

In the Matter Of:
HAYMARKET DuPAGE LLC

REPORT OF PROCEEDINGS

February 24, 2021

Grove & Associates Reporting & Video Services
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1 PRESENT VIA VIDEO CONFERENCE:

2 MR. BRENDAN DALY, Chairman;
3 MR. FRANK CARELLO, Commissioner;
4 MS. LORI DRUMMOND, Commissioner;
5 MR. JEFFREY HOLMES, Commissioner;
6 MS. KRISTA RAY, Commissioner;
7 MR. ANTHONY RUSSO, Commissioner;

8 ALSO PRESENT VIA VIDEO CONFERENCE:

9 MR. MO KHAN, Village Planner;

10 MS. SHANNON MALIK JARMUSZ, Director of
11 Community Development;

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18 Appeared via video conference on behalf of
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Appeared via video conference on behalf of
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1 ALSO PRESENT: (Cont'd.)

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17 Appeared via video conference on behalf of 865
18 West Irving Park Road, LLC;

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Appeared via video conference on behalf of
Itasca Fire Protection District.

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I N D E X

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1 CHAIRMAN DALY: Today is Wednesday, February
2 24th, 2021. The case before the Plan Commission is
3 PC19-014 continued from February 10th, 2021.

4 The petitioner and owner is
5 Haymarket DuPage, LLC, and the location is 860 West 07:01:
6 Irving Park Road. The request is for a petition for
7 a planned development by special use with exceptions
8 and Class 1 site plan approval all in order to permit
9 a mixed-use residential and healthcare facility and
10 other accessory uses in the B2 business district at 07:01:
11 860 West Irving Park Road.

12 The procedure for tonight's meeting
13 are as follows: This evening we'll begin with
14 testimony from Dr. Lustig. We are proceeding
15 remotely at this time due to COVID-19, and the public 07:01:
16 may watch the proceedings through the Village's
17 YouTube channel. Anyone wishing to make public
18 comment will be able to do so after the presentation
19 of cases. They will need to sign up on the Village's
20 website. Anyone wishing to ask questions of the 07:01:
21 petitioner, village staff, or other parties will be
22 able to do so after the presentation of cases. The
23 signup form is on the Village's website.

24 Remote village staff is monitoring

1 the video streaming. If the video streaming does not
2 work during the proceedings, we will stop and wait
3 until the video streaming is it fixed or reschedule
4 for another date.

5 At this time, I would like to ask 07:02
6 Village counsel, Yordana Wysocki, to open with her
7 comments, please.

8 MS. WYSOCKI: Thank you, Chairman. My name is
9 Yordana Wysocki, and I'm going to give Mr. Hervas'
10 typical statement. This is the opening remarks, 07:02
11 which are pretty much the same every time. We're
12 repeating them again just for the benefit of those
13 who have not appeared previously.

14 I'm the attorney advising the Plan
15 Commission on this matter. This is a legal 07:02
16 proceeding with legal significance. The court
17 reporter is swearing in witnesses and is transcribing
18 the testimony. This is not a trial, but we are
19 developing a record of proceedings before the Plan
20 Commission.

21 This is a legal public hearing on a
22 zoning petition. My job is to protect the rights of
23 the petitioner, any objectors, and the public. The
24 Plan Commission will make findings and a

1 recommendation to the Village board. Please
2 understand that the Plan Commission is a recommending
3 body. The Village board will make the final decision
4 on the Haymarket zoning petition.

5 Due to the pandemic, we are unable 07:03
6 to meet in person. A virtual hearing is not the
7 preferred method for hearing a zoning petition.

8 However, the business of government must move
9 forward, and a virtual hearing has been approved by
10 the state statute and is used by local governments 07:03
11 across the state. Everyone is doing the best they
12 can under the circumstances.

13 The procedures used by the Plan
14 Commission for large public hearings during the
15 pandemic are available on the Village's website. The 07:03
16 website has a lot of information, including a
17 comprehensive step-by-step guide about this hearing.
18 The public will have an opportunity to ask questions
19 and provide public comment at the appropriate time.

20 Witnesses will be presented by the 07:04
21 petitioner and possibly by other interested parties.
22 Cross-examination will be allowed only by the
23 attorneys or by anyone who has been legally
24 recognized as an interested party.

1 Finally, this process is slow and
2 deliberate. It creates an appropriate record for the
3 Plan Commission hearing. I ask that everyone please
4 respect the legal process, even if you do not agree
5 with it. Thank you, Chairman. That concludes my
6 record.

07:04

7 CHAIRMAN DALY: Thank you, Yordana.

8 Would the recording secretary please
9 call the roll.

10 MR. KHAN: Chairman Daly, I'll actually be
11 taking over that again.

12 CHAIRMAN DALY: Okay, Mo.

13 MR. KHAN: All right. Chairman Russo?

14 COMMISSIONER RUSSO: Here.

15 MR. KHAN: Not chairman, Commissioner Russo.
16 I apologize. Commissioner Carello.

17 COMMISSIONER CARELLO: Here.

18 MR. KHAN: Commissioner Holmes.

19 COMMISSIONER HOLMES: Here.

20 MR. KHAN: Commissioner Drummond.

21 COMMISSIONER DRUMMOND: Here.

22 MR. KHAN: Commissioner Ray.

23 COMMISSIONER RAY: Here.

24 MR. KHAN: And Chairman Daly.

07:04

1 CHAIRMAN DALY: Here. I declare a quorum
2 present.

3 I would now like to entertain a
4 motion to continue case PC19-014 continued from
5 February 10th, 2021. 07:05

6 COMMISSIONER HOLMES: So moved. This is
7 Commissioner Holmes.

8 COMMISSIONER CARELLO: Second. Commissioner
9 Carello.

10 CHAIRMAN DALY: Mo, would you please call the
11 vote. 07:05

12 MR. KHAN: Commissioner Russo.

13 COMMISSIONER RUSSO: For.

14 MR. KHAN: Commissioner Carello.

15 COMMISSIONER CARELLO: For. 07:05

16 MR. KHAN: Commissioner Holmes.

17 COMMISSIONER HOLMES: For.

18 MR. KHAN: Commissioner Drummond.

19 COMMISSIONER DRUMMOND: For.

20 MR. KHAN: Commissioner Ray. 07:05

21 COMMISSIONER RAY: For.

22 MR. KHAN: Chairman Daly.

23 CHAIRMAN DALY: For. Motion passes.

24 I would ask now that, Ms. O'Keefe,

1 please introduce your witness for this evening.

2 You're on mute.

3 MS. DICKSON: Thank you. This technology
4 sometimes still takes me by surprise.

5 Chairman Daly, for those of you who 07:05
6 might not have remembered me from a year ago, my name
7 is Mary Dickson. Along with Bridget O'Keefe, I do
8 represent Haymarket DuPage, LLC, and its application
9 that's before the Plan Commission this evening, and I
10 will be presenting Dr. Dan Lustig as our witness this 07:06
11 evening.

12 We're tendering for examination
13 Dr. Lustig, who is the president and CEO of Haymarket
14 Center because Haymarket Center filed it's original
15 application for zoning in July of 2019. In August of 07:06
16 2020, Haymarket Center revised its application in
17 four specific areas. Dr. Lustig is being called
18 solely to testify to those changes. And we
19 understand through conversations with counsel for the
20 Village that cross-examination tonight will be 07:06
21 limited to this testimony in the testimony that
22 Dr. Lustig will be presenting tonight, predominantly
23 because Dr. Lustig has already been subjected to
24 numerous hours of testimony and cross-examination in

1 early months of this proceeding.

2 The four amendments to the
3 application that are at issue this evening are the
4 change in ownership, the enhanced landscaping, the
5 provision of a fenced-in patio, and the decision to 07:07:
6 remove programming for women accompanied by children.
7 Following Dr. Lustig's testimony, if there are any
8 questions which he believes will be best answered by
9 Karen Kissel, who is the senior executive vice
10 president of Haymarket Center, we also have 07:07:
11 Ms. Kissel with us this evening for that purpose.

12 I'm now going to ask Dr. Lustig to
13 walk through the changes in the application for the
14 benefit of the Plan Commission and the attorneys for
15 the -- yes, sir? 07:07:

16 CHAIRMAN DALY: Before you start that
17 Ms. Dickson, could we please have the court reporter
18 swear in both Dr. Lustig and Ms. Kissel.

19 (Witnesses sworn.)

20 MR. ELLENBECKER: Chairman Daly, I would just 07:08:
21 like to lodge an objection to Ms. Kissel being
22 allowed to testify this evening. We just found out
23 yesterday from Ms. O'Keefe that she might testify
24 today. And given the uproar that's been created by

1 Haymarket lawyers about disclosure requirements,
2 specifically timely disclosure requirements of
3 exhibits and witnesses, this is far outside the
4 disclosure agreement that Haymarket has cited for
5 them to give us less than 24-hours -- or about
6 24-hours notice.

07:08

07:08

07:08

07:09

7 MS. DICKSON: Chairman Daly, for that purpose,
8 it's not -- Ms. Kissel is not being brought for
9 purposes of surprise. This is only in terms of any
10 questions that Dr. Lustig might be asked this
11 evening. It was an accomodation to counsel so that
12 they could get an answer to a question this evening.
13 If they don't want to hear from Ms. Kissel, then we
14 won't present her. This, I thought, would be a good
15 accommodation to counsel.

16 I suppose we can address it in -- to
17 the extent anyone has a question at a later point in
18 the proceeding, unless you would like to rule on that
19 right at this moment.

20 MS. O'KEEFE: In addition, Mr. Chairman, I
21 testified at the last hearing that Dr. Lustig would
22 be presenting and potentially another Haymarket
23 representative would also be presenting. And that
24 was made, a statement for the record, at last week's

1 hearing, and I just wanted to bring that to your
2 attention, also.

3 CHAIRMAN DALY: Okay. Thank you for those
4 comments. I would ask Mr. Ellenbecker, what is an
5 appropriate amount of time for disclosure of a
6 witness, given the back and forth so far through this
7 hearing?

07:09:

07:09:

07:09:

07:10:

8 MR. ELLENBECKER: I believe the agreement of
9 the parties that's been invoked by Haymarket lawyers
10 is 14 days notice.

11 MS. DICKSON: Well, I would say that it's not
12 been invoked by Haymarket. It was an agreement of
13 counsel. And we aren't presenting Ms. Kissel for
14 direct examination this evening. She's only here in
15 case questions arise that Dr. Lustig believes would
16 best be answered by her. We don't intend to present
17 her for direct examination this evening.

18 CHAIRMAN DALY: Since I'm not an attorney and
19 I'm not very smart at this stuff, here's my question
20 to --

21 MS. WYSOCKI: Can you hear me or no?

22 CHAIRMAN DALY: Yes.

23 MS. WYSOCKI: I'm sorry, I didn't realize I
24 couldn't be heard unless I hit the button. I

1 apologize about that.

2 I suggest that we proceed, given
3 Mr. Ellenbecker's objection and Ms. Dickson's, you
4 know, statement that Ms. Kissel is here just, you
5 know, for the convenience of getting the questions 07:10
6 from the attorneys. Why don't we begin with
7 Dr. Lustig. If there is a question that Dr. Lustig
8 feels is more appropriately answered by Ms. Kissel,
9 he may state so, and then we can proceed with
10 Ms. ^ Kissel's testimony maybe at a later date. 07:10

11 MS. DICKSON: Is that acceptable, Chairman
12 Daly?

13 CHAIRMAN DALY: I'm trying to process based on
14 what Mr. Ellenbecker said about the 14 days, and I
15 know that everybody, I think, is trying to keep this 07:11
16 thing moving forward.

17 Mr. Ellenbecker, given the
18 situation, if there were questions to be answered by
19 Ms. Kissel at a later date, would seven days notice
20 for the next scheduled meeting be adequate for you 07:11
21 and counsel?

22 MR. ELLENBECKER: Yeah, absolutely.

23 CHAIRMAN DALY: Ms. Smith, would that be all
24 right with you?

1 MS. SMITH: I'm in agreement with that.

2 CHAIRMAN DALY: Okay. So then I would propose
3 we track the questions that might be deferred to
4 Ms. Kissel, and then next week we would introduce her
5 as the -- now, would she be introduced as a witness,
6 Yordana? Or how does that work? 07:11:30

7 MS. WYSOCKI: Well, if she's going to give
8 testimony, then she should be introduced and sworn in
9 as a witness.

10 CHAIRMAN DALY: Then she could be 07:12:00
11 cross-examined based on what she said and the stuff
12 that Dr. Lustig's not going to answer; correct?

13 MS. WYSOCKI: Yes. Well, she could be
14 cross-examined on her own testimony, so whatever she
15 testifies to, that would be open for 07:12:30
16 cross-examination.

17 CHAIRMAN DALY: Okay. So then I would propose
18 that we do direct examination of Dr. Lustig this
19 evening. Any questions for Ms. Kissel defer to next
20 week, she can answer them, and we'll proceed as 07:12:45
21 normal. Is that acceptable to all parties?

22 MS. DICKSON: Yes, Chairman Daly.

23 MR. ELLENBECKER: Yes.

24 MR. DI NOLFO: Yes.

1 MS. SMITH: Yes.

2 CHAIRMAN DALY: Okay. Thank you.

3 Ms. Dickson, please proceed.

4 MS. DICKSON: Thank you, sir. My objective is
5 to walk Dr. Lustig through the changes in the
6 application for the benefit of the Plan Commission,
7 the attorneys representing the various taxing
8 districts, and for the residents who are watching or
9 listening to the proceeding tonight.

07:12

07:13

07:13

07:13

10 Prior to this time, though,
11 Dr. Lustig hasn't had the opportunity to speak to the
12 parties present this evening, and I would ask if he
13 had an opening statement he would like to make?

14 DR. LUSTIG: Thank you, Ms. Dickson and
15 Chairman Daly. I do want to just briefly mention, I
16 want to thank all of the commissioners and a lot of
17 our supporters. I know this is a lot longer than
18 anybody would have expected. My goal here is
19 hopefully to provide the answers to the questions
20 that people are raising, and so I just wanted to take
21 this opportunity to thank everybody for their time
22 and their attention to what I consider to be a very,
23 very critical matter both in Illinois and across our
24 country. So thank you.

1 CHAIRMAN DALY: You're welcome.

2 DIRECT EXAMINATION

3 BY MS. DICKSON:

4 Q. Okay. Now to address the revisions to
5 the application. Perhaps the biggest change to our 07:13
6 application is the change in ownership. When the
7 application was originally filed in July of 2019,
8 Haymarket DuPage, LLC, was not the owner but was
9 rather a contract purchaser. Now Haymarket DuPage is
10 the owner of the property, and the property, since 07:14
11 the acquisition by Haymarket DuPage, LLC, has sat
12 vacant in Itasca.

13 Dr. Lustig, could you discuss the
14 reasons for the acquisition of the property?

15 A. First and foremost, we have always been 07:14
16 committed to opening up a facility in DuPage County.
17 We wanted to bring treatment services to what we have
18 considered to be a great need for the area and also
19 because we had the -- a donor step forward who is
20 committed to bringing treatment services to the 07:14
21 county and remains committed to doing that and has
22 given a generous gift and a donation to Haymarket so
23 that the purchase of the property could be made.

24 Q. In its amended application, Haymarket

1 also enhanced the landscaping. Can you discuss the
2 changes to the landscaping?

3 A. So we actually looked at the landscaping
4 both to meet the requirements of the Village but also
5 to add a patio and fencing to -- around the patio to 07:15
6 address the areas for clients to -- to have a smoke
7 break on as well as to do any curricular activities
8 on as well as to protect the confidentiality of the
9 patients that are in the facility.

10 More importantly, the goal around 07:15
11 the landscaping is I actually wanted to exceed the
12 requirements of what the Village is requesting of us,
13 because I believe that, you know, the area could be
14 enhanced. It is the gem of the area, and I think
15 that I would like to have the environment reflect 07:15
16 that. So my goal is to have a much more enhanced
17 landscaping design to be shared with the Village and
18 exceed the code requirements that are set forth.

19 Q. Dr. Lustig, when you talk about the
20 fenced-in patio -- which is actually one of the other 07:16
21 amendments to the application -- will use of the
22 patio be under Haymarket staff supervision?

23 A. So any time that there is a patient that
24 is on site, whether it's, you know, in the facility

1 or on the patio, it is all supervised by Haymarket
2 Center staff, so there is not an opportunity for
3 patients to be outside the facility that will be
4 unsupervised. So all of those patients will be
5 supervised by Haymarket staff.

07:16

6 Q. And, last, one of the changes that was
7 made to the application was in response to, I
8 believe, what we're hearing from School District
9 No. 10. When you testified more than a year ago, you
10 discussed that Haymarket wanted to provide a program
11 at Haymarket DuPage which would allow women who were
12 securing treatment to come to the treatment facility
13 and be accompanied by a maximum of two children under
14 the age of five. Since that time, as part of the
15 amended application, it is your intent, I believe,
16 not to offer that program any longer in Itasca; is
17 that true?

07:17

07:17

18 A. That is true.

19 Q. And what is the -- just so everybody can
20 understand, what is the purpose of providing that
21 treatment?

07:17

22 A. So first and foremost, substance use
23 disorders is a family disease, and so our goal here
24 was for many women seeking, you know, treatment,

1 life-saving treatment, their major barrier is a need
2 to support their children. And so Haymarket's -- one
3 of our probably longest running programs in the West
4 Loop has been a mother and children child's program
5 that allows women to bring up to two children into 07:17
6 residence with them so that women can feel secure
7 enough to participate in treatment that basically can
8 save their lives and not impact children.

9 And so I will continue, obviously,
10 to serve that population in the West Loop, but I 07:18
11 wanted to do this, from my perspective, as an answer
12 to the school district that felt that, you know,
13 serving homeless children would be an increased cost
14 to them. And even though these children are at risk
15 and need services, I still wanted to provide those 07:18
16 services, which would be down in the West Loop. So
17 that is why we made this accommodation, was so that,
18 again, I'm trying to demonstrate in good faith how I
19 want to work with the bodies involved to, you know,
20 have a comprehensive treatment program but also 07:18
21 attend to the challenges that many of these taxing
22 bodies are finding.

23 But at the end of the day, we are a
24 medical facility that really needs to address this

1 at-risk population, and when you look at a lot of the
2 data sets that describe DuPage County, there are many
3 families that are impacted by this disorder, and so
4 I'm just happy and pleased that I can provide those
5 services in the West Loop.

07:19:

6 Q. So, to be clear, if a woman presents at
7 Haymarket DuPage in Itasca and she needs a program
8 that will allow her to be in a residential program
9 but she has children and she's concerned about the
10 wherewithal of the children, will you transport that
11 mother and those children to Haymarket Center
12 Chicago?

07:19:

13 A. That's the goal. We do not want to turn
14 a woman who is -- who actually has a life-saving --
15 an illness that is threatening her life to turn her
16 away, so we will offer her the program in the West
17 Loop, and we will transport her and her child to that
18 location for services.

07:19:

19 Q. Okay. Are you familiar -- and in reading
20 the Village staff report relative to the zoning
21 application, Village staff has made a recommendation
22 that should the Village board determine to approve
23 our application for zoning, any change in this
24 program involving women and perhaps children in

07:20:

1 residence would first have to be approved by the Plan
2 Commission and the Village board by amendment to the
3 special use. Are you aware of that recommendation?

4 A. I'm aware of that recommendation.

5 Q. Would Haymarket agree to this 07:20
6 recommendation?

7 A. First and foremost, I really need to have
8 people understand that as a medical facility, you
9 know, I'm going to be presented with challenges in
10 the future, both whether it is a state requirement or 07:20
11 through other regulatory actions, that may force me
12 to provide services.

13 What I am committed to is that I am
14 going to service this population in the West Loop,
15 and I am committed, as I've always been, as I've 07:21
16 demonstrated, you know, meeting with the fire chief
17 and so forth, to sit down with the Village and sit
18 down with the school district so that we can work out
19 a plan that works out for all involved.

20 I have been very, very transparent 07:21
21 through this process, even though there's been a lot
22 of individuals that think I have not been, but I
23 remain transparent to try to meet the demands of so
24 many families that are impacted by this disease. And

1 when you look at even your coroner's report, you
2 know, the amount of overdose deaths, these are
3 impacting whole families. It doesn't just impact the
4 one individual.

5 And so, you know, ultimately I can't 07:21
6 agree to a -- you know, to an actual contingency, so
7 to speak, but I am more than willing to sit down with
8 ample time, if this should ever become an issue, to
9 work with the Village and work with the school
10 district in a comprehensive matter so that we can 07:22
11 provide those services as necessary, if the time
12 should allow for that.

13 Q. All right. As to the staff-recommended
14 condition, are you aware of whether that recommended
15 condition was made in consultation with the school 07:22
16 district?

17 A. I do not know that. I think, you know,
18 again, the school district has raised concerns about
19 the cost of this, and I recognize that --

20 Q. I want to say the cost to the school 07:22
21 district of the program? Or the cost to Haymarket of
22 the program?

23 A. Can you repeat that question?

24 Q. When you're talking about the cost, is

1 the school district's concern the cost to the school
2 district?

3 A. Yes. We've heard that there is concerns
4 about the cost to the school district, and so that
5 is -- that's obviously something that I would like to
6 sit down with them and continue to work through to
7 address.

8 Q. Okay.

9 MS. DICKSON: Those are the four changes to
10 the application that Dr. Lustig was called to testify
11 to this evening, and on that basis, we would tender
12 him for cross-examination relative to those four
13 amendments.

14 CHAIRMAN DALY: Thank you. At this point,
15 with the three attorneys, who would like to go first
16 this evening? Mr. DiNolfo?

17 MR. DI NOLFO: I'll go first, because I'm
18 going to be really quick based on what we just heard,
19 and I have a couple quick questions for Dr. Lustig.

20 CHAIRMAN DALY: Please proceed.

21 CROSS-EXAMINATION

22 BY MR. DI NOLFO:

23 Q. Dr. Lustig, you mentioned as part of
24 being transparent that you met with the fire chief

1 and I believe maybe perhaps the fire marshal. That
2 was back around the summer of 2019; is that correct?

3 A. Correct.

4 Q. All right. And that meeting was
5 basically an introductory meeting where you kind of 07:24
6 explained what the project was going to be, at least
7 as you envisioned it back in 2019?

8 A. Mr. DiNolfo, as the president and CEO of
9 the organization, I don't attend meetings necessarily
10 to have introductory meetings. I'm always at a 07:24
11 meeting so that I can hear the concerns and issues
12 that are brought forth so I can work with my team to
13 address those. If it was an introductory meeting, I
14 would have sent my leadership team in first.

15 So when I attend a meeting as the 07:24
16 CEO of this organization, it's to obviously introduce
17 a project but to hear firsthand the challenges that
18 that specific body is having so that I can try to
19 work with them. And, as I have done with other
20 villages, I try to work with them on trying to make a 07:24
21 difference and an added value to the community.

22 Q. Well, I appreciate that and I respect the
23 fact that your time is important, as I assume you
24 would believe the fire chief's time is important as

1 well.

2 A. Exactly.

3 Q. So in your meeting, since it was more
4 substantive than introductory, I assume there was
5 some exchange between you and the chief as to some of
6 the concerns? 07:25

7 A. Yes, that is correct.

8 Q. All right. And really nobody was in a
9 position, based on that being the first meeting, to
10 really have any great detailed conversation because
11 the facts weren't fully known at that point; is that
12 fair? 07:25

13 A. I don't understand what you mean by "the
14 facts."

15 Q. Sure. So I assume the chief shared with
16 you that he had some concern on the impact that this
17 facility would have on his ability to provide
18 services? 07:25

19 A. I don't know what the chief was
20 necessarily thinking about the impact. 07:25

21 Q. All right. Did he share any concerns
22 with you during this meeting?

23 A. The concerns primarily came with the
24 amount of time that is spent going to individual

1 homes repeatedly due to overdoses.

2 Q. Okay. So did that meeting ever get into
3 what impact, if any, this proposed facility would
4 have on --

5 MR. DI NOLFO: Hold on. Are you having a
6 problem, Mary, with hearing me?

07:26

7 MS. DICKSON: You know, my problem, Steve, was
8 more technologically based. We're getting a time
9 delay in your asking a question and we're seeing
10 visually a time delay. And I don't know if that's
11 something that staff could correct? If it's not,
12 it's fine. It's just I don't know if everybody's
13 seeing that.

07:26

14 CHAIRMAN DALY: Dan and Mo, could you please
15 take the Village of Itasca's website view and make it
16 of Yordana at the dais, please? Because I think
17 that's what Mary is experiencing.

07:26

18 Thank you.

19 MS. DICKSON: And it's fine. I just didn't
20 know if that was happening to everyone or if it was
21 just happening to us. But it was a technology issue
22 I wanted to address.

07:26

23 CHAIRMAN DALY: Okay. All right, keep going.

24 ///

1 BY MR. DI NOLFO:

2 Q. All right. So I think my question was,
3 Dr. Lustig, that the fire chief discussed with you
4 and perhaps you with him about this crisis, as you
5 put it; correct? 07:27

6 A. Say that last part again? I'm sorry.

7 Q. About the overdose crisis?

8 A. Yes.

9 Q. All right. Was there any discussion
10 during your meeting about what the facility would
11 generate call-wise? 07:27

12 A. No, it did not.

13 Q. All right. And, to date, there's been no
14 follow-up meetings; correct?

15 A. No, that's because the last -- we wanted
16 to have a secondary meeting, but there was not an
17 interest to meet at that point so -- so, yes, I
18 remain open to wanting to meet to address any of the
19 concerns, and I will continue to meet any of the
20 bodies's concerns. 07:28

21 Q. Sure. And just following up on that
22 statement with the transparency thing that you made,
23 you understand, at least from what I've heard from
24 Haymarket, that Haymarket, through its experts, don't

1 trust the data associated with the number of calls
2 generated by the West Loop facility?

3 MS. DICKSON: I'm going to -- I'm objecting,
4 because Mr. DiNolfo's questioning is now going beyond
5 the scope of the direct. I know Dr. Lustig testified 07:28
6 to meeting with the fire chief, but actually asking
7 questions relative to the data that was contained in
8 an expert report is beyond the scope of the direct.

9 MR. DI NOLFO: I'm not asking him to comment.
10 I'm just asking him to agree on the point that 07:28
11 Haymarket, through its experts, didn't trust the data
12 from the West Loop. That was my only question.

13 MS. DICKSON: But that is exactly the question
14 that goes beyond the scope of the direct.

15 MR. DI NOLFO: Well, this goes to his 07:28
16 transparency and his indication of willingness to
17 speak again with the chief. I'm just flushing that
18 out.

19 MS. DICKSON: That has nothing to do with his
20 transparency or his determination to want to meet
21 with the chief.

22 MR. DI NOLFO: Following up on his answer.

23 MS. DICKSON: Haymarket has --

24 MS. WYSOCKI: Hey, Mary --

1 MS. DICKSON: -- always been interested in
2 that, Mr. DiNolfo, and you know it. We asked for a
3 meeting with the Fire Protection District --

4 MS. WYSOCKI: That's --

5 MS. DICKSON: -- and you denied the meeting,
6 Mr. DiNolfo.

7 MR. DI NOLFO: Right, because you --

8 MS. WYSOCKI: All right --

9 MR. DI NOLFO: -- won't admit what your data
10 clearly shows so --

11 MS. WYSOCKI: Mr. DiNolfo and Ms. Dickson,
12 we're getting off course here. The question had to
13 do with whether or not Haymarket's experts trusted
14 the data associated with the number of calls
15 generated by the West Loop facility; correct?

16 MR. DI NOLFO: That's it.

17 MS. WYSOCKI: It's been a while so I'm just
18 checking.

19 MR. DI NOLFO: Yes.

20 MS. WYSOCKI: I think that -- that question, I
21 think, is beyond the scope of the direct testimony
22 that Dr. Lustig gave, so please move on.

23 BY MR. DI NOLFO:

24 Q. Okay. Let me ask this one other question

1 to follow up on your statement that you're willing to
2 meet. You would agree with me, Doctor, because your
3 time is valuable, that the parties meeting would have
4 to have some common ground on which to discuss?

5 A. Yes.

07:30

6 Q. Okay. And given -- at least, from what
7 my understanding is, the common ground that you would
8 want to discuss with the fire district would be the
9 potential impact this facility would have on the fire
10 district?

07:30

11 A. I would be open to discuss any topics
12 that the fire marshal would have.

13 Q. Okay. And you would agree with me if
14 there's a belief that there's an absence of common
15 ground, the point of meeting may be futile?

07:30

16 A. I'm sorry, please repeat the question?

17 Q. Sure. In the absence of there being
18 common ground on the topic to be discussed or the
19 data to be used or whatever phrase you want to use,
20 the purpose of meeting may be futile?

07:30

21 A. I disagree, Mr. DiNolfo, because it's not
22 just the issue relative to common ground, but there's
23 also issues that can speak to capacity, not
24 necessarily to specific numbers that are being called

1 into question across the board. So there's always
2 opportunities to have conversation to work together
3 as a team so that life-saving treatment can be
4 provided. That's primarily my take on it.

5 Q. Okay. And you would agree that perhaps 07:31:
6 people have different views of that; fair?

7 A. I do believe that people have different
8 views of that, yes.

9 MR. DI NOLFO: All right. I think that's all
10 I have. Thank you, Dr. Lustig. 07:31:

11 DR. LUSTIG: You're very welcome. Thank you.

12 CHAIRMAN DALY: Thank you. Ms. Smith, would
13 you like to go next?

14 MS. SMITH: Yes, I believe I'm up on deck
15 next. Thank you. 07:31:

16 CROSS-EXAMINATION

17 BY MS. SMITH:

18 Q. Dr. Lustig, you probably remember I'm
19 Jennifer Smith, the school district's counsel.

20 A. Good evening. 07:31:

21 Q. Good evening. I do want to ask you a few
22 questions starting off with questions about the
23 programming change that you explained.

24 A. Sure.

1 Q. You explained -- you testified about the
2 need for the program earlier and a commitment to the
3 program at the West Loop location.

4 Does it continue to be if -- if the
5 school district hadn't raised concerns or if there
6 was no other concerns, do you still think your
7 mission would be best served by having that program
8 at the Itasca location?

9 A. Not only do I think that it's in our
10 mission statement but I look at the overall impact of
11 families in the community. And as substance use
12 disorders is a family disease, yes, I do think it is
13 an important program to have, because at the end of
14 the day, these individuals that are impacted by
15 substance use disorders have a disability, and I'm
16 now going to transport them out of the area into our
17 West Loop to show my overall commitment. But to your
18 specific question, yes, this fits well within our
19 mission due to the fact that we've had a long history
20 of providing this program successfully in the West
21 Loop.

22 Q. So can you explain again the basis for
23 why you changed the proposal?

24 A. I changed the proposal based on the

1 feedback that we were getting on the overall costs of
2 some -- from the school district and the fear that it
3 necessarily derived by homeless children that might
4 impact, financially, the district. So I thought in
5 good faith that by doing this, it would be a
6 demonstration of my good faith.

07:33

7 Q. Did you consult with the district about
8 the change you made in the proposal?

9 A. We did not initially do that, but we sent
10 in writing the question about the school children,
11 the three to five-year-olds, and we've not heard back
12 on that question. And so -- but that being said, we
13 also heard from -- from you that even 18 to
14 23-year-olds were impacted as well, so it's hard for
15 me to determine the -- what the impact would be.

07:34

07:34

16 Q. So prior to your change in your proposal,
17 specifically you said -- you testified earlier -- or
18 I understood your testimony as it was responsive to
19 district concerns. Did you collaborate with the
20 district in your change -- in the changes you made to
21 your proposal? Or was that done unilaterally?

07:34

22 A. No, I did that.

23 Q. And so why -- what basis did you have for
24 thinking that that would address the school

1 district's concerns?

2 A. From statements from the very first
3 meeting where -- that this was going to run huge
4 costs and impacts to the school district.

5 Q. And did you do any independent 07:35
6 investigation into the school district's concerns?

7 A. Concerns relative to finance? Or
8 concerns relative to other issues brought up in
9 serving this population?

10 Q. Concerns relative -- well, let's start 07:35
11 with finance.

12 A. No, because I thought by eliminating that
13 program, it would address that.

14 Q. So you did not get any independent
15 information about what the impact of your program 07:35
16 would be on school district funding?

17 A. No, I was under the impression that by
18 removing that program, it would also have addressed
19 that question.

20 Q. Okay. You testified earlier that you 07:35
21 could not commit to maintaining -- to continuing to
22 not have that program, and you mentioned that you
23 could be required to have that program in the future.
24 Could you explain your prior testimony on that?

1 A. The state sets a list of priority
2 populations that must be served in some capacity, and
3 so you have to have a way to address that. So I
4 don't know -- that's one thing. I don't know if
5 there will be future challenges to laws or statutes 07:36
6 that might impact that, so right now I'm fully
7 committed to having this population served out of our
8 West Loop.

9 Q. Okay. And what policies or procedures
10 have you prepared to effectuate a process of 07:36
11 transferring and serving this population only at the
12 West Loop?

13 A. Well, there is nothing in writing because
14 it is something that we are currently doing. We are
15 currently transporting patients from that area now to 07:37
16 the West Loop, and beginning next week, we'll be
17 actually serving another area's hospital patients
18 from there to the West Loop. So we've already
19 enacted that approach. But there doesn't -- I don't
20 have to have a policy. We're already actually doing 07:37
21 that in principal.

22 Q. So if a mother with children presents at
23 Itasca, do you have any other options to support her
24 other than transferring her to the West Loop?

1 A. That's a great question, so thanks for
2 asking it. There's very few programs that offer an
3 evidence-based women and children's program, not just
4 locally but in the state. So I would want to
5 transfer mom and child to an evidence-based program,
6 and one of the best right now is the one that we
7 have.

07:38

07:38

07:38

07:38

8 Q. So I guess my question isn't just another
9 program like you said -- I believe I understand your
10 testimony to be child -- support of children was a
11 barrier. Are there other ways to support children
12 such as might you find housing or arrange other
13 social services for the children while the mother
14 then entered your program in Itasca?

15 A. Logically that would be the answer, but,
16 unfortunately, that's not what's on many women's
17 minds when it comes to receiving treatment; is that
18 oftentimes when the substance use disorder is
19 exacerbated, they've burned a lot of bridges with
20 family members and other issues, and all they can
21 focus in, because their life is in chaos, is to have
22 their children with them. It also motivates many
23 women to stay in treatment for their child.

24 The other reason for is that many

1 children you want there to be a level of bonding
2 between mom and child, specifically when there might
3 not be one. So initially there might be obviously
4 daycare centers or childcare centers that you would
5 want to go to, but oftentimes it's not in the 07:39
6 patient's mind. The patient's mind is to have the
7 children with her, so that's what we typically focus
8 in on, because if you don't do that, it can be a
9 motivating force for women not to receive treatment
10 or not to come to treatment. 07:39

11 Q. Do you ever coordinate with the Illinois
12 Department of Children and Family Services for the
13 support of children when mothers enter treatment or
14 if you find that there's abuse or neglect concerns
15 when mothers enter treatment? 07:39

16 A. Absolutely.

17 Q. And you said earlier should -- should you
18 start to offer the mother's and children program at
19 Itasca, that you would collaborate with the school
20 district at that point and then raised other 07:40
21 collaboration points.

22 What about your prior collaborations
23 with the school district are you referring to as far
24 as how that would be productive or address the

1 economic impact concerns raised by the school
2 district?

3 A. So we don't have that in Chicago, because
4 many patients, obviously first and foremost, are
5 focused on treatment. In all of our years here, many 07:40
6 patients are not focused on schooling because they
7 are actually receiving life-saving treatment. But
8 that being said, there's always opportunities for
9 collaboration, both through funding and through
10 programming, that I would love to explore with the 07:41
11 school district.

12 Q. Have you previously -- when you were
13 going to have the mother and children's program in
14 the school district -- well, first let me take it one
15 step at a time. 07:41

16 A. Sure.

17 Q. Initially the school district reached out
18 with a number of questions when you had proposed the
19 women and children's program; correct?

20 A. Correct. 07:41

21 Q. And you did not respond to those
22 questions for nearly a year; correct?

23 A. Correct.

24 Q. And once there was collaboration, you

1 never offered any funding support to the school
2 district, did you?

3 A. No. But let me just answer your -- your
4 first part of your question, which was once we
5 received the letter, we spent a lot of time trying to 07:41
6 educate ourselves on the principles that were in the
7 letter, both through our legal team as well as our
8 on-site team. We were going through the laws. We
9 were contacting DCFS. We wanted to try to educate
10 ourselves on this process. 07:42

11 Then, unfortunately, at the same
12 time we were also hit by the pandemic and many of the
13 zoning processes went off line, and obviously our
14 focus began to focus on the pandemic itself. So that
15 really speaks to the delay. It wasn't an intent to 07:42
16 not answer their questions, but it was trying to
17 better research and understand so that we could have
18 an educated meeting.

19 Q. And so -- and this goes to sort of my
20 question before. You said you researched the 07:42
21 concerns. Did you find that the concerns the
22 district raised had merit?

23 A. In what specific issues? Can I -- can
24 you rephrase that question?

1 Q. Well, you've indicated a change of
2 position, you changed your proposal, and that's what
3 you're testifying about today. What is it about the
4 district's position that had merit such that you
5 changed your proposal?

07:43

6 A. I don't know if the district necessarily
7 had merit as much as a lot of fear that was involved
8 in this. I changed the proposal because I understood
9 that this was a sticking point for the school
10 district, and I wanted to negotiate that in good
11 faith by eliminating that program.

07:43

12 Q. So you do not, though, agree -- you did
13 not agree when you changed the proposal and you still
14 do not agree that the program would have -- the
15 concerns raised to you by the school district had
16 merit?

07:43

17 A. No, my issue right now and has always
18 been that the -- that individuals in the community,
19 the high need to address the family-based treatment,
20 is going to impact the school districts in other
21 ways. Specifically, if you have an absentee parent,
22 if you -- I mean, this is a progressive disease that
23 progresses to death if people don't get treatment.
24 So the merit of not having this program is a concern

07:44

1 to me, which is why I'm transporting these
2 individuals to the city. But I really think this is
3 something that the community needs to look at as a
4 needed service that I wanted to provide.

5 So I don't see this as a merit, 07:44
6 because there is an assumption being made that
7 individuals are not already out in the community.
8 That this is not already impacting the community in
9 any way, and I don't -- just looking at many of the
10 data sources that really speak to what's happening in 07:44
11 DuPage County, this is a program that's highly
12 needed.

13 So it is my hope that as -- as, you
14 know, the Village sees what we can offer, sees the
15 added value, that we can come together and work 07:45
16 through whatever the challenges are.

17 Q. So it sounds like you don't agree that
18 there was merit and you -- you changed the program
19 for now to give time for further discussion so that
20 you can have the program in the future once there's 07:45
21 more acceptance of it? Is that my understanding?

22 A. I'm really committed to serving this
23 population, and I'm doing that in the West Loop. I
24 think the future is going to be determined based on

1 the need of the Village, need of the community, and
2 need of the school district.

3 Q. Okay. And what --

4 A. I mean, at the end of the day, I hope to
5 be a good partner to the school district to also 07:45
6 address any of the needs that the school district may
7 have that they may be experiencing; how can I be of a
8 service to them. And an example of that is, you
9 know, can I offer mental health/first-aid training to
10 the teachers so that if they experience a family in 07:46
11 crisis, that they would better be able to handle
12 situations like that. So this has a lot larger
13 aspect to it than just the program.

14 Q. Okay. But you agree that you did not
15 respond to the district's questions about your 07:46
16 program for over a year, and you did not collaborate
17 with the district in changing the program. So in
18 what ways do you think that -- do you expect future
19 relationships -- how do you think that history up to
20 this point has set the stage for a collaborative 07:46
21 partnership going forward?

22 A. Well, I would hope that you would
23 understand that we are trying to educate ourselves on
24 the issues that have been raised. If you wanted

1 to -- we're trying to educate ourselves on this.

2 When we had our very first meeting,
3 it was my hope to have continued meetings so I -- I
4 really can't judge -- you know, there was a pandemic
5 in the middle of this and, yes, my attention was 07:47
6 focused on not only providing life-saving treatment
7 but how to address a pandemic that was killing a lot
8 of people specifically in different settings.

9 So I hope that's certainly not the
10 stage that -- that you're referring to, because it's 07:47
11 my hope to better understand what the issues are.

12 Q. Okay. You testified previously that if
13 you do offer this program, that you would work to
14 collaborate on some kind of plan. What did you mean
15 by that? 07:48

16 A. Well, I mean, without knowing the
17 specifics, I'll give you an example. So, you know,
18 there are Title 1 funds that come to the state
19 that -- many Title 1 entities have been trying to
20 work with different state divisions on having the 07:48
21 money and services follow the mother. So there are
22 future opportunities to try to collaborate to enhance
23 funds to the school district. That's just one
24 example, and there are many examples that if we heard

1 what the needs are at the school district, that we
2 would be there to be a supportive entity to the
3 school district. And I certainly don't want this to
4 be a combative relationship in any stretch of the
5 imagination.

07:48

6 Q. So --

7 A. So let me just -- I'm sorry, let me just
8 set the record straight, if I may. If you are under
9 the impression that Haymarket Center started this
10 relationship in a negative light, that's certainly
11 not what our intention was. I apologize if that's
12 what your belief system was, but that is certainly
13 not my intention in any of the taxing bodies. It is
14 to work collaboratively with the Village and not, you
15 know, necessarily behind the scenes. That wouldn't
16 be productive for a program that's trying to heal a
17 family.

07:48

07:49

18 Q. So, again, when you talk about a future
19 plan to assist -- to collaborate with the school
20 district, do you have -- so, for example, the three
21 to five-year-olds who you support now in Chicago,
22 what funding sources do you have for them that you
23 might be able to offer to Itasca school district
24 should they take on the public education funding

07:49

1 responsibility?

2 A. There is not funding for the school
3 district. We are funded by DCFS and the state for
4 programs that are run here. So there isn't -- we are
5 not involved in the school district down here,
6 because, again, many of those patients are here to be
7 focusing on treatment. And what's happened is
8 through the thousands of DCFS audits, this issue has
9 never once been brought up. Through our work with
10 the POS agencies, this has never been brought up.

07:50

07:50

07:50

07:51

11 And what was interesting in this for
12 me was I did bring GED on site, not because it was a
13 requested need of the patients but because I was
14 trying to address a social determinative of health.
15 But I can tell you through the thousands and
16 thousands and thousands of patients that we have
17 serviced, when people come for treatment, their focus
18 has been on treatment. Because, I don't know if
19 you're aware of this, when someone is having a life
20 or death illness, the focus has been on getting the
21 treatment and then having individuals return back
22 home to the communities that they've come from.

23 MS. DICKSON: If I might, Ms. Smith,
24 Dr. Lustig used the phrase "POS." For members of the

1 Plan Commission and the public and maybe the
2 attorneys who don't know what POS is, Dr. Lustig,
3 could you just tell us what a POS is?

4 THE WITNESS: I apologize. The "POS" are
5 point-of-service agencies that DCFS contracts with to 07:51:
6 help with monitoring for women who are involved with
7 children that have a DCFS report on them.

8 BY MS. SMITH:

9 Q. You just brought up GED services. Can
10 you explain what that is? 07:51:

11 A. So we collaborate with both Herald
12 Washington and Malcolm X College where teachers come
13 on site to provide the GED training for the patients
14 that in our recovery homes. That being said, the
15 commitment to education that Haymarket Center has is 07:52:
16 we actually pay for those individuals to take the GED
17 test because we believe strongly that education is a
18 social determinate of health.

19 Q. You're talking now about the 18 to
20 22-year-old population; is that right? 07:52:

21 A. Correct.

22 Q. And for that population, do you support
23 individuals who have not graduated from high school?

24 A. Can you tell me what you mean by "support

1 individuals who have not graduated from high school"?

2 Q. All right. Do you accept for treatment
3 individuals who have not graduated from high school
4 that are 18 to 22 -- up to their 22nd birthday?

5 A. Yes, we do. 07:52

6 Q. And do you intend to do so at the Itasca
7 location?

8 A. Yes, we do.

9 Q. And what, if any -- so you talked about a
10 GED access to education. What, if any, community 07:53
11 services, supports, connections do you make as far as
12 their entitlement to public education?

13 A. Can you repeat that question, please?

14 Q. Sure. Let me rephrase that.

15 What do you do to connect 18 to 07:53
16 22-year-olds to public education?

17 A. We don't connect it. We work with our --
18 both Malcolm X and Herald Washington to provide those
19 services as part of an individual's treatment plan,
20 so the individual has to request this. It's not 07:53
21 forced on individuals. They have to do this.

22 Q. And do individuals ever come to you that
23 are still enrolled in, if you're in CPS, here in
24 Chicago in CPS?

1 A. No. And I think that's the real
2 challenge here is when someone has a substance use
3 disorder, their lives have deteriorated in almost all
4 facets of an individual's life. And so, you know, I
5 really want to implore individuals to understand
6 that, you know, just as you would go to a hospital
7 because of a medical condition that is threatening
8 your life, so are individuals coming to treatment.

07:54

07:54

07:54

9 If people don't get better, they --
10 there's two outcomes to individuals with substance
11 use disorders. They either get better or they die.
12 So it's not like it's this progression. So the focus
13 of so many of our individuals is that they come here
14 to receive the treatment and to try to start to
15 rebuild their lives. And unfortunately, or
16 fortunately, education isn't high on their list,
17 surviving is.

07:55

18 Q. So I understand that when someone perhaps
19 first enters treatment, but when you have the
20 recovery home option or you're in that phase where, I
21 assume, you're trying to transition from a point of
22 crisis to a point of discharge and moving on and
23 we've heard -- I believe -- or I should ask you. I
24 mean, at some point, doesn't employment and education

1 transitions become part of the program or the
2 community connections that you would -- you would
3 make for your -- for those residing in the recovery
4 home?

5 A. It's actually a dual process. It's 07:55
6 something that both the therapist and the client work
7 on. Every treatment plan and discharge plan is
8 individualistic on what a patient wants to work on.
9 If a patient wants employment or education, that's
10 something that we work on, or both. We work on that 07:55
11 with the patient.

12 Q. So you mentioned my -- I think my
13 questioning of a prior witness about 18 to
14 22-year-old programs. They're called transition
15 programs in public schools, and public school 07:56
16 districts do fund transition services for individuals
17 with disabilities. Are you now or were you before
18 aware of this obligation on public schools?

19 A. No. And I think that's -- that's why I
20 think, you know, part of this is I can learn from you 07:56
21 guys on how to best have a strong relationship.
22 We're coming together and working to try to heal
23 these individuals and look for funding.

24 Q. So with respect to the concentration,

1 though, of such a large population of individuals who
2 may need that support, what kind of plan would you
3 propose to address funding concerns when you're
4 bringing this into a relatively small public school
5 district?

07:57:

07:57:

07:57:

07:57:

6 A. Well, again, you know, without getting
7 into specifics, there are grant opportunities that
8 are out there that we can come together. We've done
9 that very successfully with Waukegan, where -- on
10 clinical issues where we have worked together on
11 writing grants to do that. So, again, that's
12 something we would have to look into with the school
13 district as our partner.

14 Q. What grants have you been successful in
15 securing for Waukegan school district?

16 MS. DICKSON: I'm just going to object. I've
17 allowed a lot of latitude, because Dr. Lustig was
18 willing to testify to the GED program, but the
19 program change as part of the change in the
20 application was limited to removing the program that
21 would allow children to become resident with their
22 mothers in response to the school district's concern.
23 We're now going beyond that point to program funding
24 in Waukegan, which I don't think is at issue here

1 this evening.

2 MS. SMITH: I think you misunderstand the line
3 of questioning. Dr. Lustig testified that should
4 they again offer services to mother and children,
5 that he -- as I took the notes, that he would offer a 07:58
6 plan -- he would collaborate with the school district
7 on a plan. So I -- my -- I was off the GED topic and
8 had turned back to understanding his testimony with
9 respect to a plan.

10 He gave, then, as an example of a 07:58
11 plan and how they could address funding concerns of
12 the school district an example of a Waukegan grant,
13 that's why I followed up to ask about the grant.
14 That's the relevance.

15 MS. DICKSON: I think we're going far beyond 07:58
16 the scope of the direct, Ms. Wysocki.

17 MS. WYSOCKI: Thank you, Ms. Dickson. I agree
18 with Ms. Smith. I think that is fair, given his
19 testimony that they have worked with Waukegan in the
20 past. Go ahead. 07:59

21 BY THE WITNESS:

22 A. So that was not dealing with the school
23 district as it was dealing with clinical programming,
24 but it demonstrated weaknesses that the county had.

1 So we were able to work with them on writing a grant,
2 and the county actually then took those grants to
3 write future grants on different issues.

4 BY MS. SMITH:

5 Q. So let me -- my audio and visual bleeped 07:59
6 for a minute, so I think I might have misunderstood.

7 You did not collaborate with the
8 school district on a grant?

9 A. Correct. That was a clinical grant in
10 nature. 07:59

11 Q. It was clinical but it wasn't with the
12 school district either; right?

13 A. No.

14 Q. Okay. So is there any example of what
15 you would propose as far as a plan to address funding 07:59
16 of bringing a large number of individuals who would
17 qualify for public special -- public school district
18 funding to a small school district? What kind of
19 plan would address that concern that you proposed?

20 MS. DICKSON: I just want to object to the 08:00
21 foundation of the question, because you're assuming a
22 large number of people, and I would like to know from
23 the school district what is a large number of people?
24 What assumption is the school district making in this

1 regard? Because we haven't heard that before, and I
2 think if you're going to throw out the phrase "large
3 number of people," you should tell us what you
4 believe is a large number of people.

5 MS. SMITH: Well, I can lay some foundational 08:00
6 questions, but I think they've testified about the
7 number of beds. And I previously -- I was not
8 repeating my line of questioning from almost two
9 years ago now, but I did ask a lot of questions to
10 get at that issue then, but I can ask them now. 08:00

11 BY MS. SMITH:

12 Q. What percentage, if you know, of your
13 population is 18 to 22 years old?

14 MS. WYSOCKI: This is Yordana Wysocki. I
15 don't want to have to rehash that testimony. I agree 08:01
16 that that was gone over previously.

17 Ms. Dickson, do you agree that based
18 on that testimony that was given, you know, 18 months
19 ago -- I don't think it was quite two years -- that
20 the characterization of a large number of people -- I 08:01
21 mean, if you want to address that further with the
22 superintendent, you'll have an opportunity to do so
23 later.

24 MS. DICKSON: I'm just perplexed by the

1 question. I think that there was significant
2 testimony already about the patient population that
3 we're going to have, and to go now and talk about
4 percentages of population goes way beyond the scope
5 of the direct this evening.

08:01:

6 Dr. Lustig -- to the extent the
7 school district continues to have questions or fears
8 of a population that they feel is going to be a
9 financial detriment to the district, Dr. Lustig has
10 indicated he would be more than willing to sit and
11 discuss those issues with the school district. It's
12 hard at this point to respond to fears that are not
13 realized or are not testified to. Perhaps after
14 Dr. Bennes (phonetic) testifies, we'll have a better
15 idea.

08:01:

08:02:

16 MS. WYSOCKI: Ms. Dickson, I don't think
17 that's what's going on here. I think the question --
18 Dr. Lustig has testified that he was happy to
19 collaborate with the school district in order to
20 obtain funding for this population. I think the
21 question was going to the funding. You objected
22 based on the characterization of the size of the
23 population that was going to be at the facility, and
24 we're trying to address that objection. You've

08:02:

1 thrown an awful lot of argument in here that I don't
2 think is necessary at this time.

3 I guess my question for you,
4 Ms. Dickson, is do we need to go over the questioning
5 from 18 months ago by Dr. Lustig to lay the 08:02
6 foundation for the question about funding? I feel
7 like it's a waste of time, but if, you know --

8 MS. DICKSON: I don't believe that it's
9 necessary. But the question that Ms. Smith has just
10 asked has to do with the percentage of a population 08:03
11 aged 18 to 22, and I don't know how that's relevant
12 tonight.

13 MS. WYSOCKI: Okay. My notes on the question
14 indicate that it was about funding. Ms. Smith,
15 frankly, at this point, I've kind of lost of train of 08:03
16 the question. Do you mind re-asking that?

17 MS. SMITH: I've somewhat lost the train, too,
18 although I guess the point -- the questions were
19 about funding. Some of the funding issue goes to 18
20 to 22-year-olds. If Ms. Dickson is confused about 08:03
21 the various buckets of potential funding requirements
22 for the school district, we haven't presented our
23 case yet. We will be presenting our case and there
24 was also previous testimony.

1 So part of the component would be 18
2 to 22-year-olds, part of the component would be
3 homeless parents, and I believe, you know, some of
4 that is based on beds and size of the facility and
5 population served. So I believe there's testimony 08:04
6 about that. It's not about -- I do want to address,
7 this is not about some fear-mongering. This is very
8 specific and about funding requirements that are --
9 have nothing to do with fear. This is about -- I've
10 been asking questions -- this entire line of 08:04
11 questioning is about funding and where resources will
12 come from.

13 So I really do need to state my
14 objection to the characterization of the district as
15 fear-mongering. That is absolutely inappropriate and 08:04
16 has nothing to do with this line of questioning.

17 MS. DICKSON: Well, my objection is predicated
18 on the fact that the program that's at issue and the
19 program that was discussed -- and I know we got
20 beyond that, so, Ms. Smith, to the extent you want to 08:04
21 ask your question and Ms. Wysocki will allow it --
22 but the testimony tonight was relative to the removal
23 of a program and -- but if you have a question
24 relative to funding programs in general, Dr. Lustig,

1 if you would like to answer a funding question --

2 BY THE WITNESS:

3 A. If I may answer the question this way.

4 Right now, the issue of the funding is not on the
5 table because this program is not currently going to 08:05
6 be used in that facility and -- so it's not going to
7 be used in that facility. This will give us ample
8 time to work with the school district to look at the
9 opportunities that may be available.

10 So, again, this program is not going 08:05
11 to be in the county, it's going to be serviced in the
12 West Loop, and any further questions on this really
13 speaks to the -- you know, I have committed that I'm
14 going to be serving this population in the West Loop.
15 So, again, this will give us the time to develop a 08:05
16 relationship and look at the weaknesses of this
17 population and how we can support them together.

18 BY MS. SMITH:

19 Q. Okay. I will -- and I apologize if any
20 of this is repetitive. I don't think it is, but I'll 08:06
21 close the line of questioning with just asking -- my
22 question goes to what -- if there was a plan
23 developed, what are even the range of possible
24 options that you might bring to a school district to

1 fund significant special education obligations?

2 You've mentioned a Waukegan grant
3 that wasn't -- an experience with Waukegan that was
4 not with the school district, it was about clinical
5 funding, and you mentioned Title 1 funds, which 08:06
6 really have nothing -- I would not understand how
7 that would be relevant.

8 Are there any other ways that you
9 can assist the school district in meeting a large --
10 I'm going to characterize it as large -- a 08:06
11 potentially large funding obligation?

12 A. Again, I think I would hope to learn from
13 you, but to clarify your Title 1 comment, I actually
14 participated a couple of years ago with the state on
15 how Title funds can follow the mother into treatment. 08:07
16 So there are opportunities, but there's obviously
17 opportunities that we need to learn. I also
18 participated in this -- in Washington relative to
19 Title 1 funding.

20 So, again, this is about developing 08:07
21 a relationship at this point where we can work
22 together to try to bring in additional funds so
23 that's -- you know, I'm not going to have all the
24 answers to your questions until we can set up a

1 series of meetings to work together.

2 MS. SMITH: Okay. I'm just checking my notes,
3 if you will just bear with me for one minute.

4 MS. WYSOCKI: Ms. O'Keefe and Ms. Dickson,
5 just so you know, the microphones are really 08:08
6 sensitive in your room and it was a little -- we
7 could hear the crosstalk and it was a little hard to
8 understand Dr. Lustig so --

9 MS. DICKSON: Thank you, Ms. Wysocki.

10 MS. SMITH: I do not have any further 08:08
11 questions. Thank you.

12 CHAIRMAN DALY: Thank you, Ms. Smith.

13 Just looking at the time,
14 Mr. Ellenbecker, would you mind if we took a
15 10-minute break before we get into your cross? 08:08

16 MR. ELLENBECKER: No, that would be great.
17 Thank you.

18 CHAIRMAN DALY: Okay. Let's recess for 10
19 minutes and regroup at about 8:18, please.

20 (Recess taken.) 08:18

21 CHAIRMAN DALY: All right. How about we
22 begin, Mr. Ellenbecker, with your cross-examination
23 of Dr. Lustig's testimony this evening.

24 MR. ELLENBECKER: Okay. Thank you,

1 Mr. Chairman. Before I start the exam, I do want to
2 advise the Plan Commission and the parties that 865
3 West Irving Park Road was recently sold. I think the
4 parties know that. I was recently retained by the
5 new owner of 865 West Irving Park Road, which is FFD 08:19:
6 Illinois Itasca, LLC. We intend to file an objector
7 application. While the deadline has passed, this is
8 a new development in terms of the ownership of 865
9 West Irving Park Road, but I wanted to advise the
10 Commission and all counsel of that fact. 08:19:

11 CHAIRMAN DALY: Thank you.

12 CROSS-EXAMINATION

13 BY MR. ELLENBECKER:

14 Q. Okay. Good evening, Dr. Lustig. Can you
15 hear me? 08:19:

16 A. Yes. Can you hear me?

17 Q. I can now, yep.

18 A. Okay, great.

19 Q. How are you?

20 A. Good. How are you? 08:19:

21 Q. Good, thanks. I'm going to start with
22 some easy stuff based on some of the information you
23 talked about in the new application and specifically
24 the landscaping you discussed. Has that landscaping

1 work already been done or is that planned to be done?

2 A. It's planned to be done.

3 MS. DICKSON: You know, Chairman Daly, could I
4 say again, we're having that same voice and digital
5 display dissonance. Mo corrected it the last time. 08:20

6 CHAIRMAN DALY: I'm not experiencing what
7 you're experiencing there. I don't know if anybody
8 else is having the problem Ms. Dickson is having?

9 MS. DICKSON: Then proceed. It might just be
10 on our end. Sorry, Mr. Ellenbecker. 08:20

11 MR. ELLENBECKER: That's all right.

12 BY MR. ELLENBECKER:

13 Q. I didn't get your answer. So the
14 landscaping work is proposed to be done and hasn't
15 yet been done; correct? 08:20

16 A. Proposed to be done but hasn't been
17 started.

18 Q. Okay. With regard to the patio you've
19 discussed, has that patio renovation already been
20 performed? 08:20

21 A. No, it has not.

22 Q. Do you have a timeline for when it will
23 be performed?

24 A. No, we're hoping to get through zoning.

1 Q. Okay. Since your acquisition of 860 West
2 Irving Park Road, have you had any modifications done
3 to the building?

4 A. We have had a new roof put on, because
5 the old roof had serious leaks coming into the
6 building, and so this was something that needed to be
7 done because it was an emergency. And we got the
8 necessary permits from the Village to do that.

08:21

08:21

08:21

08:22

9 Q. You testified earlier that -- with regard
10 to the patio, that there would be supervision of
11 people on the patio at all times. Will that same
12 level of supervision be provided for any residents of
13 Haymarket while they're in the parking lot out front?

14 A. Clients will not be in the parking lot up
15 front. This is reserved for behind the building.

16 Q. Okay. This patio that you're proposing,
17 how big is this patio?

18 A. I do not know the exact dimensions.

19 Q. Well, without exact dimensions will it
20 hold 244 people?

21 A. Absolutely not, because there wouldn't be
22 240 people out there at one time, so, no, that would
23 not be the size of it.

24 Q. So the idea is that there would be

1 scheduling or set times for different populations to
2 use the patio? Is that the idea?

3 A. That is the idea.

4 Q. Okay. Since Haymarket's purchase of the
5 property, Haymarket represented that it would have
6 security at the premises; is that your understanding?

7 A. During programming?

8 Q. No, even now. There was a representation
9 that Haymarket would have security at the property
10 since the time it purchased the property.

11 A. So we did have security in the building.
12 Now we have electronic surveillance both internally
13 and externally in the building.

14 Q. Okay. Are you aware that the security
15 exterior lighting is not operational and hasn't
16 been --

17 MS. DICKSON: I want to object, because if
18 there's a question over the current state of the
19 property, that would be better addressed to the
20 Village and to the applicant outside this zoning
21 hearing. I don't understand, Mr. Ellenbecker, why a
22 condition of lighting that occurs currently is
23 relevant to this zoning application?

24 MR. ELLENBECKER: Dr. Lustig, was --

1 represented to be testifying here tonight in part
2 about the purchase -- Haymarket's purchase of the
3 property, including modifications that it either has
4 made or is making to the property, and it appears as
5 though one modification is that the exterior lighting 08:23
6 is no longer operational.

7 MS. DICKSON: No, the testimony this evening
8 was relative to the acquisition of the building, the
9 enhanced landscaping that is going to be provided if
10 this facility is approved, and the fenced patio. It 08:23
11 had nothing to do with current conditions on the
12 property. If you're concerned about it, certainly
13 Dr. Lustig can address it, but I don't think it's
14 relevant to the proceeding this evening.

15 MR. ELLENBECKER: Okay. 08:24

16 BY MR. ELLENBECKER:

17 Q. Well, Dr. Lustig, she gave you the green
18 light, so can you answer my question?

19 A. Sure. Actually, the lighting is on as we
20 speak. 08:24

21 Q. Okay. Well, I drove by it at 6:00
22 o'clock tonight and it wasn't on. So what's your
23 understanding as to when the lights were turned on?

24 A. About an hour ago.

1 Q. Oh, okay. Who turned those lights on?

2 A. Our maintenance department.

3 Q. Okay. Do you have a maintenance
4 department at the facility full time?

5 A. Yes, we do.

6 Q. Okay. You indicated a couple times in
7 your direct examination that the proposed facility in
8 Itasca is a medical facility; correct? Do you
9 remember saying that multiple times?

08:24

10 A. Yes.

08:25

11 Q. All right. As a medical facility, what
12 is your understanding or expectation as to what the
13 staff-to-patient ratio would be for intensive
14 inpatient treatment?

15 MS. DICKSON: I'm going to object. This
16 testimony was testified to for several hours
17 previously. The staff-to-patient ratio goes beyond
18 the direct examination this evening and was actually
19 something that was -- any number of attorneys back
20 through the many hours of hearing in 2019 could have
21 asked and I think did ask.

08:25

08:25

22 MR. ELLENBECKER: Well, Dr. Lustig has
23 represented on multiple occasions tonight that this
24 is a medical facility. And given that he has made

1 that representation, I want to know -- I'm exploring
2 what the expectations are with regard to how he's
3 staffing that medical facility that's going to be put
4 in Itasca.

5 MS. DICKSON: And, Ms. Wysocki, I stand on my 08:25
6 objection.

7 MS. WYSOCKI: I heard it.

8 Mr. Ellenbecker, I think that the
9 staffing issue was gone over at great length. I'm
10 not sure what's different now? And perhaps the 08:26
11 question for Dr. Lustig would be if there was any
12 changes to the prior plan?

13 MR. ELLENBECKER: Actually, here's my bridge,
14 Ms. Wysocki. As a supplement to the new application,
15 for the first time the KLOA report of Mr. Abouna was 08:26
16 attached to that application. And within that
17 supplemental material -- which was never part of any
18 prior questioning because it wasn't part of the first
19 application -- there were representations made about
20 what the staffing were going to be based on different 08:26
21 periods of time. So that's where I'm going with this
22 as a connection to the direct exam here, this medical
23 facility, and the representations made by Haymarket
24 to Mr. Abouna for purposes of his report.

1 MS. WYSOCKI: Thank you for clarifying that,
2 because I didn't see the connection. I think that if
3 this is on the KLOA supplemental materials, I think
4 it's a fair question. To the extent that it's going
5 over old testimony, you know, please keep that in
6 mind.

08:27

7 MS. DICKSON: And, Ms. Wysocki, I can only ask
8 if you could speak up or get closer to the mic.
9 You're fading out.

10 MS. WYSOCKI: I'm sorry. I've already been
11 admonished actually on this, to speak closer to the
12 mic, so I apologize about that.

08:27

13 I just said that because this
14 relates to the KLOA supplemental materials, I think
15 it's fair game if Dr. Lustig is, you know, able to
16 answer the question. And I just reminded
17 Mr. Ellenbecker that a lot of the stuff about the
18 staffing has been presented previously, so to the
19 extent that it's based on the new materials, it's
20 fair, but I don't want to have to go over all the old
21 testimony.

08:27

08:27

22 MR. ELLENBECKER: And I won't do that. I just
23 need to lay a couple of foundational questions here,
24 so I can start with my question again, because I'm

1 sure it's been lost in the exchanges.

2 MS. DICKSON: Thank you, Mr. Ellenbecker.

3 BY MR. ELLENBECKER:

4 Q. So, Dr. Lustig, with regard to -- and I'm
5 just looking at one type of patient here. With
6 regard to the intensive inpatient detox patients or
7 residents that you would have at the proposed
8 facility, what is the staff-to-patient ratio that you
9 would expect or is required for those 16 beds?

08:28

08:28

08:28

08:29

10 A. So, actually, it's unfortunately going to
11 be a larger answer, because, one, we will have
12 medical staff that is obviously run by our end at
13 Haymarket, but we also have clinical staff and
14 supportive staff in those programs. And that is
15 something that Ms. Kissel will be able to respond to
16 in exact detail. But it's not just medical staff
17 that are part of any one program. There's also
18 clinical staff that support them, and then there is a
19 support group of staff that is underneath the
20 clinical staff.

21 Q. Okay. And the reason I ask is because
22 Mr. Abouna, in his report and based on his testimony,
23 was advised by Haymarket that there were only going
24 to be approximately 11 to 12 employees on the third

1 shift at Haymarket. Did you hear that testimony?

2 A. I did.

3 Q. And he was basing that on a 10-percent
4 projection of employees numbering 117 on a daily
5 basis. So that would be 11.7, if my math is correct,
6 so let's round up to 12. Is it your expectation that
7 96 treatment patients and 144 recovery bed residents
8 will be staffed by 11 to 12 employees on the third
9 shift?

08:29

08:29

10 A. Well, on the third shift, the patients
11 are -- tend to be sleeping, and so that's just the
12 clinical support people. But there's also security
13 individual people, human security, that is on staff
14 that is monitoring the building and its surroundings.

15 Q. Right. So -- sorry, go ahead.

08:30

16 A. So it's not just the clinical staff that
17 are monitoring the clients sleeping, it's also the
18 security team that will be managing that as well.

19 Q. All right. And 16 of those patients
20 potentially could be undergoing significant intensive
21 medical detox; correct?

08:30

22 A. Correct.

23 Q. All right. And those 16 alone would be
24 overseen as well as the others by 11 or 12 people?

1 A. Well, keep in mind, depending on the
2 severity of the program, you have direct nursing
3 involvement in the medical detox program.

4 Q. Right. But 11 to 12 people that
5 Mr. Abouna testified to included employees that would
6 be nurses or other medical providers; correct? 08:30

7 A. Correct.

8 Q. All right. One of the other things you
9 testified on direct exam was a great need for this
10 facility in this location; is that right? 08:31

11 A. Correct.

12 Q. And without belaboring the point, I think
13 you heard testimony through some of your experts over
14 the last couple meetings that the nearest hospital to
15 the proposed facility is not in DuPage but it's in
16 Cook County; correct? 08:31

17 A. I did hear that, yes.

18 Q. Right. And, to date, have you entered
19 into any linkage agreements or memorandums of
20 understanding or even had a meeting with any of the
21 top brass at Alexian Brothers? 08:31

22 A. No. But at other hospitals we have in
23 the area as well as those conversations are
24 expanding. So we are and have been working with

1 Edward Elmhurst Hospital. We will have begun working
2 with Linden Oaks in both of their emergency rooms and
3 programming so it's -- and obviously our
4 relationships will continue to expand.

5 Q. Do you have -- do you currently have a 08:32
6 linkage agreement or an MOU in place with Edwards
7 Hospital or Linden Oaks?

8 A. We actually have a contract in place,
9 yes.

10 Q. Okay. And what is that contract for? 08:32
11 Just generally, what type of services?

12 A. For us to have staff on site in their
13 emergency department to do warm handoffs for patients
14 who need our type of treatment.

15 Q. Do you know -- do you know the distance 08:32
16 between -- strike that, based on your last answer.

17 Do you have any contracts or linkage
18 agreements with any hospitals for the care and
19 treatment of Haymarket patients that come from
20 your -- 08:32

21 A. Can you say that again? I'm sorry.

22 Q. Yeah, I can. Do you have any linkage
23 agreements or MOUs in place with any hospitals in
24 DuPage County for them to accept patients in need of

1 their medical care and treatment that come from the
2 proposed facility?

3 A. No. At this point, we're just receiving
4 the hospital patients that are experiencing need of
5 treatment so that the emergency rooms don't get
6 overcrowded. 08:33

7 Q. Okay. And the reason -- one of the other
8 reasons I was asking about the linkage agreements is
9 your amended application says that Haymarket, quote,
10 "will have signed linkage agreements with local
11 hospitals, primary care clinics, and other service
12 providers." 08:33

13 MR. ELLENBECKER: And that's at the
14 application at Attachment A at page 2, Ms. Dickson
15 and Ms. O'Keefe. 08:33

16 BY MR. ELLENBECKER:

17 Q. Other than what you have with Edwards
18 Hospital for being in their emergency room, do you
19 have any signed linkage agreements with any other
20 local hospitals, primary care clinics, and other
21 service providers at present? 08:33

22 A. Not at this time, no.

23 Q. Now, in the context of you testifying
24 that this is a medical facility, is it your

1 understanding that your -- and when I say "your," I
2 mean Haymarket -- Haymarket's amended or new
3 application is for a planned development?

4 A. Can you say that again? The system's
5 getting hiccups, so I apologize. 08:34

6 Q. Maybe if I talk slower, it will be
7 better.

8 MS. DICKSON: It doesn't have anything to do
9 with the way you're talking. We are experiencing a
10 little technical delay so sorry. 08:34

11 MR. ELLENBECKER: All right. Let me give it
12 another shot.

13 BY MR. ELLENBECKER:

14 Q. In the context of your direct testimony
15 earlier, we've already discussed that you referred to 08:34
16 the proposed facility as a medical facility on
17 multiple occasions. But you do understand that the
18 Village or the Plan Commission is viewing your
19 application as a planned development; correct?

20 A. Correct. 08:35

21 Q. And you understand that -- as part of
22 your new application, that the burden is on Haymarket
23 to prove that you meet the standards for a planned
24 development; correct?

1 MS. DICKSON: I object to this line of
2 questioning. It goes way beyond the direct
3 examination this evening.

4 MR. ELLENBECKER: It doesn't in the sense that
5 he was put onto testify on direct about the new
6 application. He has referred to the medical
7 facility, which is clearly, at least from my
8 perspective, an attempt to characterize it as a
9 medical facility when the zoning application must be
10 viewed in the context of a planned development.

11 MS. DICKSON: Well, it's viewed in the term --
12 it's a health facility, which he's calling a medical
13 facility, but I think it's a healthcare facility. As
14 a planned development as well. I guess you're hung
15 up with the terminology of medical versus healthcare?
16 Is that an issue?

17 MS. WYSOCKI: Ms. Dickson, this is Yordana
18 Wysocki. I don't think that's the hang-up. I think
19 the question is about the application for the planned
20 development.

21 MS. DICKSON: Right.

22 MS. WYSOCKI: Regardless of whether you're
23 calling it a healthcare facility or a medical
24 facility, I think the question that Mr. Ellenbecker's

1 posed is whether or not Dr. Lustig understands that
2 Haymarket's amended application is for a planned
3 development. Is that correct, Mr. Ellenbecker?

4 MR. ELLENBECKER: Yes, precisely.

5 MS. WYSOCKI: Right. I think that question is
6 fair. 08:36

7 MS. DICKSON: He answered that question. The
8 secondary question Mr. Ellenbecker asked, though, was
9 whether Dr. Lustig believed the petitioner had the
10 burden of substantiating the planned development
11 standards. That's my objection. 08:36

12 MS. WYSOCKI: I think that question that you
13 just said was -- that's fair.

14 MS. DICKSON: You can answer that question,
15 Dr. Lustig. 08:36

16 THE WITNESS: Can you repeat that? I'm sorry.

17 MR. ELLENBECKER: Yeah, I mean, I can. It
18 won't be precise.

19 BY MR. ELLENBECKER:

20 Q. But you're aware that as part of its new
21 application to the Village of Itasca for its special
22 use for this proposed facility that the burden is on
23 Haymarket to prove that you meet the standards for a
24 planned development; right? You understand that? 08:37

1 A. Yes.

2 Q. Okay. And not a healthcare facility;
3 correct? It has to meet the standards of a planned
4 development?

5 MS. DICKSON: I believe it has to provide
6 both. I suppose we could ask Ms. Wysocki, but our
7 application is for a healthcare facility as a planned
8 development.

08:37

9 MS. O'KEEFE: I don't understand what he's
10 asking.

11 MS. WYSOCKI: If I don't understand where your
12 question is going, I don't know that my witness can
13 understand where your question is going.

14 MR. ELLENBECKER: I think you're selling the
15 doctor short. He might.

08:38

16 MS. DICKSON: You're right.

17 DR. LUSTIG: Don't give me that much credit,
18 Mr. Ellenbecker.

19 MR. ELLENBECKER: Do you understand my
20 question or do I need to take another shot at it?

08:38

21 THE WITNESS: I don't understand the question.

22 BY MR. ELLENBECKER:

23 Q. Let me ask it this way: When
24 Mr. Abouna -- or in Mr. Abouna's report, he made a

1 certain accommodation or incorporated within his
2 opinions the fact that 48 of recovery bed residents
3 at the proposed facility would be part of the
4 outpatient treatment. Do you recall that?

5 A. I do not recall that specifically. 08:38

6 Q. I'll tell you Mr. Abouna in his report
7 and his testimony said he was told by Haymarket that
8 of the 96 outpatients that would be treated daily at
9 Haymarket, the proposed facility, that 48 of them, or
10 half, would come from the recovery beds. 08:38

11 If that's the case, there would be
12 approximately 96 or so recovery bed patients that
13 aren't receiving outpatient treatment on a daily
14 basis; correct?

15 A. Well, no, because when you look at that, 08:39
16 in order to be in our recovery homes, you either need
17 to have -- to be participating in outpatient or have
18 participated in outpatient. So all of them would
19 have gotten outpatient when they're in the recovery
20 home. 08:39

21 Q. Right. But if you're in a recovery home
22 and you had participated in outpatient, that's past
23 tense. That means there's going to be a certain
24 population of people living in the recovery home that

1 are not currently undergoing outpatient treatment but
2 previously did; correct?

3 A. Correct.

4 Q. Right. So for those percentage of
5 patients or people who have already gone through 08:39
6 outpatient, they're simply living in the recovery
7 home; correct?

8 A. No, actually that is not true. Because
9 Haymarket's mission is to not have a living
10 environment for individuals to be there long-term. 08:40
11 What individuals are doing after outpatient is
12 they're following their clinical discharge plan that
13 was created by their counselor while they're living
14 in a structured environment. This structured
15 environment dictates that they need to be looking for 08:40
16 employment, need to be following up on their medical
17 issues and going to support meetings. So there are a
18 variety of structured programs that take place.

19 Now, if a patient has a living
20 environment that is, you know, stable and secure for 08:40
21 that patient, oftentimes individuals return to that
22 environment. So you're not staying in our recovery
23 home to live there. You're staying in our recovery
24 home because you're participating in a structured

1 environment where you're beginning to learn and
2 practice -- not learn, I apologize -- to practice
3 those skill sets that were taught in treatment.

4 Q. No, I understand your answer. But in
5 terms of having to search for employment, that's
6 something that somebody who has gone through
7 outpatient or inpatient treatment who lives at home
8 could do; correct? The search for employment? Like
9 they don't need to be in your recovery home to go
10 look for employment; right? 08:41:00

11 A. No, but the difference is this is a
12 structured, supervised environment that you don't
13 typically have at home. 08:41:00

14 Q. I'm with you and I'll get there. But
15 just listen to my very focused question. 08:41:00

16 You said one of the things that
17 residents would do in the recovery home would be they
18 would be expected to look for employment; right?

19 A. Correct.

20 Q. And then if a person has gone through
21 therapy and they return to their home, let's say it's
22 structured or unstructured, they could look for
23 employment through that living arrangement; correct? 08:41:00

24 A. Correct.

1 Q. That's not unique to Haymarket?

2 A. No.

3 Q. Okay. And you indicated that they would
4 participate in support groups, and support groups are
5 available to people who have gone through treatment
6 and are living outside or off premises; correct?

08:42

7 A. Correct.

8 Q. All right. And so the people who have
9 gone through treatment but are living in the recovery
10 home, while they may be benefiting from a structured
11 location, they are living and not receiving
12 outpatient or inpatient treatment as has been
13 described over the last two years from Haymarket?
14 They are receiving ancillary services; correct?

08:42

15 A. They're receiving other services, but
16 they're also being supervised by certified
17 individuals relative to the patient's discharge plan.

08:42

18 So, you know, I don't know if
19 this -- categorized this way, this is not a living
20 environment. This is a, you know, clinical
21 structured environment that patients are trying to
22 begin to practice what they've learned in residential
23 treatment or outpatient treatment.

08:43

24 Q. Will some residents at the recovery home

1 go to work and actually not just look for jobs but
2 actually get jobs?

3 A. That is my hope, that we return
4 individuals to be productive citizens.

5 Q. Okay. So in that situation, a recovery
6 home resident could wake up at 6:00 o'clock and then
7 go to work for eight or more hours and then they
8 return back to the facility, maybe have a meal, maybe
9 watch a show, and then they go to sleep and then they
10 start the day over the next day; correct?

08:43

08:43

11 A. No, it's not correct. Actually, there is
12 support group meetings that are required for that
13 patient to attend. There are big-book study groups
14 that patients need to attend to, regardless of
15 whether they're going to work or not.

08:44

16 Q. And are people who take advantage of
17 Haymarket support who don't live in the recovery
18 home, are they provided and expected to do that same
19 type of work?

20 A. Say that again? I'm sorry.

08:44

21 Q. Of course. Are the people who are not
22 living in the recovery residence but look to
23 Haymarket to provide support group or big-book
24 lessons, as you say, those people have expectations

1 to carry on with their support groups and their
2 recovery as well; correct?

3 A. What do you mean by "carry on"?

4 Q. Well, if people are coming to Haymarket
5 for support groups -- that happens; right? People
6 who live outside the facility can still come to
7 Haymarket for support groups?

8 A. Yes.

9 Q. All right. And if you're a member of
10 that support group, those people who don't live at
11 Haymarket but are expected to, let's say, do their
12 homework and continue on with their recovery just, as
13 the people who are living at the recovery home are;
14 correct?

15 A. Again, I'm not understanding your
16 question, Mr. Ellenbecker.

17 Q. Yeah, maybe it's the hour. Maybe it's
18 me. My point being is if people are actively trying
19 to recover, whether they live inside or outside the
20 facility, if they go to support groups, there are
21 expectations of people being actively involved in
22 their own recovery through participation in the
23 support groups and big-book type exercises; correct?

24 A. Correct.

08:44

08:44

08:45

08:45

1 Q. Okay. Couple other things. You
2 testified earlier in the context of substance use
3 disorders and treatment that there can be major
4 barriers; right?

5 A. Major barriers for what? 08:46

6 Q. To treatment?

7 A. Yes.

8 Q. All right. And we talked a little bit
9 about it with -- his name escapes me right now.

10 Well, Mr. Abouna for sure and we talked about the 08:46
11 neighboring area. And you would agree or you still
12 agree that a barrier to successful treatment still
13 exists in or around the proposed facility in the
14 context of video-gaming and liquor stores; correct?

15 A. You know, there are -- I don't know if 08:46
16 those are barriers so much as they are triggers, but
17 we have to understand that patients need to live on
18 life's terms, so they will be faced with many
19 triggers after they leave the center. So, you know,
20 it is our hope that we train and educate and prepare 08:46
21 people with the tools of recovery so it addresses
22 those triggers.

23 Q. And you would agree, though, that within
24 the last year, you've been an outspoken critic of

1 potential triggers being located in and around the
2 West Loop facility saying that putting a facility,
3 like a cannabis store, would trigger patients to
4 relapse; correct?

5 MS. DICKSON: I want to object to this, 08:47
6 because this definitely goes outside the scope of the
7 direct examination. What is occurring in the West
8 Loop is not what's occurring at this proposed
9 facility.

10 MR. ELLENBECKER: Well, I think frequently 08:47
11 we've been told over the last two years that the
12 treatment model is going to be very similar. The
13 sizes are certainly comparable. Dr. Lustig just got
14 done testifying about how patients have to learn to
15 live with triggers. I'm presenting a slightly 08:47
16 conflicting or contradictory position where living
17 with a certain trigger, i.e., a cannabis store, was a
18 real realization down in the West Loop area, and
19 Dr. Lustig was probably the most outspoken critic.
20 That's what my question is about. So I think it's 08:48
21 relevant based on his answer, Ms. Wysocki. I'll live
22 with your decision.

23 MS. WYSOCKI: All right. I'm overruling the
24 objection. I think it also goes to credibility.

1 BY THE WITNESS:

2 A. So let me provide, hopefully, a very
3 clear statement. In reference to your point that
4 you're making, Mr. Ellenbecker, there was a facility
5 that was going to open up roughly within 30 feet of
6 my door that has women and children's programs in it.
7 So I felt that having the City approve a license to a
8 marijuana dispensary within 30 feet of Haymarket
9 Center, the City's largest treatment facility, was
10 really problematic. That being said, there are
11 dispensaries within 1500 feet of Haymarket Center
12 that I did not contest. So that is the second point.

08:48

08:48

13 The third point I want to make is,
14 unfortunately, the City of Chicago has not finalized
15 their zoning rules, so actually someone can be
16 approved a license for cannabis and then add to their
17 license that they want to have an outside or roof
18 deck area, and so that's why I was so outspoken
19 because the rules are being made in realtime.

08:49

20 BY MR. ELLENBECKER:

08:49

21 Q. Okay. But if your patients at Haymarket
22 West Loop are supervised all the time, as you've
23 indicated those at the proposed facility would be
24 supervised, it wouldn't be a problem; right? Because

1 those patients are going to be supervised as to their
2 comings and goings?

3 A. Brand-new people who are coming to the
4 facility aren't necessarily supervised, because
5 they're not patients yet. And what we've witnessed 08:49:
6 in many villages are these long lines of people
7 waiting to get into dispensaries. And, again, I want
8 to really emphasize that I think it's not logical to
9 open up a marijuana dispensary within 30 feet of
10 Chicago's largest treatment center. And wouldn't you 08:50:
11 agree with that?

12 Q. I'm not disagreeing. But do you think --
13 so you think it's a good idea to be located in such
14 close proximity to co-addiction triggers like
15 gambling and liquor stores? 08:50:

16 A. I think those are more than 30 feet away
17 from the Itasca location, and, again, that is
18 something that we would have to educate our patients
19 on.

20 Q. All right. Interestingly, though, in the 08:50:
21 Daily Herald article regarding your objection to the
22 cannabis store, you never once indicated it was
23 because of women and children. You flat out said,
24 quote, "this will trigger patients to relapse," end

1 quote. That's what you told the Daily Herald;
2 correct?

3 A. That is correct. And, again, this is in
4 reference to a very separate case in trying to manage
5 the demand of people that are waiting in lines for 08:51
6 these dispensaries. And, again, this was also
7 because of the zoning rules not being finalized in
8 the City of Chicago.

9 Q. And --

10 A. And that specific location that you're 08:51
11 calling into action has a rooftop deck to it.

12 Q. Okay. In that whole Daily Herald
13 article, I didn't see you criticizing the operation
14 because of zoning. Is it your position that that was
15 one of the major reasons for your opposition to the 08:51
16 cannabis store?

17 MS. DICKSON: Objection. The question assumes
18 the reporter provided a full recitation of all
19 objections that Dr. Lustig made. A reporter is free
20 to print anything a reporter would like. 08:51

21 MR. ELLENBECKER: Doesn't assume anything. He
22 can tell me he told the reporter that and he or she
23 didn't write it.

24 MS. WYSOCKI: Objection's overruled.

1 MS. DICKSON: That wasn't your question.

2 BY THE WITNESS:

3 A. Can you repeat the question?

4 BY MR. ELLENBECKER:

5 Q. In that whole article, there wasn't a 08:51
6 reference to your objection being founded on zoning
7 issues. Is it your position that that was one of
8 your main objections and the reporter just didn't
9 write about it?

10 A. I would probably say that is correct. 08:52
11 Because, again, the fact there are not clear
12 guidances set up on what a person can and can't do
13 relative to licensure was part of my concern.

14 Q. You indicated in earlier answers, I 08:52
15 believe it was in response to Ms. Smith, about the
16 proposed facility transporting, I guess, mothers
17 and/or mothers and children down to the West Loop
18 facility; is that right?

19 A. Correct.

20 Q. And in Mr. Abouna's report by KLOA, for 08:53
21 the first time we learned that Haymarket intended to
22 have a fleet of vans, maybe five to six large; is
23 that your understanding?

24 A. We have vans as part of our system up

1 here in the West Loop. We have learned over the
2 course of time that transportation is a necessary
3 option for our patients, so it was a natural
4 evolution for us to have those type of vans in
5 Itasca.

08:53

6 Q. And with regard to those vans -- because
7 we've heard considerable testimony about how the
8 proposed location is not conducive to foot or bike
9 traffic. Is there a transportation plan or, I guess,
10 policy that you have in place already that would
11 dictate where the vans will take you? Where they
12 won't take you? When they can take you? When they
13 won't take you?

08:53

14 A. Thank you for asking that question,
15 Mr. Ellenbecker, because transportation is something
16 we take very seriously. So not only are we looking
17 to be able to transport to the patient needs, but
18 we've also had conversations with Haymarket
19 leadership to begin a transportation system. Since
20 there's been extensive testimony to the closing down
21 of the bus location, that we would also set up
22 transportation for patients to area terminals.

08:53

08:54

23 Q. And where is that transportation plan?

24 A. I'm sorry, where is what?

1 Q. Do you have the transportation plan or
2 the recommendation you made to Haymarket directors?

3 A. No, because keep in mind this also
4 changed -- transportation's changed during the
5 pandemic. So, you know, this is something that we 08:54
6 are currently working on so that we can obviously
7 provide a comprehensive level of service for our
8 patient's needs.

9 Q. And you indicated transportation to
10 terminals. What type of terminals did you propose or 08:54
11 recommend to Haymarket brass that you transport
12 people to? Residents to?

13 A. So my understanding -- and I'm not a
14 transportation expert -- is that the bus service did
15 bring people to an area in which there are 08:55
16 alternative transportation methods, and so we can
17 look at setting up a transportation project to
18 those -- that area where the buses would go.

19 Q. So this transportation idea is in its
20 infancy? You don't have a plan; is that right? 08:55

21 A. Well, it's in its infancy because,
22 obviously, during the pandemic, the bus run stopped.
23 So it is our hope to advocate to get it restored, but
24 in the meantime, we need to address this weakness in

1 transportation with a comprehensive plan.

2 Q. And you talked about getting it restored,
3 getting the Route 616 restored, but Route 616 didn't
4 go anywhere in DuPage County to begin with; right?

5 A. But it did transport to a central hub. 08:56

6 Q. Yeah. Where was the central HUB?

7 A. I actually can't recall the city
8 location, but there was a -- it does transport to
9 other train systems and I can't recall that.

10 Q. It transports to the Rosemont el, which 08:56
11 then has to go Downtown; right?

12 A. Correct.

13 Q. So did any part of this proposed
14 transportation plan that's in its infancy that we
15 haven't seen yet contemplate transporting up to 244 08:56
16 residents or patients to other parts of DuPage and
17 the collar counties?

18 A. Mr. Ellenbecker, 244 patients aren't
19 being transported at one time. We don't transport
20 that huge amount down here. 08:56

21 Q. Well, city dwelling is far different than
22 suburban dwelling; right?

23 A. Mr. Ellenbecker, of course it is.

24 Q. Okay.

1 A. But we are certainly not going to be
2 transporting 244 people at one time. Wouldn't you
3 agree that that seems illogical?

4 Q. Well, it might. So let's limit it to
5 recovery home residents, which is 144. 08:57:4

6 Does the transportation proposal,
7 idea, hope, contemplate transporting up to 144
8 recovery home residents to jobs? To doctor's
9 offices? To other parts of DuPage and the collar
10 counties? 08:57:4

11 A. So in our programs that we run here we
12 don't transport even 144, because some of those
13 people are receiving treatment. Wouldn't you, again,
14 think it's illogical for us to be transporting even
15 144 people when they might be in the midst of 08:57:4
16 attending either inpatient or outpatient treatment?

17 Q. Well, you agree that only about 48 of
18 those 144 patients or residents would be receiving
19 outpatient treatment. So let's use the number 100,
20 but we can call the number even more, because not all 08:57:4
21 of your recovery home residents are undergoing
22 intensive outpatient treatment; right? They are not
23 all doing that?

24 A. Correct.

1 Q. Right. I mean, there's a transition;
2 right? It's the hope that they've gone to intensive
3 outpatient treatment, they make the bridge to a
4 recovery home where they're going to live for a
5 while, and then they can be -- and I don't mean 08:58
6 released, but they can then hopefully live on their
7 own in a clean environment; correct?

8 A. Correct.

9 Q. All right. So we can argue about the
10 number all we want, but does your transportation plan 08:58
11 contemplate transporting even say 50, 60, 40 people
12 to jobs and doctors' appointments, the grocery store,
13 in and around DuPage and the collar county? That's
14 my only question. If it's not that far, it's not
15 that far. 08:58

16 A. So we have spent years perfecting our
17 transportation system down here. Not everyone takes
18 public transportation, whether it's to doctors'
19 appointments, depending on their program. So I'm
20 very, very confident that this transportation issue 08:59
21 is not new to Haymarket Center. We have many, many
22 years, at least 25 that I'm aware of, in managing
23 transportation, and we will hopefully carry that
24 expertise out to Itasca.

1 Q. Okay. And I guess the whole reason this
2 transportation issue is even -- it's kind of a burr
3 in my saddle -- is because early on in this whole
4 thing, you said Itasca was a prime location because
5 of its proximity to public transportation. And I 08:59:
6 think you would agree at this point that public
7 transportation is not a reality for transporting
8 people to and from -- even residents or visitors to
9 and from the proposed site to the rest of DuPage
10 County and the collar counties; correct? 08:59:

11 A. What I can tell you is obviously the
12 transportation situation has changed dramatically in
13 Itasca, but what gets the burr under my saddle is I
14 wish we spent more time on how we save people's lives
15 than on transportation. But, again, what I will say 09:00:
16 to you is we have spent a great deal of time over the
17 years perfecting transportation at Haymarket Center,
18 and we will carry that expertise forward.

19 Q. Okay. And with regard to that expertise
20 and this transportation plan, you would agree that 09:00:
21 it's so new that Mr. Abouna couldn't even incorporate
22 it into his testimony; correct?

23 A. I cannot comment on what Mr. Abouna could
24 or could not do in his testimony.

1 MR. ELLENBECKER: All right. Dr. Lustig, I
2 have a ton more, but I fear it's outside the scope,
3 so I am done for the evening. Thanks.

4 THE WITNESS: Thank you.

5 CHAIRMAN DALY: With that, I would like to ask 09:00
6 if any members of the Plan Commission have any
7 questions for Dr. Lustig at this time?

8 COMMISSIONER HOLMES: Chairman, this is
9 Commissioner Holmes, I have two relatively simple
10 questions. 09:01

11 CHAIRMAN DALY: Go ahead.

12 COMMISSIONER HOLMES: Dr. Lustig, on a couple
13 of occasions early on in your testimony, you talked
14 about evidence-based programs. Can you define that
15 for me? 09:01

16 DR. LUSTIG: Yes, I can. And thank you for
17 asking that question, because it's something that we
18 are really, really proud of. So these are clinical
19 interventions that, through extensive research, have
20 proven to be very, very effective with certain 09:01
21 populations to improve their outcomes. And so
22 Haymarket has over 19 evidence-based interventions in
23 our programs so that we can continue these outcomes
24 to our patients. These are actually measured,

1 structured interventions that have an extensive
2 amount of research backing it up. Does that answer
3 that?

4 COMMISSIONER HOLMES: It does.

5 DR. LUSTIG: Okay.

09:01

6 COMMISSIONER HOLMES: So my other question
7 that I think is relatively simple: Currently or at
8 any time in the past, do any of the children that are
9 staying with their mothers at Haymarket in West Loop,
10 do any of those children go to Chicago Public
11 Schools?

09:02

12 DR. LUSTIG: No, they do not.

13 COMMISSIONER HOLMES: Okay, thank you.

14 CHAIRMAN DALY: Thank you, Commissioner
15 Holmes. Does anyone else have any questions for
16 Dr. Lustig?

09:02

17 COMMISSIONER RAY: I do not. Commissioner
18 Ray.

19 COMMISSIONER DRUMMOND: I do not. This is
20 Commissioner Drummond.

09:02

21 CHAIRMAN DALY: Okay. At this point, I don't
22 have any further questions myself. Commissioner
23 Carello, I saw you turned your camera on. Do you
24 have any questions?

1 COMMISSIONER CARELLO: No, I'm sorry. I was
2 going to say no questions as well.

3 CHAIRMAN DALY: Okay. So at this time, then,
4 I would invite rebuttal.

5 MS. DICKSON: Thank you, Chairman. The only
6 question, actually, that I have for Dr. Lustig is
7 directed to questions that were asked by Ms. Smith
8 and that had to do generally with funding.

9 REDIRECT EXAMINATION

10 BY MS. DICKSON:

11 Q. Now, I believe, Dr. Lustig, you testified
12 that this is -- I don't think you used the word
13 "novel," but has Haymarket Center in Chicago ever had
14 questions asked relative to providing educational
15 services to certain of its populations?

16 A. No. And I thought -- if I wasn't clear,
17 I apologize to everybody. No, we've never been asked
18 that. We have had extensive amount of DCFS audits,
19 hundreds and hundreds of audits over the years, and
20 this has never once been brought up to us. And so
21 that is why this is a new concept that we hope to be
22 able to address.

23 MS. DICKSON: I don't have any further
24 questions for Dr. Lustig.

1 CHAIRMAN DALY: Okay. With that, I would ask
2 the Haymarket team, do you have any other witnesses
3 to present this evening?

4 MS. SMITH: Actually, can I ask one recross on
5 the follow-up question that was asked? 09:04

6 CHAIRMAN DALY: Sure.

7 RECROSS-EXAMINATION

8 BY MS. SMITH:

9 Q. Dr. Lustig, what is the scope of the
10 DCFS -- what is the scope of DCFSs authority when
11 they audit you? 09:04

12 A. They look at the programs. They look --
13 there are specific DCFS criteria that they look at.
14 They look at how the children are interacting; the
15 environment that they are in. So there is an
16 extensive -- it's an extensive assessment that is
17 done. 09:04

18 Q. And they're looking at health and safety;
19 correct?

20 A. Health and safety is only one of the many
21 variables that we are audited on. 09:04

22 Q. Are you claiming that they audit
23 appropriate public education services?

24 A. I cannot speak to what they think is

1 adequate.

2 Q. But do they even audit appropriate public
3 education services of the residents of Haymarket?

4 A. I don't know what you mean by
5 "appropriate." I can't speak for what they think is
6 appropriate. 09:05

7 Q. Well, do they -- do they audit education
8 services provided by Haymarket, period?

9 A. Again, this has never been brought up to
10 us in the many decades that we've had this program. 09:05

11 Q. I know. And I'm asking is that because
12 that's not within the scope of what DCFS audits?

13 A. I cannot speak to what is in the scope of
14 DCFS audits.

15 Q. So you don't know one way or another what
16 they audit? 09:05

17 A. I do know some of the things that they
18 audit, but I'm not a DCFS auditor.

19 Q. Okay. So the fact that they have or
20 haven't raised this, you don't know whether -- 09:06
21 whether they ever would, because you don't know
22 whether they look at these issues; is that right?

23 A. I don't know what DCFS looks at.

24 Q. Okay.

1 MS. SMITH: No more questions.

2 CHAIRMAN DALY: Thank you, Ms. Smith.

3 At this point, I would ask
4 Haymarket, Ms. Dickson, Ms. O'Keefe, do you have any
5 further witnesses this evening? Or would you like to 09:06
6 explain what your plan is for next week at this
7 point?

8 MS. DICKSON: Well, relative to this evening,
9 at the request of the counsel for the various taxing
10 bodies, while we did have Ms. Kissel prepared to 09:06
11 testify tonight to any question -- and I've made a
12 note, I think there were three questions on the KLOA
13 report in specific -- we'll bring her back next week
14 based on what we agreed to, so she will be a witness
15 for us next week to respond to those specific 09:07
16 questions that might have been asked of Dr. Lustig
17 that he could not provide an answer to or that
18 Ms. Kissel might be able to provide an answer to.

19 MS. O'KEEFE: Mr. Chairman, in addition, as we
20 advised the Village attorney earlier today, next week 09:07
21 we want to respond to a question that was raised at
22 the last meeting in January. At that point, you
23 asked if there was any possible way Haymarket could
24 gather data on how many ambulance calls occur

1 annually at its Chicago's West Loop facility.

2 After the meeting we met with
3 Haymarket representatives to discuss if we could
4 possibly address that issue, because it had been
5 repeatedly asked. The discussion focused on internal 09:07
6 records that were previously testified to by
7 Dr. Lustig and Mr. Baldwin in 2019 and whether the
8 internal files could be reviewed manually.

9 As Haymarket has stated, it does not
10 maintain files tracking ambulance calls. They 09:08
11 decided that a manual review of HIPAA protected
12 materials for one year, 2018, would be conducted to
13 address your questions. So Ms. Kissel and
14 Mr. Dominik will be back to address those findings
15 next week. 09:08

16 MR. DI NOLFO: Well, I'm going to object to
17 that, obviously. There's been no disclosure as
18 agreed upon, 14 days in advance, so I would have an
19 objection to that line of questioning. And I assume
20 there's a report or something that would go along 09:08
21 with that, or at least the data. So I would object
22 based on our agreement that there has to be 14 days
23 notice as to witnesses, and if there are going to be
24 experts, which I think you're holding Mr. Dominik out

1 to be. So I know I would object on that basis of our
2 agreement, Counsel, and --

3 MS. O'KEEFE: These are questions that were
4 asked by the Commission, and so we are addressing
5 questions that have been asked on multiple occasions 09:09:
6 by the Commission with experts that have already been
7 accepted on topics that have already been discussed.
8 This is not new information. We've been discussing
9 Haymarket Chicago, and you, yourself, have had a
10 number of questions. So we're ready to proceed next 09:09:
11 Wednesday.

12 MR. DI NOLFO: Well, it is a new topic,
13 because we were told time and time again that it
14 couldn't be done. Mr. Dominik said it couldn't be
15 done. Dr. Lustig said it couldn't be done. 09:09:
16 Mr. Baldwin said it --

17 MS. O'KEEFE: No, they didn't testify it
18 couldn't be done. They testified that it was HIPAA
19 protected materials pertaining to individual patient
20 files. That's the testimony that was provided. 09:09:

21 MR. DI NOLFO: I think that violates our
22 agreement on witness disclosures, but I've made my
23 objection.

24 MS. O'KEEFE: If you're not --

1 MS. WYSOCKI: Ms. O'Keefe, just a second.

2 Will Ms. Kissel or Mr. Dominik be
3 presenting any new evidence to the Commission that
4 would need to be disclosed by this Friday under our
5 agreement? Would there be any new exhibits? 09:09

6 MS. O'KEEFE: So whenever we submit -- there
7 will be a short one-page report and we would submit
8 by Friday.

9 MS. WYSOCKI: Okay. I think that's --

10 MS. O'KEEFE: Ms. Wysocki, can I just say one 09:10
11 thing?

12 MS. WYSOCKI: Okay.

13 MS. O'KEEFE: We thought we were going to be
14 ready to proceed with other attorneys' testimony next
15 week but they're not available. So we thought this 09:10
16 would be a great opportunity to fill that time.
17 There's seven days notice, and we feel that that's
18 sufficient time with this notice that we're providing
19 tonight.

20 MS. WYSOCKI: Okay. Mr. DiNolfo, I'm going to 09:10
21 overrule your objection. I think that most of your
22 objection actually goes to cross-examination, which,
23 of course, you'll have an opportunity to do next
24 week. Ms. O'Keefe, any exhibits, you know, with new

1 data from Mr. Dominik or Ms. Kissel, you, of course,
2 will disclose by Friday and disclose it to all the
3 parties. I think that that's fair, given that
4 there's not a new report.

5 And I note, just for the
6 Commission's sake, because there has been a bunch of
7 talk about the 14-day rule, the attorneys before the
8 resumption of hearings this fall had agreed that
9 witnesses would be disclosed and any expert reports
10 would be disclosed 14 days before they testified.
11 And, to my knowledge, everyone's complied with that.
12 You know, Ms. Kissel, I think, was the -- up until
13 now. So I think everyone's been, you know, compliant
14 with that 14-day rule, and I anticipate the parties
15 will continue to comply with it into next month.

09:10

09:11

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09:11

16 I have one issue I want to raise
17 before turning everything over to the Chair. I know
18 that we had previously talked that the meetings would
19 resume in person starting at the beginning of March.
20 Staff may not be ready to do that starting next week.
21 We will reach out to all the counsel. As far as the
22 public is concerned, it doesn't really matter because
23 they're still going to be watching it through the
24 Village's YouTube streaming, but it will, obviously,

1 make a difference to counsel and the witnesses. And
2 I will reach out to you guys early next week with a
3 definitive answer on where you need to appear.

4 Is there anything else that we need
5 to address before turning it back over to the Chair? 09:12

6 MR. ELLENBECKER: This is Steve Ellenbecker.
7 I will just join Mr. DiNolfo's objection. I know
8 you've already ruled on it, Ms. Wysocki, but given
9 the parties' agreement, because we have a record
10 here, I object to the untimely disclosure of 09:12
11 supplemental opinions of Mr. Dominik. And I guess
12 we'll find out Friday if going within that 14 days is
13 enough notice, depending on what his new opinions and
14 his analysis are.

15 MS. WYSOCKI: Okay. 09:12

16 MS. SMITH: Just for the record, I'll join in
17 the same objection that's already been stated and ask
18 if there's going to be a reconsideration of
19 disclosure requirements for the other parties if
20 we're changing the rules at this point? 09:12

21 MS. O'KEEFE: I would argue we're not changing
22 the rules. You know, I would suggest that this
23 issue's been on the table -- this is a response to a
24 direct question that's been raised by the Commission,

1 and we replied to it. This is not a new report.
2 This is not, you know, new witnesses. This is
3 answering a question of the Plan Commission, so I do
4 not feel this is a violation of the rules.

5 MS. WYSOCKI: Ms. O'Keefe, I've already ruled 09:13
6 in your favor. You don't need to talk anymore.

7 Mr. Ellenbecker and Ms. Smith, your
8 objections are noted for the record. You know, if
9 you want to renew them after receiving the
10 disclosures after Friday, you know, you can do so, 09:13
11 but at this time, we're going to proceed.

12 Chairman, I don't know if you have
13 anything else you want to add at this point?

14 CHAIRMAN DALY: No, not at this point. I 09:13
15 appreciate everyone's time this evening, and I would
16 just ask for a motion to continue this hearing to
17 next Wednesday evening, March 3rd.

18 COMMISSIONER HOLMES: So moved. This is
19 chairman -- Commissioner Holmes.

20 CHAIRMAN DALY: Yeah, everybody's a chairman 09:14
21 tonight. What's going on?

22 COMMISSIONER RAY: Second, Ray.

23 CHAIRMAN DALY: Will the secretary please call
24 the vote.

1 MR. KHAN: Commissioner Russo.

2 COMMISSIONER RUSSO: For.

3 MR. KHAN: Commissioner Carello.

4 COMMISSIONER CARELLO: For.

5 MR. KHAN: Commissioner Holmes.

09:14

6 COMMISSIONER HOLMES: For.

7 MR. KHAN: Commissioner Drummond.

8 COMMISSIONER DRUMMOND: For.

9 MR. KHAN: Commissioner Ray.

10 COMMISSIONER RAY: For.

09:14

11 MR. KHAN: Chairman Daly.

12 CHAIRMAN DALY: For. And now may I please get
13 a motion to adjourn?

14 COMMISSIONER HOLMES: So moved.

15 COMMISSIONER RAY: Second. Commissioner Ray.

09:14

16 CHAIRMAN DALY: Mo, would you please call the
17 vote.

18 MR. KHAN: Commissioner Russo.

19 COMMISSIONER RUSSO: For.

20 MR. KHAN: Commissioner Carello.

09:14

21 COMMISSIONER CARELLO: For.

22 MR. KHAN: Commissioner Holmes.

23 COMMISSIONER HOLMES: For.

24 MR. KHAN: Commissioner Drummond.

1 COMMISSIONER DRUMMOND: For.

2 MR. KHAN: Commissioner Ray.

3 COMMISSIONER RAY: For.

4 MR. KHAN: Commissioner Daly.

5 CHAIRMAN DALY: For. Thank you everybody.

09:15

6 Have a good night.

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF DU PAGE)

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