

In The Matter Of:
LIVINGSTON COUNTY ZONING BOARD OF APPEALS

February 10, 2015

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1 LIVINGSTON COUNTY ZONING BOARD OF APPEALS
 2 CASE SU-7-14
 PLEASANT RIDGE WIND ENERGY PROJECT

3 February 10, 2015
 4 6:30 PM
 Walton Centre
 100 West Locust Street
 5 Fairbury, Illinois

6 BOARD MEMBERS
 7 Michael Cornale, Acting Chair
 Rich Kiefer
 8 John Vitzthum
 Joan Huisman
 Diana Iverson
 9 Tom Blakeman, Attorney for Zoning Board of Appeals

10 Charles T. Schopp, Administrator
 Livingston County Regional Planning Commission
 11 112 W. Madison Street
 Pontiac, IL 61764

12 James R. Griffin
 13 Attorney for Livingston County
 Schain, Banks, Kenny & Schwartz
 14 70 W. Madison Street, Suite 5300
 Chicago, IL 60602
 15 312.345.5700

16 Appearing For Applicant/Invenergy:
 Michael S. Blazer
 17 Attorney at Law
 Jeep & Blazer, LLC
 18 24 North Hillside Avenue, Suite A
 Hillside, IL 60162
 19 708.236.0830
 mblazer@enviroatty.com

20 Appearing for United Citizens of Livingston County:
 Phillip A. Luetkehans
 21 Attorney at Law
 Schirott, Luetkehans & Garner, LLC
 22 105 E. Irving Park Road
 Itasca, IL 60143
 23 630.760.4601
 24 pluetkehans@slg-atty.com

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1 (Commencing at 6:31 p.m.)
 2 **CHAIRMAN CORNALE:** Chuck, roll call
 3 please.
 4 **MR. SCHOPP:** Okay, this is the February
 5 10th, 2015, continuation hearing of Livingston
 6 County Zoning Board of Appeals review of Livingston
 7 County Zoning Case SU-7-14, Pleasant Ridge Wind
 8 Energy, LLC, Pleasant Ridge Wind Energy Project.
 9 Michael Cornale.
 10 **CHAIRMAN CORNALE:** Here.
 11 **MR. SCHOPP:** John Vitzthum.
 12 **MR. VITZTHUM:** Here.
 13 **MR. SCHOPP:** Richard Kiefer.
 14 **MR. KIEFER:** Here.
 15 **MR. SCHOPP:** Diana Iverson.
 16 **MS. IVERSON:** Here.
 17 **MR. SCHOPP:** Howard Zimmerman. Joan
 18 Huisman.
 19 **MS. HUISMAN:** Here.
 20 **MR. SCHOPP:** Gibs Nielsen. We have a
 21 quorum.
 22 **CHAIRMAN CORNALE:** All right. Certainly
 23 like to welcome everybody back this evening. We
 24 need to take care of a few housekeeping items.

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1 We've got a few exhibits that we didn't get admitted
 2 into evidence. The first exhibit, UCLC Exhibit 60,
 3 it's the resume of Aaron Nathaniel Gruen. Next
 4 exhibit, UCLC Exhibit 61, that's going to be the
 5 comments, findings and conclusions about report by
 6 David G. Loomis, Ph.D., of Strategic Economic
 7 Research, LLC, entitled Economic Impact of the
 8 Pleasant Ridge Wind Energy Project. Next exhibit
 9 will be UCLC Exhibit 62, and that's the Economic and
 10 Fiscal Benefits of the Shady Oaks Wind Farm.
 11 All right, we've got that taken care of.
 12 Okay, we've got a couple more. Pleasant Ridge
 13 Exhibit 300, this is the energy.gov website, VP-100:
 14 Illinois Wind Farm Breathes New Life Into
 15 Businesses. The next one is Pleasant Ridge Exhibit
 16 301 entitled Illinois Wind Energy, Illinois has been
 17 successful in attracting development for wind energy
 18 manufacturing and large wind energy projects.
 19 Pleasant Ridge Exhibit 304 is an Ex Post Analysis of
 20 Economic Impacts From Wind Power Development in U.S.
 21 Counties.
 22 All right, with that taken care of, I had
 23 an individual talk to me last evening after the
 24 meeting. He had testified. Mr. Kelson. He's out

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1 there. Yeah, if you could come forward. There was
 2 one point of clarification he just wanted to make in
 3 his testimony or his cross-examination. He felt it
 4 was worthwhile to tell us, so you can either come
 5 here or -- yeah, come over here.
 6 **MR. KELSON:** Nate Kelson. Thank you. I
 7 just -- I'll just read this real quick. After I sat
 8 down last night, it occurred to me that my response
 9 to Patrick's question, he had asked me a question
 10 regarding my knowledge of possibilities of a wind
 11 farm coming to our area, may have been a little bit
 12 misleading. Didn't intend it to be, but I think it
 13 may have been.
 14 My response to Patrick when he asked it
 15 was we had heard at one point that they would be
 16 building to the north there by Odell. I guess it
 17 took us off guard when this application was turned
 18 in. That was my response. I feel mentioning Odell
 19 is misleading because in 2007 when we purchased the
 20 property we were told that wind turbines could come
 21 as far south as the ridge north of us, but that the
 22 valley where our property lay would not be an option
 23 to them and outside the footprint. In 2011 when we
 24 prepared to build our home, we were under the

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1 impression that the project had died. We were
 2 certainly surprised by the project resurfacing. But
 3 I apologize for making it sound farther than it was
 4 last night.
 5 Thank you for allowing me to clear this
 6 up.
 7 **CHAIRMAN CORNALE:** Thank you, Mr. Kelson.
 8 Just real quick, Mr. Luetkehans, question for him?
 9 **MR. LUETKEHANS:** No, sir.
 10 **CHAIRMAN CORNALE:** Any questions, other
 11 members of the ZBA, regarding the statement? Mr.
 12 Blazer, do you have any?
 13 **MR. BLAZER:** No, sir.
 14 **CHAIRMAN CORNALE:** Audience, is there any
 15 questions specifically about his statement that he
 16 just made? Units of local government? County
 17 staff? All right, thank you, Mr. Kelson.
 18 All right. With that, I believe we will
 19 move on. Mr. Luetkehans, I believe you have a
 20 witness with you this evening.
 21 **MR. LUETKEHANS:** Yes, Mike McCann.
 22 **CHAIRMAN CORNALE:** Mr. McCann, could you
 23 please raise your right hand?
 24 (Michael McCann was duly sworn.)

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1 **CHAIRMAN CORNALE:** Can you please state
 2 your name and address for the court reporter?
 3 **MR. McCANN:** Michael McCann, spelled M-C
 4 capital C-A-N-N. My business address is 500 North
 5 Michigan Avenue in Chicago.
 6 **CHAIRMAN CORNALE:** Mr. McCann, you may
 7 continue.
 8 **MR. McCANN:** Thank you.
 9 **MR. LUETKEHANS:** Mr. McCann, I know you
 10 have a presentation. We'll have you get that fixed
 11 up in a second. In one second I'll ask you to
 12 present your --
 13 **MR. McCANN:** Close enough for the mic?
 14 **CHAIRMAN CORNALE:** I think so.
 15 **MR. McCANN:** Shall I begin?
 16 **MR. LUETKEHANS:** Yes, please.
 17 **MR. McCANN:** Good evening, Mr. Chairman,
 18 members of the board. As you know, my name is Mike
 19 McCann. I'm a real estate appraiser.
 20 **MR. LUETKEHANS:** You know what, I
 21 apologize. Mr. Blakeman and Mr. Cornale, we have
 22 submitted some exhibits and I just wanted to mention
 23 those, some of which will come up, and they're all
 24 relevant to his testimony. But the first is UCLC

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1 Exhibit 71. That is the PowerPoint presentation
 2 he's about to give. Second is UCLC Exhibit 72 which
 3 is an article by Albert R. Wilson. The third is
 4 UCLC Exhibit 73 which is the professional profile of
 5 Albert R. Wilson. The fourth is UCLC Exhibit 44,
 6 which is a Lansink L-A-N-S-I-N-K, case study.
 7 Exhibit 7 -- UCLC Exhibit 74 is an MPAC, Municipal
 8 Property Assessment Corporation, study. Exhibit 75
 9 are affidavits and information that were filed under
 10 oath in front of the Public Service Commission of
 11 Wisconsin. And Exhibit 79 is a property value
 12 guarantee agreement.
 13 I apologize and please proceed, Mr.
 14 McCann.
 15 **MR. McCANN:** Thank you, no problem. The
 16 reason I'm here tonight, in a nutshell, was to talk
 17 about property values and the impact from wind
 18 energy facilities on neighboring property values and
 19 more specifically to the Livingston County zoning
 20 standards for approval of the special use related to
 21 impact on property values.
 22 The first slide you see here, you may have
 23 heard the name before, is a residence in Michigan
 24 belonging to Cary Shindeldecker. And the reason I

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1 think this is significant because, again in a
 2 nutshell, what you see is what you get. And even
 3 though that looks like it's right on top of the
 4 house, it's really over 1100 foot setback from that
 5 property with a 476 foot height to the top of the
 6 blade, tip of the blade, excuse me.
 7 This is also property that I had some
 8 experience with going back to June 2011 when he
 9 first started trying to sell this property, before
 10 the application from a wind energy project there had
 11 even been filed, and he just recently closed finally
 12 on selling that property. Very close to my
 13 forecast, he lost about 35 percent of what the
 14 market value of the property would have been without
 15 the turbine present. He had marketed that
 16 extensively, and as I recall, at last count there
 17 was something on the order of over 25,000 Internet
 18 hits, the property had plenty of exposure, and it
 19 just takes a very special buyer to absorb that kind
 20 of risk. This is just one example, which I'm going
 21 to get into a lot more.
 22 It's been a while since I've testified
 23 before this board. I'm not sure if it's any of the
 24 same members or new members or if you're -- I'm not

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1 remembering all the names and faces, but I did
 2 testify previously at the Deer Run project. And
 3 just briefly to recap my qualification as an
 4 appraiser and more specifically for measuring wind
 5 farm impacts, I have 34 years, over 34 years
 6 experience appraising and consulting on really every
 7 type of property from residential to farm
 8 properties, commercial, industrial. I'm a state
 9 certified general real estate appraiser licensed by
 10 the State of Illinois. For those of you who don't
 11 know, that's the highest degree level of licensing
 12 offered by the state. I'm also a Certified Review
 13 Appraiser. I was inducted into Lambda Alpha
 14 International on the basis of my expertise in
 15 property value studies. It's not something every
 16 appraiser does, but it's a little bit of a niche I
 17 developed, not just with wind projects, but really
 18 measuring any type of land use impact upon another.
 19 I've previously qualified to testify as an
 20 expert witness in over 21 states, including well
 21 over a dozen counties in Illinois, and federal
 22 courts, and I've appraised, again, a variety of
 23 property value damage situations that ranges from
 24 impacts such as these to road widenings, the takings

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1 of partial -- portions of parking lots from shopping
 2 centers, things like that, as I said, again an area
 3 of appraising that many appraisers don't get into,
 4 but it's something that I have found myself doing
 5 more and more as the years go on.
 6 I haven't done this just for objectors
 7 groups. I've worked for government bodies,
 8 developers, corporations, attorneys, investors and
 9 private property owners. And, in fact, I was
 10 appointed by the Northern District of the U.S.
 11 Court, the federal court, as a condemnation
 12 commissioner for a pipeline project that went
 13 through Will County a number of years ago called the
 14 Northern Border Pipeline, and it was my role or my
 15 job as a condemnation commissioner, along with a law
 16 professor and attorney, to make a recommendation to
 17 the court as to the just compensation to property
 18 owners for the pipeline being routed through their
 19 property.
 20 More on point, I've evaluated well over 20
 21 utility or industrial scale wind projects in over a
 22 dozen states. In the back of my more lengthy
 23 report, not the presentation, is a summary of -- I
 24 believe it's an updated summary of most of the ones

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1 that I have given sworn testimony in.
 2 And the Appraisal Institute, which you may
 3 know who they are, who the organization is, invited
 4 me back in 2012 to develop and present a seminar on
 5 this very subject, the effect of wind turbine
 6 impacts on property values, which I did. And while
 7 I'm not a member of the Appraisal Institute, they
 8 sought me out to prepare the seminar, present it to
 9 the membership, and the seminar was peer-reviewed by
 10 the Appraisal Institute's education committee and
 11 approved for education credits for the members of
 12 the Appraisal Institute.
 13 **CHAIRMAN CORNALE:** Mr. McCann, let me stop
 14 you right there.
 15 **COURT REPORTER:** Yes, I'm going to move.
 16 (Discussion off the record.)
 17 **MR. McCANN:** This next slide is just a
 18 basically cover of that wind energy seminar that I
 19 prepared and presented to the Appraisal Institute.
 20 Let me go through the summary of my qualifications
 21 which is on there again.
 22 In this specific study, kind of getting
 23 ready for the meeting, the steps I took to develop a
 24 new study in Livingston County, that started with

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1 the review of the Livingston County ordinance, more
 2 specifically Chapter 56, the zoning chapter, and the
 3 special use approval criteria that's indicated in
 4 there for any special use.
 5 **MR. LUETKEHANS:** Mike, let me interrupt
 6 one second. I think in the back of the room they're
 7 telling us they're having a hard time hearing you,
 8 so could you try to move that microphone a little
 9 closer? Thank you.
 10 **MR. McCANN:** Is this a little better?
 11 **MR. LUETKEHANS:** Yes, I think so.
 12 **MR. McCANN:** To continue, I also reviewed
 13 the existing character of the project area which is,
 14 as we all know, primarily agricultural and rural
 15 residential, and then I reviewed the nuisance
 16 factors and stigma from nearby wind projects and,
 17 for that matter, other wind projects throughout the
 18 United States as to the nature of the conflicts with
 19 other land uses that are often created by large
 20 scale wind turbines.
 21 Then I developed an empirical value study,
 22 and by empirical, I mean I was looking for the facts
 23 and I found them, and I'm going to get to that more
 24 in a minute, and then it's the extension of those

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1 facts is the basis for my opinion. But I also know
 2 I'm not the only person that's ever looked at this
 3 or the only appraiser or person purporting to have
 4 actually studied wind farm impacts, so I did a
 5 literature review, and that's really where I'm
 6 frankly going, over the last eight years plus, and
 7 I'll talk a little bit about those in a minute.
 8 I don't need to spend much time on this.
 9 You've probably all seen this map. This is the
 10 outline of the Invenergy Pleasant Ridge Wind Farm
 11 Project area. They're extending from southeast of
 12 Pontiac down to kind of encompassing one town and
 13 adjacent to a couple others. Let me point out that
 14 I specifically did not look at the property values
 15 in the smaller incorporated towns, I focused on the
 16 rural residential, so the data I'll talk about all
 17 relates to that.
 18 The primary portion of the zoning code
 19 that I looked at is the special use standard that is
 20 relevant to real estate appraisers and which would
 21 require this board to have a finding to approve the
 22 project that the special use or the proposed special
 23 use would not be injurious to the use and enjoyment
 24 of other property in the immediate vicinity for the

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1 uses already permitted or substantially reduce the
 2 value of neighboring property.
 3 This map might be a little hard to see
 4 from your vantage point there, but this is a map of
 5 my value impact study area. And you can see down at
 6 the bottom of the map the Pleasant Ridge project.
 7 That's not an exact outline. But above that to the
 8 right you can see the Cayuga Ridge project, and all
 9 the red dots represent turbines, but this is all
 10 derived from the USGS map, so it's not something I
 11 created per se. It's just been posted onto the
 12 slide. There's also the Minonk project. While it
 13 overlaps Woodford County there, it also is partially
 14 in Livingston County.
 15 And then the Grand Ridge project at the
 16 northwest part of this map, while it's getting kind
 17 of close to Livingston County, the nearest turbine
 18 is actually set back at least three miles from the
 19 county line, so there was no sales data that I drew
 20 from proximity to the Grand Ridge. But the Top Crop
 21 project, again while it comes down to the county
 22 line, is not actually in Livingston County, but
 23 there was some sales data just south of the Top Crop
 24 project that is part of the basis for my opinion.

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1 So just to be clear, the red dots
 2 represent the turbines. The sales data that I've
 3 identified as target sales come from within three
 4 miles of either Minonk, the Cayuga Ridge or the Top
 5 Crop project.
 6 What causes value loss? There's a host of
 7 things that can impact value and sometimes or often
 8 do depending on the siting and the proximity.
 9 Detrimental conditions can include any number of
 10 things, including land uses such as wind turbines.
 11 It also can be caused by the impairment of the quiet
 12 use and enjoyment of the property. This can be a
 13 motivating factor for people to sell, for example.
 14 Bona fide nuisances and health impacts.
 15 While there's always attempts to minimize what
 16 people have experienced, testified to, stated in any
 17 number of forums, this is so widespread that, you
 18 know, even looking at this project going back as far
 19 as 2005, I know there's no conspiracy amongst
 20 neighboring property owners, it's a widespread
 21 trend, but these impacts do occur near some of the
 22 wind projects. Sorry for the feedback here.
 23 Stigma is a recognized real estate term,
 24 and I have a definition for it later in the slide,

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1 but it essentially means the loss of replication of
 2 the property. And, again, I'll get into that a
 3 little further, but it can include esthetics, it can
 4 include things that are more visible in nature, any
 5 trespass or intrusion of excessive noise,
 6 contaminants, odor, vibration, glare, flicker or
 7 physical impacts into, through or over neighboring
 8 property.
 9 Again, stigma essentially constitutes
 10 damage to the replication of the realty or the real
 11 estate, and that comes from a Kentucky court case,
 12 it's not my definition, but the link is there to see
 13 exactly where I derived it from.
 14 Property value studies. This is not the
 15 first one I've done, and I'll talk about a few of
 16 them, mostly about the Livingston County study. And
 17 again, I've also reviewed a number of industry
 18 studies which have been prepared by academic
 19 institutions, such as Illinois State University,
 20 probably seen a couple of them, the Jennifer Hinman
 21 study, Jason Carter study, and some are funded by
 22 the U.S. Department of Energy and wind energy
 23 developers which are -- whether or not you're aware,
 24 the ISU Renewable Energy Program does take corporate

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1 sponsorship and they get some input into how these
 2 studies are derived. So while these students are
 3 preparing their theses, I'll put it, they're not
 4 just independent, objective, experience studies.
 5 These are students preparing theses that, you know,
 6 to achieve a renewable energy degree or certificate
 7 which in part is funded by various wind energy
 8 companies acting as donors.
 9 One of those studies, not an ISU study but
 10 the Berkeley, the original Berkeley study, commonly
 11 referred to as the LBNL study, study from 2009
 12 published in December, the one thing that really
 13 shows a high level of statistical significance is
 14 their analysis of views or vistas from property,
 15 what's the setting?
 16 And as you can see on this Figure ES-2
 17 from their original report, when you have a premium
 18 vista on the far right, the property -- and they
 19 have a number of 75 sales in their study that show
 20 13 percent higher values. And above average vista,
 21 again based on over 400 sales, there's a 10 percent
 22 premium. And the reference category is just a
 23 fairly typical view from a property or vista that
 24 goes more to the esthetics than any noise issues or

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1 anything like that. But further to the left, you
 2 can see when you get a below vista or poor vista,
 3 then the sale prices drop significantly, 8 percent
 4 and 21 percent respectively.
 5 So if you start off with a property that
 6 has a premium vista, a wide spacious view, very
 7 natural setting, you might, according to their
 8 study, obtain a 13 percent premium above a more
 9 standard vista. And if you take that vista away and
 10 turn it into a poor vista, you now experience a 21
 11 percent loss. So by their own study, you can see
 12 that just by view alone you can end up with a 34
 13 percent swing in property values, and that's not
 14 taking into account any wind turbine or other, you
 15 know, focused study impacting it. But clearly they
 16 recognize, as does the appraisal community, as does
 17 the real estate industry in general, that views
 18 definitely translate into value.
 19 But those are statistical studies which
 20 are not compared to the same standards as a
 21 qualified appraisal study. They are -- in fact,
 22 while they use the term value, they steer pretty
 23 well clear of claiming that they're value studies;
 24 they're statistical studies.

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1 The correct way to measure, objectively
 2 measure a value loss from a detrimental condition
 3 can be found in the textbook of Real Estate Damages:
 4 An Analysis of Detrimental Conditions prepared by or
 5 authored by Randall Bell and published by the
 6 Appraisal Institute. And what Mr. Bell clearly
 7 recognizes is paired sales analysis of properties
 8 that don't have proximity to the land use in
 9 question or the issue in question and compare it to
 10 other like properties using appropriate appraisal
 11 methodology and paired sales, you can derive and
 12 extract on a very focused basis what the market is
 13 saying about value as relates to, again, the use in
 14 question, which in this case is proximity to wind
 15 turbines.
 16 Regression studies are statistical
 17 analyses that, again, the institutional -- is the
 18 preferred method for the institutions and not really
 19 reliable for damages estimates or for finding if
 20 there is any damages. There's a host of reasons for
 21 that. But the IAAO standards, and that's the
 22 International Association of Assessing Officials,
 23 has standards for using regression analysis when
 24 they're preparing sales ratio studies. This is also

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1 codified in Illinois law as far as the minimum level
 2 of ratio that's acceptable, often called assessment
 3 sales ratio or sale ratio studies. And for
 4 assessors who are doing mass appraisals of
 5 properties throughout the county, that standard is
 6 at least 85 percent or .85, and that correlates more
 7 or less to what the statistical studies use as their
 8 primary measure of reliability and that is what is
 9 statistically referred to in the statistical world
 10 as the R squared.
 11 And while I'm not an expert and have no
 12 degree in statistics or anything like that, I have
 13 studied up on it enough to understand it well
 14 enough. What R squared really means is it's the
 15 coefficient of correlation or what is the
 16 explanatory power of their study. And the
 17 statistical studies prepared by Berkeley and
 18 Illinois State students and so forth, they typically
 19 are in the .5 to .6, .7 range. In other words, to a
 20 .7 R squared, it only explains 70 percent of the
 21 variation in sale prices and it just doesn't even
 22 come close to meeting the standard for reliability
 23 required in other government studies meaning, at the
 24 county level, property values, but again corresponds

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1 to the assessment sales ratio and it's really
 2 desirable to have above a .9 or .95 by the IAAO
 3 standards.
 4 I do use things like averages and so
 5 forth, the more traditional and understandable
 6 statistical terms. But in the following exhibit,
 7 target sales location map, again you can't see it
 8 too well on this, apologize for that, broadcast up
 9 on this wall, but the red balloons represent the
 10 location of the turbines and the green ones
 11 represent the location of the target sales, in other
 12 words, the sales that I found that were within three
 13 miles of those three projects, the Minonk, Cayuga
 14 Ridge and the Top Crop project, and which were sold
 15 conventionally, in other words, these are not the
 16 foreclosure sales, these are not the estate sales or
 17 other sales that would be rejected as not being
 18 arm's length transactions. And I'll get into the
 19 actual cases in a minute.
 20 But the study results, as you can see on
 21 this table, is -- the bottom line is overall it
 22 showed that the data -- well, it finds almost 25
 23 percent lower value within three miles of turbines
 24 compared to control sales that are located more than

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1 three miles away. I'll just walk you through it
 2 briefly.
 3 On the right on this slide, the sale
 4 numbers, you can see T1 through T17, and that means
 5 there were 17 sales that passed the vetting process
 6 again by eliminating foreclosures and so forth, so
 7 these are all arm's length sales. And then in the
 8 next column you can see the number of control pairs
 9 that were paired up with each of those sales, and
 10 then there's the average price per square foot, the
 11 target sales versus the control sales, which was 23
 12 percent lower in the target locations, and, you
 13 know, the marketing times were about 21 percent
 14 longer in the target locations as well.
 15 The far right four columns, that's really
 16 the basis of taking each of those control sales and
 17 making appropriate adjustments for the differences
 18 with the target sale, except for the turbine, so it
 19 solves for all the other variables, at least the
 20 ones that have a measurable impact on value, and
 21 that includes the age, the size of the property,
 22 meaning square footage of the homes. It also
 23 includes the acreage of the parcels.
 24 And each of the control sales were

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1 selected on the basis of also being rural
 2 residential, more than three miles from any turbine
 3 or, for that matter, the land near Pontiac, and
 4 excluding foreclosure sales again. So each of the
 5 control sales were also selected on the basis of
 6 being within a few months of -- of the target sale
 7 date, so there was little or no adjustment needed
 8 for changes in marketing issues that kind of would
 9 be very nominal with a two or three month difference
 10 in time. So each of those sales is paired up with
 11 groups of control sales that occurred at the same
 12 time and then refined further by the physical
 13 features of the property.
 14 And when all that is done, you can see at
 15 the far right side the impact fair market value
 16 percentage, what each one of those paired sales
 17 analyses revealed as far as the impact measured from
 18 that particular sale, and the bottom line for that
 19 study area overall again is a 24.68 percent lower
 20 property value.
 21 I also looked at --
 22 **MR. LUETKEHANS:** Mr. McCann, before you go
 23 on to that next slide, let me ask you a question.
 24 So just so we're clear, on the left-hand column,

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1 sale number, those are all sales within the target
 2 area or target areas.
 3 **MR. McCANN:** That's correct.
 4 **MR. LUETKEHANS:** And then the control
 5 pairs are sales that you thought were comparable but
 6 were outside of the target area. They're in the
 7 control area.
 8 **MR. McCANN:** That's correct, yes.
 9 **MR. LUETKEHANS:** Okay, so you compared
 10 those two types of sales and made modifications
 11 based on the type of property, the size, et cetera,
 12 and that's the same kind of modifications you make
 13 whenever you do an appraisal, correct?
 14 **MR. McCANN:** Well, the technical term is
 15 adjustments, but yes.
 16 **MR. LUETKEHANS:** Yes, sorry.
 17 **MR. McCANN:** And adjustments can be
 18 quantified or qualified in some cases. This type of
 19 study lends itself to doing quantified adjustments,
 20 which is exactly what I did.
 21 **MR. LUETKEHANS:** Okay, please proceed. I
 22 apologize.
 23 **MR. McCANN:** No problem. I also took an
 24 excerpt out of that overall study to kind of test

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1 out what the Hinman study found, which was
 2 approximately 12 percent preconstruction, what she
 3 termed, wind farm anticipation stigma. I think she
 4 came up with the theory, she certainly claimed
 5 credit for it in her 2010 thesis report for ISU, and
 6 I did find a few sales that were -- that property
 7 had sold before the project was built but after it
 8 was known or when the project was announced, so when
 9 people in the local market already knew it was
 10 coming, how was that affecting the sale prices, and
 11 that's what this table basically answers.
 12 And while there are only three that met
 13 that criteria, it actually matched up very close
 14 with what Hinman said on the preconstruction
 15 anticipation stigma of 12.73 percent lower near the
 16 turbines, near where the turbines would ultimately
 17 be. Sometimes we don't really know exactly where
 18 they're going to be. We know they're going to be on
 19 a certain property, but not on a very discrete
 20 specific part of the property. They can move around
 21 sometimes.
 22 **MR. LUETKEHANS:** Mr. McCann, would you
 23 agree that the Hinman study found an effect in two
 24 of the three counties and no effect in the third?

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1 **MR. McCANN:** Oh, that was the Heintzelmann
 2 study.
 3 **MR. LUETKEHANS:** Oh, I apologize.
 4 **MR. McCANN:** That's all right. Trick
 5 question from --
 6 **MR. LUETKEHANS:** Yeah, from your own
 7 attorney, yeah. I apologize. Please proceed.
 8 **MR. McCANN:** The Hinman study only looked
 9 at the property values, or attempted to, by the Twin
 10 Groves Wind Farm in McLean County, and the one he
 11 was referring to was out east in upstate New York,
 12 the Heintzelmann and Tuttle study by Clarkson
 13 University, also a statistical analysis.
 14 These sales compare what happens after the
 15 project is built and it eliminates or excludes, I
 16 should say, those preconstruction sales. And as you
 17 might expect, once you reduce the lower percentage,
 18 it does, in fact, raise the percentage impact on
 19 post-construction basis, and it's 27 and a quarter
 20 percent by this study of property values right here
 21 in Livingston County.
 22 Also, as I was going through the data
 23 poring over it for many hours, what I was noticing
 24 is that there seemed to be a higher level of

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1 foreclosures nearest the turbines, and that, in
 2 fact, turned out to be true. The information came
 3 from both the Livingston County MLS and the Midwest
 4 Real Estate Data MLS, which is something that is
 5 used more in the immediate Chicago area but does not
 6 include everything that's in the Livingston MLS, so
 7 we spent quite a few hours merging those two
 8 databases together to make sure that we had picked
 9 up everything that had gone through realtors, and
 10 then we backed it up. We signed on to be able to
 11 use the county assessor's website and were able to
 12 confirm things that were reported as foreclosure
 13 sales were, in fact, confirmed as foreclosure sales,
 14 you know, again on the county website.
 15 And here's the bottom line is that for the
 16 years once the turbines were starting to be built
 17 and through -- this is through late November of
 18 2014, out of 151 sales more than three miles from
 19 any turbines, 16 of them sold by foreclosure or
 20 short sale, or about 10.6 percent of the total. On
 21 the other hand, out of a total of 30 sales in the
 22 target area, nine of them sold by foreclosure or
 23 short sale, or 30 percent of that total.
 24 So, in other words, within three miles of

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1 turbines, there are foreclosure sales at three times
 2 the rate that you otherwise experience for like kind
 3 properties that are more than three miles from
 4 turbines. This is consistent with the reports
 5 you've all heard of people abandoning homes.
 6 Abandonment comes in many shapes and forms, but
 7 walking away from a property, letting the bank take
 8 it back or selling it at short sale is certainly
 9 consistent with that premise and those experiences.
 10 There's been other reports of people walking away
 11 with nothing.
 12 I mean Mr. Shindelcker, that slide I
 13 showed you at the beginning, him and his wife who I
 14 met, you know, when I appraised the house back in
 15 2011, they loved that house, they didn't want to
 16 leave. They were drummed out of there by the noise,
 17 having to move their bedroom down to the basement
 18 because of what they described as the low frequency
 19 thumping that they could feel in their body causing
 20 all kinds of sleep deprivation and other dental
 21 issues with gritting the teeth while sleeping and
 22 loosening teeth, but he has, in fact, now left that
 23 house despite the fact that he didn't want to and
 24 his wife didn't want to.

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1 This is going to be real hard to read from
 2 there, but it's in my report. In fact, there's
 3 several pages of these paired sale analyses. These
 4 are the details that I summarized previously, and
 5 I'm not going to bore you with going through every
 6 one of those, it's okay to breathe a sigh of relief,
 7 but I just want to explain to you briefly what it
 8 is. This is kind of what an appraiser would use
 9 similar to a form report that they're doing for a
 10 lender, but I modified it some, too, for this
 11 particular situation.
 12 In the upper left corner of that paired
 13 sale analysis, you can see that that's T2, meaning
 14 that it's target sale 2, it's by the Minonk wind
 15 farm, and the nearest turbine is in this case .58
 16 miles from that particular residence. And then that
 17 line that's in green, that is all the details of
 18 that sale, the address, the mailing address, the
 19 city, the date it closed, the sold price, the dollar
 20 sold per square foot, how many acres the lot is,
 21 marketing time, and so on down the line.
 22 And underneath that in the black font are
 23 the, in this case, one, two -- six control sales
 24 that I've paired up with that each individually as

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1 if I was appraising that particular target sale
 2 using these comps from more than three miles away.
 3 And beneath each of those sales lines, on the sale
 4 lines you can see what the comparison is and then
 5 the adjustments I made for those different factors,
 6 you know. So if it was a larger property, there was
 7 a downward adjustment for that factor being superior
 8 to that target sale. And then at the end is the
 9 result of the net adjustments to each sale and the
 10 adjusted value and then the impact percentage that
 11 is derived just mathematically from analysis of that
 12 sale.
 13 In the lower left part of that paired sale
 14 example is just the raw facts, what the control sale
 15 mean sale price was, what the target sale mean sale
 16 price was per square foot, and the difference
 17 expressed as dollars and as a percentage, which in
 18 this case is 26 percent lower.
 19 And then over at the far right side of
 20 that left box you can also see the marketing time
 21 difference. The far right, that lower box, is the
 22 fair market value analysis that shows what the fair
 23 market value of that target sale would have been but
 24 for the turbine, what the actual sale price was, and

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1 what the actual value impact amount was as a dollar
 2 amount and again as a percentage.
 3 This was repeated until I went through all
 4 the target sales that were not foreclosures and that
 5 were on larger than an acre lot, and I had to
 6 exclude one or two others because they just couldn't
 7 comp out. One of them had a church on the property,
 8 for example, and then we start getting into some
 9 speculation as to what would be an appropriate
 10 adjustment for a house that sold but also had a
 11 church on the property.
 12 This is not the first time I've done a
 13 study of property value impacts near turbines, but
 14 this is obviously the most recent study. I had done
 15 one in 2009 for Lee County when obviously all we had
 16 there was the Mendota Hills project and was more of
 17 a simple array of the data that sold in 2003, 4, so
 18 on, shortly after the project went up. And what I
 19 found was that sales located more than two miles,
 20 and I used the two mile measurement at that point,
 21 averaged \$104 a square foot, and the sales located
 22 within two miles averaged \$78.84 a square foot.
 23 There's the details and you can check it out, it's
 24 transparent, which I might add is somewhat unlike

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1 the statistical studies that you can't identify a
 2 single property. But that early study I found that,
 3 in fact, the average value diminution within two
 4 miles of turbines is 25 percent. No adjustments
 5 made again. It's just a rather simple array of the
 6 data by distance.

7 I also had the opportunity to update that,
 8 that study, and expand it into DeKalb County after
 9 the Florida Power and Light project was built in
 10 DeKalb. And again, I did a detailed paired sales
 11 analysis with the target and control sale data
 12 selected on the basis of proximity to turbines or
 13 being at much greater distances, which in that
 14 particular case, the target sales averaged a 2,618
 15 foot setback from any turbines.

16 And the control sales on average were over
 17 ten miles away where you really couldn't see the
 18 turbines. Sometimes the control distance is
 19 questioning or questionable because you can see
 20 these from a great distance, and when you're looking
 21 at a turbine from five miles, it doesn't look like
 22 any big deal, but from 2600 feet, there's a large
 23 part of the market that disagrees with that. But in
 24 any event, what that data found was that there was a

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1 23 percent to 33 percent reduction in value at the
 2 closer setbacks and averaged 26 percent.

3 This is a different format with the same
 4 type of study, target sale on the left, control sale
 5 on the right. You can see the photographs, they're
 6 -- they couldn't be any more cookie-cutter in this
 7 particular example than those. What that one showed
 8 from the DeKalb study was a 43 percent -- over 43
 9 percent impact on value, while this table summarizes
 10 broken down by Lee County and DeKalb County for the
 11 target and control sales.

12 I won't repeat everything that the table
 13 shows, but it does show in this particular example a
 14 much longer marketing time, almost exactly a year to
 15 date, for the properties in the target area that
 16 sold versus the control area. What it also showed
 17 was a sale price as a percentage of list price is
 18 only 70 percent near the turbines versus 91 percent,
 19 from that database, far from the turbines. The
 20 closer proximity and the bigger turbines relative to
 21 proximity did show a greater impact in the DeKalb
 22 study, which as you can see that averaged out to
 23 just under 33 percent versus just under 23 percent
 24 in Lee County.

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1 That 22 and a half percent in Lee County I
 2 think is worth spending just a few seconds on. I've
 3 often heard the claim that once the projects are
 4 built and people get used to them, the property
 5 values recover. Hinman even went so far as to say
 6 that they soar after projects are built. That
 7 project has been up since 2003 and I don't see
 8 values soaring. I still see a significant drop in
 9 value, 22 and a half percent for Lee County a decade
 10 later. So the facts belie the PR. And that's
 11 pretty much what I just said, so I'll just skip on
 12 past the rest of that slide.

13 I don't just work in Illinois. I'll spend
 14 a very brief amount of time on this. There's very
 15 little data by the projects where those two stars
 16 are located, bright big red stars, between Union and
 17 Hoaglin Townships in Van Wert County, Ohio. Very
 18 rural area, very low property value base, definite
 19 farming community. And what I did there is I
 20 enlisted a local realtor to provide all the sales
 21 data since that wind project had been built. I'm
 22 trying to remember the name of it. Blue Ridge or
 23 something like that. They always have a very
 24 pleasant name.

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1 But in any event, in Union and Hoaglin
 2 Townships is where the turbines were built, and I
 3 compared it to the sale prices in Liberty and York
 4 Townships, which again what we see is a
 5 preponderance of foreclosure data, which in this
 6 case I didn't extract it from or vet it out of the
 7 database, includes foreclosures just to be clear.
 8 But what I was finding is in townships more than --
 9 or the section more than six miles away from any
 10 turbines, the average sale price was almost 79,000
 11 while it was about 58,000 in the turbine township, a
 12 26 percent lower value near the turbines. If you
 13 look at it on a square foot basis, 22 percent lower.

14 There wasn't a large number of sales, I'll
 15 admit that up front, but billions of dollars are
 16 loaned every year on homes based on appraisals that
 17 have three or four comps. So when you hear someone
 18 say that, oh, this study had 50,000 sales in it, I
 19 have to answer how many of them are relevant and how
 20 many of them can we identify, and, you know, frankly
 21 the answer is not positive to either of those
 22 questions.

23 I don't want to put everybody to sleep, so
 24 I'm not going to go through the entire details of

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1 this particular paired sales analysis. I've done a
 2 little work out in Massachusetts too, and that was
 3 not a large scale project, there were actually only
 4 two turbines built on the Falmouth, village of
 5 Falmouth or town of Falmouth wastewater treatment
 6 plant, and the property right across the highway
 7 from it that sold, but where the visual impacts, the
 8 noise impacts and so forth were being experienced as
 9 well as some of the other residential areas around
 10 that wastewater treatment plant. But the bottom
 11 line is that this particular paired sale again found
 12 a very consistent reduction in price and value that
 13 is related to proximity to the turbines.
 14 I mentioned a while ago I'm not the only
 15 one that has done these type of studies
 16 independently. There's a gentleman in Ontario, one
 17 in Ontario by the name of Ben Lansink, who's a
 18 professional appraiser in that part of the world,
 19 and he picked up on some sales that I learned about
 20 years ago, but many things have happened since a few
 21 of those developer buyouts happened.
 22 The properties on the right of that table
 23 are properties near what's called the Melancthon
 24 area in Ontario, and Canadian Hydro was a wind

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1 developer that built a number of turbines in that
 2 immediate area. A number of people had started
 3 experiencing noise and those type of issues and
 4 sought to be bought out. Canadian Hydro in fact
 5 bought them out, and they bought them out at what
 6 amounts to market value. That Mr. Lansink's study
 7 pretty well proved up that the original price they
 8 paid was not some inflated windfall to the property;
 9 they bought them out at market.
 10 Then the developer turned around and
 11 resold each of those properties using conventional
 12 marketing methods, the multiple listing service out
 13 there. The kicker was, and this is what I really
 14 like about this data for understanding the issue of
 15 property value impact as it relates to the
 16 definition of market value, anybody that bought
 17 those properties had to grant back to the developer
 18 an easement that was labeled an easement in gross
 19 that clearly identified that the wind turbines
 20 exist, that they may impact the living environment
 21 of the property these purchasers were going to buy,
 22 and that the wind developer, who is now the seller,
 23 reserves the right to broadcast noise, flicker,
 24 shadow, vibration, and those type of impacts that

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1 are commonly identified and experienced.
 2 So each of these buyers had full
 3 disclosure. This is not a case where anybody of
 4 those five people or that wind developer were not
 5 given full disclosure. That can be a problem with
 6 sales sometimes, identifying what did the buyer
 7 know, what did the seller know, what did they talk
 8 about, what did they tell each other. It's recorded
 9 in the county database up there that these, in fact,
 10 had easements in gross in them. In fact, in my
 11 report, I enclose a copy of the standard easement in
 12 gross that was used up in that project area. Again,
 13 very clean data from the respect of it's
 14 unquestionably market value transactions.
 15 And this is how Lansink basically did it.
 16 He determined what the market was doing at the point
 17 in time that the property was bought out, at the
 18 point in time that it resold, and he adjusted those
 19 sale prices according to how the market went, and
 20 then saw what they actually sold for, deducted the
 21 difference, you get a dollar amount, you get a
 22 percentage amount that corresponds to how much value
 23 that property actually lost in light of the
 24 prevailing market conditions outside the turbine

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1 area. I'm not going to leave it up for everybody to
 2 try to read it, it's kind of fine print, but it's
 3 there in the PowerPoint.
 4 Winding down a little bit, this is kind of
 5 a summary of a number of the studies that I've just
 6 talked about. There's some I haven't mentioned.
 7 Like Sunak, that was a study done at a university,
 8 I'm not even going to try to pronounce it, in
 9 Germany, and it was again a statistical study much
 10 like the U.S. educational institutions usually do.
 11 But despite using statistical analysis, he found 25
 12 percent impact to lot values within 2 kilometers of
 13 the turbines in Germany, which many were of older
 14 vintage, smaller, not as dominant on the landscape
 15 or, I imagine, you know, the noise it produces.
 16 Beneath my name, the bottom part of that
 17 slide shows the Gardner results. He's an appraiser
 18 down in Texas. And using paired sales methodology
 19 of ranch properties, he found a 25 percent impact on
 20 values.
 21 Kurt Kielisch, an appraiser up in
 22 Wisconsin, in fact, Mr. Kielisch and I both spoke
 23 during the Deer Run hearing a number of years ago
 24 here in Livingston, but what his study found was,

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1 you know, depending how you look at it, which
 2 analysis you're referring to, including a
 3 regression, 30 to 40 percent or 24 to 39 percent,
 4 not a specific number, but again measures
 5 significant difference in values.
 6 The Luxemburger study is really more of a
 7 broker analysis, but he used a decent methodology,
 8 near and far, and what he measured compared to
 9 beyond three nautical miles, he used nautical miles
 10 because he's a pilot as well as a broker, and what
 11 he was finding was prices \$48,000 or 15 percent
 12 lower without really doing much more study than
 13 that, but he had a large database that was relevant
 14 up there.
 15 Lincoln Township committee, this was a
 16 government body, a moratorium committee I believe,
 17 and what they compared was assessed values, again
 18 getting back to an assessment of sales ratio type of
 19 analysis versus what's compared after the wind
 20 turbines were built up there. And I believe it's
 21 the Forward Wind Energy project. And if you compare
 22 what the assessed value was to what they -- some
 23 properties ended up actually selling for, it
 24 indicated, you know, about a 28 percent deviation

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1 from what it should have been according to their
 2 assessment of sales study.
 3 There's a few more examples here. I know
 4 there's some others submitted in evidence beyond the
 5 Hinman and the Hoen study that Mr. Thayer testified
 6 to, but the Canning and Simmons study was actually
 7 prepared by -- on behalf of the Canadian Wind Energy
 8 Association who was their client, and they kept
 9 finding different ways to analyze that data and each
 10 one of these kept showing that there was a numerical
 11 difference or percentage lower value. They ended up
 12 saying, though, that their results are not
 13 statistically significant. So that study has been,
 14 I think, kind of buried or pushed aside by the wind
 15 industry. They don't cite it anymore. I'm not sure
 16 why.
 17 The footnotes, I'm not going to read all
 18 those, but that points out some more salient points
 19 where we do comments that I developed reading
 20 through these studies. There's a couple also marked
 21 on there.
 22 The London School of Economics about a
 23 year ago produced a study that while I have not
 24 delved into that one, I had access to their data and

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1 did find an 11 percent impact. It's an academic
 2 study that used regression, so it's like a
 3 statistical analysis as opposed to an actual value
 4 measurement, you know, and that's as solid as any.
 5 London School of Economics has a reputation that as
 6 far as I know is pretty good.
 7 Again, the studies that the Berkeley
 8 researchers and the professor and so forth have
 9 found find very low R squared, very low explanatory
 10 power for their studies. An R squared of .8, for
 11 example, that only explains 80 percent of the
 12 differences in the sale price. And to put that in
 13 real simple terms, if the value impact was 20
 14 percent or even 22 or 23 percent, that study could
 15 still conclude we didn't find any statistical proof
 16 that there's been an impact. I'm not saying there's
 17 no impact; just from a statistical standpoint you
 18 can't prove there's property value loss.
 19 I would suggest that instead of creating a
 20 big hay stack so you can find the needle, just go
 21 right to where the activity is and look at it very
 22 specifically, very focused and compare it the way,
 23 again, the Appraisal Institute, the accepted
 24 appraisal methodology for -- if you're actually

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1 trying to find whether or not there's value impacts,
 2 that that methodology will review it as opposed to
 3 getting buried in a large pool of database that
 4 there's no way you can find the impacts unless
 5 they're, you know, over 50 percent or something like
 6 that.
 7 I would also point out that in the
 8 Berkeley, you know, the more recent study in 2013,
 9 they have a statement in their report that for the
 10 purposes of this research we will assume that 3 to 4
 11 percent is a maximum possible effect from the
 12 turbines. Where I come from, that's just a
 13 completely inappropriate assumption to start with.
 14 You start with the assumption of nothing. Then
 15 you're going to really look for any evidence, if
 16 they exist, if there are impacts. And that study
 17 again has a very low explanatory power of R squared
 18 of .67, again meaning that a 33 percent value
 19 impact, if it was there factually, it wouldn't be
 20 found statistically.
 21 That chart comes from that same study I
 22 was just referring to and shows pre-announcement,
 23 post-announcement but preconstruction, and
 24 pre-construction. And I don't pretend to understand

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1 exactly how they vetted all their sales, there's a
 2 lot in their reports that are not transparent, but
 3 what it did show is that the rate of increase was
 4 much lower for the properties within one mile that
 5 are demonstrated by the blue line. They start
 6 lower, they end up lower, and the difference in how
 7 much the property values were at the greater
 8 distances versus one mile was 32.3 percent, which I
 9 guess kind of ties together with what the market has
 10 made about .67 R squared not being able to find 33
 11 percent impact.

12 The original Berkeley report that has been
 13 circulated worldwide. The devil's in the details.
 14 If you were to look it up yourself, and what you
 15 would find, I believe it's on page 14 in the
 16 footnotes, starting around footnote 28, that they
 17 specifically decided to exclude resales of property
 18 that showed, in one case, a 36 percent value loss
 19 and in another case a 80 percent value loss.

20 And as I mentioned in the seminar that I
 21 presented to the Appraisal Institute, I kind of
 22 pointed that out as politely as I could, that it's
 23 not really an appropriate elimination or decision to
 24 not use those sales. It would have actually changed

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1 the results of their study, number one. Number two,
 2 that these properties again were bought out by the
 3 wind developer at market value and then resold.

4 I went through those sales since
 5 discovering this rather unusual exclusion from the
 6 study, and frankly those are the properties that the
 7 buyout prices were right in line with what other
 8 market activity was showing, and the resale prices
 9 were big drops.

10 I don't know for sure what their
 11 disclaimers were or easements, as in the case of the
 12 Canadian Hydro sales that Lansink refined, but it's
 13 their conclusions were just not supported by the
 14 empirical data analysis. And why they would
 15 eliminate those sales? Well, they claim it was
 16 because of related party transactions, which is not
 17 an appropriate substantive sales ratio study, but
 18 they were, in fact, not really the people, so I
 19 don't know how they got that.

20 Some studies have been done by
 21 quasi-government bodies, in this case MPAC, which is
 22 the Municipal Property Assessment Corporation. It's
 23 actually a private company, but they do on a
 24 contract basis all the assessment work for the

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1 residential properties in Ontario. Ontario, much
 2 like Livingston County, has had many wind farm
 3 developments, very controversial, very hot political
 4 issue throughout Ontario, except in Toronto, the
 5 city.

6 But many people were, some of them from
 7 Ontario, were contacting me, how do we reduce our
 8 assessments to reflect the fact that our values are
 9 lower near the turbines? And I couldn't really help
 10 in Ontario other than to say hire a local appraiser,
 11 attorney, whatever, see what kind of forms you have
 12 to fill out. But ultimately MPAC was asked by the
 13 Ontario government to prepare a study to see how
 14 close they were getting their assessments to the
 15 sale prices, and that's the real focus of their
 16 study. But there's a kind of a "by the way" in that
 17 study, because they didn't really focus on it, but
 18 in careful review I found it.

19 And what you see in this table in their
 20 study is, first of all, there's a total of 41,424
 21 sales used in that study. On the left side, you can
 22 see there's 279 sales that are located within,
 23 within a kilometer of any turbine; and the next set
 24 of bars, 989 sales at 1 kilometer to 3; the next

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1 set, over 3,000 sales at the 3 to 5 kilometer range.
 2 And let me point out that 5 kilometers is right
 3 about three miles, close enough. So the three bars
 4 on the left all show within three miles where the
 5 bars on the right are all sales outside of 5
 6 kilometers or three miles.

7 The blue ones show what their assessed
 8 values are, and the green bar shows the actual
 9 time-adjusted sale prices. They had a very reliable
 10 basis for how much values had moved in general and
 11 used that to time-adjust their sales. And what they
 12 showed was that their assessment sales ratios are
 13 actually very close to the time-adjusted sales
 14 ratios. In fact, they came within that .95 ASR
 15 standard.

16 So they're very proud of this study and
 17 rightly so, because it showed they're doing their
 18 job well. But then they left the reservation and
 19 said that this data does not show any value impact,
 20 and I think what they really should have said is
 21 this study does not show any lack of uniformity or
 22 equity of assessment because what it really shows
 23 price-wise, never mind reassessments, is that when
 24 you're less than one mile, there's a 25 percent

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1 difference from the control setback over five miles;
 2 26 percent 1 to 3 miles, or kilometers rather,
 3 excuse me; and then 21 percent at 3 to 5 kilometers.
 4 The data is their data, the facts speak
 5 for themselves, there's a large number of data, so
 6 if one thinks there has to be a large number of
 7 sales in the study to be valid, I would suggest that
 8 this study is as valid as any and is much more
 9 transparent than others because it actually shows
 10 what's going on at different distances. And again,
 11 I commend them for using appropriate sales near --
 12 properties that are near turbines because otherwise
 13 it wouldn't -- to actually reflect the value. So,
 14 you know, sorry for the folks in Ontario. From what
 15 I see here, there is not a widespread basis for
 16 assessment appeals, but on a one-by-one basis maybe
 17 there is.
 18 Well, with all that said, I guess I come
 19 to a number of conclusions that start with setbacks
 20 of less than three miles are inadequate to avoid
 21 significant loss of value or the impaired use and
 22 enjoyment of neighboring property. I'm not an
 23 acoustic expert, I'm not a doctor, I can't speak to
 24 those things as one of those experts, but I can tell

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1 you that I have talked to enough people that are
 2 describing the very things. A large number of very
 3 qualified acousticians, medical doctors and so forth
 4 that are really independent have been finding it
 5 does happen. And it doesn't happen to everybody,
 6 but it happens to a large enough number that it ends
 7 up translating and coming out in the wash in the
 8 real estate market and the sale prices.
 9 So if this project is approved as
 10 proposed, I believe the most proximate residential
 11 properties will experience a range of value impact
 12 from 25 percent at 2 to 3 miles to as much as 40
 13 percent at some of the typical setback ranges when
 14 they're really trying to squeeze it in there as
 15 close as they can with what the county ordinance
 16 otherwise allows for. Just because it complies with
 17 that, or perhaps even a modelled noise measurement,
 18 does not mean that there will not be a genuine or
 19 bona fide nuisance. The market keeps proving over
 20 and over again that there is.
 21 So ultimately, in my opinion, this project
 22 does not meet the requirements of the Livingston
 23 County zoning ordinance with respect to special use
 24 criteria that relate to real estate value and

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1 compatibility because there will be substantial loss
 2 in property value.
 3 Briefly the basis for those opinions are
 4 the independent studies that consistently find
 5 significant value diminution, appraisal studies
 6 which I believe are superior because they focus on
 7 paired sales data and resale studies of nearby data
 8 as opposed to the wind industry commissioned studies
 9 and the related university studies that only use
 10 regression analysis which often, particularly in the
 11 case of Berkeley, pools the data and that really
 12 assures no statistical significance will be found
 13 for value loss.
 14 And just real briefly on that, if you have
 15 properties in Massachusetts that the average selling
 16 price is 350,000, then you go to Van Wert County,
 17 Ohio, where the average sales prices are 70,000, by
 18 the time they're developing and tweaking their
 19 regression study for what is a bathroom worth, it's
 20 going to vary so widely between those two markets
 21 that, you know, it just really isn't reliable, and
 22 it carries down the line to their ultimate
 23 conclusions that are, you know, statistically
 24 measured in weak R squared findings.

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1 I would also add that nonappraisers, I
 2 don't mean this as a cheap shot, but they do not
 3 comply with USPAP, which is a regulation that
 4 applies to all licensed appraisers. And, in fact,
 5 in Illinois it also applies to anybody that's
 6 presenting a value opinion, and they don't comply
 7 with those on several levels. Again, I'm not here
 8 to take any cheap shots, so I won't enumerate that
 9 beyond my statement right now.
 10 You saw this exhibit, the paper called
 11 Wind Farms and Rubber Rulers written by Al Wilson.
 12 Al Wilson is an independent appraiser, he's retired
 13 now, but once upon a time, he was very much involved
 14 in developing the standards for measuring
 15 environmental value impacts, and he wrote and talked
 16 and lectured extensively on the subject for the
 17 Appraisal Institute and other professional
 18 associations. His resume is also an exhibit, so you
 19 can see for yourself, you know, that he kind of
 20 wrote the Bible you might say.
 21 And at the same time that Ben Hoen, the
 22 author of the first Berkeley study who called me to
 23 request that I peer-review that 2009 study, he
 24 apparently also called Mr. Wilson. And I have to

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1 admit Mr. Wilson wrote a better review and critique
 2 of that study than I did. And what he found was
 3 many of the things that I'm talking about, the
 4 pooling of data, the lack of application use
 5 standards, the lack of any indication in the
 6 Berkeley study of any testing or calibration of
 7 their model to see whether or not what they were
 8 saying actually proved out in the market. And then
 9 he also went into the lack of adherence to any mass
 10 appraisal standard. As he cites, the R squared
 11 being under .9 just really means that those studies
 12 or the original study that he reviewed had a very
 13 low explanatory power.
 14 And his basic conclusion, very objective,
 15 he wasn't paid anything for this review, he's not on
 16 one side of the issue or the other, makes that very
 17 clear in his statement -- frankly I'm not either
 18 even though I keep getting called by the folks that
 19 are against these projects -- but Mr. Wilson's paper
 20 says that this -- that the Berkeley study should not
 21 be relied upon for any public policy purpose. And
 22 again, no cheap shot to anyone; just it does not
 23 meet any objective, scientific or appraisal
 24 profession or industry standards. It's kind of

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1 loosey-goosey and said what they wanted it to say.
 2 Statistical studies like Clarkson and
 3 Sunak also use regression analysis, but they don't
 4 pool the data and they claim that their conclusions
 5 are statistically significant, but Clarkson and
 6 Sunak also find that there's a fairly significant
 7 impact, in the case of the Clarkson study, within a
 8 tenth of a mile. Under one of their scenarios, I
 9 believe it was a census tract analysis, it was up to
 10 40 percent. Sunak, he just says basically within 2
 11 kilometers a 25 percent impact on the value of lots.
 12 So the Clarkson study might be useful for
 13 understanding that the closer the distance is the
 14 more impact there's likely to be.
 15 And the bottom line between mine and other
 16 studies collectively, it's my opinion and the
 17 findings are that proximity impacts range from 25 to
 18 40 percent. That's appraisal-ese and a whole lot of
 19 hopefully-you're-still-awake type stuff.
 20 But the common sense is there's a market
 21 resistance to buying a home in an overwhelming
 22 industrial setting. That doesn't mean you can't
 23 find a buyer; that just means there's market
 24 resistance. And also, the other side of the coin,

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1 there's the buyer and seller of the property.
 2 Sellers are often under duress due to noise, health
 3 impact, nuisance and the invasion of turbine impacts
 4 into their -- that kind of defeats their peaceful
 5 use and enjoyment of the property.
 6 The discounts derived from the market
 7 adjacent to wind turbines are not unique in and of
 8 themselves. There's other duress conditions, like
 9 foreclosure sales, liquidation, estate sales with
 10 very brief marketing periods, and other problem
 11 properties. That could be something with
 12 contamination that maybe doesn't look like a big
 13 financial problem, but it's a hassle to own a
 14 property like that and people tend to steer clear of
 15 those, except for those that are the most risk
 16 tolerant type of investors.
 17 In a project like this, there can be
 18 consideration of appropriate conditions. It's not
 19 my job to decide what those conditions are, but I
 20 would suggest to you that when you look at height,
 21 you know, they often come in with the most latest,
 22 state-of-the-art turbines that generate the most
 23 power, you know, 400, 500 feet, it says in my report
 24 what the exact height is that they're proposing

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1 here, but wind energy can be developed with much
 2 less height than 400 feet, turbines work at a
 3 hundred feet, so I don't believe that it's
 4 exclusionary to put a height restriction on a
 5 turbine project.
 6 Hours of operation. Most businesses,
 7 especially industrial uses that emanate noise, have
 8 hours of operation limitations or must be conducted
 9 within completely enclosed buildings. Obviously you
 10 can't put a turbine within an enclosed building and
 11 have it work at all, but 24/7 operation is I think
 12 where most of the problems come from frankly. Most
 13 of the nuisance and noise and health complaints are
 14 during normal sleeping hours. If there's some
 15 relief from that, I'm not sure that the complaints
 16 would be much lower, and I don't mean meaningless, I
 17 mean let people get a good night's sleep as you
 18 would with any other industrial use that's making a
 19 thumping noise or emanating some vibration or low
 20 frequency quality of noise. I'll leave the rest of
 21 that to the acousticians to explain, but that's how
 22 I look at it from a real estate perspective.
 23 Setbacks, that's the one single thing that
 24 can be done, and industry claims that standards of a

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1 quarter mile or less are, you know, the industry
 2 standards, so of course they'll just work with the
 3 industry standards, but experience really proves
 4 that these type of setbacks are too close and can be
 5 measured via the property value diminution, the
 6 noise complaints, and the actual measurements
 7 post-construction often being far different than it
 8 was modelled.
 9 Cary Shineldecker is a good example of
 10 that. The county up there, Mason County in
 11 Michigan, has in fact found Consumers Energy to be
 12 out of compliance with the zoning even though there
 13 are all the assurances of the models that were made
 14 by the professional engineers. You know, they swore
 15 that that was not going to exceed this certain
 16 decibel level and it turned out they were wrong.
 17 Flicker is something that is often
 18 presented as a rather nothing type of issue, but
 19 people I've talked with that have experienced it
 20 claim quite the contrary. It's annoying as hell to
 21 sit at your breakfast table and drink a cup of
 22 coffee in the morning and have a strobe light coming
 23 in through your window where it looks like a jet is
 24 flying a hundred feet over your house over and over

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1 and over again. I don't know where this industry
 2 standard came from as far as being able to strobe
 3 light on somebody's property, you know, a certain
 4 number of hours per year, but I can tell you this.
 5 If you required a large enough setback, that issue
 6 goes away and there is no intrusion of the
 7 fenestration of light and air on neighboring
 8 properties, not to mention esthetics.
 9 And, you know, blade and ice throw, again
 10 I'm not an expert on that, but setbacks one times
 11 the height of -- 1.1 times the height doesn't come
 12 close to insuring there won't be a chunk of blade or
 13 ice thrown onto a roof or yard or playground,
 14 whatever. I've heard of projectiles being thrown as
 15 far as a half a mile. That's a lot more than 1.1
 16 times the height.
 17 Ben Hoen I've already mentioned a couple
 18 times. Professor Thayer was here basically
 19 presenting work that Ben Hoen had prepared, and then
 20 as a team I guess they've expanded on it since. But
 21 Ben Hoen was interviewed by a town councilman up in
 22 New York, his name is at the bottom of the slide,
 23 and you can actually find that recording online, but
 24 Mr. Schneider interviewed Mr. Hoen and was asking

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1 him about property value guarantees, you know, I've
 2 ready your study, so forth and so on.
 3 And I excerpted part of what that
 4 conversation said, but essentially what Mr. Ben Hoen
 5 told Mr. Schneider is that wind developers put out a
 6 report and say, look, property values aren't
 7 affected, and that's not what we would say
 8 specifically, according to Hoen. On the other hand,
 9 they have little ground to stand on if they say we
 10 won't guarantee that.
 11 And I think when -- I originally spoke to
 12 Mr. Hoen as well, and he admitted to me that there
 13 might be some impacts up close, but their
 14 statistical studies really haven't found them, so
 15 they're not really focused on it. They're looking
 16 at the broader, big picture of the, you know, let's
 17 convert everybody to wind energy and renewable
 18 energy and so forth.
 19 So there seems to be an implicit it's okay
 20 to sacrifice, you know, a handful of families or
 21 whatever at ground zero with either property values
 22 or sleepless nights, but Mr. Hoen apparently didn't
 23 really understand what zoning codes are designed to
 24 do, and that's to protect the public health, safety

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1 and welfare and usually also property values.
 2 So I think Mr. Hoen might have keyed off
 3 me a little bit, because I had suggested to him when
 4 I peer-reviewed his study that I think it would
 5 behoove him to put in a section on property value
 6 guarantees. It's not something that is poison; it's
 7 something that is done. It's been done with
 8 landfills, it's been done with quarries, it's been
 9 done with other wind turbine projects. Some of them
 10 are strong, some of them are weak, some of them are
 11 ineffective, especially if they leave it to the
 12 developer to administer it. It's a fairly important
 13 issue for people living close by, so it really
 14 should have some oversight, in my opinion, that is
 15 not subject to a level of unfairness. It should
 16 really be on a level field.
 17 But in my opinion, the key elements that
 18 should be in a property value guarantee includes
 19 leaving the property owners whole regardless whether
 20 they decide to sell or stay living in the project
 21 area. There shouldn't be any hurdles to being
 22 included. If somebody has a second home, I've seen
 23 it said that, well, their value shouldn't be
 24 guaranteed. They have another home in the city or

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1 whatever, or this is just a vacation home, so why
 2 should we guarantee those values. And I would
 3 suggest that any investment is worth protecting for
 4 limited use of landowners, including agriculture
 5 land, which are also not immune from devaluation.
 6 There should be a buyout provision in a
 7 property value guarantee that in the event a
 8 property is unmarketable after a typical or
 9 reasonable marketing period, you know, as compared
 10 to areas where there are no turbines visible, then
 11 no market impact.
 12 I already spoke about, I believe,
 13 administration of the property value guarantee
 14 should be by an unbiased third-party. That could
 15 include a retired judge, lawyer, professional
 16 appraiser, people that can understand the terms very
 17 clearly and that would have a professional desire to
 18 try to do all the requirements of the guarantee
 19 rather than ignore them.
 20 Sometimes they're written up as agreements
 21 between the developer and the property owners. I
 22 have found that that really did not work out too
 23 well in DeKalb. That's where Florida Power and
 24 Light has, the way I heard it, kind of stonewalled

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1 people that file claims.
 2 So really my opinion should be an
 3 automatic coverage of property within three miles
 4 just imposed as a condition, much like any other
 5 insurance coverage required for a project of this
 6 magnitude, scale and intensity for general
 7 liability. Okay, that's great. If a blade flies
 8 off and, you know, kills somebody or whatever, does
 9 property damage, the insurance will cover that, but
 10 I believe it would be appropriate to have insured
 11 and bonded as part of a value guarantee.
 12 Might also be advisable to extend the
 13 range or the distance that would be covered by a
 14 property value guarantee if the low frequency noise
 15 or other noise nuisance is identified by an
 16 owner/occupant further outside three miles or -- you
 17 know, I should say "and" -- measured by an
 18 independent acoustician retained by the
 19 administrator of the property value guarantee. You
 20 know, no hankie-pankie, let's find out the real
 21 answer. You know, is there actually low frequency
 22 noise impacting this house or is somebody just
 23 complaining because they want to be bought out?
 24 So bonding and insurance I think should

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1 cover 25 percent of the value as identified in the
 2 county's assessment rolls, what the value of the
 3 properties are within three miles. As an insurance
 4 policy, it's not something I've seen done, but many
 5 things can be bonded or a developer can certainly
 6 seek out a custom policy from Lloyds of London or
 7 some collection of insurance carriers that cover
 8 high risk issues.
 9 A lot of times things are not handled
 10 because most of these property owners, their life
 11 savings are tied up in their house, they can't
 12 litigate everything. I believe it would be a good
 13 idea to have a property guarantee panel and
 14 agreements or conditions that eliminate the need for
 15 property owners to file litigation that can bankrupt
 16 people. So the property value guarantee panel
 17 should be the final arbitration on these as part of
 18 the condition rather than let who has the deepest
 19 pockets prevail. Whatever the actual issue is,
 20 whatever the actual impacts are, that's what should
 21 be found, in my opinion, just as an objective,
 22 third-party, neutral appraiser.
 23 This is that transfer of easement in gross
 24 that I was mentioning from the Canadian Hydro

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1 Developers that they attached to contracts to sell
 2 those five properties that they bought out. The
 3 arrow at the top kind of points to the fact that
 4 they're -- the easement grants them the right and
 5 privilege to permit heat, sound, vibration, shadow,
 6 flickering of light, noise, including gray noise,
 7 whatever that is, or any other adverse effect or
 8 combination thereof resulting directly or indirectly
 9 from the operation of the wind turbine facilities.
 10 Technically it's an acknowledgment by that developer
 11 that there are, in fact, these impacts that go over
 12 these properties. That's why they bought them out.
 13 I'm aware that there is a neighbor
 14 agreement that has been used, I don't know how many
 15 times, I don't know how many people signed on for
 16 it, but essentially says the same thing. Look,
 17 people, we'll pay you \$1200 and you give us an
 18 easement. While they don't use these terms, they're
 19 saying we're going to run a commercial wind farm
 20 operation, and basically why pay for the easement if
 21 it's not -- the turbine is not going to be on that
 22 property, but it's just going to be these same
 23 impacts that don't stop at any participating
 24 property line, these impacts extend right on past

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1 onto nonparticipating property owner's land.
 2 And I would also point out, where that
 3 second arrow is pointing at, that the developer --
 4 excuse me, the transferor, in other words, the
 5 person buying the house granting the easement, in
 6 fact agrees that the operation of the wind turbine
 7 facilities located on leasehold lands may affect the
 8 living environment of the transferor and so on. So
 9 they're again very explicitly acknowledging that
 10 their turbines, which I don't think are
 11 significantly different than any others, I've never
 12 heard of any magic turbines that don't create these
 13 same impacts, you know, it's part of what happens at
 14 these projects. They acknowledge it, they try and
 15 recover part of what they bought the properties for,
 16 in fact, did recover part of it, and that's not --
 17 the project is going to go ahead.
 18 That's not a bad solution for some people;
 19 other people might not want to stay. If they sell,
 20 maybe they can sell at market value, maybe not, but
 21 if they can't sell, I believe a buyout is an
 22 appropriate provision. A property value guarantee
 23 can provide for just that.
 24 That's all I have other than a property

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1 value guarantee agreement that Mr. Luetkehans and I
 2 have consulted on and submitted as an exhibit. And
 3 with that, Phil, can I answer any questions?
 4 **MR. LUETKEHANS:** Mr. Chairman, I have a
 5 couple follow-ups. Is this a good time for a break?
 6 **CHAIRMAN CORNALE:** Yeah, why don't we take
 7 like 12 minutes. I've got 7:57. So why don't we
 8 try to be back here about 8:09.
 9 (Recess at 7:57 p.m. to 8:11 p.m.)
 10 **CHAIRMAN CORNALE:** All right, if we can go
 11 ahead and make our way back to our seats, we'll get
 12 going again. All right, Mr. Luetkehans, I believe
 13 you have some follow-up questions for your witness,
 14 Mr. McCann.
 15 **MR. LUETKEHANS:** Yes, sir, thank you.
 16 **QUESTIONS BY**
 17 **MR. LUETKEHANS:**
 18 Q. Mr. McCann, you're not an MAI, correct?
 19 **A. That's correct, I'm not.**
 20 Q. Okay. An MAI is what?
 21 **A. That stands for Member of the Appraisal**
 22 **Institute. It's one of a number of appraisal**
 23 **organizations, one of the oldest ones, and a**
 24 **well-respected organization.**

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1 Q. And you've just never sat and tried to
 2 become an MAI?
 3 **A. I decided years ago to go with state**
 4 **licensing; that that wasn't an end-all credential.**
 5 **It's not something that's required to appraise or**
 6 **testify to appraisal opinions.**
 7 Q. And you've appraised -- or you've
 8 testified in court before?
 9 **A. Many, many times, yes.**
 10 Q. As an expert in appraisals?
 11 **A. That's correct.**
 12 Q. Okay. And have you ever testified for a
 13 wind turbine company?
 14 **A. I have not, no.**
 15 Q. Okay. I think it's around page 4 of your
 16 report talks about that there's a thousand
 17 residential dwellings located within the project
 18 footprint. Is that a correct statement or could you
 19 explain that?
 20 **A. Well, I think that's actually an error. I**
 21 **might have transposed a number. I know I was**
 22 **reading something in the flicker study about there**
 23 **being 700 potential receptors and whittling it down,**
 24 **but as I sit here right now, I don't remember where**

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1 **I got that number of a thousand. I may have been**
 2 **thinking a thousand receptors for flicker. That**
 3 **would certainly mean by the time you go three miles**
 4 **outside the project, there's, you know, that many**
 5 **more people and houses in the -- in what I call the**
 6 **impact footprint.**
 7 Q. But we're not sure -- you're not sure if
 8 there's a thousand within the project footprint or
 9 not?
 10 **A. I'm not sure there is, that's correct.**
 11 Q. Okay. If you could go to UCLC Exhibit 75.
 12 And you've seen these affidavits before and this
 13 information?
 14 **A. Yes, I have.**
 15 Q. Okay. And for the record, these are
 16 affidavits of people -- or the first three, I think
 17 it is, affidavits are of direct testimony in the
 18 Wisconsin Public Service Commission hearing?
 19 **A. That's correct, yes.**
 20 Q. Okay. And are -- they relate to people
 21 either abandoning their homes or having to sell them
 22 at a lesser value. Is that something that you're
 23 familiar with on a personal basis or having
 24 interviewed people about?

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1 **A. Well, these people amongst others. I have**
 2 **spoken directly with Joseph Yunk. I've spoken**
 3 **directly with Ann Wirtz. What I read in this**
 4 **testimony is spot on with what they related to me as**
 5 **far as their experience with wind projects being**
 6 **built very near their homes in Wisconsin. And it**
 7 **took Yunk quite a while to get bought out, but then,**
 8 **as I remember him telling me, and also reading his**
 9 **testimony, that, you know, now there's another**
 10 **project being proposed by where he ultimately**
 11 **relocated to. Can you hear me okay?**
 12 Q. Yeah.
 13 **A. Okay.**
 14 Q. Yeah, just shocked. These aren't the only
 15 people you've talked to who have had to abandon
 16 their homes over the years?
 17 **A. No, not even close. I mean I could --**
 18 **from off the top of my head, Cary Shindelcker I**
 19 **mentioned earlier in my testimony, a gentleman by**
 20 **the name of Art Ungrin up in -- by the project of**
 21 **Wolfe Island in the northeast, a woman by the name**
 22 **of Sue Hobart in Falmouth, Massachusetts. That**
 23 **wasn't her property that sold by the way, that's**
 24 **another property. The last time I had any**

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1 **communication or contact from her, she still had not**
 2 **sold the property.**
 3 Q. I'm not asking for an exhaustive list.
 4 **A. Okay.**
 5 Q. Don't worry. You've appraised properties
 6 for mortgages, correct?
 7 **A. Yes, I have.**
 8 Q. Okay. And when banks -- in your
 9 experience, what do banks use to appraise value or
 10 put a value on property when valuing a mortgage?
 11 **A. Well, they -- you know, they of course**
 12 **have the property appraised, whether they use**
 13 **comparable sales, using -- use a methodology very**
 14 **much like I'm describing, but specific to appraising**
 15 **a given house or shopping center perhaps with**
 16 **comparable sales or paired sales analysis to**
 17 **compensate for the differences between the**
 18 **comparable or, as I refer to them, as the control**
 19 **sales to measure the value of the subject property**
 20 **or, as in my study, the target sales are being**
 21 **measured for a value impact from turbines.**
 22 Q. Have you ever seen a bank use a regression
 23 study to determine the value of a house when they
 24 need to provide a loan?

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1 **A. None that I'm aware of. I know there's**
 2 **studies done, but they are not the basis for making**
 3 **mortgage loans on a property to property basis by**
 4 **any means.**
 5 Q. Okay. You obviously have not sat through
 6 all these hearings, but we've heard a lot about
 7 peer-review. Your independent appraisals have
 8 not -- are not actually peer-reviewed, are they?
 9 **A. Well, usually, no, I mean not in the sense**
 10 **that's used academically, but in the case of the**
 11 **seminar I prepared for the Appraisal Institute, that**
 12 **did include, for example, my DeKalb and Lee County**
 13 **study and Falmouth paired sale example and so on,**
 14 **and that was not just done like on some kind of**
 15 **internal academic basis, but the Appraisal**
 16 **Institute's education committee in fact**
 17 **peer-reviewed my presentation before they authorized**
 18 **it for presentation to the membership. And as I**
 19 **believe I mentioned earlier, that presentation and**
 20 **sitting through that seminar was approved for**
 21 **continuing education credits for Appraisal Institute**
 22 **members.**
 23 Q. Okay. And you've talked a number of times
 24 about transparency. Would you consider the Hoen

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1 study to be transparent?
 2 **A. I would have to say no, that there's a lot**
 3 **of numbers in it, but again it doesn't identify a**
 4 **single property that has sold or that anybody could**
 5 **go look up on a public record. Took a little bit of**
 6 **investigative work on my part to find out what the**
 7 **two properties that he mentioned in the footnote on**
 8 **page 14 that the developer had bought out and**
 9 **resold, what their addresses were and so forth,**
 10 **because it was not -- you know, that was left out of**
 11 **the report, and that was the closest he came to**
 12 **identifying any particular sales or identifying any**
 13 **particular properties. So from an appraisal**
 14 **perspective, no, it does not lend itself to being**
 15 **defined as transparent or meeting any reporting**
 16 **requirements that are required under USPAP or the**
 17 **Appraisal Institute's slightly different version of**
 18 **USPAP.**
 19 Q. To your knowledge, has that data ever been
 20 publicly released?
 21 **A. No.**
 22 Q. The Hoen study.
 23 **A. I'm sorry. No, to my knowledge, it has**
 24 **not. In fact, I did -- as part of when he invited**

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1 me to peer-review it, I said of course you're going
 2 to provide the underlying data that your study is
 3 based on so that I can actually test your
 4 conclusions, and he informed me at that time that,
 5 no, I'm not going to provide that data because all
 6 these records that supposedly came from public
 7 records, that he claimed they were -- he obtained it
 8 subject to confidentiality agreements which, you
 9 know, what can I say?
 10 **MR. LUETKEHANS:** No further questions at
 11 this time. Thank you.
 12 **CHAIRMAN CORNALE:** Thank you. Other
 13 members of the ZBA, do we have any questions at this
 14 point?
 15 **MR. SCHOPP:** I want to reserve the right.
 16 **CHAIRMAN CORNALE:** Yeah, we'll reserve the
 17 opportunity to go and question you. All right, any
 18 local governments, school districts out there, have
 19 any questions? I don't see any. Mr. Blazer, do you
 20 have any questions?
 21 **MR. BLAZER:** You would fall out of your
 22 chair if I said no, wouldn't you?
 23 **QUESTIONS BY**
 24 **MR. BLAZER:**

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1 Q. How are you, Mr. McCann? It has been a
 2 long time, hasn't it?
 3 **A. It has been a long time.**
 4 Q. Been about ten years since the last time I
 5 cross-examined you?
 6 **A. I think that's right.**
 7 Q. Just a couple of preliminary questions
 8 first. You mentioned Cary Shineldecker several
 9 times in your presentation, right?
 10 **A. I did, yes.**
 11 Q. And you've met him face-to-face?
 12 **A. I have. I appraised his house before the**
 13 **project was built near his house, yes.**
 14 Q. Mr. Shineldecker is in his early 50s,
 15 right?
 16 **A. Sounds right. I didn't ask him his age.**
 17 Q. And he's an industrial design engineer.
 18 Are you aware of that?
 19 **A. Rings a bell, but again, I am not a**
 20 **personal friend of his or otherwise --**
 21 Q. But that sounds right to you, doesn't it?
 22 **A. Trying to remember the name of his company**
 23 **because it was on his email.**
 24 Q. Well, that's okay. You've met his wife as

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1 well, haven't you?
 2 **A. I have, yes.**
 3 Q. And she's in her mid 40s?
 4 **A. I really don't recall.**
 5 Q. She's a teacher?
 6 **A. That does ring a bell.**
 7 Q. We should probably not talk about her age
 8 publicly, should we? Okay.
 9 **A. Suit yourself.**
 10 Q. And just really quickly, this UCLC Exhibit
 11 75, this material from the Highland Wind
 12 application, were you involved in that hearing
 13 process?
 14 **A. The Highland Wind application?**
 15 Q. Right. It says Application of Highland
 16 Wind Farm, LLC, for a Certificate of Public
 17 Convenience and Necessity to Construct a 102.5
 18 Megawatt Wind Electric Generation Facility.
 19 **A. Was that the one in Mason County because I**
 20 **don't know it by that name.**
 21 Q. No, this is Mr. Yunk's material and I
 22 guess there's some more studies. It's UCLC Exhibit
 23 75, the one Mr. Luetkehans just asked you about a
 24 few moments ago.

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1 **A. I'm sorry, I'm not following you, Mr.**
 2 **Blazer, you're talking too fast or something. Oh,**
 3 **okay, that -- yeah, I think that became known as the**
 4 **Forward Wind Energy project. I didn't know it by**
 5 **that name Highland.**
 6 Q. Whatever name you know it by, were you
 7 involved in it?
 8 **A. No, I was not.**
 9 Q. Oh, so you don't know that Wisconsin
 10 Public Service Commission granted the siting permit
 11 for this project?
 12 **A. Wisconsin Public Service Commission has**
 13 **approved many siting applications.**
 14 Q. I'm asking you about this one. Do you
 15 know that they granted this one?
 16 **A. I believe it was, yes. The turbines were**
 17 **built, so that would stand to reason, yes.**
 18 Q. Mr. Luetkehans asked you some questions
 19 about the Appraisal Institute. Who's William
 20 McCann?
 21 **A. That would be my father.**
 22 Q. And your father is an MAI, Member of the
 23 Appraisal Institute, right?
 24 **A. Yes, he still holds that designation.**

1 Q. And he has been for many, many years,
2 right?

3 A. Yes.

4 Q. Okay. And would you agree with me that
5 the Appraisal Institute is one of the more
6 noteworthy organizations to belong to in the
7 appraisal industry?

8 A. **It certainly is one. Not without its
9 problems, but it is overall a well-respected
10 organization, yes.**

11 Q. And we've established this, I think. You
12 don't hold the MAI designation like Mr. MaRous here
13 does, correct?

14 A. **No, I don't hold it like anyone else does
15 that has it.**

16 Q. Okay. And you know that the MAI
17 designation is held by appraisers who are
18 experienced in valuation and evaluation of
19 commercial, industrial, residential and other types
20 of properties, and advise clients on real estate
21 investment decisions, right?

22 A. **Well, that can apply to some MAIs, I don't
23 think all of them, and I think that same statement
24 can apply to members of many other organizations or**

1 Q. And I'll hand you what's been marked as
2 Pleasant Ridge Exhibit 202, and that's a summary
3 from the Appraisal Institute of their requirements
4 to achieve the SRA designation. And you haven't
5 completed those requirements either; is that
6 correct?

7 A. **That's correct, nor have I --**

8 Q. All right.

9 A. **-- completed any requirements for a
10 medical doctor degree.**

11 Q. Except you're not purporting to be a
12 doctor; you're purporting to be an appraiser, so --

13 **MR. LUETKEHANS:** Move to strike. If he
14 wants to make a statement, he can make a statement,
15 testify. If he wants to ask questions, he should
16 ask questions.

17 Q. I'll show you what's been marked as --

18 **MR. LUETKEHANS:** I have an objection that
19 I'd like ruled on.

20 **MR. BLAZER:** All right. Well, I'll move
21 to strike the medical doctor answer since that was
22 unresponsive.

23 **CHAIRMAN CORNALE:** That's correct in both
24 instances. I guess they both should be struck. Mr.

1 **state licensed appraisers such as myself.**

2 Q. I'm showing you what's marked as Pleasant
3 Ridge Exhibit 175. That's a summary published by
4 the Appraisal Institute of the requirements someone
5 has to comply with to achieve the MAI designation,
6 and you haven't achieved those requirements,
7 correct?

8 A. **Well, I certainly completed the USPAP
9 requirements. I did not complete the college degree
10 requirements. I've completed a number of their
11 courses. And one that's not on here, but I was
12 certainly invited by them to prepare that
13 seminar that --**

14 Q. That wasn't my question. You also --

15 A. **-- on projects --**

16 Q. You also don't hold the Appraisal
17 Institute's SRA designation, correct?

18 A. **That's correct.**

19 Q. And the SRA designation is held by
20 appraisers who are experienced in the analysis and
21 valuation of residential real property, right?

22 A. **Well, presumably so, along with many other
23 residential appraisers who don't hold the SRA
24 designation.**

1 McCann, if you can just refrain from interjecting
2 and just answer the question that he asks, it will
3 move our meeting along.

4 **MR. McCANN:** I'll do my best, Mr.
5 Chairman.

6 **CHAIRMAN CORNALE:** Thank you.

7 **BY MR. BLAZER:**

8 Q. I handed you what's been marked as
9 Pleasant Ridge Exhibit 176, which is a list of all
10 of the Appraisal Institute designations, and you
11 don't hold any of those; is that correct?

12 A. **No, I do not.**

13 Q. Okay. Now, the opinion you're giving here
14 is about the potential impacts on property values
15 from the proposed wind farm, correct?

16 A. **Well, I would take it a step further and
17 say it's the probable impacts not just the
18 potential.**

19 Q. Okay. Well, whatever it is that you're
20 doing, it's known in the appraisal industry as
21 determining the potential impact from a detrimental
22 condition, correct?

23 A. **Or measuring a detrimental impact on the
24 value, yes.**

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1 Q. And you've testified about that sort of
 2 thing before, right?
 3 **A. Many times, yes.**
 4 Q. Okay. I'll hand you what's in the record
 5 as Pleasant Ridge Exhibit 39 which is Professor
 6 Thayer's presentation in this matter, and I've
 7 tabbed the eighth page there for you if you could
 8 turn to that for me please. And that's just a
 9 graphic representation, as you can see, about how
 10 proximity to and views of environmental disamenities
 11 can impact property values. Do you see that?
 12 **A. Yes, I do.**
 13 Q. And this is, generally speaking, what
 14 you're talking about here, right?
 15 **A. Well, I talk to it more specifically, but**
 16 **this does give some examples as he sees fit to**
 17 **present, yes.**
 18 Q. So, for example, from Professor Thayer's
 19 presentation, a Superfund site, a landfill or a
 20 transfer station would be a disamenity or have a
 21 negative impact on value, right?
 22 **A. Well, that's how he's describing it, yes.**
 23 Q. Or create what you called a stigma I think
 24 earlier, right?

Page 2098

1 **A. Well, it can and sometimes does have those**
 2 **kind of impacts, certainly.**
 3 Q. And then on the flip side, on the other
 4 side of the equation, amenities, positive amenities,
 5 like green space or ocean views, can have a positive
 6 impact on value, right?
 7 **A. That's correct. I used a slide from the**
 8 **2009 study that illustrates exactly that point**
 9 **numerically.**
 10 Q. Honestly, if you'd just answer my
 11 questions, we'll go through this a lot faster.
 12 **MR. LUETKEHANS:** You know what, he's an
 13 expert, he has the opportunity to explain his
 14 answer, especially since I don't have an opportunity
 15 to redirect.
 16 Q. Some other positive amenities would be,
 17 for example, lake views could be a positive amenity?
 18 **A. Generally speaking, yes, sir.**
 19 Q. Municipal sewer?
 20 **A. Excuse me?**
 21 Q. Municipal sewer?
 22 **A. A view of it?**
 23 Q. No. Having a municipal sewer versus not
 24 having a municipal sewer, that could be a positive

Page 2099

1 amenity.
 2 **A. Well, that's not related to views but --**
 3 Q. I'm not talking about views, I'm talking
 4 about positive --
 5 **A. I wasn't quite done with my answer.**
 6 Q. All right, go ahead.
 7 **A. Please let me answer. It depends on the**
 8 **market area. If you're in an urban area, certainly**
 9 **municipal sewer and water is deemed by the market as**
 10 **an amenity that adds value, where if you have a**
 11 **little pocket that has not been tapped into, hooked**
 12 **into sewer or water, those properties, at least in**
 13 **my experience, have experienced longer marketing**
 14 **times. When you get to a rural area or rural**
 15 **residential area such as we have here in Livingston**
 16 **County, no, I don't believe sewer and water has a**
 17 **measurable impact, you know, that follows the Dr.**
 18 **Thayer chart.**
 19 Q. How about wooded or high-end subdivision
 20 sites, could those be positive amenities?
 21 **A. They certainly can be, yes.**
 22 Q. Okay. Regardless of your lack of
 23 relationship with the Appraisal Institute, I think
 24 you've confirmed there are some rules that you are

Page 2100

1 governed by, right?
 2 **A. That's correct.**
 3 Q. And that is the Uniform Standards of
 4 Professional Appraisal Practice or USPAP?
 5 **A. That's correct.**
 6 Q. Okay. You're familiar with USPAP, right?
 7 **A. I've been qualified as an expert on it in**
 8 **the Cook County circuit courts, yes, sir.**
 9 Q. So then this book I'm holding up, you know
 10 that's the current version of USPAP?
 11 **A. It's the 2014-2015, yes, sir.**
 12 Q. Okay. And then do you have your report
 13 there?
 14 **A. I do.**
 15 Q. Okay. If you could turn to page 56 of
 16 your report please? You got it?
 17 **A. I do.**
 18 Q. The fifth full paragraph it says, "The
 19 signatory of the appraisal report is licensed by the
 20 State of Illinois as a certified general real estate
 21 appraiser." That's you, right?
 22 **A. That's correct.**
 23 Q. Okay. And, in fact, you have to be
 24 familiar with USPAP as part of your Illinois state

Page 2101

1 license requirements, right?

2 **A. That's right, and take a course every**

3 **license renewal period, that's correct.**

4 Q. And just so we all understand what it is,

5 I'm just going to give you a general definition.

6 Tell me if you agree with it. USPAP is a body of

7 guidelines that include appraisal standards for

8 development and reporting of appraisal or consulting

9 assignments. Does that sound right?

10 **A. Yes. It goes much further than that, but**

11 **that's a good accurate partial summary.**

12 Q. And it also includes ethical requirements?

13 **A. Yes.**

14 Q. And as a matter of fact, the USPAP is

15 incorporated into the state appraiser licensing

16 statute, correct?

17 **A. In the Licensing Act of 2002, yes, sir,**

18 **anybody presenting value opinions to the public is**

19 **actually bound by USPAP.**

20 Q. I'm showing you what has been marked as

21 Pleasant Ridge Exhibits 207 and 208. That's the

22 Illinois appraisal statute incorporating USPAP and

23 the regulation that addresses it, correct?

24 **A. Well, this is a summary, and I've got to**

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1 **admit I'm more familiar with reading a much**

2 **lengthier document.**

3 Q. Well, just for the record, 207 is 225 ILCS

4 458/10-10, standards of practice. All persons

5 licensed under this act must comply with standards

6 of professional appraisal practice adopted by the

7 department. And the department, as you know, is the

8 Department of Professional Regulation, right?

9 **A. Correct, as I've done.**

10 Q. The department must adopt as part of its

11 rules Uniform Standards of Professional Appraisal

12 Practice as published from time to time by the

13 Appraisal Standards Board of the Appraisal

14 Foundation, correct?

15 **A. Correct.**

16 Q. All right. And then if you look at

17 Exhibit 208, that's a section from the Illinois

18 Administrative Code pursuant to which the USPAP is,

19 in fact, adopted, correct?

20 **A. I haven't memorized it from this**

21 **particular exhibit, but I've certainly read it in**

22 **the statute online.**

23 Q. Subparagraph B, all real estate appraisers

24 licensed under this act shall practice in accordance

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1 with USPAP, except for standards that are contrary

2 to Illinois law or public policy. Do you see that?

3 **A. Yes.**

4 Q. Okay.

5 **A. And it's referring to jurisdictional**

6 **exceptions that are often invoked by appraisers**

7 **doing condemnation appraisals.**

8 Q. Handing you what's been marked as Pleasant

9 Ridge Exhibit 178, I'll represent to you, sir, that

10 these are some excerpts from the 2014-2015 USPAP --

11 **A. Let me get my glasses, Mr. Blazer.**

12 **MR. LUETKEHANS:** Plus, if I may, I would

13 like to hand out the entire USPAP instead of just a

14 section of this, so the client -- so Mr. McCann can

15 actually review the entire USPAP if necessary.

16 Since it's available, I would ask that that be

17 placed into evidence, and I have copies for

18 everyone, other than just excerpts.

19 **MR. BLAZER:** Well, if Mr. Luetkehans wants

20 to do that at some point in this case, he can.

21 **MR. LUETKEHANS:** Well --

22 **MR. BLAZER:** For the purposes -- for my

23 purposes, there are specific sections that I intend

24 to ask questions about. And he can do whatever he

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1 wants later, but this is my cross-examination not

2 his, and I object to him introducing any additional

3 evidence at this point during my cross-examination.

4 **MR. LUETKEHANS:** I'm not -- I'm not

5 introducing any evidence. I'm introducing the full

6 document which I think, one, the witness has the

7 ability -- has the right to have in front of him,

8 and two, I think that this board would want the full

9 document and not just ten pages out of what is an 80

10 page document.

11 **CHAIRMAN CORNALE:** Okay, why don't we do

12 this. Mr. McCann, you have identified the 2014 book

13 that Mr. Blazer has in hand.

14 **A. That's correct.**

15 **CHAIRMAN CORNALE:** Okay. Mr. Blazer, can

16 you allow him to have that book while you ask him

17 questions?

18 **MR. BLAZER:** Sure.

19 **CHAIRMAN CORNALE:** Okay. We'll --

20 **MR. BLAZER:** I have it right here. I

21 would rather give him mine rather than yours.

22 **MR. LUETKEHANS:** You know what? Are you

23 kidding me?

24 **CHAIRMAN CORNALE:** Okay. We'll accept

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1 these ten pages in the effort of environmental
 2 stewardship.
 3 **BY MR. BLAZER:**
 4 Q. Okay, let's look at my excerpt. If you
 5 could pull that one up please. It's Exhibit 178.
 6 Most of these I think you're probably familiar with.
 7 You are aware that an appraiser must not perform an
 8 assignment with bias --
 9 **A. That's correct.**
 10 Q. -- right? And you know that under the
 11 code of ethics of USPAP an appraiser must not
 12 advocate the cause or interest of any party nor
 13 issue.
 14 **A. That is correct.**
 15 Q. You also know that an appraiser must not
 16 accept an assignment that includes the reporting of
 17 predetermined opinions and conclusions, correct?
 18 **A. That is correct.**
 19 Q. And you're also aware that an appraiser
 20 must not communicate assignment results with the
 21 intent to mislead or to defraud, correct?
 22 **A. Absolutely.**
 23 Q. An appraiser must not use or communicate a
 24 report that is known by the appraiser to be

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1 misleading or fraudulent, correct?
 2 **A. That's what it says, yes, sir.**
 3 Q. An appraiser must not accept an assignment
 4 or have a compensation arrangement for an assignment
 5 that is contingent on the reporting of a
 6 predetermined result, correct?
 7 **A. That's also correct.**
 8 Q. And finally, an appraiser must not accept
 9 an assignment or have a compensation arrangement for
 10 an assignment that is contingent on a direction in
 11 assignment results that favors the cause of the
 12 client, correct?
 13 **A. It says all that, yes, sir, Mr. Blazer.**
 14 Q. Do you tailor your testimony to suit what
 15 your clients want?
 16 **A. I tailor my testimony to follow the facts**
 17 **and where they lead me. My opinions are my own.**
 18 **They're not my client's. I don't report**
 19 **predetermined results. In fact, before I was**
 20 **retained on this, I said given the fact that there**
 21 **are existing wind energy projects in Livingston**
 22 **County and adjacent to Livingston County, I don't**
 23 **think I can accept this assignment unless I study**
 24 **the values specifically in this location. And as**

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1 **the market often proves to be, it showed the same**
 2 **results that it consistently shows in other**
 3 **locations.**
 4 Q. So thinking about those USPAP requirements
 5 that I just read to you, you're saying that you
 6 haven't violated any of those provisions in this
 7 proceeding?
 8 **A. I'm affirmatively stating that I have not**
 9 **violated a single comma of USPAP much less any of**
 10 **the rules.**
 11 Q. Let's talk about some of your prior
 12 experience doing the sort of thing that you're doing
 13 here, that is, determining the impact of detrimental
 14 conditions.
 15 **A. Yes, sir.**
 16 Q. You've done it not just in the wind
 17 farm --
 18 **A. That's correct.**
 19 Q. -- context, correct?
 20 **A. That's correct.**
 21 Q. You've done a fair amount of work of this
 22 sort of work, detrimental condition work, for
 23 garbage companies; isn't that right?
 24 **A. It's been a number of years, but I have**

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1 **done some studies in the past. I've studied**
 2 **property values around existing landfills of where**
 3 **the properties mostly had been built up, you know,**
 4 **kind of encroached into areas where landfills have**
 5 **been developed, yes, sir, I've done that kind of**
 6 **work.**
 7 Q. And you've testified generally that
 8 garbage transfer stations will not have a negative
 9 impact on surrounding property values, correct?
 10 **A. Well, no, what I said is when you're**
 11 **siting properly, for example, in an industrial park,**
 12 **that is the appropriate place for an industrial use.**
 13 **I've also said that in the middle of a residential**
 14 **neighbor is an absolutely inappropriate location for**
 15 **an industrial use such as a transfer station or, for**
 16 **that matter, you know, a wind turbine project.**
 17 Q. So is it still your opinion that a
 18 facility that's overrun by rats will not have a
 19 negative impact on surrounding property values?
 20 **A. Counsel, that completely misrepresents**
 21 **anything I've ever said because I never even came**
 22 **close to making a statement like you just made.**
 23 **That's just ridiculous, I'm sorry.**
 24 **MR. BLAZER:** These aren't exhibits, Tom.

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1 They're transcripts. Counsel, it's page 431 of
 2 Exhibit 179.
 3 **BY MR. BLAZER:**
 4 Q. I mentioned when we first started talking
 5 here that the last time I cross-examined you was in
 6 a waste transfer station proceeding. Do you
 7 remember that?
 8 **A. I do.**
 9 Q. And you were representing a company called
 10 Flood Brothers Disposal?
 11 **A. No, no, I was not representing them.**
 12 Q. Excuse me, you were testifying for them.
 13 **A. I was working for their legal counsel,**
 14 **much as Mr. MaRous is working for you tonight, but I**
 15 **wasn't representing anybody other than my opinions**
 16 **based on the research I had done.**
 17 Q. Sorry, I misspoke, I apologize.
 18 **A. Yes.**
 19 Q. You were testifying on behalf of Flood
 20 Brothers Disposal, correct?
 21 **A. That's a fair statement, yes, sir.**
 22 Q. Page 431, Phil, starting at line 17.
 23 Question: Would the presence of rats resulting from
 24 the presence of a transfer station have a negative

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1 impact on either the character of the surrounding
 2 area or the property values? Answer: I have not
 3 seen any occasion where any concern about rats has
 4 caused any diminution in property values. Do you
 5 remember that?
 6 **MR. LUETKEHANS:** No. Objection. First of
 7 all, I would like him to read the rest of the answer
 8 to that particular question and then I would -- then
 9 I'm going to object to the question, but the full
 10 answer should be read.
 11 **CHAIRMAN CORNALE:** Okay. Before we can
 12 talk about what we're talking about, we need to
 13 decide what this exhibit is and I don't think we
 14 have. What number is it?
 15 **MR. BLAZER:** It's a transcript. I haven't
 16 introduced it into evidence yet, Mr. Cornale. I can
 17 certainly give it to you if you want it.
 18 **AUDIENCE VOICE:** Oh, that could just be a
 19 lie.
 20 **CHAIRMAN CORNALE:** Okay. Mr. McCann, did
 21 you -- did you, in fact, concur that you testified
 22 at this particular --
 23 **MR. LUETKEHANS:** Can I -- he had no
 24 objection to the fact that he testified at this

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1 hearing. I think he's going to admit that that is a
 2 partial answer to his question. I'm not -- all I
 3 want is the entire answer read into the record so
 4 it's put in context. I don't have the right to
 5 redirect, so at the very least I think the entire
 6 answer should be read in not a partial answer.
 7 **CHAIRMAN CORNALE:** Okay, ask and you shall
 8 receive. Mr. Blazer, thank you for providing the
 9 exhibit. Now, as Mr. Luetkehans, we do deserve to
 10 get the entire question and the entire answer read
 11 into the record.
 12 **MR. BLAZER:** I need two of those back. I
 13 gave you mine.
 14 **CHAIRMAN CORNALE:** Mr. Luetkehans, can you
 15 tell me what page?
 16 **MR. LUETKEHANS:** Yeah, it's 431, it starts
 17 on line 17 and it goes onto page 432, and the end of
 18 the answer ends on line 3.
 19 **CHAIRMAN CORNALE:** Okay. So, Mr. Blazer,
 20 I'll ask that you read the entirety.
 21 **MR. BLAZER:** Question: Would the presence
 22 of rats resulting from the presence of a transfer
 23 station have a negative impact on either the
 24 character of the surrounding area or the property

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1 values? I have not seen -- answer from Mr. McCann:
 2 I have not seen any occasion to where any concern
 3 about rats has caused any diminution in property
 4 values. I honestly have not seen a rat when I have
 5 been at the various transfer stations I've been to,
 6 so I think that really falls into the category of,
 7 you know, housekeeping and rodent control and, you
 8 know, making sure that no problem develops.
 9 **MR. LUETKEHANS:** Okay. Now, I'm going to
 10 object on the basis that that is not impeachment and
 11 that is not inconsistent at all with his answer.
 12 The question was not this question. It was a
 13 completely different question that Mr. Blazer raised
 14 about rats running all over the place and, you know,
 15 not, not a -- not causing a diminution of value.
 16 This is not impeachment. If he wants to enter this
 17 transcript, I don't know that I care, but let's not
 18 talk about it as somehow being impeachment because
 19 it's clearly not that.
 20 **MR. BLAZER:** I'll repeat -- I'll repeat
 21 the question to which he answered no. The question
 22 I asked him was: Is it still your opinion that a
 23 facility that is overrun by rats will not have a
 24 negative impact on surrounding property values?

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1 **MR. LUETKEHANS:** Okay.
 2 **MR. BLAZER:** Here's the question I asked
 3 him ten years ago. Exhibit 179.
 4 **MR. LUETKEHANS:** Yeah, and --
 5 **MR. BLAZER:** Would the presence of rats --
 6 **MR. LUETKEHANS:** -- I think that's already
 7 in the record, so I want to make my objection --
 8 **MR. BLAZER:** Well --
 9 **MR. LUETKEHANS:** -- which is overrun by
 10 rats --
 11 **CHAIRMAN CORNALE:** Okay, you guys, stop,
 12 please just stop. We're getting nowhere. Our poor
 13 court reporter, I feel sorry for you tonight. Okay.
 14 **MR. BLAZER:** Can we go on now, Mr.
 15 Cornale?
 16 **CHAIRMAN CORNALE:** I'm not even sure --
 17 what do we have? We have an objection by Mr.
 18 Luetkehans that he's changed the scope of the
 19 question. Is that an accurate accord of what's
 20 happening?
 21 **MR. LUETKEHANS:** Yes.
 22 **CHAIRMAN CORNALE:** Okay.
 23 **MR. LUETKEHANS:** If I may explain.
 24 Impeachment, as Mr. Blakeman will tell you, is

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1 someone answering the same question a different way
 2 than they previously answered. The question was not
 3 phrased that his answer was in any way consistent
 4 between the two questions. The first question was a
 5 very broad, overbroad question that talked about
 6 diminution and overrun by -- a facility overrun by
 7 rats. The question we're now asking him about has
 8 nothing to do with a facility being overrun by rats
 9 as is very clear in the answer.
 10 **MR. BLAZER:** I understand Mr. Luetkehans's
 11 concern now. If I may proceed, I think I can clear
 12 it up.
 13 **BY MR. BLAZER:**
 14 Q. You also testified, Mr. McCann, on behalf
 15 of another waste company called Strom, S-T-R-O-M.
 16 Do you remember that? That one was in Maywood.
 17 **A. Rings a bell, yes.**
 18 Q. That's Exhibit 180, Mr. Luetkehans, page
 19 184 starting at line 18. Question: So if this
 20 facility met all the requirements except that they
 21 were overrun by rats and rats ran throughout the
 22 entire neighborhood, in your view they wouldn't have
 23 a negative impact on the surrounding community.
 24 Answer: I think it would scare the hell out of

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1 people, out of them, but I don't know that it would
 2 necessarily cause a loss of property values. No one
 3 would want to see rats running anywhere.
 4 Do you remember that one?
 5 **A. Not specifically, but I don't argue that I**
 6 **was identifying that, yes, rats could be a hell of**
 7 **-- hell of an impact, but I have not seen it in**
 8 **property values.**
 9 Q. Okay.
 10 **A. I don't know where that question or --**
 11 Q. And both of those situations were when you
 12 were working for the waste company, correct?
 13 **A. Yes, and there's often some very**
 14 **far-fetched questions, such as the, you know, being**
 15 **overrun by rats type of question, that, you know,**
 16 **really deviate quite a bit from what the basis of my**
 17 **opinions are. And while I have not worked on any of**
 18 **those facilities for quite some time, Mr. Blazer, I**
 19 **can tell you that part of the assumption, underlying**
 20 **assumption in any of my reports on those type of**
 21 **facilities is that they would comply with all the**
 22 **environmental protection regulations, including such**
 23 **things as vector control which, as you know,**
 24 **includes rats, it includes birds, it includes things**

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1 **of that nature.**
 2 **So what I don't assume in those studies or**
 3 **never did is that there would be such a situation**
 4 **where there are rats being -- overrunning a**
 5 **neighborhood, but if you're familiar with Maywood,**
 6 **you know, it's a --**
 7 **MR. BLAZER:** I think we're going well
 8 beyond the answer to the question, Mr. Cornale.
 9 **A. Okay.**
 10 Q. I'll move on. Let's talk about wind farms
 11 and leave rats alone.
 12 **A. Sure.**
 13 Q. You've been a witness for opponents in a
 14 number of wind proceedings, correct?
 15 **A. Yes, I have.**
 16 Q. And is it your position that you're not
 17 biased against the wind industry?
 18 **A. It's not just my position; it's my**
 19 **absolute statement. I don't have a horse in the**
 20 **race one way or the other. I'm not an investor in**
 21 **properties near turbines or in any wind energy**
 22 **company. What I do, counsel, is I go where the**
 23 **facts lead me, and I just happened to generate --**
 24 **MR. BLAZER:** Mr. Cornale, again, if you

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1 could instruct the witness just to answer the
 2 question, we might get done tonight.
 3 **A. Counsel, you're speaking to bias and I'm**
 4 **answering.**
 5 Q. Excuse me.
 6 **MR. BLAZER:** Mr. Cornale.
 7 **MR. LUETKEHANS:** I think he has the
 8 opportunity to explain his answer and I would ask
 9 that he be given it.
 10 **CHAIRMAN CORNALE:** Yeah, you can elaborate
 11 a little bit on these. You are an expert witness.
 12 We'll allow you to elaborate a little bit. Just
 13 consider your answer before you start.
 14 **A. Yes, sir.**
 15 **BY MR. BLAZER:**
 16 Q. All right. If you could go to page 60 of
 17 your report. And that's the summary of your
 18 testimony on wind projects.
 19 **A. It's in this pile somewhere. This isn't**
 20 **the official exhibit; it's my copy.**
 21 Q. That's fine, whichever one. I assume the
 22 pages are the same.
 23 **A. What did you say, page 60?**
 24 Q. Yeah, the list of your -- the cases where

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1 you've testified.
 2 **A. Yes.**
 3 Q. All right. One of the ones you identify
 4 is 2013 in Tipton County, Indiana.
 5 **A. Yes.**
 6 Q. Do you see that? And that was the BZA,
 7 which was their version of Livingston's ZBA, right?
 8 **A. Basically, yes, except in Tipton County,**
 9 **Indiana, the Board of Zoning Appeals has the final**
 10 **authority as opposed to being a recommending body to**
 11 **the county board, but it essentially serves the same**
 12 **function. It's just the final decider.**
 13 Q. And you were testifying under oath there
 14 too, right?
 15 **A. Yes, I was.**
 16 Q. I'll show you what I've marked as Pleasant
 17 Ridge 186. That's an excerpt, but you remember
 18 that. That's a portion of the presentation you gave
 19 in that proceeding, right?
 20 **A. Yes. I was fully aware of the kind of**
 21 **comments that Mr. Thayer and others had made about**
 22 **me because I've heard them through the grapevine, if**
 23 **you will, so I felt --**
 24 Q. All right, I haven't asked you the

Page 2119

1 question yet. I'm just --
 2 **A. I felt --**
 3 **MR. BLAZER:** Mr. Cornale, again, if you
 4 would direct him to answer the question. I didn't
 5 ask him anything about the document yet. I just
 6 asked him to tell me if he recognizes it.
 7 **A. Yes, I do.**
 8 **CHAIRMAN CORNALE:** Thank you.
 9 Q. And looking at slide number four there,
 10 the one that starts anti-wind activist or lobbyist,
 11 question mark.
 12 **A. That's correct.**
 13 Q. Okay. You said the things on that slide
 14 because you have, in fact, been accused of being an
 15 anti-wind activist or lobbyist, right?
 16 **A. By the wind industry spokesmen, yes.**
 17 Q. And the last bullet on that page is
 18 characterization, claims or allegations to the
 19 contrary are false, right?
 20 **A. That is correct, that's right.**
 21 Q. And that's the point you're making, that
 22 the point is you're saying you're not an anti-wind
 23 activist or lobbyist, correct?
 24 **A. I'm a professional real estate appraiser,**

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1 **counsel.**
 2 Q. Again, if you'll just answer the question
 3 and --
 4 **A. I am answering the question, counselor.**
 5 **MR. BLAZER:** Mr. Cornale, again --
 6 **MR. LUETKEHANS:** You know what, excuse me.
 7 First of all, it's impossible for her. If he wants
 8 to move to strike afterwards, that's fine, and we
 9 can deal with it at the time, but overtalking the
 10 witness makes it impossible for June, it makes it
 11 impossible for us to have a record of any kind, and
 12 I would ask that he let the witness finish his
 13 answer.
 14 **CHAIRMAN CORNALE:** All right, the witness
 15 needs to answer the question. If -- if I feel that
 16 he's getting -- expounding too much, I'll stop him.
 17 **MR. BLAZER:** I appreciate it.
 18 **CHAIRMAN CORNALE:** Okay. Mr. Blazer,
 19 don't stop him. Mr. Luetkehans, don't stop him.
 20 I'll stop him.
 21 **BY MR. BLAZER:**
 22 Q. And as a matter of fact, in the context of
 23 you testifying in proceedings like this, if you
 24 were, in fact, an anti-wind activist or lobbyist,

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1 that would be a violation of USPAP, right?

2 **A. If your hypothetical and, frankly, rather**

3 **insulting insinuation were true, then yes, that**

4 **would be a violation of USPAP.**

5 Q. Because it would constitute improper bias,

6 correct?

7 **A. If what you said was true was true, then**

8 **yes, that would be true.**

9 Q. And your statement that you're an

10 independent appraiser bound by USPAP in that

11 exhibit, lobbying efforts against the wind industry

12 would certainly be contrary to that statement,

13 right?

14 **A. If I testified as a lobbyist in any**

15 **manner, as the wind industry has their lobbyists,**

16 **then certainly I could see where that might be**

17 **viewed as something that was a violation of USPAP,**

18 **but I am not a lobbyist. I'm a professional**

19 **independent appraiser beholden to no one.**

20 Q. When you testified in this county back in

21 I think it was 2010 with respect to the Deer Run

22 project, who were you working for then?

23 **A. I believe my client was a doctor. I don't**

24 **recall her name.**

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1 Q. Tannehill?

2 **A. I'm sorry.**

3 Q. Tannehill?

4 **A. I don't remember.**

5 Q. Who was the attorney?

6 **A. Well, there was two attorneys and the**

7 **attorney that took most of my direct is a gentleman**

8 **I don't remember his name.**

9 Q. The other attorney was Carolyn Gerwin?

10 **A. Yes, Carolyn Gerwin was an attorney also**

11 **working for objectors.**

12 Q. I'll show you what's been marked as

13 Pleasant Ridge 188. Have you ever seen that

14 document before? Just to summarize it for you, this

15 is a letter where Ms. Gerwin on behalf of Illinois

16 Wind Watch was lobbying Congress in opposition to

17 extending the production tax credit.

18 **MR. LUETKEHANS:** I'll object to what she

19 was doing.

20 Q. I'm just --

21 **MR. LUETKEHANS:** It is what it is. The

22 word lobbying -- whatever she may have been doing,

23 it's not for him to testify. The document speaks

24 for itself.

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1 Q. I'm just asking if you've ever seen that

2 letter before.

3 **MR. LUETKEHANS:** Then ask that question,

4 not the one that's implying something else.

5 **CHAIRMAN CORNALE:** All right, regardless

6 of -- it appears that he was employed by Ms. Gerwin

7 to testify. What Ms. Gerwin does outside, she can

8 hire an individual, much like you hire individuals,

9 to testify. So unless you're going somewhere with

10 this, it's --

11 **MR. BLAZER:** I'm going somewhere with it.

12 **CHAIRMAN CORNALE:** All right, why don't

13 we -- why don't we move it along, okay.

14 **MR. BLAZER:** Right now, I'm just asking --

15 I still need an answer to the question has he ever

16 seen this letter before?

17 **A. Well, I've been looking at it while you've**

18 **been going back and forth here, and I can't say I've**

19 **specifically seen it. I'm reading some of the**

20 **captions, some of the issues and words and whatnot**

21 **and phrases. I've not read the entire thing. Looks**

22 **consistent and familiar with many things I've read,**

23 **some put out by community groups, some put out by**

24 **the wind industry or their lobbyists, but I can't**

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1 **specifically say under oath that I have seen this**

2 **document.**

3 Q. But it looks like documents you have seen

4 put out by lobbyists for the anti-wind industry,

5 right?

6 **A. Well, that's not what I said. I said**

7 **community groups. I don't really know of any**

8 **anti-wind lobbyists per se. Lobbyists require deep**

9 **pockets like the wind industry has.**

10 Q. I'll show you what I've marked as --

11 **CHAIRMAN CORNALE:** Just to clarify for the

12 record, the witness has not identified this document

13 as something that he has seen.

14 **MR. BLAZER:** That's correct.

15 **CHAIRMAN CORNALE:** Okay.

16 **MR. BLAZER:** I acknowledge that. 187.

17 **BY MR. BLAZER:**

18 Q. Is Pleasant Ridge 187 something you've

19 seen before?

20 **A. Yes, it is.**

21 Q. And that's a letter you wrote, right?

22 **A. It is.**

23 Q. To Congress?

24 **A. It is.**

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1 Q. Now, what's --

2 **A. I wrote it as a real estate appraiser --**

3 Q. What's the date of your --

4 **A. -- not a --**

5 Q. What's the date of your Tipton County,

6 Indiana, presentation?

7 **A. I don't recall specifically.**

8 Q. It's -- you've got it right there. It's

9 on the front cover.

10 **A. March 20th, 2013.**

11 Q. And what's the date of that letter you

12 wrote?

13 **A. April 15th, 2013.**

14 Q. All right. And when you sent that letter

15 to Congress, were you working for someone or were

16 you espousing your own opinions?

17 **A. Well, I think it would be fair to say I**

18 **was espousing my own opinions. I was not --**

19 Q. Okay.

20 **A. -- working for anybody. Again, I was not**

21 **working as a lobbyist.**

22 Q. In that letter, let's talk about these

23 impacts that you say to Congress have affected a

24 large percentage of people living within

Page 2126

1 approximately two miles of wind turbines.

2 **A. That's what my findings have been, yes,**

3 **sir.**

4 Q. Do you agree that anecdotal reports do not

5 rise to the level of empirical evidence?

6 **A. You'd have to define the terms a little**

7 **better. There's -- one factual anecdote is better**

8 **than a truckload of statistics that are meaningless**

9 **to the issue.**

10 Q. Do you agree that professional opinions

11 must be made based on objective analysis of

12 empirical data and not on anecdotal reports?

13 **A. I agree that anything I write is based on**

14 **the evidence that I've reviewed from the market and**

15 **from reports of people in the market and that's all**

16 **I did.**

17 Q. Go back to Exhibit 186. That's your

18 Tipton County presentation. That slide four again.

19 One of the things you say on that slide is

20 "Professional opinions are based on objective

21 analysis of empirical data." Do you see that?

22 **A. I believe I said the same thing in 187**

23 **too, yes.**

24 Q. Okay, and when you say objective analysis

Page 2127

1 of empirical data, you mean that all empirical data

2 should be obtained and analyzed without bias, right?

3 **A. Well, that's correct.**

4 Q. Okay. Do you agree that the strength of

5 any research like this depends on the ability to

6 gather and analyze empirical data in the most

7 unbiased and controlled fashion possible?

8 **A. Would you rephrase the question or repeat**

9 **the question?**

10 Q. Sure. All I have to do is read it again.

11 **A. Okay.**

12 Q. Do you agree that the strength of any

13 research like this that you're doing depends on the

14 ability to gather and analyze empirical data in the

15 most unbiased and controlled fashion possible?

16 **A. Yes, sir, as I've done.**

17 Q. And you don't base your opinions on

18 anecdotal information like what someone might say at

19 the dinner table or what might have been said to a

20 newspaper reporter, right?

21 **A. What I do is what's required under the**

22 **appraisal professional standards. I'm answering**

23 **your question, counsel. I'll keep it brief if**

24 **you'll let me answer.**

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1 **MR. BLAZER:** Mr. Cornale.

2 **CHAIRMAN CORNALE:** He is answering the

3 question.

4 **MR. BLAZER:** All right.

5 **CHAIRMAN CORNALE:** You asked about dinner

6 table. You're going to get PAP, that P-A-P

7 whatever.

8 **A. Mr. Blazer, the Appraisal Institute's**

9 **USPAP requires verification of information. This**

10 **includes personal interviews of people. So what you**

11 **describe as anecdotal I describe as extra due**

12 **diligence and confirming what happens in the market**

13 **rather than making unsupported assumptions based on**

14 **what is sometimes merely prepared by PR marketing**

15 **experts.**

16 Q. Another transcript. Mr. McCann, you

17 testified in a wind proceeding in Lee County just a

18 couple years ago, right?

19 **A. That's right.**

20 Q. The applicant in that case was a company

21 called Mainstream Renewables, do you remember that?

22 **A. That's right.**

23 Q. You remember the Lee County board approved

24 that application, right?

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1 **A. I'm often not included in all the details,**
 2 **but yes, that does ring a bell.**
 3 Q. All right. This is, counsel, page 1783
 4 starting at line 20. While I understand -- this is
 5 the question. While I understand the general
 6 description of what a detrimental condition is, is
 7 there a methodology for quantifying and determining
 8 whether or not a condition actually is detrimental
 9 to a neighboring property?
 10 Answer: Yes, there are empirical methods
 11 for extracting out what the market is actually
 12 saying in terms of dollars and cents, how are they
 13 actually treating this when it comes to the buy/sell
 14 decision, which can be somewhat different than what
 15 they might say, you know, at the dinner table or,
 16 you know, to a newspaper reporter. But while I
 17 listen to what people have to say, you know, pro and
 18 con, I base my opinions on the empirical
 19 information.
 20 Do you remember that?
 21 **A. I don't specifically remember it, but it**
 22 **sounds like a conversation that I very well might**
 23 **have had, yes.**
 24 Q. And it would be also inappropriate to base

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1 an opinion regarding the impact of a detrimental
 2 condition solely on interviews of other appraisers
 3 and tax assessors, right?
 4 **A. I didn't hear you very well. Could you**
 5 **pull the mic away just an inch maybe?**
 6 Q. Sure. Pull it away?
 7 **A. Well, there's kind of a little bit of --**
 8 Q. Let me try it this way.
 9 **A. All right.**
 10 Q. And it would also be inappropriate to base
 11 an opinion regarding the impact of the detrimental
 12 condition solely on interviews of other appraisers
 13 and tax assessors; is that right?
 14 **A. I believe that is correct, yes.**
 15 Q. Surveys are not a valuation technique,
 16 correct?
 17 **A. Surveys are sometimes used when somebody**
 18 **hasn't done the actual empirical research. I've**
 19 **seen so-called impact studies done, for example,**
 20 **where all they did was interview an assessor, what**
 21 **does the assessor think the impact has been. In**
 22 **fact, I did such an interview of a Lee County**
 23 **assessor years ago, but then I went on to actually**
 24 **look at the empirical data.**

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1 Q. In that same transcript from Lee County,
 2 our Exhibit 206, counsel, starting at page 1792,
 3 line 10. Question: And is it appropriate for an
 4 appraiser to base an opinion on value solely on
 5 interviews from other appraisers and tax assessors?
 6 Answer: In my opinion, no. There's --
 7 the texts I've read actually state to the contrary,
 8 including the Randall Bell detrimental conditions
 9 test, Appraisal Journal articles and so forth.
 10 Surveys are only suggested as appropriate to use
 11 when there's an absolute absence of any data, any
 12 empirical data, and then with extreme limitations,
 13 but surveys just generally speaking, no, they are
 14 not a valuation technique.
 15 **MR. LUETKEHANS:** Objection, improper
 16 impeachment. There's nothing in there that's
 17 inconsistent with what he just said. That's not
 18 impeachment.
 19 **CHAIRMAN CORNALE:** That is correct.
 20 Everything that you've previously stated is pretty
 21 much verbatim, other than Randall Bell. He did say
 22 no to the interviews solely or value solely on
 23 interviews.
 24 **MR. BLAZER:** Well, my question, Mr.

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1 Cornale, was surveys are not a valuation technique,
 2 is that right, and he --
 3 **MR. LUETKEHANS:** No, that wasn't your last
 4 question.
 5 **MR. BLAZER:** Is that -- do you want to
 6 have her read it back?
 7 **MR. LUETKEHANS:** Yeah, and the one before.
 8 **CHAIRMAN CORNALE:** It was. It was surveys
 9 and he answered no.
 10 **MR. BLAZER:** Actually he didn't answer no,
 11 but we can move on, Mr. Cornale.
 12 **BY MR. BLAZER:**
 13 Q. All right. Obviously you are familiar
 14 with Randall Bell, correct?
 15 **A. Not personally but his work, yes.**
 16 Q. All right. Mr. Bell is a MAI also?
 17 **A. I believe he is.**
 18 Q. All right. And you're familiar with,
 19 actually I think you quoted it in your presentation,
 20 his book Real Estate Damages: An Analysis of
 21 Detrimental Conditions?
 22 **A. Yes.**
 23 Q. Okay. And that's very much of an
 24 authoritative treatise on the issue of detrimental

Page 2133

1 conditions in the appraisal industry, right?

2 **A. Certainly it is one good set of concepts,**

3 **methodologies and examples, but it is not an**

4 **all-encompassing compendium of that.**

5 Q. My question, Mr. McCann, was it is very

6 much of an authoritative treatise on the issue, is

7 it not?

8 **MR. LUETKEHANS:** Objection, asked and

9 answered.

10 **MR. BLAZER:** He didn't answer it.

11 **CHAIRMAN CORNALE:** Just go ahead and

12 answer it again.

13 **A. It is one amongst many authoritative**

14 **treatises.**

15 Q. All right. And you're also familiar with

16 his subsequent book Real Estate Damages: Applied

17 Economics and Detrimental Conditions, right? You've

18 seen this one before also, haven't you?

19 **A. I'm not sure I have.**

20 Q. Okay. Are you aware that Mr. MaRous was

21 one of the reviewers on this authoritative treatise?

22 **A. No. I was aware that he participated in**

23 **the 12th or 13th edition, I forget, of The Appraisal**

24 **of Real Estate as one of the reviewers.**

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1 Q. Well, in the book that you are familiar

2 with, Mr. Bell identifies the accepted methodologies

3 for appraisers to determine whether or not a

4 condition is detrimental to a neighboring use,

5 right?

6 **A. He speaks about many things to that point,**

7 **but there's more than one reference in that book, so**

8 **the way you asked the question, I would have to say**

9 **yes, many.**

10 Q. He also specifies the evaluation

11 techniques and procedures for measuring any impact

12 on value of those detrimental conditions, right?

13 **A. He cites many of the processes that he's**

14 **developed and that have been generally accepted and**

15 **that have been tested in court and that are used in**

16 **the appraisal profession, yes.**

17 Q. Okay. Have you ever seen this book

18 before, Wind Turbine Syndrome, by Nina Pierpont?

19 **A. I've seen the cover. I've never read it.**

20 **CHAIRMAN CORNALE:** Mr. Blazer, have you --

21 do you have questions regarding his report?

22 **AUDIENCE VOICE:** Thank you.

23 **CHAIRMAN CORNALE:** If you do, I totally

24 want them, but --

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1 **MR. BLAZER:** All right, that's fine.

2 **CHAIRMAN CORNALE:** But wind turbine

3 syndrome, he's not a doctor and --

4 **MR. BLAZER:** I'm skipping quite a bit

5 here, Mr. Cornale, but there is something I have to

6 ask him about before we get to his report. I hope

7 you'll give me a little bit of leeway.

8 **CHAIRMAN CORNALE:** All right.

9 **BY MR. BLAZER:**

10 Q. One of the folks that you reference in

11 your report is an individual named Mr. Lansink,

12 L-A-N-S-I-N-K, correct?

13 **A. Yes, sir, Ben Lansink is a member of the**

14 **Appraisal Institute of Canada.**

15 Q. And you actually worked with him on a

16 project in Canada, right?

17 **A. Yes, we did submit some written testimony**

18 **at an environmental review hearing as a joint work**

19 **product, yes.**

20 Q. And your client in that matter was a Ms.

21 Esther Wrightman, W-R-I-G-H-T-M-A-N?

22 **A. Well, client would be a -- I guess the**

23 **appropriate term, but it was, in fact, a pro bono**

24 **matter.**

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1 Q. 189. Pleasant Ridge Exhibit 189 is, in

2 fact, the material that you and Mr. Lansink

3 submitted to the environmental -- Ontario

4 Environmental Review Tribunal, correct?

5 **A. It's certainly part of it. I believe that**

6 **there were a number of other studies submitted to**

7 **the ERT.**

8 Q. Well, what I'm asking about is the report

9 that you're holding in your hand. You do recognize

10 that report, right?

11 **A. Yes.**

12 Q. Okay. And you and Mr. Lansink obviously

13 acknowledge that you're not health experts, correct?

14 **A. That is correct.**

15 Q. And nor are you experts at determining if

16 a person's health is affected by neighboring wind

17 turbines; is that correct?

18 **A. Not from a medical perspective, no, sir.**

19 Q. Okay. And if you could go to page 2 of

20 that report at the top, you and Mr. Lansink here say

21 that this report that you have in front of you is

22 not a land value report, right?

23 **A. It's not an appraisal pertaining to the**

24 **value of real estate.**

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1 Q. Well, you specifically say it's not a land
 2 value report, right?
 3 A. Oh, the title?
 4 Q. Yes.
 5 A. Yes, but that particular caption has a
 6 hyphen and then it says a human species habitat
 7 witness statement --
 8 Q. Right.
 9 A. -- is what it is.
 10 Q. And then below that you say, "The reader
 11 is advised that this report is not a market value
 12 estimate, it is not an appraisal pertaining to the
 13 value of real estate, and it is not a consulting
 14 report." Did I read that correctly?
 15 A. I believe you did.
 16 Q. So this report, according to you, was not
 17 the type of report that you've submitted in this
 18 case?
 19 A. It is not, that's correct.
 20 Q. Okay. Let's look at what -- some of what
 21 you said, and I'm still on page 2, fourth full
 22 paragraph, the paragraph that talks -- that where
 23 you're talking about common denominator. Do you see
 24 that one?

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1 A. Not yet. Okay.
 2 Q. You got it?
 3 A. All right.
 4 Q. And you've made statements like this about
 5 the correlation between reported health impacts and
 6 impacts of real estate values in your report in this
 7 matter, correct?
 8 A. I'm sorry, I was reading that and didn't
 9 listen as well as --
 10 MR. BLAZER: Could you read that back to
 11 him, June, please?
 12 (Requested portion of the deposition was
 13 read by the court reporter.)
 14 A. What I was referring to was the
 15 correlation of proximity of turbines and the
 16 reported health impacts, not my determination that
 17 there are.
 18 Q. Right, but you're making the same types of
 19 statements -- and if you need to see it, it's on
 20 pages 20 and 21 on your report in this matter.
 21 A. There are certainly many reports of health
 22 impacts and others, there's many reports of noise
 23 impacts, whether you're talking about from a
 24 property value standpoint or the surrounding

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1 environment, which in Canada they don't have any
 2 property value standard under the Green Energy Act,
 3 but what I was asked to do was to address, along
 4 with Ben Lansink, the -- from a real estate
 5 perspective of human habitat, because they are
 6 concerned about turtles, birds, but not human beings
 7 or their homes.
 8 Q. I see. Well, for example, if you go to
 9 page 18 of that human habitat report, you've got a
 10 summary of your testimony on wind energy projects,
 11 right?
 12 A. Yes.
 13 Q. That's pretty much the same one you
 14 submitted here?
 15 A. Might be another one or two or so added on
 16 there since.
 17 Q. Okay.
 18 CHAIRMAN CORNALE: Mr. Blazer, not to
 19 interrupt, but --
 20 MR. BLAZER: I'm moving on.
 21 CHAIRMAN CORNALE: -- relevant of this
 22 report --
 23 MR. BLAZER: Sure.
 24 CHAIRMAN CORNALE: -- to specific

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1 Livingston County wind farm.
 2 MR. BLAZER: Well, before we get to
 3 specific Livingston County wind farm, Mr. Cornale,
 4 with all due respect, we have to determine whether
 5 or not this person is, in fact, biased against wind
 6 farms.
 7 CHAIRMAN CORNALE: All right. He's --
 8 MR. LUETKEHANS: I'm going to --
 9 CHAIRMAN CORNALE: -- numerous times under
 10 oath told us that he is not.
 11 MR. LUETKEHANS: And until he --
 12 MR. BLAZER: That is certainly what he
 13 said.
 14 MR. LUETKEHANS: He's spent an hour and 15
 15 minutes on this and hasn't tied it up once, so if he
 16 wants to tie it up, let's tie it up; if he thinks he
 17 can show bias, let's show it, but until now, we
 18 haven't heard a word.
 19 BY MR. BLAZER:
 20 Q. Okay. The Ontario Environmental Review
 21 Tribunal that you submitted this report to rejected
 22 both your testimony and your report, right?
 23 A. They said that property values and human
 24 habitat from a real estate perspective, or words to

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1 that effect, were irrelevant under their standard of
 2 review. So yes, they did not accept the report or
 3 permit me or Mr. Lansink, a Canadian appraiser, to
 4 testify to what the impacts are on the human
 5 environment in the context of real estate.
 6 Q. So could you try and explain to us why a
 7 land value impact report was submitted as something
 8 you said wasn't a land value impact report?
 9 A. I'll try to do it briefly, try to answer
 10 your question briefly that is. A market value
 11 appraisal of a given property would come to a
 12 specific number on a property. USPAP doesn't say
 13 that any appraisal or appraiser opinion has to come
 14 to a specific number. It can also speak to whether
 15 or not there is a direction in value, for example,
 16 the value is higher, the value is lower, the value
 17 is influenced by this factor in the local
 18 environment or once you introduce something into the
 19 local environment. It can also provide a basis for
 20 opinion. That's what I was doing.
 21 Q. Okay. The person you did this report
 22 with, Mr. Lansink, you also referred to his work in
 23 your report and presentation in this proceeding,
 24 right?

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1 A. Yes, he did a fine job on that study up in
 2 Ontario and we communicated, and, in fact, I guess
 3 you could call it peer-review, but he asked me to
 4 review that study before he submitted it. And he
 5 didn't do that for a client or for any money or as a
 6 wind activist or, what did you say, lobbyist. He
 7 did it for continuing education credits, and he was,
 8 in fact, awarded those credits for doing that very
 9 study.
 10 Q. And the study you're referring to is what
 11 I got from your attorney, UCLC Exhibit 44; is that
 12 correct?
 13 A. I believe that's the one, yes. He updated
 14 it over time, so I'm not sure that's the first one
 15 that he actually got the credit for.
 16 Q. And Mr. Lansink looked at 12 properties,
 17 right? Seven in Clear Creek and five in Melancthon?
 18 A. Well, as far as impact on property, yes,
 19 but he looked at many more properties than that.
 20 Q. And you recall that he compared actual
 21 sale prices to MLS-based averages?
 22 A. Of the market medians, yes, a fairly
 23 typical --
 24 Q. Okay.

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1 A. -- market measurement tool.
 2 Q. Where do you find averaging in Mr. Bell's
 3 book?
 4 A. I don't have the book in front of me.
 5 Q. All right, we'll move on.
 6 A. What he did was a resale analysis which is
 7 discussed in Mr. Bell's book.
 8 Q. Okay. You also rely on something in this
 9 proceeding called the MPAC study, M-P-A-C; is that
 10 correct?
 11 A. I did give some testimony on that, yes,
 12 sir.
 13 Q. Right. And that's the Municipal Property
 14 Assessment Corporation which is the assessing body
 15 for the province of Ontario; is that correct?
 16 A. At least a contract appraiser, if you
 17 will, for the provinces.
 18 Q. And you have a summary of what their
 19 report says on page 50 of your report in this
 20 proceeding; is that correct?
 21 A. Well, I have a summary of what the
 22 relevant part of that study to the special use
 23 standard in the Livingston zoning code is, only the
 24 relevant part of it, but that's not the whole study,

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1 that's true.
 2 Q. And one of the things you say on page 50
 3 is, at least what I have here as the third
 4 paragraph, according to you, what the MPAC study
 5 says is, "It empirically measures sale prices to be
 6 25 percent to 26 percent lower out to the 3
 7 kilometer setback range and 21 percent lower prices
 8 out to the 5 kilometer setback as compared to median
 9 sale prices beyond 5 kilometers. Do you see that?
 10 It's on page 50.
 11 A. I was looking at the PowerPoint, I'm
 12 sorry.
 13 Q. Well, you said the same thing in the
 14 PowerPoint. Does that sound familiar?
 15 MR. LUETKEHANS: We'll stipulate to that
 16 language.
 17 Q. Okay.
 18 A. Yes, that I did make, I believe, that
 19 exact statement in my report.
 20 Q. And I believe you testified that the data
 21 in this report is their data; the facts speak for
 22 themselves. Is that correct?
 23 A. Or words to that effect, yes.
 24 Q. Okay. And according to you, this study is

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1 as valid as any and much more transparent; is that
 2 correct?
 3 **A. Yes.**
 4 Q. And it looked at appropriate sales; is
 5 that correct?
 6 **A. For the purposes that they were trying to**
 7 **accomplish and the purposes that they, I believe,**
 8 **unintentionally found, yes.**
 9 Q. Okay. And you don't consider this study
 10 biased, do you?
 11 **A. Well, they were hired by the Ontario**
 12 **government to do this specific study to address the**
 13 **question of whether or not home values near**
 14 **turbines, or their assessments more accurately, were**
 15 **being unfairly assessed in light of the values going**
 16 **down. The Ontario government is pretty well-known**
 17 **as very pro green. They approve every wind project**
 18 **almost without fail. If they were going to direct**
 19 **MPAC to do anything, it would be to find that there**
 20 **is no impact, but that's not what the sales data**
 21 **actually showed.**
 22 Q. So it's your opinion that this study is
 23 not biased, correct?
 24 **A. It's my opinion, despite what appears to**

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1 **be a fair amount of governmental influence and bias,**
 2 **that the facts still came out that the sale prices**
 3 **closer to turbines were negatively affected.**
 4 **Regardless of what the authors intended to find,**
 5 **once they put the facts in the report in a fairly**
 6 **transparent and meaningful summary, that's what it**
 7 **showed.**
 8 Q. And, in fact, on page 50 of your report,
 9 you say that the MPAC study is considered to provide
 10 a relevant and reliable overall measurement of value
 11 impacts; is that correct?
 12 **A. Yes.**
 13 Q. Okay.
 14 **MR. BLAZER: 197A, Tom.**
 15 Q. What I've handed you, Mr. McCann, is the
 16 MPAC study without all the appendices, just the text
 17 in the report. Do you see that?
 18 **A. Yes, the narrative, the one with the**
 19 **facts.**
 20 Q. Right, okay. Have you read the whole
 21 study?
 22 **A. I have. It's been not within the last**
 23 **couple weeks.**
 24 Q. But at some point you read the whole

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1 thing?
 2 **A. Yes, sir.**
 3 Q. All right. How long have you been working
 4 on your report in this matter?
 5 **A. Well, on the study part of the report, a**
 6 **number of months. I don't remember exactly when I**
 7 **started. October perhaps.**
 8 Q. All right. So you read the whole MPAC
 9 study sometime in the time that you were preparing
 10 your report in this proceeding?
 11 **A. I don't know that I've read the whole**
 12 **thing cover to cover. Again, while I was working on**
 13 **this study, I was already familiar with it.**
 14 Q. So at some point in time, you read the
 15 whole thing cover to cover.
 16 **A. Yes.**
 17 Q. Okay. So you know that the MPAC study
 18 that you're holding is actually in two parts, don't
 19 you?
 20 **A. Well, there was a bunch of separate**
 21 **exhibits.**
 22 Q. I'm just talking about the report itself.
 23 There are two parts to it, aren't there?
 24 **A. I thought there was actually more than**

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1 **that because they also did kind of a hatchet job on**
 2 **Ben Lansink which I think they called a separate**
 3 **appendix.**
 4 Q. Well, let's try it this way.
 5 **A. Okay.**
 6 Q. If you go to page 7, that describes the
 7 purpose of the report, and the first part examined,
 8 which you've been talking about, whether residential
 9 properties in close proximity to wind turbines are
 10 assessed equitably when compared to residential
 11 properties located at a greater distance, correct?
 12 **A. Essentially, yes.**
 13 Q. Okay. The second part examined whether
 14 the presence of wind turbines in close proximity to
 15 a residential property affects the property's sale
 16 price, right?
 17 **A. That's what they say, but it doesn't --**
 18 Q. Okay.
 19 **A. -- compare to what they actually did.**
 20 Q. Well, if you go to page 10 of this study,
 21 and they say in here, "The study examined 1,157 wind
 22 turbines located on 834 properties across Ontario
 23 and analyzed their impact on the sale prices of
 24 properties based on open market sales in the areas

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1 surrounding turbines in the period between January
 2 2009 and December 2012." Right? That's what the
 3 report says?
 4 **A. Yes.**
 5 Q. And the sales of residential properties
 6 covered 15 market areas, right?
 7 **A. Well --**
 8 Q. Is that what your --
 9 **A. -- broke them down separately rather than**
 10 **pooling them, that's correct.**
 11 Q. Okay. And then on page 17 of that report,
 12 and I think you mentioned this in your presentation,
 13 they analyze -- and I think you thought this was a
 14 very good way to assess impacts at different
 15 distances. They analyzed the variation of sale
 16 prices for properties located less than 1 kilometer,
 17 between 2 and 5 kilometers and over 5 kilometers
 18 from a turbine, right?
 19 **A. Yes.**
 20 Q. All right. So that would be, give or
 21 take, less than six-tenths of a mile, between 1.2
 22 and 3 miles, and over 3 miles, right?
 23 **A. I'm not sure you got your math right on**
 24 **the 1.2. Repeat that.**

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1 Q. Sure. 1 kilometer is roughly six-tenths
 2 of a mile, right?
 3 **CHAIRMAN CORNALE:** We'll just stipulate
 4 that you got the kilometers right.
 5 **MR. BLAZER:** Okay.
 6 **A. Okay.**
 7 Q. All right. Study one, the tax assessment
 8 study, starts on page 15 of that report, right? Do
 9 you see that?
 10 **A. Yes.**
 11 Q. Okay.
 12 **A. Regarding the equity of residential**
 13 **assessments in proximity --**
 14 Q. Right, and let's just scoot forward to the
 15 conclusion that's on page 24. And the general
 16 conclusion is in the first sentence there,
 17 "Therefore, based on the results of this analysis,
 18 there is no inequity with regards to distance to the
 19 closest IWT -- which is industrial wind turbine --
 20 and view towards an IWT." Do you see that?
 21 **A. I do.**
 22 Q. And obviously you weren't aware of that
 23 conclusion when you submitted this report. That's
 24 what you've been talking about today, right?

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1 **A. Well, that certainly refers to your**
 2 **assessment sales ratios and how they got them pretty**
 3 **close to the time-adjusted sale prices in a very**
 4 **tight pattern, and that's exactly -- there is no**
 5 **inequity refers to you're talking about the**
 6 **assessment sales ratios.**
 7 Q. Okay. What I'd like to focus on now is,
 8 again, the statement in your report that the MPAC
 9 study empirically measures sale prices to be 25
 10 percent to 26 percent lower out to 3 kilometers and
 11 21 percent out to 5 kilometers. That's what's in
 12 your report.
 13 So I'd like to look now at the second part
 14 of this study, and that starts on page 25 of the
 15 report. Let me know when you're at page 25.
 16 **A. I'm there.**
 17 Q. You're there, okay. And this one is
 18 entitled Effect of Proximity to Industrial Wind
 19 Turbines on Residential Sale Prices, right?
 20 **A. That's what the title is, yes.**
 21 Q. Okay. And again, let's just jump forward
 22 to the conclusion. That's on page 29. It's the
 23 last paragraph.
 24 **A. Well, there's a lot in there that actually**

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1 **starts laying the foundation for that, such as, you**
 2 **know, the significance of --**
 3 Q. Let's go to the last paragraph.
 4 **A. -- 5 to 10 percent range, but if you want**
 5 **to --**
 6 **CHAIRMAN CORNALE:** Mr. Luetkehans -- stop,
 7 stop. Mr. Blazer is going to ask you questions.
 8 **MR. BLAZER:** Thank you.
 9 Q. Page 29, last paragraph. "To further
 10 confirm its findings, MPAC also conducted an
 11 additional analysis using approximately 2,000 sales
 12 and resales following similar logic to the Lansink
 13 study. The main differences between the February
 14 2013 Lansink study and MPAC's resale analysis is the
 15 sample size and the determination of the increase in
 16 the market between resales. Using 2,051 properties
 17 and generally accepted time-adjustment techniques,
 18 MPAC cannot conclude any loss in price due to the
 19 proximity of an industrial wind turbine." Do you
 20 see that?
 21 **A. I do.**
 22 Q. Why didn't you mention that conclusion in
 23 your report?
 24 **A. Well, I think I mentioned in my testimony**

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1 that they ostensibly claim to have studied the value
 2 impact and they present it as if there is none, but
 3 when you look at the actual data, it's quite a bit
 4 different than what their words say. I tried to be
 5 clear on that and I didn't mean to be at all
 6 confusing, but that is what the table in my report
 7 shows is what the actual sales measurements are not
 8 what they wrote in their narrative.
 9 **CHAIRMAN CORNALE:** Mr. Blazer, I'm going
 10 to try to remind you, stick with this Exhibit 70 and
 11 keep rolling with it. You're -- the bias, you're
 12 looking for a bias.
 13 **MR. BLAZER:** Mr. Cornale --
 14 **CHAIRMAN CORNALE:** Unfortunately, Mr.
 15 McCann hasn't -- you've got nothing to work off on
 16 bias. So is there deficiencies, is there problems,
 17 are there issues? Is there anything in this report
 18 that makes it unreliable?
 19 **MR. BLAZER:** I'll get there, Mr. Cornale,
 20 I can assure you. Right now this witness has
 21 testified at length regarding what this report we're
 22 talking about says.
 23 **CHAIRMAN CORNALE:** Okay, but this
 24 report --

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1 **MR. BLAZER:** And I believe --
 2 **CHAIRMAN CORNALE:** -- MPAC and this
 3 Lansink is in Canada and we're in Livingston County,
 4 and property values are important to Livingston
 5 County residents, so we need to focus here.
 6 **MR. BLAZER:** I can assure you, Mr.
 7 Cornale, I'll get there in just a couple minutes.
 8 **CHAIRMAN CORNALE:** Okay.
 9 **MR. BLAZER:** I can assure you. The
 10 witness is indicating he needs a short break.
 11 **CHAIRMAN CORNALE:** Okay, let's take a
 12 couple minutes.
 13 **MR. LUETKEHANS:** Is this -- I mean we
 14 still haven't even gotten to his report. It's 9:30.
 15 **CHAIRMAN CORNALE:** I understand.
 16 **MR. LUETKEHANS:** And you have questions
 17 I'm assuming too. Is this a good time to take a
 18 break and then come back? I mean I think he can
 19 come back on the 17th. I mean we haven't even
 20 gotten to the report and we spent two hours, an hour
 21 and a half, on bias and we still haven't heard --
 22 **CHAIRMAN CORNALE:** Okay. Mr. Blazer, as
 23 we pose that question, how -- how lengthy are your
 24 questions on the actual report?

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1 **MR. BLAZER:** 45 minutes.
 2 **CHAIRMAN CORNALE:** How many?
 3 **MR. BLAZER:** 45 minutes.
 4 **CHAIRMAN CORNALE:** 45 minutes, okay. And
 5 I mean honestly I do believe that people in the
 6 audience have questions of this individual and I'm
 7 sure that we do, so -- we'll wait for Mr. McCann to
 8 get back. How is his availability?
 9 **MR. LUETKEHANS:** If you -- let's go off
 10 the record for a minute. I asked him before we
 11 started whether he was available on the 17th, he was
 12 going to check, and I haven't heard. So if we can
 13 go off the record, when he comes back, I'll talk to
 14 him.
 15 **CHAIRMAN CORNALE:** Okay.
 16 (Brief pause.)
 17 **CHAIRMAN CORNALE:** All right, Mr.
 18 Luetkehans, what have we come up with?
 19 **MR. LUETKEHANS:** We're trying to figure it
 20 out.
 21 **CHAIRMAN CORNALE:** Got it. All right, in
 22 light of our inability to finish this witness this
 23 evening, we're going to take this opportunity to
 24 recess at this point in time. It appears that Mr.

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1 McCann possibly will be back on the 17th. We're
 2 working through some scheduling issues.
 3 So there's for sure -- or Mr. McCann we
 4 have on deck, Mr. Steidinger we'll be looking at
 5 next week, and then Mr. Luetkehans indicated
 6 something with Mr. Punch and Rand. He's still
 7 trying to work on a scheduling issue there.
 8 **MR. LUETKEHANS:** The 23rd Dr. Punch is
 9 scheduled to come in. We will probably fill the
 10 18th with individuals, unless I hear something
 11 different from one of our experts that makes them
 12 available, which I'm hoping we get as much as we can
 13 through on that day. You know, Mr. Steidinger,
 14 depending on how long his cross takes and everything
 15 goes, will be the 17th or 18th, preferably the 17th.
 16 **CHAIRMAN CORNALE:** Okay. Just so
 17 everybody understands, so we've got meetings next
 18 week on the 17th and 18th. They're all going to be
 19 back here 6:30, Walton Centre, Fairbury. The
 20 following week schedule, we have the 23rd and the
 21 25th at 6:30, again at this location. So we'll
 22 continue to work through both Mr. Luetkehans's
 23 witnesses and individuals' testimonies.
 24 So others that are signed up on the sheet

1 that have not testified, be somewhat prepared
 2 possibly to maybe fill the night on the 17th by
 3 chance, maybe not, or the 18th, be possibly ready to
 4 present your testimony. All right?
 5 With that, I need a motion to recess --
 6 **MR. VITZTHUM:** I move.
 7 **CHAIRMAN CORNALE:** -- and I've already got
 8 one by Vitzthum. Can I get a second? Iverson
 9 seconds. All in favor?
 10 **ALL MEMBERS:** Aye.
 11 **CHAIRMAN CORNALE:** Opposed.
 12 **AUDIENCE VOICE:** Nay.
 13 (Adjourned at 9:39 p.m.)
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1 STATE OF ILLINOIS)
 2 COUNTY OF FORD)SS
 3
 4 I, June Haeme, a Notary Public in and for
 5 the County of Ford, State of Illinois, do hereby
 6 certify that the following Livingston County Zoning
 7 Board of Appeals Case SU-7-14 hearing was taken at
 8 the Walton Centre, 100 West Locust Street, Fairbury,
 9 Illinois, on February 10, 2015.
 10 That the said deposition was taken down in
 11 stenograph notes and afterwards reduced to
 12 typewriting under my instruction and that the
 13 deposition is a true record of the testimony given.
 14 I do further certify that I am a
 15 disinterested person in this cause of action; that I
 16 am not a relative, or otherwise interested in the
 17 event of this action, and am not in the employ of
 18 the attorneys for either party.
 19 IN WITNESS WHEREOF, I have hereunto set my
 20 hand and affixed my notarial seal this 25th day of
 21 February, 2015.
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JUNE HAEME, CSR
 NOTARY PUBLIC

"OFFICIAL SEAL"
 June Haeme
 Notary Public, State of Illinois
 My Commission Expires:
 September 27, 2016

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