

COUNTY OF PASSAIC
BOROUGH OF TOTOWA

188 BROADWAY, LP; 188 BROADWAY)
BLOCK: 2701 LOT: 3 R-15 & S-O) TRANSCRIPT
ZONES,) OF
) HEARING
)
Applicant.)
)
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Special Meeting
Tuesday, May 25, 2021
7:30 p.m.
Via Zoom

B E F O R E:

THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF WOODCLIFF LAKE

BOARD MEMBERS:

- ROBIN MALLEY, Chairwoman
- ROBERT HAYES, Vice Chairman
- DIANNA CEREJIO
- SANJEEV DHAWAN
- EMILIA FENDIAN **(Absent)**
- CHRISTINA HEMBREE
- MICHAEL KAUFMAN
- LYNDA PICINIC
- BILL PULZELLO **(Absent)**

- MEG SMITH, Board Secretary

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BRIAN INTINDOLA, Board Traffic Consultant

KAUFMAN, SEMERARO & LEIBMAN, LLP
BY: PAUL C. KAUFMAN, ESQ. and
DANIELLE M. FEDERICO, ESQ.
Counsel for the Applicant

I N D E XWITNESSDIRECT**DAVID BERNHAUT**

BY MR. KAUFMAN

23

LOU LUGLIO

BY MR. KAUFMAN

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2
3 CHAIRWOMAN MALLEY: Moving right along.
4 We have a revised application for 188 Broadway,
5 LP; 188 Broadway Block: 2701 Lot: 3 R-15 and S-O
6 Zones Use Variance to add 53 apartment units and
7 to permit multi-family residential use in the S-O
8 Zone. A variance for front yard setback of
9 34.1 feet where 35 feet is required. A variance
10 for rear yard setback of 39 feet, where 50 feet is
11 required. A variance for building setback from
12 the street center line of 65.6 feet, where 70 feet
13 is required. And a variance for deficient parking
14 lot area landscaping where 185 square feet is
15 proposed and 1,320 square feet is required.

16 Received on 3/12/21. Deemed complete by
17 the board engineer 4/5/21. The time for decision
18 was extended to 8/3/21.

19 Okay. Sal, do you want to...

20 MR. PRINCIOTTO: Before we begin, do we
21 have Proof of Notice and Proof of Publication?

22 MS. SMITH: Yes, we do. I have verified
23 Proof of Notice and service was done.

24 I would like to request the applicants
25 submit originals to my office at their earliest

1 convenience, but I have copies of everything that
2 was done.

3 MR. KAUFMAN: For the record, my name is
4 Paul Kaufman; Kaufman, Semeraro & Leibman on
5 behalf of the applicant. I just want to say good
6 evening.

7 I think before we proceed any further, I
8 just want to state, for the record, that Michael
9 Kaufman and I are not related, even though we have
10 the same last name and, in fact, we've never met.
11 But I just want that to be on the record.

12 So we're prepared to proceed at this time.
13 Even though the agenda calls it a revised
14 application, it's really a new application. It's
15 different from the prior application that you
16 decided in 2019 and so it, you know, in our humble
17 opinion, the word *revised* shouldn't be in its
18 title, but it is what it is.

19 MR. PRINCIOTTO: Perhaps can we get
20 clarification on just the terminology we're going
21 to use because there was an application that was
22 filed that is on appeal and I would like to refer
23 to that, if you have no objection, as *the first*
24 *application*, so when we talk about that one we
25 know what we're talking about.

1 MR. KAUFMAN: That's fine. I may call it
2 *the prior application or the first*, either way.

3 MR. PRINCIOTTO: *Prior or first*. Okay.

4 MR. KAUFMAN: Yes. That's fine.

5 MR. PRINCIOTTO: And then there was a
6 second application that was filed for 60 units.
7 The first application was also for 60 units and
8 that second application was revised down to 53
9 units and I'm referring to that as *the revised*
10 *second application*.

11 MR. KAUFMAN: With that explanation, Mr.
12 Princiotto, I'll accept it. Thank you.

13 MR. PRINCIOTTO: So that way when we talk
14 about them --

15 MR. KAUFMAN: Yes.

16 MR. PRINCIOTTO: -- we know what we're
17 talk about.

18 MR. KAUFMAN: I'm going to be calling it
19 *the prior or first application* and the pending
20 application *the present application*.

21 MR. PRINCIOTTO: Okay.

22 MR. KAUFMAN: So as the chair has
23 summarized, there's an application for 53 units,
24 which are to be conversion of the existing office
25 building at 188 Broadway with a new building

1 behind it which is two stories.

2 The property, as the chair noted, is
3 located in two zones. It's in the S-O Zone and
4 Special Office Restricted and it's also partially
5 in the R-15 Zone. No portion of any development
6 is going to be in the R-15 Zone. It's solely in
7 the S-O Zone.

8 I'd like to call as our first witness
9 David Bernhaut.

10 MR. PRINCIOTTO: Okay. Before you do
11 that, I want to go over some preliminary matters
12 and have a brief discussion with the board.

13 There's some legal issues here in terms of
14 how the board should proceed. There are two
15 jurisdictional issues which were raised in the
16 review letters. One, the first jurisdiction issue
17 is whether or not the board is divested of
18 jurisdiction based upon the pending appeal and I
19 know, Paul, that you have submitted some cases and
20 I submitted some cases.

21 The second issue with regard to
22 jurisdiction is the doctrine of res judicata,
23 which has the five elements as set forth in both
24 my review letter and the planner's review letter.
25 My advice to the board is that there are

1 conflicting cases with regard to the jurisdiction
2 issue, but my advice to the board is to hear the
3 application without prejudice to that
4 jurisdictional ground, my reasoning being that
5 we're waiting for a decision from Judge Padovano
6 which could render that jurisdiction issue moot.
7 We argued motions of reconsideration on May 3rd
8 and it was expected that we would have had a
9 decision, you know, by now. The other is not to
10 cause undue delay and expense.

11 As I said, there are cases that go both
12 ways. Most of the cases holding that the board
13 can entertain applications when a case is on
14 appeal is based upon settlements or of course in
15 the event of a remand by the Court. This
16 application is not based upon any settlement
17 negotiations whatsoever. However, I can't predict
18 what the outcome will be. But, nonetheless,
19 that's my recommendation to the board.

20 With regard to the issue of res judicata,
21 that is a doctrine that is indicated in, as I
22 said, both my review letter and the planner's
23 letter and that it's my recommendation to the
24 board to hear the application, but invoke res
25 judicata analysis in order to determine if res

1 judicata applies. In order to really make a
2 determination, you really have to hear the entire
3 application and I don't know exactly what's going
4 to be presented. I may have more recommendations
5 for the board following the conclusion of the
6 applicant's case in terms of the votes that has to
7 be taken.

8 So my recommendation to the board is that
9 a motion be made and voted upon to hear the
10 application invoking a res judicata analysis to
11 determine if it applies.

12 MR. KAUFMAN: Madam Chairperson, we
13 submitted a letter today in response to Mr.
14 Princiotto's letter to you and we also went
15 through an analysis on the issue of res judicata.
16 I believe it is clear that there is no issue of
17 res judicata. I'm not going to get into a legal
18 debate with Mr. Princiotto at this time, however,
19 I just want to make it clear that the applicant is
20 going to reserve all of its rights.

21 CHAIRWOMAN MALLEY: Okay.

22 MR. KAUFMAN: Thank you.

23 CHAIRWOMAN MALLEY: Does anyone want to
24 make that motion?

25 MR. PRINCIOTTO: That would be a motion to

1 hear the application invoking a res judicata
2 analysis to determine if it applies.

3 BOARD MEMBER HEMBREE: I'll so move.

4 CHAIRWOMAN MALLEY: Can I get a second?

5 MR. DHAWAN: Second.

6 MS. SMITH: Roll call vote.

7 CHAIRWOMAN MALLEY: Yes.

8

9 (Roll call was taken, all board members
10 present respond in the affirmative)

11

12 MS. SMITH: Okay. Motion passes.

13 MR. PRINCIOTTO: Now, before you call your
14 first witness, Mr. Kaufman, I want to make a
15 statement.

16 Meg, do we have participants on this
17 application?

18 MS. SMITH: Yes, we do. We have currently
19 21 attendees that I can see on Zoom. I don't know
20 how many are watching via television.

21 MR. PRINCIOTTO: Okay. So we may have
22 some that could potentially call in as well.

23 MS. SMITH: Yes.

24 MR. PRINCIOTTO: I'd like to make a
25 statement about the proceedings on how the board

1 conducts these proceedings.

2 This is the hearing on a use variance and
3 related bulk variances for the 53 units, as Mr.
4 Kaufman stated in his opening statement.

5 This is a public hearing on this
6 application, which the applicant has filed and the
7 board has determined to hear it.

8 Now, all matters involving this
9 application should be heard during this proceeding
10 and in public. There should be no outside contact
11 or attempted contact with board members. There
12 should be no emails sent to board members. Any
13 comments that have to be made or objections or
14 testimony or anything said about this application
15 has to be done in public. All board members have
16 been advised and in the past have been advised
17 that they are to ignore any emails and certainly
18 not respond to any.

19 Now, we've had prior applications in this
20 matter and we've had many other applications and
21 after the witnesses testify we will open to the
22 public for the purpose of the public asking
23 questions and all too frequently instead of asking
24 questions, the public makes comments. Comments
25 come at the end of the case. So if comments are

1 made instead of questions being asked, I am going
2 to ask the person to cease from making comments
3 and if they don't abide by the determination not
4 to make comments then I'll have no choice but to
5 stop them from making the comments.

6 We want to move this proceeding
7 expeditiously, but we want to follow the rules and
8 the order. So I'm asking all those members of the
9 public who may be asking questions to please, when
10 it comes time to ask questions, ask questions
11 only. Do not make comments. Comments will come
12 at the end of the case.

13 In addition, I know from the past
14 application there are members of the public who
15 were concerned about regional traffic problems and
16 traffic emanating from Park Ridge and Montvale and
17 neighboring communities in the Pascack Valley
18 area. This board does not have jurisdiction or
19 control to solve regional traffic problems. It's
20 understood that many residents and people are
21 concerned about the traffic, but the agency for
22 that is the North Jersey Transportation Planning
23 Authority. Now, that's not to say that traffic
24 conditions associated with the change and use of
25 the application are not relevant and can't be

1 considered. That's a different subject.

2 So if the questioning does get off base,
3 once again, I may have to stop it because we want
4 to focus on the planning issues and the legal
5 issues involved in the case. It's not to be
6 impolite or for me to be rude, it's just that we
7 would like to get this application heard and we do
8 have a time limit to render a decision. So we
9 need to move along.

10 So with that being said, Mr. Kaufman,
11 before you begin, can you give us a lineup of the
12 witnesses you intend to call tonight and at the
13 next meeting.

14 MR. KAUFMAN: It's evolving. I'm not
15 trying to be evasive, but I'm going to start off
16 with Mr. Bernhaut.

17 What I'd like to do, frankly, is just go
18 through quickly what was submitted and which is
19 part of the record, which is the Boundary
20 Topographic Survey prepared by DMC last revised
21 March 5th, 2018.

22 Soil Movement Plan prepared by MCB
23 Engineering, last revised April 25, 2019.

24 Steep Slope Map prepared by MCB dated
25 May 2, 2018.

1 Site Plan prepared by MCB Engineering
2 dated May 2nd, 2018, last revised March 2, 2021.

3 Drainage Calculations prepared by MCB
4 Engineering dated April 25, 2015.

5 Photographs of property.

6 The Architectural Plans dated April 10,
7 2018, last revised March 1, 2021.

8 Traffic and Parking Assessment prepared by
9 Sam Schwartz Transportation Consultants dated
10 May 17th, 2019.

11 The Traffic Assessment Supplemental Letter
12 prepared by Sam Schwartz Transportation
13 Consultants dated May 14th, 2021.

14 In addition, I believe the record includes
15 the approval by the Bergen County Planning Board
16 of the prior application which would hold over and
17 include this as in terms of the Site Plan it's the
18 same. Same drainage, same traffic except lesser
19 traffic, and the difference being the reduction in
20 the scope and density of the project by eleven and
21 two thirds percent.

22 There's also one other statement I want to
23 make to clarify the record, which I know was an
24 issue that was raised in the prior application,
25 which was the feeling that the developer, the

1 owner emptied out the building. I just want to
2 make clear for the record what occurred.

3 MR. PRINCIOTTO: Mr. Kaufman, I mean, are
4 you going to testify?

5 MR. KAUFMAN: I can. This part is all
6 public record. It's based on documents. The
7 property was owned by a company called Wwl Realty
8 Americas, LLC. They owned it. They built it.
9 They sold it to 188 Broadway. It was a corporate
10 headquarters. They were formerly known Wallenius
11 Wilhemlsen Line Americas. They occupied it as
12 their corporate headquarters and they remained in
13 occupancy for about six months following the
14 closing and then they vacated it. That was their
15 corporate business plan.

16 So I just want to put that on the record.
17 There were not multiple tenants as was alluded to.

18 So with that, I'd like to call David
19 Bernhaut.

20 MR. PRINCIOTTO: All right. Just before
21 you go any further.

22 Did you pre-mark any of the exhibits that
23 you just mentioned?

24 MR. KAUFMAN: Danielle Federico is on.

25 MS. FEDERICO: Hi, Mr. Princiotto. We did

1 not pre-mark them. They were all submitted to the
2 board.

3 MR. PRINCIOTTO: Well, okay.

4 MS. SMITH: Mr. Princiotto, I did provide
5 a preliminary exhibit list, but I will tell you I
6 did not include all of the previous documents. I
7 always submit labeled documents that are provided
8 with the revised review letter, revised Site Plan,
9 revised architectural. I did email that to you.

10 MR. PRINCIOTTO: I have it, but --

11 MS. SMITH: But there's a lot of documents
12 that were mentioned from the, not the revised
13 portion, but the preliminary and I did not assign
14 those numbers.

15 MR. PRINCIOTTO: Right.

16 So as we sit here right now, we don't have
17 a marking for everything that Mr. Kaufman just
18 mentioned but perhaps you're going to mark them as
19 you go, Mr. Kaufman?

20 MR. KAUFMAN: We can mark them now.

21 Danielle, this is what you submitted to the board.
22 Correct?

23 MS. FEDERICO: Yes, correct.

24 MR. KAUFMAN: So, for instance, the Soil
25 Movement Plan, which was last revised April 25,

1 2019, that was resubmitted to the board as part of
2 this application. Correct?

3 MS. FEDERICO: Yes.

4 MR. KAUFMAN: So if the secretary
5 distributed everything that was submitted to the
6 board members, they would have gotten that --

7 MS. SMITH: It was submitted to the board
8 in two separate packages. It came in in March and
9 then we have Paul's revisions at a later date.

10 MR. KAUFMAN: Yes.

11 MS. SMITH: So it was submitted to them in
12 two separate sections, but I provided as far as an
13 exhibit list was only marking the revised items
14 from the second submission, revised submission.

15 MR. KAUFMAN: Okay. So the first
16 submission was not. Okay. So then I would
17 suggest the board has them. It was submitted and
18 perhaps, Danielle, you may want to just assign
19 numbering to them at this time since they were
20 submitted.

21 MS. FEDERICO: Sure.

22 Just for the record, the first submission
23 was the January 11th, 2021.

24 The next one I believe my cover letter is
25 the March 12th, 2021.

1 MS. SMITH: March 12th, correct.

2 MS. FEDERICO: That was the second
3 submission. That included the revised
4 architectural plans, which are last revised
5 March 1st, 2021, and consisted of six sheets and
6 it also included revised Site Plan, last revised
7 March 2, 2021, consisting of seven sheets.

8 All the other documents that Paul
9 mentioned are from the January 11, 2021, original
10 submission for this. So if you want me to go
11 through them, I can, but I believe Paul already
12 went through them.

13 And then the last item that was mentioned,
14 which was the traffic supplement letter prepared
15 by Sam Schwartz Transportation Consultant dated
16 May 14th, 2021, I believe I submitted this Friday
17 via email to you, Meg, as an exhibit.

18 MS. SMITH: Yes.

19 MR. PRINCIOTTO: Granted, you submitted
20 these documents, but we're trying to create a
21 record here and they have to be marked so we know
22 what you're referring to.

23 Now, perhaps, you know, as the witnesses
24 go through these documents you can mark them that
25 way.

1 MR. KAUFMAN: Why don't we just mark them
2 now? We can mark them now.

3 MR. PRINCIOTTO: However you wish to
4 prefer. I just need...

5 MR. KAUFMAN: I prefer to mark them now.

6 Danielle, you want to just start at the
7 top and start with A-1 for Applicant-1.

8 MS. FEDERICO: So we'll mark A-1, which is
9 the Boundary and Topographic Survey prepared by
10 DMC Associates last revised March 5th, 2018,
11 consisting of one sheet.

12 Mr. Princiotto, if it helps, and Meg, I
13 can get you a list after the hearing just so it's
14 a little easier.

15 So that's A-1.

16 A-2 would be the Soil Movement Plan
17 prepared by MCB Engineering, last revised
18 April 25, 2019, consisting of two sheets.

19 A-3 is the Steep Slope Map prepared by MCB
20 Engineering Associates dated May 2nd, 2018, and
21 that's consisting of one sheet.

22 A-4 is a Site Plan prepared by MCB
23 Engineering Associates last revised March 2nd,
24 2021, and that's consisting of seven sheets.

25 A-5 is a Drainage Calculation prepared by

1 MCB Engineering Associates dated April 25th, 2019.

2 A-6 I just have those photographs that
3 were submitted with the application.

4 A-7 is the Architectural Plans prepared by
5 Albert Dattoli Architect dated April 10th, 2018,
6 last revised March 1st, 2021, and consisting of
7 six sheets.

8 A-8 is the Traffic and Parking Assessment
9 prepared by Sam Schwartz Transportation
10 Consultants dated May 17th, 2019.

11 And A-9 is a Traffic Assessment Supplement
12 Letter prepared by Sam Schwartz Transportation
13 Consultants dated May 14th, 2021.

14 MR. KAUFMAN: I would just like to mark
15 one more as A-10, which would be the County
16 Planning Board Approval dated June 12th, 2019.
17 That is a public record and sent directly to the
18 board by the county.

19 MS. FEDERICO: And that was included in
20 the application packet.

21 MR. KAUFMAN: Okay. So those are the
22 exhibits that are in evidence.

23 MR. PRINCIOTTO: Okay. They're marked
24 now. I assume you're going to have some testimony
25 on these exhibits?

1 MR. KAUFMAN: Well, they're in evidence,
2 so.

3 So we're prepared to proceed and the first
4 witness I have is David Bernhaut.

5 BOARD MEMBER HEMBREE: Can I say
6 something, please, Ms. Malley?

7 I don't have any recall of what Mr.
8 Kaufman said that we heard about who the owner of
9 the building, what the enterprise was. There was
10 no testimony about that that I remember on case
11 number one.

12 MR. KAUFMAN: No, there wasn't. There
13 wasn't any. When I read the transcript and I was
14 preparing for trial and stuff, one of the comments
15 that I saw from members of the public was that
16 perhaps the applicant intentionally emptied the
17 building. So it wasn't discussed and there wasn't
18 any testimony at the first application and I just
19 wanted to bring it out and give you the
20 information at the outset of this application so
21 that you are aware of what actually happened.

22 MR. PRINCIOTTO: Look, I think the board
23 can consider that as part of your opening
24 statement, but there's no testimony --

25 MR. KAUFMAN: That's fine.

1 MR. PRINCIOTTO: -- under oath about a
2 prior occupancy of the property.

3 MR. KAUFMAN: I can have a witness testify
4 to that if it's necessary.

5 MR. PRINCIOTTO: Okay. Well, it's up to
6 you.

7 MR. KAUFMAN: I can go under oath myself
8 and say it.

9 MR. PRINCIOTTO: It's your application,
10 but there's no testimony under oath and I will
11 note that as part of the record on the appeal was
12 an appraisal of the property that noted that the
13 property was fully occupied at the time of
14 purchase.

15 MR. KAUFMAN: Yes, there was.

16 MR. PRINCIOTTO: And I don't know
17 necessarily by who, but...

18 MR. KAUFMAN: I'm telling you, it was
19 fully occupied by Wwl Realty Americas, LLC
20 formerly known as Wallenius Wilhelmsen Lines
21 Americas. That's who occupied it.

22 MR. PRINCIOTTO: Okay. Well...

23 MR. KAUFMAN: If you want me to go under
24 oath and repeat it, I'll be happy to do it.

25 MR. PRINCIOTTO: It's up to you, but the

1 board's only going to accept sworn testimony on
2 this subject. If you have no witness --

3 MR. KAUFMAN: I don't believe it's
4 relevant. I don't believe it's dispositive in any
5 way to the case. It's just information. We'll
6 deal with it later.

7 MR. PRINCIOTTO: Okay.

8 MR. KAUFMAN: I just wanted to bring it
9 out.

10 Now I'd like to call Mr. Bernhaut.

11 MR. PRINCIOTTO: Okay. I'm looking for
12 him. Is he present?

13 Oh, there he is. I'm sorry.

14 Okay. I had to find you on the screen.

15

16 D A V I D B U R N H A U T, having been
17 duly sworn, testifies as follows:

18

19 MR. PRINCIOTTO: Okay.

20 Do you want to qualify this witness, Mr.
21 Kaufman?

22 MR. KAUFMAN: Yes, I would.

23 Thank you.

24

25 DIRECT EXAMINATION BY MR. KAUFMAN:

1 Q Mr. Bernhaut, can you start by telling the
2 board your educational background?

3 A Sure.

4 I went to the University of Michigan and received
5 an undergraduate degree in economics and political
6 science.

7 Then before graduate school, I worked for two
8 years for Cardell & Associates in Morristown. That was a
9 national broker dealer. It's actually the seventh
10 largest broker dealer in the country for independent
11 registered reps and I specialized in real estate
12 syndications.

13 Q When you say *broker dealer*, what does that
14 mean? Just clarify for everybody.

15 A So there are registered reps all over the country
16 in their own offices, financial planners, certified
17 financial planners, and when they needed to clear
18 product, whether it be mutual, they wanted to sell their
19 client's mutual funds or real estate syndications, they
20 needed to go through a clearing house known as a broker
21 dealer.

22 Q And then you went to graduate school?

23 A Then I received an MBA at Columbia University. My
24 degree was actually in real estate finance.

25 Q Okay. And what did you do after you

1 obtained your MBA?

2 A Well, I've been pretty boring. I've been at the
3 same job for 34 years. I've been at Cushman & Wakefield
4 of New Jersey.

5 Cushman & Wakefield itself is a global real estate
6 company with 40,000 employees. I'm an Executive
7 Vice-Chairman. I manage a team of 16 what we call
8 capital market specialists, meaning, we handle investment
9 sale and equity raising transactions. My team handles a
10 suburban tri-state market, meaning the ring around
11 Manhattan, so that is New Jersey, Long Island,
12 Westchester and Fairfield counties. 80 percent of our
13 business is in New Jersey. The New Jersey market is much
14 larger than those other markets actually combined and our
15 team handles all property types: Office, industrial,
16 residential, retail, and land.

17 My particular expertise has been in office
18 building sales and corporate dispositions. That would be
19 sale lease backs and the sale of surplus corporate
20 assets. I was actually national co-head for the
21 company's disposition practice for a number of years
22 before the latest merger.

23 Our team has nearly a 50-percent share of office
24 building sales in New Jersey for the last two decades,
25 that means about 1.5 to 3 billion dollars in sale

1 transactions per year. This year we're off to a good
2 start. We have about a 77-percent market share of
3 institutional quality office building sites.

4 Q Just to put this in a little bit of
5 perspective. You said that you manage a team of 16
6 capital market specialists. How does that rank in terms
7 of size in New Jersey of capital markets, those teams?

8 A By far the largest.

9 Q That's larger than CBRE? Newmark?

10 A Yes, absolutely.

11 Q Thank you.

12 MR. KAUFMAN: Madam Chairperson, I would
13 offer Mr. Bernhaut as an expert in the field of
14 real estate in New Jersey with a particular
15 emphasis on the office market.

16 MR. PRINCIOTTO: Any board members have
17 any questions on the qualifications?

18 I have some questions.

19 Do you hold any licenses?

20 MR. BERNHAUT: Sure. I have a salesperson
21 license and a broker's license.

22 MR. PRINCIOTTO: Are you a licensed
23 appraiser?

24 MR. BERNHAUT: I am not.

25 MR. PRINCIOTTO: Have you ever testified

1 in court?

2 MR. BERNHAUT: I have not.

3 MR. PRINCIOTTO: Have you ever been
4 qualified as an expert witness in any proceeding?

5 MR. BERNHAUT: I have not.

6 MR. PRINCIOTTO: Mr. Kaufman, can you make
7 a proffer as to what particular subject or
8 opinions this witness might hold and testify
9 about?

10 MR. KAUFMAN: Yes.

11 MR. PRINCIOTTO: Relevant to this
12 application?

13 MR. KAUFMAN: Yes, he's going to testify
14 as to the present office market in New Jersey,
15 Woodcliff Lake/Montvale in particular. And he's
16 going to testify as to the ability to lease, which
17 is what he does, 188 Broadway as an office
18 building.

19 CHAIRWOMAN MALLEY: Mr. Kaufman, is that
20 building currently up for lease?

21 MR. KAUFMAN: Pardon me?

22 CHAIRWOMAN MALLEY: Is that building
23 currently up for lease?

24 MR. KAUFMAN: No.

25 CHAIRWOMAN MALLEY: Okay. Sorry, Sal. I

1 didn't mean to cut you off.

2 MR. KAUFMAN: Appraisers, the appraisal
3 license is not relevant. An appraiser doesn't
4 give opinions on market; it gives opinions on
5 value. We're not offering Mr. Bernhaut to testify
6 as to value; we're offering Mr. Bernhaut to
7 testify as to things within his knowledge and what
8 he's done for 34 years and as the head of a team
9 of 16 capital market specialists, which is office
10 building leases. That's what he's going to
11 testify about.

12 MR. PRINCIOTTO: Has he tried to lease
13 this building? No.

14 MR. KAUFMAN: That's not relevant to his
15 testimony. You can ask him that after he
16 testifies. I don't think it's relevant.

17 MR. PRINCIOTTO: You may not. Others may
18 disagree.

19 MR. KAUFMAN: That's okay. You can ask
20 him, but I'd like to proceed and ask him my
21 questions and get on with the record.

22 MR. PRINCIOTTO: I find that his
23 qualifications are very limited and I'll advise
24 the board that they have the right to accept or
25 reject his testimony. Of course, we haven't heard

1 it yet and, obviously, the board members can ask
2 questions that they have of the witness and not
3 knowing what he'll say, it's hard to determine the
4 validity of any opinions that he may hold. I
5 don't know if he has statistics or what he intends
6 to say and for what period of time he's going to
7 be talking about, so subject to instructions to
8 the board to -- they can consider the testimony
9 and give it whatever weight they feel it deserves
10 based upon his limited qualifications in terms of
11 being an expert witness.

12 MR. KAUFMAN: I object to your use of the
13 word *limited qualifications*.

14 MR. PRINCIOTTO: Let's --

15 MR. KAUFMAN: No, you're tainting his
16 testimony before he's even giving it. He's
17 testified that he has 34 years of experience in
18 the office building market and he will testify as
19 to the Woodcliff Lake and Montvale market. He
20 heads up the largest team of capital market
21 specialists in New Jersey. His capital markets
22 team averages 50 percent market share for office
23 sales and leases in New Jersey for two decades and
24 you call that a limited experience. I object to
25 that because I think you're trying to slant this

1 and I object to it and I'd like to proceed and ask
2 Mr. Bernhaut his questions instead of being
3 stopped from getting --

4 MR. PRINCIOTTO: Well, I don't know what
5 he's going to say, so --

6 MR. KAUFMAN: Sal, Sal you can't call his
7 experience limited. Yes, the board can accept or
8 not accept his testimony as they wish. That's up
9 to them to make the final decision, but please
10 don't start characterizing him as having limited
11 experience. The fact that he's never testified in
12 court before doesn't mean anything. He still has
13 34 years of experience in office buildings.

14 VICE CHAIRMAN HAYES: Mr. Kaufman, I have
15 a question for Mr. Bernhaut.

16 Maybe, you know, maybe there's some mix up
17 here in the use of the term *capital markets*. I'm
18 a capital markets attorney and so I'm trying to
19 understand how - quote/unquote - real estate
20 capital markets, I'm trying to bridge the gap here
21 to understand how that relates to the sale or
22 lease, lease, I guess, of a single office building
23 in Woodcliff Lake. Can you help me make that
24 connection?

25 MR. BERNHAUT: Right. So in order to sell

1 office buildings, obviously, you have to know
2 everything about the market. So my team's handled
3 977 transactions, 39 billion dollars, 281 million
4 square feet of sales. We sell to the largest
5 institutions and global market participants. Just
6 within the Woodcliff Lake and Montvale market I've
7 sold: 50 Tice Boulevard, 300 Tice Boulevard, 155
8 Tice Boulevard, 5 Paragon Drive, 3 Paragon Drive,
9 255 Summit Avenue, 102 Chestnut Ridge Road, 75
10 Chestnut Ridge Road, and 136 Summit Avenue.

11 So in order to sell those buildings, you
12 need to be able to explain to the investor
13 community, to the appraisal community, to the
14 lending community what the value is, what the
15 leasing prospects are and, you know, value is all
16 about income, which is created by lease.

17 VICE CHAIRMAN HAYES: So this I think is
18 where I think I get hung up because I do not do
19 real estate capital market transactions. I'm a
20 capital markets attorney in the strictest sense,
21 the FCC, stocks, bonds, different types of
22 securities that you would use to raise capital for
23 various investors. So do you sell these buildings
24 or lease these buildings directly to individuals?
25 Do you sell them or lease them directly to

1 investor groups? Do you help investor groups
2 raise capital to purchase or lease various
3 buildings? That's the aspect I'm trying to link,
4 right, is the use of the term capital markets to
5 the sale and resale of a single particular office
6 building or even group of office buildings, I
7 don't know.

8 MR. BERNHAUT: So all of the above. We
9 sell to individuals. We sell to REITs. We sell
10 to foreign investors. We sell to pension funds.
11 Institutional investors. We're just purely a
12 third-party intermediary. We only work on
13 exclusives, meaning if somebody hires us
14 exclusively to represent them in a sale of a
15 transaction. We also raise equity and debt to
16 help facilitate the sale.

17 VICE CHAIRMAN HAYES: So it's really a
18 quasi-banker role it sounds like.

19 MR. BERNHAUT: We do call ourselves
20 sometimes real estate investor bankers.

21 VICE CHAIRMAN HAYES: Thank you.

22 BOARD MEMBER KAUFMAN: I have a question
23 based on that.

24 Is Cushman Wakefield or your team
25 participating in any way, you're going out to

1 pension funds, private investors and you are
2 sourcing the money for your client or are you
3 advising them to speak to certain people?

4 MR. BERNHAUT: So we're generally
5 representing the owner of the property in the sale
6 process. In order to facilitate the sale process
7 we're introducing the property to all types of
8 different global capital sources.

9 BOARD MEMBER KAUFMAN: To prospective
10 buyers. That's the basics, right?

11 MR. BERNHAUT: Correct.

12 BOARD MEMBER KAUFMAN: You are not
13 sourcing the buyer. The buyer's coming to you
14 via, could be someone from Cushman Wakefield and
15 another team. It could be from JLL. It could be
16 from a local broker, could be from anyone. But
17 you are not the one sourcing the deal. The deal's
18 coming to you --

19 MR. BERNHAUT: Not necessarily.

20 BOARD MEMBER KAUFMAN: You represent the
21 owner.

22 MR. BERNHAUT: We do. But 95 percent of
23 our transactions, we've been doing it, we have a
24 database of 10,000 investors. We'll call it a
25 private auction is what we run. So we go out with

1 full underwritten materials internationally and we
2 have relationships with many of the buyers and
3 they generally come directly to us, but through
4 our solicitation.

5 MR. PRINCIOTTO: Mr. Kaufman, let me just
6 clarify what I'm saying and perhaps I'm missing
7 something and maybe you can clarify it for me.
8 What relevant issues in this case is this witness
9 going to testify about? I mean, he's talking
10 about his experience with regard to selling
11 buildings. How is that relevant to this case?
12 And that's what I meant by *limited experience*. I
13 can understand you want to bring in an engineer
14 and the planner and some other experts to testify,
15 but what is the purpose of producing this witness?
16 On what issues in this case?

17 MR. KAUFMAN: Market. He's going to
18 testify as to the market conditions.

19 MR. PRINCIOTTO: For selling a property?

20 MR. KAUFMAN: No.

21 Let him testify. I mean, why don't we let
22 him testify. You'll hear what he has to say, you
23 can decide if it's relevant or not.

24 MR. PRINCIOTTO: Okay. Well, look, I
25 apologize if I offended somebody.

1 MR. KAUFMAN: Mr. Princiotto, let me
2 present my case without having to explain my case
3 to you in advance, which is what you want me to
4 do. Let me present my case.

5 MR. PRINCIOTTO: Well, you should --

6 MR. KAUFMAN: I don't have to explain it
7 to you. And I'll present my case what I think is
8 the right case to present, not what you think is,
9 with all due respect.

10 Please let me proceed.

11 CHAIRWOMAN MALLEY: Mr. Kaufman, I think
12 he had a fair question. He represents the board
13 and Ms. Hembree has a question.

14 MR. KAUFMAN: Sure.

15 BOARD MEMBER HEMBREE: Mr. Kaufman, you
16 brought it up.

17 MR. KAUFMAN: I brought up what?

18 BOARD MEMBER HEMBREE: I asked you, the
19 real estate, the owner of the building at 188
20 Broadway brought that up and I'm saying we did not
21 discuss it on case number one and that's what is
22 deteriorated.

23 MR. KAUFMAN: I did -- no --

24 BOARD MEMBER HEMBREE: No, it does have a
25 lot to do with it because then you said you

1 couldn't rent it and you didn't try to rent it.

2 MR. KAUFMAN: No --

3 BOARD MEMBER HEMBREE: You didn't try to
4 rent it.

5 MR. KAUFMAN: No, I didn't say that
6 tonight.

7 BOARD MEMBER HEMBREE: No, you said it in
8 case number one.

9 MR. KAUFMAN: No, I never appeared. I
10 didn't say anything. I never --

11 BOARD MEMBER HEMBREE: In case number one,
12 Mr. Kaufman, that came up that you did not --

13 MR. KAUFMAN: Miss Hembree, Miss Hembree,
14 I never appeared. I never said --

15 BOARD MEMBER HEMBREE: I know that, Mr.
16 Kaufman, but it was in case number one.

17 MR. KAUFMAN: And I'm telling you, I never
18 appeared in case number one.

19 BOARD MEMBER HEMBREE: And, Mr. Kaufman,
20 I'm telling you I know. I never met you before.
21 But the issue was brought up. That's why it's
22 relevant.

23 MR. KAUFMAN: Okay.

24 MR. PRINCIOTTO: Well, look, let's
25 proceed. We'll see if this witness has relevant

1 testimony. I'm not sure on how it's relevant on
2 the application. Maybe Mr. Kaufman can explain it
3 at a later time.

4 MR. KAUFMAN: Thank you, Mr. Princiotto.

5

6 BY MR. KAUFMAN: (Continued)

7 Q Mr. Bernhaut, can you give the board an
8 overview of the northern New Jersey office market?

9 A Sure.

10 So the northern New Jersey office market is
11 Princeton to the Bergen County border with Rockland
12 County. The total is 195 million square feet, which is
13 the fifth largest office market in the country. We
14 currently have a vacancy rate of 19.6 percent, which
15 means 38 million square feet of available office space.
16 That's compared to, just to bring it home, Bergen County
17 has a total of 26 million square feet, so more than the
18 equivalent of one county is currently available.

19 Q That's 26 million square feet of vacant
20 space. Correct?

21 A Well, it's 38 million in total, yes.

22 Q Yeah --

23 A I'm saying Bergen County's entire inventory is 26
24 million.

25 Q I'm sorry. In which 19 percent is vacant?

1 A 19.6, yes.

2 Q Okay.

3 A So far this year we've had 1.8 million square feet
4 of negative net absorption and since 2004, 19 and a half
5 million square feet of negative absorption. So over the
6 past 17 years, there's only been six years of positive
7 absorption in northern New Jersey.

8 Q Just explain what that means, negative
9 absorption, positive absorption. Those are industry
10 terms?

11 A Right. Negative absorption simply means that less
12 space was occupied at the end of the year than was
13 occupied at the beginning of the year. So we've lost
14 tenancy; we've lost occupancy.

15 As a general statement, New Jersey, we've lost a
16 lot of corporate tenants and the office market has been
17 in a bit of a tailspin. We have a very highly educated
18 labor pool. We have proximity of Manhattan. Excellent
19 school systems. However, the high cost of living,
20 housing, high real estate, income, state taxes has forced
21 executives to move their companies out of the state over
22 the past two decades.

23 Q Can you give the board as an example as to
24 some of the corporate campuses that are on the market or
25 are downsizing?

1 A Sure.

2 And it's gotten worse during the pandemic. So
3 just since the pandemic has started: CIGNA. Express
4 Scripts is moving out of Franklin Lakes, 600,000 square
5 feet. Pfizer out of Peapack Gladstone for a half million
6 square feet. America in Kenilworth, 2 million.
7 Prudential has put their campus on the market in
8 Roseland, 600,000 feet. Celgene in Summit, 600,000 feet.
9 Novartis in East Hanover has put a portion of their
10 campus, about 800,000 square feet. Nokia nearly 2
11 million square feet.

12 Q What about the Woodcliff Lake, Montvale,
13 Park Ridge market?

14 A So over -- well, East Side Pharmaceutical is the
15 biggest one most recently. But Sony, Teva, Hertz,
16 Winebow, Mercedes, Par Pharmaceutical, Sprout Foods,
17 China Shipping, they've all moved out of the market over
18 the last several years.

19 Q Okay. What have you found to be the
20 effect of the pandemic, COVID, and the office building
21 market?

22 A So, initially, the feeling was that folks fleeing
23 to the suburbs from New York City and you're seeing
24 what's happening in the residential market and companies
25 contemplating sort of a hub and spoke model. We thought

1 that the northern New Jersey office market would benefit
2 greatly, but so far that has not been the case.

3 Post COVID, as we're unwinding COVID, work from
4 home strategies and hoteling seem to be lowering the
5 amount of office space that companies are going to need
6 in the future and while many still have leases in place,
7 they've literally put millions of square feet of space on
8 the market for sublet. So, currently, there's six and a
9 half million square feet on the market for sublet. As an
10 example, during the pandemic, Dun & Bradstreet, which has
11 their world headquarters in Short Hills, they had 193,000
12 square feet prior to COVID, they've put all but 35,000
13 square feet on the market for sublet. Again, they can
14 shrink from 193 to 35,000 square feet.

15 Q And do you find that what is occurring
16 with Dun & Bradstreet in Short Hills is an example of
17 what's occurring elsewhere, including the Woodcliff Lake,
18 Park Ridge, Montvale market?

19 MR. PRINCIOTTO: I object. I mean, that's
20 a net opinion --

21 MR. KAUFMAN: It's what he's finding on
22 the market. It's not an opinion at all. It's a
23 question of fact.

24 MR. PRINCIOTTO: Well, there has to be
25 facts to base an opinion on.

1 MR. KAUFMAN: I asked him if he found it
2 as a fact that the experience of Dun & Bradstreet
3 in Short Hills is replicated in Montvale,
4 Woodcliff Lake, and Park Ridge. That's fact, not
5 opinion.

6 MR. PRINCIOTTO: That's absolutely
7 opinion. He has to have some facts.

8 MR. KAUFMAN: You know what, Mr.
9 Princiotto, I'm going to appreciate you're not
10 interrupting me and letting me ask my witness my
11 questions.

12 MR. PRINCIOTTO: Well --

13 MR. KAUFMAN: You can disregard the answer
14 later on, but I have a right to make a record.

15 MR. PRINCIOTTO: Well, I note my
16 objection.

17 MR. KAUFMAN: You can't prevent him from
18 answering a question because you think it's an
19 improper question. It's absolutely -- I asked him
20 as a fact if Dun & Bradstreet's experience in
21 Short Hills is replicated in the Montvale,
22 Woodcliff Lake, Park Ridge market. That's a
23 factual question, not an opinion.

24 MR. PRINCIOTTO: It's a net opinion. All
25 right.

1 Q Please answer the question, Mr. Bernhaut.

2 A It is happening in every market and all over the
3 state, companies are shrinking back and not utilizing as
4 much office space. The hope is that after the pandemic
5 it reverses, but so far it looks like companies have a
6 certain portion of their workforce working remotely,
7 working from home and hotel.

8 Q Now, you took a look at and you made some
9 notes on, I believe, on recent tenants that have left the
10 area. Could you just tell the board who those tenants
11 are. Some of this is going to be duplicated of your
12 prior testimony, but they should hear it.

13 A Yeah, so we just discussed, East Side
14 Pharmaceuticals, Sony, Hertz. Previous to that, Teva and
15 Par Pharmaceuticals recently sold the Winebow building to
16 KPMG. They moved out. Obviously, Mercedes moved to
17 Atlanta. Sprout Foods, China Shipping.

18 According to our research at Cushman & Wakefield,
19 corporate employers basically are having problem
20 accessing millennial talent and the lack of convenient
21 mass transit has really led to a corporate flight from
22 the submarket and it's actually statistics, which are
23 factual, Montvale, Woodcliff Lake, Park Ridge is part of
24 this Bergen County/Route 17/Garden State Parkway North
25 submarket. It's a total 7 million square feet. It has a

1 Class A vacancy rate of 41.2 percent and an overall
2 vacancy rate of 26.8 percent. Both are the highest
3 vacancy rates in the State of New Jersey.

4 Q Mr. Bernhaut, did you have an opportunity
5 to inspect 188 Broadway?

6 A I did.

7 Q Okay. And could you tell the board what
8 your thoughts are with respect to its utilization as an
9 office building?

10 MR. PRINCIOTTO: Are you talking about the
11 structure or are you talking about --

12 MR. KAUFMAN: Mr. Princiotto, let him
13 answer the question. He understands the question.

14 A My expertise would be how you would lease a
15 building and what its value would be and how it competes
16 within the market today.

17 So I did tour the property. Its configuration is
18 very inefficient for multi-tenant use. So it could work
19 for 20,000 square foot tenants, the problem is that
20 there's very few 10 to 20,000 square foot tenants that
21 are going to be choosing this location.

22 Currently, there's 17 units available in the
23 submarket in the 10 to 20,000 square foot range. They've
24 already been on the market for an average 41 months and
25 some of the units have been on the market for as long as

1 8 to 14 years. The property is, if you look at it from a
2 competitive perspective, it's too far from the highway.
3 Obviously, you have the, right off the Garden State
4 Parkway between Exits 171 and 172 is where the majority
5 of the office space is. The building has no amenities,
6 yet. The Chestnut Ridge Road/Tice Boulevard we'll call
7 it submarket has Tice's Corners, Lifetime Fitness,
8 Wegmans, Whole Foods is coming. So those are the
9 amenitized area where tenants want to be.

10 The real issues from a utilization and investment
11 sales perspective is that a Class B building such as
12 this, just to give an example, 25 Philips Parkway has an
13 asking rent of \$19 a foot. So that means they're likely
14 to make a deal at about 17.50. That's a gross rent and
15 they'd have to spend \$25 in work plus commissions in
16 order to get a tenant in there and if you amortize those
17 costs and then subtract \$8.50 for real estate taxes and
18 operating expenses, an investor would be left with less
19 than \$3 a square foot in cash flow before rent and debt
20 service.

21 So what's happening throughout the state and all
22 those big corporate campuses I mentioned before, a
23 majority of them are being torn down for industrial and
24 residential use rather than repurposing and spending the
25 money to reutilize them as office space.

1 Q Mr. Bernhaut, with the cash flow that you
2 just stated, would the building be -- you also stated
3 you're involved in financing office buildings --

4 A Yes.

5 Q -- for your clients. As an office
6 building would this building be financeable with an
7 institutional lender?

8 A Not at current occupancy. You would have to go to
9 a debt fund or what we call high octane capital.

10 MR. KAUFMAN: Thank you. I have no
11 further questions at this time.

12 MR. PRINCIOTTO: Any board members have
13 any questions?

14 VICE CHAIRMAN HAYES: I have a question.

15 So Dun & Bradstreet and Hertz, among other
16 businesses, were both just mentioned or alluded to
17 as examples of a decline in leasable, rentable,
18 saleable office space. You also noted a lack of
19 sufficient transportation or lack of millennial
20 talent as large reasons for why these businesses
21 have left the area. Are there other factors,
22 other significant factors that can help explain
23 this that are not transportation or talent
24 related, such as M & A activity or bankruptcy
25 events? You know, Dun & Bradstreet and Hertz in

1 particular, Dun & Bradstreet was acquired by a
2 private equity. The firm laid a ton of people
3 off. They're obviously going to need less space
4 as a private equity firm, typically, but not
5 always, would look to come in and shed costs and
6 downsize or Hertz, I believe, had a bankruptcy
7 event around the time that it left Park Ridge.

8 MR. BERNHAUT: It was well after.

9 VICE CHAIRMAN HAYES: After. Okay.

10 MR. BERNHAUT: But, you know, East Side
11 Pharmaceutical would be a perfect example because
12 they actually didn't downsize, they just moved to
13 Route 3 to be closer to -- it was a mixed use
14 environment that's being built for them, the old
15 Hoffmann LaRoche campus and they wanted to be
16 closer to Manhattan and to mass transit.

17 VICE CHAIRMAN HAYES: I'm not saying it's
18 all one or the other. I guess my point is, is
19 it's not all M & A activity or not all lack of
20 transportation, it's really a mixed bag of a
21 number of reasons is I guess what my question was
22 getting at.

23 MR. BERNHAUT: Correct. Someone like
24 Mercedes, they moved entirely out of the state
25 because it's just an expensive place to do

1 business.

2 VICE CHAIRMAN HAYES: Yeah, I think there
3 were a significant amount of benefits or
4 incentives for them to move to, where did they go,
5 down to Georgia, right, Atlanta, Georgia.

6 CHAIRWOMAN MALLEY: You mentioned a lot of
7 people moving out of state, out of the area. Did
8 you neglect to mention or are there no companies
9 that moved in? I'm under the impression that
10 Montvale gained a few.

11 MR. BERNHAUT: Sure.

12 CHAIRWOMAN MALLEY: You didn't mention any
13 of those.

14 MR. BERNHAUT: So you gained Memorial
15 Sloan Kettering was the largest. We sold that
16 building previously. Obviously, that was for
17 medical use.

18 Liberty Travel relocated into 5 Paragon.

19 Pentax has grown a bit.

20 Promotion In Motion was probably one of
21 the better deals going back to the Hertz building,
22 but it's not -- obviously, there's been a lot more
23 losses than gains and that's why the vacancy
24 rate's so high.

25 CHAIRWOMAN MALLEY: But we have to

1 remember that companies did come in and this
2 property is by the railroad station, so that
3 people could commute to this location. It's just
4 that it's been also very neglected over the past
5 several years.

6 MR. BERNHAUT: Yes, it's generally not the
7 type of location that people would be taking a
8 train to. It's more to have accessibility to New
9 York for a business meeting or something. That
10 would be more of the draw.

11 CHAIRWOMAN MALLEY: You're not seeing
12 people looking for smaller offices or maybe that's
13 not the clientele that you work with looking for
14 smaller offices to rent closer to home these days?
15 You're dealing with the capital markets, the
16 bigger clients.

17 MR. BERNHAUT: But the co-working space,
18 there's a lot more groups opening up space for
19 individuals to provide kind of one stop shopping
20 for, if you don't want to work from home to go to
21 an office. It's just not absorbing enough space.
22 But there are some groups that have actually grown
23 during the pandemic.

24 CHAIRWOMAN MALLEY: I mean, I'm hearing a
25 lot more about people looking for, I hate to say,

1 but 500 and 600-square feet offices. Break up a
2 building into little spaces and they'll fill it up
3 because that's what people are looking for is just
4 an office to get out of house.

5 MR. BERNHAUT: Right. But the problem
6 when you start to break office buildings for that
7 size, it's incredibly expensive and then it's
8 really a question of if you can do it in one or
9 two years and make money. If it takes five or six
10 years, lease up, you hand the keys back.

11 CHAIRWOMAN MALLEY: But it's a possibility
12 it's something that could get a space leased.

13 Anyone else have any questions?

14 MR. PRINCIOTTO: Did you get an answer to
15 the question?

16 BOARD MEMBER HEMBREE: I just want to
17 bring up --

18 MR. PRINCIOTTO: Ms. Hembree, before you
19 ask your question, I think Chairwoman Malley had a
20 question. I'm not sure that the witness answered
21 it.

22 MR. BERNHAUT: The answer is anything can
23 happen. You're more likely to be a successful on
24 Summit Avenue, Chestnut Ridge Road, more
25 amenitized areas than 188 Broadway.

1 BOARD MEMBER HEMBREE: There was no public
2 transportation there. There's no public
3 transportation up there.

4 MR. BERNHAUT: Up where?

5 BOARD MEMBER HEMBREE: On Chestnut Ridge
6 Road, Spring Valley Road.

7 MR. BERNHAUT: There's amenities that
8 people want.

9 BOARD MEMBER HEMBREE: But there's no
10 public transportation.

11 MR. BERNHAUT: Right. If you're opening a
12 500-square foot office, you're not taking a train
13 from northern New Jersey.

14 BOARD MEMBER HEMBREE: Or a bus, right.

15 MR. BERNHAUT: Or a bus to that location.

16 BOARD MEMBER HEMBREE: Correct.

17 CHAIRWOMAN MALLEY: Ms. Hembree, are you
18 going to ask another question?

19 BOARD MEMBER HEMBREE: I was going to
20 state that I've been reading over the last couple
21 of weeks and months perhaps that the attitude of
22 economists is changing and the business community
23 is changing, that people who work from home are
24 much more productive when they get together with
25 their fellow workers and so that only working from

1 home is not going to be a good way to do business.
2 So they're going to need places for those people
3 to do their business, not at home.

4 MR. KAUFMAN: Madam Chairperson, I have to
5 object to this. Ms. Hembree is giving her
6 opinions on the record. She's not a witness. She
7 should be listening to the testimony. She has to
8 make her decision based upon the testimony, not
9 based upon her opinions or what she reads in the
10 paper.

11 You know, this is -- it's far afield.
12 It's not appropriate. It's not the right way to
13 do it.

14 BOARD MEMBER HEMBREE: Mr. Kaufman, it's a
15 new idea and I wanted to know if he was aware of
16 this new idea. It's not an opinion of mine. I'm
17 reading about it. It's a question that I will ask
18 him.

19 MR. KAUFMAN: Please ask him a question
20 then instead of a statement.

21 BOARD MEMBER HEMBREE: I asked him a
22 question. I said is he aware of this new concept.

23 MR. BERNHAUT: Of course.

24 BOARD MEMBER HEMBREE: That's being talked
25 about.

1 MR. BERNHAUT: Of course. And we're very
2 hopeful that people get back to the office, but
3 keep in mind they already had the office space
4 before the pandemic so it's not likely to result
5 -- we're hoping they just go back into the office
6 and utilize the office space they have. It's not
7 going to result in additional office space because
8 they're already in the office.

9 BOARD MEMBER HEMBREE: I'm just suggesting
10 that it may be a change in the way we are
11 employing people and we do business, that's all.
12 And it's not only from home.

13 CHAIRWOMAN MALLEY: Do we have any other
14 questions for this witness or can we move on?

15 MR. PRINCIOTTO: I have questions, but
16 I'll defer to the board members first. Okay.

17 BOARD MEMBER KAUFMAN: Mr. Bernhaut, just
18 one quick question. You had talked before, the
19 rate of return, investments, and, you know, my
20 background is commercial real estate in New York
21 City office leasing for 25 years, so you're in a
22 different playground than I but we all kind of
23 look at things, you know, similar numbers.

24 I understand the scenario \$17 and free
25 rent and, you know, basically what it throws off

1 for an investment, but that's for a pure
2 investment. It's not an owner/occupied scenario.
3 Correct? So if someone --

4 MR. BERNHAUT: Correct.

5 BOARD MEMBER KAUFMAN: There's not as
6 many, but that building could work as an
7 owner/occupied and then investment numbers look
8 completely different.

9 MR. BERNHAUT: Correct. A user would look
10 at a different set of numbers, because they don't
11 have the down time and negative carry.

12 BOARD MEMBER KAUFMAN: Sure. Thank you.

13 CHAIRWOMAN MALLEY: Sal.

14 MR. PRINCIOTTO: Yes, okay.

15 You mentioned a lack of millennial talent
16 in the area. Is that part of your testimony?

17 MR. BERNHAUT: That is.

18 MR. PRINCIOTTO: Okay. Are you aware of
19 any trends of millennials moving from Manhattan,
20 Brooklyn, Hoboken to the suburbs because of the
21 pandemic?

22 MR. BERNHAUT: Of course. I mentioned
23 suburban flight, yes.

24 MR. PRINCIOTTO: So there's now becoming
25 an influx of millennial talent in the suburbs.

1 Isn't that right?

2 MR. BERNHAUT: There are more people
3 moving to the suburbs, correct.

4 MR. PRINCIOTTO: And we don't know the
5 full ramifications of the pandemic at this point,
6 do we, in terms of the commercial real estate
7 market in particular office buildings?

8 MR. BERNHAUT: We do not. We know what
9 the current statistics are.

10 MR. PRINCIOTTO: Okay. And were you asked
11 to sell this building?

12 MR. BERNHAUT: I was not.

13 MR. PRINCIOTTO: Pardon me?

14 MR. BERNHAUT: I was not.

15 MR. PRINCIOTTO: Were you asked to lease
16 this building?

17 MR. BERNHAUT: My area expertise is
18 capital markets.

19 MR. PRINCIOTTO: But that's not my
20 question. Were you asked to lease this building?

21 MR. BERNHAUT: No.

22 MR. PRINCIOTTO: Okay. Do you know if
23 anyone else was asked to sell this building or
24 lease this building?

25 MR. BERNHAUT: Personally, I do not.

1 MR. PRINCIOTTO: Now, you're in the
2 business of selling buildings. Correct?

3 MR. BERNHAUT: Correct.

4 MR. PRINCIOTTO: Office buildings in
5 particular. Correct?

6 MR. BERNHAUT: Correct.

7 MR. PRINCIOTTO: And some of those are
8 being sold for office use. Isn't that correct?

9 MR. BERNHAUT: Sure.

10 MR. PRINCIOTTO: Now, did you consult with
11 or read or use any studies prior to your testimony
12 here today?

13 MR. BERNHAUT: I've read materials and I
14 toured the building.

15 MR. PRINCIOTTO: Okay. What materials did
16 you read?

17 MR. BERNHAUT: I was provided the previous
18 testimony. A document of the zoning board of
19 adjustment and the architectural review.

20 MR. PRINCIOTTO: So you read testimony
21 from the prior application?

22 MR. BERNHAUT: Correct.

23 MR. PRINCIOTTO: Okay. Did you read the
24 testimony of Mr. Oppler?

25 MR. BERNHAUT: I did not. No. No.

1 MR. PRINCIOTTO: Did anyone tell you that
2 Mr. Oppler testified at the prior hearing that he
3 could lease the building?

4 MR. BERNHAUT: No. With what kind of
5 investment into the property?

6 MR. KAUFMAN: Wait --

7 MR. BERNHAUT: It's absolutely not
8 leasable.

9 MR. KAUFMAN: Wait a second, Mr. Bernhaut.

10 If you want to use Mr. Oppler's testimony
11 to impeach Mr. Bernhaut, that's about the only
12 relevance that I can see. But he's already
13 testified that he didn't read it so you're now
14 going to characterize it and you're going to ask
15 him questions based on your characterization of
16 this testimony and that's not fair or proper.

17 His testimony was also two years ago, so
18 Mr. Bernhaut's testimony is as of the market
19 today. I don't think this is a fair line of
20 questioning.

21 MR. PRINCIOTTO: Well, that's your
22 opinion.

23 MR. KAUFMAN: Yes, it is my opinion.

24 MR. PRINCIOTTO: Okay. Now, is it your
25 business to lease buildings such as 188 Broadway?

1 MR. BERNHAUT: It is not. It is my
2 business to evaluate them.

3 MR. KAUFMAN: Let me ask you a question,
4 Mr. Princiotto. When you say you, do you mean him
5 or do you mean Cushman & Wakefield or his team?

6 MR. PRINCIOTTO: I mean him.

7 MR. KAUFMAN: Him personally?

8 MR. PRINCIOTTO: Yeah, yes.

9 MR. KAUFMAN: Okay.

10 MR. PRINCIOTTO: Is that what you
11 currently do? Do you lease office buildings such
12 as 188 Broadway?

13 MR. BERNHAUT: I think we've determined
14 that already, I do not.

15 MR. PRINCIOTTO: Okay. Now, you mentioned
16 a number of buildings and you mentioned the Teva
17 building in Woodcliff Lake. Do you know what
18 happened with that building?

19 MR. BERNHAUT: Yes, of course I know.

20 MR. PRINCIOTTO: What happened with that
21 building? Tell us.

22 MR. BERNHAUT: Kettering came in. We
23 already discussed that.

24 MR. PRINCIOTTO: And there was another
25 building I believe that changed hands. It was a

1 drug company. It might have been Par
2 Pharmaceuticals. You didn't mention that one.
3 Are you aware of that sale?

4 MR. BERNHAUT: Which building is that? I
5 believe they were all at the same building and
6 they were acquired -- Par was acquire by Teva and
7 they moved out.

8 MR. PRINCIOTTO: Are you familiar with a
9 company PDMI (sic)?

10 MR. BERNHAUT: PDI.

11 MR. PRINCIOTTO: PDI, excuse me. Did they
12 locate or relocate in Woodcliff Lake?

13 MR. BERNHAUT: Yeah, they came from Saddle
14 River.

15 MR. PRINCIOTTO: Pardon me?

16 MR. BERNHAUT: They downsized coming from
17 Saddle River, correct.

18 MR. PRINCIOTTO: And they moved to
19 Woodcliff Lake. Correct?

20 MR. BERNHAUT: Um hm.

21 MR. PRINCIOTTO: In an office building.
22 Correct?

23 MR. BERNHAUT: Yep.

24 MR. PRINCIOTTO: What year was that?

25 MR. BERNHAUT: About three or four years

1 ago.

2 MR. PRINCIOTTO: And have any office
3 buildings been torn down in Woodcliff Lake in the
4 past three years that you're aware of?

5 MR. BERNHAUT: In the submarket,
6 certainly. Mercedes Benz. I guess that was
7 Montvale.

8 MR. PRINCIOTTO: I'm asking in Woodcliff
9 Lake. My question's in Woodcliff Lake. Have any
10 buildings been torn down in Woodcliff Lake in the
11 last three years?

12 MR. BERNHAUT: Not -- you can tell me.

13 MR. PRINCIOTTO: I'm not testifying. Are
14 you aware of any?

15 MR. BERNHAUT: I'm not aware.

16 MR. PRINCIOTTO: Now, you stated that this
17 building, 188 Broadway, is a Class B building?

18 MR. BERNHAUT: Probably closer to Class C,
19 but...

20 MR. PRINCIOTTO: Okay. Can you give us a
21 definition of a Class B building and a Class C
22 building? If you want, you can start with a Class
23 A building.

24 MR. BERNHAUT: Sure.

25 Class A buildings are modern. They have a

1 new infrastructure and they have everything from
2 cafeteria, gyms, and something that a corporate
3 tenant would be inclined to go to.

4 Then it goes down from there just in terms
5 of quality, age, infrastructure, mechanical
6 systems, lobbies.

7 MR. KAUFMAN: Just for the record, Mr.
8 Princiotto, I'm not objecting. You asked him for
9 his opinion. This is an opinion, not a fact
10 question. But I'm not objecting to the fact that
11 you asked him for his opinion, so thank you.

12 MR. PRINCIOTTO: No, I'm asking for a
13 definition. Okay.

14 MR. KAUFMAN: In his opinion. That's not
15 a fact, that's an opinion.

16 MR. PRINCIOTTO: Oh, well, I would
17 think --

18 MR. KAUFMAN: In his opinion, what's the
19 definition of a Class A, a Class B, whatever. But
20 that's okay. That's what it is. It's his
21 opinion.

22 MR. PRINCIOTTO: Well, I think that these
23 are perhaps industry standards that someone in the
24 real estate business would know about and would
25 know the difference. But maybe I'm wrong. Okay.

1 I'll ask the witness.

2 Mr. Bernhaut, is there an accepted
3 definition of a Class A building in your field of
4 work?

5 MR. BERNHAUT: There are attributes of
6 Class A buildings. There is no one definition.
7 Same thing for a Class B.

8 MR. PRINCIOTTO: So your categorization of
9 Class A and B and C, is that just your opinion or
10 is that an industry wide accepted opinion?

11 MR. BERNHAUT: That would be industry
12 wide.

13 MR. PRINCIOTTO: Okay. So you're using an
14 industry standard when you're classifying these
15 buildings. Is that right?

16 MR. BERNHAUT: Correct.

17 MR. PRINCIOTTO: And you classify the
18 building at 188 Broadway as a Class B or a Class C
19 building?

20 MR. BERNHAUT: Yes.

21 MR. PRINCIOTTO: Okay. And do you know
22 when this building was purchased?

23 MR. BERNHAUT: I do not.

24 MR. PRINCIOTTO: And do you think the
25 classification of that building has changed over

1 the last three years?

2 MR. BERNHAUT: Not likely.

3 MR. PRINCIOTTO: So that when the
4 purchaser of that property bought it, they knew
5 they were buying a Class B or a Class C building.
6 Isn't that right?

7 MR. BERNHAUT: Correct.

8 MR. PRINCIOTTO: Now, you mentioned a
9 vacancy rate and I'd like to get some
10 clarification on what time periods that you're
11 referring to. And I believe, and correct me if
12 I'm wrong, that you referred to a 19.6 vacancy
13 rate?

14 MR. BERNHAUT: Correct. All the vacancy
15 rates that I gave you were as of the end of the
16 first quarter 2021.

17 MR. PRINCIOTTO: So these vacancy rates
18 are at a period of time during the current
19 pandemic. Isn't that right?

20 MR. BERNHAUT: Correct. But the one thing
21 that you find about vacancy rates is because
22 corporations, unlike residents, sign long-term
23 leases. The vacancy rates haven't changed much,
24 what has changed is the amount of sublet space
25 that companies have put on the market during the

1 pandemic.

2 MR. PRINCIOTTO: So did you consult or are
3 you aware of any studies that have forecast what
4 will happen post pandemic?

5 MR. BERNHAUT: No, they would just be
6 forecasts. Nobody really knows.

7 MR. PRINCIOTTO: Now, you mentioned a
8 number of prominent corporations that have moved
9 out of the area including Mercedes Benz and Hertz
10 and Sony and some others and some of those uses
11 are being changed. Isn't that correct?

12 MR. BERNHAUT: Correct. Sony's been torn
13 down. I guess Mercedes has been too.

14 MR. PRINCIOTTO: And isn't supply and
15 demand a feature of the market?

16 MR. BERNHAUT: It is.

17 MR. PRINCIOTTO: So the supply of office
18 buildings has actually gone down because these
19 buildings are no longer there. Correct?

20 MR. BERNHAUT: Correct. But
21 statistically, so that's theoretically.
22 Statistically, what's happening --

23 MR. PRINCIOTTO: That's not --

24 MR. BERNHAUT: No, no, major corporations
25 whose space has not been included in inventory

1 because they were purpose built, as an example
2 BMW. That does not exist anywhere in the
3 statistics because it's owned and occupied by a
4 corporation. So now there's millions of square
5 feet that corporations are putting on the market
6 for the first time ever and that's actually
7 increasing.

8 MR. PRINCIOTTO: Well, BMW is not on the
9 market for lease.

10 MR. BERNHAUT: No, I'm using that as an
11 example of space that's not in inventory, because
12 it's never been available.

13 MR. PRINCIOTTO: So you gave the vacancy
14 rate for the first quarter of 2021.

15 MR. BERNHAUT: Correct.

16 MR. PRINCIOTTO: If we go back
17 pre-pandemic, what was the vacancy rate? Let's
18 say we go back to 2019, what was the vacancy rate?

19 MR. BERNHAUT: It's been 18 to 19 percent
20 the last three or four years.

21 MR. PRINCIOTTO: Okay. And when you gave
22 that quoted vacancy rate from what, I believe you
23 mentioned North Jersey area, but I thought you
24 mentioned also from Princeton, which I wouldn't
25 consider North Jersey area. But, specifically,

1 what area are you talking about with that
2 19 percent vacancy rate?

3 MR. BERNHAUT: So northern New Jersey is
4 from Princeton north. The rest is considered
5 southern New Jersey. That's 195 million square
6 feet. So that has a 19.6 percent vacancy rate.
7 If you chop northern New Jersey in half to central
8 and northern New Jersey, the vacancy rate in
9 northern New Jersey is actually higher.

10 MR. PRINCIOTTO: Just so we're clear, the
11 vacancy rate that you used was from Princeton
12 north?

13 MR. BERNHAUT: Correct.

14 MR. PRINCIOTTO: Okay.

15 MR. BERNHAUT: And then I also gave you a
16 vacancy rate for the submarket as Cushman &
17 Wakefield clients.

18 MR. PRINCIOTTO: And by *submarket*, you
19 mean subleasing the property?

20 MR. BERNHAUT: No, meaning if you take a
21 portion of Bergen County: Montvale, Woodcliff
22 Lake, Park Ridge and then from Saddle River to
23 Mahwah, that's considered a Cushman & Wakefield,
24 the Bergen County north, Route 17, Garden State
25 Parkway submarket. That's a subset of 7 million

1 square feet and that's what has a much higher
2 vacancy rate.

3 MR. PRINCIOTTO: So, now, being that Hertz
4 and Sony and Mercedes Benz have vacated and I
5 believe you indicated that those buildings were
6 torn down, they don't factor into the vacancy rate
7 anymore, do they or did they?

8 MR. BERNHAUT: That is correct. Hertz
9 does because it's only half. It's 40 something
10 percent occupied.

11 MR. PRINCIOTTO: Now, tell me the
12 buildings that you have sold in Woodcliff Lake and
13 Montvale and Park Ridge for office use that's
14 being used as office space in the last few years.

15 MR. BERNHAUT: So all the ones that I
16 mentioned are still being utilized as office
17 space.

18 MR. PRINCIOTTO: Okay. I know you
19 mentioned you sold 50 Tice. Correct?

20 MR. BERNHAUT: Um hm.

21 MR. PRINCIOTTO: In the last three years?

22 MR. BERNHAUT: Correct.

23 MR. PRINCIOTTO: It's being used as an
24 office building. Correct?

25 MR. BERNHAUT: Correct.

1 MR. PRINCIOTTO: What other buildings in
2 Woodcliff Lake?

3 MR. BERNHAUT: 300 Tice.

4 MR. PRINCIOTTO: In the last three years
5 and being used as office use?

6 MR. BERNHAUT: Correct.

7 MR. PRINCIOTTO: Okay. What else?

8 MR. BERNHAUT: 155 Tice, but East Side
9 Pharmaceutical is moving out of that one.

10 MR. PRINCIOTTO: Is it for sale?

11 MR. BERNHAUT: No, we sold it. We sold it
12 a year and a half ago.

13 MR. PRINCIOTTO: For office use?

14 MR. BERNHAUT: For office use, correct.

15 MR. PRINCIOTTO: Any other buildings that
16 you sold in Woodcliff Lake for office use in the
17 last three years?

18 MR. BERNHAUT: No, not in Woodcliff Lake.

19 75 Chestnut Ridge Road was a recent one,
20 the Winebow building, which we sold to KPMG.

21 MR. PRINCIOTTO: Is that Woodcliff Lake or
22 Montvale?

23 MR. BERNHAUT: That is in Montvale.

24 MR. PRINCIOTTO: Also, in the last three
25 years?

1 MR. BERNHAUT: Correct.

2 MR. PRINCIOTTO: Other than 188 Broadway,
3 are you aware of any vacant office buildings in
4 Woodcliff Lake?

5 MR. BERNHAUT: Well, we know that 155 Tice
6 and 50 -- I'm sorry -- 100 Tice will be vacant by
7 the third or fourth quarter of this year, fully
8 vacant.

9 MR. PRINCIOTTO: Are they for sale?

10 MR. BERNHAUT: They're not for sale, no.

11 MR. PRINCIOTTO: What do you base your
12 testimony on that they will be vacant? How do you
13 know that?

14 MR. BERNHAUT: East Side Pharmaceutical
15 just signed a 300,000-square foot lease.

16 MR. PRINCIOTTO: Oh, that's right. You
17 testified about that. Okay. They're moving you
18 said to Clifton, the Hoffmann LaRoche building.

19 MR. BERNHAUT: Yeah, Nutley. I think it's
20 actually Nutley.

21 MR. PRINCIOTTO: Okay. But they're not
22 yet for sale. Is that right?

23 MR. BERNHAUT: Well, 155 Tice actually has
24 at least six years of remaining lease terms, so it
25 will still be cash flowing. 100 Tice won't be.

1 MR. PRINCIOTTO: Are you aware of any
2 office buildings for sale in Woodcliff Lake at the
3 present time?

4 MR. BERNHAUT: No.

5 MR. PRINCIOTTO: Now, were you provided
6 with any appraisals for the property at 188
7 Broadway?

8 MR. BERNHAUT: I was not.

9 MR. PRINCIOTTO: Did anyone ever tell you
10 that the appraisals for the property indicated
11 that the highest and best use for that property
12 was as an office building?

13 MR. BERNHAUT: No.

14 MR. PRINCIOTTO: I don't know if I asked
15 you this before. Did you ever determine a vacancy
16 rate for office buildings in Woodcliff Lake?

17 MR. BERNHAUT: Not specifically Woodcliff
18 Lake. Market research gave me the submarket.
19 It's generally not considered Woodcliff Lake.
20 It's considered Montvale, Woodcliff Lake, Park
21 Ridge.

22 MR. PRINCIOTTO: All right. Specifically
23 tell me what the submarket is that you're
24 referring to. How it encompasses Woodcliff Lake.

25 MR. BERNHAUT: Well, the Cushman &

1 Wakefield statistics is a little broader. It
2 includes Montvale, Woodcliff Lake, Park Ridge and
3 then on Route 17, Saddle River to Mahwah.

4 MR. PRINCIOTTO: Have you ever heard of
5 any for cash or predictions that there would be a
6 demand for increased office space due to
7 distancing requirements or preferences?

8 MR. BERNHAUT: When we sell office
9 buildings, we try to promote that. We have not
10 seen that be the case here.

11 MR. PRINCIOTTO: So you are promoting
12 larger office space so that there can be increased
13 social distancing or distancing between employees.
14 Is that correct?

15 MR. BERNHAUT: That was the original
16 thought early on in the pandemic, but now that
17 enough people are vaccinated, most companies are
18 saying as long as you're vaccinated, you don't
19 have to socially distance.

20 MR. PRINCIOTTO: Were you aware of what
21 the current owner paid for the building at 188
22 Broadway?

23 MR. BERNHAUT: No.

24 MR. PRINCIOTTO: I might have asked you
25 this before, so forgive me if I asked you this.

1 Were you aware of what the tenant mix was at 188
2 Broadway before it was purchased by the current
3 owner?

4 MR. KAUFMAN: I'll let him answer the
5 question, but it really, it's not relevant to his
6 testimony. It's not relevant to the case what the
7 tenant mix was several years ago. He can answer
8 it if he knows, but it's not relevant and we're
9 going far afield.

10 MR. PRINCIOTTO: Well, I think he said
11 that the building was not usable I think for
12 multiple tenants the way it was configured.

13 MR. KAUFMAN: That's fine. He can answer
14 the question.

15 MR. BERNHAUT: No, I was only aware when I
16 toured the property that it had been converted or
17 was being utilized for single tenants.

18 MR. PRINCIOTTO: For a single tenant.

19 MR. BERNHAUT: And, for the record, I
20 didn't say it couldn't be used. It would be very
21 expensive and inefficient to divide for multiple
22 small tenants and my concern was in trying to
23 lease the larger tenants and looking at the
24 statistics, there's a lot of that inventory, 10 to
25 20,000-square foot units available for as much as

1 8 to 14 years in the market.

2 MR. PRINCIOTTO: Well, did you perform any
3 cost analysis in terms of what it would cost to
4 retrofit that building or to make it usable as a
5 multiple tenant building.

6 MR. BERNHAUT: I did not. But we
7 certainly, after selling billions of dollars worth
8 of real estate, we know what it typically cost and
9 what investors pro forma for renovated buildings.

10 MR. PRINCIOTTO: You're talking about
11 large investors, big companies. Right?

12 MR. BERNHAUT: No, we sell to very small
13 individuals. We have middle markets team that
14 sells 2 to \$10 million assets and then we sell up
15 to billion dollar assets.

16 MR. PRINCIOTTO: Can 188 Broadway be used
17 as an office building.

18 MR. BERNHAUT: Can it be used? Any
19 building can be used as an office building with
20 the right amount of...

21 MR. PRINCIOTTO: I have no further
22 questions.

23 Thank you.

24 VICE CHAIRMAN HAYES: Motion to open to
25 the public.

1 Can we get a second?

2 BOARD MEMBER HEMBREE: Second.

3 MS. SMITH: All in favor.

4 Any opposed?

5 Mr. Princiotto, do you want me to give the
6 phone number for those on the telephone and then
7 I'll look to the attendees on Zoom?

8 MR. PRINCIIOTTO: Yes, Meg. Thank you.

9 MS. SMITH: Okay. Any members of the
10 public watching on television may call in using
11 the phone number (201) 391-4977 Extension 203.
12 Those calls can only be taken one at a time. So
13 if it's busy, please call back.

14 Currently, I have three attendees raising
15 their hands. I'll just give the televised public
16 a few minutes to call in and then we'll go to the
17 attendees raising their hand.

18 MR. PRINCIIOTTO: Okay. And before you do
19 that, for anyone that's raising their hand or
20 who's going to call in, we are opening to the
21 public for questions of this witness only based
22 upon his testimony. It's not a comment
23 opportunity. It's questions for the witness, Mr.
24 Bernhaut.

25 MS. SMITH: I have a call. I'm going to

1 put them on speaker.

2 Okay. You may address the zoning board.

3 WOMAN'S VOICE: This is (inaudible) my hand
4 was raised. That's why I'm calling in. I was not
5 able to get in with my hand raised many times.
6 That's why I'm calling in on phone. I called
7 before Mr. Princiotto said the only person you can
8 ask questions of --

9 MS. SMITH: Is this witness. Correct.
10 This witness only.

11 WOMAN'S VOICE: So, Mr. Princiotto, are we
12 going to be able to ask questions of Mr. Kaufman?

13 MR. PRINCIIOTTO: If he testifies. He
14 hasn't testified yet. He has to take an oath if
15 he wants to testify. Right now we're opening for
16 questions for this witness only, Mr. Bernhaut. Do
17 you have any questions for him?

18 WOMAN'S VOICE: I'll wait.

19 MS. SMITH: Thank you.

20 MR. PRINCIIOTTO: Actually, it will be
21 better if she's listening if she did it via Zoom
22 because the telephone doesn't come through that
23 clearly.

24 MS. SMITH: She was stating she had
25 trouble at other meetings raising her hand and

1 being called and heard so she was using the phone
2 instead.

3 I have four attendees raising their hand.
4 Let me just see if I can find them.

5 Okay. Five. I'm going to allow them to
6 talk.

7 Anne Marie.

8 MS. BORELLI: Hi, can you hear me?

9 MS. SMITH: I can hear you, yes.

10 MS. BORELLI: Okay. All right.

11 MS. SMITH: Please state your name and the
12 town you live in.

13 MS. BORELLI: Can you hear me now?

14 MS. SMITH: Yes.

15 Can you state your name full name and the
16 town you live in.

17 MS. BORELLI: Okay. Anne Marie Borelli
18 from Woodcliff Lake.

19 Good evening, everyone.

20 I have a question. Mr. Bernhaut, you had
21 mentioned that Memorial Sloan Kettering moved into
22 the Teva building. Correct?

23 MR. BERNHAUT: Correct.

24 MS. BORELLI: Okay. All right. So there
25 seems to me that there's a, based on your

1 testimony, that there's a shift of office usage
2 from, and you spoke of a lot of large companies
3 that have relocated, but Memorial Sloan Kettering
4 is a health care facility. So I see that from
5 your testimony that the type of tenants have sort
6 of changed into more of a localized service. So
7 with that said and, you know, I see a lot of,
8 like, Kayal Orthopedics going up in large
9 buildings. I see PM Pediatrics. I see CityMD.
10 And I see that there's a need out there for health
11 care facilities. So wouldn't 188 suffice in
12 housing some health care facility? That's one
13 question.

14 The other question is, you said that it
15 was expensive to convert an office building, which
16 I'm kind of a little confused at the, you know,
17 putting walls up to divide office space versus
18 putting in 53 kitchens and bathrooms. I don't
19 understand how putting up walls to break up office
20 space could be possibly more expensive than
21 putting in 53 kitchens and bathrooms.

22 So if you can address those questions, I
23 would greatly appreciate it.

24 Thank you.

25 MR. BERNHAUT: Sure.

1 So the first is, I'm not a health care
2 expert, but we are seeing, you know, health care
3 uses but they can go into retail space; they can
4 go into flex service space; they can go into
5 office space.

6 Typically, what we see is corporate
7 America doesn't want to be commingled with medical
8 space, so it's either you wind up with, there are
9 certainly exceptions to that rule, but you
10 generally wind up either going all medical or
11 mostly medical verses mixing that with corporate.
12 So you can go medical, but then you pretty much
13 commit to going all medical.

14 MS. BORELLI: There could be a use in that
15 building for that. Correct?

16 MR. BERNHAUT: Yeah, we'd have to look at
17 ingress and egress issues, vertical
18 transportation, making it ADA compliant. But
19 there would be -- again, with money, anything's
20 possible.

21 To specifically address your question on
22 renovating to a higher standard the office
23 building. It's not that it's less expensive or
24 more expensive for offices, it's really what the
25 economic value is and the return on investment,

1 so.

2 The amount of money that you would spend
3 to divide a building, put in walls, redo HVAC, put
4 in common corridors, add amenities and tenant
5 build out versus the rent that you get, the net
6 rent minus expenses is really what, and the, what
7 we call the residual value. Meaning after you
8 lease it out and you sell it versus the
9 residential conversion.

10 I think there was a comment about an
11 appraisal saying that highest and best use was for
12 office. That's really hard to believe.

13 MS. SMITH: Okay. I'll call the next
14 person.

15 I have Mr. Craig Marson.

16 MR. MARSON: Good evening, everybody.

17 Can you hear me?

18 MS. SMITH: Yes.

19 MR. MARSON: I have two quick questions
20 for the witness and thank you for your time, sir.

21 The question is, does the highest and best
22 use for valuing a building mandate that it should
23 or must be used in that capacity?

24 MR. BERNHAUT: No, it doesn't mandate it,
25 but it's --

1 MR. MARSON: Thank you. That's good
2 enough.

3 Second question. Are you aware that the
4 variances that is being applied for are considered
5 a prohibited use within where the building is
6 located?

7 MR. BERNHAUT: I don't know that it's --
8 it's not an approved use.

9 MR. MARSON: I didn't ask that. The
10 question I asked is yes or no. Are you aware that
11 the variances and other --

12 MR. KAUFMAN: He answered the question,
13 please. Ask him --

14 MR. MARSON: I asked him the question, Mr.
15 Kaufman. I asked him the question. I'll ask it
16 again.

17 MR. KAUFMAN: He answered your question.

18 MR. MARSON: He didn't.

19 MR. BERNHAUT: What I read stated the
20 variances that were requested and what the zoning
21 said, I didn't read anything about what was
22 prohibited.

23 MR. MARSON: So you don't know whether or
24 not it's prohibited or not currently?

25 MR. BERNHAUT: That is correct.

1 MR. MARSON: Thank you.

2 MS. SMITH: Okay. I have Mr. Alex Couto.

3 MR. COUTO: Hi, how are you, everyone?

4 Thank you for the work you're doing.

5 I have a question for Mr. Princiotto I

6 don't know if I should ask of this witness.

7 I read through the application and it

8 looks like there are two variances that are not

9 being applied for. The laws were not read

10 properly. So when do I bring this to the

11 attention of the board?

12 MR. PRINCIOOTTO: I'm not sure what you're

13 talking about, but...

14 MR. COUTO: Okay. So, for instance --

15 MR. PRINCIOOTTO: It could be a question

16 for the planner, but if it's not a question for

17 Mr. Bernhaut, you know, then.

18 MR. COUTO: I have a question for him, but

19 I wanted to know when I should ask this question.

20 When should I make the board aware of this?

21 MR. PRINCIOOTTO: What's the question

22 about? What subject?

23 MR. COUTO: One is the loading berths.

24 The applicant state they applied a variance for

25 one loading berth to no loading berths.

1 MR. PRINCIOTTO: That would be a question
2 for either, probably the engineer, but Mr. Kaufman
3 can probably indicate who would be best to answer
4 that question.

5 I suspect the loading berth subject will
6 be covered in the Site Plan testimony of the
7 engineer.

8 MR. COUTO: Okay. And the other question
9 I have is about the open space requirement by
10 Ordinance 1907.

11 MR. PRINCIOTTO: Okay. That's not for
12 this witness.

13 MR. COUTO: Not for this witness?

14 MR. PRINCIOTTO: No.

15 Do you have a question for this witness?

16 MR. COUTO: The question for this witness
17 is, you mentioned during your testimony that a lot
18 of major corporations left. You went through a
19 few of them, one of them Mercedes and a few
20 others. Did they leave before the pandemic start
21 or after the pandemic start?

22 MR. BERNHAUT: Well, most of them left
23 before the pandemic started. East Side
24 Pharmaceutical left or announced they're leaving
25 during the pandemic.

1 MR. COUTO: Okay. So this building was
2 purchased before the pandemic started. Correct?

3 MR. BERNHAUT: That is correct.

4 MR. COUTO: Okay. So we don't know
5 what -- anyway, that's enough. I don't want to
6 put words in your mouth so I'll ask other
7 questions when the time comes.

8 Thank you very much.

9 MR. BERNHAUT: Thank you.

10 MS. SMITH: Okay. I have a Laura Jeffas.

11 MS. JEFFAS: Yes, I'm here.

12 Laura Jeffas, Woodcliff Lake.

13 I have a couple of questions.

14 First of all, do tenants or buyers ever
15 buy or lease a building, gut them and repurpose
16 them?

17 MR. BERNHAUT: Certainly.

18 MS. JEFFAS: Okay. Would this building be
19 able to be gutted and repurposed?

20 MR. BERNHAUT: Any building could be
21 gutted and repurposed. Again, it's about the
22 economic, whether it makes economic sense to do
23 that and locationally whether it's competitive.

24 MS. JEFFAS: For the type of building that
25 it is. Correct?

1 MR. BERNHAUT: Correct.

2 MS. JEFFAS: Okay. And with the buildings
3 that you've leased and sold in Woodcliff Lake,
4 would you say that this building is marketable?

5 MR. BERNHAUT: Certainly not for sale and
6 not for lease currently.

7 MS. JEFFAS: And why is that?

8 MR. BERNHAUT: There are better quality
9 opportunities out there.

10 MS. JEFFAS: So if your company was
11 approached to sell or lease this building, you
12 would reject that?

13 MR. BERNHAUT: We would reject the sale,
14 no. We would give an opinion of value and as long
15 as the seller understood that it -- maybe we would
16 generally take on lease.

17 MS. JEFFAS: But you do not know what they
18 bought the building for. Is that correct?

19 MR. BERNHAUT: That is correct.

20 MS. JEFFAS: So you don't know what it
21 could sell for or whether or not it would make
22 sense to sell it. Is that correct?

23 MR. BERNHAUT: An old sale price has
24 nothing to do with today's sale.

25 MS. JEFFAS: Well, it does, you know, if

1 somebody is going to put a building on the market
2 and, you know, maybe not lose any of their
3 investment.

4 MR. BERNHAUT: All right. But that has
5 nothing to do with market value. I understand
6 what you're saying, but they may not want to sell
7 at that price.

8 MS. JEFFAS: Okay. So you're saying this
9 building is absolutely not marketable for sale or
10 lease. Is that correct?

11 MR. BERNHAUT: In its current condition,
12 right. In order to lease it up, a very large
13 investment would need to be made.

14 MS. JEFFAS: Okay. Depending on how they
15 were going to use the building though. Is that
16 correct?

17 MR. BERNHAUT: Correct.

18 MS. JEFFAS: And companies do buy
19 buildings and make large investments in them. Is
20 that correct, to repurpose them?

21 MR. BERNHAUT: That is obviously correct.

22 MS. JEFFAS: All right. So they do go in
23 and redesign these buildings and these spaces just
24 for the actual space?

25 MR. BERNHAUT: Similar to what's --

1 MS. JEFFAS: Sure.

2 Have you seen an increase in a, I know
3 somebody talked about medical buildings before,
4 have you seen an increase in need and repurposing
5 for medical use in our area?

6 MR. BERNHAUT: We have seen some of that.
7 We sold one on 2 Chestnut Ridge Road -- I'm
8 sorry -- 136 Summit Avenue to a dentist, so yes.

9 MS. JEFFAS: Okay. And were you involved
10 in the sale in Montvale on Kinderkamack border at
11 the New York City border where they refurbished
12 that to a surgical center?

13 MR. BERNHAUT: No.

14 MR. PRINCIOTTO: Do you work with the
15 local hospitals? Does your company work with the
16 local hospitals to find them space?

17 MR. BERNHAUT: Cushman & Wakefield
18 represents Valley Hospital. That's actually
19 looking.

20 MS. JEFFAS: They're looking for space?

21 MR. BERNHAUT: From Paramus north, yes.

22 MS. JEFFAS: I see. Okay. And the
23 19.6 percent vacancy rate that you mentioned
24 before, is that only now, like, if you look back
25 on the market, have we ever seen that before,

1 19.6 percent?

2 MR. BERNHAUT: Because that does include a
3 lot of sublet space from the pandemic, 19.6 itself
4 is on the high side, but it's generally been
5 18 percent plus. Since it's such a large market,
6 195 million square feet, it takes a lot to move
7 the needle, but vacancy rates in northern New
8 Jersey during the last financial crisis probably
9 hit 20 plus percent.

10 MS. JEFFAS: Okay. And it's come back?

11 MR. BERNHAUT: By a small margin.

12 MS. JEFFAS: 19.6 percent is not extreme.
13 It sounds like it's more common than it is rare.
14 Is that correct?

15 MR. BERNHAUT: In northern New Jersey that
16 is, you know, that unfortunately has been more of
17 the norm as of late.

18 MS. JEFFAS: Okay. But you've seen that
19 over your 32 years in this sub business.

20 MR. BERNHAUT: Correct. We've seen --
21 yes, high vacancy rate getting higher in northern
22 New Jersey.

23 MS. JEFFAS: Okay. Thank you very much.

24 MR. BERNHAUT: Thank you.

25 MS. SMITH: I have Gwenn Levine.

1 MS. LEVINE: Thank you for taking my
2 question.

3 For Mr. Bernhaut, do you know how your
4 testimony about office real estate is relevant to
5 188's proposal for residential apartments?

6 MR. KAUFMAN: I don't think that's a fair
7 question. That's a legal question and not a fact
8 question. I'm sorry. It's not up to him to
9 determine how it may be relevant. It will be tied
10 in. Joe Burgis, our planner, will explain why
11 it's relevant.

12 MR. PRINCIOTTO: Could you repeat the
13 question, please? I'd like to hear the question.

14 MS. JEFFAS: Sure, sure.

15 Do you know how your testimony about
16 office real estate is relevant to 188's proposal
17 for residential apartments?

18 MR. PRINCIOTTO: Well, I think the
19 question is can the witness answer the question?

20 MR. KAUFMAN: No, I think the point is,
21 it's not a factual question. You're asking him
22 his opinion on the basis of an application and
23 it's really not relevant. Joe Burgis will testify
24 to that and he'll answer the question. Joe will
25 answer the question.

1 MR. PRINCIOTTO: I think, you know, I
2 think it's a proper question.

3 MR. KAUFMAN: Okay. Well, I don't. And I
4 don't think it matters what he believes the
5 relevancy of his questioning is. It doesn't go
6 towards the merits of the application.

7 MS. JEFFAS: It matters to me because we
8 sat through two hours of a meeting on something
9 that doesn't seem relevant to me. So I would like
10 to know what the witness's understanding of why
11 his expertise has been called here.

12 MR. PRINCIOTTO: Well, that's a different
13 question.

14 MR. KAUFMAN: That was the question. This
15 woman's been very consistent in asking her
16 question and that was the question and she's
17 articulated her question well and, respectfully,
18 it's a good question, it's just that the person
19 who should be answering that question is the
20 planner, Joe Burgis, not this witness.

21 MR. PRINCIOTTO: Well, she wants to ask
22 this witness. We don't have a judge here to make
23 a ruling. But, you know, if a judge determines
24 it's not a proper question at a later date, I
25 don't know how relevant it's going to be or

1 material, but if he can answer it, he should
2 answer it.

3 MR. BERNHAUT: Look, I was asked to look
4 at this building and the viability of this
5 building as an office building or office
6 investment going forward. I was not asked to look
7 at it for alternate uses.

8 MS. JEFFAS: Okay. I appreciate that
9 answer, especially, because I know the application
10 is for residential.

11 MR. PRINCIOTTO: Okay. That's a comment.
12 So if you have another question or we're going to
13 move on.

14 MS. JEFFAS: I'm good. Thank you very
15 much.

16 MR. PRINCIOTTO: You're welcome.

17 MS. SMITH: Next I have Anthony and Lynn.

18 MR. BAGGOTT: My name is Anthony Baggott
19 from Woodcliff Lake.

20 I would have two questions for the
21 witness. My first question would be, he just a
22 couple of questions ago testified that his company
23 in fact represents Valley Hospital. They are
24 looking for space north of Paramus, which
25 Woodcliff Lake would fall into that criteria. Can

1 he give any reason why this property at 188
2 Broadway would not be suitable for their client
3 who's in fact looking for office space or perhaps
4 medical practice space?

5 MR. BERNHAUT: That is not my place. I
6 don't represent Valley Hospital and I'm not
7 involved in the search. I probably shouldn't have
8 said anything. But Cushman does represent Valley
9 Hospital.

10 MR. BAGGOTT: Cushman does but you have no
11 relevant relationship to that connection. Is that
12 correct?

13 MR. BERNHAUT: Correct. That's handled by
14 a different team in the office.

15 MR. BAGGOTT: Okay. Understood. That may
16 be worth looking into further though.

17 Secondly, do you have any experience with
18 co-office space? And I'll qualify that with the
19 pandemic and the situations with so many people
20 working from home, my understanding is that many
21 corporate environments are offering people
22 situations where they could permanently work from
23 home or work remotely and they're downsizing their
24 corporate footprints say in New York City, but
25 also personally I know of many people that have

1 been working from home for the past year that find
2 it very difficult to do it from home, so these
3 smaller co-office environments where you can rent
4 a desk, rent a conference room with the common
5 receptionist and that sort of thing may in fact be
6 a more viable use of this building and many other
7 buildings, you know, in the area with perhaps a
8 new business model in the future.

9 Do you have any relevant information with
10 regard to that option within the commercial
11 market?

12 MR. BERNHAUT: So is the question have I
13 worked with co-working operators, absolutely.
14 There is always opportunity for that. The market
15 is actually, while you would think it has gotten
16 better for co-working, there are some new groups
17 showing up but many of the big ones we just filed
18 for bankruptcy during the pandemic. So it's
19 actually been a difficult time for the co-working
20 groups. But I imagine there will be some that
21 certainly survive.

22 MR. BAGGOTT: Okay. And perhaps with some
23 of the liquidation that will go on with it due to
24 the pandemic, because people weren't even leaving
25 their homes to even go to co-office environments,

1 but could you give me any information based on
2 your professional experience why 188 would not be
3 a proper environment for that type of scenario
4 should that market come back. Regis may very well
5 go bankrupt and they may come back as another
6 company. We know very well how bankruptcy works.
7 Do you have any evidence, you know, on either side
8 of that why this property would not be suitable
9 for them?

10 MR. BERNHAUT: Sure. The co-working firms
11 that are popping up are generally being located in
12 Montclair, in Morristown, in Metro Park,
13 amenitized areas. They opened one in the Short
14 Hills Mall. So there's attractive amenities and
15 things to do other than being totally isolated in
16 a suburban location.

17 MR. BAGGOTT: Okay. Well, with regard to
18 the specific property, which I believe you've done
19 at least some research and been through the
20 property, other than just the location that it's
21 not in the middle of a shopping mall, you couldn't
22 give any negative downside to trying to run a
23 business of that sort in this area when there may
24 in fact be many people locally that could use that
25 resource?

1 MR. BERNHAUT: It all comes down to
2 economics and demand. So it's a big space. It
3 could be larger than almost any co-working space
4 in the suburbs and it would require a lot of money
5 to renovate with no guarantee that you'd be able
6 to fill it up.

7 MR. BAGGOTT: Okay.

8 MR. BERNHAUT: You can take -- often it
9 would be a smaller portion or piece.

10 MR. BAGGOTT: Okay. Understood. I thank
11 you. That would be my final question.

12 MS. SMITH: The last person I have is
13 Karen Ardizone.

14 MS. ARDIZONE: I have two questions.

15 Are you aware that the building next door
16 to 188 does exactly what everybody has been
17 stating? They rent out smaller office space to
18 psychologists, to people who don't want to work at
19 home and there's two buildings there that are
20 occupied?

21 MR. BERNHAUT: Absolutely. I saw that on
22 my tour.

23 MS. ARDIZONE: I'm sorry?

24 MR. BERNHAUT: I saw that on my tour, yes.

25 MS. ARDIZONE: Okay. So he owns two

1 buildings and I know people who are looking to get
2 in there for office space because they don't want
3 to work from home. So it is a possibility to do
4 that with 188. Correct?

5 MR. BERNHAUT: Again, anything's possible.
6 Is it economically viable.

7 MS. ARDIZONE: Okay. You also made
8 mention about medical buildings not being in the
9 office space. Does Cushman represent 201 Route 17
10 North in Rutherford?

11 MR. BERNHAUT: We do.

12 MS. ARDIZONE: Okay. So recently you guys
13 put four medical clients on the 11th and 12th
14 floor. So wouldn't it be also viable to put a
15 medical building in there? You put Rothman. I'm
16 not sure if you were at the Hanjin building, but
17 Rothman also took that over on Route 4. So there
18 could be a chance not to build another building
19 and make it a medical building. Correct?

20 MR. BERNHAUT: Right. You're giving
21 specific examples. 201 was formerly Malo. They
22 went bankrupt, but they had spent well over a
23 hundred dollars a square foot building out office
24 space, medical office space. So that was a
25 natural. It is very expensive to convert

1 conventional office to medical and malign. And,
2 again, anything's possible. At a 195 million
3 square foot market in New Jersey very little has
4 been actually been converted to medical, but it's
5 always a possibility.

6 MS. ARDIZONE: So my final question was
7 so, because of the medical situation and people
8 looking for office space, residential is not the
9 only option here and no other options were looked
10 at except residential. Correct?

11 MR. BERNHAUT: You're asking me? I only
12 looked at it from an office perspective.

13 MS. ARDIZONE: Can I ask if we would have
14 a residential expert?

15 MR. PRINCIOTTO: There will be a planner
16 who will testify with regard to uses.

17 MS. SMITH: Okay. I have one last. Miss
18 Gadeleta.

19 MS. GADELETA: First I would like to say,
20 thank you again for coming and giving your
21 perspective. The last caller she actually
22 commented on something I was going to comment on.

23 I work in the building on Route 4 in
24 Paramus. That's a total, I believe the top floor
25 was converted to Rothman Orthopaedics.

1 MR. PRINCIOTTO: We're open for questions
2 not comments right now.

3 MS. ARDIZONE: This is leading up to my
4 question.

5 And then the other part of the building
6 was converted to a physical therapy, so there is
7 possibility and for a long time most of those
8 offices in that building were vacant, but I guess
9 they reached out and there were possibilities.
10 That leads to my question, which is, some experts
11 tend to believe that the office market will come
12 back because working from home is not viewed to be
13 as productive or preferred by employers. Do you
14 think we should possibly wait at least to see what
15 the market will be like once all of the
16 restrictions are moved and the economy starts
17 moving forward again?

18 MR. BERNHAUT: So that is our hope that
19 people will come back to the office. But, again,
20 the office market is such that corporations sign
21 long-term leases, so these vacancy rates pretty
22 much existed before and after COVID. The
23 buildings are only 10 to 20 percent utilized
24 today, but that doesn't mean they're not leased.
25 I don't know that anything materially changes.

1 People go back to work, they're just going back to
2 their leased space.

3 MS. ARDIZONE: Okay.

4 MR. BERNHAUT: Not to be new space, per
5 se.

6 MS. ARDIZONE: I'm not sure if I agree
7 with you, but I thank you for your comment.

8 MR. PRINCIOTTO: Meg, do we have anyone
9 else?

10 MS. SMITH: I believe that's it. Everyone
11 has been called on that's raised their hand in
12 Zoom.

13 MR. KAUFMAN: Madam Chairperson, if I may?
14 I have two, three, four brief followup questions
15 for Mr. Bernhaut.

16 MR. PRINCIOTTO: First we have to close to
17 the public. I need a motion.

18 MR. KAUFMAN: Oh, I'm sorry.

19 MR. PRINCIOTTO: That's okay.

20 I need a motion to close to the public.

21 BOARD MEMBER HEMBREE: So moved.

22 BOARD MEMBER KAUFMAN: Second.

23 MS. SMITH: All in favor.

24 Any opposed?

25 MR. PRINCIOTTO: None, okay.

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REDIRECT EXAMINATION BY MR. KAUFMAN:

Q Mr. Bernhaut, you mentioned before, 50 Tice, 100 Tice, 300 Tice, and 155 Tice as buildings with increasing vacancies in which you were involved in in sales. Would you classify these as Class A buildings?

A 50 Tice, 300 Tice, 100 Tice, not 155.

Q Oh, I'm sorry.

So those three buildings, would you classify them as A or B or C?

A I would classify those three buildings as A; 155 Tice as B.

Q Okay. And that's about to be vacant also?

A 155 Tice is, yes.

Q Yes. All right. When Mr. Princiotto was asking you about what you did, he was asking you what you personally did, but what was your title with Cushman & Wakefield? You're Vice Chairman?

A Executive Vice Chairman.

Q Executive Vice Chairman. I guess that's better than Vice Chairman. That's of Cushman & Wakefield New Jersey, Inc.?

A That's the entire corporation.

Q The entire corporation. Okay. And that has how many employees?

1 A Over 40,000.

2 Q Okay. So you are in effect supervising,
3 familiar not just with the 16 people in your capital
4 markets team, but the entire company?

5 A No, I participate in, this morning on a global
6 conference call but I don't supervise the entire company.
7 I supervise my team.

8 Q Yes, let me say that -- I phrased it
9 wrong, I apologize. You participate in some manner with
10 your company?

11 A Correct.

12 Q So while you personally may not do a task
13 like leasing space, you have other people who work for
14 you who do? When I say *you*, I mean the company.

15 A Yes. Yes, correct. Absolutely.

16 Q And you're familiar with what they do and
17 you're familiar with their market?

18 A Of course.

19 MR. PRINCIOTTO: I'm going to object.

20 MR. KAUFMAN: He answered it so it doesn't
21 matter.

22 MR. PRINCIOTTO: It's irrelevant.

23 MR. KAUFMAN: No, it's not. You were
24 asking him questions as to what he does, so it is
25 relevant.

1 Q When you were asked if you knew that the
2 appraisal found that the highest and best use was an
3 office building, were you also told or were you also
4 asked if you knew that the determination by the appraisal
5 that office was the highest and best use was based upon
6 the current zoning regulations?

7 MR. PRINCIOTTO: Objection to form.

8 Q Okay. Were you told that?

9 A Obviously not.

10 Q Okay. And are you aware that the only use
11 permitted in this zone, the only use permitted in this
12 zone is an office building?

13 A I was not. The information I read just mentioned
14 what variances were requested.

15 Q Okay. So if the highest and best use is
16 an office building that's based upon current zoning
17 regulations, isn't it fair to conclude that the highest
18 and best use is also the only use?

19 A Correct.

20 MR. PRINCIOTTO: Objection.

21 Q It's an office building, so there's no
22 other use that it could be compared to?

23 A No.

24 MR. PRINCIOTTO: Objection.

25 Q You were asked about supply and demand.

1 Is it fair to say that the supply of office space far
2 exceeds a demand at this time?

3 A That is correct.

4 Q And is it fair to say that when the supply
5 exceeds the demand, the demand is going to go to the best
6 space at the best price and the best space could be the
7 best location?

8 MR. PRINCIOTTO: Objection.

9 A That and conversely, you know, you'd have to have
10 the most attractive price in order to attract tenants.

11 Q Okay. And the more attractive the price,
12 is it fair to say that the cost of repurposing the
13 building would render the building at the most attractive
14 price to not be economically viable? In other words,
15 you'd lose money on it?

16 MR. PRINCIOTTO: Objection.

17 A That is my conclusion.

18 MR. PRINCIOTTO: Speculative.

19 MR. KAUFMAN: Thank you.

20 All right. I have no further questions of
21 Mr. Bernhaut.

22 MR. PRINCIOTTO: I have a few followup
23 questions.

24 Now, in light of your testimony on the
25 occupancy rates, which actually you said improved

1 somewhat during the pandemic?

2 MR. KAUFMAN: That's not what he said, Mr.
3 Princiotto. He said it went to 19.6. He also
4 said it was skewed because tenants signed
5 long-term leases and they were still in effect.
6 He didn't say it improved during the pandemic.
7 You're twisting his words.

8 MR. PRINCIOTTO: Let me ask you, did the
9 vacancy rate change during the pandemic?

10 MR. BERNHAUT: The vacancy rate has moved
11 up. The first quarter of this year there was a
12 negative 1.8 million square feet.

13 MR. PRINCIOTTO: No, no, I'm asking
14 percentages. The vacancy rate, not the number of
15 square feet.

16 MR. BERNHAUT: The two go hand in hand
17 mathematically. I can look it up, but I don't
18 have what it was. I can do the math. If it was
19 1.8 million square feet --

20 MR. KAUFMAN: I think it's simply
21 intuitive that if the amount of vacancies went up,
22 the rate didn't go down. The only way it can go
23 down is if a whole lot of space left the market.

24 MR. BERNHAUT: It's about one tenth of one
25 percent.

1 MR. PRINCIOTTO: All right. So there
2 wasn't much of a change in the occupancy rate due
3 to the pandemic. Isn't that correct?

4 MR. BERNHAUT: There's statistically,
5 because companies sign long-term leases, there
6 hasn't been, but...

7 MR. PRINCIOTTO: Thank you.

8 MR. KAUFMAN: Let him finish.
9 Continue. You said "but".

10 MR. BERNHAUT: The utilization rate right
11 now is 10 to 20.

12 MR. PRINCIOTTO: Did the advent of the
13 pandemic have any impact on your opinions that you
14 gave today with regard to 188 Broadway or was it
15 just general market conditions?

16 MR. BERNHAUT: The latter, not the
17 specific asset. The general market.

18 MR. PRINCIOTTO: Okay. So the pandemic
19 really didn't have anything to do with your
20 opinions with regard to the salability or
21 leaseability of 188 Broadway. Isn't that correct?

22 MR. BERNHAUT: That is correct.

23 MR. PRINCIOTTO: Now, just to followup on
24 the question about the appraisal and it's going to
25 be submitted as an exhibit as part of the

1 borough's exhibits. It states in the appraisal
2 "The conclusion is based on its zoning, physical
3 characteristics and" --

4 MR. KAUFMAN: What do you mean the
5 appraisal's going to be submitted as part of the
6 borough's exhibits?

7 MR. PRINCIOTTO: Yeah, that's what I said.

8 MR. KAUFMAN: I want to clarify that.
9 This is an application by a property owner for
10 relief under Municipal Land Use Law. I didn't
11 realize that this was now an adversarial
12 proceeding where the board is going to be
13 presenting evidence that it deems relevant to try
14 to counter the application. Is that what you're
15 saying? Are you going to present the appraiser so
16 the appraiser could be cross-examined?

17 MR. PRINCIOTTO: No, I'm going to submit
18 the appraisal report.

19 MR. KAUFMAN: No, I'm going to put on the
20 record right now that I absolutely object to the
21 appraisal report being put in.

22 MR. PRINCIOTTO: All right.

23 MR. KAUFMAN: We put on the record, we
24 present our testimony and our evidence. Your
25 board's professionals can review it and offer

1 their opinions, but under what law do you have the
2 right to start submitting evidence against an
3 application?

4 MR. PRINCIOTTO: Well, it's not evidence
5 against the application.

6 MR. KAUFMAN: Well, that's the only
7 purpose that you would even offer it.

8 MR. PRINCIOTTO: It's evidence
9 concerning --

10 MR. KAUFMAN: Are you going to present the
11 appraiser so I can cross-examine the appraiser?

12 MR. PRINCIOTTO: Well --

13 MR. KAUFMAN: You're going to offer
14 evidence as to the appraisal and what the purpose
15 of the appraisal is?

16 MR. PRINCIOTTO: I think it's evident what
17 the appraisal is for, but --

18 MR. KAUFMAN: No, it's not. No, it's not
19 evidence. It's absolutely irrelevant to this
20 proceeding.

21 MR. PRINCIOTTO: Well, we still haven't
22 heard -- we still don't know exactly what you are
23 presenting, although, I believe that in your
24 application one of your indicated special reasons
25 is a hardship and that's a basis and what your

1 client, okay, understood when they purchased the
2 property I think is relevant to whether or not
3 there's a hardship. So I think it's relevant to
4 the issues in the case and what your client knew
5 and was aware of.

6 MR. KAUFMAN: Mr. Princiotto, you're going
7 to do whatever you want to do. As much as you
8 want to try to justify it, it doesn't, you're
9 going to do what you want to do anyway. So let's
10 move on.

11 MR. PRINCIIOTTO: Okay.

12 MR. KAUFMAN: We're going to reserve our
13 rights and we're going to state now, for the
14 record, that we object to it. You can do it, but
15 you're going to do what you want to do anyway, so
16 it doesn't matter.

17 MR. PRINCIIOTTO: Okay. Let's move on.

18 MR. KAUFMAN: Let's please move on. It's
19 already 10:00.

20 MR. PRINCIIOTTO: Let's move on.

21 MR. KAUFMAN: Are we continuing or does
22 the board want to stop at 10:00?

23 MR. PRINCIIOTTO: No. Do you have another
24 witness? We'll go to 10:30.

25 MR. KAUFMAN: Yeah, sure.

1 MR. PRINCIOTTO: I asked you how many
2 witnesses you have, but you haven't answered me
3 because we gotta talk --

4 MR. KAUFMAN: Well, I'm evaluating it as I
5 go along. There's nothing that requires me to
6 tell you in advance who I'm going to call as a
7 witness.

8 MR. PRINCIOTTO: No.

9 MR. KAUFMAN: I want to see how the
10 application goes and I'm going to make my
11 decisions on who the witnesses are and what order
12 as we go along.

13 I think who I'd like to call right now is
14 Brian Intindola.

15 MR. PRINCIOTTO: He's not -- he's the
16 borough's traffic engineer.

17 MR. KAUFMAN: I know that. I want to call
18 him as a witness.

19 MR. PRINCIOTTO: Well, you didn't subpoena
20 him as a witness.

21 MR. KAUFMAN: He's here. Why do I have to
22 subpoena him if he's here?

23 MR. PRINCIOTTO: Because he's not your
24 witness.

25 MR. KAUFMAN: So what. He's here. He

1 reviewed the application.

2 MR. PRINCIOTTO: It doesn't matter if he's
3 here.

4 I object and I'm going to ask him not to
5 testify. It's your case. When he testifies, you
6 can cross-examine him.

7 MR. KAUFMAN: The record should reflect
8 that you're not permitting me to call your own
9 traffic engineer who's here at the meeting and who
10 has relevant testimony.

11 MR. PRINCIOTTO: Call your traffic
12 engineer.

13 MR. KAUFMAN: I think Ms. Hembree is
14 raising her hand. Did you want to say something?
15 Everybody's ignoring you.

16 CHAIRWOMAN MALLEY: Chris, you're muted.

17 MR. PRINCIOTTO: You have to un-mute.

18 BOARD MEMBER HEMBREE: I wanted to ask Mr.
19 Kaufman, does he have a witness that will take a
20 half an hour along with questions from the
21 audience and from the board?

22 MR. KAUFMAN: Thank you. Fair question.
23 I believe that if I call Mr. Intindola it would be
24 done --

25 BOARD MEMBER HEMBREE: Other than Mr.

1 Intindola.

2 MR. KAUFMAN: I can call Mr. Luglio right
3 now. My questioning of Mr. Luglio will be about
4 two minutes.

5 BOARD MEMBER HEMBREE: Let's move forward
6 with him. You promise?

7 MR. KAUFMAN: Fine.

8 BOARD MEMBER HEMBREE: Because you're
9 going to get questions and we're going to be past
10 10:30.

11 MR. KAUFMAN: I can't control the
12 questions, but I can control my questions. But as
13 a courtesy to you, Ms. Hembree, I'll be happy to
14 call Mr. Luglio just to keep it going.

15 BOARD MEMBER HEMBREE: It's not up to me,
16 it's up to you if you want to do that.

17 MR. KAUFMAN: I want to call Brian
18 Intindola as a witness, that's who I want to call.

19 You know what, I have an idea. Maybe we
20 should stop and I'll serve subpoenas on Mr.
21 Intindola and anybody else I want and they can
22 testify at the next hearing. I'll just serve a
23 subpoena. I'm okay with that.

24 MR. PRINCIOTTO: Well, I'm not okay with
25 it.

1 MR. KAUFMAN: You told me I have to serve
2 a subpoena on him to get him to testify. You just
3 said that.

4 MR. PRINCIOTTO: I think the consensus of
5 the board as suggested to you is that you call a
6 witness who won't take a long period of time and
7 that was identified as Mr. Luglio.

8 MR. KAUFMAN: Actually, Mr. Intindola, I
9 have three or four questions for him, that's it.

10 MR. PRINCIOTTO: Well, why don't we do it.

11 MR. KAUFMAN: Okay. Good. Let's put him
12 on. Let's put on Brian.

13 MR. PRINCIOTTO: No, not Brian. Okay.
14 We're talking about Mr. Luglio.

15 MR. KAUFMAN: No, he may be longer. I'd
16 rather have Mr. Intindola. I'd rather come back
17 and serve a subpoena on him, which is what you
18 said I'd have to do in order to question him. You
19 said I'd have to serve a subpoena. I've never
20 heard of that before, but...

21 MR. PRINCIOTTO: He's not your witness.

22 MR. KAUFMAN: So.

23 MR. PRINCIOTTO: He'll testify on behalf
24 of the borough. He's the borough's traffic.

25 MR. KAUFMAN: Yes. So let him testify

1 now. He can testify now. There's no requirement
2 that he has to go as to an order. I want to call
3 him as witness. I want to ask him a few questions
4 on traffic.

5 MR. PRINCIOTTO: Well, you can ask him a
6 few questions when he testifies.

7 MR. KAUFMAN: Okay. So let's move on
8 then. When's the next hearing? I'm going to
9 serve a subpoena.

10 MR. PRINCIOTTO: Okay. So you're not
11 going to call anymore witnesses even though --

12 MR. KAUFMAN: You're stopping me from
13 presenting the case that I want to present.

14 MR. PRINCIOTTO: Call your next witness.
15 I see Mr. Luglio here. I see Mr. Burgis is here.

16 MR. KAUFMAN: You want a fast witness.
17 The fastest one is --

18 MR. PRINCIOTTO: Are you calling another
19 witness or not?

20 MR. KAUFMAN: I'm going to call Evan
21 Jacobs. Are you going to tell me I can't call him
22 either?

23 CHAIRWOMAN MALLEY: Mr. Kaufman, let's go
24 through your witnesses tonight.

25 MR. KAUFMAN: Well, they submitted

1 reports. Neglia Engineering submitted a report
2 and I have a right to question them on the
3 reports.

4 MR. PRINCIOTTO: They'll testify later.

5 MR. KAUFMAN: So you're telling me I can't
6 question them on the reports. Thank you, Mr.
7 Princiotto.

8 MR. PRINCIOTTO: I didn't say --

9 MR. KAUFMAN: With that understanding that
10 you're not permitting me to question them --

11 MR. PRINCIOTTO: You're the applicant.

12 MR. KAUFMAN: -- I'll call Mr. Luglio.

13 MR. PRINCIOTTO: You present your
14 witnesses first.

15 MR. KAUFMAN: I want to present as a
16 witness Neglia Engineering. I don't have to be
17 the one that --

18 MR. PRINCIOTTO: I don't want to repeat
19 myself. Okay.

20 MR. KAUFMAN: You don't have to.

21 MR. PRINCIOTTO: They're not your
22 witnesses, they're the borough's expert witnesses.
23 You didn't give any notice that they would be
24 called as witnesses. I'm asking you --

25 MR. KAUFMAN: Okay.

1 MR. PRINCIOTTO: -- for the last time --

2 MR. KAUFMAN: Okay. I'm going to call Mr.
3 Luglio, but I want to make it absolutely clear for
4 the record they are here. They wrote reports. I
5 don't have to give notice that I'm going to ask
6 them about their reports nor do I have to tell you
7 what order of witnesses that I want. So with
8 that, I'll move on. I want my objection on the
9 record that I've been prevented by you from
10 presenting the case that I want to present.

11 I'll call Mr. Luglio.

12 MR. PRINCIOTTO: And I'll state on the
13 record that you didn't provide --

14 MR. KAUFMAN: Let's move on.

15 Mr. Luglio. Do you want to swear him in?

16 MR. PRINCIOTTO: Let me say what I was
17 going to say.

18 I'm putting on the record that you didn't
19 give any notice that you wanted these witnesses to
20 testify and you didn't issue any subpoena and as a
21 professional courtesy at least you could have
22 indicated that you intended to call them as
23 witnesses. So that's my...

24 MR. KAUFMAN: Thank you.

25 Mr. Luglio.

1 Do you want to swear him in?

2

3 L O U L U G L I O, having been duly
4 sworn, testified as follows:

5

6 MR. PRINCIOTTO: Your witness.

7

8 DIRECT EXAMINATION BY MR. KAUFMAN:

9 Q Mr. Luglio.

10 A Yes.

11 Q Have you testified in front of this board
12 before?

13 A Yes, I have.

14 Q Were you accepted as an expert in the
15 field of traffic engineering?

16 A Yes, I have.

17 MR. KAUFMAN: Okay. Mr. Princiotto, do
18 you want me to go through all his background again
19 or are you going to accept it?

20 MR. PRINCIOTTO: Well, I don't have a
21 problem with Mr. Luglio personally, but we do have
22 some new board members. I don't know if they --

23 Q Mr. Luglio, give the board your
24 educational background and your professional background.

25 A I have a bachelor's of science in civil

1 engineering from New Jersey Institute of Technology. I
2 have a master's in transportation also from NJIT.

3 I'm a licensed professional engineer in the State
4 of New Jersey and five other states. I have been
5 practicing transportation planning and traffic
6 engineering for the past 34 years.

7 I have served as an expert witness for the State
8 of New Jersey, for various counties and municipalities.
9 That's about it.

10 Q Did you also serve as President of the
11 ITE, tri-state ITE?

12 A Yes, I did. I have for the Met Section of New
13 York and New Jersey, that's correct.

14 Q And your license as an engineer is
15 currently valid and in full force and effect?

16 A Yes.

17 Q And you said you testified as an expert
18 for the State. Have you also testified as an expert for
19 other governmental agencies?

20 A Yes, I have.

21 Q And could you tell the board all the
22 agencies for whom you have served as an expert?

23 A From municipalities?

24 Q What counties? Counties too or special
25 agencies? Anybody?

1 A I served as an expert for the Board of Education
2 in Clifton. For Essex County, for Bergen County, for
3 Camden County.

4 Municipalities, many including Woodcliff Lake
5 years back.

6 Q Excuse me, you served as the traffic
7 engineer for Woodcliff Lake?

8 A Yes.

9 Q Thank you.
10 And by whom are you employed?

11 A Sam Schwartz Engineering.

12 Q And Sam Schwartz is also known Gridlock
13 Sam?

14 A Gridlock Sam.

15 Q And what is Sam Schwartz's background?
16 Wasn't he a commissioner --

17 A New York City DOT Commissioner for many years and
18 then he started his own business 25 years ago.

19 MR. KAUFMAN: Okay. Madam Chairperson, we
20 offer Mr. Luglio as an expert in the field of
21 traffic engineering.

22 CHAIRWOMAN MALLEY: I'm okay with him.
23 Anyone else have any questions?

24 Okay.

25 Q Mr. Luglio, you issued a report in the

1 first application. Am I not correct?

2 A That's correct. I think it was May 7th, 2019.

3 Q Okay. And you have subsequently issued
4 another report?

5 A Yes, that report was dated May 14th, 2021.

6 Q Okay. And do you recall the June 25,
7 2019, hearing at which time Mr. Intindola testified that
8 the overall trip generations for residential development
9 would be less than the office building?

10 MR. PRINCIOTTO: Objection to form.

11 MR. KAUFMAN: I asked him if he recalled
12 it. So what's the form problem?

13 MR. PRINCIOTTO: Well...

14 MR. KAUFMAN: Well, you don't want to hear
15 it.

16 MR. PRINCIOTTO: What week are we talking
17 about?

18 Q Mr. Luglio, do you recall the testimony of
19 Mr. Intindola in which he testified that the overall trip
20 generation will be less --

21 A Yes, I do.

22 Q -- than if it remained an office building.
23 Do you recall that?

24 A Yes, I do.

25 Q And is that consistent with your findings?

1 A Yes, it is.

2 Q And with a reduction in the density of the
3 project that's proposed of 11.66 percent, is it fair to
4 say that the trip generation would be approximately
5 11 percent less than what you projected and what Mr.
6 Intindola reviewed in June of 2019?

7 A It actually turns out to be closer to 20 percent,
8 but yes, I agree with that.

9 Q Thank you.
10 Now, isn't it a fact that this application has
11 been approved by Bergen County Planning Board?

12 MR. PRINCIOTTO: Objection. How does he
13 know?

14 MR. KAUFMAN: It's public record. What do
15 you mean how would he know? He got a copy of it
16 just like you did and just like the board did.
17 That's how he would know.

18 MR. PRINCIOTTO: Ask him if he got a copy.

19 A Yes, I do have a copy.

20 MR. KAUFMAN: I asked him isn't it a fact
21 that this application has been approved by the
22 Bergen County Planning Board. It's a public
23 record.

24 Q Isn't that true, Mr. Luglio?

25 A Yes.

1 Q Okay. Now, Mr. Luglio, you're familiar
2 with the county planning map?

3 A Yes, I am.

4 Q And is it not true that the county has
5 exclusive jurisdiction of land development along county
6 roads that are affecting county drainage facilities?

7 A Yes, that's true.

8 MR. KAUFMAN: Okay. So that's it. That's
9 my only question. Told you I'd be fast. Thank
10 you.

11 County has exclusive jurisdiction and the
12 county approved it. Thank you.

13 Actually, I'm going to go back. I'm
14 sorry. I'm going to be completely fair about
15 this.

16 Q Mr. Intindola on June 25th also testified,
17 and I'll read it. "So what I've done in the past, I
18 don't know if the applicant would be amendable to it, is
19 to bring this to the attention of the county regardless
20 of whether they've approved or not and see if they would
21 do a *Do Not Block* the box striping at the driveway that
22 takes care of a couple of things."

23 The applicant is prepared to do what Mr. Intindola
24 suggested. Isn't that true?

25 A Yes, that is true.

1 Q Okay. Mr. Intindola also testified that,
2 "I think that the applicant had testified that they were
3 going to provide a sidewalk down the driveway and if this
4 is positioned as a transportation or transit oriented
5 development or somewhere in that shade of development,
6 that certainly should be provided because that would be
7 conducive for people that live there to walk down the
8 driveway beyond the sidewalk as opposed to in the
9 driveway and I think that would be a good recommendation
10 to move forward."

11 Could you tell the board if the applicant is
12 agreeable to that?

13 A Yes, the applicant is agreeable to that.

14 MR. KAUFMAN: Thank you. I have no
15 further questions.

16 MR. PRINCIOTTO: Do any board members have
17 any questions?

18 Mr. Luglio, Mr. Kaufman asked you about
19 trip generations, but he didn't specify whether
20 that was during the week or on the weekend. Do
21 you recall your testimony that during the week the
22 trip generations would be less for residential
23 apartment units than it would be for an office
24 building?

25 MR. LUGLIO: During the week, the

1 residential is far less than an office building
2 and then, obviously, on the weekend there would be
3 higher trip gen for a resident because the office
4 would not be --

5 MR. KAUFMAN: Hold on, I'm going to
6 object. I'm going to object to the entire line of
7 questioning.

8 I'm going to let you answer the question,
9 but I'm going to object to the entire line of
10 questioning.

11 Once again, this application's been
12 approved by the county. The county has exclusive
13 jurisdiction. All these questions are irrelevant.

14 So, go ahead, Mr. Princiotto.

15 MR. PRINCIOOTTO: They're absolutely
16 relevant. Okay.

17 MR. KAUFMAN: Go ahead. I said I made my
18 objection for the record. You can go ask your
19 questions.

20 MR. PRINCIOOTTO: You interrupted the
21 witness.

22 MR. KAUFMAN: So ask him again.

23 MR. PRINCIOOTTO: Do we have a court
24 reporter here? We do.

25 MR. KAUFMAN: Um hm.

1 MR. PRINCIOTTO: Could the court reporter
2 read back the question? Is that possible?

3 MR. KAUFMAN: Maybe he remembers it. Ask
4 Lou if he remembers it.

5 MR. LUGLIO: I think I understand.

6 So, yes, there is certainly less traffic
7 associated with a residential development compared
8 to an office development during the week.

9 On the weekend, the office development
10 basically would be unoccupied for the most part
11 and the residential component would have trip
12 generation that would be most likely about the
13 same as during the p.m. peak hour of the weekday
14 but certainly not at the same level as office
15 development. But there would be trips generated
16 on the weekend.

17 MR. PRINCIOTTO: So just to summarize,
18 there would be more trip generations from
19 residential use on the weekends and holidays.
20 Isn't that correct? If it went from an office
21 building to residential multiple dwelling?

22 MR. LUGLIO: Yes, on the weekend there
23 would be more than zero, which would be the office
24 component, but it would still be a very low
25 generator of traffic.

1 MR. PRINCIOTTO: And would not only be on
2 weekends, but it would be holidays as well. Isn't
3 that correct?

4 MR. LUGLIO: For the residents that are
5 home on the holiday, yes.

6 MR. PRINCIOTTO: Okay. I don't have any
7 other questions.

8 CHAIRWOMAN MALLEY: Anyone else on the
9 board have questions or experts?

10 You want to open to the public.

11 Get a motion.

12 MR. INTINDOLA: Madam Chair.

13 CHAIRWOMAN MALLEY: Yes.

14 MR. INTINDOLA: Just a couple of questions
15 for Mr. Luglio if it's okay.

16 CHAIRWOMAN MALLEY: Sure.

17 MR. INTINDOLA: For the supplement, could
18 you just refresh us. You did the May 14th
19 supplement this year. What are you projecting the
20 trip generation to be, because this is a new
21 independent application and I just would like to
22 get a handle on those numbers of what you're
23 reporting.

24 MR. LUGLIO: I would have to just dig that
25 out and I didn't have it in front of me. If you'd

1 just give me a couple of minutes I could do that.

2 MR. INTINDOLA: And not to distract you,
3 how many are you reporting to.

4 MR. LUGLIO: You distracted me. You just
5 said not to distract me.

6 MR. INTINDOLA: Sorry, sorry.

7 MR. LUGLIO: I'm only kidding.

8 53 units.

9 Hold on one second.

10 So we have in the a.m. peak hour using
11 multi-family housing mid-rise, 19 total vehicles
12 that are generated; five in and 14 out.

13 P.m. peak hour would be 23 vehicles; 14 in
14 and nine out.

15 And the Saturday peak hour, using the
16 higher number would be 29 vehicles; 14 in and 15
17 out.

18 MR. INTINDOLA: So the prior report that
19 you submitted was carried forward in this
20 application? I just want to make sure that I
21 understand.

22 MR. LUGLIO: What was the question again?

23 MR. INTINDOLA: There's a 2019 report
24 that's being carried forward into this one and
25 then the May 14th, 2021, letter is just to refine

1 that to say that it's lesser by 11 percent.

2 MR. LUGLIO: Right. It's 11 percent on
3 the units and I believe it was closer to
4 20 percent on the overall traffic volumes.

5 MR. INTINDOLA: Okay. And the other
6 question, we don't have the benefit of the
7 testimony of Mr. Clark, but there would be a
8 sidewalk connection to Broadway to the back of the
9 site?

10 MR. LUGLIO: Yes, we would stipulate for
11 that.

12 MR. INTINDOLA: So I think those were our
13 major concerns.

14 You had prior testimony about the AutoTURN
15 templates that had some difficulty and they were
16 clipping some of the cars or parking spaces with
17 the, I believe, a fire truck model in the
18 AutoTURN?

19 MR. LUGLIO: Yes.

20 MR. INTINDOLA: Will you be presenting
21 that again or will Matt present that in the Site
22 Plan part?

23 MR. KAUFMAN: The fire department has
24 issued a report. You may not have gotten a copy
25 of it.

1 MR. INTINDOLA: Oh, okay. Okay.

2 MR. KAUFMAN: The fire department issued a
3 report approving the application.

4 MR. INTINDOLA: All right. We didn't have
5 the benefit of that but, thank you, Mr. Kaufman.

6 I think that's what would cover our
7 traffic issues before and then we were looking to
8 perhaps improve the pedestrian timing at the
9 intersection, in your intersection there if that
10 was possible to handle the additional pedestrian
11 load if we're threading the needle to the train
12 station to 188 Broadway and I don't know if that
13 was raised during your Bergen County approval at
14 all.

15 MR. KAUFMAN: It was not raised, but on
16 behalf of the applicant, I would commit that the
17 applicant will work with you in speaking to the
18 county to improve that intersection.

19 MR. INTINDOLA: Understood. Within the
20 context of an approval.

21 MR. KAUFMAN: Of course, yes.

22 MR. INTINDOLA: And then the other -- I
23 think that covered what we had talked about.

24 And then now the parking. I don't know if
25 you testified to it, it's sufficient per the

1 ordinance. Do you know what the parking supply is
2 versus what's needed under our RSIS.

3 MR. KAUFMAN: Yeah, I believe we have 111
4 with 93 required.

5 MR. LUGLIO: That's correct.

6 MR. KAUFMAN: Actually, I wouldn't mind
7 getting rid of some of them and converting it at
8 some point to green space or some other use.

9 MR. INTINDOLA: So for me that covers the
10 traffic issues for the mechanics of the interior
11 of the site, which if I recall the County Planning
12 Act of 1935, which Mr. Kaufman referred to, we can
13 look at the on-site traffic.

14 MR. KAUFMAN: Absolutely.

15 MR. INTINDOLA: Not the interaction with
16 Broadway, but the on site.

17 MR. KAUFMAN: Correct.

18 MR. INTINDOLA: And then doing that, the
19 parking aisles and the parking space widths, could
20 you characterize them as pretty standard? Are
21 they 18-by-24-by-18 in the parking modules or are
22 they a little tighter?

23 MR. LUGLIO: I believe they are all pretty
24 standard as 9-by-18 spaces 24-foot aisles.

25 MR. INTINDOLA: And Mr. Clark may be

1 testifying to that physicality as well?

2 MR. KAUFMAN: Yes.

3 MR. LUGLIO: Yes.

4 MR. KAUFMAN: Mr. Intindola, the applicant
5 will also commit that assuming this is approved,
6 that, as I said, wouldn't mind getting rid of some
7 of those parking spaces. We have more than we
8 need. We would commit to working with you on any
9 improvements to the interior if that works for
10 everybody.

11 MR. INTINDOLA: So that --

12 MR. KAUFMAN: As long as we have
13 sufficient parking. That's what we're going to
14 care about.

15 MR. INTINDOLA: Each developer is
16 different. Some developers want to go beyond
17 RSIS, some like to go under. But you guys are
18 beyond RSIS.

19 MR. KAUFMAN: Yes.

20 MR. INTINDOLA: Madam Chair, that would be
21 my questions for their traffic expert.

22 CHAIRWOMAN MALLEY: Okay. Anybody else
23 have questions for him?

24 Are we ready to open to the public?

25 Can I get a motion?

1 BOARD MEMBER KAUFMAN: Motion to open to
2 the public.

3 MS. SMITH: I'm sorry, who was the first?
4 I missed the first.

5 BOARD MEMBER KAUFMAN: Me, Meg.

6 MS. SMITH: Okay. Thank you, Mr. Kaufman.

7 BOARD MEMBER KAUFMAN: You got it.

8 MS. SMITH: Who was the second?

9 BOARD MEMBER CEREIJO: Second.

10 MS. SMITH: Thank you, Miss Cereiyo.

11 All in favor?

12 Any opposed?

13 Okay. The meeting's now open to the
14 public. Anybody watching on TV who would like to
15 call and ask questions of this witness, please
16 call (201) 391-4977 Extension 203. We can take
17 one call at a time.

18 And just so people on Zoom are watching
19 know that there are currently three hands raised
20 on Zoom that I will address next.

21 CHAIRWOMAN MALLEY: It's this witness
22 only.

23 MS. SMITH: With no calls coming in, I'm
24 going to open the meeting to Mr. Marson.

25 MR. MARSON: Good evening. Can everybody

1 hear me?

2 MS. SMITH: Yes.

3 MR. MARSON: And, Mr. Luglio, thank you
4 for your time.

5 Under the trip generation that you're
6 required to do, please, if you could provide
7 detail. Are you only required to consider one
8 hour in the morning at rush hour and one hour in
9 the afternoon at rush hour during weekdays?

10 MR. LUGLIO: Yes, that's correct. Those
11 are the peak hours.

12 MR. MARSON: So, therefore, by elimination
13 that would mean that 22 hours a day, weekends,
14 holidays are not part of the trip generation and
15 only by analogy are you making conclusions that
16 the weekends would be much heavier traffic for the
17 residential than the office space, which by design
18 is empty let's say approximately 16 hours a day.

19 MR. LUGLIO: I'm not sure I understand the
20 question.

21 MR. MARSON: What I'm saying is, beyond
22 the one hour in the morning and one hour in the
23 evening peak, would you agree that outside the
24 normal business hours of let's say 9:00 to 5:00
25 and 9:00 to 6:00, that the trip generation rate by

1 design of the residential would have to be on a
2 basis of up to an infinity percent more than
3 anything in the commercial space, assuming that
4 the office space goes to zero and now you're left
5 with 16 hours roughly outside the parameters of
6 the work hour.

7 MR. LUGLIO: I mean, basically during the
8 day, each land use generates traffic that's
9 outside the peak hours also. The office component
10 or an office development would have traffic during
11 the non-peak hours during the day, during the
12 weekday and so would the residential development
13 and the residential development would have traffic
14 generated on Saturday and Sunday outside of the
15 peak hours as well.

16 MR. MARSON: But by design, just in my
17 last question, by design outside the normal office
18 hours where there might be few and far between
19 traffic from a commercial sense, the residential
20 would have a significantly greater traffic
21 pattern.

22 MR. LUGLIO: Relatively speaking. I mean,
23 the residential would have traffic generated let's
24 say after 5:00 or 6:00 p.m., but with respect to
25 the order of magnitude, it's still a low generator

1 of traffic.

2 MR. MARSON: Well, and just, again, to
3 reiterate, the only hours that you're considering
4 is one hour in the peak morning, one hour in the
5 peak evening for the traffic generation
6 statistics. Correct?

7 MR. LUGLIO: It's not that *I'm*
8 considering, that is the standard.

9 MR. MARSON: The applicant is required
10 only to consider one hour in the peak morning, one
11 hour peak evening. Is that correct?

12 MR. LUGLIO: All traffic analyses focus on
13 peak hours.

14 MR. MARSON: Okay. Thank you.

15 MS. SMITH: I have Anthony and Lynn.

16 MR. BAGGOT: Good evening, once again.
17 Anthony Baggott, Woodcliff Lake.

18 A couple of questions for this gentleman
19 and thank you for the time that you're taking
20 here.

21 With regard to the peak times that you're
22 referring to, where is the data generated from
23 with regard to that? Is this from an urban
24 environment that typically it seems to be in a
25 residential environment, 19 people at a peak time

1 coming out of that place would seem minimal
2 actually with 53 units within there. So could you
3 just qualify for me how that number is derived
4 from? I'm assuming you're using some sort of
5 national standard to calculate that. Could you
6 put that into relevance with regard to Woodcliff
7 Lake?

8 MR. LUGLIO: So the information that we
9 rely upon as far as doing traffic impact studies
10 is generated from the Institute of Transportation
11 Engineers. So the ITE, the latest edition, is the
12 10th Edition of the Trip Generation Manual, which
13 basically lists maybe a couple of hundred land
14 uses and each land use has anywhere from a couple
15 of hundred to thousands of studies that have been
16 conducted over a number of years and together that
17 information is prepared. And let's say for the
18 residential land use here, it's prepared and put
19 into an equation and so that equation predicts or
20 estimates on average what the estimated traffic
21 would be for a residential development based on
22 the number of units and, basically, a percentage
23 of how many vehicles are coming in and out.

24 So, again, it's based on a number or
25 thousands of studies and in particular we're

1 looking at it being a general urban or suburban
2 area. We're not looking at it from either urban
3 or suburban, this is in general, it could be urban
4 or suburban.

5 MR. BAGGOTT: Okay. So would you agree
6 that the differentiation between urban and
7 suburban could be substantial with use of cars,
8 you know, living in say an urban environment, say
9 New York City, many couples don't even own a car,
10 whereas, in that same two adult household in the
11 suburban area, they may, in fact, own two
12 vehicles. Would you agree that's accurate?

13 MR. LUGLIO: Almost all of the ITE data is
14 really compiled based on vehicle trip generation,
15 so how many vehicles were generated by different
16 complexes that were surveyed. So what we would
17 normally do if we were doing a study in an urban
18 environment in New Jersey, we would take the data
19 from ITE and then we would actually discount it by
20 some type of percentage, whether it be, if we were
21 in Edgewater we would have the ferry percentage.
22 If we were in Union City, it might be a bus and
23 light rail percentage. So we would take the data,
24 the raw data that we get from ITE and then reduce
25 that.

1 In New York City, we actually do it based
2 on number of people that are generated and then
3 apply those people to the various modes of
4 transportation.

5 So I would expect that for this particular
6 site here, the ITE is most relevant in its
7 basically natural state of coming up with a
8 general estimate for the number of vehicles.

9 MR. BAGGOTT: Okay. I understand that.
10 Thank you for clarifying that.

11 Now, with that intersection there between
12 Broadway and Woodcliff Avenue and the train
13 station right there, and I know there have been
14 some traffic improvements that have been made
15 there, is there any true data from when 188
16 Broadway was in fact an occupied commercial
17 property to the actual traffic generation that was
18 going on there, you know, be it peak, non-peak
19 hours or whatever. Is there any true data as
20 opposed to the hypothetical kind of ITE
21 information that you're bringing is bringing in
22 very broad areas throughout the country. But, you
23 know, it's a complicated intersection there, as we
24 know, but I would think that there's been some
25 factual accurate information taken from that

1 intersection when 188 Broadway was commercially
2 occupied. Could you comment on that?

3 MR. KAUFMAN: Just, for the record, again,
4 the intersection is a county road. It's
5 controlled by the county. The county has approved
6 the application.

7 MR. BAGGOTT: Okay. Is this gentleman a
8 traffic professional that's testifying as his
9 professional opinion?

10 MR. KAUFMAN: It doesn't matter. The
11 county has approved it. The county has exclusive
12 jurisdiction over the county road and the county
13 intersection.

14 MR. BAGGOTT: And I'm asking for
15 clarification as a layman in the community to how
16 that information would be classified or
17 interpreted, not whether or not the county
18 approved it. I can agree with you as everyone
19 else here can. It's been approved by the county.
20 I'm asking as a layman and a taxpayer of this town
21 to please clarify for me how those documents or
22 any tax could be interpreted in this property.

23 MR. KAUFMAN: Lou, can you try to answer
24 this gentleman's question for his information and
25 understanding, as long as we all know and we all

1 understand that whatever you testify to right now
2 is irrelevant to the application.

3 MR. PRINCIOTTO: You can make a statement
4 like that in your summation, but, you know, I
5 think the questions are relative to a change in
6 use and any negative or perhaps positive and
7 negative impacts based upon the change in use and
8 different --

9 MR. KAUFMAN: The case law's clear, you
10 can't use off-site traffic conditions on an
11 application like this. The case law is absolutely
12 clear.

13 MR. PRINCIOTTO: Well, we're not talking
14 about --

15 MR. KAUFMAN: You know, the fact that the
16 county approved it, you don't think the county
17 takes into consideration the negative aspects of
18 it. Of course they do. But, look, he'll answer
19 the question for informational purposes.

20 MR. LUGLIO: So there's no traffic count
21 or study of the intersection when the site was
22 fully occupied and it's rare that we actually have
23 data going back when a site was occupied unless
24 there was a specific reason to conduct driveway
25 counts or vehicles coming in and out.

1 There are some occasions, though, where we
2 would conduct a driveway count to really get an
3 idea of what the trip generation is of a
4 particular site but, again, if we just counted on
5 one day, that may not get a real clear photo of
6 what's going on and probably has to be done over,
7 you know, a few data sets or data points.

8 But I'm not aware of any data that was
9 collected for the site when it was in full
10 occupancy or intersection information with respect
11 to volumes at that location.

12 MR. BAGGOTT: Okay. Thank you, very much
13 for clarifying that.

14 One last question or one last point.
15 There was mention of sidewalks leading down to
16 Broadway and I got the impression that it would be
17 considered some impact with the train station
18 being right there that a certain number of
19 occupants there would be expected to take the
20 train on a regular basis to commute into the City
21 or wherever in the area where they may commute to,
22 like you referred to Edgewater having a ferry
23 factor. I'm guessing there's a train factor for
24 Woodcliff Lake, which would be fair. But has
25 there been any, you know, Woodcliff Lake station

1 me?

2 MR. LUGLIO: Yes.

3 MR. COUTO: Mr. Luglio, I wanted to ask
4 you a question. Have you ever done studies of
5 apartment buildings where they have like around 50
6 to 60 apartments with a single ingress and egress?

7 MR. LUGLIO: Yes.

8 MR. COUTO: Could you tell us any reason
9 why that's not provided, because their intended
10 use is going to be apartment buildings.

11 MR. LUGLIO: Why what's not provided?

12 MR. COUTO: Your study, study the property
13 why most of it was not in use and was not an
14 apartment building, but the future use is planned
15 to be apartment buildings with around 53
16 apartments, so shouldn't that be the more
17 comparable study, the number of trips an apartment
18 building generates.

19 MR. LUGLIO: And that's what we have in
20 the study and what I talked about earlier in my
21 testimony, the number of trips associated with 53
22 units.

23 MR. COUTO: My question is, the study was
24 done at 188 or you studied other apartment
25 buildings with 53 units?

1 MR. LUGLIO: No, we did not study other
2 apartment buildings with 53 units. Really, we
3 looked to the ITE, which is a national standard,
4 especially, in New Jersey DOT, Bergen County
5 standard on how we generate estimated vehicle
6 trips on average for development. That is the
7 methodology that is utilized to do that.

8 MR. COUTO: So that methodology, does it
9 differentiate between office buildings and
10 apartment buildings, that study? Are they the
11 same study or two separate studies, methodologies?

12 MR. LUGLIO: It's really one manual that
13 includes many different land uses and office is
14 one land use and residential is another land use
15 and they have separate data sets or separate
16 studies that go into that.

17 MR. COUTO: And which set did you use?
18 The residential or the office use?

19 MR. LUGLIO: Well, we actually used in the
20 original report, I believe we used both to look at
21 the comparison between what the office building
22 would generate and what the residential building
23 would generate.

24 MR. COUTO: Okay. I have another
25 question.

1 You're familiar with the area, I'm sure,
2 the causeway and Broadway?

3 MR. LUGLIO: Yes.

4 MR. COUTO: Do you consider these roads
5 major thoroughfare roads or local roads?

6 MR. LUGLIO: Well, they're county
7 roadways, so they're --

8 MR. COUTO: County roadways --

9 MR. LUGLIO: -- they're important roads,
10 yes.

11 MR. COUTO: So do you agree that a lot of
12 people come from each side of town? They come
13 from River Vale and Park Ridge to use the
14 causeway. Is that a possible use of a lot of
15 traffic?

16 MR. LUGLIO: That's one element of it,
17 yes.

18 MR. COUTO: Now, this study that you did
19 was in 2019?

20 MR. LUGLIO: Yes.

21 MR. COUTO: Did you take in consideration,
22 did you update your study since there were a bunch
23 of units that were developed in Park Ridge?

24 MR. PRINCIOTTO: Mr. Couto, you know, at
25 the beginning I explained with regard to, you

1 know, off-site traffic conditions and traffic
2 that, you know, starts or emanates from
3 surrounding towns would not be something that this
4 board would have jurisdiction over and --

5 MR. COUTO: Okay. Thank you. I
6 appreciate.

7 I have another question.

8 Mr. Luglio, so there was an approval from
9 the County of Bergen the Department of Planning
10 Engineering. Correct?

11 MR. LUGLIO: Yes.

12 MR. COUTO: Do you have high regard for
13 this department or low regard for this department?

14 MR. LUGLIO: I'm not getting in trouble
15 with that.

16 MR. COUTO: Okay. So I assume you have
17 high regard for it.

18 Are you aware of the conditions that they
19 attached to the approval?

20 MR. LUGLIO: I don't have them in front of
21 me, but normally there are conditions, yes.

22 MR. COUTO: Okay. They have a specific
23 condition number 15. Are you aware of it or not
24 aware?

25 MR. LUGLIO: I do not have that in front

1 of me.

2 MR. COUTO: Do you have access to it or
3 should I read it to you?

4 MR. PRINCIOTTO: Why don't you read it to
5 him if you have it right in front of you. It will
6 save a little time. Thank you, Mr. Couto.

7 MR. COUTO: So condition 15 is the County
8 of Bergen says, "The County reserves the right to
9 impose left turn restrictions in and out of the
10 site at the future date if deemed necessary to
11 ensure the safe and efficient movement of traffic
12 along Broadway."

13 So --

14 MR. KAUFMAN: Yeah, we're familiar with
15 that, sir.

16 MR. COUTO: You're familiar with that?

17 MR. LUGLIO: Yes.

18 MR. COUTO: So as a layman, it appears to
19 me that they're covering their back that the
20 traffic could be higher in the future. Is that --

21 MR. LUGLIO: I think that the issue is
22 that once that it is open and operational at full
23 or near full occupancy, if during the peak hours
24 there is an issue in trying to get in or out of
25 the site, then they may ask for left turn

1 restrictions.

2 MR. KAUFMAN: We agreed to that in our
3 discussions with the county.

4 MR. COUTO: Okay.

5 MR. LUGLIO: That's right.

6 MR. KAUFMAN: I don't think there's --
7 respectfully, what's the point?

8 MR. COUTO: The point is it looks like the
9 county is worried that they will get a lot more
10 traffic than they planned.

11 MR. KAUFMAN: No, the traffic conditions
12 on the road may change over the course of time,
13 not necessarily from this project, but from other
14 development, from population growth, from other
15 factors. That's all that means. It doesn't mean
16 it comes from this project.

17 MR. COUTO: Okay. Thank you, I appreciate
18 it.

19 MR. PRINCIOTTO: Do you have another
20 question?

21 MR. COUTO: No, that's it.

22 MR. PRINCIOTTO: Thank you, Mr. Couto.

23 MS. SMITH: I have one more person. Her
24 name is Anne Marie.

25 MS. BORELLI: Hi, can you hear me?

1 MS. SMITH: Yes.

2 MS. BORELLI: Okay. All right. I'm just
3 going to turn my volume up. I know it's getting
4 late, sorry. Just bear with me a second.

5 Okay. So I have a couple of questions.
6 I'll make them quick because I know it's late and
7 the board wants to go.

8 So based upon that response that Mr. Couto
9 just said about the no left hand restrictions, and
10 so when the tenants need to go to ShopRite to go
11 shopping and they will not be able to make a
12 left-hand turn so that poses the question with the
13 traffic flow at 188. Broadway is not, you know,
14 going for breakfast. It's not that type of town
15 and so --

16 MR. KAUFMAN: That's why we can't lease it
17 as an office building.

18 MS. BORELLI: Well, thank you for
19 interrupting me.

20 MR. KAUFMAN: You're right. That's why
21 people would --

22 MS. BORELLI: My point being, Mr. Kaufman,
23 if you'd let me finish. Thank you.

24 My point being is that people will need
25 their cars. In Woodcliff Lake people need their

1 cars. There's no downtown center where people can
2 walk like Ridgewood or Westwood. So people need
3 their cars. So, perhaps, maybe your black and
4 white numbers probably don't really add up in
5 reality.

6 And another question is, do you ever
7 factor in real life, like, do you ever survey the
8 residents, the local residents that have to deal
9 with the traffic? Do you ever survey local
10 residents or do you just rely on your numbers, on
11 your statistics that are a nationwide number which
12 can really be skewed?

13 Okay. So, all right. Those are my
14 questions, if you want to address them.

15 Thank you.

16 MR. LUGLIO: There are a lot of questions
17 there and I'll take them I guess the later ones.

18 We utilize what is a national resource,
19 the ITE, to come up with what is the on average
20 estimate and it has proven to be very effective
21 and useful for many decades, not only for private
22 applications, but also in planning for future
23 roadway work both in municipal, county, and the
24 state DOT. So this is, you know, not something we
25 utilize lightly. We utilize it because it has

1 proven to be an effective tool in estimating
2 traffic. We don't really go out and survey for
3 any particular project, and if it even on the
4 county or even on the state level, that is only
5 done more of a public information center to get
6 the opinion of the public and that basically is a
7 similar forum to this hearing that's open to the
8 public. So it is very similar. We wouldn't go
9 out to, you know, survey a hundred people within
10 200 feet. That is something that is not done,
11 that is historically not done. It's not part of
12 the methodology that is used.

13 MS. SMITH: I do have one more person. I
14 have Karen Ardizone.

15 MS. ARDIZONE: Can you hear me?

16 MS. SMITH: Yes, I can.

17 MS. BORELLI: So I live behind the Werimus
18 Williamson building for 19 years and the building
19 never bothered me because it was 9:00 to 5:00. I
20 really am having trouble grasping the fact that it
21 will not be increased traffic because as it stands
22 now, it takes me five minutes to turn out of my
23 road. I'm the one who shares the most property.
24 So my question is, how is the light that they put
25 at the end of Highview going to change that it

1 will not take us 10 or 15 minutes to get out of
2 the house on the weekend to go to ShopRite? How
3 is the flow of traffic, because right now it takes
4 at least five minutes to turn down my road. My
5 teenagers have almost got into accidents there.
6 It's very dangerous. I hate the light. I hate
7 the whole thing. I understand it's a necessary
8 evil. But at the end of the day, if I have to go
9 to ShopRite and make a left --

10 MR. PRINCIOTTO: Question, please. Can
11 you ask.

12 MS. BORELLI: I'm asking how the lighting
13 is going to change, if you put in all these people
14 behind my house, then I'm sharing this light with
15 53 people, how the lighting sequence is going to
16 change or are you going to move the line back past
17 Highview Avenue so it gives us room to like come
18 out of our street and be in the front of the line.
19 Something has to be done.

20 MR. PRINCIOTTO: Ma'am --

21 MR. KAUFMAN: That's a county road and
22 it's up to the county.

23 MR. PRINCIOTTO: I appreciate the
24 question, but it's not for the applicant and I
25 appreciate your concern, but it's not for the

1 applicant to control the traffic light and if the
2 county wanted that as part of the approval
3 process, then they would have to indicate that to
4 the applicant and they haven't done so.

5 If you have concerns with regard to
6 regional traffic issues, I suggest that you
7 contact the North Jersey Transportation Planning
8 Authority with regard to all traffic conditions.

9 MS. ARDIZONE: Okay.

10 MR. KAUFMAN: Sal, thank you for the
11 response.

12 MR. PRINCIOTTO: No problem.

13 Do we have any other questions?

14 MS. SMITH: No. I do have, I would like
15 to remind you, I have an email that was sent in.
16 I don't know if that should be read into the
17 record.

18 MR. KAUFMAN: No, I would object to any
19 emails being read into the record. They're not
20 part of the record.

21 MR. PRINCIOTTO: We'll take that up at the
22 next meeting. Paul, I think due to the COVID
23 pandemic, I think our notice and probably your
24 notice indicates that comments can come in via
25 email, but we'll save that for a later date.

1 MR. KAUFMAN: All right. Fine.

2 MR. PRINCIOTTO: Okay.

3 MR. KAUFMAN: That means I'm going to have
4 Danielle research it.

5 MR. PRINCIOTTO: Okay. I'll be happy to
6 hear from her.

7 I just have a couple of followup questions
8 for Mr. Luglio.

9 CHAIRWOMAN MALLEY: Just get a motion to
10 close to the public first.

11 MR. PRINCIOTTO: All right.

12 CHAIRWOMAN MALLEY: Somebody, motion to
13 close?

14 VICE CHAIRMAN HAYES: Close; motion to
15 close to the public.

16 BOARD MEMBER HEMBREE: Second.

17 MS. SMITH: All in favor?

18 Close the public portion.

19 MR. PRINCIOTTO: Miss Luglio, if there
20 were 53 apartment units instead of the office
21 building, would that increase the number of
22 left-hand turns out of the property during the
23 weekends?

24 MR. LUGLIO: Yes.

25 MR. PRINCIOTTO: Okay. And if the county

1 does prohibit the left-hand turns and the people
2 wanting to make a left-hand turn wanted to go
3 south on Broadway, how would they go about doing
4 that?

5 MR. LUGLIO: So, basically, they would be
6 making a series of right turns, right. So they
7 would go onto Highview. Make another right turn
8 on Knickerbocker. Is it Knickerbocker --

9 MR. PRINCIOTTO: Kinderkamack.

10 MR. LUGLIO: Kinderkamack, sorry.
11 Kinderkamack and basically come down Prospect or,
12 you know, continue down Kinderkamack depending on
13 where their south destination is.

14 MR. PRINCIOTTO: Okay. And those are
15 residential areas?

16 MR. LUGLIO: Residential areas, yes. But,
17 you know, it's a series of streets in a network.
18 So they all provide access in every direction.

19 MR. PRINCIOTTO: All right. Thank you.

20 I have no further questions.

21 Okay. I think we should talk about the
22 scheduling. How many more witnesses do you have?

23

24

(Zoom interruption)

25

1 MR. KAUFMAN: I think four.

2 MR. PRINCIOTTO: Okay.

3 MR. KAUFMAN: That may change. It might
4 be five, maybe three.

5 MR. PRINCIOTTO: Okay. Well, here's the
6 board's issue. I mean, we have a number of
7 residential applications that we're going to have
8 hear, so we might be looking at some special
9 meetings.

10 But, Meg, when's our next regular meeting?

11 MS. SMITH: June 22nd.

12 MR. PRINCIOTTO: How do you look for
13 June 22nd?

14 MR. KAUFMAN: I'm fine.

15 MR. PRINCIOTTO: Okay.

16 MR. KAUFMAN: Joe Burgis, are you good
17 June 22nd?

18 MR. BURGIS: I have a commitment that
19 night. I could have someone else from the office.

20 MR. KAUFMAN: I'd prefer. We'd like to
21 you be there. You sat through tonight. I think
22 it's important that you sat here tonight.

23 MR. PRINCIOTTO: What about your other
24 witnesses? Do you know their availability for
25 June 22nd?

1 MR. KAUFMAN: Matt, are you available
2 June 22nd?

3 MR. CLARK: Yes.

4 MR. KAUFMAN: Evan?

5 MR. PRINCIOTTO: You're going to start
6 that again.

7 MR. KAUFMAN: No, I want to know if he's
8 available June 22nd.

9 MR. JACOBS: Yes, I'll be there.

10 MR. KAUFMAN: Good. Thank you.

11 Brian, I think we're done with you.

12 MR. INTINDOLA: I'm a little disappointed.
13 I was waiting for the subpoena to be served.

14 MR. KAUFMAN: Oh, I can do that anyway
15 just to make your day.

16 MR. INTINDOLA: You gotta catch me first.

17 MR. KAUFMAN: I'll find Mike.

18 If you're going to talk about a special
19 meeting, what do you normally do? The applicant
20 has to pay for it, I would assume, parts of it.

21 MR. PRINCIOTTO: Yes, we would certainly
22 appreciate that. But, you know, we want to hear
23 your application and, you know, do it as quickly
24 as we can. So, perhaps, we can talk about... So
25 right now do you have anyone else that you can

1 call on the 22nd? I mean, if we're going to give
2 you that day we want you to use it.

3 MR. KAUFMAN: I know. I need Joe there,
4 that's the problem.

5 MR. BURGIS: If I get out early from the
6 other one, I'll just jump on this call.

7 MR. KAUFMAN: I don't know what to tell
8 you. We need Joe. I mean, if there's another
9 night we could do it, we'll see, you know, we'll
10 see what we can do about being available.

11 MR. PRINCIOTTO: All right. Well, do you
12 want a special meeting? Do you want to pay for a
13 special meeting?

14 MR. KAUFMAN: Yeah, sure, we'll pay for
15 it. Depends upon the price. Can we negotiate the
16 price?

17 MR. PRINCIOTTO: It doesn't cost that
18 much.

19 MR. KAUFMAN: All right. Then we'll do
20 it, yeah.

21 MR. PRINCIOTTO: Meg, can I lean on you
22 for some suggestions as to dates for a special
23 meeting on this.

24 MS. SMITH: I'm looking quickly at the
25 municipal calendar and Mondays are not available

1 due to mayor and council meetings and planning
2 board meetings. Other days seem to be better
3 choices: Tuesday, Wednesday or Thursday.

4 MR. KAUFMAN: Joe, are you good the 23rd,
5 a Wednesday? Are you good the 15th or the 16th?

6 MR. BURGIS: The 23rd is good.

7 MS. SMITH: I just want to mention we're
8 meeting already on the 22nd, so the 23rd is a
9 back-to-back night for us as a board.

10 MR. KAUFMAN: I'm sure the night before
11 won't be as painful. That was a joke.

12 Is the 15th or 16th, does that work?

13 MR. BURGIS: No.

14 MR. KAUFMAN: No?

15 MR. BURGIS: No.

16 MR. KAUFMAN: 17th, Thursday the 17th?

17 MR. BURGIS: I have a question mark about
18 a Paramus case. I don't know.

19 MR. KAUFMAN: Oh, forget Paramus. We'll
20 make sure it's put off.

21 MR. BURGIS: Thank you. I purposefully
22 mentioned that town.

23 MR. KAUFMAN: Joe's available on
24 June 17th.

25 Matt, are you good on June 17th?

1 MR. CLARK: Yep.

2 MR. PRINCIOTTO: All right. We'll keep
3 you on the 23rd too.

4 MR. KAUFMAN: We're okay the 23rd, but
5 it's, you know, Meg said it was back to back and
6 the board members might not want that.

7 MR. PRINCIOTTO: I'm sorry, I mean, the
8 22nd. So you'll have the 17th and the 22nd.

9 MR. KAUFMAN: Okay.

10 CHAIRWOMAN MALLEY: What about the zoning
11 board? Who do we have from the zoning board?
12 Robert, are you here? Robert is saying no for the
13 17th.

14 MR. BURGIS: I'm not available on the
15 17th.

16 MR. KAUFMAN: Oh, I thought you just said
17 you were available on the 17th.

18 MR. BURGIS: No, you said I was available.
19 I didn't say I was available.

20 CHAIRWOMAN MALLEY: That's not going to
21 work.

22 MR. KAUFMAN: Your Paramus will get
23 carried. Don't worry.

24 MR. PRINCIOTTO: Let's pick another date.

25 MR. BURGIS: I'm more apt to be available

1 on the 16th than the 17th. I don't know but I
2 think I can get somebody else to cover my other
3 meeting on the 16th.

4 MR. KAUFMAN: Okay.

5 Sal, does the 16th work?

6 MR. PRINCIOTTO: Yeah. Well, Board
7 Members, does the 16th work?

8 I'm not hearing any nos.

9 CHAIRWOMAN MALLEY: Mike is good.

10 Robert, you're not good.

11 VICE CHAIRMAN HAYES: Well, you know, I'm
12 not good with the understanding of, you know, the
13 discussion we had earlier.

14 CHAIRWOMAN MALLEY: Yeah, okay.

15 How about the rest of...

16 MS. SMITH: Do you want me to do a quick
17 roll call through the names, Ms. Malley?

18 CHAIRWOMAN MALLEY: Yes, I think so.

19 MS. SMITH: Ms. Malley, are you available
20 on the 16th?

21 CHAIRWOMAN MALLEY: Yeah, I'm okay.

22 MS. SMITH: Ms. Cereiyo, are you available
23 on the 16th of June?

24 MS. CEREIJO: Yes.

25 MS. SMITH: Mr. Dhawan, are you available

1 on the 16th of June?

2 MR. DHAWAN: Yes.

3 MS. SMITH: Mr. Hayes, I'm going to put
4 you down as a no for now.

5 Ms. Hembree, are you available for
6 June 16th?

7 CHAIRWOMAN MALLEY: I think we lost her.

8 MR. KAUFMAN: Somebody just sent out
9 something I saw that June 16th is Pascack Hills'
10 graduation.

11 MS. SMITH: I see that in the chat.

12 MR. KAUFMAN: Yeah, I just saw the chat.

13 MS. SMITH: Mr. Kaufman, are you available
14 on the 16th and do you have anybody graduating?

15 BOARD MEMBER KAUFMAN: I'm available.

16 MS. SMITH: Okay. Ms. Picinic, you are
17 available --

18 MS. PICINIC: I'm available.

19 MS. SMITH: You are.

20 Okay. So, Ms. Malley, I have five yeses.
21 I will ask Ms. Fendian, who is not present, and
22 Ms. Hembree as well.

23 So we have five yeses and two possible for
24 the June 16th.

25 MR. KAUFMAN: Could we have alternates if

1 five board members available on June 16th. We're
2 just not going to take a vote. Even if we finish,
3 we won't take a vote.

4 MR. PRINCIOTTO: Right.

5 MS. SMITH: And it's possible the two
6 other members who are not here --

7 MR. PRINCIOTTO: Right. We'll see what's
8 what for June -- that's not enough time to give
9 notice. How many residential applications do we
10 have that are ready, Meg?

11 MS. SMITH: One has been deemed complete,
12 three are in the pipeline.

13 So I can schedule that one residential
14 application for June 22nd with hopefully a second
15 one if it's deemed complete by then.

16 MR. PRINCIOTTO: Well, I still want to
17 have Mr. Kaufman use part of June 22nd. We'll see
18 what happens on the 16th how far he gets.

19 MR. KAUFMAN: My problem is Joe Burgis is
20 usually the last witness, so assuming we got close
21 to finishing June 16th, still wouldn't be able to
22 go ahead on June 22nd unless Joe could be here.

23 MR. PRINCIOTTO: Well, he said he can't be
24 there.

25 MR. KAUFMAN: I know, that's why I'm

1 saying we probably, even if we get far on the
2 16th, we won't be able to finish, go ahead on the
3 22nd anyway.

4 MR. PRINCIOTTO: All right. We can do
5 residential applications on the 22nd.

6 MR. KAUFMAN: Yeah, do residential.

7 MR. PRINCIOTTO: Why don't we do another
8 special meeting after the 22nd?

9 MR. KAUFMAN: Yeah, well, we can determine
10 that on the 16th.

11 MR. PRINCIOTTO: Yeah, but you have to
12 give notice too, you know.

13 MR. KAUFMAN: Well, you announce it. If
14 you announce it tonight, we don't have to give
15 notice for the June 16th. You're announcing the
16 night it's being carried to.

17 MR. PRINCIOTTO: Well, I still think you
18 have to notice that.

19 MR. KAUFMAN: You have to give, under the
20 Open Public Meetings Act, you have to give notice
21 that there's a special meeting being held, but if
22 the meeting is being carried from tonight to a
23 specified meeting, we don't have to give notice
24 again and publish again.

25 MR. PRINCIOTTO: Well, that will be your

1 risk. Okay. So are we doing June 16th?

2 MR. KAUFMAN: Sure.

3 MR. PRINCIOTTO: All right. So for those
4 who are listening, this will be carried till
5 June 16th.

6 And then, Meg, I would schedule at least
7 the one residential application that's ready for
8 June 22nd unless you hear from me to the contrary.

9 MS. SMITH: Okay. That will make them
10 very happy.

11 MR. PRINCIOTTO: And, Mr. Kaufman, you'll
12 let us know if you can use part of June 22nd,
13 although, you said you want Mr. Burgis to be last?

14 MR. KAUFMAN: Yeah, generally.

15 MR. PRINCIOTTO: Well...

16 MR. KAUFMAN: Let me play it by ear.

17 Okay?

18 MR. PRINCIOTTO: All right. Let me play
19 it by ear. Okay. Leave it the 16th and the 22nd.
20 You need to just announce that there's no further
21 notice required. So everybody who's on
22 understands the meeting's being carried.

23 MS. SMITH: There's a message in the chat
24 to please consider the public who have graduation
25 that evening and will not be able to attend. So

1 I'm just reading that as some comment made by the
2 public.

3 MR. KAUFMAN: That's why I mentioned it to
4 you earlier.

5 MS. SMITH: Yes, it doesn't seem to affect
6 us generally as a board, but it is affecting the
7 public.

8 MR. KAUFMAN: Yes. Is this going to be
9 another Zoom meeting?

10 MS. SMITH: As far as I know, yes, we
11 haven't changed anything with the office or our
12 meetings at this time. We're looking to change it
13 moving forward, but I have no clarification when
14 that will be.

15 MR. KAUFMAN: All right. Great. So as
16 soon as you know, you'll, of course.

17 MS. SMITH: Oh, absolutely.

18 We're looking to do it. The conversation
19 started today after the governor's press
20 conference yesterday and they're trying to figure
21 out what we'll be able to do.

22 MR. KAUFMAN: Okay. Before I go and say
23 good night, I just want to add one more thing to
24 the chair and members of the board and you, Meg,
25 and Sal. I just want to thank you all. It's been

1 a long night and I appreciate all of your
2 courtesies and we just want to thank you for your
3 time as volunteers in hearing us this evening. So
4 I just want to say thank you and we'll see you
5 next month.

6 CHAIRWOMAN MALLEY: Thank you.

7 A motion to adjourn.

8 MR. BURGIS: Chairwoman, by law, you also
9 have to announce the time as well as the date.

10 MS. SMITH: Our meetings are held at 7:30,
11 so I'm assuming that that meeting on June 16th
12 will be held a 7:30 as well.

13 MR. KAUFMAN: Yes.

14 Thank you.

15
16 (Whereupon, the proceedings concluded at
17 11:13 p.m.)
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C E R T I F I C A T E

I, LYNANN DRAGONE, License No. XIO1388, a Certified Court Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the hearing at the time and the date hereinbefore set forth.

I further certify that I am neither attorney nor Counsel for, nor employed by any of the parties to the action in which this hearing was taken.

I further certify that I am not an employee of anyone employed in this case, nor am I financially interested in this action.

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LYNANN DRAGONE, CCR
Certified Court Reporter