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STATE OF NEW JERSEY
COUNTY OF MORRIS
TOWNSHIP OF CHATHAM
REGULAR MEETING

IN THE MATTER OF
The Application of:

TRANSCRIPT OF
PROCEEDINGS

NEW CINGULAR WIRELESS PCS LLC
(AT&T) 63 BUXTON ROAD, BLOCK: 62,
LOT: 105 APPLICATION NO.:
13-62-105,

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TOWNSHIP OF CHATHAM MUNICIPAL BUILDING
401 Southern Boulevard
Chatham, New Jersey 07928
May 22nd, 2014
7:30 p.m.

B E F O R E:

- BOARD OF ADJUSTMENT
- TONY VIVONA, CHAIRMAN
- KATE KENNY, VICE CHAIR
- JON WESTON, BOARD MEMBER
- GLEN L. NELSON, BOARD MEMBER
- THOMAS V. POLISE, BOARD MEMBER
- RICK WILLIAMS, BOARD MEMBER
- STEPHEN H. SHAW, ESQ., BOARD ATTORNEY
- JOHN K. RUSCHKE, P.E., BOARD ENGINEER
- ROBERT MICHAELS, P.P., BOARD PLANNER
- BRUCE A. EISENSTEIN, CONSULTING ENGINEER
- KALI TSIMBOUKIS, BOARD SECRETARY

A P P E A R A N C E S:

PINILIS, HALPERN, LLP
ATTORNEYS FOR THE APPLICANT
BY: JUDITH A. FAIRWEATHER, ESQ.

GINA M. LAMM, CCR/RPR

Job No. CS1845781

1 CHAIR VIVONA: All right. Let's get
2 started, please. You ready? Calender BOA
3 13-62-105. New Cingular Wireless PCS, LLC AT&T 63
4 Buxton Road. Okay. So, we'll continue where we
5 left off from last month.

6 MS. FAIRWEATHER: Kind of. Instead
7 of starting immediately with my appraiser, who we
8 stopped, you remember that our noise expert, there
9 were a couple of questions, or the board asked him
10 to do the study all night long, and the noise
11 level, work with Mr. Dotti, and then I understand
12 Mr. Dotti submitted a report to you, they met,
13 went over all his findings. So, I brought him
14 back in case there were any questions or any
15 issues with Mr. Dotti's report. So, I would like
16 to do him first so I can get him out of the
17 hearing.

18 MR. SHAW: Actually what I would
19 like to do, is, for members of the public as well,
20 I would like to read Mr. Dotti's report into the
21 record. He had a conflict this evening. So, I
22 had asked him to prepare a report, which has been
23 distributed to the board. So, I am hopefully
24 talking loud enough. It's a big room in here.

25 "Dear Board, since the hearing on

1 April 9th, several things have taken place. I
2 have discussed the results with your attorney,
3 Stephen Shaw, and he asked me to write you a brief
4 report.

5 The points I believe we made at the
6 last hearing were, 1: The ambient sound
7 measurements were perhaps made at times other than
8 when the lowest levels could be expected. 2:
9 Looking at only the overall dBA levels, instead
10 of, also, the octave band levels, might not convey
11 the "hum" issue. And, 3: The sound someone might
12 hear at the nearby house, second floor bedroom
13 level at night.

14 The applicant's acoustical engineer,
15 from Lewis S. Goodfriend and Associates, said he
16 would undertake further work to look at these
17 points.

18 On April 18th, LSG&A sent the
19 results from the additional testing and analysis.
20 They did a 24-hour around-the-clock measurement of
21 the ambient sounds of the site. It showed that,
22 indeed, the quietest time was around 2 a.m., with
23 an overall L90, the level exceeded 90 percent of
24 the time, of 34 dBA, versus 40 dBA, as in the
25 LSG&A report of March 28th. (The minimum sound

1 levels during the same time of the 24-hour study
2 was also 34 dBA.)

3 The updated calculations of the
4 sound from the cell towers ground-mounted,
5 screened equipment at the property line was
6 essentially the same as before, 41 dBA. This
7 means that, at the quietest times someone standing
8 at the property line, next to the cell phone and
9 water tower site, would hear some hum, but the
10 sound level would be under State nighttime limit
11 of 50 dBA.

12 Over at the house, outside the
13 second floor bedroom level, i.e. if someone opened
14 the window and stuck out his or her head, the same
15 overall ambient sound level of 34 dBA, at the
16 lowest, would be expected. But the sound from the
17 cell site, because of its distance, would be,
18 LSG&G calculates, about 26 dBA. At 8 dBA below
19 the lowest ambient, this sound would be
20 immeasurable.

21 From the viewpoint of what someone
22 might hear, however, I believe, also, looking at
23 the octave sound, octave band levels is important,
24 because of the nature of the sound.

25 From the original report, figure 3,

1 which the overall dBA levels are basically no
2 different. This was before the updated 24-hour
3 sound study. The 63 and 125 hz octave band showed
4 noticeable increases, which would cause a slight,
5 but noticeable hum at the property line.

6 And, potentially, if we looked at
7 the L90, or even slightly lower minimum, ambient
8 sound levels and compared them to the projected
9 octave band sound levels at the equipment back at
10 the house, again, second floor bedroom level
11 outside, we see the equipment sounds are all under
12 the ambient sound. Inside the house, even with an
13 open window, they would be less.

14 It is for this reason, not just from
15 comparing the overall dBA levels, that I believe
16 the neighbors will not hear the cell phone
17 equipment at the house.

18 I met today with Mat Murello from
19 LSG&A to go over his updated calculations and his
20 assessments. He since prepared two graphs showing
21 the overall octave band sound levels at the
22 property line and the house, and in comparison
23 with the 24-hour ambient sound levels, and these
24 are consistent with what I describe above."

25 So, in any event, that's essentially

1 what his conclusion was from the calculations.
2 There would not be noticeable sound at the house.
3 And, Mat, was there also. Anything further you
4 want to add or grasp or anything you felt would
5 help?

6 MR. MURELLO: No. As I said,
7 Mr. Dotti and I met on the day he indicated, and
8 we provided the results of our calculations, and
9 concur with the conclusions that you just read
10 into the record; that at the house, as we stated,
11 there will be no measurable sound at all, outside
12 or inside. In other words, it will be inaudible.
13 And at the property line, along the fence, there
14 will be a slight hum that will be audible, but
15 that would be the only place on the site where we
16 would be able to detect any noise at all.

17 MR. POLISE: I think you said there
18 was one band where you would hear a hum.

19 MR. MURELLO: At the fence, yes.
20 Not at the house. At the house I believe his
21 statement was, and I don't have the letter in
22 front of me, that it would be under the minimum
23 sound level in every octave band, which we did
24 calculate and measure that it would be.

25 MR. POLISE: Well, the last

1 paragraph from the original LSGA report stated
2 that the overall dBA level will be no different
3 and that the 63 and 125 octave band showed no
4 noticeable increases, which would cause a slight
5 but noticeable hum at the property line, and
6 potentially at other distances.

7 MR. MURELLO: But not at the house.
8 I provided a second figure to Mr. Dotti.

9 MR. POLISE: This says at the
10 property line. There are other distances.

11 MR. MURELLO: I believe my testimony
12 was about a 50 foot radius from the equipment.

13 MS. FAIRWEATHER: And just so the
14 record is clear, Mat, even that audible level at
15 the property line still complies with the DEP,
16 correct? And the --

17 MR. POLISE: I'm not talking about
18 compliance with code. We are talking about
19 whether or not the noise would be noticeable from
20 occupants around the area.

21 MS. FAIRWEATHER: Okay. That's
22 fine.

23 MR. POLISE: That's it.

24 MR. MURELLO: I'm sorry, what?

25 MR. POLISE: She said it complied

1 with code, but we're not talking about meeting
2 code.

3 MR. MURELLO: Yeah, but did that
4 answer your question, Mr. Polise?

5 MR. POLISE: Yes.

6 MR. MURELLO: Excellent.

7 MR. SHAW: Any there any more
8 questions from the public as to this issue?

9 CHAIR VIVONA: Are there any more
10 questions from the public for Mr. Murello? Just
11 as to that one issue as to whether or not it would
12 be noticeable at the house, volume.

13 MS. PETERSON: I have a question
14 about the ordinance, if you can clarify it.
15 Christina Peterson, 37 Huron Drive. I found that
16 Chatham noise ordinances relating to commercial
17 districts but not residential districts. Is the
18 noise ordinance for residential also described at
19 the property line, or is there some other
20 measurement?

21 MR. SHAW: The DEP ordinances, which
22 are applied, take measurements at the property
23 line, and they also take measurements at the
24 location where someone might be sensitive to
25 sound. So, that's why it would be relevant to

1 have done the analysis to determine whether or not
2 this sound would be discernible at the nearest
3 house.

4 MS. PETERSON: Okay. So is -- all
5 right. I guess I am still not clear. If the
6 ordinance is different for noise being carried
7 across the property line, the commercial ordinance
8 that I read said, there should be no perceptible
9 noise at the property line. Does that also apply
10 for the residential ordinance, or not?

11 MR. SHAW: That perceptible noise
12 standard would be superseded by the DEP standards
13 for noise.

14 MS. PETERSON: Which is New Jersey?

15 MR. SHAW: New Jersey DEP. The
16 standard, which is the property -- the standard
17 for the property line is 65 decibels during the
18 day. Fifty decibels at night. But it's also a
19 standard that has to be satisfied at other
20 locations. And, sometimes, you know, sounds can
21 carry great distance, like water, and things like
22 that.

23 MS. PETERSON: Okay. Thank you for
24 clarifying.

25 MS. KENNY: Could I ask a question.

1 Is there 24 hour around-the-clock measurement, is
2 there a report on that showing those numbers, or
3 is that just in --

4 MR. MURELLO: No. I provided a
5 chart and tables, lots and lots of tables to
6 Mr. Dotti. We performed measurements at every
7 second and summarized it on an hour basis. So,
8 Mr. Dotti requested the data. I gave him a lot of
9 data.

10 MS. KENNY: Okay. But you don't
11 know, generally, what it was? I'm just curious
12 about when like, you know --

13 MR. MURELLO: What would you like to
14 know, the highs and lows?

15 MS. KENNY: Yeah. Something like
16 that. Or, you know, 3 o'clock in the afternoon
17 maybe, or 6, you know.

18 MR. MURELLO: Sure. So, not to
19 rehash a lot of the old testimony about
20 statistical levels and so on and so forth, but
21 what we did, is, we performed measurements, as I
22 said, once a second, for 24 hours, and summarized
23 that data on an hourly basis, just because it's
24 easier to look at. What I presented to Mr. Dotti
25 was the statistical result of that. So, the L90

1 or the 90th percentile, the L50, which is the
2 median, the L10, and then the average, which is
3 referred to as the LEQ, as this equipment pretty
4 much runs continuously, what we'd like to do is
5 compare it to --

6 MR. POLISE: You keep saying that it
7 runs continuously. It cycles on and off.

8 MR. MURELLO: Okay. But it's not an
9 intermittent noise. It doesn't click on and off
10 and on and off.

11 MR. POLISE: It cycles on and off.

12 MR. MURELLO: Okay.

13 MR. POLISE: You can talk to your
14 civil engineer. But I know the equipment. It
15 cycles on and off.

16 MR. MURELLO: Okay.

17 The data that we provided was the
18 statistical L90, which is what Mr. Dotti refers
19 to. That sound level range, from the lowest we
20 measured, which was 1, 2, 3 o'clock in the
21 morning, was about 34dBA. And then in the highest
22 sound level, was at about 2, 3 o'clock in the
23 afternoon was about 45, 46DBA.

24 MS. KENNY: Okay.

25 MR. MURELLO: And, again, those are

1 the continuous sound levels. And that factors out
2 airplanes or cars or anything else that would be
3 intermittent. It doesn't run for 60 or 54 minutes
4 out of the hour. The sound levels from
5 intermittent noise sources were higher than that.

6 MS. KENNY: Those don't go to the
7 calculations?

8 MR. MURELLO: I factor them all out.
9 I'm trying to get the lowest noise compared to
10 what the potential might be.

11 MS. KENNY: Okay. Thank you.

12 MR. LOFTY: Hany Lofty, H-A-N-Y,
13 L-O-T-F-Y. It's not ask question. It's just a
14 reminder. This is going to be, all what we are
15 talking about now, are 9 1/2 feet enclosure around
16 the equipment, right?

17 MR. MURELLO: Yes. This is all with
18 everything that's testified to now, as far as the
19 noise barrier.

20 MR. LOFTY: So, the question, all
21 these measurements you made are hypothetical.
22 Just based on your calculations, right?

23 MR. MURELLO: Just to separate, the
24 measurements we made, were at the site. And
25 that's what we've talked about. That's what we're

1 talking about tonight.

2 MR. LOFTY: The equipment noise?

3 MR. MURELLO: Calculated, yes.

4 MR. LOFTY: It's calculated, right?

5 MR. MURELLO: It's calculated.

6 MR. LOFTY: Thank you.

7 MS. WEISGERBER: Katie Weisgerber,
8 11 Huron Drive. In the initial proposal there was
9 a specific note on there that it said, there will
10 be no noise generated from this proposal.

11 MS. FAIRWEATHER: You're talking
12 about the civil engineer's site plan?

13 MS. WEISGERBER: Wrong person?

14 MS. FAIRWEATHER: Wrong person.
15 Next guy. Well, two people.

16 MS. WEISGERBER: Okay. Understood.
17 Thank you. Just wanted to reconfirm that I will
18 be outside and able to hear this clicking on and
19 off of equipment in my home, enjoying, in my
20 backyard. It's really not your business how close
21 I am to my fence or to my property line, but
22 should I wish to spend my time very close to my
23 property line I will hear this?

24 MR. MURELLO: In your home you will
25 not hear it. In the rear -- when you just said,

1 in my home and on my property. So, that's two
2 different questions.

3 MS. WEISGERBER: No, I was very
4 specific about it. Should I choose to spend my
5 time near my property line will I hear this sound?

6 MR. MURELLO: In the middle of the
7 night, yes.

8 MS. WEISGERBER: At any time?

9 MR. MURELLO: In the middle of the
10 night, when the ambient is lowest, yes, you will.

11 MS. WEISGERBER: All right.

12 MR. PETERSON: Keith Peterson, 37
13 Huron Drive. In your calculations have you taken
14 into account seasonable impact? So, foliage,
15 weather and humidity?

16 MR. MURELLO: I believe we testified
17 to this already. Yes, all of that was taken into
18 consideration.

19 MR. PETERSON: Okay.

20 CHAIR VIVONA: Your measurements are
21 also done with minimal foliage in bloom anyway.
22 So, it would be --

23 MR. MURELLO: The -- yes, the recent
24 measurements were just done in April. So, it is
25 what it is now. The original measurements were

1 done with almost no foliage. February.

2 CHAIR VIVONA: Okay.

3 MR. LOFTY: Lofty. Last name,
4 L-O-T-F-Y. And first name Hany, H-A-N-Y. As a
5 follow-up; you stated that the lady sitting in her
6 property at night time, she can hear the hum
7 inside her property, right? So, she's sitting
8 there at midnight, she can hear the noise from the
9 equipment, is that correct?

10 MR. MURELLO: In the rear of her
11 property, yes.

12 MR. LOFTY: Inside her property,
13 wherever, she can sit wherever she wants, right?
14 That's her property. So, if she's sitting
15 somewhere inside her property she can hear the
16 sound. When it is 12:00, it's quiet. So, on the
17 weekend when it's quiet she's going to hear it
18 also?

19 MR. MURELLO: I've answered the
20 question. I don't know how many other ways you'd
21 like me to answer it.

22 MR. LOFTY: But when it's quiet
23 during the day she will hear it also, or not?

24 MR. MURELLO: That's not what I
25 said.

1 MR. LOFTY: You said at 12 o'clock
2 at night.

3 MR. MURELLO: That's what I said.

4 MR. LOFTY: So, what's the
5 difference between 12 o'clock at night and during
6 the day?

7 MR. MURELLO: About 10 decibels in
8 the background.

9 MR. LOFTY: Because of that noise,
10 correct? There is no noise at night.

11 MS. FAIRWEATHER: I'm just going to
12 interrupt here. He already testified that the
13 ambient noise, the regular noise in the
14 neighborhood during the day is high. And she's
15 not going to be able to hear it.

16 MR. LOFTY: But this is related to
17 cars, people working, everything. When it is
18 weekends, or holiday, there's no noise. So, the
19 noise is less.

20 MS. FAIRWEATHER: Okay. He's
21 already answered it. I understand that that's
22 your opinion, and you don't agree with him, but
23 he's already answered.

24 MR. LOFTY: No, no, no, I'm not
25 agreeing or disagreeing. I'm asking a question.

1 When the noise level is low during the day, during
2 the daylight, because there is no work, whatever
3 it is, and somebody is sitting in the backyard,
4 can she hear it or not?

5 MR. MURELLO: Let me -- may I?

6 MR. LOFTY: Yes, go ahead.

7 MR. MURELLO: We made a measurement
8 for 24 hours. During the daytime hours the sound
9 level, excluding cars and trucks and planes, the
10 residual sound level out there was never below
11 40DBA during the daytime hours. We expect sound
12 levels to be about 42DBA. The only area where
13 there's a possibility where they're going to be
14 able to hear it, would be up along that fence. At
15 the house, in the middle of the property, at the
16 playground, no. During the daytime hours it will
17 not be audible.

18 MR. LOFTY: Even if it is quiet?

19 MR. MURELLO: How many times would
20 you like me to answer it? My answer is going to
21 be the same.

22 MR. LOFTY: Okay. All right. But
23 if it is quiet --

24 MR. MURELLO: Again --

25 MS. FAIRWEATHER: Okay. Stop. He's

1 already answered.

2 MR. LOFTY: Okay. Thank you.

3 MR. POLISE: If I could just follow
4 up on that point. In the letter our acoustics is
5 not here, Dr. Dotti, but at the 63rd and 135 bands
6 he said it would be noticeably higher.

7 MR. MURELLO: Higher than the
8 background, the ambient.

9 MR. POLISE: So, you'll hear it?

10 MR. MURELLO: During the daytime
11 hours, up against the fence, on the property line,
12 yes.

13 MR. POLISE: You'll hear it during
14 the day?

15 MR. MURELLO: Up along the fence --
16 that's what I said, in the rear of the property.

17 MR. POLISE: I thought you said
18 you'd only hear it at night?

19 MR. MURELLO: I said at night you
20 would never hear it. You're not going to hear it.
21 I'm sorry, I'm backwards now. At night you will
22 hear it. During the daytime hours, if you're up
23 along the fence, you'll likely hear it, but it
24 will be a faint hum only, in those bands.

25 MR. POLISE: I don't think that's

1 what you told her.

2 MR. NELSON: Yeah, it is.

3 MS. LOFTY: Ola Lofty, O-L-A,
4 L-O-T-F-Y. I don't mean to belabor the point, but
5 I just wanted to clarify. You said during the
6 daytime, right?

7 MR. MURELLO: Yes.

8 MS. LOFTY: So, by daytime, how do
9 you define that? You took your test during a
10 weekday when there were cars in the street, when
11 people were going to work, as opposed to taking
12 your tests and measuring the ambient noise on the
13 weekends when people are usually not out in the
14 street, is that correct or not?

15 MR. MURELLO: Yes.

16 MS. LOFTY: Okay. So, by daytime
17 you're measuring -- the ambient sound typically is
18 higher as opposed to weekends when it's lower.

19 MR. MURELLO: I just want to point
20 out that during the testimony of Mr. Dotti, I
21 asked specifically what Mr. Dotti -- his advice
22 was to the board, when he would like us to make
23 measurements. He agreed that daytime, during 24
24 hours, as long as there wasn't high winds and bad
25 weather and things like that, would be acceptable,

1 which is what we --

2 MS. LOFTY: But daytime was during
3 the week --

4 MS. FAIRWEATHER: Let him finish,
5 please. He was talking and you interrupted him.

6 MS. LOFTY: I don't mean to
7 interrupt.

8 MS. FAIRWEATHER: I know, but you'll
9 have your time.

10 MR. MURELLO: That's when we did the
11 measurements.

12 MS. LOFTY: During the weekdays?

13 MR. MURELLO: Yes, ma'am.

14 CHAIR VIVONA: You also took out all
15 the street noises, the car noises, the truck
16 noises, bus noises, plane noises were all
17 eliminated from your calculations; that would
18 actually lower your ambient sound.

19 MR. MURELLO: Increase the ambient
20 sound.

21 CHAIR VIVONA: I'm sorry.

22 MR. MURELLO: I know, I'm -- yes, we
23 did. We factored out all transient sources in the
24 numbers we presented this evening, and the numbers
25 we presented to Mr. Dotti.

1 CHAIR VIVONA: So, that would make
2 it more likely the similar sounds that are on
3 weekends and evenings, where you don't have the
4 car traffic, commuter traffic, bus traffic, plane
5 traffic.

6 MR. MURELLO: Yes. I would agree
7 with that statement. I would assume that the
8 measurement, if we were to do another set, would
9 line up within a reasonable degree of error for
10 acoustics, to what we presented tonight.

11 CHAIR VIVONA: Okay. Thank you.

12 MS. KENNY: Didn't you testify the
13 weekends you mean?

14 MR. MURELLO: Yes. If were to
15 present the LN90, the lowest measurements on a
16 weekend, versus what we've tested on the -- and I
17 apologize, I don't know what day of the week it
18 was. I could look it up on my phone, but the
19 numbers would be very similar.

20 MR. POLISE: Can I just summarize so
21 I'm clear. If you're standing at the property
22 line during the day, you will hear it based on
23 what he wrote, and what you're saying. So, you'll
24 hear it at the property line, somewhere between
25 the property line and the house the noise goes

1 away?

2 MR. MURELLO: Correct.

3 MR. POLISE: Based on the distance?

4 MR. MURELLO: Yes.

5 MR. POLISE: I'm clear.

6 MR. MURELLO: Good.

7 MR. SARYL: George Saryl, 8 Kincaid
8 Lane. My question is; it seems like a lot of this
9 is conjecture without the ability to say the sound
10 is going to stop at a property line. At what
11 point, if this came to pass, which I hope it
12 doesn't, if it came to pass, and the sound were
13 found to be different than what this conjecture is
14 stating, what then happens?

15 MR. SHAW: One of the things that
16 was discussed was that there was representations
17 made that the sound barrier is going to generate
18 the effect of the 9 1/2 foot barrier, is going to
19 be, I believe it's 41 for the latest version, is
20 what, versus 42DBA. And what we will do, is,
21 we'll require the applicant, as a condition of
22 approval, to verify, probably 6 months after the
23 right time would be, but as a condition of
24 approval, to verify that the calculated levels are
25 going to be what the actual levels are.

1 MR. SARYL: And if they weren't?

2 MR. SHAW: They have to do whatever
3 they do to adjust things to make sure that their
4 levels are what they represented.

5 MR. SARYL: And I guess the other
6 question that I had, again, if this were to come
7 to pass, what -- I had gone by other towers and
8 some structures that are enclosures. Is there a
9 reason that the decision was made not to -- you
10 said, well, we need to make more noise
11 ventilating, but it would seem like just one wall
12 as a sound barrier would not at all parallel what
13 could be done with a building around this
14 equipment. And I have seen that done.

15 MR. SHAW: They did testify to that
16 previously. And basically what they said, was,
17 along with Mr. Dotti, if they were to make a fully
18 enclosed structure, there would be a requirement
19 for air conditioning for that structure, and the
20 noise being generated by that air conditioning was
21 going to be as great, if not greater than the
22 noise being generated by the existing facilities
23 that they are proposing.

24 MR. SARYL: Well, that was a
25 statement that was made.

1 MR. SHAW: That was the testimony
2 that was given.

3 MR. SARYL: However, we have noise
4 in our house. If we have a structure around it,
5 you know, we don't need, necessarily, air
6 conditioning. That was a statement that was made.

7 MR. SHAW: The testimony was that
8 equipment would generate substantial heat and that
9 in order to have a structure with an enclosure on
10 it, it would have to be air conditioning on it,
11 and the testimony was that the sound of the air
12 conditioning would be as great as whatever the
13 noise is going to be generated by this equipment.

14 MR. SARYL: That was the testimony.
15 Is that the reality of the structure?

16 MR. SHAW: That's the testimony.

17 MR. SARYL: Are structures ever
18 created, put around the equipment?

19 MS. FAIRWEATHER: This was testified
20 to at the last hearing. I don't mean to be short.
21 We have already dealt with that. The questions
22 are on what was testified today. That's all
23 that's open for questions.

24 MR. SARYL: Okay. But my question
25 would be: Are there structures ever created

1 around the equipment?

2 MR. MURELLO: We've talked about it.

3 MS. FAIRWEATHER: They've talked
4 about that at the last hearing. They talked about
5 it. And what was represented by Mr. Shaw was
6 agreed to by both experts. Whether you agree or
7 disagree, that's what they both came to the
8 conclusion.

9 MR. SARYL: That's my question. My
10 question is --

11 CHAIR VIVONA: There is a similar
12 structure at the water tower in East Hanover.
13 It's not one wall. It's four walls. So, one
14 wall, which is basically a backboard, and it would
15 just bounce the sound. The four walls contain the
16 sound.

17 MR. SARYL: Because I have walked
18 around where there are antennas, and these things
19 are enclosed, and there's not a lot of noise from
20 them, because they are enclosed. They usually
21 look like concrete buildings. I just thought that
22 could be a possibility if it came to pass.

23 MR. SHAW: I am expecting we are
24 also going to hear from the site engineer, because
25 we haven't heard about that yet.

1 MR. SARYL: All right. Thank you.

2 MR. SHAW: What the characteristics
3 of the cabinets, and why it is that we have this
4 noise issue with this application.

5 MR. SARYL: Okay.

6 CHAIR VIVONA: Any other questions
7 for Mr. Murello?

8 MS. FAIRWEATHER: You're done.

9 CHAIR VIVONA: None heard.

10 MS. KENNY: I have a question. I'm
11 not sure if you're the right one. Just about John
12 Ruschke's report. He states that the
13 transmissions from the proposed wireless building
14 should not cause interference with any electronic
15 reception or transmission from neighboring
16 properties. Are you the person to ask about this?

17 MR. MURELLO: Unfortunately, no.

18 MS. KENNY: Okay. Who would that
19 be? Who would be the right person to ask that
20 question?

21 MS. FAIRWEATHER: Our radio
22 frequency engineer is all done and he is gone. I
23 guess your radio frequency engineer would probably
24 be the right person.

25 MS. KENNY: We don't have to talk

1 about it now. I thought he might -- should we
2 talk about it now?

3 MR. SHAW: Well, we might as well
4 get it off --

5 MS. FAIRWEATHER: Get it off.

6 MR. SHAW: Can you address that
7 Dr. Eisenstein?

8 DR. EISENSTEIN: Yes. The answer
9 is, no.

10 MS. KENNY: The answer is no?

11 DR. EISENSTEIN: Yeah. All the
12 providers are strictly regulated by the FCC.
13 They're allocated 50 bands of frequencies, and if
14 they were to deviate from those frequencies they
15 would lose their license. Not could. They would
16 lose their license. So, I -- there was testimony
17 that they will be using equipment which is FCC
18 approved, and all the FCC approved equipment is
19 rigidly within a band of frequencies that no one
20 else is allowed to occupy. So, the answer is
21 there could be no interference.

22 MS. FAIRWEATHER: I could have told
23 you that, but I'm not an expert.

24 MS. KENNY: Okay.

25 MS. FAIRWEATHER: Are we done with

1 Mat?

2 CHAIR VIVONA: Yes.

3 MS. FAIRWEATHER: Bye.

4 MR. MURELLO: Thank you, Mr. Chair.

5 MS. FAIRWEATHER: Okay. Mark, now
6 we'll continue where we left off. Thank you for
7 letting me get Mat done and out of here. Okay.

8 MR. TINDER: Good evening.

9 MS. FAIRWEATHER: Mark Tinder, I'm
10 going to remind you that you're under oath.

11 MR. TINDER: Yes.

12 MS. FAIRWEATHER: Oh, I didn't
13 remind Mat of that either. You're under oath, and
14 we left off last time talking about a couple of
15 studies. We were going to come back and discuss a
16 couple more, and explain to the board. So, I am
17 just going to hand it over to you.

18 MR. TINDER: Sure. Last time, as I
19 recall, I had given you the, what I had
20 characterized as anecdotal evidence of the two
21 water tank cell sites that I had referenced here
22 in Morris County. But, also, I gave you the cell
23 tower analysis study that I had done in the
24 Mt. Freedom area of Randolph Township, and that's,
25 I believe, where we left off. And I had

1 referenced that I have done many of these types of
2 studies throughout the state, and I'm prepared to
3 present one or two more tonight.

4 Again, these are -- these are
5 studies related to actual towers. They are, as I
6 had characterized it before, of a more potentially
7 impactful, or more severe if you will, or worst
8 case scenario so-to-speak, of actual large towers
9 within proximity to homes as opposed to what I had
10 characterized also as a relatively de minimus
11 nature of what's proposed here, where there's an
12 existing structure, the water tank, and some
13 cellular antennas painted to match the color of
14 the tanks are going to be added to that.

15 So, what I have, is, let me present
16 this one.

17 MS. FAIRWEATHER: Okay. Now, I
18 think that I left off, Mr. Shaw, at A-45.

19 MR. SHAW: We have moved all the way
20 up to A-51.

21 MS. FAIRWEATHER: Really? Okay.

22 MR. SHAW: So, we are at A-52.
23 There was the transcript, people's reports.

24 MS. FAIRWEATHER: Okay. So, this is
25 A-52. And, Mark, how do we identify it?

1 MR. TINDER: This is another
2 analysis of a sale of a home within proximity to a
3 cell tower, monopole in this case. The title page
4 reads, "Sales Comparison Analysis. Glen Air
5 Neighborhoods Comparison. Subject/Control
6 Property Within Proximity to a 120-Foot Monopole."

7 The property itself, the control
8 property, is identified on the cover page as 42
9 Valley Wood Drive in Franklin Township in Somerset
10 County. You'll see, it's pretty self-explanatory
11 as far as the cover page. The distance to the
12 tower represents the actual physical distance of
13 the nearest point of the house itself, to the
14 nearby tower; 545 feet.

15 You'll notice from the pictures that
16 follow that, that home has a direct unimpeded view
17 of the monopole to the rear of the property. So,
18 obviously it's a good potential -- it's a good
19 study control property to show a property,
20 obviously a home within proximity to, and having
21 an unimpeded view of a nearby cell tower. And,
22 what I did, was, I compared that home to sales of
23 other properties in the same market area in
24 Franklin Township. What was interesting about
25 this particular -- the ability to do this study,

1 was that I was able to compare this particular
2 home in a neighborhood known as Glen Air, to other
3 properties in other Glen Air neighborhoods built
4 by the exact same builder. This builder named a
5 number of his subdivisions in this town, Glen Air.
6 So, the buildings, the models, the quality of
7 construction, et cetera, was all very comparable.
8 In fact, by the same builder, as I mentioned.

9 Three of the sales in fact are in
10 the same neighborhood. I did choose to use them
11 though because they were further removed from the
12 tower. So, the idea of being that I took sales
13 within the same neighborhood, but moving further
14 from the tower, and I also used other sales,
15 again, in other Glen Air neighborhoods, removed
16 completely from that tower location in order to
17 try to determine whether or not there's any clear
18 indication of a value differential, or a market
19 discounting, if you will, that might be related to
20 the proximity to, and/or view of that nearby
21 tower.

22 You can see that, again, as is
23 recapped on the cover page, it references the
24 adjusted value range on the grid, which follows
25 inside. The 6 comparable sales that I utilized

1 after adjustments had a range of values from just
2 under \$720,000 to a little over \$757,000. And the
3 average of those adjusted values was a little over
4 \$728,000.

5 The home at 42 Valley Wood Drive
6 sold, as you see, for \$725,000. So, the average
7 of those adjusted values was within 1 percent of
8 what the home did actually sell for.

9 The realtor involved in the
10 transaction had indicated that there had been no
11 concern, or no concern expressed at least, by the
12 buyers, or any of the other potential buyers who
13 had come to see the home at open houses, et
14 cetera, and that the market evidence, I believe,
15 bears that out, showing that the home, did in fact
16 sell for what its market competition suggested it
17 should have sold for, and within a reasonable
18 amount of time. Again, it was on the market for
19 35 days before it did go to contract.

20 That is, again, one specific
21 instance of a home, near a tower, looking out
22 directly towards that tower, where, apparently,
23 quite apparently, the existence of and view of
24 that tower had no impact whatsoever on the
25 marketing, nor value sale price of that particular

1 home.

2 MS. FAIRWEATHER: Now Mark is
3 finished with his testimony and giving his
4 opinion.

5 CHAIR VIVONA: You finished?

6 MR. TINDER: Yeah, I mean it was
7 just a recap. I mean obviously during my direct
8 testimony last month I had reached a conclusion
9 that, based upon -- based upon the nature of the
10 specific application, as well as my day-to-day
11 work as a relocation professional, where I've had
12 occasion to do appraisals of homes near towers, or
13 to use, as comparable sales, homes near towers, as
14 well as, based upon my studies of a number of
15 different locations throughout the state, based
16 upon all of that, it is my conclusion, it was and
17 continues to be my conclusion that this
18 application, if approved, as it has been presented
19 to you, would not have any potential for any
20 adverse impact on market values of nearby
21 properties.

22 CHAIR VIVONA: Can you say the same
23 for water towers or other structures that are
24 everyday occurrences in town?

25 MR. TINDER: Offhand, to be honest

1 with you, I haven't done a specific study of water
2 tanks, whether there's a new water tank that would
3 be proposed for an existing neighborhood, I
4 haven't done that specific study. So, I would be
5 reluctant to make that blanket statement. Put it
6 that way.

7 CHAIR VIVONA: What is the biggest
8 impact -- what has the biggest impact on house
9 values as far as surrounding things; businesses,
10 gas stations?

11 MR. TINDER: You mean can I name
12 some actual negative external influences that do
13 exist?

14 CHAIR VIVONA: Proven negative.

15 MR. TINDER: Sure. Busy road.
16 Being on a -- being on a major arteriol, for
17 example. Being at a busy corner location, or
18 being next to, as you mentioned, a gas station.
19 That certainly has been shown to do that. In some
20 instances having a power line easement running
21 directly through a property where the easement
22 itself actually specifically does impact or does
23 impinge upon part of the property itself, there
24 has been indications of some negative impact from
25 those.

1 CHAIR VIVONA: Okay. Thank you.

2 MR. TINDER: You're welcome.

3 MS. KENNY: Do you have any -- I
4 just want to -- concerns me because it's from
5 2008, I think before the crash. And I'm wondering
6 if things are different now.

7 MR. TINDER: Well, actually it would
8 have been after, because the values were
9 declining. But, specifically, I wanted to show a
10 range, as I had indicated in my testimony
11 previously --

12 MS. KENNY: Just to go back a little
13 bit. What do you mean after the initial --

14 MR. TINDER: Well, values were
15 declining already in 2008.

16 MS. KENNY: But they continued to
17 decline way more past --

18 MR. TINDER: Oh, absolutely, yes.
19 And the point that I was about to make was that,
20 as I had indicated, I've done these studies for
21 many years, through all types of markets, both
22 appreciating and declining and stable. So, for
23 example, the first study I gave you last month, in
24 Randolph Township, was a fairly recent sale, in
25 2012, at a time of relatively stable market. The

1 values weren't really going up or down appreciably
2 at all. And, in fact, you might recall, or if you
3 have the study handy, you'll notice that I made no
4 time adjustments to any of my sales for that 2012
5 sale, because at the time the market was stable.
6 So, that was one snapshot, and one location of a
7 market that was not experiencing any significant
8 appreciation or depreciation. Yes, this is one in
9 2008, is a sale that occurred when values were
10 declining. And, again, I've done these studies
11 going back, you know, many years. So, I've done
12 some when values were going up very greatly, times
13 when values were going down, and, again, stable.
14 And in each of these locations, in each of these
15 time frames, I have not seen any measurable value
16 impact from these installations in these places
17 that I have studied.

18 Again, I can't prove the negative.
19 I can't prove that it doesn't exist. And I can't
20 prove that it won't one day in the future. But,
21 in my opinion, the preponderance of evidence is
22 such that the residential marketplace in New
23 Jersey is not reacting in any measurable way to
24 these installations.

25 MS. KENNY: And it has nothing -- I

1 mean is there any factor about how good the
2 schools are, how desirable the town is?

3 MR. TINDER: Well, sure. I mean,
4 you know, obviously one town will be more valuable
5 or less valuable than another town, but --

6 MS. KENNY: I meant with regard to
7 the monopole or a cell panel on a structure.

8 MR. TINDER: Well, with reference to
9 the two studies I've given you, that really
10 wouldn't be relevant. It wouldn't be a relevant
11 question to the study because, for example, here
12 in Franklin Township, the one that I've just given
13 you, these are all homes in Franklin Township.
14 They're all in the same school district. They're
15 all in the same general market area. They're all
16 competing for the same demographic of home buyers
17 looking in the Somerset area.

18 MS. KENNY: I don't think I
19 explained it like that. What I'm talking about,
20 is, if you have a town where the average -- not a
21 town. Let's say in a neighborhood, the average
22 price of a house is \$700,000, and the school
23 system is mediocre, versus a neighborhood where
24 the home prices are 1 1/2 million dollars, and
25 has, you know, a great school system. Would you

1 expect any, -- does that have any effect on the
2 sale of a house near a cell panel or monopole, or
3 anything like what we're talking about?

4 MR. TINDER: No. Again, the market
5 evidence, I don't think, is suggesting that that's
6 the case. For whatever reason, the marketplace is
7 not reacting in any measurable way to these
8 installations.

9 MS. FAIRWEATHER: And, Mark, you've
10 done -- I think the bottom line here, you've done
11 studies in towns where they are -- they are some
12 of the nice school systems in the State of New
13 Jersey, with better school systems. And in those
14 studies you haven't found any difference, have
15 you?

16 MR. TINDER: No. Again, I mean, as
17 I indicated, I have studied suburban, rural
18 locations, up-markets, down-markets, stable
19 markets, and price ranges from in the 300's all
20 the way up to over a million. And within all of
21 that range of values and time frames, I have yet
22 to see the market reacting in any measurable way.

23 MS. KENNY: And it's not like you're
24 saying it stays on the market longer. You're
25 saying it has absolutely no effect on --

1 MR. TINDER: Correct. Again, from
2 what I'm seeing from this specific market
3 evidence, these are homes that were marketed and
4 sold within normal time frames, and for the
5 amounts that their market competition suggested
6 they should have sold for.

7 MS. KENNY: Okay. And then my last
8 question, I think you said at the last meeting
9 that you didn't have any -- or that you were aware
10 of; there were no studies that had, specifically,
11 like what we're looking at, which is the
12 pre-existing cell tower.

13 MR. TINDER: Water tank you mean.

14 MS. KENNY: A water tank. Thank
15 you. And that, you know, and after panels got put
16 up.

17 MR. TINDER: Correct. I don't have
18 that type of study. I'm not aware of anyone who
19 has done one. And, again, it is problematic to,
20 that, just the task of trying to find out whether
21 or not a home near a water tank that has cell
22 panels on it might have an impact on value, if in
23 theory it did, then how one would isolate out the
24 impact, if any, from the installation of the cell
25 panels, versus the impact, if any, from the

1 existence of the tank itself, I'm not sure how to
2 really fine tune that to isolate the two potential
3 impacts.

4 MS. KENNY: Well, if this happened
5 in this case wouldn't you just be able to find a
6 house that sold before the panels went up and
7 after?

8 MR. TINDER: Well, yeah, you're
9 referring now back to what we, I believe we
10 discussed at some point last month, of a before
11 and after study. You know, a true before and
12 after study. And as I indicated, I believe my
13 testimony was, I have attempted to do exactly that
14 as well, to find a suitable sampling of sales -- a
15 suitable sampling of sales that occurred just
16 prior to installation, and then resales of those
17 same homes just after. And, unfortunately, the
18 marketplace itself has never really aligned itself
19 in that way to make my job that easy. Not that my
20 job needs to be easy, but I would like to find
21 that perfect example of several homes selling just
22 before, and then reselling afterwards. And I've
23 attempted to do that, especially in places where
24 I've testified, and then monopolies or towers have
25 gone in later. I've gone back and taken a look to

1 see if there had been any pre, you know, before
2 and after sales. The problem with that, is, No.
3 1, the market just doesn't line itself up that
4 way. And, No. 2, the time frame can be great, as
5 you're well aware yourselves, between the time
6 when a new cell site is proposed, and it becomes
7 part of the public knowledge, and then when it
8 actually gets built out, can take, you know,
9 sometimes years. You know, hopefully not, but it
10 does happen that way. So, to find a sale of a
11 home just prior to knowledge of the application,
12 and then a resale of that exact same home just
13 afterwards, unfortunately I've had very, very
14 limited success in doing so.

15 MS. KENNY: Okay. Thanks.

16 MR. WESTON: I have a question. Did
17 you indicate earlier tonight that one of the
18 negatives is power lines?

19 MR. TINDER: It can be, yes. I've
20 seen cases where that is the case, yes.

21 MR. WESTON: Would that be the
22 existence of the power itself going by the
23 property? Or the structure supporting the power
24 lines, as compared to a cell tower not having that
25 impact?

1 MR. TINDER: I would have no way of
2 knowing what exactly it is in the marketplace that
3 is being objected to, whether it's the structure
4 or the use or the nature of that use. I couldn't
5 begin to say what the psychological or reason
6 might be for it. All I can do is really report on
7 the market evidence.

8 MR. WESTON: I am just curious about
9 one aspect of this methodology. I understand
10 you're an appraiser. And it comes to my mind that
11 this is sort of, almost the universe itself
12 select, once the property is sold, values get
13 established, and all of that, we set our prices
14 after the fact. I'm curious if the testimony, and
15 this is speculative on my part, I admit, if the
16 testimony might be somewhat different, if we were
17 presented with the testimony by a real estate
18 broker, who takes people around, and you would
19 then have a larger universe that goes, as I did
20 when I was looking for a home. Forget the
21 cemetery; I'm not even getting out of the car.
22 But the people who live by the cemetery chose to
23 live there. And if you were to look at the prices
24 in the vicinity, you would be able to set values,
25 and you will go; that's the price, that's the

1 price. The cemetery has no impact. Yet they
2 tried to show me one across the street from the
3 cemetery. No, I'm not getting out. And I'm just
4 wondering, again, speculative perhaps, if the
5 presentation might have different conclusions if a
6 real estate agent were testifying to the effect of
7 what happens when I take the client to a home that
8 has a cell tower 545 feet away from it.

9 MR. TINDER: Well, it is very
10 speculative. But you did, nonetheless make your
11 point. And I do understand the point you're
12 making. Certainly I have no reason to doubt that
13 there may be potential home buyers who might not
14 want to buy a home near a cell tower or a cellular
15 installation. And, furthermore, I could believe
16 that -- and/or they might only do so if they could
17 do so at a discount. But, nevertheless, the
18 marketplace itself is the final arbiter of value.
19 It's not really my opinion, or my client's
20 opinion, or your's or anybody else's. It's
21 ultimately what a person pays. So, if the person
22 paid market value to be next to a cemetery or near
23 a cell tower, or whatever, and a review of all the
24 market data indicates that that was in deed market
25 value, and the home sold within a reasonable time

1 as compared to what the market suggests it should
2 have taken to sell, then the only conclusion that
3 I can draw, as a real estate professional, is that
4 the tower had no impact on value.

5 Yes, I don't disagree that there may
6 be people who are so predisposed against these
7 installations that they might not ever buy a home.
8 But, apparently the number of home buyers in the
9 State of New Jersey, this point at least, is not
10 so large as to have any measurable impact upon
11 market value. And, ultimately all I can really
12 discuss is market value.

13 MR. POLISE: We're not applying
14 logic to this. I think if you take a residential
15 property that's next to a commercial entity, and
16 compare it to a residential property next to
17 another residential property, the one next to the
18 commercial entity is going to be worthless.
19 Because basically what we're doing, is, you are
20 building a structure 9 1/2 feet high that's a
21 commercial entity, 5 feet from a property line.
22 And I can't fathom that you can sit here and tell
23 us that that's not going to have an impact on the
24 value of that property.

25 MR. TINDER: Well, first of all, I

1 would disagree with the point that what we're
2 building, or what my client is proposing to build
3 here, is a commercial entity akin to, if I may,
4 akin to what you just described as a negative,
5 being a store, a commercial property.

6 MR. POLISE: I didn't say store.

7 MR. TINDER: Okay. Well, I presume
8 you meant what we all consider to be commercial,
9 whether a store, a convenience store, office
10 building, or --

11 MR. POLISE: I said commercial
12 entity.

13 MR. TINDER: And I'm presuming that.
14 If I'm overstepping my bounds by presuming
15 something you didn't intend then I apologize and
16 I'll go back. But, in my opinion, this existing
17 structure that is there, the existing compound
18 that is there, is not unusual for a residential
19 area, but is not strictly a residence. It's not a
20 residence. It's not a residential property. So,
21 in my opinion, having the fence there, that you're
22 describing as a commercial use, I don't believe
23 really meets the criteria of how you're describing
24 it. And, again, in my opinion, I don't believe
25 that this relatively de minimus use, as far as

1 adding cellular panels to the face of the
2 standpipe water tank, will have a potential for
3 any negative impact. That's my professional
4 opinion based upon my knowledge and my research
5 having to do with this issue.

6 MR. POLISE: It just doesn't fly in
7 the face of logic. If you take a broker and you
8 walk to the back of the property and you see a
9 9 foot high wall, and a cabinet 16 feet wide, and
10 the thing is humming, people will say, what is it.
11 It's the equipment for a cell tower. Is that
12 going to have some impact on the sale of that
13 property, and you're saying --

14 MR. TINDER: Well, you're --

15 MR. POLISE: -- and you sit and say
16 it's not. I think it's ridiculous.

17 MR. TINDER: Well, if you have that
18 opinion. But the marketplace itself tells me what
19 market value is so --

20 MR. POLISE: You don't have market
21 data to support what you're saying. This thing is
22 550 feet away.

23 MR. TINDER: Again, in my opinion,
24 what I have presented is potentially much more
25 dramatic, much more impactful for actual towers.

1 MR. POLISE: You haven't produced
2 anything specific to this site.

3 MS. FAIRWEATHER: Okay. I
4 understand you disagree with him and he has given
5 his testimony, and he doesn't agree with you.

6 MR. POLISE: Okay. We don't agree.

7 MS. FAIRWEATHER: You can agree not
8 to agree.

9 MR. TINDER: We certainly may.

10 CHAIR VIVONA: Bob, do you have
11 anything?

12 MR. MICHAELS: No, I don't have any
13 questions of this witness.

14 CHAIR VIVONA: Anybody else from the
15 board have any questions of Mr. Tinder? At this
16 point we'll open it up to the public for questions
17 about testimony that was given tonight. Testimony
18 just for Mr. Tinder, please.

19 Come up please. State your name and
20 your address for the record.

21 MS. COOK: I'm Nancy Cook. I live
22 at 145 Van Houten Avenue in Chatham Township. I
23 have been a realtor in Chatham for 24 years, and a
24 resident of the highlands neighborhood for 23
25 years. Specifically I would like to speak about

1 the testimony just given. I have two personal
2 experiences. One with --

3 MR. SHAW: Excuse me. You're not
4 supposed to be testifying about personal
5 experiences. You're supposed to be asking
6 questions at this point. If you want to, at some
7 point, offer your own opinion as to what the
8 values are, that's done separately, and that's
9 when your opportunity will come to testify and
10 state your opinion on values. At this point
11 you're supposed to ask him questions.

12 MS. COOK: Okay. The point was made
13 that you're speaking, as an appraiser and not a
14 real estate agent.

15 MR. TINDER: Correct.

16 MS. COOK: So, do I wait until later
17 to give --

18 MR. SHAW: If there is a way to ask
19 a question why don't you take a shot at it and --

20 MS. COOK: Okay. Well, the question
21 was raised whether or not someone would not -- you
22 seem to testify that you don't -- you didn't say
23 that a buyer would not -- that values -- I don't
24 know, that a buyer would not chose to see a house
25 because of cell towers, water towers. Well, in

1 this -- in this -- all right, I'll just go to
2 another point about your Beacon Hill, that you
3 cited in your Florham Park statistics. Those
4 homes were built after that water tower, and those
5 cell towers were built, correct?

6 MR. TINDER: The water tower was
7 there and the cell panels were on it already.

8 MS. COOK: Right. And then the
9 houses were built.

10 MR. TINDER: Correct.

11 MS. COOK: So then would you agree
12 that the buyers had the choice to purchase there
13 because they knew they were there?

14 MR. TINDER: Yes.

15 MS. COOK: And when I looked at the
16 values, the 5,000 square foot home, the sales
17 prices, they were between 1 million and 1.4
18 million. 5,000 square foot homes in Chatham
19 Township were like 2.5 million. So, would you
20 agree that there was a substantial discount on
21 these homes, on this Beacon Hill -- Beacon Hill
22 neighborhood, because of the cell towers?

23 MR. TINDER: I'm not sure I would
24 agree with that. I know that in that township
25 there are quite a lot of homes that are over a

1 million dollars. Some within the neighborhood
2 near the water tank, and some far removed from it.
3 So, yes, there are homes in that town that can go
4 over 2 million dollars. In fact, there's one
5 that's being built right next to the water tank
6 right now. But that doesn't necessarily prove to
7 me, in my opinion, that the water tank itself,
8 with the cell panels that are on it, has a
9 negative impact in that town. Again, relative to
10 the new development that went in there, the Beacon
11 Hill, the information that I got from the realtor,
12 the broker who was involved with that, was that it
13 did not have a negative. The one negative that
14 there was, was the first home -- or the first home
15 in the subdivision, which is at the corner of the
16 very busy county road. So, I didn't count that
17 one in the studies.

18 MS. COOK: And why -- when we do
19 price comparisons and compare neighborhoods we try
20 and find similar towns, similar neighborhoods. We
21 use comps that are very recent. You have used
22 Florham Park, Randolph. The towns tonight are
23 really not comparable towns. And 2008 comps, why
24 would you use comps from 2008, that we wouldn't
25 consider using comps, you know, within more than a

1 year.

2 MR. TINDER: Well, I'm not doing a
3 current value. What I showed tonight was a sale
4 of a home that occurred in 2008, with a monopole
5 directly behind it. And I compared it to other
6 homes that sold at the same time, to show what the
7 market was doing at that time, and what that
8 property market competition was. So, that was one
9 study from 2008. I had one from 2012. I have a
10 have recent study that I did late 2013, in
11 Monmouth County. But it was -- I was considering
12 bringing that one to you today, to tell you the
13 truth, but it was in a much lower price range, and
14 I didn't want to do a home sale \$315,000. But I
15 could have. And I still could, if we really
16 wanted to open it back up. But, no. So, what I
17 had indicated, is, I have done these studies for
18 many years. So, the 2008 study was about a 2008
19 sale. 2012 was a 2012 sale, et cetera. So, it's
20 something that's ongoing. It's something that I
21 do constantly really.

22 MS. COOK: So, I guess what I need
23 to know is when can I give my opinions as a
24 realtor? You were indicating it would be nice to
25 hear the side. Do I wait until --

1 MR. SHAW: You're going to be
2 presenting your testimony as an objector at the
3 conclusion of the applicant's case. They have a
4 site engineer to go, and then they have their
5 planner to go. So, conceivably could be the next
6 meeting.

7 MS. FAIRWEATHER: I am hoping to get
8 it done as quick as I can. It should be at the
9 next meeting.

10 MR. DREIFUSS: David Dreifuss,
11 D-R-E-I-F-U-S-S. That's 29 Heron Drive. Mark is
12 cell tower use a commercial use?

13 MR. TINDER: That's a good question.
14 I wouldn't necessarily consider it that. But I
15 mean it's part of a network of a commercial -- oh,
16 wait a second.

17 CHAIR VIVONA: One at a time,
18 please.

19 MR. TINDER: In my opinion, a cell
20 tower, or in this case, cell panels on an existing
21 structure does not represent a new commercial use.
22 It's a -- what I had indicated in my prior
23 testimony, a passive use, in that it does not --
24 it is not of a true commercial nature such as a
25 store or office building, or something which

1 generates a lot of traffic, et cetera. So, it's
2 not a true, or typical if you will, commercial use
3 in my opinion.

4 MR. DREIFUSS: Okay. I'm just a
5 little confused with your qualifying. Because,
6 like you said, a new commercial use or a typical
7 commercial use. Would it be -- for zoning
8 purposes would it be considered a commercial use?

9 MR. MICHAELS: I may be able to
10 help. From a zoning and land use point of view,
11 it's often more akin to a utility use. Public
12 utility. And not a commercial use. And the water
13 tower facility would really be considered a public
14 utility use. And then, although it's -- this, I
15 don't believe, and correct me if I'm wrong, this
16 is not regulated by the BPU, by the Bureau of
17 Public Utilities, but from a land use point of
18 view it equates to land utilities, not a
19 commercial use.

20 MR. TINDER: I should have said
21 that. That's a good point.

22 MR. DREIFUSS: Okay. It's also not
23 a residential use.

24 MR. TINDER: No, certainly not.

25 MR. DREIFUSS: If I recall your

1 testimony from last time, as well as what you
2 mentioned before, all of your studies involve
3 speaking to the broker, is that correct?

4 MR. TINDER: I attempt to do so each
5 time. You know, I try to get as much information
6 as I can, speaking to the people involved in the
7 transactions.

8 MR. DREIFUSS: Okay. And if we use
9 Beacon Hill in Florham Park as an example, can you
10 tell me how many brokers you spoke to?

11 MR. TINDER: Just the one. The lady
12 who was in charge of marketing that subdivision.

13 MR. DREIFUSS: When you say in
14 charge of marketing that subdivision you mean on
15 behalf of the developer?

16 MR. TINDER: Yes. There was the
17 sales agent or broker involved in the transaction,
18 in the marketing of it.

19 MR. DREIFUSS: For the developer?

20 MR. TINDER: Yes.

21 MR. DREIFUSS: Were you aware of the
22 fact that that developer was sued and was found
23 responsible for consumer fraud --

24 MS. FAIRWEATHER: I'm going to
25 object.

1 MR. DREIFUSS: -- and there was a
2 judgment for 7 million dollars.

3 MS. FAIRWEATHER: I'm going to
4 object. It has nothing to do with the hearing.

5 MR. SHAW: It has nothing to do with
6 what he testified about.

7 MR. DREIFUSS: Well, it relates to
8 the -- I'm just curious if you knew that. And the
9 reliability of the evidence. But my question
10 really is whether he knew that when he testified
11 about that.

12 MR. TINDER: I don't know about the
13 specific dollar amount. I know that the builder
14 ended up going bankrupt, I believe, which I didn't
15 know why, but you filled in the gap for me. So,
16 no. I think I have a better understanding as to
17 why he didn't finish that -- or why he left when
18 he did.

19 MR. DREIFUSS: Also, in that
20 development, in your opinion, would it be, when
21 you're doing studies, would it be relevant for you
22 to determine whether a house of a certain size on
23 a certain lot would sell more if it was at a
24 location where there was no cell tower as opposed
25 to a location where there was a cell tower?

1 MR. TINDER: Well, I mean that gets
2 to the gist really of the issue as to the studies
3 that I have done. Where I had done specific
4 studies of homes near a cell tower, and compared
5 them to their competition in the same market area
6 of homes removed from that cell tower, or any
7 other cell tower, in order to determine whether or
8 not the cell tower itself had any measurable value
9 impact, or impact on a sales price, that's really
10 the gist of the studies that I've done.

11 MR. DREIFUSS: Okay. Do you know in
12 Florham Park, approximately what the average sales
13 price is then for houses that are 6,677 square
14 feet with 6 bedrooms, 6 1/2 baths, on a lot size
15 of approximately .82 acres? You know, in that
16 give or take.

17 MR. TINDER: Short answer, no.

18 MR. DREIFUSS: Okay. So, if I were
19 to tell you that 10 Beacon Hill Road sold in
20 February of 2013 for \$1,450,000.00. That it was
21 6,677 square feet on .82 acres, you wouldn't know
22 whether that was a good price or a low price for
23 Florham Park? Would that be correct?

24 MR. TINDER: Well, if you're talking
25 about the one that was -- that was the builders

1 own property, 6,677 square feet you said, right?

2 MR. DREIFUSS: Yes.

3 MR. TINDER: Yeah, that's the one
4 that sold -- there was an inter -- interfamily
5 transfer. So, he sold it to a relative in 2006.
6 So, that was obviously not an
7 arms-length-transaction. Then it subsequently
8 sold in 2008. The first true resale at
9 1,795,000.00. And then it sold in 2013 at
10 1,450,000.00. So, I mean these are just a lot of
11 numbers thrown out. But it sold for almost 1.8,
12 when it had the actual real true sale. And after
13 the decline in markets, again, that was a sale in
14 '08. So, when it resold in 2013 it had
15 experienced significant decline and it sold for a
16 1,450,000.00. For about a rough guess, what,
17 45 percent less. Or, I forgot, something like
18 that. But, anyway, I mean what you're describing
19 are facts, yes. Anyway. Well, anyway, so, it did
20 sell for what it sold for.

21 MR. DREIFUSS: I was just wondering
22 if you knew whether that was a good price for a
23 house in Florham Park in terms of an average price
24 for a house of that size, or whether that was low?

25 MR. TINDER: Offhand, no, I couldn't

1 say.

2 MR. DREIFUSS: Okay. At the study
3 you did in Randolph Township was it one broker
4 that you spoke to?

5 MR. TINDER: No. I believe I spoke
6 to most of the realtors involved in the sales.
7 Both the one in the control neighborhood that
8 backs up to the tower, as well as the listing
9 realtor realtors involved in the other sales, the
10 comparable sales.

11 MR. DREIFUSS: Okay.

12 MR. TINDER: Not just one.

13 MR. DREIFUSS: Do you know how many
14 there were, that you spoke to in Randolph?

15 MR. TINDER: Offhand I couldn't say.
16 I had the one sale of the control property and
17 then it had 5 or 6 comparable sales that I
18 compared it to. So, 1 control plus 5 comparables
19 equals 6. I'm sure I must have spoken to at least
20 those 6 realtors. Although, you know, let me
21 check that. I can't say for certain that I spoke
22 to every single realtor but I always do place
23 calls and try to speak to each of them. I do
24 check the details in the MLS, as well as the
25 pictures that are contained in the listing, for

1 example. Also the Morris County tax website which
2 is an excellent website showing the property
3 records of each property in the county. So, I do
4 go through quite a lot of information to try to
5 ascertain as much as I can about the sales.

6 MR. DREIFUSS: And then Glen Air,
7 can you tell me how many realtors or brokers you
8 spoke to?

9 MR. TINDER: The process would have
10 been the same. I certainly would have put in
11 calls to each listing realtor. If not, also the
12 selling realtors, to get their impressions of the
13 condition of the properties and motivation of the
14 buyers or sellers, et cetera.

15 MR. DREIFUSS: Okay. Did their
16 input influence your conclusion?

17 MR. TINDER: I wouldn't say
18 influence. That's kind of, with all due respect,
19 I think it's kind of a loaded word, but certainly
20 all of the information that I gather goes into my
21 findings and conclusions. The public record, as
22 to what the home sold for and when it sold, the
23 public record -- well, quasi public record, I
24 guess, that's available through the multiple
25 listing service, I guess you have to be a

1 subscriber to actually get that full data, which I
2 belong to MLA. So, between the public record, the
3 MLF information, discussions with the realtors
4 involved, taking all of that into consideration,
5 in fact, in any -- in any real estate appraisal,
6 irrespective of the purpose or the intended users
7 of the report, in any residential real estate
8 appraisal, the appraiser should be looking to get
9 as much information as possible about the sales
10 and about the subject property, et cetera.

11 MR. DREIFUSS: Okay. Is it accurate
12 then to say that the input that you got from the
13 realtors was one of several factors that
14 influenced your opinion?

15 MR. TINDER: That's a fair
16 statement, yes.

17 MR. DREIFUSS: Okay. Thank you very
18 much.

19 MR. TINDER: You're welcome.

20 MR. WEISGERBER: Brad, B-R-A-D,
21 Weisgerber, W-E-I-S-G-E-R-B-E-R, 11 Huron Drive.
22 As an appraiser would you say that city views or
23 New York City views could hold any value for a
24 property?

25 MR. TINDER: It's my understanding

1 that has been the case for Bergen County, for
2 example, where the people up on the Palisades, or
3 further up the Hudson looking out towards New York
4 City do consider that to be a premium.

5 MR. WEISGERBER: Okay. Now, if
6 there was a partially obstructed view because of a
7 9-foot tall sound barrier that obstructed a city
8 view, could that possibly affect the value and of
9 the property and the house?

10 MR. TINDER: If there was already a
11 city view that was considered to be a premium
12 view, and then that view was blocked, I wouldn't
13 be surprised if that might to be the case.

14 MR. WEISGERBER: Okay. For the
15 record, we do have a city view. That was part of
16 the selling point of the house. Did you state
17 that you didn't have an exact comp of a house with
18 the cell phone tower and equipment 3 feet from the
19 property line?

20 CHAIR VIVONA: It's not 3 feet from
21 the property line.

22 MR. WEISGERBER: It's not? How many
23 feet is it?

24 CHAIR VIVONA: It's 15 feet from the
25 property line.

1 MR. WEISGERBER: No, it's not.

2 Let's look at the --

3 CHAIR VIVONA: Five feet. I'm
4 sorry, it's 5 feet.

5 MR. WEISGERBER: Five feet. Okay.

6 CHAIR VIVONA: I'm sorry the
7 measurements you're saying. My mistake.

8 MR. WEISGERBER: Is it possible that
9 audible noise from cell phones powering equipment
10 from the property could also affect the home's
11 value?

12 MR. TINDER: Well, in theory it
13 could, as I believe it's been testified to,
14 substantially by the prior witness, that's a
15 condition of the approval that must be met by this
16 applicant to ameliorate that.

17 MR. WEISGERBER: It sounds like AT&T
18 is going to do what makes it comply to code, but
19 that didn't sound like it was the case, that it
20 wouldn't be audible. It sounded like it would be
21 audible, and, therefore, could affect the buyer's
22 decision whether or not the property loses value.
23 When the chairman asked you about negative
24 impacts, you said power lines lower value in
25 property, is that correct?

1 MR. TINDER: They can. In some
2 cases I have seen that to be the case.

3 MR. WEISGERBER: But you said you
4 didn't know why power lines --

5 MR. TINDER: Well, I didn't
6 conjecture -- conjecture isn't a verb. I didn't
7 conject. Is that correct? I didn't make a guess
8 as to why that condition exists.

9 MR. WEISGERBER: As an appraiser, as
10 part of your job, do you think that it could
11 possibly be because of some perceived risk,
12 especially with small children who did not want
13 their children to be exposed from any kind of
14 risks that they thought may impact their
15 children's health?

16 MR. TINDER: Again, for whatever the
17 reason may be, I report on what the market tells
18 me. If the market shows me that there is an
19 impact, or that property A sells for less than
20 property B, then that's what I report on. I don't
21 get into necessarily why, but -- or what the
22 thinking was, of the buyer, but the marketplace
23 itself makes itself very clear as to what value
24 is, and what direction the values are. And I
25 research, analyze and report on that information.

1 MR. WEISGERBER: Okay. The other
2 thing I think you said, during your testify --
3 while testifying, is that you said, some buyers
4 may or may not want to buy next to power lines, or
5 cell towers. I can't believe -- I can't remember
6 which one you listed. But effectively if that is
7 a true statement, doesn't that lessen the
8 competition, if some buyers are not willing to
9 live next to --

10 MR. TINDER: Sure. In theory that
11 would reduce the pool of potential buyers. But,
12 again, the marketplace itself indicates, No. 1,
13 what value is. And, No. 2, what marketability is.
14 So, even if -- if I take it face value, the notion
15 that there are a certain number of people in the
16 home buying public who would not buy near these
17 installations, and I have no reason to doubt that
18 may be the case. Nevertheless, the number of them
19 apparently does not equate to such a large
20 percentage as to have any measurable value impact
21 on the market itself in New Jersey. Again, that's
22 not to say that some people don't object. But,
23 again, the marketplace itself is not indicating
24 any specific tower affect, if you will, or tower
25 discount. Simply put, these homes do sell. They

1 sell for a market value, and they sell within
2 normal marketing parameters.

3 MR. WEISGERBER: Okay. That's your
4 opinion but my question is -- I guess another way
5 to ask it, you know, if there are less buyers, if
6 there are some people who are not willing to live
7 next to a certain thing, you know, it's a concept
8 of supply and demand. If there is less demand,
9 you know, especially in a home buying process,
10 when a lot of them are put into a blind auction
11 where you submit your final bid, to me that lowers
12 the amount of bids, and it lowers the amount of
13 competition and effectively could remove the
14 highest bidding home buyer.

15 MR. TINDER: Well, I mean what
16 you're saying is theoretically true, and it makes
17 sense from a hypothetical point of view. But,
18 again, I mean talking about bidding, the home that
19 I referenced last month 82 Musiker Avenue in
20 Randolph, I don't think anybody can doubt that
21 that home has a gigantic tower effect. Double
22 towers. Because there's two towers parallel to
23 one another in the back -- essentially to the
24 backyard of this particular home 82 Musiker. It
25 sold in 6 days. And it sold for \$10,000 over its

1 list price. So, again, that doesn't prove that
2 the tower was a positive impact. It didn't prove
3 that there was a premium to be in that particular
4 location. But it certainly does prove, in my
5 opinion, that the tower had no negative impact on
6 it. And that doesn't tell that -- it doesn't say
7 how many people didn't want to buy it because of
8 the towers. But certainly -- so, in theory,
9 instead of having 3 bidders bidding the price up,
10 maybe there could have been 4, 5 and 6. I don't
11 know. But the point is, the realtor established a
12 price, the seller was comfortable asking for that
13 price, without concern for the tower, because
14 obviously the seller had bought with the tower
15 already there, and they got \$10,000 over their own
16 list price too. The only conclusion I can draw,
17 as a real estate appraiser, is that the tower had
18 no impact on value.

19 MR. WEISGERBER: Last question. You
20 seem to cite that you speak to realtors in the
21 area when your valuing some of these properties or
22 the neighborhood. Have you, or do you plan on
23 speaking to any realtors in Chatham, to see if
24 potential home buyers have expressed any concern
25 about cell phone equipment or radiation in their

1 buying criteria?

2 MR. TINDER: I imagine I may be
3 hearing some of that later. But, again, I am
4 reporting on what the market is actually doing
5 relative to these installations. And it's my
6 opinion that the market -- the market evidence is
7 very clear, that for whatever reason, the
8 residential marketplace in New Jersey is not
9 recognizing any type of value diminution or value
10 discount, relative to these installations. That's
11 my findings and that's my conclusion which I stand
12 on.

13 MR. WEISGERBER: All right.

14 MR. WESTON: What's -- can I jump in
15 for --

16 CHAIR VIVONA: Yeah.

17 MR. WESTON: From the last meeting
18 to this meeting I am still trying to get an
19 understanding of what is -- what we are actually
20 measuring here during this presentation. And, you
21 know, at this point the conclusion I've reached,
22 is not that we're establishing market value, but
23 what we're doing is establishing the quality or
24 the ability of listing agents to set price for a
25 house. And to me that's a different animal than

1 setting -- than measuring the impact of a cell
2 tower on the price of a house. We're outside of
3 the loop here. We're looking -- we're out looking
4 in at a price. And these are people who are
5 setting a price for a home, taking into account
6 whatever variables are out there, including the
7 existence of a cell tower several feet away. When
8 the house gets sold it then goes -- it's presented
9 to us as the tower had no impact on the listing
10 price of the home. When, in fact, to me it's
11 indicating that the listing agent set the price
12 appropriately, or in this most recent example
13 \$10,000 above what it should have been. And
14 that's the conclusion that keeps coming back to
15 me. I know it's my opinion, but I have heard
16 nothing to shake me, or convince me that a cell
17 tower has no impact on a price for a house.

18 MR. TINDER: But again --

19 MR. WESTON: Excuse me. Maybe it
20 does. Maybe it doesn't. I have not heard
21 anything to convince me of that either way from
22 the papers.

23 MR. TINDER: Well, I'm not sure how
24 much more I should go into it, but I will attempt
25 nevertheless. This is not a matter of a realtor

1 setting a price, and then -- because a realtor
2 can't set a sales price. And, again, I would
3 point out to you, that what I have done, is, I
4 have shown you a home, or two homes in this case,
5 two different studies, clearly near a cell tower,
6 clearly with a view of the cell tower, and I
7 compared it to its competition in the same market
8 area removed from the cell tower. So, if the cell
9 tower had an impact, whether the realtor was savvy
10 to it or not, whether the seller was savvy to the
11 fact that they would have to allegedly accept some
12 type of substantial discount, the fact is that
13 home or these two homes in these two studies had
14 competition in their greater market areas. Homes
15 removed from the cell tower. So, if the cell
16 tower in deed had an impact on value, then that
17 home could not have sold for what market value
18 suggested it should have sold for, irrespective of
19 a tower. The fact that it did sell for market
20 value, it did sell for normal marketing time,
21 compared to its competition in the same market
22 area, again, removed from the cell tower, leaves
23 me to the only reasonable conclusion, that the
24 tower itself had no impact on that value.

25 Now, whether that's being counter

1 intuitive or not, the facts are what they are.
2 The home sold, it was marketed. It had
3 competition that had no potential impact on the
4 tower, and it sold for what this competition
5 suggested it should have sold for. Again, if the
6 tower had an impact, it would have sold for
7 substantially less, and the market would make that
8 very evident.

9 MR. STAGAARD: Donald Stagaard,
10 S-T-A-G-A-A-R-D, 12 Buxton. You've done a lot of
11 great research. You're a numbers guy. I respect
12 that. I talk to numbers guys a lot and they both
13 blow me out of the water. But nonetheless, part
14 of what you do is based on the numbers, and I
15 think the most important thing that you're saying,
16 is that all your conclusions are drawn from what
17 you see out there in the marketplace. We can talk
18 all we want about, you know, people that, you said
19 it yourself, some people are predisposed. This
20 gentleman over here brought it up. You know, some
21 people will buy next to a cemetery, some people
22 don't want to. And you said "sure". Some people
23 are going to be predisposed not to buy near a cell
24 tower. But you're empirical evidence, from all of
25 your research has shown that the marketplace just

1 doesn't bear that out. But I will dispute that,
2 and I would ask you, to look back here and at
3 these 30 people, that you can argue --

4 MR. SHAW: We're asking questions.

5 MR. STAGAARD: I'm forming that
6 question now, sir. One other second. I think
7 it's a legitimate point I'd like to hear his
8 response, okay. If these 30 people back here are
9 representative of a controlled marketplace that
10 say, 100 people exist up on Heron and Buxton, I
11 would say 30, 35 people are a fairly significant
12 representation of that control group. And,
13 clearly, all these people are extremely
14 predisposed not to buy near a cell tower. And
15 this all began without them having a lot of
16 knowledge about what a cell tower was, but it
17 threw up enough of a flag to them, if they wanted
18 to find out more, and they wanted research before
19 they just bought into hook, line and sinker, not
20 everybody bought it, and you can put up as many
21 times as you want. My point is; anybody buying a
22 house now, in this area, they're going to --
23 they're going to talk to their realtor, and tell
24 me if I'm wrong realtors, are going to have to see
25 some kind of disclosure, that there is, in fact, a

1 cell tower 200, 300 feet away from you. And if
2 those people, let's assume they're relatively
3 smart because they're buying a 2 1/2 million
4 dollar home, are going to say, whoa, wait a
5 minute, I'm buying a 2 1/2 million dollar home, I
6 want everything about this to be perfect. I want
7 the neighborhood, the surrounding --

8 MR. SHAW: Is there a question?

9 MS. FAIRWEATHER: Yeah, I'm going to
10 object unless there's a question. I'm sorry.

11 MR. STAGAARD: I'm sorry. Right.
12 Right. how do you feel about that? Is that not
13 legitimate?

14 MR. TINDER: The question for me,
15 is, as a real estate appraiser, will it have a
16 potential for a negative value impact when someone
17 goes to sell their home. So, the potential buyer
18 coming in, or the pool of potential buyers coming
19 in, will they all get together and say, well, you
20 know, this home is now discounted by X percent.
21 In my opinion the marketplace does not suggest
22 that that should be the case. Now, I'll admit
23 quite candidly to you, it wasn't your question,
24 and maybe I shouldn't expound. But I will admit
25 to you that the issue of whether or not you like

1 things the way they are, so why change it, is not
2 part of my calculations. Because I've researched
3 the market. I can only tell you what the market
4 tells me. And I can only base my conjecture upon
5 what the market tells me, that there's no reason
6 to believe that your home, or anybody else's on
7 Heron or wherever, should sell for any less, if
8 this installation goes in. That does not address
9 your overriding emotional question as to whether
10 or not --

11 MR. STAGAARD: Oh, it's not
12 emotional. That most significance of my point,
13 is, is this not representative of that group that
14 would not be predisposed in the marketplace, to
15 buy that house, and it's 30 percent representative
16 of it, wouldn't that be representative of what the
17 overall marketplace would be, of people coming,
18 you know, wanting to buy real estate in this area,
19 and wouldn't that suggest that there is in fact a
20 lot of people that wouldn't want to buy near a
21 cell tower.

22 MS. FAIRWEATHER: And I'm gonna just
23 interrupt because he's already answered the
24 question. I'm sorry. I know that's not what you
25 want to hear. I'm sorry.

1 MR. STAGAARD: I do respect and I
2 didn't expect him to go too far.

3 MS. WEISGERBER: Katie Weisgerber,
4 W-E-I-S-G-E-R-B-E-R, 11 Heron. First, this may be
5 a question for the board. I'm not sure. Do we
6 have ordinances that regulate the placement of
7 cell towers here in Chatham Township?

8 MR. SHAW: You have ordinances which
9 regulate the placement of cell towers, yes.

10 MS. WEISGERBER: Where are they?

11 MR. SHAW: They are established as a
12 conditional use in a number of zones.

13 MS. WEISGERBER: Do you know which
14 zones they are?

15 MS. FAIRWEATHER: Actually, if you
16 wait for the planner he'll tell her.

17 MS. WEISGERBER: Well, I just wanted
18 to know if the board knows.

19 MR. SHAW: There is a section in the
20 ordinance where cell towers are recognized as a
21 conditional use, permitted on municipal property.
22 I don't know, Bob, maybe you wanted to.

23 MS. WEISGERBER: Affordable housing
24 areas.

25 MR. MICHAELS: No.

1 CHAIR VIVONA: Let's keep it one
2 person at a time, please. The person that's on
3 the record.

4 MS. WEISGERBER: Okay. So, we do
5 have an ordinance that says where cell towers can
6 be placed. And then just my last question was,
7 you know, just due to the lack of data and market
8 history for a true comp to this situation, it
9 doesn't exist. So, how can definitively say that
10 this is not going to be impacted? If there is no
11 true comp how can you be absolutely certain?

12 MR. TINDER: It's my opinion, based
13 upon research, my day-to-day work as a relocation
14 professional, and what I considered to be the de
15 minimus nature of this application.

16 MS. WEISGERBER: Okay. Thank you.

17 MR. TINDER: That it would not have
18 an impact.

19 MS. KENNY: Do you agree with that
20 statement that you have no true comp for this?

21 MR. TINDER: Well, I had indicated
22 last month that I don't have a study of a very
23 specific area of a before and after, for example,
24 where there was an existing large water tank, and
25 then cell panels were added to it, and then after

1 sale. I would like to have a specific study of
2 that nature, but I don't, and I've admitted that,
3 and I can't say anything more about that.

4 MS. KENNY: Okay.

5 MR. MESSING: Jay Messing, 60 Buxton
6 Road, J-A-Y, M-E-S-S-I-N-G, 60 Buxton Road. About
7 150 feet from the proposed site. Not 545 feet.
8 And I will speak loud because the windows are shut
9 because the cell tower is making noise back there.
10 But just a question. So, you listed a couple of
11 adverse impacts on home values. So, I think it
12 was -- it was gas stations, or someone said, gas
13 stations, a lot of traffic on a road. What about
14 if there's an existing very quiet residential
15 street, kind of narrow, with not a lot of traffic,
16 and then due to some change in the neighborhood
17 there was all of a sudden now kind of more trucks
18 coming, and servicing utilities, and things like
19 that, on the street. Would that have any kind of
20 impact on the potential value? Would that be
21 considered an adverse?

22 MR. TINDER: In theory, sure, it
23 could.

24 MR. MESSING: Okay. All right.
25 Thank you. And one other question. I think in

1 your comparison you were comparing two, was it
2 Linar neighborhoods or you referred to them as --

3 MR. TINDER: Glen Air.

4 MR. MESSING: Glen Air.

5 MR. TINDER: In Somerset, in
6 Franklin Township.

7 MR. MESSING: Somerset. So, they
8 were two different neighborhoods.

9 MR. TINDER: It's actually three
10 different neighborhoods built by the same builder
11 near around the same time but in different
12 locations in the same town.

13 MR. MESSING: So similar -- same
14 builder, similar homes.

15 MR. TINDER: Yes.

16 MR. MESSING: But different
17 neighborhoods.

18 MR. TINDER: Yeah, well, different
19 locations in the same town but similar -- very
20 similar neighborhoods.

21 MR. MESSING: Okay but real estate
22 is very much dictated by locations, correct?

23 MR. TINDER: In general, sure.

24 MR. MESSING: Okay so different
25 locations would theoretically sell for

1 different -- for different value.

2 MR. TINDER: Theoretically.

3 MR. MESSING: Okay so just comparing
4 to Glen Air neighborhoods would only be part of
5 the equation.

6 MR. TINDER: In my opinion that
7 there was no location adjustment that ought to be
8 made for one part of town versus half a mile away
9 versus another three quarter miles away. They
10 were all similar locations in the same town. New
11 or newer, recent Suburban major subdivisions.
12 There's nothing to suggest any positive or
13 negative location adjustment that should be
14 opined.

15 MR. MESSING: Okay. Thank you very
16 much.

17 MR. TINDER: Sure thing.

18 MS. PETERSON: Christina Peterson,
19 37 Huron drive. What criteria did you use to
20 determine what you defined as a proximate property
21 versus all other properties?

22 MR. TINDER: Good question. It's
23 mainly, first identifying a tower or a monopole,
24 you know, installation, you know, cellular
25 installation, and seeing if there are residential

1 neighborhoods adjacent to it. So, for example,
2 when I attempt to do studies, or I attempt to
3 research a new study area, I will look at a number
4 of different locations for towers, sometimes even
5 as I'm driving around if I see them I will jot
6 down their location and information, take note if
7 there are residential neighborhoods adjoining it,
8 and then go back to my office and try to research
9 that. There is also great information about
10 towers from, I think FCC, or is it the FAA. It's
11 called the Towair, T-O-W-A-I-R site, which I
12 forget which it is FCC or FAA.

13 DR. EISENSTEIN: FCC.

14 MR. TINDER: Thank you, sir. Which
15 identifies all the large towers throughout the
16 whole country I believe. So, that's another good
17 source.

18 MS. PETERSON: When I looked at the
19 examples from last meeting, it looked like the
20 proximate properties were those literally
21 touching. You know, very near. How far away were
22 the farthest properties that you considered to be
23 part of the larger pool?

24 MR. TINDER: I am sorry, which are
25 you referring to?

1 MS. PETERSON: In both of them.

2 MR. TINDER: Are you talking about
3 the water tank locations or the tower in Randolph?

4 MS. PETERSON: The tower in
5 Randolph. And in both cases it looked to me like
6 the approximate properties you considered to be,
7 looked like they were very adjacent to the tower
8 or the monopole, and then what I'm asking, is, how
9 far away were the other houses? What was the
10 furthest distance of those other sites you were
11 comparing it to.

12 MR. TINDER: Well, on the grid, it
13 tells you the distances from the subject to
14 control property. And there's also a -- there's
15 also a sales map at the back of the sheet too --

16 MS. PETERSON: Is there a way for
17 you to put them say like the farthest property
18 away was?

19 MR. TINDER: Sure. Well, from
20 control property itself?

21 MS. PETERSON: From the control
22 property --

23 MR. TINDER: Sure. For the Randolph
24 Township study, the furthest away was 3.49 miles
25 from -- again, from the home at Musiker. So,

1 obviously, you know, that far away, not by any
2 means within proximity to the double tower at Mt.
3 Freedom.

4 MS. PETERSON: Okay. How does the
5 lot size examples that you're using in this
6 comparison, compare to the lot size the cell tower
7 is on -- or the water tower is on in this
8 neighborhood?

9 MR. TINDER: Top of my head I
10 couldn't say. I believe, in general, the lots on
11 Huron and surrounding neighborhood are smaller
12 than an acre.

13 MS. PETERSON: No, I mean because in
14 my estimation this is a very small piece of
15 property that the water tower is on, and my
16 question is: Are the pieces of property that
17 these other cell tower installations of similar
18 size, so that the neighbors are of a similar
19 distance or --

20 MR. TINDER: No, that's a great
21 question. In general they're not, but when we're
22 talking about installing a tower, of course when
23 there's -- when they have cell towers, large
24 structures like that, they can't be on -- well, I
25 can't say they can't be, but they're typically not

1 on small, you know, postage stamp lots like a
2 water tank is. Water tanks usually are on smaller
3 100 X 100, or, you know, up to half acre lots or
4 whatever.

5 MS. PETERSON: So, the examples that
6 you cited had the cell installation on larger
7 pieces of property then?

8 MR. TINDER: Correct.

9 MS. PETERSON: Okay. So why did you
10 feel that these sites that you mentioned that were
11 more dramatic? That wasn't clear to me.

12 MR. TINDER: Because these are
13 properties that look directly at very large
14 towers. To me it's much more potentially
15 impactful as opposed to an existing water tank
16 which is already there. And, again, the cellular
17 installation, the panels, which carry the signal,
18 which the whole purpose of the cell site, being
19 the antenna or panels themselves are -- I have
20 used this term before, but it's relatively de
21 minimus as far as the change to the visual of that
22 water tank. The tank is already there. And now
23 there are going to be panels, which are going to
24 be painted to match that tank, as opposed to
25 comparing it to, you know, 457 foot tower,

1 admittedly further away, but, again, a dramatic
2 visual in my opinion. In direct proximity to a
3 residential neighborhood.

4 MS. PETERSON: So, you're assuming
5 that the major objection is visual?

6 MR. TINDER: Well, again, as far as
7 the information that I've heard from people
8 expressing those reservations, or just, you know,
9 the fact that it can be seen, it's a very tall
10 structure, which can be -- can be seen.

11 MS. PETERSON: Okay. I'm sure
12 buyers will testify. You are aware that there's
13 electrical magnetic component to a cell tower
14 that's not presently in a water tower, that could
15 have a perception --

16 MS. FAIRWEATHER: I'm going to
17 object. He is an appraiser talking about --

18 MR. SHAW: That's correct. And
19 there's already been testimony from the RF expert
20 on that issue.

21 MS. PETERSON: He is kind of saying
22 that the only impact is visual, when there clearly
23 is another aspect to the installation. So, that's
24 the point that was not clear to me.

25 Are you a member of the Appraisers

1 Institute?

2 MR. TINDER: No, I'm not.

3 MS. PETERSON: And then are you
4 aware of no other studies outside of New Jersey
5 that compare before and after data, before and
6 after installation?

7 MR. TINDER: I don't know about
8 before and after, but I know there was a study
9 that was done by statisticians, which was -- it
10 was presented in the appraisal journal, of a
11 couple -- couple of people. I guess one was a
12 statistician. The other was a realtor, or also a
13 statistician, relative to installations in Christ
14 Church New Zealand. And they purported to show
15 that there was some impact on apartment rentals
16 and/or house prices. Although a large part of
17 that study was actually an opinion survey. They
18 sent out an opinion survey and asked people, you
19 know, would you pay less for rent, or would you
20 pay less for a home. And what was interesting
21 about that, I don't want to go too --

22 MS. FAIRWEATHER: That's enough.
23 Thank you. Stop.

24 MR. TINDER: Okay. Well, yes, I am
25 aware.

1 MS. PETERSON: Okay. So, there are
2 other studies that you have compared the before
3 and after sales. You're just not referencing?

4 MR. TINDER: No, again, that wasn't
5 a before and after. But it had to do -- at
6 least -- well, I don't think that was before and
7 after. But in any case, I don't believe it is
8 relevant to the situation at hand here in New
9 Jersey.

10 MS. FAIRWEATHER: That's enough.

11 MR. TINDER: Thank you. I do rattle
12 on.

13 MS. FAIRWEATHER: Yeah, you do. I'm
14 sorry.

15 MR. TINDER: No, thank you.

16 MS. PETERSON: That's all. Thanks.

17 MS. THOMAS: I have one quick
18 question. Cory Thomas, 146 Van Houten. You give
19 us a lot of information telling us the market
20 value is not affected. But given your experience,
21 given your expertise, one question is very simple.
22 If you were looking for a house for your family
23 and two houses in the neighborhood exactly the
24 same, all conditions being equal, one is going to
25 back up to a cell tower and one is not, would you

1 pay the same price for both houses?

2 MS. FAIRWEATHER: I'm going to
3 object. He's here as an appraiser.

4 MS. THOMAS: No, no, no, because
5 when I'm doing things I ask the expert involved if
6 it were you what would you do, for yourself
7 because that is how I make decisions.

8 MS. FAIRWEATHER: I understand.
9 Mark is here as an appraiser. I'm not going to
10 put him on the spot. So then I have no idea what
11 he's answer is going to be and I object to it.
12 It's not part of the testimony. And it's --

13 MS. THOMAS: Thank you. I think
14 that says a lot.

15 CHAIR VIVONA: Any more questions
16 for Mr. Tinder? It's 10:30.

17 MR. MICHAELS: I want to, in
18 response to the question before, about what zone
19 is our cell tower permitted. It's permitted in
20 the PI-1 zone as a conditional use, as a secondary
21 use on municipal properties in the PI-1 district
22 only, which is professional institutional
23 district.

24 CHAIR VIVONA: Okay.

25 MR. MICHAELS: That was in response

1 to a question before.

2 CHAIR VIVONA: Okay. There are no
3 more questions from the public of Mr. Tinder.
4 Anymore questions from the board? Then I believe
5 we're done with this witness. It is now 10:30. I
6 don't know if we want to start your next witness
7 or not.

8 MS. FAIRWEATHER: Sure. I'd love
9 to.

10 CHAIR VIVONA: We have a half an
11 hour. We can start.

12 MS. FAIRWEATHER: Please. Tony,
13 where are you?

14 CHAIR VIVONA: Thank you,
15 Mr. Tinder.

16 MR. TINDER: Thank you, sir. Thank
17 you board.

18 MS. FAIRWEATHER: You testified.
19 State your name for the record.

20 MR. GUALTIERI: Antonio Gualtieri,
21 G-U-A-L-T-I-E-R-I.

22 MS. FAIRWEATHER: And, Tony, I'm
23 going to remind you that you are under oath. I'm
24 sorry, it's a long night, and I'm going to ask
25 you; there were many questions asked from the

1 board. You revised your site plans. The revision
2 date is what on your plans? That was supplied to
3 board on May 8th.

4 MR. GUALTIERI: 4/21.

5 MS. FAIRWEATHER: 4/21/14. So,
6 Tony, I would like you to, you listened to the
7 board's questions last time. We did move the
8 equipment compound, but we really haven't talked
9 about it. Can you explain the changes that you
10 made on the plans, to the board.

11 MR. GUALTIERI: Yeah. Let me put
12 the boards up.

13 MS. FAIRWEATHER: And you're
14 probably going to have to talk a little bit
15 louder.

16 MR. GUALTIERI: Yeah, that's fine.
17 I can.

18 MS. FAIRWEATHER: I know you can.
19 Okay, Tony, as you're referring to the plans and
20 the changes that were made, can you please tell us
21 the sheet number so that the board can look at it.

22 MR. GUALTIERI: Okay. Let's start
23 with drawing Z0-2, and that's revision II, dated
24 4/21/14. Relocated equipment.

25 I think this drawing kind of sums up

1 the major changes that we proposed on the -- from
2 a site plan perspective. The equipment location
3 went from the northern corner of the water -- of
4 the American Water property, moved down in a
5 southerly direction to the other property line.
6 We went from a -- either I show the board or I
7 show the public.

8 CHAIR VIVONA: We have maps up here.
9 So, you can turn that to the public.

10 MS. KENNY: Just a little. I like
11 to see where you're pointing so --

12 MR. GUALTIERI: How is that?

13 MR. SHAW: People can move to see
14 that. Okay. Go ahead.

15 MR. GUALTIERI: The other major item
16 is, we have revised and reoriented the equipment,
17 to be able to put in a 9 1/2 foot high equipment
18 sound enclosure to address the noise issues. So,
19 we went from an 8-foot board-on-board to a wooden
20 sound barrier. And if you take a look at the site
21 detail plan, it's a blowup of what we're doing
22 within that enclosure and how we are putting the
23 equipment in there to be able to have the
24 equipment be workable, have access via some doors
25 that we're getting to -- into the -- into the --

1 into the sound enclosure, and to be able to access
2 the back of some of the equipment where we would
3 need access to.

4 The other major item here is the way
5 we are running the utilities. Everything is still
6 on the ground. It's just a path that we are
7 taking, based on the location change, was reworked
8 from a -- from a distance perspective everything
9 is still on the ground.

10 Because of the relocation we are
11 going to have a little bit more ground disturbance
12 within the 100 X 100 American Water property,
13 which we have addressed here. And, again, access
14 in is all going to be done with light equipment.
15 We are not looking to bring major construction
16 equipment in here. I know that was one of the
17 comments that was discussed; how are we getting
18 here, what are we looking to do.

19 So, the main change, the major
20 change was taking the equipment from this corner,
21 sliding it down, removing the board-on-board
22 8-foot fence to a 9 1/2 foot sound enclosure to
23 address the sound issues.

24 MS. FAIRWEATHER: And, Tony, there
25 were some questions on the letter from Hatchmott,

1 dated May 16th, in regards to accessing it during
2 construction, and stuff, the trees, are we
3 proposing any trees to be removed? Can we get in
4 and out with our light equipment without
5 disturbance of the trees that are there?

6 MR. GUALTIERI: And I have -- the
7 access is shown out here, and it was laid out for
8 the site walk. And I do have some photographs
9 that I would like to distribute out, that address
10 that in particular.

11 MS. FAIRWEATHER: And these
12 photographs would be A-53?

13 MR. SHAW: A-53.

14 MS. FAIRWEATHER: Yay. All right.
15 Okay. Here you go. I am going to mark it A-53
16 for me.

17 MR. GUALTIERI: I would like to
18 introduce this exhibit here as well.

19 MR. LOFTY: Can I have a copy of the
20 picture?

21 MS. FAIRWEATHER: Sure. Hand it
22 back when you're done because it's part of the
23 file.

24 MR. GUALTIERI: And I would like to
25 enter this into evidence as well. This is a

1 representation of what we staked out, out there,
2 which shows the tree locations from the
3 photographs as well.

4 MS. FAIRWEATHER: A-54, please.

5 MR. GUALTIERI: And I didn't bring
6 an 11 X 17 of this, but I can submit this to the
7 board. This is basically the 100 X 100 piece of
8 property for American Water, the water tank, and
9 from the picture, and Buxton Road is here,
10 existing driveway, and this is the path that was
11 staked out during the site walk. And here it
12 shows all the trees and the tree diameter. And if
13 you go to the pictures, the pictures represent a
14 real clear path of what we're proposing with light
15 vehicles to be able to access this property and do
16 our construction. Now, from photographs from the
17 site walk, there are some vegetation areas here
18 that we had -- that I had testified to, that
19 whatever we are going to be disturbing we are just
20 going to be replacing in like and kind and the
21 same, that the property had done in this area.
22 For some existing vegetation and shrubbery that
23 will have to be removed during construction, and
24 will be replaced in likened kind after we are all
25 said and done.

1 MS. FAIRWEATHER: That's pretty much
2 all I have for Tony.

3 CHAIR VIVONA: I thought the
4 original or the new easement was behind that
5 house. You go up his driveway behind the house?

6 MS. FAIRWEATHER: That's an access
7 easement. This is -- that's access. That's how
8 we do access. This is just for construction just
9 to bring everything in.

10 Tony, show that, please, the access.

11 MR. GUALTIERI: This is the -- this
12 is the existing driveway. There is an existing
13 driveway here for the house. The easement follows
14 that 10 feet and it hugs the property on the west
15 side and along the back. And this is all grass
16 area back here. So, from a construct-ability
17 standpoint it's very difficult to come this way.
18 That's what we're looking at, a temporary
19 construction easement, 12-foot wide, that was
20 staked out avoiding all the trees and then once we
21 are all said and done we will restore that to its
22 original condition.

23 CHAIR VIVONA: How long is the
24 construction process estimated to be?

25 MR. GUALTIERI: I'd say two months

1 tops. That could be shortened depending on a
2 bunch of other factors.

3 MR. SHAW: Where is the temporary
4 generator going to be located when you have to
5 bring it on site?

6 MR. GUALTIERI: If you recall my
7 testimony, in order to mobilize a generator to a
8 site, there has to be a crisis, and there has to
9 be a need, determined by the carrier to mobilize a
10 generator to the site. If a generator is to be
11 mobilized to the site, it would probably be
12 located in the street because there will be a need
13 for that generator, and it would be either trucked
14 and backed up into this location, using, very
15 similar to the access easement. Because, again,
16 these are trailers that are pulled behind vehicles
17 to be able to power our site, or power this site
18 at this location for that period of time.

19 MR. SHAW: Then you don't have an
20 access for it now. You only have a temporary
21 access you're proposing.

22 MR. GUALTIERI: Well, that's during
23 a crisis. The other option --

24 MR. SHAW: A crisis doesn't give you
25 the right to go across a piece of property without

1 an access easement.

2 MS. FAIRWEATHER: We have it. In
3 case of an emergency there is access.

4 MR. SHAW: You're going to provide
5 that?

6 MS. FAIRWEATHER: I can get that.
7 Absolutely.

8 MR. SHAW: Was the location of it
9 the proximate location of the construction
10 easement?

11 MS. FAIRWEATHER: I can provide it.

12 THE PUBLIC: What if they move, the
13 people that live there now?

14 CHAIR VIVONA: Just one minute.

15 THE PUBLIC: Sorry.

16 MR. SHAW: In terms of the location
17 of the emergency generator would be somewhere in
18 the compound?

19 MR. GUALTIERI: It could be backed
20 up in here.

21 MR. SHAW: Does it make a difference
22 in terms of the exhaust, instead of where the
23 noise generators, and what impact are on the
24 neighborhood?

25 MR. GUALTIERI: The generator will

1 be brought in based on the demand. I can't tell
2 you they're going to put it here, they're going to
3 put it here. They're going to put it in an area
4 that can power this piece of equipment because
5 there's a need for that generator. And, again,
6 AT&T does not deploy generators. Once there is a
7 power outage and they need backup, this equipment
8 has 8 hours of battery backup. They don't go
9 power every one of their sites when power goes
10 down. It's got to be a need for them to be able
11 to do that.

12 MR. SHAW: I think it would be
13 useful to know where the generator is going to be
14 put. I mean I would think they could figure -- I
15 think you would know now where it would go, or
16 could.

17 MS. FAIRWEATHER: Okay. So, let's
18 take it, Tony, it will go definitely in the
19 compound, right? In your experience -- and how
20 many cell sites have you done?

21 MR. GUALTIERI: Over 2000.

22 MS. FAIRWEATHER: Okay. In your
23 experience, with the water tank there, I realize
24 it's not shown on your plan, but in your
25 experience, if the generator is coming, where

1 would the generator have to go, or how close can
2 it get, and where would be the area?

3 MR. GUALTIERI: If I were bringing a
4 generator here, I would put it within 15 to 20
5 feet of that equipment.

6 MR. SHAW: Is it possible to place
7 the generator so that perhaps the exhaust and most
8 of the noise associated from that is going down
9 the hill, I think, where there is no housing?

10 MR. GUALTIERI: We could. We could
11 depict spots for if there's a generator need, here
12 is where we're going to put it.

13 MR. SHAW: I think we would like to
14 have that identified.

15 MS. FAIRWEATHER: Sure. We can do
16 that. Tony, just so we can revise it and just
17 send the revised plans. Down the hill -- let me
18 get my --

19 MR. GUALTIERI: This is the hill.

20 MS. FAIRWEATHER: All right.

21 THE PUBLIC: There's houses down
22 there.

23 MS. FAIRWEATHER: So, the generator
24 could go to the right of the compound, or to the
25 left of the compound, correct? I'm assuming it

1 could go to the right or left, just because --

2 MR. GUALTIERI: Yes.

3 MS. FAIRWEATHER: Okay. So, we'll
4 put it on the -- you can show it on the plans, put
5 it on the right side of the compound.

6 MR. GUALTIERI: In this location
7 here?

8 MS. FAIRWEATHER: Yes.

9 MR. SHAW: I would think that would
10 probably be right.

11 MS. FAIRWEATHER: Okay.

12 MR. SHAW: The other question that I
13 had, which really goes to the fact that the
14 current plan you have now has taken out what used
15 to be a provision that said there were no noise
16 impacts.

17 MR. GUALTIERI: Correct.

18 MR. SHAW: And I was wondering if
19 you could provide a little guidance as to why this
20 application, as opposed to a lot of other
21 applications I've seen, had not had noise barriers
22 around? Is there something new about the
23 technology that's going onto this water tower
24 which created more noise, and, therefore, it was
25 determined that you had to have noise mitigation?

1 MR. GUALTIERI: Okay, the
2 technology, and part of the reason why we are
3 here, the technology is changing. And as the
4 equipment changes, they are trying to put more
5 into cabinets. The more electronics you put into
6 a box, the more heat that you generate, hence
7 needing the fans that are in these cabinets to
8 keep it cool, to keep it ambient, to keep it
9 running without overheating and frying.

10 MR. SHAW: Is there something to do
11 with new technology that's going on now that's
12 changing so that we might be finding --

13 MR. GUALTIERI: The new cabinets
14 that are out, are coming out with fans to be able
15 to internally keep the equipment cool on an
16 as-needed basis. And I know on the sound side,
17 all the sound measurements are always done with
18 everything running, and, you know, when you go out
19 there, there are some days that all the fans will
20 be running, which the analysis was done on. There
21 are some days that one or two. So, only under
22 those extreme conditions the fans kick on, ramp
23 up, and ramp down. So, as technology changes and
24 the cabinets become hotter, there is a need to
25 circulate air and cool it. And they're being

1 cooled by circulating, even if it's that 90 degree
2 air that's being circulated, it's still cooling
3 the electronics. No different than your laptop,
4 that when you're working, and the fan kicks on and
5 cools it, and then it shuts off.

6 MR. POLISE: Are you assuming it's
7 going to get noisy as time goes on?

8 MR. GUALTIERI: I don't think so.
9 Usually the electronic components get better, get
10 quieter.

11 MR. SHAW: There is a proposed power
12 plant, does that change the electricity from ACDC
13 or whatever it is?

14 MR. GUALTIERI: Correct.

15 MR. SHAW: That powers computers
16 which are in these cabinets that previously were,
17 perhaps not the type of equipment that was
18 present?

19 MR. GUALTIERI: The voltage has been
20 changing from 24 volts to 48 volts. The need for
21 more power for the electronics. So, that's
22 generating the additional heat that you are
23 putting into it as well. That's that need. All
24 the connections before used to be 24 volts. No
25 big deal. Now everything is going to 48. Because

1 of the technology, the need for getting things
2 moving, I think that's been testified to before on
3 the record, there is different frequencies,
4 different things going on. So, there is a lot of
5 components.

6 MR. SHAW: Nobody ever connected
7 what the different equipment, different
8 technology --

9 MR. GUALTIERI: I don't know what's
10 inside the box, in particular, how everything
11 works. A lot of that stuff is proprietary
12 information. I could share the box, the size,
13 some of the pieces, how they connect, how the
14 power goes in, and how they connect with the
15 antennas, and how that ties back into the grid.
16 That's about it.

17 CHAIR VIVONA: How big a generator
18 is needed? How many KW's?

19 MR. GUALTIERI: When they deploy for
20 emergencies it's really they deploy what they
21 have. So, their standard in the industry for a
22 telecommunications site, it's about 50KW. That's
23 the standard.

24 CHAIR VIVONA: Gas or diesel or
25 whatever is available?

1 MR. GUALTIERI: Yeah.

2 CHAIR VIVONA: Both?

3 MR. GUALTIERI: Whatever is needed.
4 Gas if it's temporary. If it's a full install,
5 depending on if there is gas. So, it could be
6 powered by any different means.

7 CHAIR VIVONA: Okay. Do you know if
8 they are silent generators with the extra baffles
9 and mufflers, all that stuff, or just standard?

10 MR. GUALTIERI: When we do permanent
11 generators, most of the time they come with sound
12 enclosures to reduce the noise. I can't tell you
13 what they are going to deploy. In an emergency
14 they deploy what they have. Hurricane Sandy they
15 deployed what they had, to whatever site they
16 needed.

17 CHAIR VIVONA: If that were to come
18 up, can we request that something be a silent
19 generator? Is that feasible?

20 MS. FAIRWEATHER: Well, are there --
21 I guess a better question, is, I know -- I know
22 what our permanent builds are, temporary
23 generator, do they --

24 CHAIR VIVONA: They do. It's just
25 an enclosure. A specially insulated enclosure.

1 MR. GUALTIERI: I haven't seen them
2 in inventory. That's why I hesitate.

3 MS. FAIRWEATHER: You know, maybe if
4 this was ever approved, it could say that they
5 need to deploy, because it's a residential
6 neighborhood, the quietest generator that they
7 have in their inventory.

8 CHAIR VIVONA: Okay.

9 MR. POLISE: That's not going to
10 mean anything.

11 MR. MICHAELS: I have a question,
12 Mr. Chairman, if I may. Where the temporary
13 construction easement enters the compound, you
14 have labeled here "existing gate" my recollection,
15 when visiting the site, there was no gate in that
16 location.

17 MR. GUALTIERI: There is a chain
18 link gate, and there is a piece of stockade fence
19 leaned up against it. So, from the outside, when
20 you're walking around, it looks like one piece,
21 and we're showing to remove that during
22 construction.

23 MR. MICHAELS: Okay. Now, you had
24 then said that this would be the same way that a
25 temporary generator would be accessed. So, would

1 that stockade fence be replaced or -- because
2 you're going to need access.

3 MR. GUALTIERI: We can replace that
4 piece of stockade fence with a stockade gate.

5 MR. MICHAELS: Okay. Is that
6 depicted here?

7 MR. GUALTIERI: No.

8 MR. MICHAELS: All right. If that's
9 going to be the case, it should be depicted there.

10 MS. FAIRWEATHER: Okay.

11 MR. WESTON: During construction
12 period you indicated that there's going to be
13 light equipment bringing it in, pouring of the
14 pad. Are we talking 10 X 17 feet? How thick is
15 that slab?

16 MR. GUALTIERI: Six inches.

17 MR. WESTON: How would you -- are
18 you going to get the concrete --

19 MR. GUALTIERI: We can bring it in
20 with a small bucket type vehicle as opposed to
21 getting a concrete truck. We'll pump it in if we
22 need to. We'll do it the old fashioned way, with
23 wheel barrels. But we're not intending to bring a
24 concrete truck here to pour concrete.

25 MR. RUSCHKE: I guess the one thing

1 that I found with any construction, that if it's
2 not on the plan, you know, we can say everything
3 we want, and you can testify here to that, but if
4 it's not on the plan the contractor is not going
5 to follow it. And, you know, the fact that your
6 exhibit is showing some red lines on the grass,
7 you know, are you going to paint red lines on the
8 grass for them to follow? In fact, the alignment
9 that you have here doesn't look like you're
10 following the alignment that you're showing on the
11 drawing. And to say that you're just going to
12 use, you know, light equipment, you know, what is
13 light equipment? Everyone can speculate what
14 light equipment is. So, frankly, I just think
15 this is not very organized, the way it's being
16 proposed. You should identify the location of the
17 tree, identify exactly where it is. You're
18 showing some alignment very close to the trees,
19 and I think this tree buffer is very important to
20 preserve. And, frankly, the way all this
21 testimony is, it seems like, you know, get the
22 artworks involved now because it seems like you're
23 driving right on top of the trees. And it just
24 seems like it's not very clear to a contractor how
25 he is supposed to build and --

1 MR. GUALTIERI: Right. And most
2 contractors don't build from -- that's why we
3 would, you know, once we get approval from here,
4 we'll submit a set of construction drawings that
5 address all of those issues. I mean I can put
6 everything on here, we'll have more stuff to pick
7 apart, but we can make that a condition when we go
8 to building permit, to address all these issues.
9 I mean that's the reality of what we're showing
10 here.

11 MR. RUSCHKE: We can make that a
12 condition of approval, but I will tell you, I have
13 never seen any of the cell tower applications
14 actually go in more detail than what's in front of
15 the board. I haven't seen the applicant do that.
16 So, if you're going to make it a condition of
17 approval, then let's do a proper lot grading plan,
18 lay it out and make sure the trees are protected
19 and alignment is clear. Because the contractor
20 needs to know what he's obligated, what his
21 conditions are.

22 MR. POLISE: The four doors that you
23 show around the racks, are those -- it says gate,
24 but is that the same construction as the wood?

25 MR. GUALTIERI: Yes. It will be

1 hinged at the location showing. It is access to
2 the equipment in case there is a need for the
3 maintenance, that, you know, every, monthly when
4 they come and they take a look at the equipment,
5 if it's functioning or not functioning properly,
6 it's monitored 24/7 remotely. If something is not
7 working well, or something needs to be changed, we
8 have access to the back of the equipment.

9 MR. POLISE: My concern is
10 acoustically, because did you take into account
11 gaps in between, and everything else? Is that
12 something you took into account?

13 MR. GUALTIERI: Yeah. This was very
14 closely worked on with the sound engineer.

15 MR. POLISE: Okay.

16 CHAIR VIVONA: Can you tell me what
17 the final plan was for the vents? I know we have
18 different heights, different style fence. What
19 was the final outcome?

20 MR. GUALTIERI: American Water has a
21 6-foot fence around its entire property. The 100
22 X 100 area. There is no stockade fence on the
23 south side of the property. It's a downhill area.
24 There is a 6-foot fence on the west, and on the
25 other side, and in front of the existing gate, and

1 on the east side there is an 8-foot piece of
2 fence. That's what's out there currently.

3 CHAIR VIVONA: And weren't you
4 planning on revamping the fence, make it all one
5 height? Make it all the way around.

6 MS. FAIRWEATHER: Yes, we will
7 gladly do that. We will gladly do that. But then
8 the question is, you have an 8 foot fence on one
9 side, and a 6-foot on two sides, three sides. No,
10 two sides.

11 MR. GUALTIERI: Two plus the gate.

12 MS. FAIRWEATHER: Two plus the gate.
13 And then nothing on the fourth side. Do you want
14 like an 8-foot fence all the way around it?

15 CHAIR VIVONA: That would be another
16 variance. I think replacing -- continuing a 6
17 foot fence all the way around, just to add
18 additional buffering and blockage and keep -- I'm
19 sure the 8-foot fence was put up there as just
20 some sort of a sight barrier, because that's also
21 where the water company valves and stuff are, on
22 that side.

23 MS. FAIRWEATHER: So, replace it,
24 and keep it so it looks nice, and keep it at the
25 height, 8-foot on the one side so the valves are

1 separate and 6-foot on the other three sides?

2 CHAIR VIVONA: I don't want to see
3 an 8 foot fence, to add more stuff, but I mean a
4 new fence all the way around might help hide it
5 and give it a little bit more uniform look,
6 especially on the side with no fence at all.

7 MS. FAIRWEATHER: Yes.

8 MR. WESTON: Was that 8-foot fence,
9 did that have a variance for that when it was put
10 up?

11 CHAIR VIVONA: That I don't know.

12 MR. WESTON: Because if we're going
13 back, doesn't that reopen a section of 8-foot
14 fence?

15 MR. SHAW: I would suspect it was
16 put up by the public utility, who would have
17 gotten approval to put the tower up in the first
18 place.

19 MR. WESTON: But what about the rest
20 of the fence, would that be a variance from us?

21 MS. FAIRWEATHER: We were given
22 authority from New Jersey American Water if the
23 fence needed to be replaced.

24 MR. WESTON: 6-foot height?

25 MS. FAIRWEATHER: They said the

1 existing fence would be replaced. So, that's 6
2 feet --

3 MR. SHAW: If it's 8 feet one place,
4 it stays 8 feet.

5 MS. KENNY: The equipment tower will
6 still be --

7 MR. SHAW: Nine and a half feet.

8 MS. FAIRWEATHER: Yes, inside right
9 around the equipment.

10 MS. KENNY: If you're looking at
11 it -- I'm confused with what side we're on with
12 the equipment. On the 6 foot fence?

13 MS. FAIRWEATHER: Yes.

14 MS. KENNY: 6 feet and then there
15 will be 3 1/2 feet of the equipment barrier that
16 you'll see?

17 MS. FAIRWEATHER: When you look at
18 the water tower on the right-hand side in the back
19 will be the additional 3 1/2 feet.

20 MS. KENNY: Okay. From the
21 equipment?

22 MS. FAIRWEATHER: From the
23 equipment.

24 MS. KENNY: Right.

25 CHAIR VIVONA: I think that section

1 of the lot is also a lower section. So, it might
2 not be as obvious, because it might not be obvious
3 as 3-foot difference.

4 MR. WESTON: Does the 9 1/2 foot
5 barrier, sound barrier, does that constitute an
6 accessory structure, or is that a fence?

7 MR. SHAW: That's a call that we
8 have to make. If it's an accessory structure it
9 doesn't need a variance because it could be
10 15 feet tall. And if it's a fence then it's an
11 additional variance, and they did -- you know me,
12 I think it's kind of a judgment call. Either way
13 I have seen -- John's memo went for height. Bob's
14 memo went for height or accessory structure. You
15 know, it's a question of how you want to interpret
16 it. I would think, for our purposes, I think
17 it's -- I personally think it's an accessory
18 structure. But it's a judgment call for the board
19 as to whether you want to treat it as an
20 additional variance for the fencing. If it were,
21 they have advertised for any and all necessary
22 variances. So, they can just add that.

23 MR. WESTON: Then it becomes an
24 accessory structure that is much closer to the
25 property line rather than a fence.

1 MR. SHAW: Well, it's already got
2 the fence.

3 MR. WESTON: For the 5-foot.

4 MR. SHAW: For the thing being
5 5-foot from the property line already.

6 MR. POLISE: Is there a definition
7 for structure?

8 MR. MICHAELS: No. If it has a roof
9 it's considered a building. A structure is, I
10 think, would be any other improvement without a
11 roof.

12 MR. POLISE: I'm sorry, the
13 construction of this fence structure, whatever it
14 is, the 4-inch thick wood plank, is that shown on
15 any drawings? I know we got a handout. How does
16 that get to a document?

17 MS. FAIRWEATHER: You're going to
18 see photo sims from my planner, when we get to him
19 next month. And you'll get to see a picture of
20 it. Oh, are you talking about on this sheet?

21 MR. POLISE: These drawings like
22 this.

23 MR. GUALTIERI: The construction
24 drawings will have size, material, properties of,
25 construction of this fence, the enclosure, and the

1 sound enclosure. These are zoning drawings. When
2 we go to construction this will all be detailed
3 out.

4 MR. POLISE: How do we know what we
5 are looking at? It says fence. You call it a
6 gate. It's not really a gate. It's a door,
7 right?

8 MR. GUALTIERI: Right. I am
9 pointing to the gate at this location.

10 MR. POLISE: But I would like to see
11 details on that, make sure that we are getting
12 what we are told we are getting.

13 MR. GUALTIERI: I think -- didn't we
14 get the catalog cuts of what that was from the
15 sound expert?

16 MS. FAIRWEATHER: Yeah, I think he
17 showed pictures of it.

18 MR. POLISE: This drawing doesn't
19 show anything on what this is. It just shows the
20 fence.

21 MS. FAIRWEATHER: We can revise it
22 showing that it's a sound wall.

23 MR. POLISE: Sound barrier.

24 MS. FAIRWEATHER: Sound barrier,
25 yup, we can do that.

1 CHAIR VIVONA: All right folks.
2 It's 11 o'clock. After 11 o'clock actually. I
3 think we should wind this up and we'll continue
4 next month.

5 MR. SHAW: June 19th is our next
6 date. This application is going to be carried to
7 that date without any legal notices or notices to
8 the public. Your notice for the folks who are
9 here, you're hearing it.

10 I would expect you will send us a
11 little note extending our time of action.

12 MS. FAIRWEATHER: Yes, sir.

13 MR. SHAW: Thank you. We just
14 approved, this evening, the transcript for the
15 9th. So, it will be up tomorrow.

16 CHAIR VIVONA: Okay. Motion to
17 adjourn?

18 MR. NELSON: I move we adjourn.

19 CHAIR VIVONA: Second.

20 MR. POLISE: Second.

21 THE BOARD: Aye.

22 (Meeting adjourned.)
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C E R T I F I C A T E

I, GINA MARIE VERDEROSA-LAMM, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the deposition of said witness(es) who were first duly sworn by me, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

GINA MARIE VERDEROSA-LAMM, C.S.R.
LICENSE NO. XI2043

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