Q. Okay. Well, let me ask you this. So based</p> <p>7 on what you know about the proposed project and based</p> <p>8 on what you were able to learn about the preexisting</p> <p>9 gas station, your view here in your report is that</p> <p>10 they're comparable?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. You go on in that paragraph to say</p> <p>13 that, according to the Village, the site has been --</p> <p>14 has since been remediated as well. Where did you get</p> <p>15 that understanding?</p> <p>16 A. That's a -- that was an affirmation made by</p> <p>17 the Village to me when I interviewed them. I asked</p> <p>18 them -- I believe the remediation is in the sense of,</p> <p>19 you know, no further action is required. My</p> <p>20 understanding of that is you can't necessarily put</p> <p>21 single-family housing on it, but any prior issues</p> <p>22 with tanks leaking or anything like that has been --</p> <p>23 again, has been mitigated or contained.</p> <p>24 And going forward, you know, the assumption</p>	<p style="text-align: right;">Page 49</p> <p>1 A. I'm not aware.</p> <p>2 Q. Okay. If you could skip forward to page 3.</p> <p>3 And this is part of your methodology section that</p> <p>4 starts on the previous page. I have just a couple</p> <p>5 questions for you here.</p> <p>6 So I understand your explanation here about</p> <p>7 two different methodologies. You can use multiple</p> <p>8 regression analysis, which sounds pretty weird, but I</p> <p>9 take it that you did not use that here. Instead,</p> <p>10 you, because of the nature of the homes in</p> <p>11 Glen Ellyn, that you thought the better methodology</p> <p>12 was to use paired sales, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And then in that second paragraph there on</p> <p>15 page 3, you say paired sales may be used with</p> <p>16 confidence when there are ample transactions to allow</p> <p>17 filter. And you alluded to this earlier when you</p> <p>18 were talking about some of these other projects that</p> <p>19 you looked at but weren't able to really utilize.</p> <p>20 So when you say there are ample transactions</p> <p>21 to allow filtering, how many? Is there a standard?</p> <p>22 Is there something that you use? Is it case by case?</p> <p>23 A. I think case by case is the best way to</p> <p>24 characterize it. You know, here we had -- I mean, as</p>

1 an example, I mean, in my workup in the thumb of
2 Michigan, I filtered something like 10,000 sales per
3 county and weaned that down to 600 that were actually
4 paired sales. And then we filtered those down
5 further for what we're looking for.

6 In this market, we -- you know, we had at
7 least -- you know, to get a -- you know, seven or
8 eight paired sales is good. And we -- in one of the
9 areas, we had three paired sales. You know, more is
10 better than not. If I don't have -- if I only have
11 one or two, I might not have looked at the
12 neighborhoods as having really told me anything.

13 **Q. Well, there must be something --**

14 **A. It depends.**

15 **Q. There must be some threshold by which once**
16 **you get down to such a small number of paired sales**
17 **that it just can't be statistically valid anymore?**

18 **A. Well, you know, if we were doing an**
19 **appraisal, sometimes one or two paired sales is all**
20 **you have in an area to derive or to inform your**
21 **judgment about whether an adjustment is, you know,**
22 **supportable or not.**

23 In this case, again, when we're looking at
24 the sales around the Walgreens, which, again, is our

1 doesn't it?

2 **A. I think it's across the street, isn't it?**

3 **Q. Well, let's talk about what's on that**
4 **corner. You keep talking about it being a commercial**
5 **node. The -- we know that the Walgreens is up on the**
6 **northwest corner, correct?**

7 **A. Correct.**

8 **Q. And on the southwest corner, there's a park?**

9 **A. Yes.**

10 **Q. Are you aware that there used to be some**
11 **single-story, two-story brick buildings, commercial**
12 **buildings, there?**

13 **A. The Village said they tore them down to**
14 **create that park.**

15 **Q. To create the history park?**

16 **A. The history park.**

17 **Q. Because it's right next to Stacy's Tavern?**

18 **A. Right.**

19 **Q. So you understand that this intersection has**
20 **great historical significance for the Village of**
21 **Glen Ellyn?**

22 **A. As a commercial node, yes. I mean, that's**
23 **where -- yes, as far as I know. The tavern's been**
24 **there since, what, the 1830s, they said, so...**

1 subject neighborhoods, we looked at -- we have these
2 other incongruous uses at the commercial intersection
3 that have been there for a while. Therefore, what
4 you would -- well, therefore, what has happened with
5 the property values in those areas, given the fact
6 that they're near or within a quarter mile of a
7 commercial node, where, if not a Walgreens -- I mean,
8 a lot of incongruous -- I mean, you have a
9 laundromat. You know, talk about, I mean, toxic
10 waste and things. Laundromats can be really bad.
11 They're convenient. People like to go to them, but
12 properties themselves are often contaminated when
13 they've been there a while.

14 **Q. Do you know if they're processing at that**
15 **laundromat? Do they do the actual processing there;**
16 **do you know?**

17 **A. I don't know.**

18 **Q. If they didn't do it there, then it doesn't**
19 **present that kind of toxicity?**

20 **A. That's true.**

21 **Q. So you don't know?**

22 **A. I don't know.**

23 **Q. And that laundromat that you're talking**
24 **about sits right in the middle of the history park,**

1 **Q. Right.**

2 **A. So that's always been a crossroads of sorts.**

3 **Q. Right. And the Village took down some**
4 **commercial buildings that were on that corner,**
5 **dilapidated buildings, and they didn't put a new**
6 **building; they put up a history park, right?**

7 **A. Right.**

8 **Q. Okay. And then a little -- as you go south**
9 **down Main Street on that side of the street, there's**
10 **also the Chamber of Commerce building, a small**
11 **building?**

12 **A. Right, and the museum.**

13 **Q. And then the Glen Ellyn Historical Society?**

14 **A. Right.**

15 **Q. Then you're at Forest Glen Elementary**
16 **School?**

17 **A. That's correct.**

18 **Q. And across from Forest Glen Elementary**
19 **School is the District 41 offices, right?**

20 **A. Right. You have the offices and then you**
21 **have retail that's on the east side.**

22 **Q. Yeah. You have a 7-Eleven?**

23 **A. Yeah.**

24 **Q. A one-story retail strip with a 7-Eleven and**

1 then a pizza place?

2 A. Uh-huh.

3 Q. And then there's a Kumon School -- Academy?

4 A. Okay.

5 Q. You know what I'm talking about?

6 A. Taekwondo or one of those --

7 Q. No, no --

8 MS. EMERY: Kumon Learning?

9 MR. HARTSELL: Kumon Learning. It's like a
10 prep --

11 THE WITNESS: Okay.

12 MR. HARTSELL: -- high school prep, college
13 prep, testing prep, tutoring.

14 THE WITNESS: Okay. So it's an office
15 retail use, yeah.

16 BY MR. HARTSELL:

17 Q. Okay. And then you know where Stacy's Park
18 is?

19 A. Well, yes. I think it's -- it's still on --
20 that's on the west side of the street. They have a
21 veteran's memorial thing or something. And so it
22 kind of complements the Chamber of Commerce and the
23 museum.

24 Q. No, I'm not talking about the history park.

1 I'm talking about on the north side of St. Charles
2 Road behind --

3 A. There's a -- okay. There's kind of a
4 triangle.

5 Q. Right.

6 A. Okay.

7 Q. You know what's in that triangle?

8 A. It was kind of grassy. I walked through it.

9 Q. Did you see the playground in there?

10 A. I think there's a playground, yes.

11 Q. You see the basketball courts, skateboard
12 ramp?

13 A. I don't know if it was that extensive, to my
14 recollection.

15 Q. Did you see any kids playing soccer?

16 A. Well, it was a cold, snowy day, so...

17 Q. Okay. Let's go to page 4 of your report,
18 the section entitled site analysis. In the first
19 paragraph there where you've kind of got a mini
20 summary of the history of the site, is it fair to say
21 that all that information you got from the Village?

22 A. Either from the Village or some other
23 sources to confirm that, yes.

24 Q. Like what other sources?

1 A. I have a pretty -- I have a Google Maps
2 program I often run. I look at -- I don't think I
3 looked at assessment records in this case, but often
4 I look at those and CoStar. So just to get an --
5 actually get -- sometimes there will be information
6 on the village websites, so there's a number of
7 sources.

8 Q. Okay. Well, let's look at this aerial
9 photograph. Did you get this off of Google Maps or
10 Google Earth, it looks like?

11 A. Yes, I did.

12 Q. And when you're talking about the 825 North
13 Main site, you say, the site has long been zoned C2,
14 a community commercial district. And I think you
15 told me you weren't aware that, in fact, the
16 easternmost lot, the third lot, was originally
17 residential and the Village converted it to a C2?

18 A. I mean, that would be a logical -- probably
19 more appropriate to have that lot commercially zoned
20 than residential, given that it runs on Geneva Road
21 and St. Charles -- it must be St. Charles Road there.

22 Q. As do the houses to the east?

23 A. Yes.

24 Q. Do you know when the village rezoned that

1 third lot?

2 A. What?

3 Q. Do you know when they did that?

4 A. I think you said that they did that with
5 this application.

6 Q. No, I didn't say that. Maybe you
7 misunderstood me, but I'm asking if you knew when
8 they did that.

9 A. My understanding, as of now, it's
10 commercial. I don't know when they changed it.

11 Q. Dropping down to the last paragraph, it
12 should be noted that commercial uses line Main Street
13 for at least a block to the north and south. So we
14 just kind of went through that. That's not entirely
15 correct, right?

16 A. Well, I -- you have the park, which is a
17 public use. And so that it's almost -- it's an
18 amenity off the Chamber of Commerce and the museum.

19 Q. Okay. And you only know -- you limit
20 yourself to a block because once you get to that next
21 block, you're at Forest Glen Elementary School,
22 right?

23 A. Right, exactly.

24 Q. Okay. And then you've got another reference

1 down to the 60-foot cell tower that dominates the
2 landscape from the northeast corners from the Five
3 Corners intersection.

4 I'm not sure I understand the reference
5 there to the cell tower. Are you trying to suggest
6 that this neighborhood is lost anyway?

7 A. No. I --

8 Q. I mean, my God, they've got a commercial use
9 here and they've got a big, ugly cell phone tower
10 right there.

11 A. I mean, commercially zoned intersections
12 will generally have parking lots, signs, cell towers,
13 services, I mean, utilities and such to serve the
14 community. And some are slightly and some are not,
15 but that's why you zone them commercially. And so
16 it's just -- sometimes there's a concept we use,
17 which is the concept of a blighted viewshed.

18 And so when you're, you know, claiming that
19 you're next door to a pristine park or something,
20 but, you know, there's a cell tower and overhead
21 power lines and gas station sign or some other sign,
22 a Walgreens sign, you know, that intersection is
23 already kind of blighted, if you'd like. It's not a
24 pristine -- it's not like a -- putting a gas station

1 in a park. It's -- you're putting a gas station --
2 you're putting a gas station at a commercial
3 intersection that already has commercial uses, cell
4 tower signal -- you know, traffic signals going both
5 directions, four lanes of traffic. I mean, that has
6 to all go somewhere and that's what we have here.

7 Q. We're not putting a gas station in a park;
8 we're just putting it across the street from a park,
9 right?

10 A. Yes.

11 Q. And you understand that that cell phone
12 tower went in just recently and the Village -- or you
13 weren't aware of that?

14 A. I'm not aware of when the cell tower went
15 in. It's there today.

16 Q. Because I take your point about a -- what
17 did you call that? I like that expression, a
18 blighted what?

19 A. Viewshed.

20 Q. Viewshed, yeah, because that's how a lot of
21 people feel about that cell tower.

22 Okay. And you're aware, obviously, since
23 you drove around, just looking at your picture here,
24 that going west on Geneva Road, there are houses,

1 residential homes, on both sides of the street,
2 right?

3 A. Yes.

4 Q. Okay. And if you go east on St. Charles
5 Road past the gas station site, there are residential
6 houses on the south side of the street and the north
7 side of the street, right?

8 A. Correct.

9 Q. Okay. And then all back here on Elm Street,
10 this is all residential. In fact, this is all
11 residential all the way right down and past through
12 downtown, isn't it?

13 A. Right; right.

14 Q. And the same thing to the west, this is all
15 residential here behind the history park, right?

16 A. Yes.

17 Q. And behind the school, right?

18 A. Yes.

19 Q. And, in fact, if you went across Geneva Road
20 and you got back here behind Stacy Park, that's all
21 residential too, right?

22 A. Nice, older homes, yes.

23 Q. Okay. Let's go to your case studies.

24 In that first paragraph there, the second

1 full sentence, we found sufficient transaction data
2 within a one-half mile radius around each of the
3 following commercial buildings.

4 What's the significance of a one-half mile
5 radius?

6 A. The one-half mile is a distance where often
7 it is claimed that even though you can't see or even
8 hear a site that it -- nevertheless, it adversely
9 impacts the area.

10 For example, those that were -- the
11 homeowners that were protesting and/or people that
12 may have -- again, it's kind of an arbitrary number,
13 but people that would have standing to protest the
14 land use are typically within a half mile, quarter
15 mile, half mile. We went a half mile just to -- you
16 know, in our opinion, that was sufficient distance to
17 capture any properties that might consider themselves
18 to be affected by proximity to that commercial node.

19 Q. Okay. So was that just a judgment call that
20 you made or is that -- or will I find that if I look
21 it up in some book?

22 A. No, no. I think it's -- it's a question of
23 how much data is available, how densely it's
24 populated, that kind of thing. In this case, half

1 mile is adequate, you know, radius, the way we
2 select -- the way the data is, it's on a map and we
3 can go to a radius or we can go -- in this case, you
4 know, we can draw the half mile zone as a box and
5 capture enough transactional data to get a good sense
6 of what was going on in that neighborhood.

7 Q. Okay. Well, I was curious about the box
8 because that's a square, not a radius, right?

9 A. Yeah, it's a -- it's the mapping tool we
10 have that -- this was easier to replicate.

11 Q. Okay. So if you're including properties
12 within that square, if we do a half mile radius
13 around, it's going to cover less space than this box
14 that you drew, isn't it?

15 A. Yeah, a little bit less, yes, it will.

16 Q. Are you aware that all of the plaintiff
17 homeowners in this case are all within 1,200 feet of
18 the proposed use?

19 A. I'm aware of that.

20 Q. That's about a quarter of a mile, a little
21 bit less than a quarter of a mile?

22 A. Yeah.

23 Q. Did you do an analysis using a radius of a
24 quarter mile?

1 A. We thought we -- we either didn't because
2 we -- I don't think we did. We looked at a half mile
3 because we felt that was going to give us -- that's
4 usually what we start with to find sales. And then
5 if we don't find sales at a half, we go to a mile and
6 go, is that going to really help us here or not?

7 We didn't -- there wasn't the density --
8 there wasn't the activity in a quarter mile. And it
9 was our opinion here this was -- you know, a lot
10 depends on the pattern of use, as you indicated.
11 It's pretty much all residential around except for
12 that node, so...

13 Q. So I understand you're saying that if you
14 had limited yourself to a quarter mile, you wouldn't
15 have gotten sufficient data?

16 A. That was our concern, yes.

17 Q. Are you aware that the Village has taken the
18 position that residents outside of 1,200 square feet
19 don't have standing to protest?

20 MS. EMERY: Objection to the
21 characterization of it --

22 MR. HARTSELL: Don't have standing to
23 maintain the lawsuit.

24 THE WITNESS: I'm not aware of that.

1 MS. EMERY: I think that calls for a legal
2 conclusion.

3 BY MR. HARTSELL:

4 Q. I'm just asking if you're aware of that. I
5 can tell you that the Village has taken that
6 position.

7 A. Okay. That doesn't sound unreasonable to
8 me.

9 Q. Okay. Then why didn't you do an analysis
10 within 1,200 feet?

11 A. Because impacts can be -- I saw signs that
12 seem to me that were a lot further out than that, so
13 that, obviously, would be a concern.

14 Q. What signs?

15 A. Signs about blocking the gas station. So
16 clearly people --

17 Q. I thought the police took all those down?

18 A. Well, they were there when I drove around.

19 Q. They did. You weren't aware of that, that
20 the Village had the police come around and take those
21 signs down?

22 A. Yeah. I'm trying to stay away from the
23 politics of this.

24 Q. Oh, you're right in the middle of it, sir,

1 unfortunately, I'm afraid.

2 MS. EMERY: I wouldn't say that.

3 MR. HARTSELL: Well...

4 BY MR. HARTSELL:

5 Q. Okay. While we're talking about your square
6 here, what's the X right in the middle? Is that the
7 center of it, that's supposed to be the center point?

8 A. Yes.

9 Q. That's not where the station is going in, is
10 it?

11 A. That's a little south.

12 Q. It's a whole block south of it?

13 A. Well...

14 Q. In fact, that's right where the District 41
15 offices are, right across the street from the
16 elementary school.

17 Is there a reason you couldn't have done
18 this with -- well, besides doing a true radius and
19 not a square, is there a reason why you couldn't have
20 centered this at the intersection where the gas
21 station is going in?

22 A. I'm not sure why this is -- I think
23 sometimes it can be where the transactions are, you
24 see the dots on -- you see where the transactions are

<p style="text-align: right;">Page 66</p> <p>1 and then you, you know, try to fit it to the radius.</p> <p>2 Q. Oh, okay. So you manipulated the radius or</p> <p>3 the box to make sure you picked up enough</p> <p>4 transactions?</p> <p>5 A. Well --</p> <p>6 Q. I mean --</p> <p>7 A. -- it doesn't do me any good if you're --</p> <p>8 for example, I think on one of them, we're south of,</p> <p>9 you know, North Avenue because North Avenue is</p> <p>10 commercial/industrial. So we wanted to pick up, you</p> <p>11 know, data that was probably not right on because it</p> <p>12 was a -- it was not a symmetrical market area.</p> <p>13 Sometimes it's a fan or -- and I think in this case,</p> <p>14 counselor, I think in this case, we felt that the</p> <p>15 gravity of the population was more to that point.</p> <p>16 I'm not sure it makes that much difference, but that</p> <p>17 was -- there was rationale that that's what we were</p> <p>18 looking at.</p> <p>19 So, you know, at the northern end, there was</p> <p>20 also somewhat less dense development. So we wanted</p> <p>21 to pick up where there was more dense development</p> <p>22 where we'd have a better indicator of what was going</p> <p>23 on with property values in those areas.</p> <p>24 Q. Now, you were picking up properties even as</p>	<p style="text-align: right;">Page 68</p> <p>1 signs you saw or any of these people you're referring</p> <p>2 to had concerns about this project that maybe went</p> <p>3 beyond the impact on residential property values?</p> <p>4 A. There could be lots of concerns for it. Our</p> <p>5 charge was to look at whether or not there was</p> <p>6 evidence of diminished property value that could be</p> <p>7 attributed to commercial land use activities at that</p> <p>8 intersection.</p> <p>9 Q. And seeing a sign in somebody's yard is not</p> <p>10 necessarily an indicator of whether or not -- what</p> <p>11 objection that person has?</p> <p>12 A. Yeah. This is always something that's</p> <p>13 important. It's not about taking a vote. It's about</p> <p>14 whether there's transactional evidence, sales or</p> <p>15 resales, that we can say -- can point to a change in</p> <p>16 property value.</p> <p>17 Q. Okay. If you go to the next page there,</p> <p>18 your conclusions, you have four bulletpoints, right?</p> <p>19 A. Right.</p> <p>20 Q. Just so we're all on the same page here, the</p> <p>21 spreadsheet that we've marked as 1B, this is the data</p> <p>22 for the Walgreens site that supports these four</p> <p>23 bulletpoints that you've got in your report?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 67</p> <p>1 far as Crescent Boulevard south of Lake Ellyn?</p> <p>2 A. Well, that was in the box. I don't know if</p> <p>3 that's necessarily where the sales were. But, again,</p> <p>4 when we have the number of sales that we had in this</p> <p>5 case, that's really not an issue. If we have two or</p> <p>6 three, then we have to look carefully at our defining</p> <p>7 of the area. But in this case, we had a very active</p> <p>8 market.</p> <p>9 Q. Is your decision to use a half-mile radius,</p> <p>10 is that based, in part, on your judgment that the</p> <p>11 further you get away from the allegedly offending</p> <p>12 use, the less impact there is?</p> <p>13 A. I think it's a convention that, you know,</p> <p>14 half mile is normally conceded as the boundaries of</p> <p>15 when an incongruous use may be objected to. Again,</p> <p>16 whether it's a quarter mile or half mile, that half</p> <p>17 mile, you're on the edges, it probably isn't a</p> <p>18 factor, but those people are still traveling through</p> <p>19 this area.</p> <p>20 And, again, it's my experience that we were</p> <p>21 seeing signs. I mean, people were certainly</p> <p>22 concerned about it at that far, so let's look at the</p> <p>23 transactions.</p> <p>24 Q. Do you know if any people -- any of these</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Okay. And there's some -- on the last page,</p> <p>2 there's some that you've got highlighted in yellow.</p> <p>3 Are those the ones that you referred to before that</p> <p>4 you would -- you would omit some properties based</p> <p>5 on --</p> <p>6 A. Right. I mean, if you look, these were</p> <p>7 properties that went up 118, 43, 42, 55 percent,</p> <p>8 62 percent, value in a short period of time. And</p> <p>9 we -- you know, we've -- we eliminated them because</p> <p>10 we were unclear -- it looked to us that they may have</p> <p>11 had major improvements or expansions between sale</p> <p>12 dates and we --</p> <p>13 Q. Could have been teardowns?</p> <p>14 A. They could have been teardowns and they</p> <p>15 built something else, exactly, so...</p> <p>16 Q. You've got one that's -- the explanation is</p> <p>17 recession affected.</p> <p>18 A. Well, we also did -- we were careful. We</p> <p>19 went back to, I think, 2010 because it was our --</p> <p>20 it's been our experience throughout the northern</p> <p>21 suburbs and elsewhere that many -- there were sales</p> <p>22 that occurred postrecession in the first couple of</p> <p>23 years often were -- continued to be impacted by the</p> <p>24 declines in value that occurred across the board</p>

1 because of the recession. And, you know, depending
2 where you are, but we found that -- we found that
3 from -- you know, anywhere from 2010 to 2013 was when
4 values bottomed out and started to climb again.

5 Q. So what was the time frame that you used
6 to --

7 A. I think in this case we went back to 2010 --
8 I mean, as I say that, I see one from 2009. I mean,
9 interestingly, it didn't go up much, but we -- we do
10 this kind of a search where, you know, we're looking
11 to, you know, identify the -- you know, filter out
12 the outliers that are going to affect your
13 percentage. And, you know, in this case, you know,
14 we found the data pretty homogenous. And, again, we
15 tried to just sort this by not just percent change
16 but percent change per year between the sale and the
17 resale, which gave us a much -- you know, a much
18 tighter number, less variability.

19 And if we saw something that -- you know,
20 again, like we had -- sales -- we didn't have
21 negative ones, but there were some positive sales
22 that we thought would distort the number, so we
23 dropped them into the yellow category. We didn't
24 know enough of what was going on.

1 Q. Okay. And in your view here, in your
2 opinion, this Walgreens store is no different than
3 the gas station project that's being proposed for the
4 opposite corner?

5 A. The Walgreens is a very obtrusive commercial
6 use that is highly similar to a gas station
7 operation. Again, the Village can certainly limit
8 certain activities. That's really not where -- you
9 know, whether they want the gas station open. They
10 have the ability to limit its hours of use. They
11 have an ability to limit, you know, some of the
12 activities on a gas station you wouldn't have in a
13 Walgreens. But in general, if you were to take, you
14 know, a site that had no commercial activity and
15 introduce a Walgreens into a residential area, this
16 is a disruptive development and people can -- will
17 object to a commercial development of a site in a
18 residential area where there hasn't been one if they
19 feel that traffic will be increased.

20 I mean, this goes back to why we have zones
21 and zoning is to, you know, basically separate
22 residential from, you know, incongruous uses. That's
23 being rethought in many places with the walking score
24 concept because people are saying, well, maybe it's

1 better if we don't get out of our car.

2 Q. Okay. Well, my question really wasn't was
3 Walgreens a disruption. Let's assume for purposes of
4 this discussion that it is, okay, and let's assume
5 that people objected to it -- some people objected to
6 it. What I'm asking you is, is it your view that the
7 Walgreens is not any less disruptive? It's the same
8 in terms of its disruptiveness as this 12-pump,
9 58,000 square foot gas station that's going in on the
10 other corner?

11 A. It's a comparable. I think it's comparable.

12 Q. In terms of the impact that it has on the
13 neighborhood?

14 A. Yes, absolutely.

15 Q. Okay. Well, the Walgreens doesn't sell gas,
16 right? That's a big difference, isn't it? That's an
17 easy question.

18 A. They sell drugs; they sell drugs, that's
19 right. They don't sell gas.

20 Q. They don't sell gas, okay.

21 And they don't have tanker trucks pulling in
22 there to refill the underground tanks, do they?

23 A. Well, they have other trucks that come in to
24 restock the store. Walgreens carries just about

1 everything these days.

2 Q. Okay. But they don't have underground fuel
3 tanks at a Walgreens, do they?

4 A. They don't.

5 Q. They don't have tanker trucks pulling in
6 there to refill those underground fuel tanks. So
7 that's another big difference, isn't it?

8 A. I don't consider that a big difference,
9 counsel.

10 Q. Okay. And do you know at this particular
11 Walgreens what the hours of operation are?

12 A. I mean, I've seen Walgreens 24 hours --

13 Q. No. I'm asking about this one.

14 A. I don't know.

15 Q. You didn't look at that?

16 A. My assumption was 18-hour days.

17 Q. So you don't know?

18 A. I don't know.

19 Q. You didn't investigate that.

20 Did you make any inquiry or investigation
21 about whether the outside -- whether there was any
22 limit on the outside lighting at the Walgreens and
23 when it's supposed to shut off?

24 A. My -- I did not -- I did not check into that

1 specifically.

2 MR. HARTSELL: Okay. If at any time you
3 need to take a break or you've got to use the men's
4 room or anything, it's not an endurance test. If you
5 want to take a break because I get going and --

6 MS. EMERY: Yeah, let's take a quick break.

7 (Whereupon, a break was taken,
8 after which the following
9 proceedings were had:)

10 BY MR. HARTSELL:

11 Q. Okay. Let's talk about on your report on
12 page 6, the Mobil station at North Avenue and Main
13 Street. And then the supporting data for that in
14 your report -- I think we marked that as Exhibit 1C;
15 is that right?

16 A. I think so, yes.

17 Q. Okay. Well, the first thing I wanted to ask
18 you about was in your report here when you're talking
19 about this Mobil station -- well, first of all, it's
20 on North Avenue, right?

21 A. Right.

22 Q. And in that area where that station is
23 located, North Avenue is a six-lane divided highway,
24 right?

1 A. Oh, yeah.

2 Q. Okay. And if we can look at your aerial
3 photograph here that's in your report, on the north
4 side of North Avenue, that's all light industrial up
5 there, correct?

6 A. Yes, correct.

7 Q. There's no houses up there; that's all light
8 industrial.

9 And then south of North Avenue, we do have a
10 residential area surrounding this gas station, right,
11 that's what the picture shows?

12 A. Yes.

13 Q. Did you go out and visit this site, by the
14 way?

15 A. I certainly did, yes. I was kind of
16 surprised.

17 Q. Okay. And I'm glad you did because I did
18 too. And so right behind the gas station, there is
19 a -- this is a newer subdivision here that -- this is
20 Lamoine Street, correct?

21 A. Yes, correct.

22 Q. And then this is Charlotte?

23 A. Right.

24 Q. Okay. And if you go -- if you go east on

1 Lamoine and you come to Charlotte and if you go
2 north, there's a little cul-de-sac here and the
3 houses wrap around that, right?

4 A. Uh-huh.

5 Q. And then Garfield continues down here to --
6 I think this is -- is that -- I'm going to look it
7 up. I had it in my head and --

8 A. I can see it there. I'm just trying to -- I
9 want to look at that street.

10 Is it Corbett or something? It looks like
11 Corbett Drive.

12 Q. It's Goebel, G-O-E-B-E-L.

13 A. Goebel, all right.

14 Q. So what I saw -- and you can tell me if this
15 is what you saw -- was along those two streets there,
16 there's about 40 houses in there. It's a newer
17 subdivision, correct?

18 A. Correct.

19 Q. Okay. Those are, like, two-story homes with
20 attached garages.

21 A. Yes.

22 Q. But then the houses immediately to the east
23 over here in this part, this subdivision over here to
24 the west of Main Street and to the south of all this,

1 those are all much older homes, right?

2 A. Yes.

3 Q. They all probably date to the '40s, '50s,
4 '60s?

5 A. Yes.

6 Q. And not even really comparable to the newer
7 subdivision that went in --

8 A. No.

9 Q. -- in terms of -- okay.

10 And certainly not comparable to the Five
11 Corners intersection in Glen Ellyn?

12 A. That's correct.

13 Q. Okay. Now, you say in your report here that
14 the project -- your second sentence says that the
15 project was completed in 2015. And are you sure
16 about that date?

17 A. Again, I recall that was -- I had initially
18 thought it was older than that, but I had either
19 CoStar or county records. I came across it was built
20 in 2015.

21 Q. If I told you that the Lombard -- Village of
22 Lombard's records show that the permit for that gas
23 station was approved in 1998, would that surprise
24 you?

1 A. No.

2 Q. And that the building permit was pulled in

3 1999?

4 A. No. That sounds reasonable as well.

5 Q. Okay. And the houses then, this nice

6 subdivision that was built behind it, do you know

7 when that was built?

8 A. I thought they were built around 2000 or so.

9 The important thing is, I believe, that those homes

10 were built after the gas station was in place or at

11 the same time.

12 Q. Okay. And so in your backup data here, you

13 have a screenshot of a listing here --

14 A. Uh-huh.

15 Q. -- right, for a -- I'm looking at

16 Exhibit 1C. And it's for an address at 18 East

17 Lamoine Avenue; do you see that?

18 A. Yes.

19 Q. So that would be one of these houses here

20 along -- in your map here along Lamoine Avenue here,

21 right?

22 A. Right.

23 Q. Probably closer to this, probably right in

24 here someplace, right?

1 A. Right.

2 Q. Okay. And that listing shows that house as

3 having been built in 2000?

4 A. Yes.

5 Q. Okay. So if I'm right about when the gas

6 station was built, the gas station came first and

7 then the houses came after, right?

8 A. Yeah.

9 MS. EMERY: I'm going to object to -- so the

10 report says about the completion of the project in

11 regards to what it says about the permitting based on

12 what you said at this point. You know, as to when it

13 was actually built, we don't know.

14 MR. HARTSELL: Oh, well, we do, actually,

15 but you don't, right? You didn't go pull any permits

16 or applications?

17 THE WITNESS: I mean, that was -- I thought

18 that was the date we had. And I'm not sure if the

19 difference is significant based on the sale data we

20 have.

21 BY MR. HARTSELL:

22 Q. Well, I mean, let me ask you this, let's

23 just -- notwithstanding counsel's objection -- and

24 she's just covering the record here. But let's just,

1 you and I, let's just hypothetically say, the gas

2 station was built first and that 40-house subdivision

3 was built afterwards. Wouldn't it be the case that

4 whatever impact that gas station would have on the

5 subdivision was baked into the original price of

6 those houses? In other words, people are buying

7 those houses; those houses are being marketed for the

8 gas station right there in plain sight?

9 A. Right.

10 Q. So wouldn't that factor be baked into the

11 price?

12 A. You'd still have the issue of gas station

13 proximity to a nice subdivision. I mean, this house

14 is listed for 475,000. That's above the average of

15 the homes in the area. So the question would be if

16 the presence of the gas station was going to diminish

17 property value, then we would see it in the

18 subsequent sale activity within, in this case, a half

19 mile radius.

20 Q. Wouldn't it impact the original sale price

21 of the house?

22 A. To some degree. Again, it's a relative

23 thing. You're also in Lombard. That's not as nice

24 as Glen Ellyn.

1 Q. Well, it isn't; I agree. That's another

2 reason why this is not comparable.

3 A. Well, again, we're looking at the delta. So

4 the issue is you've got a subdivision of nice homes

5 next to a big gas station. And what are the -- how

6 did those -- how did the sales and resales of homes

7 in those areas, assuming we find any and we did, how

8 do they correspond with the overall average for the

9 area, which we have?

10 And the evidence we found was that the

11 presence of the gas station didn't seem to have any

12 adverse impact on the sale, resale performance of

13 those homes.

14 Q. Well, in fact, you don't have any data on

15 those homes in that subdivision that surround the gas

16 station, do you?

17 A. On that immediate subdivision, I don't

18 believe we had sales and resales that we were able to

19 document.

20 Q. And wouldn't you agree that that subdivision

21 there, that 40-house subdivision, to the extent that

22 there was an impact, that that subdivision would be

23 the most impacted?

24 A. I agree -- well, we -- I mean --

1 Q. You agree?

2 A. I would agree. Although, we have at
3 least -- I think we have one sale from Lamoine and it
4 went up 22 percent between 2010 and 2018 and
5 2.85 percent a year, which is at or above the average
6 for the area.

7 Q. I'm sorry; where is the sale on Lamoine? Is
8 that the third one on your data sheet?

9 A. Yes, it is.

10 Q. 130 East Lamoine?

11 A. Yes.

12 Q. That's not in that subdivision, is it?

13 A. I'd have to check.

14 Q. Well, it's over here, isn't it? It's over
15 Lamoine Street. It continues over here, doesn't it?
16 That's where it is.

17 So back to my point, you don't --

18 A. Well, not in that immediate subdivision.
19 Again, we --

20 Q. You don't have any data?

21 A. Don't have any data there.

22 Q. Okay. And where they built that
23 subdivision, that 40-house subdivision, right at the
24 entrance to it, right there at Main Street and

1 Lamoine, do you know what's there?

2 A. I believe that was a clinic of some sort.

3 Q. It's a bank.

4 A. Okay.

5 Q. It's a drive-through bank that was there
6 before.

7 A. Okay.

8 Q. And then if you keep going south, you'd see
9 there's sort of an industrial-type building right
10 there. Do you see that?

11 A. Yeah, on Main Street.

12 Q. Do you know what that is?

13 A. That was a commercial use of -- I can't
14 recall. I don't have my notes. It's not
15 residential.

16 Q. So wouldn't you agree that the original of
17 these -- this 40-house subdivision here that somebody
18 decided to build with a gas station on one side and a
19 bank and an industrial building on the other side,
20 not my first choice, but wouldn't you agree that the
21 impact of those commercial uses was taken into
22 account in how these houses were priced originally?

23 A. Well, I would argue that that shows that it
24 doesn't really have an appreciable impact. I mean,

1 the one -- you know, we did have sales in there. We
2 didn't have paired sales. So the most recent sale we
3 have here, which we pulled, and -- just, as an
4 example, you know, sells, you know, well above the
5 average of homes in the area, would say that
6 incongruous commercial uses proximate to residential
7 development in this area doesn't adversely impact
8 those home prices, those home values.

9 Q. But I don't know how you can say that for
10 that house.

11 If the impact of the gas station is baked
12 into the original sale price, then how do you isolate
13 that out on a sale 18, 15 years later?

14 A. No, I don't agree that -- it's not about the
15 impact being baked in. It's about the ongoing impact
16 of that land use on home values in the area, which is
17 analogous to what we have with the Walgreens. It's
18 been there for 15 years, what's been the impact of
19 its presence on home values in the surrounding area.

20 Q. Do you have any knowledge or understanding
21 about whether those 40 homes or so in that
22 subdivision are rental properties now?

23 A. I don't know.

24 Q. Okay. And if we can look at your 1C, you

1 use the same half-mile radius to develop the sales
2 data, correct?

3 A. Correct.

4 Q. Okay. And this time, you actually -- your
5 little diagram here, you have a little circle?

6 A. Yes.

7 Q. Okay. But, again, the circle is not
8 centered on the actual gas station site, is it?

9 A. No.

10 Q. You dropped the center of the radius
11 probably about a quarter mile south?

12 A. Perhaps. Again, we did that because it's
13 just the way the data is. There was really no data
14 north of North Avenue, so we're just looking at the
15 area below it.

16 Q. Well, if you stuck to your true half-mile
17 radius, that's going to bring the bottom of the
18 circle up?

19 A. Yes, it would.

20 Q. Okay. And it's going to eliminate a number
21 of these sales that are in your data?

22 A. I'm not sure of the word. I'd have to map
23 them -- I don't have it mapped in this exhibit.

24 Q. Okay. But as with the Walgreens one that we

<p style="text-align: right;">Page 86</p> <p>1 saw, the reason you dropped the center point of the</p> <p>2 radius further south was so that you could generate</p> <p>3 additional sales data to support your report?</p> <p>4 A. Yes.</p> <p>5 Q. Is the gas station, the Mobil station, on</p> <p>6 North Avenue, is it -- to your knowledge, is it</p> <p>7 comparable in scale to the proposed development for</p> <p>8 825 North Main?</p> <p>9 A. I believe it is.</p> <p>10 Q. How many pumps does it have?</p> <p>11 A. I would say eight to ten. I didn't count</p> <p>12 them.</p> <p>13 Q. How big?</p> <p>14 A. The pictures and -- from the elevation shown</p> <p>15 by the Village and what was there, it looked very</p> <p>16 comparable in size to me.</p> <p>17 Q. Okay. In the picture that you've got here</p> <p>18 on Exhibit 1C, it shows empty space right there. The</p> <p>19 gas station is contained sort of on this westernmost</p> <p>20 part of the property and the easternmost part of the</p> <p>21 property is still green spaced; do you see that?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Okay. And right behind the gas station,</p> <p>24 this is a big retention pond, isn't it?</p>	<p style="text-align: right;">Page 88</p> <p>1 have any historical significance to the Village of</p> <p>2 Lombard, does it?</p> <p>3 A. No.</p> <p>4 Q. Do you know the size of the convenience</p> <p>5 store that's on this site, the Mobil station?</p> <p>6 A. It appears to me to be a fairly typical,</p> <p>7 probably smaller than the one that's planned on the</p> <p>8 subject site, but I'd have to go check my notes.</p> <p>9 Q. Okay. Let's move to your next example.</p> <p>10 This is on page 7 of your report.</p> <p>11 The Diamante Montessori School at 625</p> <p>12 Hillside in Glen Ellyn. You have a picture of it on</p> <p>13 the next page there.</p> <p>14 A. Uh-huh.</p> <p>15 Q. This is smack in the middle of a residential</p> <p>16 area, right? I mean, there's nothing else around</p> <p>17 here but houses, right?</p> <p>18 A. Yes.</p> <p>19 Q. Is it your understanding that that property</p> <p>20 was previously a private residence?</p> <p>21 A. That is my understanding.</p> <p>22 Q. It wasn't a church?</p> <p>23 A. Either a church or private residence. And</p> <p>24 they use part of this site for parking and part of it</p>
<p style="text-align: right;">Page 87</p> <p>1 A. Correct.</p> <p>2 Q. Do you know how big that retention pond is?</p> <p>3 A. To scale it out.</p> <p>4 Q. About the size of a football field maybe?</p> <p>5 A. I don't think it's that big, but, you know,</p> <p>6 you can see from the aerial scale-wise that it might</p> <p>7 be -- I mean, it's a good-sized retention pond that</p> <p>8 serves to some extent as a buffer, though not</p> <p>9 visually. The backyards to the homes back up to the</p> <p>10 gas station. There's no tree buffer to speak of that</p> <p>11 I saw. We have a true buffer on the subject side.</p> <p>12 Q. But on the subject side, the property backs</p> <p>13 right up to the residence on Elm Street, right?</p> <p>14 A. Well, the property does, but I saw that</p> <p>15 there's a buffer of green space on the east end, I</p> <p>16 mean, on the images that I was shown.</p> <p>17 Q. Has anybody ever described this intersection</p> <p>18 to you, described this intersection at North and Main</p> <p>19 in Lombard as the gateway to Lombard?</p> <p>20 A. I haven't -- I would assume the gateway to</p> <p>21 Lombard was to the south, but I don't know. I'm not</p> <p>22 sure Lombard has a gateway, but...</p> <p>23 Q. And, to your knowledge, this intersection is</p> <p>24 a six-lane divided highway intersection. It doesn't</p>	<p style="text-align: right;">Page 89</p> <p>1 for playground.</p> <p>2 Q. I'm just asking what the prior use was. It</p> <p>3 was a church, wasn't it?</p> <p>4 A. I don't recall whether it was a church or</p> <p>5 a -- I'd have to go back and look at my photos. If</p> <p>6 it was a church, it was residential styled.</p> <p>7 Q. Well, the Montessori school didn't change</p> <p>8 the style of the building, did it?</p> <p>9 A. That's correct.</p> <p>10 Q. Are you aware of anybody that ever objected</p> <p>11 to that being a church?</p> <p>12 A. No. I just know that they objected to it</p> <p>13 being a school.</p> <p>14 Q. Preschool.</p> <p>15 A. Preschool.</p> <p>16 Q. And what was your understanding of the</p> <p>17 nature of the objections?</p> <p>18 A. Traffic and incongruity. It wasn't terribly</p> <p>19 specific, but...</p> <p>20 Q. Do you think a preschool is an incongruous</p> <p>21 use on that property, a property that used to be a</p> <p>22 church, in the middle of a residential neighborhood</p> <p>23 in a village where people value walkability, as you</p> <p>24 say?</p>

1 A. That's right. Look, there was -- people
2 objected to it being there and had -- as far as the
3 Village was concerned, they had the same kind of
4 objections that they do to the subject property and
5 we investigate to see whether, in fact, it had any
6 adverse impact on property value.

7 Q. So that's what Ms. Springer and Mr. Sterrett
8 told you was that they considered that to be
9 comparable to the gas station?

10 A. The opposition to it, they felt was
11 comparable. That's how I looked at it.

12 MR. HARTSELL: Were you involved in that?

13 MS. EMERY: Absolutely.

14 MR. HARTSELL: Off the record.

15 (Whereupon, a discussion was had
16 off the record.)

17 BY MR. HARTSELL:

18 Q. Okay. The preschool, they're not selling
19 the gas there, are they?

20 A. Hope not.

21 Q. Okay. Let's talk about this gas station
22 real quick.

23 So this is the one where you mentioned to me
24 earlier that you could only find three paired sales,

1 right?

2 A. Right.

3 Q. All right. Okay. And then turning to the
4 last page, page 9, that two sentences where you say
5 there were other situations, I think we -- I think we
6 covered those. Those were the examples you were
7 giving me before about the football field and
8 whatever the other one was where you just said you
9 couldn't develop enough sales data --

10 A. Right.

11 Q. -- to come to any conclusions. So that's
12 what you're talking about there?

13 A. Yes.

14 MR. HARTSELL: I think that's all I've got.
15 That's it.

16 MS. EMERY: Nope, I don't have anything.
17 You want to reserve or waive signature?

18 THE WITNESS: Oh, waive.

19 MR. HARTSELL: I'll take an E-tran.

20 MS. EMERY: E-tran.

21 (Witness excused at 4:27 p.m.)
22
23
24

1 STATE OF ILLINOIS)

) SS:

2 COUNTY OF MCHENRY)

3 I, Alexa L. Plate, Certified Shorthand
4 Reporter in and for the County of McHenry, State of
5 Illinois, do hereby certify that on the 28th day of
6 January, 2019, the deposition of the witness,
7 P. BARTON DELACY, called by the Plaintiffs, was taken
8 before me, reported stenographically and was
9 thereafter reduced to typewriting through
10 computer-aided transcription.

11 The said witness, P. BARTON DELACY, was
12 first duly sworn to tell the truth, the whole truth,
13 and nothing but the truth, and was then examined upon
14 oral interrogatories.

15 I further certify that the foregoing is a
16 true, accurate and complete record of the questions
17 asked of and answers made by the said witness, at the
18 time and place hereinabove referred to.

19 The signature of the witness was waived by
20 agreement.

21 The undersigned is not interested in the
22 within case, nor of kin or counsel to any of the
23 parties.
24

1 Witness my official signature in and for
2 McHenry County, Illinois on this 31st day of January,
3 A.D., 2019.
4
5
6
7



8 Alexa L. Plate, CSR, RPR
9

10 License No. 084-004784
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