

In the Matter Of:
IN RE: THE MATTER OF HAYMARKET

REPORT OF PROCEEDINGS

November 06, 2019

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BEFORE THE ITASCA PLAN COMMISSION

IN RE:)
) No. PC 19-014
THE MATTER OF HAYMARKET.)

REPORT OF PROCEEDINGS had at the
public hearing of the above-entitled cause before the
Itasca Plan Commission, commencing on Wednesday,
November 6, 2019, 7:00 p.m., at 301 East North
Street, Itasca, Illinois.

As Reported By: Lynette J. Neal
Certified Shorthand Reporter
CSR No. 84-004363

GROVE & ASSOCIATES REPORTING

1 PRESENT:

2 MR. MARK KISCHNER, Commission Chairman;
3 MS. KRISTA RAY, Commissioner;
4 MS. LORI DRUMMOND, Commissioner;
5 MR. JEFFREY HOLMES, Commissioner;
6 MR. ERIC SWETS, Commissioner;
7 MR. FRANK CARELLO, Commissioner;
8 MR. BRENDAN DALY; Commissioner;
9 MS. SHANNON J. JARMUSZ, Director of Community
10 Development;
11 MS. NICOLE ESPEDIDO, Secretary;

12 HERVAS, CONDON & BERSANI, P.C., by

13 MR. CHARLES E. HERVAS,
14 333 Pierce Road, Suite 195
15 Itasca, Illinois 60143
16 (630) 860-4340

17 chervas@hcbattorneys.com

18 Appeared on behalf of the City of Itasca;

19 ICE MILLER, LLP, by

20 MR. MICHAEL M. ROTH,
21 2300 Cabot Drive, Suite 455
22 Lisle, Illinois 60532
23 (630) 955-0555

24 michael.roth@icemiller.com

and

BOND, DICKSON & CONWAY, by

MS. MARY E. DICKSON,
400 South Knoll Street, Unit C
Wheaton, Illinois 60187
(630) 681-1000

marydickson@bond-dickson.com

Appeared on behalf of Haymarket.

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I N D E X

Cross-Examination of Mr. Lustig 9 - 96
Cross-Examination of Mr. Baldwin 101 - 160

EXHIBITS: Page Line

FIRE DISTRICT

| | | | |
|--------|-------|-----|----|
| No. 1 | ..... | 104 | 21 |
| No. 2 | ..... | 105 | 10 |
| No. 3 | ..... | 105 | 23 |
| No. 4 | ..... | 106 | 5 |
| No. 5 | ..... | 118 | 24 |
| No. 6 | ..... | 120 | 2 |
| No. 7 | ..... | 120 | 24 |
| No. 9 | ..... | 124 | 7 |
| No. 10 | ..... | 125 | 5 |
| No. 11 | ..... | 126 | 11 |
| No. 12 | ..... | 127 | 2 |
| No. 13 | ..... | 130 | 5 |
| No. 14 | ..... | 131 | 21 |
| No. 15 | ..... | 148 | 23 |
| No. 8 | ..... | 158 | 16 |

1 CHAIRMAN KISCHNER: With that, I would like to
2 welcome everyone and open the November 6th, 2019,
3 Plan Commission meeting. The item before us is a
4 continuation of Case PC 19-014. The petitioner is
5 Haymarket DuPage, LLC. The owner of the property is
6 Pearl Hospitality, LLC, located at 860 West Irving
7 Park Road. The request is for a planned development
8 by special use with exceptions and Class 1 site plan
9 approval, all in order to permit a mixed-use
10 residential and healthcare facility and other uses in
11 the B-2 community business district at 860 West
12 Irving Park Road.

13 Role call, please.

14 MS. ESPEDIDO: Commissioner Daly?

15 MR. DALY: Present.

16 MS. ESPEDIDO: Commissioner Carello?

17 MR. CARELLO: Here.

18 MS. ESPEDIDO: Commissioner Swets?

19 MR. SWETS: Here.

20 MS. ESPEDIDO: Commissioner Holmes?

21 MR. HOLMES: Here.

22 MS. ESPEDIDO: Commissioner Drummond?

23 MS. DRUMMOND: Here.

24 MS. ESPEDIDO: Commissioner Ray?

1 MS. RAY: Here.

2 MS. ESPEDIDO: Chairman Kischner?

3 CHAIRMAN KISCHNER: Also here.

4 With that, I would like to introduce
5 our Plan Commission attorney, Chuck Hervas, for some
6 additional comments. 08:09:

7 MR. HERVAS: Good evening, everyone. My name
8 is Chuck Hervas. I'm the Village attorney, and I'm
9 going to go over a couple of things of which I
10 briefly covered last time, but it's very important 08:09:
11 for you to understand the nature of the proceedings
12 today -- or this evening.

13 First, please understand that this
14 is a legal proceeding with a legal significance.
15 There is a court reporter present. However, this is 08:09:
16 not a trial, not like you may have seen on
17 television. Even though it seems to have all the
18 trappings of a trial, it is a public hearing for the
19 Plan Commission. The Plan Commission will be making
20 a recommendation once all the testimony and all the 08:09:
21 hearings are -- material is completed, and that
22 recommendation goes to the Village Board. The Plan
23 Commission's action is a recommendation. It will be
24 the Village Board that will make the final decision

1 in this matter. I think it's important that everyone
2 understands that process.

3 There will be cross-examination of
4 witnesses tonight. There was already the testimony
5 of Dr. Lustig and Mr. Baldwin, and tonight we will 08:10:
6 begin the cross-examination process. Please
7 understand that the cross-examination of witnesses is
8 part of a due process component in a Plan Commission
9 proceeding which has been dictated by the Illinois
10 Supreme Court. So, again, the emphasis is this is a 08:10:
11 legal proceeding. The attorneys who are involved in
12 the cross-examination will be asking the questions,
13 and the witness will be providing the answers. There
14 may be objections and things of that nature, and I
15 will rule on those matters. 08:10:

16 I do -- I will do my best to keep
17 this an orderly process, but what you need to
18 understand is that the public questions -- because
19 what will happen is once the cross-examination by the
20 attorneys and any property owner within 250 feet, 08:11:
21 once that cross-examination process is complete, the
22 public will have a chance to ask questions. I know
23 that you'll have just watched a bunch of lawyers do
24 their thing and maybe you think maybe this is my

1 chance to -- you are not engaged in
2 cross-examination, so, please understand, the public
3 is not cross-examining the witnesses. The public
4 will be asking questions, and so there's a difference
5 there, and we're going to make sure that that
6 difference is enforced.

08:11:

08:11:

08:12:

08:12:

7 And also understand that for the
8 public questioning, both Dr. Lustig and Mr. Baldwin
9 will be presented together. I want to you understand
10 that that is a normal process of the Plan Commission.
11 This whole idea of cross-examination by the attorneys
12 normally doesn't happen with the average development.
13 It's happening here. But when it comes to the
14 public's questions, the Plan Commission normally has
15 all the parties present and then the person that's
16 best able to answer the question answers that
17 question. So I don't want you to think that the Plan
18 Commission is departing from a normal process,
19 because it is not.

20 Also, please understand -- and this
21 will be reviewed at the time that the public asks
22 questions -- this is a time for public questions of
23 the witness. It is not a time for public comment.
24 All right? So the natural tendency will be I want to

1 make my comment and then ask a question. That's not
2 permissible at this time. There will be a time --
3 there will be a time for public comment.

4 And then just to wrap it up, please
5 understand that this is a slow and deliberate 08:12:
6 process. It's designed to create a record that is
7 appropriate for a Plan Commission hearing. Please
8 respect the process even if you don't agree with it.
9 Thank you very much, and I'll turn it back to you,
10 Mr. Chairman. 08:13:

11 CHAIRMAN KISCHNER: Thank you. Is the
12 petitioner's attorney ready to proceed?

13 MR. ROTH: We are.

14 MS. DICKSON: Yes.

15 CHAIRMAN KISCHNER: Okay. Then I would like 08:13:
16 to invite Dr. Lustig to submit himself for
17 cross-examination.

18 MS. DICKSON: We were going to have him and
19 Dr. Lustig at the table together.

20 MR. HERVAS: What I wanted to do is just 08:13:
21 follow the process of how they testified, in that
22 order, so we'll have Dr. Lustig first, please, then.
23 And then the attorneys -- I'm aware of three
24 attorneys who will be cross-examining. If there is a

1 property owner within 250 feet of this development,
2 they also have the right to -- for cross-examination.
3 However, I'm unaware of any such property owner, so
4 if there is one in the audience, they need to
5 identify themselves with staff and sign in for
6 cross-examination. 08:14:

7 So at this time, we will open it up
8 for cross-examination, and as far as the -- what is
9 the order that the attorneys have agreed on in terms
10 of the cross-examination? 08:14:

11 MS. SMITH: The school district's counsel,
12 Jennifer Smith. I'll be going first.

13 MR. DI NOLFO: I believe Attorney Ellenbecker
14 will be going second, and I would be going third in
15 cross-examination. Steve DiNolfo on behalf of the
16 Fire District. 08:14:

17 MR. HERVAS: Okay. All right. So, Ms. Smith,
18 you will -- you represent the Itasca School
19 District 10, and you will begin the
20 cross-examination. Thank you. 08:14:

21 MS. SMITH: Thank you. As was just stated,
22 I'm Jennifer Smith, legal counsel for the school
23 district. Dr. Lustig, during this process, you have
24 been contacted by the school district with questions

1 regarding the supports you have for children in your
2 -- in your program; is that right?

3 DR. LUSTIG: Right.

4 MS. SMITH: And Superintendent Craig Benes
5 called you to ask questions regarding those supports;
6 is that right? 08:15:

7 DR. LUSTIG: Correct.

8 MS. SMITH: And he asked for written follow-up
9 information; is that correct?

10 DR. LUSTIG: I do not recall that, no. 08:15:

11 MS. SMITH: Okay. Have you received -- on
12 October 25th, 2019, the school district submitted a
13 list of questions regarding support for children.
14 That was submitted by me to your counsel, Mr. Roth.

15 DR. LUSTIG: Yes. 08:15:

16 MS. SMITH: And, to date, you have not
17 provided any response to those questions; is that
18 right?

19 DR. LUSTIG: That is correct.

20 MS. SMITH: Okay. I want to start by asking
21 you clarifying questions regarding the population of
22 children that might be served by -- in your program.
23 You testified that there's two programs where
24 individuals stay for a good amount of time. One for 08:15:

1 90 days and -- one for up to 90 days and one for up
2 to 365 days; is that right?

3 DR. LUSTIG: Both of those programs are
4 recovery homes that we mentioned.

5 MS. SMITH: Okay. And are individuals in both 08:16:
6 of those programs eligible to have children reside
7 with them?

8 DR. LUSTIG: Yes. The mothers are allowed
9 children up to the age of five to be with them.

10 MS. SMITH: Okay. And you clarified mothers, 08:16:
11 both tonight and previously. Are fathers allowed to
12 have their children --

13 DR. LUSTIG: No.

14 MS. SMITH: -- stay with them? And why is
15 that? 08:16:

16 DR. LUSTIG: Our system was just never
17 designed for that. It wasn't an either/or. The
18 issue was to focus on the State's priority
19 population, which is pregnant and postpartum women.

20 MS. SMITH: Okay. So you do differentiate 08:16:
21 based on the gender of the parent on which children?

22 DR. LUSTIG: Uh-huh.

23 MR. HERVAS: Doctor, you need to answer yes or
24 no.

1 DR. LUSTIG: Oh, yes. Sorry, yes.

2 MS. SMITH: And can individual mothers with
3 more than one child, if they have more than one child
4 that's five or under, can they reside with more than
5 one child in the program? 08:17:

6 DR. LUSTIG: Up to two children.

7 MS. SMITH: Up to two children, okay. And are
8 there any other limitations on the number of children
9 that might be served by the program at the Itasca
10 site? 08:17:

11 DR. LUSTIG: Say -- I'm -- repeat the
12 question?

13 MS. SMITH: Are there any limitations? Are
14 there any other qualifications for an individual to
15 have their child? So it must be a woman in one of
16 the longer-term programs; is that right? 08:17:

17 DR. LUSTIG: She can be in our traditional
18 28-day program.

19 MS. SMITH: Okay.

20 MR. LUSTIG: A treatment program, yes. 08:17:

21 MS. SMITH: Okay.

22 DR. LUSTIG: The goal here is to remove any
23 barriers for women accessing care.

24 MS. SMITH: Okay.

1 DR. LUSTIG: And oftentimes what impacts women
2 is childcare, child placement.

3 MS. SMITH: Okay. So then how many -- on an
4 annual basis, how many individuals in that 28-day
5 program will the -- do you anticipate the Itasca
6 location will serve? 08:18:

7 DR. LUSTIG: You mean as far as the children
8 go or --

9 MS. SMITH: Just individuals or women -- do
10 you know how many women annually the 28-day
11 program -- 08:18:

12 DR. LUSTIG: It is a 16-bed program that has a
13 variable length of stay to it, so the turnover rate
14 is based on the progress of the patient. So the
15 entire beds don't necessarily turn over every 28
16 days. Some -- it might turn over every 14 days,
17 every seven days, depending on the specific needs of
18 the mom. 08:18:

19 MS. SMITH: Okay. And are there prescribed
20 amounts for males and females among those 16 beds? 08:18:

21 DR. LUSTIG: What do you mean by "prescribed"?

22 MS. SMITH: Is there a limit? So could all 16
23 beds be women or is -- are some reserved for men?

24 DR. LUSTIG: Some are reserved for men in a

1 different program, not in the same program. We don't
2 have coed programs.

3 MS. SMITH: So the 16 are for women?

4 DR. LUSTIG: Correct.

5 MS. SMITH: 16 beds, okay. And then for the
6 program that goes up to 90 days, how many beds for
7 women?

08:19:

8 DR. LUSTIG: The 90-day program is the
9 recovery home, so we need to separate that if it's
10 between treatment programs and the recovery homes.

08:19:

11 MS. SMITH: Okay.

12 DR. LUSTIG: So the recovery homes are the
13 ones you're talking up to the 90 days.

14 MS. SMITH: And they are different from the
15 365-day program or is that ultimately --

08:19:

16 DR. LUSTIG: No, the 90 days can go to 365,
17 depending on the person's specific need in the
18 recovery home.

19 MS. SMITH: Okay. So there's no different --
20 there's not a 90 day and 365? There's either the up
21 to 28 days or then up to 365 days; is that right?

08:19:

22 DR. LUSTIG: The 28 days, the variable length
23 of stay program is treatment, clinical treatment.
24 The program that individuals can stay up to 90 days

1 or longer are the recovery homes.

2 MS. SMITH: Okay.

3 DR. LUSTIG: And that's separate. So, for
4 example, let's say someone doesn't need residential
5 treatment but needs outpatient treatment. They could
6 still stay in our recovery homes while they're
7 receiving outpatient treatment.

08:20:

8 MS. SMITH: Okay. And how many recovery home
9 beds are available for women?

10 DR. LUSTIG: I don't have that number off the
11 top of my head, but I think you could ask James
12 Baldwin that question when he comes up.

08:20:

13 MS. SMITH: Okay. And do you have any
14 estimate on the projected number of women that would
15 be served on an annual basis in recovery homes?

08:20:

16 DR. LUSTIG: Again, I think that question
17 would be appropriate for James, who did the pro forma
18 on the project.

19 MS. SMITH: Okay. Your presentation
20 previously stated that children are referred for
21 developmental assessment; is that correct?

08:20:

22 DR. LUSTIG: We actually do the developmental
23 assessments.

24 MS. SMITH: When you say -- well, first of

1 all, when you say "developmental assessment," what
2 assessments are conducted?

3 DR. LUSTIG: The names of it? Is that the
4 question?

5 MS. SMITH: Yes. 08:21:

6 DR. LUSTIG: The Ages and Stages
7 questionnaire.

8 MS. SMITH: And who conducts that?

9 DR. LUSTIG: Our child development
10 specialists, who've been trained on the instrument. 08:21:

11 MS. SMITH: And what does it -- is it a
12 screener or how would you describe the tool?

13 DR. LUSTIG: It is a screener that has been
14 standardized on our specific population.

15 MS. SMITH: And what is a screener for? 08:21:

16 DR. LUSTIG: Developmental delays.

17 MS. SMITH: Who funds the developmental
18 assessment?

19 MS. DICKSON: Objection to the relevance of
20 the question. 08:21:

21 MR. HERVAS: Any response to the objection?

22 MS. SMITH: Yes. The school district has an
23 obligation to serve children aged three to five,
24 including child-find developmental assessments, so I

1 need to -- I'm asking questions along that line to
2 understand who is funding -- who is funding them.
3 The district affirmatively has an obligation to fund
4 them, so if they're not currently using district
5 funds, where are the funds coming from?

08:22:

6 MS. DICKSON: Dr. Lustig testified that
7 Haymarket does not intend to use any of the school
8 district's resources, period, so it shouldn't matter
9 where the funding for that program comes from.

08:22:

10 MR. HERVAS: I'm not going to go deep into
11 deciding what's relevant and not relevant, and so I'm
12 going to apply a fairly liberal standard with respect
13 to that. And I'm going to ask that if the witness
14 understands the question and knows it, that he should
15 answer the question, unless he's directed not to.

08:22:

16 MS. SMITH: Okay. So should I repeat the
17 question?

18 MR. HERVAS: Yes.

19 MS. SMITH: Who funds the developmental
20 assessment?

08:22:

21 DR. LUSTIG: We have a variety of grants and
22 donors that help to support our women's and
23 children's programs.

24 MS. SMITH: Do you access the child's health

1 insurance?

2 DR. LUSTIG: No.

3 MS. SMITH: Okay. What needs -- and the
4 screenings that you've done on your children,
5 residents, to date, what needs have you identified 08:23:
6 through the use of a developmental assessment?

7 DR. LUSTIG: Basically less than one percent
8 of our children experience the developmental delays,
9 but I -- specifically, if your question speaks to
10 what are those developmental delays, I would have to 08:23:
11 defer that question and get that information to you.

12 MS. SMITH: Okay. And when you say the
13 "developmental delays," what's the scope of
14 developmental delays? Is it purely through the
15 screener tool that you mentioned or is there some 08:23:
16 other definition?

17 DR. LUSTIG: No, it's purely through the
18 screener.

19 MS. SMITH: Okay. You testified -- or rather
20 your presentation previously said that children are 08:23:
21 referred, then, to developmentally appropriate
22 services. What services are referenced by that term,
23 "developmentally appropriate services"?

24 DR. LUSTIG: We work with a system partner

1 that, after we've identified something, we transport
2 the patient to them where they work with the child.

3 MS. SMITH: What's an example of a "system
4 partner"?

5 DR. LUSTIG: University of Illinois. 08:24:

6 MS. SMITH: Do you have any partners that have
7 educational expertise?

8 DR. LUSTIG: They do.

9 MS. SMITH: So is it -- do they have a
10 preschool program? 08:24:

11 DR. LUSTIG: They have a program that's
12 designed to address the developmental delays.

13 MS. SMITH: Is it an educational program?

14 DR. LUSTIG: I do not know if that's an
15 educational program. 08:24:

16 MS. SMITH: Okay. Have you identified any
17 partner that would serve the Itasca location?

18 DR. LUSTIG: No. But we are very, very
19 excited to be able to work with, you know, any
20 partners that are out here to assist us. And during 08:25:
21 that transition, we will continue to use our system
22 partner, UIC, to address that.

23 MS. SMITH: What is the length of the
24 transportation from the Itasca location to UIC to the

1 program where you currently are serving students?

2 DR. LUSTIG: You mean how many miles?

3 MS. DICKSON: Objection to the relevance of
4 that question. What does that matter?

5 MR. HERVAS: Just for the sake of the record,
6 I would like to have the objection stated and then
7 you'll have an opportunity to respond and then I'll
8 make a ruling of some sort.

08:25:

9 MS. SMITH: Sure. The Illinois State Board of
10 Education defines the appropriateness of educational
11 services provided at a different location, and if
12 transportation is over an hour in time during the
13 relevant time period a student's transported, that's
14 a factor for the program not being appropriate for
15 the student, or child in this case, for three to
16 five-year-olds.

08:25:

08:25:

17 MR. HERVAS: I do understand Haymarket's
18 position, that the testimony was that they will not
19 use any of their resources of the school district.
20 However, I think that the school district properly
21 can inquire with respect to legal obligations and
22 things of that nature, so I'm going to allow the
23 question.

08:26:

24 MS. SMITH: Do you know the length of drive

1 during the times that students would be served from
2 Itasca to the UIC program?

3 DR. LUSTIG: I do not.

4 MS. SMITH: And who supervises the child
5 developmental specialists? 08:26:

6 DR. LUSTIG: We -- our supervisors and
7 coordinators as well as our vice president of
8 clinical services.

9 MS. SMITH: And who will be the supervisor of
10 the -- who will be the immediate supervisor of the 08:26:
11 child developmental specialists at the Itasca site?

12 DR. LUSTIG: We have not hired that person
13 yet, obviously.

14 MS. SMITH: What would be the qualifications
15 for that supervisor? 08:27:

16 DR. LUSTIG: They would have to have early
17 childhood education. They would have to have further
18 experience and knowledge of addictions as well as any
19 related mental health issues.

20 MS. SMITH: And what are the qualifications of 08:27:
21 the child developmental specialist that you've
22 referred to? And we'll start with what is the
23 required education for that position?

24 DR. LUSTIG: Again, training in early

1 childhood education.

2 MS. SMITH: Are any --

3 DR. LUSTIG: And --

4 MS. SMITH: -- educational degrees required?

5 DR. LUSTIG: We follow the DCFS guidelines, 08:27:
6 which I think has a master's degrees or a bachelor's
7 degree is required with that training.

8 MS. SMITH: And are any certifications
9 required?

10 DR. LUSTIG: No. 08:27:

11 MS. SMITH: Are any licensures required?

12 DR. LUSTIG: No.

13 MS. SMITH: Do you employ any certified
14 teachers?

15 DR. LUSTIG: No. 08:28:

16 MS. SMITH: Do you hire or make available
17 occupational therapists to children?

18 DR. LUSTIG: No.

19 MS. SMITH: Do you hire or make available
20 physical therapists to children? 08:28:

21 DR. LUSTIG: No.

22 MS. SMITH: Do you hire or make available
23 speech language therapists to children?

24 DR. LUSTIG: No.

1 MS. SMITH: Do you hire or make available any
2 other type of specialized support for children who
3 have developmental delays?

4 DR. LUSTIG: No.

5 MS. SMITH: So is there any other access to 08:28:
6 educational services that the three to five-year-olds
7 who reside at your locations have that we have not
8 discussed yet?

9 DR. LUSTIG: Other than the standardized
10 curriculum, the ages and stages model, that is all 08:28:
11 that we provide, yes.

12 MS. SMITH: But the ages and stages model is a
13 screener? It's not a curriculum; isn't that right?

14 DR. LUSTIG: It's both.

15 MS. SMITH: It's a curriculum? An educational 08:29:
16 curriculum?

17 DR. LUSTIG: Uh-huh.

18 MS. SMITH: Okay. You've testified that the
19 children that reside at your facility do not access
20 public education; is that right? 08:29:

21 DR. LUSTIG: Correct.

22 MS. SMITH: And what's your process for
23 parents waiving their rights for those children to
24 access their right to public education?

1 DR. LUSTIG: We have not experienced that in
2 our 45 years.

3 MS. SMITH: You've never experienced a
4 child -- a parent seeking to access public education
5 for their child? 08:29:

6 DR. LUSTIG: No, because most of our children
7 that reach school age are placed within a family.
8 They don't reside at Haymarket Center.

9 MS. SMITH: When you define "school age," what
10 are you -- 08:29:

11 DR. LUSTIG: Five years and older.

12 MS. SMITH: And are you aware, though, in the
13 state of Illinois for students with a disability, a
14 school district is responsible, starting at age
15 three, for educational services; correct? 08:30:

16 DR. LUSTIG: Uh-huh, yes.

17 MS. SMITH: So you do not provide educational
18 services starting at age three or facilitate that for
19 your population of children?

20 DR. LUSTIG: Correct. 08:30:

21 MS. SMITH: Do you identify whether
22 individuals in your program are homeless?

23 DR. LUSTIG: Do I identify --

24 MS. SMITH: Whether they are homeless?

1 DR. LUSTIG: Yes.

2 MS. SMITH: And how do you define
3 homelessness?

4 DR. LUSTIG: We use primarily the federal
5 definition.

6 MS. SMITH: Do you track whether an individual
7 owns a home?

8 DR. LUSTIG: Yes.

9 MS. SMITH: And what percentage of the
10 individuals, the adults, the mothers specifically,
11 you serve own their own homes?

12 DR. LUSTIG: In the West Loop location?

13 MS. SMITH: Correct. Or if you have
14 projections for Itasca?

15 DR. LUSTIG: In our West Loop location, less
16 than one percent have their own home.

17 MS. SMITH: And do you identify whether
18 individuals in your program maintain a lease while in
19 treatment?

20 DR. LUSTIG: Do we screen for that? Yes.

21 MS. SMITH: And how many individuals do
22 maintain a lease while in your programs?

23 DR. LUSTIG: I would imagine probably around
24 10 percent.

1 MS. SMITH: So the vast majority of your
2 population qualifies as homeless? Is that an
3 accurate --

4 DR. LUSTIG: Correct.

5 MS. SMITH: You testified before that there is 08:31:
6 no process -- you've never come across parents
7 seeking educational services for their children. Has
8 there been any outreach by a public school district
9 with information about the services they could
10 provide to children who are located in your program? 08:31:

11 DR. LUSTIG: No.

12 MS. SMITH: Have you ever investigated sources
13 of funding for educational services for the children
14 in your program?

15 DR. LUSTIG: We do look at grants that come 08:32:
16 through ACF, Adult, Children and Families, for ways
17 to enhance our programs.

18 MS. SMITH: But, to date, you haven't explored
19 any public schooling support?

20 DR. LUSTIG: Correct. 08:32:

21 MS. SMITH: And do you intend to explore
22 public funding support for those children that would
23 be at the Itasca location?

24 DR. LUSTIG: No.

1 MS. SMITH: Why not?

2 DR. LUSTIG: We would like for grants, as
3 usual, to -- primarily because the goal, obviously,
4 is to treat the family and any issues that relate to
5 that. So whether it's mom having to bond with child 08:32:
6 for the first time is primarily the goal of what we
7 try to do inside treatment, other than just,
8 obviously, the substance use disorder treatment.

9 MS. SMITH: But you would agree for the
10 benefit of a child, educational services are critical 08:33:
11 and critical developmentally appropriate services for
12 three to five-year-olds; is that correct?

13 DR. LUSTIG: Correct. And that's why we do
14 have programs, like ages and stages curriculum, that
15 help -- that our child development specialists use 08:33:
16 with the children.

17 MS. SMITH: But why would you exclude
18 consideration of public education support for those
19 children?

20 DR. LUSTIG: We would not exclude that. We've 08:33:
21 just not -- we have not worked with schools in our
22 area, nor has there been outreach of those schools to
23 us.

24 MS. SMITH: Well, you testified previously

1 that Superintendent Craig Benes reached out to you
2 and that I reached out to you by letter. And now I'm
3 asking you and you've testified you have no intention
4 of accessing public education.

5 Do you have any reconsideration of 08:33:
6 that? Would you consider public education support
7 for the children in your location?

8 DR. LUSTIG: Absolutely. If there is, you
9 know, opportunities for the school system and
10 Haymarket Center to work in an integrated way, we 08:34:
11 would be very much involved in that.

12 MS. SMITH: But why, up to this point, have
13 you excluded that as part of the planning?

14 DR. LUSTIG: For Itasca or the West Loop?

15 MS. SMITH: Either. 08:34:

16 DR. LUSTIG: For Itasca, we've not identified
17 system partners yet, but that is on our plan to do.

18 MS. SMITH: For Chicago, you said you've had a
19 45-year history of not accessing public education.
20 Why was that strategic decision made? 08:34:

21 DR. LUSTIG: It was not --

22 MS. DICKSON: Objection to the relevance of
23 the question. It has nothing to do with the Itasca
24 facility.

1 MS. SMITH: That's the only -- that's their
2 pattern and practice of operating a facility. It's
3 the only evidence we have to demonstrate how we can
4 expect they would operate the Itasca facility, so I
5 can only ask about their projected practices here. 08:34:
6 But their history that they are relying on in making
7 the application is their reputation and their success
8 at the Chicago facility.

9 MR. HERVAS: The testimony of Dr. Lustig has,
10 in many respects, made comparisons to the West Loop 08:35:
11 facility in many different areas, and under the
12 circumstances, while the direct relevance is not the
13 same, the question will be allowed.

14 DR. LUSTIG: Can you repeat the question,
15 please? 08:35:

16 MS. SMITH: Sure. Why have you made the
17 decision not to access public education support for
18 children in your -- at your Chicago location?

19 DR. LUSTIG: There wasn't -- there isn't a
20 specific decision to do that. We have worked with 08:35:
21 curriculums and so forth to enhance the child's
22 experience and as well as gone through a multitude of
23 DCFS audits that never recommended that.

24 MS. SMITH: You've stated that you allow

1 students to remain up to the age of five. Can you
2 explain the transition process for students who are
3 turning six?

4 DR. LUSTIG: The staff works with the extended
5 families to place the child with the extended family. 08:36:

6 MS. SMITH: And what is the coordination with
7 respect to public education for -- when
8 five-year-olds would be eligible for kindergarten
9 from the -- if they're in kindergarten, the
10 transition for six-year-olds, what processes have you 08:36:
11 put in place to provide for that?

12 DR. LUSTIG: Again, any time that there is a
13 school engagement, the staff work with mom and family
14 to place the child with family.

15 MS. SMITH: I have no other questions. Thank 08:36:
16 you.

17 DR. LUSTIG: You're welcome.

18 MR. HERVAS: I'm sorry, I -- did you say you
19 were finished?

20 MS. SMITH: I am. 08:37:

21 MR. HERVAS: Okay, thank you. That's fine.

22 Did you have a specific -- one of
23 the plan commissioners also has a question.

24 MR. CARELLO: I do have a question that I

1 think this fits in to how most school districts
2 operate, and I'm kind of curious.

3 MS. SMITH: Sure.

4 MR. CARELLO: So the way Haymarket is
5 presenting this, as not a residential facility, my 08:37:
6 understanding is that even if there was children of
7 age in this facility, my understanding is that they
8 would have to reside as a resident in Itasca to be in
9 Itasca schools. Isn't that correct anyway?

10 MS. SMITH: It's not, because if -- so 08:37:
11 specifically he mentioned that up to 90 percent, it
12 sounds like, of the population is homeless. Homeless
13 children are residents where they are -- are
14 residents where they are. So all of the students who
15 would qualify under the McKinney-Vento Act as 08:38:
16 homeless would be served -- or would be eligible to
17 be served as residents by the local school district.

18 There's other complicating factors
19 as far as residency, but it's not true that -- as we
20 talked about, residency might have one definition for 08:38:
21 treatment. It has another very specific definition
22 as far as schools go. And it's very possible, and
23 even likely, that the children we've heard about that
24 are three to five would be eligible for support from

1 this public school or another public school might
2 fund services through this public school because this
3 is where the children are.

4 Is there any other questions?

5 MR. HERVAS: Okay, thank you. The next
6 attorney that will be cross-examining is whom?

7 MR. DI NOLFO: You can go, that's fine.

8 MR. ELLENBECKER: Good evening. Steve
9 Ellenbecker on behalf of the concerned citizens of
10 Itasca as well as 943 Willow and 260 North Oak
11 Street. Do you guys mind if I give them a copy of
12 the transcript?

13 All right. With counsel's
14 permission, I'm going to hand Dr. Lustig a copy of
15 the transcript from October 28th in case he needs to
16 refer to it. Is that all right?

17 MR. HERVAS: Yes.

18 MR. ELLENBECKER: Good evening, Doctor.

19 DR. LUSTIG: Good evening.

20 MR. ELLENBECKER: I'm Steve Ellenbecker, as
21 you heard me introduce myself. When I say "you" or
22 "your" tonight, I'm going to be referring to you
23 personally as well as Haymarket and/or Haymarket
24 DuPage; is that fair enough?

1 DR. LUSTIG: Sure.

2 MR. ELLENBECKER: You are the president and
3 CEO of Haymarket; correct?

4 DR. LUSTIG: Correct.

5 MR. ELLENBECKER: As a result, do you take
6 responsibility for all that has been filed and said
7 on Haymarket's behalf in its application process?

08:40:

8 DR. LUSTIG: Correct.

9 MR. ELLENBECKER: As the applicant, do you
10 agree that it's your responsibility to provide the
11 evidence necessary to support this application?

08:40:

12 DR. LUSTIG: Correct.

13 MR. ELLENBECKER: And you've put your best
14 foot forward -- or at least you believe you have --
15 in putting forth that evidence; correct?

08:40:

16 DR. LUSTIG: Correct.

17 MR. ELLENBECKER: Prior to the application
18 process starting, I believe you, and maybe others
19 with your team, met with the Village; correct?

20 DR. LUSTIG: Correct.

08:40:

21 MR. ELLENBECKER: So you and your team knew
22 what was needed to support this application; correct?

23 DR. LUSTIG: Correct.

24 MR. ELLENBECKER: You represented -- in the

1 course of this application process you represented
2 that the Holiday Inn was an extended stay hotel;
3 correct?

4 DR. LUSTIG: No. We said that there were
5 individuals who were using the Holiday Inn as an
6 extended stay portion.

7 MR. ELLENBECKER: As part of your application
8 process, you submitted an economic impact study as
9 required by the process; correct?

10 DR. LUSTIG: Correct.

11 MR. ELLENBECKER: And that was prepared by
12 Teska & Associates?

13 DR. LUSTIG: Correct.

14 MR. ELLENBECKER: And are you aware that
15 Teska & Associates, on your behalf, said Haymarket
16 Center believes the Holiday Inn property is a match
17 for its needs and that the Holiday Inn currently
18 operates as an extended stay hotel.

19 Do you recall that that's what Teska
20 submitted on your behalf?

21 MS. DICKSON: I would like to just object to
22 this question, because it does run afoul of what the
23 Chairman suggested, which is if there are questions
24 that come from a Teska report, we are presenting the

1 representative from Teska, who would be the best
2 person to answer those questions.

3 Dr. Lustig, while he might be the
4 representative of Haymarket, did not author the Teska
5 report, so the questions relative to the Teska report
6 would be better asked of the representative of Teska.

08:41:

7 MR. HERVAS: Response for the record?

8 MR. ELLENBECKER: First of all, Dr. Lustig has
9 said that he takes responsibility for all that was
10 submitted on Haymarket's behalf. Additionally, the
11 Teska report was submitted to Dr. Lustig in advance
12 of its submission to this commission in support of
13 that application process.

08:42:

14 MR. HERVAS: The issue that the Chairman
15 raises is that if particular questions are unique to
16 the field or the specific knowledge of that person,
17 then they should be directed at that person. In this
18 particular instance, the question is -- he's only
19 asking whether or not the -- Dr. Lustig is aware that
20 it has been characterized in that fashion. If
21 there's extended discussion as to what there is or is
22 not, we could have Teska answer it, but, so far, we
23 haven't gone there. So I'm going to allow the
24 question.

08:42:

08:42:

1 MR. ELLENBECKER: Do you want me to re-ask the
2 question?

3 DR. LUSTIG: Please.

4 MR. ELLENBECKER: Sure. Are you aware or do
5 you recall that Teska, on Haymarket's behalf, stated
6 that Haymarket Center believes the Holiday Inn
7 property is a match for its needs and that the
8 Holiday Inn currently operates as an extended stay
9 hotel?

08:42:

08:43:

08:43:

08:43:

10 DR. LUSTIG: I am not aware of that. I read
11 the report a long time ago. But what is -- what we
12 do know is that there was a percentage of clients
13 staying there as an extended stay so --

14 MR. ELLENBECKER: Do you recall the fact that
15 Teska went on to say that this similarity in use,
16 i.e., extended stay hotel, was the deciding factor to
17 move forward with approval of Haymarket DuPage at
18 this site?

19 DR. LUSTIG: I do not recall that.

20 MR. ELLENBECKER: You would agree, though,
21 that based on what you know about extended stay
22 hotels, that the Holiday Inn Itasca, with no kitchens
23 in their rooms, would not be considered an extended
24 stay hotel; correct?

1 DR. LUSTIG: Correct.

2 MR. ELLENBECKER: On October 28th,
3 specifically at page 50 of the transcript, you
4 indicated -- in fact, you said that no one could
5 touch a condominium on West Washington Boulevard for 08:43:
6 less than \$800,000. Do you recall that testimony?

7 DR. LUSTIG: Yes.

8 MR. ELLENBECKER: Is that testimony -- was
9 that testimony given based on research you've done on
10 market -- or a market analysis? 08:44:

11 DR. LUSTIG: No, it was based on walking the
12 neighborhood and looking at what was available.

13 MR. ELLENBECKER: Would it shock you if I
14 showed you a listing of recent closures in that area
15 to see multiple listings for far less than \$800,000? 08:44:

16 DR. LUSTIG: No, it would not shock me.

17 MR. ELLENBECKER: So when you made that
18 statement to the commission here, it was based on an
19 anecdotal walk around the neighborhood?

20 DR. LUSTIG: Yes. 08:44:

21 MR. ELLENBECKER: Is there anything else in
22 the Haymarket submissions to this commission that was
23 based not on your professional judgment and
24 experience but rather on anecdotal experiences that

1 you encountered in walking around your neighborhood?

2 DR. LUSTIG: I -- no.

3 MR. ELLENBECKER: Multiple times -- and I
4 think it came up on October 28th. It came up in your
5 filings to the commission -- that you've stated or 08:45:
6 Haymarket stated that nearly 2000 men and women from
7 DuPage and the collar counties were patients at
8 Haymarket clinics in 2017 and '18?

9 DR. LUSTIG: Correct.

10 MR. ELLENBECKER: And on October 28th -- and 08:45:
11 maybe it was a misstatement. You tell me. On
12 October 28th at page 19, you told the commission that
13 2000 of them were from DuPage.

14 DR. LUSTIG: I do recall also continuing that,
15 saying that it was also part of the collar counties. 08:45:

16 MR. ELLENBECKER: Okay. When you have
17 submitted documentation to this commission, you have
18 consistently referred to DuPage and the collar
19 counties as DuPage and the collar counties; correct?

20 DR. LUSTIG: Uh-huh. 08:45:

21 MR. ELLENBECKER: Yes?

22 DR. LUSTIG: Yes.

23 MR. ELLENBECKER: And I think in Schedule B to
24 your petition -- well, strike that.

1 You were asked on October 28th if
2 you remembered how many of those 2000 were from
3 DuPage specifically. Do you recall that?

4 DR. LUSTIG: Right, yes.

5 MR. ELLENBECKER: And I believe on that night 08:46:
6 you couldn't remember.

7 DR. LUSTIG: Correct.

8 MR. ELLENBECKER: Do you know that number now?

9 DR. LUSTIG: No, I do not.

10 MR. ELLENBECKER: Would it -- would you 08:46:
11 disagree with the number 376, as Haymarket
12 represented in Schedule B to its application?

13 DR. LUSTIG: To what is the question?

14 MR. ELLENBECKER: The question is how many of
15 the 2000 patients -- 08:46:

16 DR. LUSTIG: Come from DuPage?

17 MR. ELLENBECKER: Correct.

18 DR. LUSTIG: Again, I would have to look at
19 the data.

20 MR. ELLENBECKER: May I hand him a copy of the 08:46:
21 petition for special use?

22 MR. HERVAS: You want to hand it to him?

23 MR. ELLENBECKER: To refresh his recollection?

24 MR. HERVAS: Certainly.

1 MR. ELLENBECKER: And in the petition for
2 special use, and specifically Schedule B, the last
3 paragraph, do you see where it says, Haymarket Center
4 itself, the petitioner, served 376 DuPage County
5 residents?

08:47:

6 DR. LUSTIG: I do.

7 MR. ELLENBECKER: Okay. And do you agree with
8 that number?

9 DR. LUSTIG: If it's in here, yes.

10 MR. ELLENBECKER: Okay. So of the 2000
11 patients that were served by Haymarket West Loop in
12 DuPage and the collar counties, only 19 percent
13 hailed from DuPage County; correct?

08:47:

14 DR. LUSTIG: If that is the percentage, yes.

15 MR. ELLENBECKER: Okay. You also said, I
16 believe, last time that Haymarket West Loop is
17 running at 80 percent capacity; correct? Yes?

08:47:

18 DR. LUSTIG: Primarily overall, yes.

19 MR. ELLENBECKER: And based on the numbers --
20 and I'm not a mathematician -- but that means about
21 70 to 80 beds are available?

08:47:

22 DR. LUSTIG: Again, it depends on the program
23 that we're talking about, yes.

24 MR. ELLENBECKER: And what is your turnover on

1 those 70 to 80 beds? In other words, how many times
2 does one person leave and another person can occupy
3 that bed?

4 DR. LUSTIG: Again, it depends on the program.

5 MR. ELLENBECKER: Okay. It could be anywhere 08:48:
6 as short as three to five days, all the way up to a
7 year; correct?

8 DR. LUSTIG: Again, depending on the program,
9 yes.

10 MR. ELLENBECKER: Sure. But that's a fair 08:48:
11 range; correct?

12 DR. LUSTIG: Correct.

13 MR. ELLENBECKER: Are you aware -- well,
14 Haymarket has a Haymarket DuPage website that it
15 started as part of this process in going forward as 08:48:
16 part of your application; correct?

17 DR. LUSTIG: Correct.

18 MR. ELLENBECKER: And fairly recently, are you
19 aware that a video was posted on that website that
20 you actually are featured in? 08:48:

21 DR. LUSTIG: Yes.

22 MR. ELLENBECKER: Okay. Do you know when that
23 video was posted.

24 DR. LUSTIG: I would imagine it was posted at

1 some point last week.

2 MR. ELLENBECKER: Okay. Do you remember when
3 it was videoed or when it was recorded?

4 DR. LUSTIG: Probably about a month ago.

5 MR. ELLENBECKER: Okay. And the reason I ask 08:48:
6 is because in that video, in addition to yourself,
7 State Representative Deb Conroy was also featured;
8 correct?

9 DR. LUSTIG: Correct.

10 MR. ELLENBECKER: All right. And 08:49:
11 Representative Conroy stated that the choice of
12 Itasca was not based on Itasca, it was based on the
13 building; correct?

14 DR. LUSTIG: Correct.

15 MR. ELLENBECKER: And you also -- you echoed 08:49:
16 that by saying we were drawn by the building;
17 correct?

18 DR. LUSTIG: Correct.

19 MR. ELLENBECKER: So you weren't drawn to the 08:49:
20 Holiday Inn Itasca because of any special features of
21 the areas surrounding the Holiday Inn; correct?

22 DR. LUSTIG: Not totally correct, but we
23 wanted something that was also near public
24 transportation.

1 MR. ELLENBECKER: Okay. We're going to talk
2 about public transportation in a second. But
3 Representative Conroy also said -- she didn't say it
4 was just about the building. She actually went a
5 step further and said it's not about the community;
6 correct? 08:49:

7 DR. LUSTIG: Correct.

8 MR. ELLENBECKER: And one thing I found
9 interesting and the reason I asked you specifically
10 about how you referred to DuPage and the collar
11 counties is because you made a statement in that
12 video that said -- and I quote -- "and that's the
13 goal of Itasca, improving care for the collar
14 counties." Correct? 08:49:

15 DR. LUSTIG: Correct. 08:50:

16 MR. ELLENBECKER: You didn't say DuPage and
17 the collar counties. You said collar counties;
18 correct?

19 DR. LUSTIG: Correct.

20 MR. ELLENBECKER: You've made statements
21 repeatedly that DuPage residents need a spot for
22 rehab right next door or in their neighborhood;
23 correct? 08:50:

24 DR. LUSTIG: Correct.

1 MR. ELLENBECKER: And you indicated on
2 October 28th that it doesn't make good business sense
3 to transport a patient 32 miles; correct?

4 DR. LUSTIG: Correct.

5 MR. ELLENBECKER: To your knowledge, is
6 Naperville the largest city in DuPage County?

7 DR. LUSTIG: I can't speak to that.

8 MR. ELLENBECKER: If not one of the largest?

9 DR. LUSTIG: I can't speak so the size of
10 Naperville.

11 MR. ELLENBECKER: Is it larger than Wheaton?

12 DR. LUSTIG: Again, I can't speak to the size
13 of it.

14 MR. ELLENBECKER: Let's say it's the largest
15 and Naperville has over 100,000 people in it. Last
16 time I drove through and looked at a population sign,
17 that's what it said. You'd agree that by mathematics
18 and extrapolation of statistics, that it would make
19 sense that a town like Naperville would have the
20 largest concentration of those needing Haymarket's
21 assistance; correct?

22 DR. LUSTIG: I wouldn't necessarily say that,
23 because if you take a look at Haymarket in the West
24 Loop, we attract people from all over the state of

1 Illinois.

2 MR. ELLENBECKER: Okay. But you have a
3 percentage about how many people in the community are
4 afflicted with substance use disorders; correct?

5 DR. LUSTIG: Correct. 08:51:

6 MR. ELLENBECKER: And let's say it's 10
7 percent. I'm not saying that's your number. But if
8 you apply that 10 percent to a larger populated area,
9 it makes sense that 10 percent of 100,000 would be
10 greater than 10 percent of 50,000; correct? 08:51:

11 DR. LUSTIG: Correct.

12 MR. ELLENBECKER: All right. And you're aware
13 that Itasca is not in Naperville's backyard; correct?

14 DR. LUSTIG: Correct.

15 MR. ELLENBECKER: I mean, we're 27 to 37 miles 08:51:
16 away, depending on where in Naperville you're living;
17 correct?

18 DR. LUSTIG: Correct.

19 MR. ELLENBECKER: Does it make business sense
20 to transport patients from Naperville to Itasca? 08:51:

21 DR. LUSTIG: No.

22 MR. ELLENBECKER: You also testified just a
23 moment ago about public transportation; correct?

24 DR. LUSTIG: Correct.

1 MR. ELLENBECKER: And one of the reasons you
2 chose Itasca was for its accessibility to public
3 transportation; correct?

4 DR. LUSTIG: Correct, it was one factor.

5 MR. ELLENBECKER: It was one factor but it was 08:52:
6 a big one? You gave it to me just a second ago;
7 correct?

8 DR. LUSTIG: It was one factor.

9 MR. ELLENBECKER: Okay. What public
10 transportation are you contemplating when you say one 08:52:
11 of the features of Itasca is its accessibility to
12 public transportation?

13 DR. LUSTIG: Trains and buses.

14 (Audience talking.)

15 MS. DICKSON: Mr. Chairman -- 08:52:

16 CHAIRMAN KISCHNER: Please, no comments from
17 the crowd.

18 MR. ELLENBECKER: And by "trains," you're
19 referring to Metra; correct?

20 DR. LUSTIG: Correct. 08:52:

21 MR. ELLENBECKER: And the Metra line runs east
22 to west or west to east; correct?

23 DR. LUSTIG: Correct.

24 MR. ELLENBECKER: How far into DuPage County

1 does our Metra line, the west line, go?

2 DR. LUSTIG: I can't speak to that.

3 MR. ELLENBECKER: How far into Lake or Will
4 County does it go?

5 DR. LUSTIG: I can't speak to that.

08:52:

6 MR. ELLENBECKER: The other public
7 transportation you spoke of is buses; correct? Yes?

8 DR. LUSTIG: Yes.

9 MR. ELLENBECKER: Do you know what, if any,
10 buses transport or have routes into Itasca?

08:53:

11 DR. LUSTIG: There was a bus stop that was
12 close to the hotel.

13 MR. ELLENBECKER: Okay. Do you know where
14 that bus goes?

15 DR. LUSTIG: No, I do not.

08:53:

16 MR. ELLENBECKER: Would it surprise you to
17 find out that that bus that goes to Spring Lake
18 Business Park goes north to Arlington Heights?

19 DR. LUSTIG: No, I'm indifferent. It wouldn't
20 surprise me.

08:53:

21 MR. ELLENBECKER: Do you know of any bus from
22 any other part of in DuPage County, public
23 transportation bus, that ends up in Itasca?

24 DR. LUSTIG: No, I do not.

1 MR. ELLENBECKER: If a patient -- let's assume
2 for the moment that there isn't a bus from Naperville
3 or Wheaton or Glen Ellyn or Glendale Heights or
4 Elmhurst to Itasca, you'd agree that it's easier for
5 a patient in need in Naperville to jump on the
6 Naperville line into the West Loop than it is for
7 that same patient who relies on public transportation
8 to get on a train, go to the city, jump on another
9 train, and come back here?

08:53:

08:54:

08:54:

08:54:

10 DR. LUSTIG: Not necessarily, because part of
11 what Haymarket Center does is we have vans that help
12 to pick up patients and transport them to the
13 facility.

14 MR. ELLENBECKER: So that's not public
15 transportation? That's added transportation?

16 DR. LUSTIG: Correct.

17 MR. ELLENBECKER: How often -- or what's the
18 percentage of patients you end up having to pick up
19 at their home to bring to the West Loop?

20 DR. LUSTIG: I can't speak to a percentage,
21 but it does happen frequently. As a matter of fact,
22 we even pick up people from Edward Hospital currently
23 whenever they call us. And in answer to your other
24 question, it's not just the length of miles. It's

1 also making sure that people have treatment where
2 they live.

3 MR. ELLENBECKER: Okay.

4 DR. LUSTIG: That shows strong outcomes.

5 MR. ELLENBECKER: I agree. But Naperville
6 people don't live in Itasca; right?

08:54:

7 DR. LUSTIG: I'm just commenting on that fact.
8 It does enhance and promote better outcomes.

9 MR. ELLENBECKER: Okay. I think the numbers
10 I've seen, and I think the numbers remain fairly
11 constant, that you expect to serve in terms of
12 patient load through Holiday Inn in Itasca is 4,750.
13 Do you recall that number?

08:54:

14 DR. LUSTIG: I don't recall that number, but I
15 think that number's better served by James Baldwin.

08:55:

16 MR. ELLENBECKER: Okay. Would it surprise you
17 if the projected number was in excess of 4500 at
18 Holiday Inn Itasca?

19 DR. LUSTIG: It wouldn't surprise me, because
20 the issue here is that this is going to be a
21 phased-in program, so it's going to depend on when
22 and what we are talking about.

08:55:

23 MR. ELLENBECKER: In any part of your written
24 submissions to this commission and in your testimony

1 on October 28th, did you present any other
2 rehabilitation, recovery, detoxification facilities
3 as large as the one contemplated here in a town as
4 small as Itasca?

5 MS. DICKSON: Objection to the relevance of 08:55:
6 the question. It's this application that's relevant.

7 MR. ELLENBECKER: Part of their burden is to
8 establish that it wouldn't overly burden the public
9 welfare, health, and convenience. And I think the
10 size of the facility and the services offered in 08:56:
11 comparison to the size of the town is relevant.

12 MR. HERVAS: Again, I'm going to apply a
13 fairly liberal standard on your relevancy objections.
14 The commission can decide what weight to give it,
15 that sort of a thing, but I'm not going to decline a 08:56:
16 question to be answered on grounds of relevancy very
17 often, unless it's so far afield. So I'm going to
18 ask that the witness answer the question if he's able
19 to.

20 MS. DICKSON: But the question makes an unfair 08:56:
21 assumption also. It assumes that the facility is
22 going to overburden the community, and I don't think
23 that assumption's been proven.

24 MR. ELLENBECKER: I don't think there was an

1 assumption built in. I'll ask the question, again
2 and if there was, I'll take it out.

3 MR. HERVAS: Let's hear the question again,
4 please.

5 MR. ELLENBECKER: Doctor, as part of your
6 written submissions to this commission, as well as
7 your testimony on October 28th, did you present
8 anecdotally, empirically, through case report or
9 articles, any facility the size that's contemplated
10 for Holiday Inn Itasca in a town the size of Itasca?

08:56:

08:57:

11 DR. LUSTIG: Not using those comparisons. But
12 what is also important to note is to compare and
13 contrast what are the actual treatment beds as
14 opposed to recovery home beds.

15 MR. ELLENBECKER: Okay. But, all told, I
16 think the number you gave for total beds was
17 approximately 240; correct?

08:57:

18 DR. LUSTIG: Correct.

19 MR. ELLENBECKER: All right. On
20 October 28th -- and you mentioned to the commission,
21 I think you were actually asked some questions about
22 it, that a grant of \$500,000 had already been secured
23 for Itasca. Do you recall that testimony?

08:57:

24 DR. LUSTIG: I did.

1 MR. ELLENBECKER: And is it your
2 understanding, as we sit here today on November 6th,
3 that a grant of \$500,000 had been submitted, voted
4 on, and approved for the town of Itasca?

5 DR. LUSTIG: No. It was in the process of 08:57:
6 being worked on until both the mayor and
7 Representative Pappas chose not to move forward with
8 that.

9 MR. ELLENBECKER: Right. So \$500,000 was not
10 in our hand; correct? 08:58:

11 DR. LUSTIG: Correct.

12 MR. ELLENBECKER: All right. And even if it
13 were, do you have an understanding how that money
14 would be distributed among the taxing bodies that
15 benefit from tax revenue? 08:58:

16 DR. LUSTIG: We were never able to get that
17 far because the process was stopped.

18 MR. ELLENBECKER: Okay. But you do work with
19 villages and towns to try to get grants? You have
20 said that; correct? 08:58:

21 DR. LUSTIG: Correct.

22 MR. ELLENBECKER: And in the process of doing
23 that, would you work with elementary districts, like
24 District 10 and high school districts like District

1 108, for them to come up with ways to offset the loss
2 of tax revenue as we would see if 860 Irving Park was
3 transformed into a not-for-profit entity?

4 DR. LUSTIG: Is your question would we work
5 with them? 08:58:

6 MR. ELLENBECKER: Yes.

7 DR. LUSTIG: Yes, absolutely.

8 MR. ELLENBECKER: Have you worked with any
9 school districts in the past with regard to grants to
10 make up for lost of tax revenue? 08:58:

11 DR. LUSTIG: No, we have not.

12 MR. ELLENBECKER: Okay. A big issue -- and
13 I'm not going to ask you a lot of questions about
14 this. Hopefully I'll avoid an objection here.

15 But you were at the table with 08:59:
16 Mr. Baldwin when he was testifying about the impact,
17 if any, on -- of Holiday Inn Itasca on the EMS or
18 emergency responders in Itasca; correct?

19 DR. LUSTIG: Correct.

20 MR. ELLENBECKER: And as part of that 08:59:
21 presentation, the two of you testified for
22 approximately two-and-a-half hours, correct,
23 together?

24 DR. LUSTIG: Right.

1 MR. ELLENBECKER: And the address that the two
2 of you focused on was 932 West Washington; correct?

3 DR. LUSTIG: Correct.

4 MR. ELLENBECKER: And the only address
5 affiliated with Haymarket that you and Mr. Baldwin
6 discussed with your lawyers and the commission was
7 932 West Washington; correct?

8 DR. LUSTIG: Correct.

9 MR. ELLENBECKER: But 932 West Washington is
10 not the only address through which Haymarket provides
11 services at the West Loop facility; correct?

12 DR. LUSTIG: That's correct.

13 MR. ELLENBECKER: In fact, you provide
14 services at 120 North Sangamon; correct?

15 DR. LUSTIG: Correct.

16 MR. ELLENBECKER: You provide services at 124
17 North Sangamon; correct?

18 DR. LUSTIG: Correct.

19 MR. ELLENBECKER: You provide services at 108
20 North Sangamon; correct?

21 DR. LUSTIG: Correct.

22 MR. ELLENBECKER: None of that data in terms
23 of FOIA and affect on EMS for those other three
24 addresses was addressed by Mr. Baldwin; correct?

1 DR. LUSTIG: That is correct.

2 MR. ELLENBECKER: Do you have any idea why
3 when Haymarket was testifying to this commission and
4 giving perspective numbers of the impact of Haymarket
5 Itasca on our ambulance and police and fire, why you 09:00:
6 would willfully sit next to him and not mention the
7 other three addresses?

8 DR. LUSTIG: The reality to that was that we
9 were focusing on the data that both the Village also
10 FOIAed and requested the five years of data on. 09:00:
11 That's what we were focusing on.

12 MR. ELLENBECKER: But the number that you
13 ultimately gave, you testified this is going to be
14 the impact on EMS; correct?

15 DR. LUSTIG: Correct. 09:00:

16 MR. ELLENBECKER: And it was based on a set of
17 data affiliated or connected with only one address;
18 correct?

19 DR. LUSTIG: I'm pretty sure, but I think,
20 again, that question is better asked of Mr. Baldwin. 09:01:

21 MR. ELLENBECKER: Fair enough. You indicated
22 on October 28th that Haymarket is not licensed by the
23 state of Illinois; is that correct?

24 DR. LUSTIG: No, we are licensed by the state

1 of Illinois.

2 MR. ELLENBECKER: Can you turn to page 15?
3 I'll get you a line number. If you go to page 15,
4 line 10, do you recall saying we are not state
5 licensed by the state of Illinois? 09:01:

6 DR. LUSTIG: That is not correct.

7 MR. ELLENBECKER: That's an incorrect
8 recordation by the stenographer?

9 DR. LUSTIG: That -- we could not be operating
10 without a state license. 09:01:

11 MS. DICKSON: Counsel, might I -- I'm sorry
12 but I'm looking at an October 28th transcript, and
13 I'm not getting any of the same information as from
14 yours so -- ours is just wrong page numbering.

15 MR. HERVAS: There might -- there might be two
16 different transcripts. 09:02:

17 MS. DICKSON: I think that's the problem.
18 We're using transcripts from two different reporters,
19 so I'm not able to track any of what you're asking.

20 MR. ELLENBECKER: Well, there shouldn't be a
21 difference. I think we could all agree with that. 09:02:

22 MS. DICKSON: Well, there's a difference in
23 page number cites.

24 MR. HERVAS: Okay.

1 MS. DICKSON: If it's two different reporters.

2 MR. HERVAS: Just so the audience understands,
3 it's the right of the attorneys to understand
4 precisely what the transcript says that is being
5 offered to the witness so that the witness is asked 09:02:
6 the question about it. So we have to make sure that
7 we're both working off the same transcript.

8 MS. DICKSON: Oh, hold on.

9 MR. ELLENBECKER: So the passage, just for the
10 record, so the record's clear for the court reporters 09:03:
11 and you can take it down, what's on page 15 of the
12 version I'm reading that was done by Legrand
13 Reporting & Video Services is page 13 on -- who wrote
14 yours? Who recorded yours?

15 MS. DICKSON: Grove & Associates. 09:03:

16 MR. ELLENBECKER: On the transcript reported
17 by Grove & Associates, while mine says "we are not
18 state licensed," their version says "we are not only
19 state licensed." So I'm not sure which one's
20 accurate, to be honest with you but I'll move on. 09:04:

21 MR. HERVAS: The only way you can do that is
22 to test the witness's recollection.

23 MR. ELLENBECKER: I think he's already
24 answered it but let me just revisit it.

1 So, Dr. Lustig, there appears to be
2 a conflict in the transcripts. Are you state
3 licensed?

4 DR. LUSTIG: Yes, we are.

5 MR. ELLENBECKER: And who are you licensed
6 through?

7 DR. LUSTIG: Through the Division of Substance
8 Abuse Prevention and Recovery as well as licensed
9 through the Department of Mental Health.

10 MR. ELLENBECKER: Fair enough. And you're
11 also, I believe, CARF accredited?

12 DR. LUSTIG: That's correct.

13 MR. ELLENBECKER: Okay. Is the CARF
14 accreditation something on top of your licensing or
15 is it essential? Do you need to be CARF accredited?

16 DR. LUSTIG: We don't need to be CARF
17 accredited but we chose, as an organization, to be
18 guided by additional standards.

19 MR. ELLENBECKER: Okay. Do you recall on
20 October 28th -- and, hopefully, I don't get another
21 transcript surprise on this one -- that patients
22 would receive care for a very low length of stay at
23 your facility?

24 DR. LUSTIG: I don't understand the question.

1 MR. ELLENBECKER: One of the issues with
2 regard to your application is -- is the issue of
3 residential; correct?

4 DR. LUSTIG: Correct.

5 MR. ELLENBECKER: Whether your facility would
6 be residential? 09:05:

7 DR. LUSTIG: The issue, primarily, was focused
8 on the terminology of what was considered residential
9 in the zoning laws and what was considered
10 residential in the state licensing body. 09:05:

11 MR. ELLENBECKER: Right. And do you recall
12 testifying that residential in the treatment context
13 means patients are provided healthcare treatment on
14 site in a clinical or hospital-like environment for a
15 very low length of stay? 09:05:

16 MS. DICKSON: Can you give a page cite?

17 MR. ELLENBECKER: Page 20, but might be 18 if
18 there's any --

19 MS. DICKSON: It's a variable length of stay.

20 DR. LUSTIG: That's correct. 09:06:

21 MR. ELLENBECKER: Again, a discrepancy.

22 Moving past what the transcript
23 says, you would agree that your treatment model in
24 Itasca, as you discussed with the school district's

1 lawyer, will have people staying up to 365 days,
2 maybe longer; correct?

3 DR. LUSTIG: Not longer, no.

4 MR. ELLENBECKER: But at least 365 days?

5 DR. LUSTIG: That is very rare of individuals
6 staying in the recovery homes, if they are needed.

7 MR. ELLENBECKER: Right. And, if needed,
8 patients can stay up to 365 days; correct?

9 DR. LUSTIG: Individuals in our recovery
10 homes --

11 MR. ELLENBECKER: Right.

12 DR. LUSTIG: -- can stay up to 365 --

13 MR. ELLENBECKER: Right.

14 DR. LUSTIG: -- if needed, yes.

15 MR. ELLENBECKER: Individuals in their
16 recovery home can take up residence in your facility
17 for up to 365 days, if needed?

18 DR. LUSTIG: Correct.

19 MR. ELLENBECKER: Okay. In terms of the
20 number of medical detox beds in Chicago, my
21 understanding, based on Haymarket website postings,
22 is that you have 16 for men, 16 for women; is that
23 right?

24 DR. LUSTIG: That's correct.

09:06:

09:06:

09:06:

09:07:

1 MR. ELLENBECKER: And your testimony on
2 October 28th with regard to detox beds, you had
3 social detox and medical detox beds; correct?

4 DR. LUSTIG: Correct.

5 MR. ELLENBECKER: And do both of those types
6 of beds, medical and social, require 24-hour care?

7 DR. LUSTIG: Yes.

8 MR. ELLENBECKER: Okay. So with regard to
9 medical and social detox beds requiring 24-hour care,
10 Holiday Inn Itasca will also have 32, correct,
11 combined?

12 DR. LUSTIG: Combined, yes.

13 MR. ELLENBECKER: Were you instrumental in
14 Haymarket's effort to obtain a special-use permit
15 related to an in and outpatient facility in Wheaton
16 in approximately 2017 or 2018?

17 MS. DICKSON: Objection to the relevance of
18 the question.

19 MR. HERVAS: Well, go ahead and make your
20 argument.

21 MR. ELLENBECKER: Yeah. I think the relevance
22 is there are parallels between representations made
23 there and representations made here and the
24 juxtaposition of the size and the unequal burden that

1 would have been imposed there as opposed to here. So
2 it's for comparison purposes.

3 MR. HERVAS: The -- there would be limited
4 relevancy to comparing that, and I'm going to let you
5 proceed for now until I understand what the point is. 09:08:
6 But this is preliminary so let's find out where it
7 goes. So you may ask the question.

8 MR. ELLENBECKER: Thank you. The facility in
9 Wheaton is going to be 16 beds alone; correct?

10 DR. LUSTIG: Along with outpatient, yes. 09:09:

11 MR. ELLENBECKER: Right. There weren't going
12 to be 224 additional beds?

13 DR. LUSTIG: Correct.

14 MR. ELLENBECKER: And the numbers I saw that
15 were going to be treated through the Wheaton facility 09:09:
16 were 700, correct, split between in and outpatient?

17 DR. LUSTIG: I can't recall those numbers.

18 MR. ELLENBECKER: Okay. Would it surprise you
19 if Haymarket represented that it was going to be able
20 to treat 500 patients out of that facility on an 09:09:
21 outpatient basis?

22 DR. LUSTIG: Would it surprise me? No.

23 MR. ELLENBECKER: All right. And at some
24 point -- well, with regard to the outpatient aspect

1 of that venture, you didn't need a special-use permit
2 for the outpatient aspect; correct?

3 DR. LUSTIG: No, not for the outpatient.

4 MR. ELLENBECKER: Right. And if the 376
5 DuPage patients that you service through West Loop
6 needed outpatient service, you would have had an
7 opportunity at this Wheaton facility to serve all
8 376, if they needed outpatient services; correct?

9 DR. LUSTIG: Correct.

10 MR. ELLENBECKER: And Haymarket walked away
11 from that opportunity; correct?

12 DR. LUSTIG: Correct.

13 MS. DICKSON: Well, to actually --

14 MR. ELLENBECKER: He's answered. She's not
15 testifying.

16 MS. DICKSON: Well, that's -- actually, that's
17 not true. The zoning was denied in Wheaton. So I
18 appreciate the fact that he wants to paint a
19 particular picture, but Haymarket was denied the
20 zoning opportunity. It didn't walk away.

21 MR. HERVAS: Okay. If this was a court
22 proceeding, then you wouldn't be allowed to comment
23 necessarily like that, but this is not. This is a
24 Plan Commission proceeding, and so it's allowable for

1 the attorney to make that representation for the
2 purpose of the Plan Commission understanding that.

3 So your comment is noted for the
4 record, and the Plan Commission understands that
5 the -- in Wheaton it was turned down. So proceed,
6 please.

09:10:

7 MR. ELLENBECKER: And, for the record, his
8 answer stands; correct?

9 MR. HERVAS: Yes.

10 MR. ELLENBECKER: Okay. Without getting into
11 the data, because you've already told me Mr. Baldwin
12 is the person Haymarket put up to discuss the data
13 and the impact on emergency responders; correct?

09:11:

14 DR. LUSTIG: Correct.

15 MR. ELLENBECKER: You are Mr. Baldwin's boss;
16 correct?

09:11:

17 DR. LUSTIG: Correct.

18 MR. ELLENBECKER: Do you know how much of
19 Mr. Baldwin's daily job is spent analyzing FOIA
20 responses and EMS data?

09:11:

21 DR. LUSTIG: Currently, for his job. This
22 is --

23 MR. ELLENBECKER: Before this application
24 process.

1 DR. LUSTIG: Before the application process,
2 none.

3 MR. ELLENBECKER: None. We mentioned briefly
4 just a bit -- you mentioned Teska a bit ago, and I'm
5 not going to delve into the report. I'm just -- do 09:12:
6 you know who -- and I'll ask Mike Hoffman those
7 questions at a later date. But do you know who made
8 the decision to hire Teska?

9 MS. DICKSON: Objection, relevance.

10 MR. ELLENBECKER: May I respond? 09:12:

11 MR. HERVAS: Go ahead, please.

12 MR. ELLENBECKER: The relevance, the reason
13 I'm asking the question, is because I want to know
14 if, if it's Haymarket, whether any restrictions were
15 put on Teska with regard to the scope and the level 09:12:
16 of investigation that they were allowed to do.

17 MR. HERVAS: That question would be relevant.
18 The question -- the prior question was not. So I'll
19 let you get directly to the question you want to ask.

20 MR. ELLENBECKER: Dr. Lustig, do you know, 09:12:
21 whether it be you or anyone else, if limitations or
22 restrictions were put on Teska & Associates with
23 regard to the investigation? Whether it be the
24 breadth, the scope, or the amount of money they could

1 spend?

2 DR. LUSTIG: I do not know that.

3 MR. ELLENBECKER: You testified on
4 October 28th that a market analysis had been prepared
5 for Haymarket as it pertains to Itasca. Do you 09:13:
6 recall that?

7 DR. LUSTIG: Yes.

8 MR. ELLENBECKER: Okay. When you referred to
9 a market analysis that had been prepared, were you
10 referring to a residential market analysis? 09:13:

11 DR. LUSTIG: I can't comment to that.

12 MR. ELLENBECKER: Have you seen a market
13 analysis done for Itasca?

14 DR. LUSTIG: We have seen a financial impact.

15 MR. ELLENBECKER: Right. 09:13:

16 DR. LUSTIG: But I don't know if you
17 categorized it as a market analysis.

18 MR. ELLENBECKER: Well, what were you -- when
19 you said that a market analysis had been done with
20 regard to a residential aspect, what were you 09:13:
21 referring to on October 28th?

22 DR. LUSTIG: The financial impact report.

23 MR. ELLENBECKER: Okay. The one done by Teska
24 & Associates?

1 DR. LUSTIG: Correct.

2 MR. ELLENBECKER: And in reading the Teska &
3 Associates -- have you read the Teska & Associates
4 economic impact study?

5 DR. LUSTIG: I did long time ago. 09:13:

6 MR. ELLENBECKER: I won't quiz you word by
7 word, then. Do you recall if Teska & Associates
8 made -- or reported the data from any market analysis
9 as it related to residential impact?

10 DR. LUSTIG: Again, I think it's better to ask 09:13:
11 Teska that question.

12 MR. ELLENBECKER: We've talked a fair amount
13 about -- obviously we're talking about Itasca and the
14 location. And have you, going out of Holiday Inn
15 Itasca, have you by foot walked out of the Holiday 09:14:
16 Inn Itasca and walked to the west and walked to the
17 east and walked to the north?

18 DR. LUSTIG: Have I walked it?

19 MR. ELLENBECKER: Yes.

20 DR. LUSTIG: No. 09:14:

21 MR. ELLENBECKER: Have you seen where the
22 sidewalks lead from Holiday Inn Itasca down to the
23 train that we discussed earlier?

24 DR. LUSTIG: Through a car, not through

1 walking.

2 MR. ELLENBECKER: Okay. In taking that right
3 turn out of Holiday Inn Itasca and going down east
4 down Irving Park Road, do you have a recollection of
5 what types of businesses, activities, or venues,
6 public or private, that one would pass in walking on
7 that sidewalk?

09:14:

8 DR. LUSTIG: No, I do not.

9 MR. ELLENBECKER: In driving, have you ever
10 driven west on Irving Park Road to see what type of
11 businesses are both east and west of Rohlwing Road?

09:15:

12 DR. LUSTIG: I've seen the business in the
13 business park. I've seen the businesses in the
14 downtown area but --

15 MR. ELLENBECKER: Okay, I'm sorry. Have you
16 seen that at least three strip malls on the
17 corners -- and I think it's the southwest, the
18 northwest, and the northeast corner of Rohlwing and
19 Irving Park Road -- have video gaming establishments?

09:15:

20 DR. LUSTIG: I have not seen that, no.

09:15:

21 MR. ELLENBECKER: Okay. And you would
22 acknowledge, though, that -- I mean, you know what
23 SAMHSA, or S-A-M-H-S-A, is; correct?

24 DR. LUSTIG: Yes.

1 MR. ELLENBECKER: And I think you're actually
2 very active in it, aren't you?

3 DR. LUSTIG: Yes.

4 MR. ELLENBECKER: For everybody here, the
5 commission, what is SAMHSA? 09:15:

6 DR. LUSTIG: The Substance Abuse and Mental
7 Health Service Administration.

8 MR. ELLENBECKER: And SAMHSA is very active
9 both in substance use disorder treatment as well as
10 gambling and alcohol; correct? 09:16:

11 DR. LUSTIG: Correct.

12 MR. ELLENBECKER: And you're aware that
13 SAMHSA's gambling document states that gambling
14 frequently occurs with substance use disorders;
15 correct? 09:16:

16 DR. LUSTIG: Correct.

17 MR. ELLENBECKER: In fact, in reports that
18 Haymarket makes to the state -- I don't know if they
19 are voluntary or required -- you actually report that
20 there are patients of yours with co-addictions being
21 gambling; correct? 09:16:

22 DR. LUSTIG: Correct.

23 MR. ELLENBECKER: And you're aware that even
24 with rehab going successfully, exposure to a

1 substance, gambling, or drinking can trigger relapse
2 in those other areas; correct?

3 DR. LUSTIG: Yes.

4 MR. ELLENBECKER: And access to gambling or
5 alcohol can diminish success in drug rehabilitation;
6 correct?

09:16:

09:16:

09:17:

09:17:

7 DR. LUSTIG: Prior or past treatment? Because
8 the goal of treatment, obviously, is to build a skill
9 set needed to -- because most of the patients have to
10 return back to the same environment that they used
11 in.

12 MR. ELLENBECKER: Let's say during treatment.

13 DR. LUSTIG: So can it be a trigger? Yes.
14 But a lot of -- but most patients are still in an
15 environment that they get triggered early on in
16 treatment, and so part of treatment is to address
17 that. Does relapse occur? Yes. But, again, we
18 learn, and the patient learns, from every relapse.

19 MR. ELLENBECKER: But you would agree that a
20 good or an ideal location would be one in which the
21 fewest amount of relapse triggers exist; correct?

22 DR. LUSTIG: I necessarily would not say that,
23 because many patients are faced with multiple
24 triggers in multiple different venues, depending on

1 where the patient's at.

2 MR. ELLENBECKER: If you could identify the
3 perfect rehabilitation and recovery area, would it be
4 next to a drinking and gambling facility or far away
5 from a drinking and gambling establishment? 09:17:

6 DR. LUSTIG: Obviously the answer would be far
7 away but it's not necessarily a requirement.

8 MR. ELLENBECKER: Almost done, Doctor. You
9 indicate in -- I think you mentioned it in the public
10 hearing process as well as in papers submitted, that 09:18:
11 patients will be submitted to background checks;
12 correct?

13 DR. LUSTIG: Correct.

14 MR. ELLENBECKER: I think your PowerPoint
15 slide indicated that they will be submitted to metal 09:18:
16 detector checks; correct?

17 DR. LUSTIG: Correct.

18 MR. ELLENBECKER: I think I even saw mentioned
19 that there will be canine searches; is that right?

20 DR. LUSTIG: Traditionally that is randomly 09:18:
21 done.

22 MR. ELLENBECKER: Okay.

23 DR. LUSTIG: But it's not consistently done,
24 no.

1 MR. ELLENBECKER: With regard to the
2 background checks, though, you are doing background
3 checks to make sure, for one reason, that you don't
4 have people with violent or sexually violent
5 histories; correct?

09:18:

6 DR. LUSTIG: That's correct.

7 MR. ELLENBECKER: And if somebody walks into
8 Itasca or Haymarket Itasca and a background check is
9 done and they have a violent history, they will be
10 turned away; correct?

09:18:

11 DR. LUSTIG: We will actually transport them
12 to a facility that will take the patient.

13 MR. ELLENBECKER: Right. But they will be
14 turned away from treatment because they pose a safety
15 risk in that facility; correct?

09:19:

16 DR. LUSTIG: Correct.

17 MR. ELLENBECKER: And while turned away from
18 that treatment facility because of the safety risk
19 they pose inside the facility, you're then turning
20 them into the community, whether by van or by foot,
21 where they pose a safety hazard outside; correct?

09:19:

22 DR. LUSTIG: No, that is not correct.

23 MR. ELLENBECKER: So somebody who -- I just
24 want to be clear for the record. A person with a

1 violent history who poses a safety risk inside, it's
2 your testimony that that same person does not pose a
3 safety risk outside?

4 DR. LUSTIG: They would be transported out of
5 the facility. 09:19:

6 MR. ELLENBECKER: Right. And wherever they're
7 transported to, they would pose that same safety
8 risk; correct?

9 DR. LUSTIG: I don't think we can -- you can
10 draw that conclusion necessarily. 09:19:

11 MR. ELLENBECKER: All right.

12 MR. SWETS: Can I ask a quick question? If
13 somebody walks in and is refused treatment -- if
14 somebody walks in and refuses treatment and you want
15 to transport them away and they refuse your 09:20:
16 transportation, what happens at that point? They
17 walk in the building and you refuse treatment, and
18 are they going to be held against their will or how
19 does that work?

20 DR. LUSTIG: You know, I think what's 09:20:
21 important -- I'm sorry, continue.

22 MR. SWETS: No, no, I'm just trying to
23 understand. That was a question I had last time
24 on -- if somebody refuses transportation -- if I

1 walked in and you said I can't treat you and I want
2 to walk out, what happens?

3 DR. LUSTIG: I think it's important to note
4 that most individuals that come to treatment do it
5 voluntarily. So that's the first piece. But to 09:20:
6 address specifically the violence piece, we would --
7 we have a team of case managers and recovery coaches
8 that would work to place this patient into an
9 appropriate facility and work with that patient to
10 transport them out. 09:20:

11 MR. SWETS: And if they refuse?

12 DR. LUSTIG: If they refuse transportation?

13 MR. SWETS: Yes.

14 DR. LUSTIG: Then we would try to give them
15 some type of other transportation. We would call 09:20:
16 family members that might assist with this.

17 MR. SWETS: But there's a possibility they
18 could walk out by themselves without you stopping it?
19 I would assume you call the police at this point
20 but -- 09:21:

21 DR. LUSTIG: The answer is is there a chance?
22 Yes. Why we would call the police when they haven't
23 done anything --

24 MR. SWETS: I mean, if they are aggravated

1 or -- I mean, if they're causing a situation, you
2 would call -- if they were being disorderly, I would
3 assume.

4 DR. LUSTIG: Our team, both clinically as well
5 as security, is trained to deescalate patients, not 09:21:
6 increase the frustration of a patient. So I think
7 that's an important piece of that or an element to
8 that. But I can't recall that, when a patient's been
9 turned away that we would call the police on that
10 patient because they have acted out that 09:21:
11 dramatically.

12 MR. ELLENBECKER: Finally, Doctor, just to
13 recap on October 28th and following up on Mr. Swets'
14 question, aside from the background search aspect of
15 it, I believe you testified -- unless you're going to 09:21:
16 tell me otherwise -- that if a patient is in
17 Haymarket Itasca or even West Loop and in the middle
18 of treatment they voluntarily leave that treatment,
19 they're not discharged for an event or contraband,
20 they can leave; correct? 09:22:

21 DR. LUSTIG: We do not have any locked
22 programs, yes.

23 MR. ELLENBECKER: Okay, thank you. That's all
24 I have.

1 CHAIRMAN KISCHNER: Thank you.

2 MR. HERVAS: Mr. DiNolfo?

3 MR. DI NOLFO: Good evening, Doctor. My
4 name's Steve DiNolfo, and I represent the Itasca Fire
5 Protection District. I guess the good news for you 09:22:
6 is counsel covered a lot of what I was going to ask
7 you, but I do have some clarifications. Okay?

8 DR. LUSTIG: Sure.

9 MR. DI NOLFO: I think you shared with us, and
10 I think following up on what the commissioner was 09:22:
11 just asking you about, that your program is
12 completely voluntary?

13 DR. LUSTIG: Correct.

14 MR. DI NOLFO: Meaning that somebody could
15 voluntarily walk in the door; correct? 09:22:

16 DR. LUSTIG: Correct.

17 MR. DI NOLFO: Somebody can, once they're in
18 your program, can voluntarily leave?

19 DR. LUSTIG: Correct. But it's typically not
20 done without a clinical intervention being done. 09:23:

21 MR. DI NOLFO: And despite your best efforts,
22 clinical interventions or whatever services you might
23 throw at a patient to try to convince him or her to
24 stay, they can still say I'm leaving; correct?

1 DR. LUSTIG: Correct.

2 MR. DI NOLFO: And if they want to say I want
3 to walk from the Holiday Inn to the train station,
4 they absolutely have the right to do that, because
5 you can't hold them against their will; correct?

09:23:

6 DR. LUSTIG: Correct.

7 MR. DI NOLFO: I want to start back just a
8 little bit to get a little bit of clarification. You
9 shared with us, I believe last week and today, that
10 you serve about 12,000 patients annually; correct?

09:23:

11 DR. LUSTIG: In the West Loop facility.

12 MR. DI NOLFO: That's correct. And I think
13 you shared with us that there's a total of 400 beds
14 available; correct?

15 DR. LUSTIG: Approximately.

09:23:

16 MR. DI NOLFO: And in order to get to those
17 400 beds, it's not just the West Washington address
18 we have to factor in. We have to factor in the
19 Sangamon addresses as well; correct?

20 DR. LUSTIG: That's correct.

09:24:

21 MR. DI NOLFO: Okay. And you understand that
22 there's different types of patients situated at each
23 address?

24 DR. LUSTIG: Correct.

1 MR. DI NOLFO: Requiring different services?

2 DR. LUSTIG: Correct.

3 MR. DI NOLFO: Experiencing different types of
4 medical situations, potentially?

5 DR. LUSTIG: Correct. 09:24:

6 MR. DI NOLFO: All right. And I think you
7 shared and counsel made it clear that between 2017
8 and '18, there was only 376 individuals from DuPage
9 County that came to you for service?

10 DR. LUSTIG: Yes. 09:24:

11 MR. DI NOLFO: So 376 out of 24,000 -- and I'm
12 not a good math -- but that's about one percent, is
13 it not?

14 DR. LUSTIG: Out of 24,000?

15 MR. DI NOLFO: Yes. If you take my word for 09:24:
16 it, it's about one percent?

17 DR. LUSTIG: Okay.

18 MR. DI NOLFO: All right. So the other 99
19 percent that you treat, at least in the Loop
20 facility, come from somewhere other than DuPage 09:24:
21 County?

22 DR. LUSTIG: And the collar counties, yes.

23 MR. DI NOLFO: And despite the fact that you
24 serve 99 percent of individuals from somewhere other

1 than DuPage, you're still only operating at about
2 80-percent capacity?

3 DR. LUSTIG: Yes. But the capacity does
4 change, but if you want an average, it is 80 percent.

5 MR. DI NOLFO: Sure. It could be higher and
6 it could be lower than 80 percent.

7 DR. LUSTIG: Right.

8 MR. DI NOLFO: Now, last week you were -- I
9 think in your presentation and in the slides, you
10 made some conversation and some statements about the
11 medical professionals that were going to be
12 potentially staffed at the facility, if it's
13 approved?

14 DR. LUSTIG: Correct.

15 MR. DI NOLFO: And I think you said -- and
16 correct me if I'm wrong -- that you were going to
17 hire a new medical director for the facility if it's
18 approved here in Itasca?

19 DR. LUSTIG: Correct.

20 MR. DI NOLFO: And that doctor would not be
21 somebody stationed there, obviously, 24 hours a day,
22 seven days a week? They would be responsible overall
23 for the facility?

24 DR. LUSTIG: Correct.

1 MR. DI NOLFO: And they wouldn't necessarily
2 be there even every day, the medical director; fair?

3 DR. LUSTIG: That is not fair. It would
4 depend, obviously, on their schedule but they would
5 be there full time.

6 MR. DI NOLFO: And the medical director has
7 the right to continue in their private practice as
8 well, not just solely work for Haymarket?

9 DR. LUSTIG: Correct.

10 MR. DI NOLFO: So as their schedule permits,
11 they would be there, and on days they have other
12 obligations, they will not be there?

13 DR. LUSTIG: Correct.

14 MR. DI NOLFO: And I think you shared with us
15 that -- let me ask a better question and back up a
16 minute. Is there a possibility on any given day
17 where there's no medical professional in one of your
18 facilities?

19 DR. LUSTIG: No.

20 MR. DI NOLFO: Is it possible in any given day
21 where the highest level of medical professional there
22 is an LPN?

23 DR. LUSTIG: No, an RN or a physician
24 assistant.

1 MR. DI NOLFO: Okay. And in those times where
2 there's an emergency -- and I think you shared with
3 us that you had entered into a contract with Elite
4 Ambulance; is that correct?

5 DR. LUSTIG: That is correct. 09:26:

6 MR. DI NOLFO: All right. In times where
7 there's an emergency, who makes the decision whether
8 we're going to call Elite Ambulance or 911?

9 DR. LUSTIG: The RN.

10 MR. DI NOLFO: Okay. And is there some type 09:26:
11 of written criteria that are used to follow in order
12 to make that decision?

13 DR. LUSTIG: No, it's based on their clinical
14 experience.

15 MR. DI NOLFO: So they have to make a -- they 09:26:
16 have to make judgment call at the time?

17 DR. LUSTIG: Correct.

18 MR. DI NOLFO: And is there a review if they
19 decide to call 911 instead of Elite to see why they
20 chose 911 over Elite? 09:26:

21 DR. LUSTIG: Yes.

22 MR. DI NOLFO: And who reviews that?

23 DR. LUSTIG: The medical team would, including
24 the medical director.

1 MR. DI NOLFO: And if the medical team or the
2 medical director decides, oh, you should have called
3 Elite on that one, is there any type of discipline or
4 penalty against that employee for calling 911 versus
5 Elite?

09:27:

6 DR. LUSTIG: There would be supervision. I
7 wouldn't say that there's disciplinary but there's --

8 MR. DI NOLFO: Would they be written up or
9 would they --

10 DR. LUSTIG: It would be a written supervision
11 form.

09:27:

12 MR. DI NOLFO: Days off if they do it again?

13 DR. LUSTIG: There's progressive discipline.

14 MR. DI NOLFO: In -- I just want to make sure,
15 one other clarification. In the Itasca proposed
16 facility, you have 32 beds for detox; is that
17 correct?

09:27:

18 DR. LUSTIG: Correct.

19 MR. DI NOLFO: Now, when you decided about the
20 location here in Itasca, did you consider the number
21 of ambulances that Itasca Fire Protection District
22 had in service?

09:27:

23 DR. LUSTIG: Yes, we did. But, actually, that
24 number that was said to us isn't really an accurate

1 picture.

2 MR. DI NOLFO: So you would agree with me that
3 the Itasca Fire Protection District has, in service,
4 one ambulance?

5 DR. LUSTIG: Correct. 09:27:

6 MR. DI NOLFO: All right. And do you know
7 how -- the number of people they serve?

8 DR. LUSTIG: No, I do not.

9 MR. DI NOLFO: Okay.

10 DR. LUSTIG: But I also know that they're part 09:27:
11 of a larger group of a consortium of other villages
12 that use their ambulances.

13 MR. DI NOLFO: All right. Let's talk about
14 the consortium. What's your understanding of -- the
15 consortium is, what, the MABAS agreement you FOIAed? 09:28:

16 DR. LUSTIG: Correct.

17 MR. DI NOLFO: And you understand --

18 DR. LUSTIG: And/or the -- yes, I'm sorry.

19 MR. DI NOLFO: And you understand that the
20 MABAS agreement requires -- it's equal; right? I'll 09:28:
21 help you, you help me?

22 DR. LUSTIG: Correct.

23 MR. DI NOLFO: It's not that they can
24 unlimitedly call any neighbor they want to service

1 them when they're tied up handling, let's say,
2 hypothetically, a call at Haymarket?

3 DR. LUSTIG: Correct.

4 MR. DI NOLFO: All right. And you understand
5 the MABAS agreement has certain restrictions and
6 controls on it?

7 DR. LUSTIG: I do not know those details.

8 MR. DI NOLFO: Okay. So have you read it?

9 DR. LUSTIG: Yes.

10 MR. DI NOLFO: Okay. But you don't remember
11 what the requirements are and how often you can use
12 it?

13 DR. LUSTIG: No.

14 MR. DI NOLFO: Okay. Did you look at the time
15 frame that an ambulance is out of service when it
16 gets a call and has to transport a patient?

17 DR. LUSTIG: No.

18 MR. DI NOLFO: Now, are you aware that the
19 citizens here in Itasca just passed a referendum to
20 help the Fire Protection District balance its budget
21 so it didn't have to drop its level of service?

22 DR. LUSTIG: Yes.

23 MR. DI NOLFO: All right. And Haymarket --
24 just so we are clear, I think you shared with us that

1 you thought the Holiday Inn was the best fit because
2 it already had set rooms and things of that nature;
3 is that correct?

4 DR. LUSTIG: Correct.

5 MR. DI NOLFO: Isn't it true that Haymarket
6 was offered a 250-bed wing at the DuPage care center
7 known as convalescent center that had 250 beds
8 available back in July of 2018?

09:29:

9 DR. LUSTIG: We weren't offered it. They
10 asked -- DuPage asked us to take a look at it.

09:29:

11 MR. DI NOLFO: And they told you it was
12 available if you wanted it?

13 DR. LUSTIG: Correct.

14 MR. DI NOLFO: And you turned that down?

15 DR. LUSTIG: It was cost prohibitive for us to
16 take on that project.

09:29:

17 MR. DI NOLFO: And it's a hospital? It's a
18 functional hospital, part of it? There's parts of it
19 that are still functioning?

20 DR. LUSTIG: Part of it, yes.

09:29:

21 MR. DI NOLFO: Has a kitchen?

22 DR. LUSTIG: Yes.

23 MR. DI NOLFO: Feeds the patients that are
24 there; correct?

1 DR. LUSTIG: I can't speak to what they do.

2 MR. DI NOLFO: Secured facility? When you
3 visited it, was it secure?

4 DR. LUSTIG: Yes.

5 MR. DI NOLFO: Okay. And there was 10 more
6 beds there than you have available to you here in
7 Itasca; is that correct?

09:29:

8 DR. LUSTIG: There was not a layout there.
9 The actual portion of the facility that was shown to
10 us actually didn't have necessarily rooms broken out.
11 It was in an actual state of disrepair.

09:30:

12 MR. DI NOLFO: Okay. So you were here last
13 week when Mr. Baldwin testified that Haymarket
14 offered to buy the Itasca Fire Protection District an
15 ambulance? You heard that testimony?

09:30:

16 DR. LUSTIG: Yes.

17 MR. DI NOLFO: And am I correct that the only
18 time that Haymarket met with Chief Burke and a
19 representative from the fire district was May 28,
20 2019?

09:30:

21 DR. LUSTIG: I can't recall the date.

22 MR. DI NOLFO: But you would agree with me in
23 that meeting, you and your team -- which didn't
24 include Mr. Baldwin, right, he wasn't there?

1 DR. LUSTIG: Correct.

2 MR. DI NOLFO: True? Okay. You and your team
3 talked about what the project was. At no time in
4 that meeting did you or anybody from Haymarket offer
5 Chief Burke or any representative from the fire
6 district to buy an ambulance at that meeting?

09:30:

7 DR. LUSTIG: No. The goal was to try to hear
8 the barriers and the strengths and weaknesses that
9 they were experiencing.

10 MR. DI NOLFO: Okay. And as we sit here
11 today, you have never made an offer to Itasca to buy
12 an ambulance -- the Itasca Fire Protection District,
13 to buy an ambulance?

09:30:

14 DR. LUSTIG: No, we met with the mayor.

15 MR. DI NOLFO: Well, you understand the
16 mayor's different from the Fire Protection District?

09:31:

17 DR. LUSTIG: I do.

18 MR. DI NOLFO: All right. So offering the
19 mayor an ambulance would be like offering the Fire
20 Protection District a police car, right? Doesn't
21 make a lot of sense.

09:31:

22 DR. LUSTIG: Correct.

23 MR. DI NOLFO: And I guess my next question
24 would be, if your true calculations are that there's

1 only going to be 13 calls per year that your proposed
2 project is going to have on EMS, why would you offer
3 to buy an ambulance?

4 DR. LUSTIG: I think the question on the
5 numbers of that ambulance is best answered by 09:31:
6 Mr. Baldwin, but the goal here was -- and let me be
7 clear on this, is we are trying very hard to address
8 the barriers that were being presented. I mean,
9 there's a variety of things that were being presented
10 as barriers or burdens to the Village, to the Fire 09:31:
11 Protection District. We were trying to work in good
12 faith to try to address those issues.

13 MR. DI NOLFO: You're saying you're trying to
14 address barriers with the Fire Protection District,
15 but you never offered anything to the Fire Protection 09:32:
16 District; right?

17 DR. LUSTIG: Correct.

18 MR. DI NOLFO: Okay. So when Mr. Baldwin got
19 up here under oath and testified that the Itasca Fire
20 Protection District was offered an ambulance, that 09:32:
21 was wrong?

22 DR. LUSTIG: No, we worked with the mayor.

23 MR. DI NOLFO: Counsel previously touched on
24 your statement about not being good business to

1 transport somebody 32 miles. I appreciated your
2 answer. You said it wasn't good business, but it
3 doesn't really address the question.

4 Is it possible that a person from
5 the Loop facility could be transported out to the
6 Itasca facility if it is approved and open?

7 DR. LUSTIG: Never.

8 MR. DI NOLFO: Never going to happen?

9 DR. LUSTIG: Never going to happen.

10 MR. DI NOLFO: Okay. You would agree that --
11 and having been through this process, I guess, in
12 Wheaton, as we heard from counsel asking you
13 questions, that the Fire Protection District and the
14 Village needs to make sure that the current EMS
15 services are maintained and not impacted negatively
16 by the proposed Haymarket project; that's fair?

17 DR. LUSTIG: That's fair.

18 MR. DI NOLFO: Okay. And if the evidence
19 showed that the proposed use would lessen the current
20 level of service, that would call into question the
21 appropriateness of the project; fair?

22 DR. LUSTIG: No, I don't think that's fair. I
23 think our goal here is obviously trying to work with
24 system partners to address those barriers. That's

1 why the whole concept of working with Elite Ambulance
2 services came up. When you compare and contrast this
3 to Wheaton, we didn't have that need in Wheaton.

4 So it came through meeting with
5 individuals that a private ambulance service would
6 address some of that burden. 09:33:

7 MR. DI NOLFO: So I guess what I would glean
8 from your statement, then, if you didn't have a
9 private ambulance contract, you believe that the
10 proposed facility would have a undue burden on the
11 EMS system? 09:34:

12 DR. LUSTIG: I do not think that.

13 MR. DI NOLFO: Okay. So I also heard some
14 testimony I think from you last week that there's
15 some type of contract you believe exists with
16 Superior Ambulance. Do you remember saying that? 09:34:

17 DR. LUSTIG: Yes, I do.

18 MR. DI NOLFO: What contract are you referring
19 to?

20 DR. LUSTIG: There was a contract -- they list
21 out the villages that Superior has contracts with,
22 and Itasca was one of them. 09:34:

23 MR. DI NOLFO: Not the Itasca Fire Protection
24 District, though; correct?

1 DR. LUSTIG: It didn't get that granular, no.

2 MR. DI NOLFO: I mean, when you met with Chief
3 Burke, did you ask him if he had a contract with
4 Superior?

5 DR. LUSTIG: No. 09:34:

6 MR. DI NOLFO: All right. Couple others
7 things. You mentioned in your testimony or in your
8 PowerPoint that you had up there about emergency call
9 buttons. Where are these located and who do they
10 call? 09:34:

11 DR. LUSTIG: They would be held at the
12 security desk and on some of our programs.

13 MR. DI NOLFO: Are there any outside the
14 building?

15 DR. LUSTIG: Again, that has not been designed
16 yet. 09:35:

17 MR. DI NOLFO: In your Loop facility, are
18 there any emergency call buttons outside.

19 DR. LUSTIG: No.

20 MR. DI NOLFO: Is it possible that there will
21 be emergency call buttons outside your facility in
22 Itasca? 09:35:

23 DR. LUSTIG: There may be. We have not looked
24 at that as an issue at this point. There will be --

1 as we mentioned in the PowerPoint slide, there will
2 be cameras and there will be videotaping of that
3 area.

4 MR. DI NOLFO: Will your personnel, your
5 security, your nurses, your doctors, be permitted to
6 exit out the side of the building to treat or address
7 problems out in the parking lot? Or will you call
8 911 for that?

09:35:

09:35:

09:35:

09:36:

9 DR. LUSTIG: No, they wouldn't go out to the
10 parking lot to address that.

11 MR. DI NOLFO: Lastly, there's -- you
12 mentioned grants a number of times, grants.
13 Obviously you acknowledge that grants are
14 speculative? There's no guarantee you're going to
15 get them?

16 DR. LUSTIG: Correct.

17 MR. DI NOLFO: And I think you shared with us
18 that you have helped villages in the past get grants?

19 DR. LUSTIG: Correct.

20 MR. DI NOLFO: You would agree with me that
21 Haymarket has not assisted any Fire Protection
22 District in the state to obtain a grant?

23 DR. LUSTIG: Correct.

24 MR. DI NOLFO: And you would agree that grants

1 that apply to villages differ greatly from those
2 available to fire districts, if you know?

3 DR. LUSTIG: I do not know.

4 MR. DI NOLFO: Okay. Last thing I wanted to
5 talk about, I think you and Mr. Baldwin both
6 testified about this Elite Ambulance contract.

09:36:

7 Now, you would agree with me that
8 the contract has the ability within it to be canceled
9 by either party following the set-forth process;
10 correct?

09:36:

11 DR. LUSTIG: Correct.

12 MR. DI NOLFO: All right. And you understand
13 that there's no obligation by you to renew that
14 contract once it expires?

15 DR. LUSTIG: Correct.

09:36:

16 MR. DI NOLFO: And you understand that the
17 Itasca fire district and the Village of Itasca have
18 no authority to make you enter into a contract with a
19 private ambulance company?

20 DR. LUSTIG: Correct.

09:36:

21 MR. DI NOLFO: And you would agree with me,
22 then, that if private contract is canceled or not
23 renewed and you don't enter into a new one, that the
24 burden of responding to calls at the proposed

1 facility would fall upon the Itasca Fire Protection
2 District?

3 DR. LUSTIG: Again, I think that's a
4 speculative question, because that is not our
5 intention to do that. And, matter of fact, one of 09:37:
6 the things that our team is looking at is looking at
7 a backup to Elite as a secondary backup.

8 MR. DI NOLFO: So -- but I understand that as
9 you sit here today it's not your intention, but Elite
10 could sit there and say, you know what, we don't want 09:37:
11 to work with you guys anymore. In that time frame
12 where you don't have a contract to the time you get a
13 new contract, those calls would have to be dealt with
14 by the fire district?

15 DR. LUSTIG: That's why my team has now been 09:37:
16 looking at a second entity to address that very
17 issue, if that should occur.

18 MR. DI NOLFO: And you're looking at a second
19 entity because you're concerned that Elite can't
20 handle the additional load that you're going to put 09:37:
21 on them?

22 DR. LUSTIG: Absolutely not.

23 MR. DI NOLFO: Well, if you have a contract
24 with Elite and you believe they can handle whatever

1 you're going to put on them in call volume, why do
2 you need a backup?

3 DR. LUSTIG: We always like to have a Plan B.

4 MR. DI NOLFO: That's all I have.

5 DR. LUSTIG: Let me just finish that point. 09:38:

6 The issue here is what you're -- you're not dealing
7 with whether a piece of a car is made
8 inappropriately. You're dealing with a human life.
9 That's why there's a Plan B. It's not like we're
10 trying to say, oh, Elite can or cannot do something. 09:38:
11 When dealing with human lives, you have zero
12 opportunities for mistakes.

13 MR. DI NOLFO: Right. And that's why it's
14 important to understand what the EMS burden's going
15 to be on the Itasca fire district, right? Because 09:38:
16 it's not just lives in Haymarket that matter. It's
17 the lives of the other citizens that matter as well.

18 DR. LUSTIG: I understand.

19 MR. DI NOLFO: And if they're tied up with you
20 having to cover calls because you don't have a 09:38:
21 contract with Elite or any other secondary ambulance,
22 they may not be able to respond to citizens -- other
23 citizens that need help.

24 MS. DICKSON: Objection to the form of the

1 question. That was more testimony than question. If
2 he wants to provide testimony relative to how well
3 Itasca services its population, that's one thing.

4 MR. HERVAS: I don't even need a response,
5 Mr. DiNolfo. That was a question, so I'm going to
6 allow it. 09:39:

7 MR. DI NOLFO: I'll bet you're going to say
8 you don't remember what I asked you; right?

9 You would agree with me that if the
10 Itasca Fire Protection District is having to deal
11 with calls at the Haymarket facility because you
12 don't have a contract with a private ambulance and
13 you don't have a Plan B, that that could put the
14 lives of the remaining citizens at risk because
15 they're tied up dealing with calls with you guys? 09:39:

16 DR. LUSTIG: I think the question is too
17 speculative for me to answer. 09:39:

18 MR. DI NOLFO: Fair enough. Thank you.

19 MR. HERVAS: Hold on. Let me consult with the
20 Chairman for a moment. 09:39:

21 (Discussion off the record.)

22 CHAIRMAN KISCHNER: Okay. So at this time,
23 we're going to take a 10-minute break.

24 (Recess taken.)

1 CHAIRMAN KISCHNER: First order of business, I
2 have a question for the petitioner's attorney. This
3 document was left here presumably by someone with
4 Haymarket. Was it something that you wanted to enter
5 into evidence? 09:55:

6 MR. ROTH: We did offer that into evidence.

7 MS. JARMUSZ: Yeah, so I didn't actually
8 clarify at that point. Those were passed out to you
9 today. They were handed over in a stack from the
10 last meeting from the attorneys, so we just 09:55:
11 distributed them so that you would have them per them
12 providing them.

13 CHAIRMAN KISCHNER: Okay. Is there a number
14 assigned to that?

15 MR. ROTH: It was No. 20. 09:55:

16 CHAIRMAN KISCHNER: 20? Thank you.

17 Okay. Before we move on to the next
18 witness, I would like to ask if there are any other
19 attorneys within 250 feet of the property? If so,
20 please come forward. Okay. Seeing none, I would 09:56:
21 like to invite Mr. -- I just forgot your name, I'm
22 sorry -- Baldwin to the stand.

23 MR. BALDWIN: You've got it.

24 CHAIRMAN KISCHNER: Thank you. You may

1 proceed.

2 MR. ROTH: Mr. Chairman, are we keeping the
3 same order of counsel?

4 MR. DI NOLFO: No, I'll be going first.

5 MR. HERVAS: You may proceed. 09:57:

6 MR. DI NOLFO: I do have one question. Who is
7 the gentleman up there with him?

8 MR. BALDWIN: Oh, I'm sorry. This is our
9 director of finance, Robert Edstrom. We prepared
10 some slides out of anticipation to some questions. 09:57:
11 He will be working the slides, if it pertains to the
12 question. We felt like it would really add if -- to
13 really clarify, because some of these are really
14 data-fueled questions, and I think it could really
15 help clarify the testimony. 09:57:

16 MR. DI NOLFO: Well, obviously, Mr. Hervas,
17 I'm going to object to any slides being used to
18 answer questions, number one. Number two is I don't
19 have a problem with him sitting there as long as he
20 doesn't offer any guidance or information to 09:57:
21 Mr. Baldwin.

22 MR. ROTH: May I understand what the nature of
23 the objection is to his using a slide, if necessary?
24 Why would you object?

1 MR. DI NOLFO: Because he needs to answer
2 questions like he did last time with the one slide up
3 there. If he needs -- you can do whatever you need
4 to do in your case.

5 MR. ROTH: Thank you. 09:57:

6 MR. DI NOLFO: If he didn't use them before,
7 then I don't see the need to use them now so --

8 MR. HERVAS: Since this is cross-examination,
9 we don't know what the question's going to be. So if
10 we're talking about a supplement to the presentation 09:58:
11 of last time, that's a different situation, and
12 that's not going to -- we're not going to use the
13 cross-examination process as an opportunity to add to
14 the initial presentation. That's not really fair to
15 the cross-examiner. 09:58:

16 So if -- the cross-examiner will
17 lead the cross-examination, and if he gets the answer
18 that he's looking for, he doesn't need a slide.
19 Okay? So I'm going to let the cross-examiner guide
20 how the cross-examination goes. If you're saying 09:58:
21 that you need to supplement something with this
22 witness's testimony, that's a different matter, and
23 then all the people who are cross-examining have a
24 right to review the documentation or at least see it

1 before the cross-examination takes place.

2 So, to clarify, if it's
3 supplemental, then that's one thing, but if they're
4 anticipating the question and the cross-examiner
5 says, fine, let me see the slide, that's up to the 09:59:
6 cross-examiner. So if we're clear here, I don't see
7 this immediate need to have a slide unless the
8 cross-examiner requests to see the information.

9 MR. ROTH: Well, there's not an immediate need
10 to see the slide. The questions will be asked, and 09:59:
11 if the witness feels that he can clarify and
12 illustrate to the commission, then he's going to ask
13 for the right to do so. And if you want to deny him
14 that opportunity, then deny him.

15 MR. HERVAS: Okay. I'm not going to go that 09:59:
16 far. What I'm going to suggest, then, is that the
17 cross-examination take place, and if you feel it's
18 appropriate that -- after the cross-examination that
19 this information is provided in some sort of a
20 response, then it can be done. But they would 10:00:
21 then -- the witness would then subject himself to
22 additional cross-examination based on that additional
23 material.

24 MR. ROTH: This isn't a court of law.

1 MR. HERVAS: I understand that, but I'm trying
2 to be -- the whole point of cross-examination is due
3 process.

4 MR. ROTH: Right.

5 MR. HERVAS: So I can't have the
6 cross-examiner guided by the predetermined answers.

7 MR. DI NOLFO: Like that slide there.

8 MR. EDSTROM: Sorry, I apologize.

9 MR. HERVAS: So let's start with the regular
10 cross-examination process, and let's see where it
11 goes. But I'm just letting you know in advance how
12 I'm viewing this idea of predetermined slides at this
13 point. Let's see what happens.

14 So, Mr. DiNolfo, you now know who
15 the gentleman is who is sitting there. Are you still
16 willing to proceed?

17 MR. DI NOLFO: As long as he's not offering
18 any testimony or guidance to Mr. Baldwin, I have no
19 problem proceeding.

20 MR. HERVAS: Okay. Let's go.

21 MR. DI NOLFO: Good evening, Mr. Baldwin. As
22 you know, my name's Steve DiNolfo. I represent the
23 Itasca Fire Protection District. It's my
24 understanding that you were produced by Haymarket as

1 a witness to present evidence of the impact, if any,
2 of the proposed facility on the Itasca Fire
3 Protection District and Itasca Police Department.

4 Did you understand that to be your charge?

5 MR. BALDWIN: Yes. 10:01:

6 MR. DI NOLFO: And just by way of background,
7 you're a CPA; correct?

8 MR. BALDWIN: Correct.

9 MR. DI NOLFO: Do you have any background as a
10 paramedic, firefighter, police officer? 10:01:

11 MR. BALDWIN: I do not.

12 MR. DI NOLFO: And your goal, obviously, when
13 you got up here to testify was to do it in a
14 transparent manner so that your data would be as
15 accurate as you could make it given the data you had 10:01:
16 available?

17 MR. BALDWIN: Correct.

18 MR. DI NOLFO: All right. And in order to be
19 accurate and transparent, you had to analyze data
20 about how Haymarket uses ambulance services and 10:01:
21 police services at its downtown facility?

22 MR. BALDWIN: Correct.

23 MR. DI NOLFO: And the data you analyzed was
24 only for 911 calls made to 932 West Washington;

1 correct?

2 MR. BALDWIN: No, it also included 120 North
3 Sangamon.

4 MR. DI NOLFO: Okay. Did you include 124
5 North Sangamon? 10:02:

6 MR. BALDWIN: We did not. That's not our
7 official business address.

8 MR. DI NOLFO: Are 911 calls made to the
9 Haymarket facility at 124, 120, and 108 North
10 Sangamon? 10:02:

11 MR. BALDWIN: I don't know that.

12 MR. DI NOLFO: Well, wouldn't you want to know
13 that in order to give us an accurate picture of the
14 amount of calls that are generated by Haymarket in
15 the city so that you can make a comparison out here 10:02:
16 in Itasca?

17 MR. BALDWIN: Sure, absolutely. We're willing
18 to work with you.

19 MR. DI NOLFO: Well, your opportunity to do
20 this was last week when you testified, wasn't it? 10:02:

21 MR. BALDWIN: Opportunity for what? To work
22 with you?

23 MR. DI NOLFO: To get a complete picture of
24 the 911 calls placed by Haymarket in the city and

1 somehow equate that to what the impact is going to be
2 out here in Itasca? That was what you were supposed
3 to do?

4 MR. BALDWIN: Correct, and to conclude what
5 the impact would be. 10:03:

6 MR. DI NOLFO: All right. So I understand
7 your testimony, your analysis did not take into
8 account all of the calls to the Sangamon locations;
9 true?

10 MR. BALDWIN: It did not, but we don't know -- 10:03:
11 we didn't anticipate there would be many calls but
12 the Village did not either. Our two official
13 business addresses are 932 West Washington and 120
14 North Sangamon. And when a call originates from our
15 business, they would give that address to respond to. 10:03:

16 MR. DI NOLFO: Okay. Let's go through some
17 documents, then. I want to show you what I'll mark
18 as Itasca Fire District Exhibit No. 1 for
19 identification purposes.

20 (Fire District Exhibit No. 1 10:03:
21 identified.)

22 MR. DI NOLFO: For the record, Mr. Hervas,
23 these are documents that were FOIAed from the City of
24 Chicago for fire calls only to the 932 West

1 Washington address.

2 MR. HERVAS: Okay. Do you have copies for the
3 Plan Commission?

4 MR. DI NOLFO: Yeah. You want me to hand them
5 up each time? Hang on one second. 10:04:

6 MR. HERVAS: Yes, please do.

7 MR. DI NOLFO: I want to show you what is
8 Itasca Fire Protection District Exhibit No. 2.

9 (Fire District Exhibit No. 2
10 identified.) 10:04:

11 MR. DI NOLFO: For the record, Mr. Hervas,
12 these are fire calls only to 120 North Sangamon
13 Street.

14 MR. HERVAS: So that we're clear, No. 1 was
15 932 West Washington and Exhibit 2 was 120 North
16 Sangamon; correct? 10:05:

17 MR. DI NOLFO: That's correct.

18 MR. HERVAS: Thank you.

19 MR. DI NOLFO: Next I want to show you what's
20 been marked as Exhibit No. -- Itasca Fire Protection
21 District Exhibit No. 3. 10:05:

22 (Fire District Exhibit No. 3
23 identified.)

24 MR. DI NOLFO: For the record, Mr. Hervas,

1 these are fire calls to the 124 North Sangamon Street
2 address. Showing you what I'll mark as Exhibit No. 4
3 for identification purposes.

4 (Fire District Exhibit No. 4
5 identified.)

6 MR. DI NOLFO: These are the fire calls for
7 108 North Sangamon. And, just so we're clear, when I
8 say "fire calls," it's fire and EMS.

10:05:

9 Now, if I heard you correctly, you
10 said you did not consider the 124 address and the 108
11 address, because you didn't think there would be very
12 many calls there; is that correct?

10:06:

13 MR. BALDWIN: No. We didn't consider them
14 because they were not part of our official addresses,
15 and we followed the Village's lead and that's also
16 the date they FOIAed.

10:06:

17 MR. DI NOLFO: Well, you understand that you
18 have the burden here; correct? The Village doesn't
19 have the burden. You have the burden.

20 MR. ROTH: Objection, he's arguing with the
21 witness. It's a question of law.

10:06:

22 MR. HERVAS: That's -- that will be sustained
23 in the form of the question -- to the form of the
24 question.

1 MR. DI NOLFO: You understand that you are the
2 one presenting the testimony as to the impact of your
3 project on the EMS system here in Itasca, not the
4 Village?

5 MR. BALDWIN: I do understand that. 10:07:

6 MR. DI NOLFO: All right. So if you look at
7 Exhibit No. 3 for identification purposes, you agree
8 that while it may not be an official business
9 address, 124 North Sangamon, as you heard Dr. Lustig
10 testify to, is one of the buildings used by Haymarket 10:07:
11 to help provide services to it's 12,000 people
12 annually?

13 MR. BALDWIN: That's correct.

14 MR. DI NOLFO: All right. And you would agree
15 by looking at this that if you go to the last page, 10:07:
16 it indicates that in a five-year period, November 4th
17 of 2015 to November 4th of 2019, there were 649 calls
18 to that location?

19 MR. BALDWIN: I do see the total.

20 MR. ROTH: Objection. Objection. The witness 10:07:
21 didn't testify to a five-year period.

22 MR. HERVAS: Okay. Well --

23 MR. ROTH: It's beyond the scope of his
24 testimony. If he's going to go back four or five

1 years beyond what the witness testified to, it's
2 beyond the scope.

3 MR. DI NOLFO: May I respond?

4 MR. ROTH: And it's irrelevant.

5 MR. DI NOLFO: Mr. Baldwin testified that he
6 was endeavoring to go back a five-year period like
7 the Village requested to get that information, and he
8 spent a great deal of time talking about things he
9 could or couldn't get from the fire district. So I
10 went back to the five-year period, just like he said
11 he was endeavoring to do when he last testified here.

10:07:

10:08:

10:08:

10:08:

12 MR. HERVAS: The fire district's offer of this
13 information for five years may not be directly
14 contradictory in any way with respect to what the
15 witness testified to. However, it is just additional
16 information and it won't be barred. It can be
17 handled by the witness in terms of what he did look
18 at and what he didn't look at, and so I'm going to
19 allow the exhibit to proceed and the question to
20 stand.

21 MR. DI NOLFO: Do you remember the question?

22 MR. BALDWIN: Please repeat it.

23 MR. DI NOLFO: Shocking. All right. The
24 document you have in front of you at the top

1 indicates that it's a date range between
2 November 4th, 2015, to November 4th of 2019. Do you
3 see that on the first page?

4 MR. BALDWIN: I see that.

5 MR. DI NOLFO: All right. And if we go 10:09:
6 through, at least at the very end of the page, the
7 last page of this document indicates 649 calls;
8 correct?

9 MR. BALDWIN: It does.

10 MR. DI NOLFO: All right. And you would agree 10:09:
11 with me that the document you're looking at doesn't
12 have those codes that you were talking about last
13 week? None of those codes are on here?

14 MR. BALDWIN: What are you referring to?

15 MR. DI NOLFO: Well, you spent a lot of time 10:09:
16 testifying that you had to parse through codes and
17 that there were multiple codes for calls that somehow
18 diminished the actual number of calls to your
19 facility downtown. Do you remember that testimony?

20 MR. BALDWIN: I do, yes. 911 data can be 10:09:
21 duplicated, particularly when ambulance is combined
22 with police.

23 MR. DI NOLFO: Right. And you said there was
24 codes you were looking at to get to that decision,

1 that there was duplicates; correct? Things were
2 upgraded and I think there was even discussion from
3 Commissioners about how does something get upgraded;
4 it could be going from a heart attack to something
5 different. Do you remember all that testimony? 10:09:

6 MR. BALDWIN: Oh, yes, yes, yes.

7 MR. DI NOLFO: Okay. You would agree with me
8 that this thing you're looking at does not have any
9 of those codes you had to parse through? You don't
10 see them? 10:10:

11 MR. BALDWIN: I mean, I can't, but we'd have
12 to take the time to analyze this.

13 MR. DI NOLFO: Simple question. Do you see
14 the codes that you had to parse through that you
15 testified to last week on this document, Exhibit 10:10:
16 No. 3?

17 MR. BALDWIN: What codes are you referring to?

18 MR. DI NOLFO: The ones you testified to, sir.
19 I don't know what you were talking about, so that's
20 what I'm asking you about. 10:10:

21 MR. ROTH: Objection. Counsel just presented
22 the witness with volumes of data that he has not
23 shared with us previous, and now he's asking him
24 vague questions without reference to specific lines

1 and specific information.

2 MR. HERVAS: All right. So with respect to
3 this document, I understand that the witness hasn't
4 seen the document, but the question is rather simple
5 and direct as to whether or not it contains any of 10:10:
6 the codes that were testified to last time. So the
7 witness should have an opportunity to review the
8 document -- to provide the answer to the question.
9 So if he -- if he's able to look at the document and
10 see if it has any of the codes, he's able to respond. 10:11:

11 MR. ROTH: But this is a document that was
12 created by either counsel or the Fire Protection
13 District.

14 MR. DI NOLFO: Not at all.

15 MR. HERVAS: I think that he stated that it 10:11:
16 was a document generated through a FOIA --

17 MR. DI NOLFO: Correct.

18 MR. HERVAS: -- to the city.

19 MR. DI NOLFO: That's correct.

20 MR. HERVAS: So if the witness would take a 10:11:
21 moment to look at the document and then respond to
22 the question, please.

23 MR. BALDWIN: Well, I can at least respond to
24 typically when -- at the very last column it says

1 "unit." When a unit is not dispatched, that -- then
2 it's not dispatched. Typically that code is related
3 to something else apart of one event.

4 MR. DI NOLFO: I heard your answer, but my
5 question was a little different. 10:11:

6 MR. BALDWIN: Okay.

7 MR. DI NOLFO: The codes that you talked about
8 last week, are those codes on Exhibit No. 3? Yes or
9 no?

10 MR. BALDWIN: Oh, I don't know. I would have 10:11:
11 to spend some time looking at this report.

12 MR. DI NOLFO: So take a moment and look at
13 the first page of Exhibit 3, and let me know if you
14 see any of those codes that indicate multiple codes
15 for the same time frame. 10:12:

16 MR. BALDWIN: Yes, when there's blanks in
17 disposition or unit.

18 MR. DI NOLFO: Well, is that a multiple call
19 or that no unit was sent, if you know?

20 MR. BALDWIN: We'd have to analyze it. We'd 10:12:
21 have to go line by line to recreate events.

22 MR. DI NOLFO: So let me be fair to you, then.
23 Let's take out the blank lines where there's no unit
24 sent, and you can take my word for it, it's 63 times.

1 Okay? Because I counted them, twice.

2 MR. ROTH: Can we see where that is?

3 MR. DI NOLFO: Sure. So, for instance, if you
4 go down on the first page, the third line down, it
5 says "unit," there's no units assigned to it? On the
6 right-hand column where it says "unit"? Good?

10:12:

7 MR. HERVAS: Yes. If the witness understands
8 the question, that's the key here.

9 MR. DI NOLFO: But all the other ones seem to
10 indicate that units were sent to that location,
11 right? One line, one time, one location, one event
12 type, one disposition, and then one address.

10:13:

13 MR. BALDWIN: Okay.

14 MR. DI NOLFO: So my question is very simply,
15 on the first page you don't see any of those codes
16 that you spent a bunch of time talking about last
17 week on that page; correct?

10:13:

18 MR. BALDWIN: I still see the blank codes. We
19 would have to count those, and I -- honestly I can't
20 take your word for it, there's 63.

10:13:

21 MR. DI NOLFO: Okay.

22 MR. BALDWIN: I want to count them.

23 MR. DI NOLFO: Okay.

24 MR. BALDWIN: But we would have to analyze

1 them.

2 MR. DI NOLFO: Let's go through all these,
3 then, just so I can get it on the record at least.

4 If I were to show you --

5 MR. ROTH: Mr. Chairman, this is a zoning 10:13:
6 hearing. I mean, to spend our time now going through
7 the 63 codes that he's throwing at the witness now,
8 without any notice whatsoever?

9 MR. DI NOLFO: I never said I was going
10 through 63 codes. 10:14:

11 MR. ROTH: You just did.

12 MR. DI NOLFO: I really didn't.

13 MR. ROTH: You said let's go through them.

14 MR. DI NOLFO: I said let's go through the
15 remaining documents, is what I said. 10:14:

16 So may I proceed, Mr. Hervas?

17 MR. HERVAS: Yes, you may proceed.

18 MR. DI NOLFO: So if I were to show you and
19 ask you to look at Exhibit No. 1 for identification
20 purposes, your answer would be you'd have to analyze 10:14:
21 this to see if those codes were in there; correct?

22 MR. BALDWIN: Correct.

23 MR. DI NOLFO: All right. And if I were to
24 show you Exhibit No. 2, that would be the same

1 answer? You would have to go through each document?

2 MR. BALDWIN: Honestly, right, with a little
3 time, sure.

4 MR. DI NOLFO: And the same --

5 MR. BALDWIN: The truth is we want to work
6 with you. And, honestly, we know where this ends up,
7 of the use of a private ambulance service at
8 90 percent, with the capacity the Itasca Fire
9 Protection District, the conclusion would still stand
10 but --

11 MR. DI NOLFO: Could he just answer my
12 questions and not -- my question was do you need time
13 to look at it? It's really a yes or no question.

14 MR. BALDWIN: Of course I do. You just gave
15 it to me.

16 MR. DI NOLFO: All right. On Exhibit No. 4,
17 you would not be able to tell me if you see those
18 codes on it? You would need more time to look at it,
19 yes?

20 MR. BALDWIN: I would need time to analyze
21 these new reports you're giving me. And would you
22 have them in Excel by any chance? It's a little
23 easier to manage.

24 MR. DI NOLFO: I'll work on that for you.

1 MR. BALDWIN: Okay.

2 MR. DI NOLFO: Or you could just FOIA it.

3 They might send it to you that way, too.

4 MR. BALDWIN: Sure.

5 MR. DI NOLFO: Okay. Regardless of your 10:15:

6 opportunity to examine, can we take as true that at

7 least it appears from those documents that ambulances

8 and fire apparatus were sent to all the Sangamon

9 addresses?

10 MR. BALDWIN: Sure, units being dispatched, 10:15:

11 that's usually what happens.

12 MR. DI NOLFO: Right. And not only did they

13 get dispatched to 932 West Washington, they get

14 dispatched to 108 North Sangamon, 120 North Sangamon,

15 and 124 North Sangamon? 10:16:

16 MR. BALDWIN: Okay.

17 MR. DI NOLFO: Fair?

18 MR. BALDWIN: Fair.

19 MR. DI NOLFO: Okay. And when you went

20 through the process of producing that chart, your 10:16:

21 chart only focused on 932 and 120 North -- well, 932

22 West Washington and 920 North -- 120 North Sangamon;

23 correct?

24 MR. BALDWIN: Correct.

1 MR. DI NOLFO: Okay. So you made the
2 conscious decision not to analyze data for the other
3 two buildings that Haymarket uses to provide services
4 to its 12,000 patients?

5 MR. BALDWIN: We did not make a conscious 10:16:
6 decision. We wanted to be in line with how the
7 Village prepared their report. They used our two
8 main business addresses, and we did the same, to be
9 right in line with the same analysis. We wanted to
10 work with the same dataset as the Village expert 10:16:
11 report.

12 MR. DI NOLFO: Being an accountant and wanting
13 to be able to share with us quantitatively the
14 potential number of calls that would be generated
15 from that facility, would it not be important to 10:16:
16 analyze all the 911 data for every building that you
17 provide services in to give a more accurate picture?

18 MR. BALDWIN: Sure. We want to give as
19 accurate a picture as possible.

20 MR. DI NOLFO: All right. And even though it 10:17:
21 would be probably wise, that wasn't done in this case
22 because you're claiming you wanted to be in line with
23 the Village?

24 MR. BALDWIN: We wanted to work from the same

1 dataset so we could compare our analysis.

2 MR. DI NOLFO: Okay. So if I were to tell you
3 that there was a total of 1466 calls to all the
4 Sangamon addresses in that five-year period, you
5 wouldn't know one way or another; fair? 10:17:

6 MR. BALDWIN: Fair. And we would be looking
7 to try and do it for a one-year period, because
8 that's what we wanted to compare, along with the
9 Village.

10 MR. DI NOLFO: Okay. And in addition to last 10:17:
11 week, I think you started your chart by saying that
12 you wanted to look at the 863 number that was talked
13 about, I think, on websites and in conversations; is
14 that fair?

15 MR. BALDWIN: Fair. 10:17:

16 MR. DI NOLFO: And it was your analysis, you
17 decided that the 863 number was not accurate;
18 correct?

19 MR. BALDWIN: For those two addresses, it
20 mischaracterized the number of actual calls. 10:18:

21 MR. DI NOLFO: I want to show you what I'll
22 mark as Itasca Fire District Exhibit No. 5.

23 (Fire District Exhibit No. 5
24 identified.)

1 MR. DI NOLFO: I know there's too many, I
2 apologize.

3 But when you analyzed the calls on
4 the 120 Sangamon address, was that the chart that you
5 looked at to come to your determination as to the 10:18:
6 number of calls? And, for the record, this is a
7 document that was FOIAed from the City of Chicago.

8 MR. BALDWIN: I can't tell for sure. I would
9 have to compare it to the documents we have.

10 MR. DI NOLFO: All right. Does it -- and I 10:19:
11 think I'm going to know your answer. Does it have
12 those codes you were talking about last week on it?

13 MR. BALDWIN: It certainly has codes on it,
14 yes.

15 MR. DI NOLFO: Okay. And what do you -- when 10:19:
16 you use the word "codes," what are you referring to,
17 just so I'm on -- maybe I can actually figure this
18 out?

19 MR. BALDWIN: It could be the event type, the
20 disposition, the unit dispatched. I mean, these are 10:19:
21 lines of code.

22 MR. DI NOLFO: Okay. I'm going to show you
23 what I'll mark as Itasca Fire Protection District
24 Exhibit No. 6.

1 (Fire District Exhibit No. 6
2 identified.)

3 MR. DI NOLFO: This is the number of fire
4 calls at Sangamon back from July 8th of '18 to July
5 9th of '19. Does this look familiar as to the 10:20:
6 document you might have reviewed when coming to your
7 decision that the 863 number was not correct?

8 MR. BALDWIN: I can't tell for sure. You keep
9 giving me these documents. I need to compare it to
10 what we've worked with. 10:20:

11 MR. DI NOLFO: Sure. In all fairness, your
12 counsel was saying I'm springing things on us, but
13 you never actually showed anybody here what you
14 looked at to come up with that number; correct? What
15 data you actually looked at? It wasn't in any slide 10:20:
16 that you showed the other day?

17 MR. BALDWIN: It was the same dataset the
18 Village used in their expert report, yeah, so
19 we're -- I'm not springing anything. The Village,
20 we're using the same dataset. 10:20:

21 MR. DI NOLFO: I'll show you Exhibit No. 7 for
22 identification purposes.

23 (Fire District Exhibit No. 7
24 identified.)

1 MR. DI NOLFO: I've got to ask the question,
2 even though I know what your answer's going to be.
3 Do you know if this is one of the documents you
4 looked at in coming to your number?

5 MR. BALDWIN: I can't say that. I'm just 10:21:
6 looking at it right now. I need to compare it to the
7 data we have.

8 MR. DI NOLFO: Understood.

9 MR. HERVAS: Mr. DiNolfo, could you please
10 make sure you identify the document for the record? 10:21:

11 MR. DI NOLFO: I apologize. Thank you,
12 Mr. Hervas. So Exhibit No. 7 is the fire report
13 for -- dated July 1 of 2018 to July 1 of 2019 that
14 was FOIAed from the City of Chicago. Exhibit 6 is
15 the FOIA document for fire from July 8th of 2018 to 10:21:
16 July 9th of 2019, and, if I didn't do Exhibit 5, it
17 is the police from July 6th to July 9th, the same
18 time frame, '18 to '19.

19 From your analysis, were you able to
20 determine where that 863 number came from, of calls? 10:22:

21 MR. BALDWIN: Yes, that's the dataset the
22 Village's expert report used.

23 MR. DI NOLFO: All right. And being an
24 accountant, maybe you can do this, maybe you can't.

1 If we can go to the last page of Exhibit 7, where it
2 says "188" and we go to the last page of Exhibit 6
3 which says "172" and if we go to the last page of --

4 MR. BALDWIN: Sir, I can't total these numbers
5 as you're saying them. 10:22:

6 MR. DI NOLFO: Let me finish my question and
7 you can say that to me. Just let me finish my
8 question. Okay?

9 If you go to Exhibit 5 and look at
10 the last page where it says "269," would you be able 10:22:
11 to add that up and show that it equals 863? If you
12 can't, you can't.

13 MR. BALDWIN: Not on the fly like this.

14 MR. DI NOLFO: Okay. Now --

15 MR. DALY: Excuse me, I have a question for 10:23:
16 counsel. On Exhibit 7 --

17 MR. HERVAS: Can you speak into the
18 microphone.

19 MR. DALY: Well, I'm sick. I'm sorry.

20 On Exhibit 7, service location is 10:23:
21 not specific to a physical address.

22 MR. DI NOLFO: It is. When we FOIAed it, it
23 was 932, and that's how they produced it back to us
24 with the x's in it. I can't answer why. I asked for

1 a clarification, and I couldn't get it from the city.
2 But the FOIA was restricted solely to 932.

3 MR. DALY: Okay, thank you.

4 MR. DI NOLFO: All right. Well, we won't
5 spend any more time on the data because you haven't
6 had a chance to look at it. 10:23:

7 MR. BALDWIN: That exact report I believe we
8 did get back a report that said 932 on it so --

9 MR. DI NOLFO: I'm sorry?

10 MR. BALDWIN: I believe we got back a report
11 from our FOIA that said 932. 10:23:

12 MR. DI NOLFO: It's the City of Chicago. I
13 can't answer all the questions, you know.

14 Let's talk about your testimony last
15 week. I think, if I heard you correctly, you made
16 some comment when you were prefacing your testimony
17 that somehow you were missing data or there was
18 incomplete data. And I think you said that the
19 Village hadn't given you data and the Fire Protection
20 District hadn't given you data. Do you remember that
21 testimony? 10:24:

22 MR. BALDWIN: I do.

23 MR. DI NOLFO: Okay. And you're aware that
24 Haymarket, or Haymarket through their counsel, sent 10:24:

1 six FOIAs to the Itasca Fire Protection District?

2 MR. BALDWIN: That sounds about right.

3 MR. DI NOLFO: I'm going to show you what's
4 been marked as Exhibit No. 9 for identification
5 purposes.

10:25:

6 (Fire District Exhibit No. 9
7 identified.)

8 MR. DI NOLFO: For the record, Mr. Hervas,
9 this is a -- the FOIA that was received from James
10 Baldwin of Haymarket sent to the Itasca Fire
11 Protection District.

10:25:

12 Do you recognize that document?

13 MR. BALDWIN: I do.

14 MR. DI NOLFO: All right. And from that, you
15 listed all the ambulance dispatches between 7/1/2018
16 and 6/30/2019; correct?

10:25:

17 MR. BALDWIN: Correct.

18 MR. DI NOLFO: With the designation codes, and
19 you list the codes. They sent you this response;
20 correct?

10:25:

21 MR. BALDWIN: Correct.

22 MR. DI NOLFO: Anything missing on that from
23 the Fire Protection District in response to that?

24 MR. BALDWIN: I don't believe so.

1 MR. DI NOLFO: All right. I'm going to show
2 you what has been marked as Exhibit No. 10 for
3 identification purposes.

4 (Fire District Exhibit No. 10
5 identified.)

6 MR. DI NOLFO: This is a FOIA that was sent to
7 the Itasca Fire Protection District. It has your
8 name on it; correct?

9 MR. BALDWIN: Correct.

10 MR. DI NOLFO: Do you recognize this?

11 MR. BALDWIN: I do.

12 MR. DI NOLFO: And in that, you ask for
13 audited financials; correct?

14 MR. BALDWIN: Correct.

15 MR. DI NOLFO: All right. And they sent you a
16 document; correct?

17 MR. BALDWIN: Correct.

18 MR. DI NOLFO: Anything missing in response to
19 that?

20 MR. BALDWIN: No.

21 MR. DI NOLFO: No? Okay.

22 MR. HERVAS: Mr. DiNolfo, we don't have a
23 No. 8. Did you intend not to have an 8? We went
24 from 7 to 9.

1 MR. DI NOLFO: I didn't want to waste the
2 time. 8 is another document he's probably not going
3 to be able to identify.

4 MR. HERVAS: Okay, that's fine. I just -- I
5 want to make sure there's no confusion. 10:27:

6 MR. DI NOLFO: I'll double-check. I'll put it
7 in the record in a minute, Mr. Hervas. Thank you.

8 I'll show you what's been marked as
9 Exhibit No. 11 for identification purposes.

10 (Fire District Exhibit No. 11
11 identified.) 10:27:

12 MR. DI NOLFO: This is another FOIA sent by
13 you to the Itasca Fire Protection District?

14 MR. BALDWIN: Yes.

15 MR. DI NOLFO: Has your name on it? 10:27:

16 MR. BALDWIN: Yes.

17 MR. DI NOLFO: You ask for the current annual
18 operating budget; correct?

19 MR. BALDWIN: Correct.

20 MR. DI NOLFO: Anything missing in that
21 response? 10:27:

22 MR. BALDWIN: It doesn't appear so.

23 MR. DI NOLFO: I'm going to show you what's
24 been marked as Exhibit No. 12.

1 (Fire District Exhibit No. 12
2 identified.)

3 MR. DI NOLFO: Another FOIA request by you;
4 correct? Your name's on it?

5 MR. BALDWIN: It is. 10:28:

6 MR. DI NOLFO: And you asked for a list of
7 calls of service to the Holiday Inn Itasca, 860 West
8 Illinois 19, Itasca; correct?

9 MR. BALDWIN: Correct.

10 MR. DI NOLFO: And they provided you that 10:28:
11 documentation; correct?

12 MR. BALDWIN: They did.

13 MR. DI NOLFO: Nothing missing from that
14 either; correct?

15 MR. BALDWIN: Well, when we -- when we 10:28:
16 scheduled this out, it did seem a little odd. It
17 seemed like data was missing in this dataset.

18 MR. DI NOLFO: And what did you base that on?

19 MR. BALDWIN: Well, when we looked at it for
20 the Holiday Inn over an annual basis, they averaged 10:28:
21 probably around two calls a month. But then from
22 October through most of January of -- in our analysis
23 in -- over 2018, there were -- there was a gap, there
24 were no calls, and then it picked up again with two

1 calls averaging per month.

2 MR. DI NOLFO: What documents did you look at
3 to show that -- the two calls average per month?

4 MR. BALDWIN: This one.

5 MR. DI NOLFO: This one? Well, the total
6 number of calls listed on this is what, if you know?

7 MR. BALDWIN: I don't know off the top of my
8 head.

9 MR. DI NOLFO: If I were to tell you that it's
10 53 over a 68-month period, does that sound about
11 right?

12 MR. BALDWIN: I don't know, because we only
13 looked at the one-year period.

14 MR. DI NOLFO: Well, you asked for it for the
15 whole time period, didn't you?

16 MR. BALDWIN: Sure.

17 MR. DI NOLFO: All right. So they provided
18 you data going back for 68 months, at your request,
19 that showed 53 calls over that time period, which,
20 you would agree with me doing the math, is less than
21 one a month?

22 MR. BALDWIN: Okay.

23 MR. DI NOLFO: Correct?

24 MR. BALDWIN: Correct. But it was trending

1 up. I mean, there could be more calls more recently.
2 We want to give an accurate picture of the most
3 recent annual picture to provide a baseline.

4 MR. DI NOLFO: Well, is that providing an
5 accurate picture or is that selecting data to help
6 manipulate numbers? 10:29:

7 MR. BALDWIN: No, we picked our most recent
8 annual fiscal year and we did the same with this
9 data.

10 MR. DI NOLFO: You would agree that if we took
11 the full data that you requested and analyzed it, it
12 would be less than two a month, as you say? 10:30:

13 MR. BALDWIN: We agreed with the Village on
14 this, where they found that only analyzing one year
15 would suffice for this project. 10:30:

16 MR. DI NOLFO: Not my question. My question
17 was a little different. You would agree with me that
18 if you analyzed all the data you requested, it would
19 not come out to two calls a month?

20 MR. BALDWIN: I can't say that. I haven't
21 analyzed this data. 10:30:

22 MR. DI NOLFO: Okay. Even though you asked
23 for it; correct?

24 MR. BALDWIN: Asked for it in reference. It

1 could be possible down the road.

2 MR. DI NOLFO: I'm going to show you what I
3 marked as Exhibit No. 13 for identification purposes.

4 (Fire District Exhibit No. 13
5 identified.)

6 MR. DI NOLFO: Was this in any way related to
7 anybody you know at Haymarket? Janet Kruse or Kruse,
8 however you want to say it?

9 MR. BALDWIN: No.

10 MR. DI NOLFO: Okay. Did you at any time FOIA
11 the mutual aid agreement from the Itasca Fire
12 Protection District from 1989?

13 MR. BALDWIN: Obviously my name is not on this
14 FOIA.

15 MR. DI NOLFO: Did you ever -- I mean, just
16 because your name isn't on it doesn't mean you didn't
17 get the information attached; fair? You could have
18 gotten it?

19 MR. BALDWIN: Oh, yeah, it was sent to me.

20 MR. DI NOLFO: Okay. Who sent it to you?

21 MR. BALDWIN: I think Chief Burke sent it.

22 MR. DI NOLFO: Okay. So you asked for that
23 document and he sent it to you?

24 MR. BALDWIN: I did not ask for this document

1 and he sent it to me.

2 MR. DI NOLFO: So -- and maybe I asked a bad
3 question. I do that sometimes. It sounds good up
4 here, but by the time it gets out, it doesn't make
5 any sense.

10:31:

6 You sent an e-mail to Chief Burke
7 saying, hey, could you send me the mutual aid
8 agreement, and he said, here you go. Is that how it
9 happened? You're not saying that Chief Burke decided
10 one day just to send you the mutual aid agreement?

10:31:

11 MR. BALDWIN: Actually, I think he did in this
12 case.

13 MR. DI NOLFO: Okay. All right.

14 MR. BALDWIN: I FOIAed different things and
15 somehow this was attached to his e-mail, which was
16 fine.

10:32:

17 MR. DI NOLFO: All right. I'm showing you
18 what I've marked as Exhibit No. 14 for identification
19 purposes.

20 (Fire District Exhibit No. 14
21 identified.)

10:32:

22 MR. DI NOLFO: This is a FOIA you sent;
23 correct?

24 MR. BALDWIN: Yes, this is one I sent.

1 MR. DI NOLFO: All right. And you got a
2 response; correct?

3 MR. BALDWIN: Yes.

4 MR. DI NOLFO: And from what you can see,
5 there's nothing missing on that; correct?

10:32:

6 MR. BALDWIN: It appears like this is it.

7 MR. DI NOLFO: All right. So at least from
8 the FOIAs where your named appeared and you asked for
9 data, you got everything you asked for?

10 MR. BALDWIN: Yes.

10:32:

11 MR. DI NOLFO: Okay. So when you testified
12 that the Itasca Fire Protection District didn't
13 provide you with data that you requested, that would
14 be incorrect?

15 MR. BALDWIN: That was referring to what
16 seemed statistically unlikely of missing calls for
17 the Holiday Inn.

10:32:

18 MR. DI NOLFO: So you're --

19 MR. BALDWIN: And we -- also referring back to
20 this Addison Consolidated Dispatch annual report for
21 2018 that did reference there was missing data from
22 the Itasca Fire Protection District.

10:33:

23 MR. DI NOLFO: Did you --

24 MR. BALDWIN: It could be a coincidence, but

1 it just seemed unlikely that -- why calls were
2 missing from that dataset. That was the basis for
3 why I made that statement.

4 MR. DI NOLFO: So you threw out a few things
5 there. Number one, you said that from looking at the 10:33:
6 data that the Itasca Fire Protection District sent
7 you, you believe, one, that they didn't give you all
8 the data, statistically speaking?

9 MR. BALDWIN: Right, it seemed unlikely.

10 MR. DI NOLFO: Obviously you acknowledged at 10:33:
11 the start of this that you have no experience in the
12 fire service; correct?

13 MR. BALDWIN: Correct.

14 MR. DI NOLFO: And whether you know it or not,
15 could there be lulls where there's calls -- more 10:33:
16 activity at a location for a period of time and it
17 stops for a period of time? Does that make logical
18 sense?

19 MR. BALDWIN: Sure. It could have been a
20 coincidence, but it seemed very unlikely. 10:33:

21 MR. DI NOLFO: And then you referenced the
22 ACDC, which is Addison Consolidated Dispatch Center;
23 correct?

24 MR. BALDWIN: Correct.

1 MR. DI NOLFO: You understand that's separate
2 from the Itasca Fire Protection District?

3 MR. BALDWIN: I do.

4 MR. DI NOLFO: And when did the Itasca Fire
5 Protection District join Addison Consolidated
6 Dispatch? 10:34:

7 MR. BALDWIN: I'm not entirely sure. Was it
8 in 2018?

9 MR. DI NOLFO: I'm just asking what you know.

10 MR. BALDWIN: I don't know. 10:34:

11 MR. DI NOLFO: Okay. Did you bother asking
12 for information from the center where they were
13 before they joined Addison Consolidated Dispatch
14 Center so there wasn't any data missing?

15 MR. BALDWIN: We did FOIA the Itasca Fire 10:34:
16 Protection District, and we attempted to FOIA the
17 Addison Consolidated, but they did not respond.

18 MR. DI NOLFO: Okay. Did you FOIA DU-COMM?

19 MR. BALDWIN: We did not.

20 MR. DI NOLFO: Okay. We can, I think, clear 10:34:
21 this up pretty quick, I think, but maybe I'm
22 overestimating it.

23 The comment you made where you
24 testified that Haymarket offered to buy the Itasca

1 Fire Protection District an ambulance and the Itasca
2 Fire Protection District turned it down, you heard
3 from Dr. Lustig isn't quite accurate; fair?

4 MR. BALDWIN: Fair. That came from the team,
5 and I guess he referred to he was talking to the
6 mayor. 10:35:

7 MR. DI NOLFO: Right. And I think you now
8 understand that the mayor is in no way affiliated
9 with the fire district? They're separate units of
10 government? 10:35:

11 MR. BALDWIN: We do understand that now. I
12 believe at the time when they met with him, it was
13 unclear that they were completely different entities,
14 and just coming in with open arms trying to be a good
15 partner. 10:35:

16 MR. DI NOLFO: I appreciate the open arms. I
17 do. But my question is a little bit more. You
18 personally have never had a meeting with Chief Burke;
19 fair?

20 MR. BALDWIN: Fair. 10:35:

21 MR. DI NOLFO: All right. And the one meeting
22 they had, you weren't even a part of? You weren't
23 doing any presentations, nothing; correct?

24 MR. BALDWIN: Correct.

1 MR. DI NOLFO: All right. If we take as true
2 that for some reason you offered an ambulance to the
3 Village and not the fire district, were you doing
4 that because you knew that the impact of the proposed
5 facility would necessitate the need for a second
6 ambulance?

10:36:

7 MR. BALDWIN: No, obviously an analysis was
8 not done at that time. It was just a nice gesture to
9 try and be a good partner.

10 MR. DI NOLFO: Just so I understand, so
11 Haymarket, not having any analysis, having no
12 information, just decided to go and offer to buy a
13 \$350,000 ambulance, not knowing whether it was needed
14 or not? That's what you're telling me?

10:36:

15 MR. ROTH: Objection. Where is the evidence
16 on the 350,000?

10:36:

17 MR. DI NOLFO: I'll change the question.

18 MR. ROTH: Counsel's making suggestions.

19 MR. DI NOLFO: I'll withdraw the question.
20 Fair enough. If you made the offer --

10:36:

21 MR. ROTH: He's interrupting --

22 MR. HERVAS: Hold on. I just want to make
23 sure that the record's clear. Mr. Roth, if he
24 withdraws the question, can we move on, or do you

1 have --

2 MR. ROTH: Yeah, that's fine.

3 MR. DI NOLFO: So Haymarket, not knowing any
4 information, decided to offer to buy an ambulance for
5 the Itasca Fire Protection District with no basis to 10:37:
6 support its need, is what I'm understanding you're
7 saying; correct?

8 MR. BALDWIN: I mean, I'd be -- trying to
9 picture what Dan was thinking at the time, but I
10 imagine he wanted to be a good partner and he was 10:37:
11 responding to the concern he was hearing that was
12 immediate; that there would be all these ambulance
13 calls.

14 MR. DI NOLFO: So in response to the concern,
15 the answer is, yes, without any data they decided to 10:37:
16 offer to buy an ambulance to the Village; correct?

17 MR. BALDWIN: As a gesture to be a good
18 partner.

19 MR. DI NOLFO: Okay. Would logic also
20 possibly dictate that the offer was made because the 10:37:
21 impact will necessitate a second ambulance needed to
22 handle the calls?

23 MR. BALDWIN: I do understand the Itasca Fire
24 Protection District has one active ambulance and one

1 reserve ambulance?

2 MR. DI NOLFO: True, a backup in case the main
3 one breaks; right? Is that your understanding?

4 MR. BALDWIN: Yes, I suppose.

5 MR. DI NOLFO: Well, wouldn't it be important 10:38:
6 to know what the resources are of the entity that's
7 going to provide services there in order to help
8 decide the impact or no?

9 MR. BALDWIN: I don't -- why would it be --
10 that's a bad thing to try and make a nice gesture? 10:38:
11 Is that what you're trying to say?

12 MR. DI NOLFO: That wasn't my question. You
13 said they had a reserve ambulance -- I had asked you
14 if that was a reserve ambulance, and you said, I
15 guess. What I'm asking you is would it be important 10:38:
16 to you in doing your analysis to determine the
17 impact, the potential impact, Haymarket would have on
18 the Fire Protection District to know how it actually
19 operated?

20 MR. ROTH: Objection. That question's been 10:38:
21 asked and answered several times. How many times is
22 he going to ask the question?

23 MR. DI NOLFO: I don't think I've asked it
24 before, because he said "I guess."

1 MR. ROTH: It has. Then that's the answer.
2 He answered it then. It's been asked and now it's
3 been answered.

4 MR. HERVAS: I -- let's get an answer to the
5 question, and then we'll move on from there. 10:39:

6 MR. ROTH: Again.

7 MR. HERVAS: Are you able to answer the
8 question?

9 MR. BALDWIN: I can't truly speak to the
10 offer, but also, in the course of doing our research, 10:39:
11 we do understand that ambulances can be an asset to
12 any Fire Protection District. The reality is, an
13 ambulance generates profit. That's the whole reason
14 private ambulances exist. If anything, we are
15 offering to buy something that the Itasca Fire 10:39:
16 Protection District could generate more revenue from.

17 MR. DI NOLFO: Can I get an answer to my
18 question, though, Mr. Hervas? Would it help to know
19 how the department operates in order to understand
20 the impact Haymarket would have on the Fire 10:39:
21 Protection District? That was my question.

22 MR. HERVAS: All right. That question will
23 stand. Can you please answer the question.

24 MR. BALDWIN: I do not know the ins and outs

1 exactly of how Fire Protection Districts operate.

2 MR. DI NOLFO: From your information you had
3 available to you, would -- did Haymarket make any
4 offer to pay for the six additional paramedics it
5 would take to operate this ambulance they were
6 willing to buy seven days a week, 365 days a year?

10:40:

7 MR. ROTH: Objection; suggests facts that
8 aren't in evidence. Counsel's testifying again. If
9 he has some basis of evidence to substantiate these
10 questions, then let him bring it forth rather than
11 suggest facts when they're not in evidence.

10:40:

12 MR. DI NOLFO: Were they going to buy an
13 ambulance just to park it there? Somebody has to
14 fill it up, so, I mean, I think that's a fair
15 question.

10:40:

16 MR. ROTH: Well, that's the point. If he has
17 a witness to testify to that, then bring them
18 forward.

19 MR. DI NOLFO: My only question is did they
20 make an offer. That's it.

10:40:

21 MR. HERVAS: Hold on. The objection to the
22 form of the question is sustained.

23 MR. ROTH: Thank you.

24 MR. HERVAS: All right? So you can re-ask it

1 without the assumed facts. You have to give him --
2 you have to give a foundation to the question.

3 MR. DI NOLFO: Sure. You obviously -- if you
4 were willing to buy an ambulance, you would
5 understand it would take paramedics to fill the seats
6 to be able drive it and respond to calls? 10:40:

7 MR. BALDWIN: I do understand that.

8 MR. DI NOLFO: And you understand -- I think
9 you asked for the collective bargaining -- did you
10 ask for the collective bargaining agreement from the 10:41:
11 Itasca Fire Protection District?

12 MR. BALDWIN: We did not.

13 MR. DI NOLFO: Okay. Do you know how many
14 people they have on duty on any given day?

15 MR. BALDWIN: I do not. Although we do know 10:41:
16 there's around 30 staff at the Itasca Fire Protection
17 District, and half of them are dedicated to the
18 ambulance service.

19 MR. DI NOLFO: Ambulance and fire; correct?

20 MR. BALDWIN: Ambulance. 10:41:

21 MR. DI NOLFO: So it's your understanding that
22 half of the staff is dedicated just to the ambulance
23 portion of the services provided by the Itasca Fire
24 Protection District?

1 MR. BALDWIN: Yes, that's from the annual
2 report.

3 MR. DI NOLFO: All right. And you understand
4 that they work shifts?

5 MR. BALDWIN: I do. 10:41:

6 MR. DI NOLFO: And you understand that the way
7 the shifts are, they have enough to keep both pieces
8 of apparatus staffed 24 hours a day, seven days a
9 week?

10 MR. ROTH: Objection. 10:41:

11 MR. DI NOLFO: Is that your understanding?

12 MR. ROTH: Same objection, counsel. Counsel
13 is testifying. These facts are not in evidence.
14 He's testifying.

15 MR. HERVAS: He's laying a proper foundation. 10:42:

16 MR. ROTH: No, he's not.

17 MR. HERVAS: He's able to ask whether the
18 witness has an understanding of certain facts that
19 exist within the Fire Protection District. Unless
20 you're suggesting that he's making this up or 10:42:
21 something, I think that he's laying an appropriate
22 foundation.

23 MR. ROTH: I'm suggesting that his facts are
24 his own testimony.

1 MR. HERVAS: Okay. If the witness is able to
2 understand and answer the question, the witness will
3 be directed to answer the question, unless his
4 counsel directs him not to. Let's move on.

5 MR. DI NOLFO: Do you have an answer? 10:42:

6 MR. BALDWIN: Please repeat the question.

7 MR. DI NOLFO: Sure. Do you know how many
8 people each day work to keep the engine and the
9 ambulance operating 24 hours a day, seven days a
10 week? 10:42:

11 MR. BALDWIN: I do not.

12 MR. DI NOLFO: All right.

13 MR. BALDWIN: But half of 30 staff could
14 definitely sustain operation of that one ambulance.

15 MR. DI NOLFO: The one that's in service 10:42:
16 already? Or the one you offered to buy?

17 MR. BALDWIN: Correct, the one that's in
18 service.

19 MR. DI NOLFO: Sure.

20 MR. BALDWIN: And then also respond to 2.3 10:43:
21 dispatches per day.

22 MR. DI NOLFO: Sure, I appreciate that. But
23 in order -- once we got another ambulance, you would
24 agree we would need somebody to staff that ambulance;

1 right?

2 MR. BALDWIN: Actually, under the analysis we
3 did, Itasca does not need another ambulance.

4 MR. DI NOLFO: All right. So when you made --

5 MR. BALDWIN: It has plenty of capacity right 10:43:
6 now to handle all of its calls and, including on our
7 report, it could handle our calls.

8 MR. DI NOLFO: I understand your testimony,
9 but my question was a little different. The
10 ambulance that you offered to buy, had it been 10:43:
11 accepted, you would understand they would have to get
12 people to staff that ambulance so it could be
13 operational out on the street? That's all I want to
14 know.

15 MR. BALDWIN: It could be another reserve 10:43:
16 ambulance.

17 MR. DI NOLFO: Okay. Are we good on time?

18 MR. HERVAS: Yes.

19 MR. DI NOLFO: Sorry. You testified about the
20 contract that Haymarket entered into with Elite 10:43:
21 Ambulance; correct? You remember that testimony?

22 MR. BALDWIN: I do.

23 MR. DI NOLFO: And I think you said to us that
24 it was going to cover 90 percent of the calls at your

1 proposed facility; correct?

2 MR. BALDWIN: That's what they told us.

3 MR. DI NOLFO: Okay. And you entered into a
4 contract with them because -- well, the reason you
5 entered into that contract is to alleviate the burden
6 on the Itasca Fire Protection District that would be
7 generated by the proposed facility; true?

8 MR. BALDWIN: As an option, yes.

9 MR. DI NOLFO: And have you ever had a private
10 ambulance contract with any of the other facilities
11 you operate?

12 MR. BALDWIN: No.

13 MR. DI NOLFO: All right. What is the length
14 of the contract?

15 MR. BALDWIN: I believe there's no termination
16 date.

17 MR. DI NOLFO: Okay. But you understand, and
18 I think you heard Dr. Lustig testify, that it could
19 be canceled by you or Elite at any time as long as it
20 followed the procedure in the contract?

21 MR. BALDWIN: Correct.

22 MR. DI NOLFO: All right. And you agree
23 there's no obligation for Haymarket to continue into
24 the contract; correct? No legal obligation?

1 MR. BALDWIN: No legal obligation, sure,
2 that's right.

3 MR. DI NOLFO: And you understand that the
4 Village and the Itasca Fire Protection District don't
5 have the power to force you to enter into a contract
6 with a private ambulance service? 10:45:

7 MR. BALDWIN: I understand that.

8 MR. DI NOLFO: And you also would acknowledge
9 that if you didn't renew the contract or you canceled
10 the contract or the contract ceased to be in 10:45:
11 existence, that the calls for services at your
12 proposed facility would fall onto the Itasca Fire
13 Protection District?

14 MR. BALDWIN: We wouldn't want to do that. We
15 would have no reason to. 10:45:

16 MR. DI NOLFO: My question was very simple.
17 If you didn't renew the contract, you canceled the
18 contract, or the contract ceased being in existence
19 for any reason with Elite, to handle the calls at
20 that facility would fall on the Itasca Fire 10:45:
21 Protection District; correct?

22 MR. BALDWIN: If we did not enter into another
23 contract with a different ambulance service.

24 MR. DI NOLFO: Sure.

1 MR. BALDWIN: Sure.

2 MR. DI NOLFO: Okay. And you testified that
3 Elite's goal was 90 percent of the calls; correct?

4 MR. BALDWIN: Not their goal. That was their
5 fair and conservative estimate. They could handle 10:45:
6 all the calls, but they thought 90 percent was fair
7 just in case of an emergency where Itasca could
8 respond faster.

9 MR. DI NOLFO: And it's not a guarantee that
10 they're going to make 90 percent, is it? 10:46:

11 MR. BALDWIN: No, they gave a fair a
12 conservative estimate.

13 MR. DI NOLFO: Okay. Is there any pending
14 provision in the contract that if Elite does not meet
15 the 90 percent estimate? 10:46:

16 MR. BALDWIN: No.

17 MR. DI NOLFO: And you'd agree that every
18 percent that Elite falls below 90 percent, that
19 percent's going to have to be picked up by the Itasca
20 Fire Protection District as things sit today? 10:46:

21 MR. BALDWIN: Sure, it would, and Itasca has
22 the capacity to handle it.

23 MR. DI NOLFO: And I think you shared with us
24 in your testimony, you also referenced that Elite had

1 contracts with neighboring communities. I think you
2 said Itasca was one of them and you know them to have
3 contracts with Carol Stream, Bloomingdale, things of
4 that nature; correct.

5 MR. BALDWIN: They have other clients around 10:46:
6 DuPage and in Itasca. Actually Forestview Nursing
7 Home is one of their clients, it's 144 beds, and they
8 actually considered that nursing home to have more
9 calls than us.

10 MR. DI NOLFO: Okay. And the carol -- did you 10:46:
11 know -- I think I saw a slide of -- one of your
12 documents said that you understood they had them in
13 Carol Stream at Windsor and another facility? Are
14 you familiar with that?

15 MR. BALDWIN: Say that again? 10:47:

16 MR. DI NOLFO: Do you understand that they
17 also -- Elite provides services to some facilities in
18 Carol Stream?

19 MR. BALDWIN: They could.

20 MR. DI NOLFO: I'll show you what I'll mark as 10:47:
21 Exhibit No. 15 for identification purposes.

22 (Fire District Exhibit No. 15
23 identified.)

24 MR. DI NOLFO: If you could go into Exhibit

1 No. 15, which is a PowerPoint from Haymarket.

2 MR. HERVAS: Microphone.

3 MR. DI NOLFO: Okay. Do you have a copy?

4 MR. BALDWIN: Yes, I have one, thanks.

5 MR. DI NOLFO: All right. You would agree 10:47:

6 from looking at this, this appears to be a PowerPoint
7 of Haymarket?

8 MR. BALDWIN: It does appear that way.

9 MR. DI NOLFO: All right. And if I ask you to
10 go in one, two, three -- fourth page in on the back 10:48:
11 side, I believe -- let me make sure I'm right there
12 so I don't mislead you. I'm sorry, it's six pages
13 in. It says -- about the private ambulance service?

14 MR. BALDWIN: I'm there.

15 MR. DI NOLFO: All right. This indicates it's 10:48:
16 the second largest ambulance company in the state of
17 Illinois?

18 MR. BALDWIN: That's what it says.

19 MR. DI NOLFO: All right. And this is a
20 document from Haymarket; correct? 10:48:

21 MR. BALDWIN: Say that again?

22 MR. DI NOLFO: It's a document from Haymarket,
23 is it not?

24 MR. BALDWIN: Yes.

1 MR. DI NOLFO: Okay. And you list in there
2 that the company currently serves clients. You list
3 Itasca, Glendale Heights, Roselle, Bloomingdale,
4 Carol Stream, Elk Grove, and Hanover Park; correct?

5 MR. BALDWIN: Correct. 10:48:

6 MR. DI NOLFO: And in Carol Stream, you list
7 Belmont Village and Windsor Park; correct?

8 MR. BALDWIN: Correct.

9 MR. DI NOLFO: And in Bloomingdale, you list
10 one, two, three, four, five different facilities? 10:48:

11 MR. BALDWIN: Yes.

12 MR. DI NOLFO: As part of your due diligence
13 to see if Elite could meet your goal of 90 percent,
14 did you inquire of the Carol Stream Fire Protection
15 District to find out that they actually responded 605 10:49:
16 times to those two facilities, sir, by Elite between
17 January 1 and October 22nd, 2019?

18 MR. ROTH: Objection; counsel's testifying
19 again. We don't have these numbers, and they don't
20 appear in the document that he's showing the witness. 10:49:

21 MR. DI NOLFO: If he knows.

22 MR. ROTH: No, not if he knows. If counsel
23 has a basis for this kind of testimony, then let him
24 bring forth a witness to do so or swear himself in.

1 MR. HERVAS: Response, Mr. DiNolfo?

2 MR. DI NOLFO: I'm asking what the individual
3 knows or doesn't know. If he doesn't know, he
4 doesn't know.

5 MR. ROTH: The 605, where does that number
6 come from? 10:49:

7 MR. HERVAS: If the -- the form of the
8 question assumes that to be a fact and so --

9 MR. DI NOLFO: I'll rephrase it, then. That's
10 fine. 10:49:

11 MR. HERVAS: Okay.

12 MR. DI NOLFO: Did you do any due diligence to
13 see the number of times the Carol Stream Fire
14 Protection District has to respond to those two
15 facilities, even though they have a contract with
16 Elite Ambulance? 10:49:

17 MR. BALDWIN: We have not yet. It's very
18 early in the process.

19 MR. DI NOLFO: Well, you signed a contract
20 with them, right? That's what you told me? 10:49:

21 MR. BALDWIN: Yes.

22 MR. DI NOLFO: Okay. So the contract's
23 signed?

24 MR. BALDWIN: These ambulance contracts are

1 easy to get. People are very interested in this
2 business. We have one signed, certainly as an
3 option, and if we ever wanted to open up this
4 facility, like we want, we would have to do more
5 research and due diligence.

10:50:

6 MR. DI NOLFO: Did you do any due diligence
7 into how many times the Bloomingdale Fire Protection
8 District has to respond to those five entities that
9 Elite services?

10:50:

10 MR. BALDWIN: No.

11 MR. DI NOLFO: Okay. Now, I think you
12 mentioned that the ambulances were going to be stored
13 at two locations? 290 and Thorndale and 355 and Army
14 Trail?

10:50:

15 MR. BALDWIN: That's correct.

16 MR. DI NOLFO: And is it your understanding --
17 well, first off, it's your understanding that those
18 ambulances aren't just dedicated to Haymarket?
19 They're subject to calls from anyone?

10:50:

20 MR. BALDWIN: Yes, we understand that.

21 MR. DI NOLFO: All right. And so there's not
22 going to be one of these Elite ambulances parked all
23 the time at the Haymarket facility, if it's granted;
24 correct?

1 MR. BALDWIN: Correct.

2 MR. DI NOLFO: All right. So those ambulances
3 that -- the two ambulances that you discussed Elite
4 would make available to you would be eligible to
5 handle other calls, and they, I assume, would also be 10:51:
6 the ones servicing Carol Stream, Bloomingdale,
7 Roselle, Itasca, et cetera?

8 MR. BALDWIN: I don't know.

9 MR. DI NOLFO: Would that be something
10 important for you to know so you can determine if 10:51:
11 they could meet that 90-percent estimate?

12 MR. BALDWIN: Down the road, I mean, we can do
13 more due diligence into this, but right now Elite is
14 the second largest in Illinois. They are respected.

15 MR. DI NOLFO: Fair enough. What type of 10:51:
16 calls will you tell your people to call Elite to
17 handle versus 911?

18 MR. BALDWIN: Elite could handle all of our
19 calls.

20 MR. DI NOLFO: Are there any calls that you 10:51:
21 would tell your people not to call -- never to call
22 911, to call Elite first? Or are there calls you're
23 going to tell your people to absolutely call 911 and
24 not Elite? Does that make sense?

1 MR. BALDWIN: That's more of a clinical
2 question around the training, but I believe it's been
3 contemplated that we could have all of our calls
4 routed to Elite, and the Elite dispatch would let our
5 clinical staff know if 911 would be a better option. 10:52:

6 MR. DI NOLFO: I'm trying to understand what
7 you said, and, I apologize, maybe it's getting a
8 little late in the night. I'm not sure.

9 Your goal, then, is to have your
10 employees call Elite for every emergency that occurs 10:52:
11 at the proposed facility, should it be granted?

12 MR. BALDWIN: I know Elite could handle all of
13 our calls.

14 MR. DI NOLFO: That's not my question.

15 MR. BALDWIN: And as far as the training, that 10:52:
16 question's better directed to Dan.

17 MR. DI NOLFO: Well, you're the one here
18 that's testifying about the impact that this
19 facility's going to have, so I guess I need to
20 understand when can 911 expect a call from Haymarket 10:53:
21 to handle an emergency versus Elite? And you don't
22 know that answer; fair? Ask Dan?

23 MR. BALDWIN: No, around training, but we do
24 know from Elite, they can handle all of our calls.

1 And through a call with our clinical team and Elite,
2 if there was an emergency that needed a very fast
3 response and Elite was not the closest, they would
4 refer and prefer that our staff call 911.

5 MR. DI NOLFO: All right. Well, you would 10:53:
6 agree with me that the two locations that you told
7 me, 355 and Army Trail and 290 and Thorndale, the
8 Itasca Fire Protection District's always going to be
9 closer; right? I mean, just logically?

10 MR. BALDWIN: Sure. 10:53:

11 MR. DI NOLFO: Sure. So if location and time
12 to respond is going to be a factor, the Itasca Fire
13 Protection District is going to win out on that
14 analysis given their location?

15 MR. BALDWIN: That would also mean that 10:54:
16 ambulance is sitting idle and available.

17 MR. DI NOLFO: Right, or just the engine could
18 be --

19 MR. BALDWIN: Or it go to a mutual aid
20 partner. 10:54:

21 MR. DI NOLFO: Let me ask another question.
22 You said the ambulance. But what's your
23 understanding of how the engine there at Itasca is
24 set up? Does it respond to emergency calls as well

1 for medical services?

2 MR. BALDWIN: I can't speak to how the Itasca
3 Fire Protection District responds to emergency calls.

4 MR. DI NOLFO: Okay. And you would
5 acknowledge that the wait time for Elite Ambulance 10:54:
6 has been told to you to be anywhere between 10 to 20
7 minutes?

8 MR. BALDWIN: I think that was in more of a --
9 in a range of the high end. It could be what they
10 really want to respond to, but obviously, if they're 10:54:
11 closer, their response time would be faster.

12 MR. DI NOLFO: All right. Let's go to Exhibit
13 No. 15 again, which is your PowerPoint, same slide.
14 If we look on there, it says, "Response time, less
15 than 20 minutes, most 10 minutes." Right? 10:55:

16 So if I read that, the response time
17 is between 10 and 20 minutes? At least that's what's
18 written there. I didn't write it but that's what's
19 written there?

20 MR. BALDWIN: I don't think that would exclude 10:55:
21 responding in under 10 minutes.

22 MR. DI NOLFO: Okay. All right. We'll go
23 with that, sure. Is this a good point to stop? I
24 mean, I can keep going. I have a little bit more to

1 go.

2 CHAIRMAN KISCHNER: You have got about --

3 MR. DI NOLFO: 10 minutes?

4 CHAIRMAN KISCHNER: -- eight minutes.

5 MR. DI NOLFO: I'll try to get through it,
6 then, so the next counsel can go next time.

10:55:

7 Your employees are going to be asked
8 when they call Elite to ask what the response time is
9 going to be; correct?

10 MR. BALDWIN: They would describe the
11 situation in front of them on how they have been
12 clinically trained to know what it is and to work
13 with that dispatch on the appropriate way to respond.

10:55:

14 MR. DI NOLFO: What dispatch?

15 MR. BALDWIN: Elite's dispatcher.

10:56:

16 MR. DI NOLFO: So my question was, though, you
17 are going to train -- or you're going to train your
18 folks to ask Elite how long is it going to take for
19 an ambulance to get here, because you need to know
20 who is going to be able to respond quicker, as you
21 said?

10:56:

22 MR. BALDWIN: They would be trained to
23 diagnose the situation in front of them, and anything
24 further on training would be good for Dan.

1 MR. DI NOLFO: All right. So just really
2 quick, so you don't know if they're going to be told
3 to ask Elite for an estimated response time? You
4 don't know? Ask Dan?

5 MR. BALDWIN: I know they would be trained to 10:56:
6 know the situation in front of them; work with that
7 dispatch to understand what would be an appropriate
8 way to handle that situation.

9 MR. DI NOLFO: Who makes the ultimate decision
10 what's the appropriate way to dispatch? Is that 10:56:
11 Elite or your medical professionals at your facility?

12 MR. BALDWIN: The medical professionals.

13 MR. DI NOLFO: All right. Give me one minute.
14 I'm going to get Exhibit 8 in the record.

15 (Fire District Exhibit No. 8 10:57:
16 identified.)

17 MR. DI NOLFO: For the record, Exhibit 8 is
18 some additional documents FOIAed from the City of
19 Chicago. I'm going to streamline this. You would
20 have to analyze this to know whether it applies or 10:57:
21 doesn't apply; true?

22 MR. ROTH: Applies to what?

23 MR. DI NOLFO: To the analysis of the number
24 of calls that are experienced by your facility

1 downtown?

2 MR. ROTH: Where downtown?

3 MR. DI NOLFO: Do you understand the question?
4 I don't care if he understands it. Do you understand
5 it?

10:57:

6 MR. ROTH: I --

7 MR. HERVAS: Hold on. Hold on. Let me hear
8 the objection, please.

9 MR. ROTH: I'm objecting to the question
10 because it's vague and it's not understandable. The
11 witness -- in fairness to the witness, he needs to
12 know what the question is and what information
13 counsel's asking him for.

10:58:

14 MR. HERVAS: Okay. Let's --

15 MR. ROTH: And it's unclear.

10:58:

16 MR. HERVAS: All right. Let's ask -- please
17 re-ask the question, and then we'll see if the
18 witness understands it.

19 MR. DI NOLFO: Would you need to examine that
20 document over a period of time to be able to tell me
21 if the calls listed on here apply to the Haymarket
22 facility downtown?

10:58:

23 MR. ROTH: That's better.

24 MR. BALDWIN: Yes.

1 MR. DI NOLFO: Okay. My last question, I
2 hope. Do you agree with me that to truly get an
3 accurate estimate of the number of calls a proposed
4 facility would generate, you need to include all the
5 Haymarket downtown buildings in use to serve the 10:58:
6 12,000 patients you serve annually?

7 MR. BALDWIN: Of course we want to take all
8 data points into account, compare them with the other
9 expert report, which was the Village's. It is
10 unfortunate that apparently you are not working with 10:59:
11 the Village's expert when they prepared their report.
12 And then we would compare it to the current capacity
13 that the Itasca Fire Protection District has. And
14 currently they are only having 2.3 calls per day for
15 over half their staff of 30 dedicated to it. They 10:59:
16 have plenty of capacity.

17 MR. DI NOLFO: Are those total calls or just
18 EMS calls?

19 MR. BALDWIN: EMS responses --

20 MR. DI NOLFO: Thank you. 10:59:

21 MR. BALDWIN: -- of the ambulance.

22 MR. DI NOLFO: Thank you. That's all I have.

23 CHAIRMAN KISCHNER: Thank you.

24 MR. HERVAS: Just to understand, we have two

1 additional attorneys that need to do
2 cross-examination. Ms. Smith, will you have
3 questions for this witness?

4 MS. SMITH: I do.

5 MR. HERVAS: And, Mr. Ellenbecker, will you 11:00:
6 have questions for this witness as well?

7 MR. ELLENBECKER: I will.

8 MR. HERVAS: I'm sorry, yes?

9 MR. ELLENBECKER: Yes.

10 CHAIRMAN KISCHNER: Okay. So at this time, 11:00:
11 it's almost 10:00 o'clock, we're not going to start
12 up with another one of the counselors. What I would
13 like to do at this point is ask one of the
14 commissioners to -- for a motion to continue the
15 public hearing to November 13th at 7:00 p.m., in this 11:00:
16 building? Is that correct?

17 MS. JARMUSZ: Yes, here at Peacock.

18 CHAIRMAN KISCHNER: Here at Peacock.

19 MR. SWETS: Motion to continue the public
20 hearing on November 13th at 7:00 p.m. here at 11:00:
21 Peacock.

22 MS. DRUMMOND: Second.

23 CHAIRMAN KISCHNER: Second. All in favor?

24 (Chorus of ayes.)

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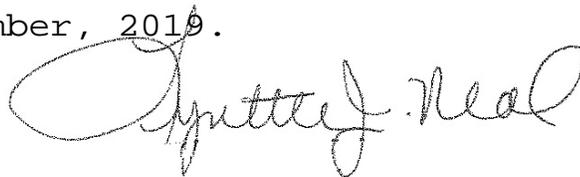
1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF DU PAGE)

3 I, Lynette J. Neal, CSR. No. 84-004363, RPR,
4 do hereby certify that I reported in shorthand the
5 proceedings had at the public hearing of the
6 above-entitled cause and that the foregoing Report of
7 Proceedings, Pages 1 through 163, inclusive, is a
8 true, correct, and complete transcript of my
9 shorthand notes taken at the time and place
10 aforesaid.

11 I further certify that I am not counsel for
12 nor in any way related to any of the parties to this
13 suit, nor am I in any way, directly or indirectly
14 interested in the outcome thereof.

15 This certification applies only to those
16 transcripts, original and copies, produced under my
17 direction and control; and I assume no responsibility
18 for the accuracy of any copies which are not so
19 produced.

20 IN WITNESS WHEREOF I have hereunto set my hand
21 this 25th day of November, 2019.

22 
23

24 Certified Shorthand Reporter

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| <p>\$</p> <p>\$350,000 136:13</p> <p>\$500,000 51:22 52:3,9</p> <p>\$800,000 37:6,15</p> <hr/> <p>1</p> <p>1 4:8 104:18,20 105:14 114:19 121:13 150:17 163:7</p> <p>10 9:19 25:24 45:6,8,9,10 52:24 56:4 86:5 125:2,4 156:6,15,17,21 157:3</p> <p>10-minute 96:23</p> <p>100,000 44:15 45:9</p> <p>108 53:1 54:19 103:9 106:7,10 116:14</p> <p>10:00 161:11</p> <p>11 126:9,10</p> <p>12 126:24 127:1</p> <p>12,000 77:10 107:11 117:4 160:6</p> <p>120 54:14 103:2,9 104:13 105:12,15 116:14,21,22 119:4</p> <p>124 54:16 103:4,9 106:1, 10 107:9 116:15</p> <p>13 57:13 88:1 130:3,4</p> <p>13th 161:15,20</p> <p>14 13:16 131:18,20</p> <p>144 148:7</p> <p>1466 118:3</p> <p>15 56:2,3 57:11 148:21, 22 149:1 156:13</p> <p>16 13:20,22 14:3,5 60:22 62:9</p> <p>16-bed 13:12</p> <p>163 163:7</p> <p>172 122:3</p> <p>18 38:8 59:17 78:8 120:4 121:18</p> | <p>188 122:2</p> <p>19 38:12 40:12 120:5 121:18 127:8</p> <p>19-014 4:4</p> <p>1989 130:12</p> <hr/> <p>2</p> <p>2 105:8,9,15 114:24</p> <p>2.3 143:20 160:14</p> <p>20 59:17 97:15,16 156:6, 15,17</p> <p>2000 38:6,13 39:2,15 40:10</p> <p>2015 107:17 109:2</p> <p>2017 38:8 61:16 78:7</p> <p>2018 61:16 85:8 121:13, 15 127:23 132:21 134:8</p> <p>2019 4:2 10:12 86:20 107:17 109:2 121:13,16 150:17 163:21</p> <p>224 62:12</p> <p>22nd 150:17</p> <p>24 79:21 142:8 143:9</p> <p>24,000 78:11,14</p> <p>24-hour 61:6,9</p> <p>240 51:17</p> <p>250 6:20 9:1 85:7 97:19</p> <p>250-bed 85:6</p> <p>25th 10:12 163:21</p> <p>260 32:10</p> <p>269 122:10</p> <p>27 45:15</p> <p>28 13:15 14:21,22 86:19</p> <p>28-day 12:18 13:4,10</p> <p>28th 32:15 37:2 38:4,10, 12 39:1 44:2 50:1 51:7, 20 55:22 56:12 58:20 61:2 66:4,21 75:13</p> <p>290 152:13 155:7</p> | <p>3</p> <p>3 105:21,22 107:7 110:16 112:8,13</p> <p>30 141:16 143:13 160:15</p> <p>32 44:3 61:10 82:16 89:1</p> <p>350,000 136:16</p> <p>355 152:13 155:7</p> <p>365 11:2 14:16,20,21 60:1,4,8,12,17 140:6</p> <p>365-day 14:15</p> <p>37 45:15</p> <p>376 39:11 40:4 63:4,8 78:8,11</p> <hr/> <p>4</p> <p>4 106:2,4 115:16</p> <p>4,750 49:12</p> <p>400 77:13,17</p> <p>45 24:2</p> <p>45-year 28:19</p> <p>4500 49:17</p> <p>4th 107:16,17 109:2</p> <hr/> <p>5</p> <p>5 118:22,23 121:16 122:9</p> <p>50 37:3</p> <p>50,000 45:10</p> <p>500 62:20</p> <p>53 128:10,19</p> <hr/> <p>6</p> <p>6 119:24 120:1 121:14 122:2</p> <p>6/30/2019 124:16</p> <p>605 150:15 151:5</p> <p>63 112:24 113:20 114:7, 10</p> | <p>649 107:17 109:7</p> <p>68 128:18</p> <p>68-month 128:10</p> <p>6th 4:2 52:2 121:17</p> <hr/> <p>7</p> <p>7 120:21,23 121:12 122:1,16,20 125:24</p> <p>7/1/2018 124:15</p> <p>70 40:21 41:1</p> <p>700 62:16</p> <p>7:00 161:15,20</p> <hr/> <p>8</p> <p>8 125:23 126:2 158:14, 15,17</p> <p>80 40:17,21 41:1 79:4,6</p> <p>80-percent 79:2</p> <p>84-004363 163:3</p> <p>860 4:6,11 53:2 127:7</p> <p>863 118:12,17 120:7 121:20 122:11</p> <p>8th 120:4 121:15</p> <hr/> <p>9</p> <p>9 124:4,6 125:24</p> <p>90 11:1 14:6,13,16,20,24 31:11 115:8 144:24 147:3,6,10,15,18 150:13</p> <p>90-day 14:8</p> <p>90-percent 153:11</p> <p>911 81:8,19,20 82:4 92:8 102:24 103:8,24 109:20 117:16 153:17,22,23 154:5,20 155:4</p> <p>920 116:22</p> <p>932 54:2,7,9 102:24 104:13,24 105:15 116:13,21 122:23 123:2, 8,11</p> |
|---|--|--|--|

| | | | |
|--------------------------------|-------------------------------|--------------------------------|-------------------------------|
| 943 32:10 | 109:18 118:20 | 30:12 39:18 40:22 41:4,8 | ambulances 82:21 |
| 99 78:18,24 | actually 15:22 41:20 | 44:12 50:12 51:1,3 55:20 | 83:12 116:7 139:11,14 |
| 9th 120:5 121:16,17 | 43:4 51:21 63:13,16 | 59:21 67:10 70:17 82:12 | 152:12,18,22 153:2,3 |
| | 69:1,19 72:11 82:23 | 91:15 94:3 127:24 139:6 | among 13:20 52:14 |
| | 86:10 97:7 119:17 | 140:8 148:15 149:21 | amount 10:24 65:24 |
| A | 120:13,15 131:11 138:18 | 150:19 156:13 | 67:12 70:21 103:14 |
| | 144:2 148:6,8 150:15 | against 73:18 77:5 82:4 | amounts 13:20 |
| ability 93:8 | add 98:12 99:13 122:11 | age 11:9 24:7,9,14,18 | analysis 37:10 66:4,9, |
| above-entitled 163:6 | added 48:15 | 30:1 31:7 | 10,13,17,19 67:8 104:7 |
| absolutely 28:8 53:7 | addictions 21:18 | aged 16:23 | 117:9 118:1,16 121:19 |
| 77:4 94:22 103:17 | Addison 132:20 133:22 | ages 16:6 23:10,12 | 127:22 136:7,11 138:16 |
| 153:23 | 134:5,13,17 | 27:14 | 144:2 155:14 158:23 |
| Abuse 58:8 69:6 | addition 42:6 118:10 | aggravated 74:24 | analyze 102:19 110:12 |
| accepted 144:11 | additional 5:6 58:18 | agree 8:8 27:9 33:10 | 112:20 113:24 114:20 |
| access 17:24 23:5,19,24 | 62:12 94:20 100:22 | 36:20 40:7 44:17 48:4 | 115:20 117:2,16 158:20 |
| 24:4 29:17 70:4 | 108:15 140:4 158:18 | 49:5 56:21 59:23 70:19 | analyzed 102:23 119:3 |
| accessibility 46:2,11 | 161:1 | 83:2 86:22 89:10 92:20, | 129:11,18,21 |
| accessing 12:23 28:4, | Additionally 35:10 | 24 93:7,21 96:9 107:7,14 | analyzing 64:19 129:14 |
| 19 | address 19:12,22 54:1, | 109:10 110:7 128:20 | and/or 32:23 83:18 |
| account 104:8 160:8 | 4,10 55:17 70:16 74:6 | 129:10,17 143:24 145:22 | anecdotal 37:19,24 |
| accountant 117:12 | 77:17,23 88:7,12,14 | 147:17 149:5 155:6 | anecdotally 51:8 |
| 121:24 | 89:3,24 90:6 92:6,10 | 160:2 | annual 13:4 15:15 |
| accreditation 58:14 | 94:16 103:7 104:15 | agreed 9:9 129:13 | 126:17 127:20 129:3,8 |
| accredited 58:11,15,17 | 105:1 106:2,10,11 107:9 | 84:5 130:11 131:8,10 | 132:20 142:1 |
| accuracy 163:18 | 113:12 119:4 122:21 | 141:10 | annually 13:10 77:10 |
| accurate 26:3 57:20 | addressed 54:24 | ahead 61:19 65:11 | 107:12 160:6 |
| 82:24 102:15,19 103:13 | addresses 54:24 55:7 | aid 130:11 131:7,10 | answer's 121:2 |
| 117:17,19 118:17 129:2, | 77:19 104:13 106:14 | 155:19 | answers 6:13 7:16 |
| 5 135:3 160:3 | 116:9 117:8 118:4,19 | alcohol 69:10 70:5 | 101:6 |
| ACDC 133:22 | Administration 69:7 | alleviate 145:5 | anticipate 13:5 104:11 |
| ACF 26:16 | Adult 26:16 | allowable 63:24 | anticipating 100:4 |
| acknowledge 68:22 | adults 25:10 | allowed 11:8,11 29:13 | anticipation 98:10 |
| 92:13 146:8 156:5 | advance 35:11 101:11 | 63:22 65:16 | anymore 94:11 |
| acknowledged 133:10 | affect 54:23 | ambulance 55:5 81:4,8 | apologize 101:8 119:2 |
| across 26:6 | affiliated 54:5 55:17 | 83:4 84:15 86:15 87:6, | 121:11 154:7 |
| Act 31:15 | 135:8 | 12,13,19 88:3,5,20 90:1, | apparatus 116:8 142:8 |
| acted 75:10 | affirmatively 17:3 | 5,9,16 93:6,19 95:21 | apparently 160:10 |
| action 5:23 | afflicted 45:4 | 96:12 102:20 109:21 | appeared 132:8 |
| active 69:2,8 137:24 | afield 50:17 | 115:7 124:15 135:1 | appears 58:1 116:7 |
| activities 68:5 | aforesaid 163:10 | 136:2,6,13 137:4,12,16, | 132:6 149:6 |
| activity 133:16 | afoul 34:22 | 21,24 138:1,13,14 | applicant 33:9 |
| actual 51:13 86:9,11 | after 19:1 100:18 | 139:13 140:5,13 141:4, | application 29:7 33:7, |
| | again 6:10 15:16 21:24 | 18,19,20,22 143:9,14,23, | 11,17,22 34:1,7 35:13 |
| | | 24 144:3,10,12,16,21 | |
| | | 145:10 146:6,23 149:13, | |
| | | 16 151:16,24 155:16,22 | |
| | | 156:5 157:19 160:21 | |

| | | | |
|--|--|--|---|
| 39:12 41:16 50:6 59:2 64:23 65:1 | assumed 141:1 | balance 84:20 | Basically 18:7 |
| applies 158:20,22 163:15 | assumes 50:21 151:8 | Baldwin 6:5 7:8 15:12 49:15 53:16 54:5,24 55:20 64:11 86:13,24 88:6,18 93:5 97:22,23 98:8,21 101:18,21 102:5, 8,11,17,22 103:2,6,11, 17,21 104:4,10 106:13 107:5,13,19 108:5,22 109:4,9,14,20 110:6,11, 17 111:23 112:6,10,16, 20 113:13,18,22,24 114:22 115:2,5,14,20 116:1,4,10,16,18,24 117:5,18,24 118:6,15,19 119:8,13,19 120:8,17 121:5,21 122:4,13 123:7, 10,22 124:2,10,13,17,21, 24 125:9,11,14,17,20 126:14,16,19,22 127:5,9, 12,15,19 128:4,7,12,16, 22,24 129:7,13,20,24 130:9,13,19,21,24 131:11,14,24 132:3,6,10, 15,19,24 133:9,13,19,24 134:3,7,10,15,19 135:4, 11,20,24 136:7 137:8,17, 23 138:4,9 139:9,24 141:7,12,15,20 142:1,5 143:6,11,13,17,20 144:2, 5,15,22 145:2,8,12,15,21 146:1,7,14,22 147:1,4, 11,16,21 148:5,15,19 149:4,8,14,18,21,24 150:5,8,11 151:17,21,24 152:10,15,20 153:1,8,12, 18 154:1,12,15,23 155:10,15,19 156:2,8,20 157:10,15,22 158:5,12 159:24 160:7,19,21 | bed 41:3 |
| apply 17:12 45:8 50:12 93:1 158:21 159:21 | assumption 50:21 51:1 | Baldwin's 64:15,19 | basis 13:4 15:15 62:21 127:20 133:2 137:5 140:9 150:23 |
| appreciated 89:1 | assumption's 50:23 | bargaining 141:9,10 | beds 13:15,20,23 14:5,6 15:9 40:21 41:1 51:13, 14,16 60:20 61:2,3,6,9 62:9,12 77:13,17 82:16 85:7 86:6 148:7 |
| appropriateness 20:10 89:21 | attached 130:17 131:15 | barred 108:16 | before 4:3 26:5 64:23 65:1 97:17 99:6 100:1 134:13 138:24 |
| approval 4:9 36:17 | attack 110:4 | barriers 12:23 87:8 88:8,10,14 89:24 | begin 6:6 9:19 |
| approved 52:4 79:13,18 89:6 | attempted 134:16 | base 127:18 | behalf 9:15 32:9 33:7 34:15,20 35:10 36:5 |
| approximate 51:17 53:22 61:16 77:15 | attorney 5:5,8 8:12 9:13 32:6 64:1 97:2 | based 11:21 13:14 36:21 37:9,11,18,23 40:19 42:12 55:16 60:21 81:13 100:22 | believes 34:16 36:6 |
| area 27:22 37:14 45:8 68:14 71:3 92:3 | attorneys 6:11,20 7:11 8:23,24 9:9 57:3 97:10, 19 161:1 | baseline 129:3 | Belmont 150:7 |
| areas 29:11 42:21 70:2 | attract 44:24 | | benefit 27:10 52:15 |
| arguing 106:20 | audience 9:4 46:14 57:2 | | Benes 10:4 28:1 |
| argument 61:20 | audited 125:13 | | bet 96:7 |
| Arlington 47:18 | audits 29:23 | | big 46:6 53:12 |
| arms 135:14,16 | author 35:4 | | bit 65:4 77:8 135:17 156:24 |
| Army 152:13 155:7 | authority 93:18 | | blank 112:23 113:18 |
| articles 51:9 | average 7:12 79:4 128:3 | | blanks 112:16 |
| asks 7:21 | averaged 127:20 | | Bloomington 148:3 150:3,9 152:7 153:6 |
| aspect 62:24 63:2 66:20 75:14 | averaging 128:1 | | Board 5:22,24 20:9 |
| assessment 15:21 16:1,18 17:20 18:6 | avoid 53:14 | | bodies 52:14 |
| assessments 15:23 16:2,24 | aware 8:23 24:12 34:14 35:19 36:4,10 41:13,19 45:12 69:12,23 84:18 123:23 | | body 59:10 |
| asset 139:11 | ayes 161:24 | | bond 27:5 |
| assigned 97:14 113:5 | | | boss 64:15 |
| assist 19:20 74:16 | B | | bother 134:11 |
| assistance 44:21 | B-2 4:11 | | Boulevard 37:5 |
| assistant 80:24 | bachelor's 22:6 | | breadth 65:24 |
| assisted 92:21 | back 8:9 48:9 70:10 77:7 80:15 85:8 107:24 108:6, 10 120:4 122:23 123:8, 10 128:18 132:19 149:10 | | break 96:23 |
| Associates 34:12,15 57:15,17 65:22 66:24 67:3,7 | background 71:11 72:2,8 75:14 102:6,9 | | breaks 138:3 |
| assume 48:1 74:19 75:3 153:5 163:17 | backup 94:7 95:2 138:2 | | briefly 5:10 65:3 |
| | backyard 45:13 | | bring 48:19 140:10,17 150:24 |
| | bad 131:2 138:10 | | |

| | | | |
|--|--|--|--------------------|
| broken 86:10 | calls 88:1 93:24 94:13 95:20 96:11,15 102:24 103:8,14,24 104:8,11,24 105:12 106:1,6,8,12 107:17 109:7,17,18 117:14 118:3,20 119:3,6 120:4 121:20 127:7,21, 24 128:1,3,6,19 129:1,19 132:16 133:1,15 137:13, 22 141:6 144:6,7,24 146:11,19 147:3,6 148:9 152:19 153:5,16,19,20, 22 154:3,13,24 155:24 156:3 158:24 159:21 160:3,14,17,18 | Chairman 4:1 5:2,3 8:10,11,15 34:23 35:14 46:15,16 76:1 96:20,22 97:1,13,16,24 98:2 114:5 157:2,4 160:23 161:10, 18,23 | cites 56:23 |
| budget 84:20 126:18 | cameras 92:2 | checks 71:11,16 72:2,3 | |
| build 70:8 | canceled 93:8,22 145:19 146:9,17 | Chicago 28:18 29:8,18 60:20 104:24 119:7 121:14 123:12 158:19 | |
| building 42:13,16 43:4 73:17 91:14 92:6 117:16 161:16 | canine 71:19 | Chief 86:18 87:5 91:2 130:21 131:6,9 135:18 | |
| buildings 107:10 117:3 160:5 | capacity 40:17 79:2,3 115:8 144:5 147:22 160:12,16 | child 12:3,5,15 13:2 16:9 19:2 20:15 21:4,11,21 24:4,5 27:5,10,15 30:5, 14 | |
| built 51:1 | car 67:24 87:20 95:7 | child's 17:24 29:21 | |
| bunch 6:23 113:16 | care 12:23 43:13 58:22 61:6,9 85:6 159:4 | child-find 16:24 | |
| burden 50:7,8 61:24 90:6,10 93:24 106:18,19 145:5 | Carello 4:16,17 30:24 31:4 | childcare 13:2 | |
| burden's 95:14 | CARF 58:11,13,15,16 | childhood 21:17 22:1 | |
| burdens 88:10 | carol 148:3,10,13,18 150:4,6,14 151:13 153:6 | children 10:1,13,22 11:6,9,12,21 12:6,7,8 13:7 15:20 16:23 18:4,8, 20 22:17,20,23 23:2,19, 23 24:6,19 26:7,10,13, 16,22 27:16,19 28:7 29:18 31:6,13,23 32:3 | |
| Burke 86:18 87:5 91:3 130:21 131:6,9 135:18 | case 4:4 20:15 32:15 51:8 74:7 99:4 117:21 131:12 138:2 147:7 | children's 17:23 | |
| bus 47:11,14,17,21,23 48:2 | categorized 66:17 | choice 42:11 | |
| buses 46:13 47:7,10 | causing 75:1 | chorus 161:24 | |
| business 4:11 44:2 45:19 47:18 68:12,13 88:24 89:2 97:1 103:7 104:13,15 107:8 117:8 152:2 | ceased 146:10,18 | chose 46:2 52:7 58:17 81:20 | |
| businesses 68:5,11,13 | center 24:8 28:10 34:16 36:6 40:3 48:11 85:6,7 133:22 134:12,14 | Chuck 5:5,8 | |
| buttons 91:9,18,21 | CEO 33:3 | circumstances 29:12 | |
| buy 86:14 87:6,11,13 88:3 134:24 136:12 137:4,16 139:15 140:6, 12 141:4 143:16 144:10 | certification 163:15 | cite 59:16 | |
| <hr/> C <hr/> | certifications 22:8 | | |
| calculations 87:24 | certified 22:13 163:24 | | |
| call 4:13 48:23 74:15,19, 22 75:2,9 81:8,16,19 83:24 84:2,16 89:20 91:8,10,18,21 92:7 95:1 104:14 112:18 153:16, 21,22,23 154:10,20 155:1,4 157:8 | certify 163:4,11 | | |
| called 10:5 82:2 | cetera 153:7 | | |
| calling 82:4 | | | |

| | | | |
|---|--|--|---|
| collective 141:9,10 | concerned 32:9 94:19 | contracts 90:21 148:1,3 151:24 | 17 87:1,22 88:17 90:24 92:16,19,23 93:10,11,15, 20 102:7,8,17,22 103:1 104:4 105:16,17 106:12, 18 107:13 109:8 110:1 111:17,19 113:17 114:21,22 116:23,24 118:18 120:7,14 124:16, 17,20,21 125:8,9,13,14, 16,17 126:18,19 127:4,8, 9,11,14 128:23,24 129:23 131:23 132:2,5 133:12,13,23,24 135:23, 24 137:7,16 141:19 143:17 144:21 145:1,21, 24 146:21 147:3 148:4 149:20 150:4,5,7,8 152:15,24 153:1 157:9 161:16 163:8 |
| column 111:24 113:6 | conclude 104:4 | contradictory 108:14 | correctly 106:9 123:15 |
| combined 61:11,12 109:21 | conclusion 73:10 115:9 | contrast 51:13 90:2 | cost 85:15 |
| comment 7:23 8:1,3 63:22 64:3 66:11 123:16 134:23 | condominium 37:5 | control 163:17 | counsel 9:11,22 10:14 56:11 76:6 78:7 88:23 89:12 98:3 110:21 111:12 120:12 122:16 123:24 142:12 143:4 150:22 157:6 163:11 |
| commenting 49:7 | conducted 16:2 | controls 84:6 | counsel's 32:13 136:18 140:8 150:18 159:13 |
| comments 5:6 46:16 | conflict 58:2 | convalescent 85:7 | counselors 161:12 |
| commission 4:3 5:5,19 6:8 7:10,14,18 8:7 35:12 37:18,22 38:5,12,17 49:24 50:14 51:6,20 54:6 55:3 63:24 64:2,4 69:5 100:12 105:3 | confusion 126:5 | convenience 50:9 | count 113:19,22 |
| Commission's 5:23 | connected 55:17 | conversation 79:10 | counted 113:1 |
| commissioner 4:14,16, 18,20,22,24 76:10 | Conroy 42:7,11 43:3 | conversations 118:13 | counties 38:7,15,19 40:12 43:11,14,17 78:22 |
| commissioners 30:23 110:3 161:14 | conscious 117:2,5 | convince 76:23 | County 40:4,13 44:6 46:24 47:4,22 78:9,21 163:2 |
| communities 148:1 | conservative 147:5,12 | coordination 30:6 | couple 5:9 91:6 |
| community 4:11 43:5 45:3 50:22 72:20 | consideration 27:18 | coordinators 21:7 | court 5:15 6:10 57:10 63:21 100:24 |
| company 93:19 149:16 150:2 | considered 36:23 59:8, 9 148:8 | copies 105:2 163:16,18 | cover 95:20 144:24 |
| compare 51:12 90:2 118:1,8 119:9 120:9 121:6 160:8,12 | consistently 38:18 71:23 | copy 32:11,14 39:20 149:3 | covered 5:10 76:6 |
| comparing 62:4 | Consolidated 132:20 133:22 134:5,13,17 | corner 68:18 | CPA 102:7 |
| comparison 50:11 62:2 103:15 | consortium 83:11,14, 15 | corners 68:17 | Craig 10:4 28:1 |
| comparisons 29:10 51:11 | constant 49:11 | correct 10:7,9,19 14:4 15:21 23:21 24:15,20 25:13 26:4,20 27:12,13 31:9 33:3,4,8,12,15,16, 19,20,22,23 34:3,9,10,13 36:24 37:1 38:9,19 39:7, 17 40:13,17 41:7,11,12, 16,17 42:8,9,13,14,17, 18,21,22 43:6,7,14,15, 18,19,23,24 44:3,4,21 45:4,5,10,11,13,14,17, 18,23,24 46:3,4,7,19,20, 22,23 47:7 48:16 51:17, 18 52:10,11,20,21 53:18, 19,22 54:2,3,7,8,11,12, 14,15,17,18,20,21,24 55:1,14,15,18,23 56:6 58:12 59:3,4,20 60:2,8, 18,24 61:3,4,10 62:9,13, 16 63:2,8,9,11,12 64:8, 13,14,16,17 67:1 68:23 69:10,11,15,16,21,22 70:2,6,21 71:12,13,16,17 72:5,6,10,15,16,21,22 73:8 75:20 76:13,15,16, 19,24 77:1,5,6,10,12,14, 19,20,24 78:2,5 79:14, 16,19,24 80:9,13 81:4,5, 17 82:17,18 83:5,16,22 84:3 85:3,4,13,24 86:7, | |
| complete 6:21 103:23 163:8 | consult 96:19 | correct 10:7,9,19 14:4 15:21 23:21 24:15,20 25:13 26:4,20 27:12,13 31:9 33:3,4,8,12,15,16, 19,20,22,23 34:3,9,10,13 36:24 37:1 38:9,19 39:7, 17 40:13,17 41:7,11,12, 16,17 42:8,9,13,14,17, 18,21,22 43:6,7,14,15, 18,19,23,24 44:3,4,21 45:4,5,10,11,13,14,17, 18,23,24 46:3,4,7,19,20, 22,23 47:7 48:16 51:17, 18 52:10,11,20,21 53:18, 19,22 54:2,3,7,8,11,12, 14,15,17,18,20,21,24 55:1,14,15,18,23 56:6 58:12 59:3,4,20 60:2,8, 18,24 61:3,4,10 62:9,13, 16 63:2,8,9,11,12 64:8, 13,14,16,17 67:1 68:23 69:10,11,15,16,21,22 70:2,6,21 71:12,13,16,17 72:5,6,10,15,16,21,22 73:8 75:20 76:13,15,16, 19,24 77:1,5,6,10,12,14, 19,20,24 78:2,5 79:14, 16,19,24 80:9,13 81:4,5, 17 82:17,18 83:5,16,22 84:3 85:3,4,13,24 86:7, | |
| completed 5:21 | contacted 9:24 | corner 68:18 | create 8:6 |
| completely 76:12 135:13 | contemplated 50:3 51:9 154:3 | corners 68:17 | created 111:12 |
| complicating 31:18 | contemplating 46:10 | correct 10:7,9,19 14:4 15:21 23:21 24:15,20 25:13 26:4,20 27:12,13 31:9 33:3,4,8,12,15,16, 19,20,22,23 34:3,9,10,13 36:24 37:1 38:9,19 39:7, 17 40:13,17 41:7,11,12, 16,17 42:8,9,13,14,17, 18,21,22 43:6,7,14,15, 18,19,23,24 44:3,4,21 45:4,5,10,11,13,14,17, 18,23,24 46:3,4,7,19,20, 22,23 47:7 48:16 51:17, 18 52:10,11,20,21 53:18, 19,22 54:2,3,7,8,11,12, 14,15,17,18,20,21,24 55:1,14,15,18,23 56:6 58:12 59:3,4,20 60:2,8, 18,24 61:3,4,10 62:9,13, 16 63:2,8,9,11,12 64:8, 13,14,16,17 67:1 68:23 69:10,11,15,16,21,22 70:2,6,21 71:12,13,16,17 72:5,6,10,15,16,21,22 73:8 75:20 76:13,15,16, 19,24 77:1,5,6,10,12,14, 19,20,24 78:2,5 79:14, 16,19,24 80:9,13 81:4,5, 17 82:17,18 83:5,16,22 84:3 85:3,4,13,24 86:7, | |
| component 6:8 | context 59:12 | correct 10:7,9,19 14:4 15:21 23:21 24:15,20 25:13 26:4,20 27:12,13 31:9 33:3,4,8,12,15,16, 19,20,22,23 34:3,9,10,13 36:24 37:1 38:9,19 39:7, 17 40:13,17 41:7,11,12, 16,17 42:8,9,13,14,17, 18,21,22 43:6,7,14,15, 18,19,23,24 44:3,4,21 45:4,5,10,11,13,14,17, 18,23,24 46:3,4,7,19,20, 22,23 47:7 48:16 51:17, 18 52:10,11,20,21 53:18, 19,22 54:2,3,7,8,11,12, 14,15,17,18,20,21,24 55:1,14,15,18,23 56:6 58:12 59:3,4,20 60:2,8, 18,24 61:3,4,10 62:9,13, 16 63:2,8,9,11,12 64:8, 13,14,16,17 67:1 68:23 69:10,11,15,16,21,22 70:2,6,21 71:12,13,16,17 72:5,6,10,15,16,21,22 73:8 75:20 76:13,15,16, 19,24 77:1,5,6,10,12,14, 19,20,24 78:2,5 79:14, 16,19,24 80:9,13 81:4,5, 17 82:17,18 83:5,16,22 84:3 85:3,4,13,24 86:7, | |
| concentration 44:20 | continuation 4:4 | correct 10:7,9,19 14:4 15:21 23:21 24:15,20 25:13 26:4,20 27:12,13 31:9 33:3,4,8,12,15,16, 19,20,22,23 34:3,9,10,13 36:24 37:1 38:9,19 39:7, 17 40:13,17 41:7,11,12, 16,17 42:8,9,13,14,17, 18,21,22 43:6,7,14,15, 18,19,23,24 44:3,4,21 45:4,5,10,11,13,14,17, 18,23,24 46:3,4,7,19,20, 22,23 47:7 48:16 51:17, 18 52:10,11,20,21 53:18, 19,22 54:2,3,7,8,11,12, 14,15,17,18,20,21,24 55:1,14,15,18,23 56:6 58:12 59:3,4,20 60:2,8, 18,24 61:3,4,10 62:9,13, 16 63:2,8,9,11,12 64:8, 13,14,16,17 67:1 68:23 69:10,11,15,16,21,22 70:2,6,21 71:12,13,16,17 72:5,6,10,15,16,21,22 73:8 75:20 76:13,15,16, 19,24 77:1,5,6,10,12,14, 19,20,24 78:2,5 79:14, 16,19,24 80:9,13 81:4,5, 17 82:17,18 83:5,16,22 84:3 85:3,4,13,24 86:7, | |
| concept 90:1 | continue 19:21 73:21 80:7 145:23 161:14,19 | correct 10:7,9,19 14:4 15:21 23:21 24:15,20 25:13 26:4,20 27:12,13 31:9 33:3,4,8,12,15,16, 19,20,22,23 34:3,9,10,13 36:24 37:1 38:9,19 39:7, 17 40:13,17 41:7,11,12, 16,17 42:8,9,13,14,17, 18,21,22 43:6,7,14,15, 18,19,23,24 44:3,4,21 45:4,5,10,11,13,14,17, 18,23,24 46:3,4,7,19,20, 22,23 47:7 48:16 51:17, 18 52:10,11,20,21 53:18, 19,22 54:2,3,7,8,11,12, 14,15,17,18,20,21,24 55:1,14,15,18,23 56:6 58:12 59:3,4,20 60:2,8, 18,24 61:3,4,10 62:9,13, 16 63:2,8,9,11,12 64:8, 13,14,16,17 67:1 68:23 69:10,11,15,16,21,22 70:2,6,21 71:12,13,16,17 72:5,6,10,15,16,21,22 73:8 75:20 76:13,15,16, 19,24 77:1,5,6,10,12,14, 19,20,24 78:2,5 79:14, 16,19,24 80:9,13 81:4,5, 17 82:17,18 83:5,16,22 84:3 85:3,4,13,24 86:7, | |
| concern 137:11,14 | contract 81:3 90:9,15, 18,20 91:3 93:6,8,14,18, 22 94:12,13,23 95:21 96:12 144:20 145:4,5,10, 14,20,24 146:5,9,10,17, 18,23 147:14 151:15,19 | contract 81:3 90:9,15, 18,20 91:3 93:6,8,14,18, 22 94:12,13,23 95:21 96:12 144:20 145:4,5,10, 14,20,24 146:5,9,10,17, 18,23 147:14 151:15,19 | |
| | contract's 151:22 | | |

| | | | |
|--|---|---|---|
| criteria 81:11 | 142:8 143:8,9,21 160:14 163:21 | department 58:9 102:3 139:19 | 108:3,5,21,23 109:5,10, 15,23 110:7,13,18 |
| critical 27:10,11 | | depend 49:21 80:4 | 111:14,17,19 112:4,7,12, 18,22 113:3,9,14,21,23 |
| cross-examination 6:3,6,7,12,19,21 7:2,11 8:17 9:2,6,8,10,15,20 99:8,13,17,20 100:1,17, 18,22 101:2,10 161:2 | days 11:1,2 13:16,17 14:6,13,16,21,22,24 41:6 60:1,4,8,17 79:22 80:11 82:12 140:6 142:8 143:9 | depending 13:17 14:17 41:8 45:16 70:24 | 114:2,9,12,14,18,23 115:4,11,16,24 116:2,5, 12,17,19 117:1,12,20 118:2,10,16,21 119:1,10, 15,22 120:3,11,21 121:1, 8,11,23 122:6,14,22 123:4,9,12,23 124:3,8, 14,18,22 125:1,6,10,12, 15,18,21 126:1,6,12,15, 17,20,23 127:3,6,10,13, 18 128:2,5,9,14,17,23 129:4,10,16,22 130:2,6, 10,15,20,22 131:2,13,17, 22 132:1,4,7,11,18,23 133:4,10,14,21 134:1,4, 9,11,18,20 135:7,16,21 136:1,10,17,19 137:3,14, 19 138:2,5,12,23 139:17 140:2,12,19 141:3,8,13, 19,21 142:3,6,11 143:5, 7,12,15,19,22 144:4,8, 17,19,23 145:3,9,13,17, 22 146:3,8,16,24 147:2, 9,13,17,23 148:10,16,20, 24 149:3,5,9,15,19,22 150:1,6,9,12,21 151:2,9, 12,19,22 152:6,11,16,21 153:2,9,15,20 154:6,14, 17 155:5,11,17,21 156:4, 12,22 157:3,5,14,16 158:1,9,13,17,23 159:3, 19 160:1,17,20,22 |
| cross-examiner 99:15, 16,19 100:4,6,8 101:6 | deal 96:10 108:8 | depends 40:22 41:4 | 158:1,9,13,17,23 159:3, 19 160:1,17,20,22 |
| cross-examining 7:3 8:24 32:6 99:23 | dealing 95:6,8,11 96:15 | describe 16:12 157:10 | diagnose 157:23 |
| crowd 46:17 | dealt 94:13 | designation 124:18 | DICKSON 8:14,18 16:19 17:6 20:3 28:22 34:21 46:15 50:5,20 56:11,17, 22 57:1,8,15 59:16,19 61:17 63:13,16 65:9 95:24 |
| CSR 163:3 | Deal 42:7 | designed 8:6 11:17 19:12 91:15 | dictate 137:20 |
| curious 31:2 | decide 50:14 81:19 138:8 | desk 91:12 | dictated 6:9 |
| current 89:14,19 126:17 160:12 | decided 82:19 118:17 131:9 136:12 137:4,15 | details 84:7 | differ 93:1 |
| curriculum 23:10,13,15, 16 27:14 | decides 82:2 | detector 71:16 | difference 7:4,6 56:21, 22 |
| curriculum 29:21 | deciding 17:11 36:16 | determination 119:5 | differentiate 11:20 |
| D | decision 5:24 28:20 29:17,20 65:8 81:7,12 109:24 117:2,6 120:7 158:9 | determine 121:20 138:16 153:10 | diligence 150:12 151:12 152:5,6 153:13 |
| daily 64:19 | decline 50:15 | detox 60:20 61:2,3,9 82:16 | |
| Daly 4:14,15 122:15,19 123:3 | dedicated 141:17,22 152:18 160:15 | detoxification 50:2 | |
| Dan 137:9 154:16,22 157:24 158:4 | deep 17:10 | development 4:7 7:12 9:1 16:9 27:15 | |
| data 39:19 54:22 55:9, 10,17 64:11,12,20 67:8 102:14,15,19,23 109:20 110:22 117:2,16 120:15 121:7 123:5,17,18,19,20 127:17 128:18 129:5,9, 11,18,21 132:9,13,21 133:6,8 134:14 137:15 160:8 | deescalate 75:5 | developmental 15:21, 22 16:1,16,17,24 17:19 18:6,8,10,13,14 19:12 21:5,11,21 23:3 | |
| data-fueled 98:14 | defer 18:11 | developmentally 18:21,23 27:11 | |
| dataset 117:10 118:1 120:17,20 121:21 127:17 133:2 | define 24:9 25:2 | DI 9:13 32:7 76:3,9,14, 17,21 77:2,7,12,16,21 78:1,3,6,11,15,18,23 79:5,8,15,20 80:1,6,10, 14,20 81:1,6,10,15,18,22 82:1,8,12,14,19 83:2,6,9, 13,17,19,23 84:4,8,10, 14,18,23 85:5,11,14,17, 21,23 86:2,5,12,17,22 87:2,10,15,18,23 88:13, 18,23 89:8,10,18 90:7, 13,18,23 91:2,6,13,17,20 92:4,11,17,20,24 93:4, 12,16,21 94:8,18,23 95:4,13,19 96:7,18 98:4, 6,16 99:1,6 101:7,17,21 102:6,9,12,18,23 103:4, 8,12,19,23 104:6,16,22 105:4,7,11,17,19,24 106:6,17 107:1,6,14 | |
| date 10:16 18:5 26:18 65:7 86:21 106:16 109:1 145:16 | defines 20:10 | | |
| dated 121:13 | definition 18:16 25:5 31:20,21 | | |
| day 14:20 79:21 80:2,16, 20 120:16 131:10 141:14 | degree 22:7 | | |
| | degrees 22:4,6 | | |
| | delays 16:16 18:8,10,13, 14 19:12 23:3 | | |
| | deliberate 8:5 | | |
| | delve 65:5 | | |
| | demonstrate 29:3 | | |
| | denied 63:17,19 | | |
| | deny 100:13,14 | | |
| | departing 7:18 | | |

| | | | |
|----------------------------------|--------------------------------|-------------------------------|----------------------------------|
| diminish 70:5 | 24 10:12 16:22 17:3,4 | dramatically 75:11 | 30:7 |
| diminished 109:18 | 20:19,20 24:14 26:8 | draw 73:10 | educational 19:7,13,15 |
| Dinolfo 9:15 76:2,4 96:5 | 31:17 52:24 76:5 82:21 | drawn 42:16,19 | 20:10 22:4 23:6,15 |
| 101:14,22 121:9 125:22 | 83:3 84:20 86:14,19 | drinking 70:1 71:4,5 | 24:15,17 26:7,13 27:10 |
| 151:1 | 87:6,12,16,20 88:11,14, | drive 20:24 141:6 | Edward 48:22 |
| direct 29:12 111:5 | 16,20 89:13 90:24 92:22 | driven 68:10 | effort 61:14 |
| directed 17:15 35:17 | 93:17 94:2,14 95:15 | driving 68:9 | efforts 76:21 |
| 143:3 154:16 | 96:10 101:23 102:3 | drop 84:21 | either/or 11:17 |
| direction 163:17 | 104:18,20 105:8,9,21,22 | drove 44:16 | element 75:7 |
| directly 65:19 108:13 | 106:4 108:9 111:13 | drug 70:5 | elementary 52:23 |
| 163:13 | 115:9 118:22,23 119:23 | Drummond 4:22,23 | eligible 11:6 30:8 31:16, |
| director 79:17 80:2,6 | 120:1,23 123:20 124:1,6, | 161:22 | 24 153:4 |
| 81:24 82:2 98:9 | 11,23 125:4,7 126:10,13 | DU 163:2 | Elite 81:3,8,19,20 82:3,5 |
| directs 143:4 | 127:1 130:4,12 131:20 | DU-COMM 134:18 | 90:1 93:6 94:7,9,19,24 |
| disability 24:13 | 132:12,22 133:6 134:2,5, | due 6:8 101:2 150:12 | 95:10,21 144:20 145:19 |
| disagree 39:11 | 16 135:1,2,9 136:3 | 151:12 152:5,6 153:13 | 146:19 147:14,18,24 |
| discharged 75:19 | 137:5,24 138:18 139:12, | Dupage 4:5 32:24 36:17 | 148:17 150:13,16 151:16 |
| disciplinary 82:7 | 16,21 141:11,17,24 | 38:7,13,18,19 39:3,16 | 152:9,22 153:3,13,16,18, |
| discipline 82:3,13 | 142:19 145:6 146:4,13, | 40:4,12,13 41:14 43:10, | 22,24 154:4,10,12,21,24 |
| discrepancy 59:21 | 21 147:20 148:22 150:15 | 16,21 44:6 46:24 47:22 | 155:1,3 156:5 157:8,18 |
| discuss 64:12 | 151:14 152:8 155:13 | 63:5 78:8,20 79:1 85:6, | 158:3,11 |
| discussed 23:8 54:6 | 156:3 158:15 160:13 | 10 148:6 | Elite's 147:3 157:15 |
| 59:24 67:23 153:3 | district's 9:11 17:8 | duplicate 109:21 | Elk 150:4 |
| discussion 35:21 96:21 | 59:24 108:12 155:8 | duplicates 110:1 | Ellenbecker 9:13 32:8, |
| 110:2 | districts 31:1 52:23,24 | duty 141:14 | 9,18,20 33:2,5,9,13,17, |
| disorder 27:8 69:9 | 53:9 93:2 140:1 | <hr/> | 21,24 34:7,11,14 35:8 |
| disorderly 75:2 | Division 58:7 | E | 36:1,4,14,20 37:2,8,13, |
| disorders 45:4 69:14 | doctor 11:23 32:18 51:5 | <hr/> | 17,21 38:3,10,16,21,23 |
| dispatch 132:20 133:22 | 71:8 75:12 76:3 79:20 | e-mail 131:6,15 | 39:5,8,10,14,17,20,23 |
| 134:6,13 154:4 157:13, | doctors 92:5 | earlier 67:23 | 40:1,7,10,15,19,24 41:5, |
| 14 158:7,10 | document 69:13 97:3 | early 21:16,24 70:15 | 10,13,18,22 42:2,5,10, |
| dispatched 112:1,2 | 108:24 109:7,11 110:15 | 151:18 | 15,19 43:1,8,16,20 44:1, |
| 116:10,13,14 119:20 | 111:3,4,8,9,11,16,21 | easier 48:4 115:23 | 5,8,11,14 45:2,6,12,15, |
| dispatcher 157:15 | 115:1 119:7 120:6 | east 46:21,22 67:17 | 19,22 46:1,5,9,18,21,24 |
| dispatches 124:15 | 121:10,15 124:12 125:16 | 68:3,11 | 47:3,6,9,13,16,21 48:1, |
| 143:21 | 126:2 130:23,24 149:20, | easy 152:1 | 14,17 49:3,5,9,16,23 |
| disposition 112:17 | 22 150:20 159:20 | echoed 42:15 | 50:7,24 51:5,15,19 52:1, |
| 113:12 119:20 | documentation 38:17 | economic 34:8 67:4 | 9,12,18,22 53:6,8,12,20 |
| disrepair 86:11 | 99:24 127:11 | education 20:10 21:17, | 54:1,4,9,13,16,19,22 |
| distributed 52:14 97:11 | documents 104:17,23 | 23 22:1 23:20,24 24:4 | 55:2,12,16,21 56:2,7,20 |
| district 4:11 9:16,19,23, | 114:15 116:7 119:9 | 27:18 28:4,6,19 29:17 | 57:9,16,23 58:5,10,13,19 |
| | 120:9 121:3 128:2 | | 59:1,5,11,17,21 60:4,7, |
| | 148:12 158:18 | | 11,13,15,19 61:1,5,8,13, |
| | donors 17:22 | | 21 62:8,11,14,18,23 |
| | door 43:22 76:15 | | 63:4,10,14 64:7,10,15, |
| | double-check 126:6 | | 18,23 65:3,10,12,20 |
| | downtown 68:14 | | 66:3,8,12,15,18,23 67:2, |
| | 102:21 109:19 159:1,2, | | 6,12,19,21 68:2,9,15,21 |
| | 22 160:5 | | 69:1,4,8,12,17,23 70:4, |
| | | | 12,19 71:2,8,14,18,22 |

| | | | |
|--|--|--|---|
| 72:1,7,13,17,23 73:6,11 75:12,23 161:5,7,9 | ESPEDIDO 4:14,16,18, 20,22,24 5:2 | exit 92:6 | fact 36:14 37:4 48:21 49:7 54:13 63:18 69:17 78:23 94:5 151:8 |
| Ellyn 48:3 | essential 58:15 | expect 29:4 49:11 154:20 | factor 20:14 36:16 46:4, 5,8 77:18 155:12 |
| Elmhurst 48:4 | establish 50:8 | experience 18:8 21:18 29:22 37:24 81:14 133:11 | factors 31:18 |
| emergency 53:18 64:13 81:2,7 91:8,18,21 147:7 154:10,21 155:2,24 156:3 | establishment 71:5 | experienced 24:1,3 158:24 | facts 140:7,11 141:1 142:13,18,23 |
| emphasis 6:10 | establishments 68:19 | experiences 37:24 | fair 32:24 41:10 55:21 58:10 67:12 80:2,3 89:16,17,21,22 96:18 99:14 112:22 116:17,18 118:5,6,14,15 130:17 135:3,4,19,20 136:20 140:14 147:5,6,11 153:15 154:22 |
| empirically 51:8 | estimate 15:14 147:5, 12,15 153:11 160:3 | experiencing 78:3 87:9 | fairly 17:12 41:18 49:10 50:13 |
| employ 22:13 | estimated 158:3 | expert 117:10 120:18 121:22 160:9,11 | fairness 120:11 159:11 |
| employee 82:4 | evening 5:7,12 32:8,18, 19 76:3 101:21 | expertise 19:7 | faith 88:12 |
| employees 154:10 157:7 | event 75:19 112:3 113:11 119:19 | expires 93:14 | fall 94:1 146:12,20 |
| EMS 53:17 54:23 55:14 64:20 88:2 89:14 90:11 95:14 106:8 107:3 160:18,19 | events 112:21 | explain 30:2 | falls 147:18 |
| encountered 38:1 | evidence 29:3 33:11,15 89:18 97:5,6 102:1 136:15 140:8,9,11 142:13 | explore 26:21 | familiar 120:5 148:14 |
| end 48:18 109:6 156:9 | exact 123:7 | explored 26:18 | families 26:16 30:5 |
| endeavoring 108:6,11 | examine 116:6 159:19 | exposure 69:24 | family 24:7 27:4 30:5,13, 14 74:16 |
| ends 47:23 115:6 | Excel 115:22 | extended 30:4,5 34:2,6, 18 35:21 36:8,13,16,21, 23 | fashion 35:20 |
| enforced 7:6 | exceptions 4:8 | extrapolation 44:18 | fast 155:2 |
| engaged 7:1 | excess 49:17 | | faster 147:8 156:11 |
| engagement 30:13 | excited 19:19 | <hr/> F <hr/> | fathers 11:11 |
| engine 143:8 155:17,23 | exclude 27:17,20 156:20 | faced 70:23 | favor 161:23 |
| enhance 26:17 29:21 49:8 | excluded 28:13 | facilitate 24:18 | featured 41:20 42:7 |
| enter 93:18,23 97:4 146:5,22 | Excuse 122:15 | facilities 50:2 80:18 145:10 148:17 150:10,16 151:15 | features 42:20 46:11 |
| entered 81:3 144:20 145:3,5 | exhibit 104:18,20 105:8, 9,15,20,21,22 106:2,4 107:7 108:19 110:15 112:8,13 114:19,24 115:16 118:22,23 119:24 120:1,21,23 121:12,14, 16 122:1,2,9,16,20 124:4,6 125:2,4 126:9, 10,24 127:1 130:3,4 131:18,20 148:21,22,24 156:12 158:14,15,17 | facility 4:10 23:19 28:24 29:2,4,8,11 31:5,7 48:13 50:10,21 51:9 54:11 58:23 59:5 60:16 61:15 62:8,15,20 63:7 71:4 72:12,15,18,19 73:5 74:9 77:11 78:20 79:12,17,23 82:16 86:2,9 89:5,6 90:10 91:17,21 94:1 96:11 102:2,21 103:9 109:19 117:15 136:5 145:1,7 146:12,20 148:13 152:4,23 154:11 158:11,24 159:22 160:4 | family 24:7 27:4 30:5,13, 14 74:16 |
| entire 13:15 | exist 70:21 139:14 142:19 | facility's 154:19 | family 24:7 27:4 30:5,13, 14 74:16 |
| entities 135:13 152:8 | existence 146:11,18 | | fashion 35:20 |
| entity 53:3 94:16,19 138:6 | exists 90:15 | | fast 155:2 |
| environment 59:14 70:10,15 | | | faster 147:8 156:11 |
| equal 83:20 | | | fathers 11:11 |
| equals 122:11 | | | favor 161:23 |
| equate 104:1 | | | featured 41:20 42:7 |
| | | | features 42:20 46:11 |
| | | | federal 25:4 |
| | | | Feeds 85:23 |
| | | | feel 100:17 |
| | | | feels 100:11 |
| | | | feet 6:20 9:1 97:19 |
| | | | felt 98:12 |
| | | | females 13:20 |
| | | | fewest 70:21 |

| | | | |
|---|---|---|--|
| field 35:16 | fly 122:13 | fund 17:3 32:2 | 24 |
| figure 119:17 | focus 11:18 | funding 17:2,9 26:13,22 | granular 91:1 |
| filed 33:6 | focused 54:2 59:7 116:21 | funds 16:17 17:5,19 | great 108:8 |
| filings 38:5 | focusing 55:9,11 | | greater 45:10 |
| fill 140:14 141:5 | FOIA 54:23 64:19 111:16 116:2 121:15 123:2,11 124:9 125:6 126:12 127:3 130:10,14 131:22 134:15,16,18 | G | greatly 93:1 |
| final 5:24 | FOIAED 55:10 83:15 104:23 106:16 119:7 121:14 122:22 131:14 158:18 | gambling 69:10,13,21 70:1,4 71:4,5 | grounds 50:16 |
| Finally 75:12 | FOIAS 124:1 132:8 | gaming 68:19 | group 83:11 |
| finance 98:9 | folks 157:18 | gap 127:23 | Grove 57:15,17 150:4 |
| financial 66:14,22 | follow 8:21 22:5 81:11 | gave 46:6 51:16 55:13 115:14 147:11 | guarantee 92:14 147:9 |
| financials 125:13 | follow-up 10:8 | gender 11:21 | guess 76:5 87:23 89:11 90:7 135:5 138:15,24 154:19 |
| find 47:17 62:6 150:15 | foot 33:14 67:15 72:20 | generate 139:16 160:4 | guidance 98:20 101:18 |
| fine 30:21 32:7 100:5 126:4 131:16 137:2 151:10 | force 146:5 | generated 103:14 111:16 117:14 145:7 | guide 99:19 |
| finish 95:5 122:6,7 | foregoing 163:6 | generates 139:13 | guided 58:18 101:6 |
| finished 30:19 | Forestview 148:6 | gentleman 98:7 101:15 | guidelines 22:5 |
| fire 9:16 55:5 76:4 82:21 83:3 84:20 86:14,19 87:5,12,16,19 88:10,14, 15,19 89:13 90:23 92:21 93:2,17 94:1,14 95:15 96:10 101:23 102:2 104:18,20,24 105:8,9,12, 20,22 106:1,4,6,8 108:9, 12 111:12 115:8 116:8 118:22,23 119:23 120:1, 3,23 121:12,15 123:19 124:1,6,10,23 125:4,7 126:10,13 127:1 130:4, 11 131:20 132:12,22 133:6,12 134:2,4,15 135:1,2,9 136:3 137:5,23 138:18 139:12,15,20 140:1 141:11,16,19,23 142:19 145:6 146:4,12, 20 147:20 148:22 150:14 151:13 152:7 155:8,12 156:3 158:15 160:13 | form 82:11 95:24 106:23 140:22 151:7 | gesture 136:8 137:17 138:10 | guys 32:11 94:11 96:15 |
| firefighter 102:10 | forma 15:17 | give 32:11 50:14 59:16 74:14 103:13 104:15 117:17,18 129:2 133:7 141:1,2 158:13 | H |
| fiscal 129:8 | forward 33:14 36:17 41:15 52:7 97:20 140:18 | giving 55:4 115:21 120:9 | hailed 40:13 |
| fit 85:1 | found 43:8 129:14 | glean 90:7 | half 141:17,22 143:13 160:15 |
| fits 31:1 | foundation 141:2 142:15,22 | Glen 48:3 | hand 32:14 39:20,22 52:10 105:4 163:20 |
| five-year 107:16,21 108:6,10 118:4 | fourth 149:10 | Glendale 48:3 150:3 | handled 97:9 |
| five-year-olds 20:16 23:6 27:12 30:8 | frame 84:15 94:11 112:15 121:18 | goal 12:22 27:3,6 43:13 70:8 87:7 88:6 89:23 102:12 147:3,4 150:13 154:9 | handle 94:20,24 137:22 144:6,7 146:19 147:5,22 153:5,17,18 154:12,21, 24 158:8 |
| | frequently 48:21 69:14 | good 5:7 10:24 32:8,18, 19 44:2 70:20 76:3,5 78:12 88:11,24 89:2 101:21 113:6 131:3 135:14 136:9 137:10,17 144:17 156:23 157:24 | handled 108:17 |
| | front 108:24 157:11,23 158:6 | government 135:10 | handling 84:1 |
| | frustration 75:6 | grant 51:22 52:3 92:22 | Hang 105:5 |
| | full 80:5 129:11 | granted 152:23 154:11 | Hanover 150:4 |
| | functional 85:18 | grants 17:21 26:15 27:2 52:19 53:9 92:12,13,18, | happen 6:19 7:12 48:21 89:8,9 |
| | functioning 85:19 | | happened 131:9 |
| | | | happening 7:13 |
| | | | hard 88:7 |
| | | | Haymarket 4:5 17:7 24:8 28:10 31:4 32:23 |

| | | | |
|--|--|---|--|
| 33:3 34:15 35:4 36:6,17 37:22 38:6,8 39:11 40:3, 11,16 41:14 44:23 48:11 54:5,10 55:3,4,22 60:21 62:19 63:10,19 64:12 65:14 66:5 69:18 72:8 75:17 80:8 84:2,23 85:5 86:13,18 87:4 89:16 92:21 95:16 96:11 97:4 101:24 102:20 103:9,14, 24 107:10 117:3 123:24 124:10 130:7 134:24 136:11 137:3 138:17 139:20 140:3 144:20 145:23 149:1,7,20,22 152:18,23 154:20 159:21 160:5 | 101:1,5,9,20 104:22 105:2,6,11,14,18,24 106:22 107:22 108:12 111:2,15,18,20 113:7 114:16,17 121:9,12 122:17 124:8 125:22 126:4,7 136:22 139:4,7, 18,22 140:21,24 142:15, 17 143:1 144:18 149:2 151:1,7,11 159:7,14,16 160:24 161:5,8 | Hospitality 4:6 hotel 34:2,18 36:9,16,24 47:12 hotels 36:22 hour 20:12 hours 53:22 79:21 142:8 143:9 human 95:8,11 hypothetically 84:2 | 95:14 117:15 138:5,15 153:10 imposed 62:1 improving 43:13 inappropriately 95:8 include 86:24 103:4 160:4 included 103:2 including 16:24 81:23 144:6 inclusive 163:7 incomplete 123:18 incorrect 56:7 132:14 increase 75:6 indifferent 47:19 indirectly 163:13 individual 12:2,14 25:6 151:2 individuals 10:24 11:5 13:4,9 14:24 24:22 25:10,18,21 34:5 60:5,9, 15 74:4 78:8,24 90:5 information 10:9 18:11 26:9 56:13 98:20 100:8, 19 108:7,13,16 111:1 130:17 134:12 136:12 137:4 140:2 159:12 initial 99:14 Inn 34:2,5,16,17 36:6,8, 22 42:20,21 49:12,18 51:10 53:17 61:10 67:14, 16,22 68:3 77:3 85:1 127:7,20 132:17 inquire 20:21 150:14 ins 139:24 inside 27:7 72:19 73:1 instance 35:18 113:3 instrument 16:10 instrumental 61:13 insurance 18:1 integrated 28:10 intend 17:7 26:21 |
| Haymarket's 20:17 33:7 35:10 36:5 44:20 61:14 hazard 72:21 head 15:11 128:8 health 17:24 21:19 50:9 58:9 69:7 healthcare 4:10 59:13 hear 51:3 87:7 159:7 heard 31:23 32:21 86:15 89:12 90:13 106:9 107:9 112:4 123:15 135:2 145:18 hearing 5:18 8:7 71:10 114:6 137:11 161:15,20 163:5 hearings 5:21 heart 110:4 Heights 47:18 48:3 150:3 held 73:18 91:11 helped 92:18 hereunto 163:20 Hervas 5:5,7,8 8:20 9:17 11:23 16:21 17:10,18 20:5,17 29:9 30:18,21 32:5,17 35:7,14 39:22,24 50:12 51:3 56:15,24 57:2,21 61:19 62:3 63:21 64:9 65:11,17 76:2 96:4, 19 98:5,16 99:8 100:15 | hey 131:7 high 52:24 156:9 higher 79:5 highest 80:21 hire 22:16,19,22 23:1 65:8 79:17 hired 21:12 histories 72:5 history 28:19 29:6 72:9 73:1 Hoffman 65:6 hold 57:8 77:5 96:19 136:22 140:21 159:7 Holiday 34:2,5,16,17 36:6,8,22 42:20,21 49:12,18 51:10 53:17 61:10 67:14,15,22 68:3 77:3 85:1 127:7,20 132:17 Holmes 4:20,21 home 14:9,18 15:8 25:7, 16 48:19 51:14 60:16 148:7,8 homeless 24:22,24 26:2 31:12,16 homelessness 25:3 homes 11:4 14:10,12 15:1,6,15 25:11 60:6,10 honest 57:20 honestly 113:19 115:2,6 hope 160:2 hospital 48:22 85:17,18 hospital-like 59:14 | I | i.e. 36:16 idea 7:11 55:2 101:12 ideal 70:20 identification 104:19 106:3 107:7 114:19 120:22 124:4 125:3 126:9 130:3 131:18 148:21 identified 18:5 19:1,16 28:16 104:21 105:10,23 106:5 118:24 120:2,24 124:7 125:5 126:11 127:2 130:5 131:21 148:23 158:16 identify 9:5 24:21,23 25:17 71:2 121:10 126:3 idol 155:16 Illinois 6:9 19:5 20:9 24:13 45:1 55:23 56:1,5 127:8 149:17 153:14 163:1 illustrate 100:12 imagine 25:23 41:24 137:10 impact 34:8 53:16 55:4, 14 64:13 66:14,22 67:4,9 102:1 104:1,5 107:2 136:4 137:21 138:8,17 139:20 154:18 impacted 89:15 impacts 13:1 important 5:10 6:1 51:12 73:21 74:3 75:7 |

| | | | |
|--|--|---|--|
| 125:23 | item 4:3 | large 50:3 | limitations 12:8,13 65:21 |
| intention 28:3 94:5,9 | <hr/> | larger 44:11 45:8 83:11 | limited 62:3 |
| interested 152:1 163:14 | J | largest 44:6,8,14,20 149:16 153:14 | lines 110:24 112:23 119:21 |
| interesting 43:9 | James 15:11,17 49:15 124:9 | Lastly 92:11 | list 10:13 90:20 124:19 127:6 150:1,2,6,9 |
| interrupting 136:21 | Janet 130:7 | late 154:8 | listed 124:15 128:6 159:21 |
| intervention 76:20 | January 127:22 150:17 | law 100:24 106:21 | listing 37:14 |
| interventions 76:22 | JARMUSZ 97:7 161:17 | laws 59:9 | listings 37:15 |
| introduce 5:4 32:21 | Jennifer 9:12,22 | lawyer 60:1 | live 49:2,6 |
| investigated 26:12 | job 64:19,21 | lawyers 6:23 54:6 | lives 95:11,16,17 96:14 |
| investigation 65:16,23 | join 134:5 | laying 142:15,21 | living 45:16 |
| invite 8:16 97:21 | joined 134:13 | layout 86:8 | LLC 4:5,6 |
| involved 6:11 28:11 | judgment 37:23 81:16 | lead 67:22 99:17 106:15 | load 49:12 94:20 |
| irrelevant 108:4 | July 85:8 120:4 121:13, 15,16,17 | learn 70:18 | local 31:17 |
| Irving 4:6,12 53:2 68:4, 10,19 | jump 48:5,8 | learns 70:18 | located 4:6 26:10 91:9 |
| issue 11:18 35:14 49:20 53:12 59:2,7 91:24 94:17 95:6 | juxtaposition 61:24 | lease 25:18,22 | location 13:6 19:17,24 20:11 25:12,15 26:23 28:7 29:18 67:14 70:20 82:20 107:18 113:10,11 122:20 133:16 155:11,14 |
| issues 21:19 27:4 59:1 88:12 | <hr/> | leave 41:2 75:18,20 76:18 | locations 23:7 104:8 152:13 155:6 |
| Itasca 9:18 12:9 13:5 19:17,24 21:2,11 25:14 26:23 28:14,16,23 29:4 31:8,9 32:10 36:22 42:12,20 43:13 45:13,20 46:2,11 47:10,23 48:4 49:6,12,18 50:4 51:10,23 52:4 53:17,18 55:5 59:24 61:10 66:5,13 67:13,15, 16,22 68:3 72:8 75:17 76:4 79:18 82:15,20,21 83:3 84:19 86:7,14 87:11,12 88:19 89:6 90:22,23 91:22 93:17 94:1 95:15 96:3,10 101:23 102:2,3 103:16 104:2,18 105:8,20 107:3 115:8 118:22 119:23 124:1,10 125:7 126:13 127:7,8 130:11 132:12, 22 133:6 134:2,4,15,24 135:1 137:5,23 139:15 141:11,16,23 144:3 145:6 146:4,12,20 147:7, 19,21 148:2,6 150:3 153:7 155:8,12,23 156:2 160:13 | keeping 98:2 | leaving 76:24 | locked 75:21 |
| | key 113:8 | left 97:3 | logic 137:19 |
| | kind 31:2 150:23 | legal 5:14 6:11 9:22 20:21 145:24 146:1 | logical 133:17 |
| | kindergarten 30:8,9 | Legrand 57:12 | logically 155:9 |
| | Kischner 4:1 5:2,3 8:11, 15 46:16 76:1 96:22 97:1,13,16,24 157:2,4 160:23 161:10,18,23 | length 13:13 14:22 19:23 20:24 48:24 58:22 59:15,19 145:13 | long 36:11 67:5 98:19 101:17 145:19 157:18 |
| | kitchen 85:21 | lessen 89:19 | longer 15:1 60:2,3 |
| | kitchens 36:22 | letter 28:2 | longer-term 12:16 |
| | knew 33:21 136:4 | letting 101:11 | looked 44:16 91:23 119:5 120:14,15 121:4 127:19 128:13 |
| | knowing 136:13 137:3 | level 65:15 80:21 84:21 89:20 | Loop 25:12,15 28:14 29:10 40:11,16 44:24 48:6,19 54:11 63:5 75:17 77:11 78:19 89:5 91:17 |
| | knowledge 21:18 35:16 44:5 | liberal 17:12 50:13 | loss 53:1 |
| | Kruse 130:7 | license 56:10 | lost 53:10 |
| | <hr/> | licensed 55:22,24 56:5 57:18,19 58:3,5,8 | |
| | L | licensing 58:14 59:10 | |
| | <hr/> | licensures 22:11 | |
| | Lake 47:3,17 | life 95:8 | |
| | language 22:23 | limit 13:22 | |

| | | | |
|---|--|--|--|
| 155:19 | 92:4,11,17,20,24 93:4, 12,16,21 94:8,18,23 95:4,13,19 96:7,18 98:4, 6,16 99:1,6 101:7,17,21 102:6,9,12,18,23 103:4, 8,12,19,23 104:6,16,22 105:4,7,11,17,19,24 106:6,17 107:1,6,14 108:3,5,21,23 109:5,10, 15,23 110:7,13,18 111:14,17,19 112:4,7,12, 18,22 113:3,9,14,21,23 114:2,9,12,14,18,23 115:4,11,16,24 116:2,5, 12,17,19 117:1,12,20 118:2,10,16,21 119:1,10, 15,22 120:3,11,21 121:1, 8,11,23 122:6,14,22 123:4,9,12,23 124:3,8, 14,18,22 125:1,6,10,12, 15,18,21 126:1,6,12,15, 17,20,23 127:3,6,10,13, 18 128:2,5,9,14,17,23 129:4,10,16,22 130:2,6, 10,15,20,22 131:2,13,17, 22 132:1,4,7,11,18,23 133:4,10,14,21 134:1,4, 9,11,18,20 135:7,16,21 136:1,10,17,19 137:3,14, 19 138:2,5,12,23 139:17 140:2,12,19 141:3,8,13, 19,21 142:3,6,11 143:5, 7,12,15,19,22 144:4,8, 17,19,23 145:3,9,13,17, 22 146:3,8,16,24 147:2, 9,13,17,23 148:10,16,20, 24 149:3,5,9,15,19,22 150:1,6,9,12,21 151:2,9, 12,19,22 152:6,11,16,21 153:2,9,15,20 154:6,14, 17 155:5,11,17,21 156:4, 12,22 157:3,5,14,16 158:1,9,13,17,23 159:3, 19 160:1,17,20,22 | note 51:12 74:3 noted 64:3 notes 163:9 notice 114:8 November 4:2 52:2 107:16,17 109:2 161:15, 20 163:21 number 12:8 15:10,14 39:8,11 40:8 45:7 49:13, 14,17 51:16 55:12 56:3, 23 60:20 82:20,24 83:7 92:12 97:13 98:18 109:18 117:14 118:12, 17,20 119:6 120:3,7,14 121:4,20 128:6 133:5 151:5,13 158:23 160:3 number's 49:15 numbering 56:14 numbers 40:19 49:9,10 55:4 62:14,17 88:5 122:4 129:6 150:19 nurses 92:5 nursing 148:6,8 | occurs 69:14 154:10 October 10:12 32:15 37:2 38:4,10,12 39:1 44:2 50:1 51:7,20 55:22 56:12 58:20 61:2 66:4,21 75:13 127:22 150:17 odd 127:16 offer 87:4,11 88:2 97:6 98:20 108:12 136:12,20 137:4,16,20 139:10 140:4,20 offered 50:10 57:5 85:6, 9 86:14 88:15,20 134:24 136:2 143:16 144:10 offering 87:18,19 101:17 139:15 officer 102:10 official 103:7 104:12 106:14 107:8 offset 53:1 oftentimes 13:1 older 24:11 one's 57:19 one-year 118:7 128:13 open 4:2 9:7 89:6 135:14,16 152:3 operate 29:4 31:2 140:1, 5 145:11 operated 138:19 operates 34:18 36:8 139:19 operating 29:2 56:9 79:1 126:18 143:9 operation 143:14 operational 144:13 opportunities 28:9 95:12 opportunity 20:7 63:7, 11,20 99:13 100:14 103:19,21 111:7 116:6 opposed 51:14 62:1 option 145:8 152:3 154:5 |
| N | normal 7:10,18 north 32:10 47:18 54:14, 17,20 67:17 103:2,5,9 104:14 105:12,15 106:1, 7 107:9 116:14,15,21,22 northeast 68:18 northwest 68:18 not-for-profit 53:3 | O Oak 32:10 oath 88:19 object 34:21 98:17,24 objecting 159:9 objection 16:19,21 20:3,6 28:22 50:5 53:14 61:17 65:9 95:24 98:23 106:20 107:20 110:21 136:15 138:20 140:7,21 142:10,12 150:18 159:8 objections 6:14 50:13 obligation 16:23 17:3 93:13 145:23,24 146:1 obligations 20:21 80:12 obtain 61:14 92:22 occupational 22:17 occupy 41:2 occur 70:17 94:17 | |
| name's 76:4 101:22 127:4 named 132:8 names 16:3 Naperville 44:6,10,15, 19 45:16,20 48:2,5,6 49:5 Naperville's 45:13 natural 7:24 nature 5:11 6:14 20:22 85:2 98:22 148:4 Neal 163:3 necessarily 13:15 44:22 48:10 63:23 70:22 71:7 73:10 80:1 86:10 necessitate 136:5 137:21 needed 33:22 60:6,7,14, 17 63:6,8 70:9 136:13 137:21 155:2 needing 44:20 negatively 89:15 neighbor 83:24 neighborhood 37:12, 19 38:1 43:22 neighboring 148:1 news 76:5 nice 136:8 138:10 night 39:5 154:8 NOLFO 9:13 32:7 76:3, 9,14,17,21 77:2,7,12,16, 21 78:1,3,6,11,15,18,23 79:5,8,15,20 80:1,6,10, 14,20 81:1,6,10,15,18,22 82:1,8,12,14,19 83:2,6,9, 13,17,19,23 84:4,8,10, 14,18,23 85:5,11,14,17, 21,23 86:2,5,12,17,22 87:2,10,15,18,23 88:13, 18,23 89:8,10,18 90:7, 13,18,23 91:2,6,13,17,20 | | | |

| | | | |
|--|---|---|--|
| order 4:9 8:22 9:9 77:16 81:11 97:1 98:3 102:18 103:13 138:7 139:19 143:23 | parse 109:16 110:9,14 | 10 78:12,16,19,24 79:4,6 115:8 144:24 147:3,6,10, 15,18 150:13 | placement 13:2 |
| orderly 6:17 | part 6:8 28:13 34:7 38:15 41:15,16 47:22 48:10 49:23 50:7 51:5 53:20 70:16 83:10 85:18,20 106:14 135:22 150:12 | percent's 147:19 | plan 4:3,8 5:5,19,22 6:8 7:10,14,17 8:7 28:17 30:23 63:24 64:2,4 95:3, 9 96:13 105:3 |
| organization 58:17 | parties 7:15 163:12 | percentage 25:9 36:12 40:14 45:3 48:18,20 | planned 4:7 |
| original 163:16 | partner 18:24 19:4,17, 22 135:15 136:9 137:10, 18 155:20 | perfect 71:3 | planning 28:13 |
| originates 104:14 | partners 19:6,20 28:17 89:24 | period 17:8 20:13 107:16,21 108:6,10 118:4,7 128:10,13,15,19 133:16,17 159:20 | plenty 144:5 160:16 |
| outcome 163:14 | parts 85:18 | permissible 8:2 | point 28:12 42:1 62:5,24 73:16 74:19 91:24 95:5 97:8 101:2,13 140:16 156:23 161:13 |
| outcomes 49:4,8 | party 93:9 | permission 32:14 | points 160:8 |
| outpatient 15:5,7 61:15 62:10,16,21,24 63:2,3,6, 8 | pass 68:6 | permit 4:9 61:14 63:1 | police 55:5 74:19,22 75:9 87:20 102:3,10,21 109:22 121:17 |
| outreach 26:8 27:22 | passage 57:9 | permits 80:10 | populated 45:8 |
| outs 139:24 | passed 84:19 97:8 | permitted 92:5 | population 10:21 11:19 16:14 24:19 26:2 31:12 44:16 96:3 |
| overburden 50:22 | past 53:9 59:22 70:7 92:18 | person 7:15 21:12 35:2, 16,17 41:2 64:12 72:24 73:2 89:4 | portion 34:6 86:9 141:23 |
| overestimating 134:22 | patient 13:14 19:2 44:3 48:1,5,7 49:12 70:18 72:12 74:8,9 75:6,10,16 76:23 84:16 | person's 14:17 | pose 72:14,19,21 73:2,7 |
| overly 50:8 | patient's 71:1 75:8 | personally 32:23 135:18 | poses 73:1 |
| owner 4:5 6:20 9:1,3 | patients 38:7 39:15 40:11 45:20 48:12,18 58:21 59:13 60:8 62:20 63:5 69:20 70:9,14,23 71:11 75:5 77:10,22 85:23 117:4 160:6 | personnel 92:4 | position 20:18 21:23 |
| owns 25:7 | pattern 29:2 | perspective 55:4 | possibility 74:17 80:16 |
| <hr/> P <hr/> | pay 140:4 | pertains 66:5 98:11 | possibly 137:20 |
| p.m. 161:15,20 | PC 4:4 | petition 38:24 39:21 40:1 | posted 41:19,23,24 |
| pages 149:12 163:7 | Peacock 161:17,18,21 | petitioner 4:4 40:4 | postings 60:21 |
| paint 63:18 | Pearl 4:6 | petitioner's 8:12 97:2 | postpartum 11:19 |
| papers 71:10 | penalty 82:4 | phased-in 49:21 | potential 117:14 138:17 |
| Pappas 52:7 | pending 147:13 | physical 22:20 122:21 | potentially 78:4 79:12 |
| paragraph 40:3 | people 44:15,24 45:3 48:22 49:1,6 60:1 72:4 83:7 99:23 107:11 141:14 143:8 144:12 152:1 153:16,21,23 | physician 80:23 | power 146:5 |
| parallels 61:22 | percent 18:7 25:16,24 31:11 40:12,17 45:7,8,9, | pick 48:12,18,22 | Powerpoint 71:14 91:8 92:1 149:1,6 156:13 |
| paramedic 102:10 | | picked 127:24 129:7 147:19 | practice 29:2 80:7 |
| paramedics 140:4 141:5 | | picture 63:19 83:1 103:13,23 117:17,19 129:2,3,5 137:9 | practices 29:5 |
| parent 11:21 24:4 | | piece 74:5,6 75:7 95:7 | precisely 57:4 |
| parents 23:23 26:6 | | pieces 142:7 | predetermined 101:6, 12 |
| park 4:7,12 47:18 53:2 68:4,10,13,19 140:13 150:4,7 | | place 30:5,11,14 74:8 100:1,17 163:9 | prefacing 123:16 |
| parked 152:22 | | | |
| parking 92:7,10 | | | |

| | | | |
|---|---|--|--|
| prefer 155:4 | 163:5,7 | Protection 76:5 82:21 83:3 84:20 86:14 87:12, 16,20 88:11,14,15,20 89:13 90:23 92:21 94:1 96:10 101:23 102:3 105:8,20 111:12 115:9 119:23 123:19 124:1,11, 23 125:7 126:13 130:12 132:12,22 133:6 134:2,5, 16 135:1,2 137:5,24 138:18 139:12,16,21 140:1 141:11,16,24 142:19 145:6 146:4,13, 21 147:20 150:14 151:14 152:7 155:8,13 156:3 160:13 | Q |
| pregnant 11:19 | process 6:2,6,8,17,21 7:10,18 8:6,8,21 9:23 23:22 26:6 30:2 33:7,18 34:1,8,9 35:13 41:15 52:5,17,22 64:24 65:1 71:10 89:11 93:9 99:13 101:3,10 116:20 151:18 | proven 50:23 | qualifications 12:14 21:14,20 |
| preliminary 62:6 | processes 30:10 | provide 23:11 24:17 26:10 30:11 33:10 54:13, 16,19 96:2 107:11 111:8 117:3,17 129:3 132:13 138:7 | qualifies 26:2 |
| prepared 34:11 66:4,9 98:9 117:7 160:11 | produced 101:24 122:23 163:16,19 | provided 10:17 20:11 59:13 100:19 127:10 128:17 141:23 | qualify 31:15 |
| preschool 19:10 | producing 116:20 | providing 6:13 97:12 129:4 | quantitatively 117:13 |
| prescribed 13:19,21 | professional 37:23 80:17,21 | provision 147:14 | question 7:16,17 8:1 12:12 15:12,16 16:4,20 17:14,15,17 18:9,11 20:4,23 28:23 29:13,14 30:23,24 34:22 35:18,24 36:2 39:13,14 48:24 50:6,16,18,20 51:1,3 53:4 55:20 57:6 58:24 61:18 62:7 65:13,17,18, 19 67:11 73:12,23 75:14 80:15 87:23 88:4 89:3,20 94:4 96:1,5,16 97:2 98:6, 12 100:4 106:21,23,24 108:19,21 110:13 111:4, 8,22 112:5 113:8,14 115:12,13 121:1 122:6,8, 15 129:16 131:3 135:17 136:17,19,24 138:12,22 139:5,8,18,21,22,23 140:15,19,22 141:2 143:2,3,6 144:9 146:16 151:8 154:2,14 155:21 157:16 159:3,9,12,17 160:1 |
| present 4:15 5:15 7:15 50:1 51:7 102:1 | professionals 79:11 158:11,12 | public 5:18 6:18,22 7:2, 3,8,21,22,23 8:3 23:20, 24 24:4 26:8,19,22 27:18 28:4,6,19 29:17 30:7 32:1,2 42:23 43:2 45:23 46:2,9,12 47:6,22 48:7, 14 50:8 68:6 71:9 161:15,19 163:5 | question's 99:9 138:20 154:16 |
| presentation 15:19 18:20 53:21 79:9 99:10, 14 | profit 139:13 | public's 7:14 | questioning 7:8 |
| presentations 135:23 | program 10:2,22 12:5,9, 18,20 13:5,11,12 14:1,6, 8,15,23,24 17:9 19:10, 11,13,15 20:1,14 21:2 24:22 25:18 26:10,14 40:22 41:4,8 49:21 76:11,18 | purely 18:14,17 | questionnaire 16:7 |
| presented 7:9 88:8,9 110:21 | programs 10:23 11:3,6 12:16 14:2,10 17:23 25:22 26:17 27:14 75:22 91:12 | purpose 64:2 | questions 6:12,18,22 7:4,14,22 9:24 10:5,13, 17,21 17:1 30:15 32:4 34:23 35:2,5,15 51:21 53:13 65:7 89:13 98:10, 14,18 99:2 100:10 110:24 115:12 123:13 140:10 161:3,6 |
| presenting 31:5 34:24 107:2 | progress 13:14 | purposes 62:2 104:19 106:3 107:7 114:20 120:22 124:5 125:3 126:9 130:3 131:19 148:21 | quick 73:12 134:21 158:2 |
| president 21:7 33:2 | progressive 82:13 | put 30:11 33:13 64:12 65:15,22 94:20 95:1 96:13 126:6 | quicker 157:20 |
| pretty 55:19 134:21 | prohibitive 85:15 | putting 33:15 | quiz 67:6 |
| Prevention 58:8 | project 15:18 85:16 87:3 88:2 89:16,21 107:3 129:15 | | quote 43:12 |
| previous 110:23 | projected 15:14 29:5 49:17 | | |
| previously 11:11 15:20 18:20 27:24 88:23 | projections 25:14 | | |
| primarily 25:4 27:3,6 40:18 59:7 | promote 49:8 | | |
| prior 33:17 65:18 70:7 | proper 142:15 | | |
| priority 11:18 | properly 20:20 | | |
| private 68:6 80:7 90:5,9 93:19,22 96:12 115:7 139:14 145:9 146:6 149:13 | property 4:5 6:20 9:1,3 34:16 36:7 97:19 | | |
| pro 15:17 | proposed 82:15 88:1 89:16,19 90:10 93:24 102:2 136:4 145:1,7 146:12 154:11 160:3 | | |
| problem 56:17 98:19 101:19 | | | |
| problems 92:7 | | | |
| procedure 145:20 | | | |
| proceed 8:12 62:5 64:5 98:1,5 101:16 108:19 114:16,17 | | | |
| proceeding 5:14 6:9,11 63:22,24 101:19 | | | |
| proceedings 5:11 | | | |

| R | | | |
|--|--|---|--|
| raises 35:15 | reconsideration 28:5 | relevance 16:19 20:3 28:22 29:12 50:5 61:17, 21 65:9,12 | represented 33:24 34:1 39:12 62:19 |
| randomly 71:20 | record 8:6 20:5 35:7 57:10 64:4,7 72:24 96:21 104:22 105:11,24 114:3 119:6 121:10 124:8 126:7 158:14,17 | relevancy 50:13,16 62:4 | reputation 29:7 |
| range 41:11 109:1 156:9 | record's 57:10 136:23 | relevant 17:11 20:13 50:6,11 65:17 | request 4:7 127:3 128:18 |
| rare 60:5 | recording 56:8 | relies 48:7 | requested 55:10 108:7 129:11,18 132:13 |
| rate 13:13 | recorded 42:3 57:14 | relying 29:6 | requests 100:8 |
| Ray 4:24 5:1 | recovery 11:4 14:9,10, 12,18 15:1,6,8,15 50:2 51:14 58:8 60:6,9,16 71:3 74:7 | remain 30:1 49:10 | require 61:6 |
| re-ask 36:1 140:24 159:17 | recreate 112:21 | remaining 96:14 114:15 | required 21:23 22:4,7,9, 11 34:9 69:19 |
| reach 24:7 | refer 32:16 155:4 | remember 39:6 42:2 84:10 90:16 96:8 108:21 109:19 110:5 123:20 144:21 | requirement 71:7 |
| reached 28:1,2 | reference 110:24 129:24 132:21 | remembered 39:2 | requirements 84:11 |
| read 36:10 67:3 84:8 156:16 | referenced 18:22 133:21 147:24 | remove 12:22 | requires 83:20 |
| reading 57:12 67:2 | referendum 84:19 | renew 93:13 146:9,17 | requiring 61:9 78:1 |
| ready 8:12 | referred 15:20 18:21 21:22 38:18 43:10 66:8 135:5 | renewed 93:23 | research 37:9 139:10 152:5 |
| reality 55:8 139:12 | referring 32:22 46:19 66:10,21 90:18 109:14 110:17 119:16 132:15,19 | repeat 12:11 17:16 29:14 108:22 143:6 | reserve 138:1,13,14 144:15 |
| reason 42:5 43:9 65:12 72:3 136:2 139:13 145:4 146:15,19 | refresh 39:23 | repeatedly 43:21 | reserved 13:23,24 |
| reasons 46:1 | refuse 73:15,17 74:11, 12 | rephrase 151:9 | reside 11:6 12:4 23:7,19 24:8 31:8 |
| recall 10:10 34:19 36:5, 14,19 37:6 38:14 39:3 49:13,14 51:23 56:4 58:19 59:11 62:17 66:6 67:7 75:8 86:21 | refused 73:13 | report 34:24 35:5,11 36:11 51:8 65:5 66:22 69:19 112:11 117:7,11 120:18 121:12,22 123:7, 8,10 132:20 142:2 144:7 160:9,11 163:6 | residence 60:16 |
| recap 75:13 | refuses 73:14,24 | reported 57:16 67:8 163:4 | residency 31:19,20 |
| receive 58:22 | regard 53:9 59:2 61:2,8 62:24 65:15,23 66:20 72:1 | reporter 5:15 163:24 | resident 31:8 |
| received 10:11 124:9 | regular 101:9 | reporters 56:18 57:1,10 | residential 4:10 15:4 31:5 59:3,6,8,10,12 66:10,20 67:9 |
| receiving 15:7 | rehab 43:22 69:24 | Reporting 57:13 | residents 18:5 31:13, 14,17 40:5 43:21 |
| recent 37:14 129:3,7 | rehabilitation 50:2 70:5 71:3 | reports 69:17 115:21 | resources 17:8 20:19 138:6 |
| recently 41:18 129:1 | relapse 70:1,17,18,21 | represent 9:18 76:4 101:22 | respect 8:8 17:12 20:21 30:7 108:14 111:2 |
| recess 96:24 | relate 27:4 | representation 64:1 | respected 153:14 |
| recognize 124:12 125:10 | related 21:19 61:15 67:9 112:2 130:6 163:12 | representations 61:22, 23 | respects 29:10 |
| recollection 39:23 57:22 68:4 | relative 35:5 96:2 | representative 35:1,4,6 42:7,11 43:3 52:7 86:19 87:5 | respond 20:7 65:10 95:22 104:15 108:3 111:10,21,23 134:17 141:6 143:20 147:8 151:14 152:8 155:12,24 156:10 157:13,20 |
| recommendation 5:20, 22,23 | | | |
| recommended 29:23 | | | |

| | | | |
|--|---|--|---|
| responded 150:15 | Roth 8:13 10:14 97:6,15 98:2,22 99:5 100:9,24 101:4 106:20 107:20,23 108:4 110:21 111:11 113:2 114:5,11,13 136:15,18,21,23 137:2 138:20 139:1,6 140:7,16, 23 142:10,12,16,23 150:18,22 151:5 158:22 159:2,6,9,15,23 | screen 25:20 | 155:24 163:20 |
| responders 53:18 64:13 | routed 154:4 | screener 16:12,13,15 18:15,18 23:13 | set-forth 93:9 |
| responding 93:24 137:11 156:21 | routes 47:10 | screenings 18:4 | sexually 72:4 |
| responds 156:3 | RPR 163:3 | search 75:14 | share 117:13 |
| response 10:17 16:21 35:7 96:4 100:20 124:19, 23 125:18 126:21 132:2 137:14 151:1 155:3 156:11,14,16 157:8 158:3 | rule 6:15 | searches 71:19 | shared 76:9 77:9,13 78:7 80:14 81:2 84:24 92:17 110:23 147:23 |
| responses 64:20 160:19 | ruling 20:8 | seats 141:5 | shifts 142:4,7 |
| responsibility 33:6,10 35:9 163:17 | run 34:22 | secondary 94:7 95:21 | shock 37:13,16 |
| responsible 24:14 79:22 | running 40:17 | secure 86:3 | Shocking 108:23 |
| restricted 123:2 | runs 46:21 | secured 51:22 86:2 | short 41:6 |
| restrictions 65:14,22 84:5 | <hr/> S <hr/> | security 75:5 91:12 92:5 | shorthand 163:4,9,24 |
| result 33:5 | S-A-M-H-S-A 68:23 | seeking 24:4 26:7 | show 104:17 105:7,19 114:4,18,24 118:21 119:22 120:21 122:11 124:3 125:1 126:8,23 128:3 130:2 148:20 |
| return 70:10 | safety 72:14,18,21 73:1, 3,7 | selecting 129:5 | showed 37:14 89:19 120:13,16 128:19 |
| revenue 52:15 53:2,10 139:16 | sake 20:5 | send 116:3 131:7,10 | showing 106:2 131:17 150:20 |
| review 81:18 99:24 111:7 | SAMHSA 68:23 69:5,8 | sense 44:2,19 45:9,19 87:21 131:5 133:18 153:24 | shown 86:9 |
| reviewed 7:21 120:6 | SAMHSA's 69:13 | separate 14:9 15:3 134:1 135:9 | shows 49:4 |
| reviews 81:22 | Sangamon 54:14,17,20 77:19 103:3,5,10 104:8, 14 105:12,16 106:1,7 107:9 116:8,14,15,22 118:4 119:4 120:4 | serve 13:6 16:23 19:17 25:11 49:11 63:7 77:10 78:24 83:7 160:5,6 | sick 122:19 |
| revisit 57:24 | schedule 38:23 39:12 40:2 80:4,10 | served 10:22 12:9 15:15 21:1 31:16,17 40:4,11 49:15 | side 92:6 149:11 |
| right-hand 113:6 | scheduled 127:16 | serves 150:2 | sidewalk 68:7 |
| rights 23:23 | school 9:11,18,22,24 10:12 16:22 17:7 20:19, 20 24:7,9,14 26:8 28:9 30:13 31:1,17 32:1,2 52:24 53:9 59:24 | service 63:5,6 69:7 78:9 82:22 83:3,24 84:15,21 89:20 90:5 115:7 122:20 127:7 133:12 141:18 143:15,18 146:6,23 149:13 | sidewalks 67:22 |
| risk 72:15,18 73:1,3,8 96:14 | schooling 26:19 | services 18:22,23 20:11 21:8 23:6 24:15,18 26:7, 9,13 27:10,11 32:2 50:10 54:11,14,16,19 57:13 63:8 76:22 78:1 89:15 90:2 96:3 102:20,21 107:11 117:3,17 138:7 141:23 146:11 148:17 152:9 156:1 | sign 9:5 44:16 |
| RN 80:23 81:9 | schools 27:21,22 31:9, 22 | servicing 153:6 | signed 151:19,23 152:2 |
| road 4:7,12 68:4,10,11, 19 130:1 153:12 | scope 18:13 65:15,24 107:23 108:2 | serving 20:1 | significance 5:14 |
| Robert 98:9 | | set 55:16 70:9 85:2 | similarity 36:15 |
| Rohlwing 68:11,18 | | | simple 110:13 111:4 146:16 |
| Role 4:13 | | | simply 113:14 |
| rooms 36:23 85:2 86:10 | | | sir 110:18 122:4 150:16 |
| Roselle 150:3 153:7 | | | sit 52:2 55:6 87:10 94:9, 10 147:20 |
| | | | site 4:8 12:10 21:11 36:18 59:14 |
| | | | sitting 98:19 101:15 155:16 |

| | | | |
|--|--|--|--|
| situated 77:22 | 42:20 | started 41:15 118:11 | strike 38:24 |
| situation 75:1 99:11 157:11,23 158:6,8 | special-use 61:14 63:1 | starting 24:14,18 33:18 | strip 68:16 |
| situations 78:4 | specialist 21:21 | state 20:9 24:13 42:7 44:24 55:23,24 56:4,5,10 57:18,19 58:2 59:10 69:18 86:11 92:22 149:16 163:1 | strong 49:4 |
| six-year-olds 30:10 | specialists 16:10 21:5, 11 27:15 | State's 11:18 | student 20:15 |
| size 44:9,12 50:10,11 51:9,10 61:24 | specialized 23:2 | stated 9:21 15:20 20:6 29:24 36:5 38:5,6 42:11 111:15 | student's 20:13 |
| skill 70:8 | specific 13:17 14:17 16:14 29:20 30:22 31:21 35:16 110:24 111:1 122:21 | statement 37:18 43:11 88:24 90:8 133:3 | students 20:1 21:1 24:13 30:1,2 31:14 |
| slide 71:15 92:1 98:23 99:2,18 100:5,7,10 101:7 120:15 148:11 156:13 | specifically 18:9 25:10 31:11 37:3 39:3 40:2 43:9 74:6 | statements 43:20 79:10 | study 34:8 67:4 |
| slides 79:9 98:10,11,17 101:12 | speculative 92:14 94:4 96:17 | states 69:13 | subject 100:21 152:19 |
| slow 8:5 | speech 22:23 | station 77:3 | submission 35:12 |
| small 50:4 | spend 66:1 112:11 114:6 123:5 | stationed 79:21 | submissions 37:22 49:24 51:6 |
| Smith 9:11,12,17,21,22 10:4,8,11,16,20 11:5,10, 14,20 12:2,7,13,19,21,24 13:3,9,19,22 14:3,5,11, 14,19 15:2,8,13,19,24 16:5,8,11,15,17,22 17:16,19,24 18:3,12,19 19:3,6,9,13,16,23 20:9, 24 21:4,9,14,20 22:2,4,8, 11,13,16,19,22 23:1,5, 12,15,18,22 24:3,9,12, 17,21,24 25:2,6,9,13,17, 21 26:1,5,12,18,21 27:1, 9,17,24 28:12,15,18 29:1,16,24 30:6,15,20 31:3,10 161:2,4 | spent 64:19 108:8 109:15 113:16 | statistically 132:16 133:8 | submitted 10:12,14 34:8,20 35:10,11 38:17 52:3 71:10,11,15 |
| social 61:3,6,9 | split 62:16 | statistics 44:18 | substance 27:8 45:4 58:7 69:6,9,14 70:1 |
| solely 80:8 123:2 | spoke 47:7 | stay 10:24 11:14 13:13 14:23,24 15:6 34:2,6,18 36:8,13,16,21,24 58:22 59:15,19 60:8,12 76:24 | substantiate 140:9 |
| sort 20:8 50:15 100:19 | spot 43:21 | staying 36:13 60:1,6 | success 29:7 70:5 |
| sound 128:10 | Spring 47:17 | stenographer 56:8 | successfully 69:24 |
| sounds 31:12 124:2 131:3 | springing 120:12,19 | step 43:5 | suffice 129:15 |
| sources 26:12 | SS 163:1 | Steve 9:15 32:8,20 76:4 101:22 | suggest 100:16 140:11 |
| southwest 68:17 | stack 97:9 | stop 47:11 156:23 | suggested 34:23 |
| speak 44:7,9,12 47:2,5 48:20 86:1 122:17 139:9 156:2 | staff 9:5 30:4,13 141:16, 22 143:13,24 144:12 154:5 155:4 160:15 | stopped 52:17 | suggesting 142:20,23 |
| speaking 133:8 | staffed 79:12 142:8 | stopping 74:18 | suggestions 136:18 |
| speaks 18:9 | stages 16:6 23:10,12 27:14 | stops 133:17 | suggests 140:7 |
| special 4:8 39:21 40:2 | stand 97:22 108:20 115:9 139:23 | stored 152:12 | suit 163:13 |
| | standard 17:12 50:13 | strategic 28:20 | Superintendent 10:4 28:1 |
| | standardized 16:14 23:9 | Stream 148:3,13,18 150:4,6,14 151:13 153:6 | Superior 90:16,21 91:4 |
| | standards 58:18 | streamline 158:19 | supervises 21:4 |
| | stands 64:8 | street 32:11 105:13 106:1 144:13 | supervision 82:6,10 |
| | start 10:20 21:22 77:7 101:9 133:11 161:11 | strengths 87:8 | supervisor 21:9,10,15 |
| | | | supervisors 21:6 |
| | | | supplement 99:10,21 |
| | | | supplemental 100:3 |
| | | | support 10:13 17:22 23:2 26:19,22 27:18 28:6 29:17 31:24 33:11,22 |

| | | | |
|---|---|--|---|
| 35:12 137:6 | termination 145:15 | throwing 114:7 | train 48:8,9 67:23 77:3 157:17 |
| supports 10:1,5 | terminology 59:8 | tied 84:1 95:19 96:15 | trained 16:10 75:5 157:12,22 158:5 |
| suppose 138:4 | terms 9:9 49:11 54:22 60:19 108:17 | time 5:10 7:21,22,23 8:2, 3 9:7 10:24 20:12,13 27:6 30:12 36:11 40:16 44:16 67:5 73:23 80:5 81:16 84:14 86:18 87:3 94:11,12 96:22 99:2,11 105:5 108:8 109:15 110:12 111:6 112:11,15 113:11,16 114:6 115:3, 12,18,20 121:18 123:5 126:2 128:15,19 130:10 131:4 133:16,17 135:12 136:8 137:9 144:17 145:19 152:23 155:11 156:5,11,14,16 157:6,8 158:3 159:20 161:10 163:9 | training 21:24 22:7 154:2,15,23 157:24 |
| supposed 104:2 | Teska 34:12,15,19,24 35:1,4,5,6,11,22 36:5,15 65:4,8,15,22 66:23 67:2, 3,7,11 | times 21:1 38:3 41:1 81:1,6 92:12 112:24 138:21 150:16 151:13 152:7 | trains 46:13,18 |
| Supreme 6:10 | test 57:22 | today 5:12 52:2 77:9 87:11 94:9 97:9 147:20 | transcript 32:12,15 37:3 56:12 57:4,7,16 58:21 59:22 163:8 |
| surprise 47:16,20 49:16,19 58:21 62:18,22 | testified 8:21 10:23 17:6 18:19 23:18 26:5 27:24 28:3 45:22 53:21 55:13 66:3 75:15 86:13 88:19 93:6 103:20 108:1,5,11, 15 110:15,18 111:6 132:11 134:24 144:19 147:2 | tomorrow 6:4,5 11:11 32:22 | transcripts 56:16,18 58:2 163:16 |
| surrounding 42:21 | testify 102:13 107:10,21 140:17 145:18 | tonight 6:4,5 11:11 32:22 | transformed 53:3 |
| sustain 143:14 | testifying 53:16 55:3 59:12 63:15 109:16 140:8 142:13,14 150:18 154:18 | tool 16:12 18:15 | transition 19:21 30:2,10 |
| sustained 106:22 140:22 | testimony 5:20 6:4 20:18 29:9 37:6,8,9 49:24 51:7,23 61:1 73:2 86:15 90:14 91:7 96:1,2 98:15 99:22 101:18 104:7 107:2,24 109:19 110:5 123:14,16,21 142:24 144:8,21 147:24 150:23 | top 15:11 58:14 108:24 128:7 | transparent 102:14,19 |
| swear 150:24 | therapists 22:17,20,23 | total 51:16 77:13 107:19 118:3 122:4 128:5 160:17 | transport 19:1 44:3 45:20 47:10 48:12 72:11 73:15 74:10 84:16 89:1 |
| Swets 4:18,19 73:12,22 74:11,13,17,24 161:19 | thereof 163:14 | totally 42:22 | transportation 19:24 20:12 42:24 43:2 45:23 46:3,10,12 47:7,23 48:7, 15 73:16,24 74:12,15 |
| Swets' 75:13 | thing 6:24 43:8 50:15 93:4 96:3 100:3 110:8 138:10 | touch 37:5 | transported 20:13 73:4, 7 89:5 |
| system 11:16 18:24 19:3,21 28:9,17 89:24 90:11 107:3 | things 5:9 6:14 20:22 85:2 88:9 91:7 94:6 108:8 110:1 120:12 131:14 133:4 147:20 148:3 | town 44:19 50:3,11 51:10 52:4 | trappings 5:18 |
| <hr/> T <hr/> | thinking 137:9 | towns 52:19 | treat 27:4 62:20 74:1 78:19 92:6 |
| table 8:19 53:15 | Thorndale 152:13 155:7 | track 25:6 56:19 | treated 62:15 |
| takes 35:9 100:1 | thought 85:1 147:6 | traditional 12:17 | treatment 12:20 14:10, 23 15:5,7 25:19 27:7,8 31:21 49:1 51:13 59:12, 13,23 69:9 70:7,8,12,16 72:14,18 73:13,14,17 74:4 75:18 |
| taking 68:2 | threw 133:4 | Traditionally 71:20 | trials 5:16,18 |
| talk 43:1 83:13 93:5 123:14 | throw 76:23 | Trail 152:14 155:7 | trigger 70:1,13 |
| talked 31:20 67:12 87:3 112:7 118:12 | | | triggered 70:15 |
| talking 14:13 40:23 46:14 49:22 67:13 99:10 108:8 109:12 110:19 113:16 119:12 135:5 | | | triggers 70:21,24 |
| tax 52:15 53:2,10 | | | true 31:19 63:17 85:5 87:2,24 104:9 116:6 136:1 138:2 145:7 158:21 163:8 |
| taxing 52:14 | | | truth 115:5 |
| teachers 22:14 | | | |
| team 33:19,21 74:7 75:4 81:23 82:1 86:23 87:2 94:6,15 135:4 155:1 | | | |
| television 5:17 | | | |
| telling 136:14 | | | |
| tendency 7:24 | | | |
| term 18:22 | | | |

| | | | |
|---|---|--|--|
| turn 8:9 13:15,16 56:2 68:3 | understood 121:8 148:12 | 150:7 | 109:13 110:15 112:8 113:17 118:11 119:12 123:15 140:6 142:9 143:10 |
| turned 64:5 72:10,14,17 75:9 85:14 135:2 | undue 90:10 | Village's 106:15 121:22 160:9,11 | |
| turning 30:3 72:19 | unequal 61:24 | villages 52:19 83:11 90:21 92:18 93:1 | weight 50:14 |
| turnover 13:13 40:24 | unfair 50:20 | violence 74:6 | welfare 50:9 |
| two-and-a-half 53:22 | unfortunate 160:10 | violent 72:4,9 73:1 | west 4:6,11 25:12,15 28:14 29:10 37:5 40:11, 16 44:23 46:22 47:1 48:6,19 54:2,7,9,11 63:5 67:16 68:10,11 75:17 77:11,17 102:24 104:13, 24 105:15 116:13,22 127:7 |
| type 23:2 68:10 74:15 81:10 82:3 90:15 113:12 119:19 153:15 | unique 35:15 | visited 86:3 | |
| types 61:5 68:5 77:22 78:3 | unit 112:1,17,19,23 113:5,6 119:20 | volume 95:1 | |
| typically 76:19 111:24 112:2 | units 113:5,10 116:10 135:9 | volumes 110:22 | |
| | University 19:5 | voluntarily 74:5 75:18 76:15,18 | whatsoever 114:8 |
| | unlimitedly 83:24 | voluntary 69:19 76:12 | Wheaton 44:11 48:3 61:15 62:9,15 63:7,17 64:5 89:12 90:3 |
| | upgraded 110:2,3 | voted 52:3 | |
| | usual 27:3 | | |
| U | | W | |
| Uh-huh 11:22 23:17 24:16 38:20 | V | wait 156:5 | WHEREOF 163:20 |
| UIC 19:22,24 21:2 | vague 110:24 159:10 | waiving 23:23 | who've 16:10 |
| ultimate 158:9 | van 72:20 | walk 37:19 63:20 73:17 74:2,18 76:15 77:3 | willfully 55:6 |
| ultimately 14:15 55:13 | vans 48:11 | walked 63:10 67:15,16, 17,18 74:1 | Willow 32:10 |
| unaware 9:3 | variable 13:13 14:22 59:19 | walking 37:11 38:1 68:1, 6 | win 155:13 |
| unclear 135:13 159:15 | variety 17:21 88:9 | walks 72:7 73:13,14 | Windsor 148:13 150:7 |
| understand 5:11,13 6:7,18 7:2,7,9,20 8:5 17:2 20:17 57:3 58:24 62:5 73:23 77:21 83:17, 19 84:4 87:15 93:12,16 94:8 95:14,18 98:22 101:1 102:4 104:6 106:17 107:1,5 111:3 134:1 135:8,11 136:10 137:23 139:11,19 141:5, 7,8 142:3,6 143:2 144:8, 11 145:17 146:3,7 148:16 152:20 154:6,20 158:7 159:3,4 160:24 | vast 26:1 | wanted 8:20 42:23 85:12 93:4 97:4 117:6,9, 22,24 118:8,12 137:10 152:3 | wing 85:6 |
| understandable 159:10 | venture 63:1 | wanting 117:12 | wise 117:21 |
| understanding 31:6,7 52:2,13 60:21 64:2 83:14 101:24 137:6 138:3 141:21 142:11,18 152:16,17 155:23 | venues 68:5 70:24 | Washington 37:5 54:2, 7,9 77:17 102:24 104:13 105:1,15 116:13,22 | withdraw 136:19 |
| understands 6:2 17:14 57:2 64:4 113:7 159:4,18 | version 57:12,18 | waste 126:1 | withdraws 136:24 |
| | versus 82:4 153:17 154:21 | watched 6:23 | witness's 57:22 99:22 |
| | vice 21:7 | ways 26:16 53:1 | witnesses 6:4,7 7:3 |
| | video 41:19,23 42:6 43:12 57:13 68:19 | weaknesses 87:8 | woman 12:15 |
| | videoed 42:3 | website 41:14,19 60:21 | women 11:19 12:23 13:1,9,10,23 14:3,7 15:9, 14 38:6 60:22 |
| | videotaping 92:2 | websites 118:13 | women's 17:22 |
| | viewing 101:12 | week 42:1 77:9 79:8,22 86:13 90:14 103:20 | word 67:6,7 78:15 112:24 113:20 119:16 |
| | Village 5:8,22,24 33:19 55:9 88:10 89:14 93:17 104:12 106:18 107:4 108:7 117:7,10,23 118:9 120:18,19 123:19 129:13 136:3 137:16 146:4 | | words 41:1 |
| | | | work 18:24 19:2,19 28:10 30:13 52:18,23 53:4 73:19 74:8,9 80:8 88:11 89:23 94:11 103:18,21 115:5,24 117:10,24 142:4 143:8 |

157:12 158:6

worked 27:21 29:20
52:6 53:8 88:22 120:10

working 57:7 90:1 98:11
160:10

works 30:4

wrap 8:4

write 156:18

written 10:8 49:23 51:6
81:11 82:8,10 156:18,19

wrong 56:14 79:16
88:21

wrote 57:13

X

x's 122:24

Y

year 41:7 88:1 129:8,14
140:6

years 24:2,11 55:10
108:1,13

Z

zoning 59:9 63:17,20
114:5