

TOWNSHIP OF BERKELEY  
PLANNING BOARD

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IN THE MATTER OF:

SOUTH SEASIDE PARK HOMEOWNERS  
AND VOTERS ASSOCIATION  
DE-ANNEXATION PETITION HEARING  
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627 Pinewald Keswick Road  
Bayville, New Jersey  
Thursday, October 3, 2019  
7:30 to 9:41 p.m.

B E F O R E :

Robert Winward, Chair  
John A. Bacchione, Councilman  
Frederick Bell, Member  
Domenick Lorelli, Member  
Nick Mackres, Member  
Richard Callahan, Member  
Brian Gingrich, Member

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O'Malley, Surman & Michelini

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Darlene Sillitoe, Certified Court Reporter  
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1 APPEARANCES:

2 DASTI, MURPHY MCGUCKIN, ULAKY  
 3 KOUTSOURIS & CONNORS, ESQS.  
 4 620 West Lacey Road  
 5 Forked River, New Jersey 08731  
 6 BY: GREGORY P. MCGUCKIN, ESQ.  
 7 Attorneys for the Board

8 O'MALLEY, SURMAN & MICHELINI  
 9 17 Beaverson Boulevard  
 10 Brick, New Jersey 08723  
 11 BY: JOSEPH MICHELINI, ESQ.  
 12 Attorneys for the Petitioners

13 ALSO PRESENT:

14 Kelly Hugg, Secretary  
 15 James M. Oris, Board Engineer  
 16 Stuart B. Wiser, Board Planner

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1 (The meeting was called to order and  
 2 other matters were heard.)

3 CHAIR WINWARD: And at this time, we'll  
 4 have the main event, South Seaside Park Owners  
 5 and Voters Association, de-annexation petition  
 6 hearing. And while they're setting up, we'll  
 7 take a five-minute break.

8 (A brief recess was taken until 7:30  
 9 p.m.)

10 CHAIR WINWARD: Okay. I think at this  
 11 time -- at this time I'm going to get started  
 12 again on the next application, which we  
 13 previously stated what it was, the  
 14 de-annexation hearing.

15 MR. MICHELINI: Good evening. Joseph  
 16 Michelini appearing on behalf of the Petitioner  
 17 signers of de-annexation of South Seaside Park.  
 18 I believe tonight we're continuing  
 19 the -- the matter with the cross-examination,  
 20 beginning tonight of Stuart Wiser, possibly  
 21 finishing tonight. That would be a miracle,  
 22 but miracles do happen, so. I believe that's  
 23 where we are. And so if it pleases the Board,  
 24 I'll proceed.

25 CHAIR WINWARD: Yes. Please. Go ahead.

3

1 INDEX:

2 NAME OF WITNESS:	PAGE:
3 STUART B. WISER, PP, AICP	
4 By Mr. Michelini	5

6  
7  
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9

10 EXHIBITS:

11 NUMBER	DESCRIPTION	PAGE
12 A-110	Remington & Vernick Invoice	19
13 A-111	Report of Seaview Harbor	27
14 A-112	Case Law, 7-20-78	58
15 A-113	Photograph	81
16 A-114	Photograph	82
17 A-115	Photograph	98
18 A-116	Tax Rates	

19  
20  
21  
22  
23  
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1 STUART WISER, PP, AICP, having been  
 2 previously sworn, testified as follows:

3

4 CROSS-EXAMINATION BY MR. MICHELINI:

5 Q. Okay. Mr. Wiser, you are a licensed  
 6 planner; correct?

7 A. Correct.

8 Q. And your employer currently?

9 A. Currently is ARH Associates.

10 Q. Okay. What is ARH Associates?

11 A. It is a surveying -- engineering,  
 12 planning environmental firm, consulting firm, based in  
 13 Hammonton, New Jersey.

14 Q. Okay. And when you began this process  
 15 about five years ago, you were with Remington &  
 16 Vernick.

17 A. That's correct.

18 Q. Correct? Okay.

19 And when did you transfer over to ARH  
 20 Associates?

21 A. Roughly March or April of 2018.

22 Q. Okay. And what's the relationship as  
 23 this -- in regards to this application between  
 24 Remington & Vernick and ARH Associates?

25 A. There was a discussion about the client

1 wanting me to stay on since I had been through as far  
2 as I had gotten through. So we are -- ARH is a  
3 subconsultant to Remington & Vernick at this point.

4 Q. Okay. So your bills, I take it, then  
5 get submitted to Remington & Vernick, and they submit  
6 ARH bills with Remington & Vernick bills to get paid.  
7 Is that how it works?

8 A. I know we submit our bills to R&V. I  
9 don't know how it gets packaged for the Board, but we  
10 submit our bills to RR -- to R&V.

11 Q. And how long were you with Remington &  
12 Vernick?

13 A. Since December 2001.

14 Q. That's a pretty long time.

15 A. Yes.

16 Q. And you were a director or something in  
17 charge there; correct?

18 A. I was the regional director of planning  
19 and redevelopment.

20 Q. And are you -- is ARH a similar type of  
21 arrangement?

22 A. Similar firm. Yeah.

23 Q. Now, I want to talk about Remington &  
24 Vernick because it's only relatively recently that you  
25 transferred over in relation to this application.

1 That's accurate; correct? March of '18?

2 A. Yeah.

3 Q. Okay. So Remington & Vernick, isn't it  
4 a fact that the vast majority of clients -- well, let  
5 me ask you.

6 Who is your client? Let me ask you that  
7 first.

8 A. Who was my client?

9 Q. Yes. In this matter, who is your  
10 client?

11 A. The Planning Board.

12 Q. The Planning Board. You were hired by  
13 the Planning Board; correct?

14 A. I did not -- I was not involved in the  
15 business arrangement. That would have been Mr. Peters  
16 or his -- Mr. Dittenhofer, who is the Vice President,  
17 the R&V Vice President of the office. I know I was  
18 assigned to the Board for this process.

19 Q. All right. Did you work and do work for  
20 the Berkeley Planning Board before this process?

21 A. I sat in, I think, once or twice. It  
22 may have been the planning board. It may have been  
23 the zoning board for Mr. Peters, but it was not a  
24 normal assignment for me.

25 Q. Right. So you were especially assigned

1 to get involved in this de-annexation matter when you  
2 were working at R&V?

3 A. That's correct.

4 Q. Okay. And isn't it a fact that the vast  
5 majority of your clients -- and I'll say R&V. It's  
6 just easier than Remington, Vernick & Vena.

7 A. Absolutely.

8 Q. Uh-hum. And isn't it a fact that the  
9 vast majority of your clients at Remington & Vernick,  
10 or R&V, were public institutions? Isn't that --

11 A. Yes. Yes.

12 Q. Yeah. They were towns, boards,  
13 authorities, things of that nature; correct?

14 A. Yes.

15 Q. And isn't it also a fact that compared  
16 with public institution clients, the number of private  
17 clients at R&V was relatively few by comparison?

18 A. The -- well, it's the inverse of what  
19 you just said. Yes.

20 Q. Okay. And isn't it a fact that while  
21 you were at Remington & Vernick you had very few  
22 personal clients of your own, given the makeup of the  
23 clients of the firm; is that true?

24 A. I'm not sure I understand the question.

25 Q. Did you have many private clients of

1 your own at Remington & Vernick?

2 A. I hadn't --

3 Q. Personally.

4 A. Well, I didn't have any personal clients  
5 whatsoever. It was all through the firm.

6 Q. Okay. And they were mainly boards,  
7 authorities, towns, public institutions; correct?

8 A. Correct.

9 Q. Isn't that correct?

10 A. Correct.

11 Q. And you've been involved at Remington &  
12 Vernick in other de-annexation matters; correct?

13 A. Correct.

14 Q. Have you been involved in other  
15 de-annexation matters at ARH?

16 A. Just this one.

17 Q. Okay. And how many other matters have  
18 you been involved in?

19 A. This is my third.

20 Q. This is your third. What were the other  
21 two?

22 A. The first one was a section of Upper  
23 Township down in Cape May County that wished to leave  
24 Upper Township. It was Strathmere and Whale Beach was  
25 the neighborhood. They wanted to leave Upper Township

1 and become part of Sea Isle City.  
 2 Q. And --  
 3 A. And the second one was -- I'm moving up  
 4 Atlantic County -- was a section of Egg Harbor  
 5 Township that wished to leave Egg Harbor Township and  
 6 become part of Longport.  
 7 Q. And in both those cases you were  
 8 involved to do what you're doing in this case. Is  
 9 that the --  
 10 A. Similar. Yeah.  
 11 Q. -- similar role?  
 12 A. Yeah. Yes.  
 13 Q. And you didn't represent the  
 14 petitioners, I take it, in those cases?  
 15 A. That is correct.  
 16 Q. Okay. You were hired specially in those  
 17 cases as well?  
 18 A. Yes.  
 19 Q. Okay. And have you also been consulted  
 20 to possibly work in other de-annexation matters? Have  
 21 you had any consultations?  
 22 A. There was one matter where I had a  
 23 consultation with an attorney, and then the client  
 24 itself -- both were phone consultations. Probably  
 25 each lasted less than 15 minutes.

1 Q. And were they also again for  
 2 municipalities or public institutions --  
 3 A. No.  
 4 Q. -- of some kind?  
 5 A. They were for a private property owner.  
 6 Q. Okay. And did you turn them down?  
 7 A. I did not turn them down. The matter  
 8 has not proceeded. They told me that they would get  
 9 back to me if it proceeded. They basically were  
 10 asking me about the process to decide whether they  
 11 wanted to pursue it or not.  
 12 Q. Is it fair to say that Remington &  
 13 Vernick, at least when you worked there, would  
 14 probably not take a matter for a petitioner in a  
 15 de-annexation matter. Is that fair to say?  
 16 A. I honestly couldn't tell you.  
 17 Q. You can't tell me?  
 18 A. I know they wouldn't if they were -- if  
 19 they were -- obviously representing the town or the  
 20 board that was the subject of the hearing. But if it  
 21 was a totally neutral environment, if I can phrase it  
 22 that way, I don't know whether they would take it or  
 23 not.  
 24 Q. But they've never taken one on behalf of  
 25 a petitioner to the best of your knowledge?

1 A. To the best of my knowledge, no.  
 2 Q. And you would know, wouldn't you?  
 3 A. Not necessarily. I should know. But I  
 4 would not swear to it.  
 5 Q. Well, is there anybody else going around  
 6 and representing boards in de-annexation matters  
 7 besides you? While you were at Remington & Vernick?  
 8 A. Not to my knowledge.  
 9 Q. All right. So you should know.  
 10 A. It's a big -- it's a big firm. There  
 11 was a lot of things going on. I didn't know  
 12 everything.  
 13 Q. All right. And you were brought in  
 14 specially -- you don't even live in Ocean County; is  
 15 that correct?  
 16 A. That's correct.  
 17 Q. You live in Egg Harbor Township, I  
 18 believe?  
 19 A. Yes. Egg Harbor Township, Atlantic  
 20 County.  
 21 Q. And that's the same matter that you  
 22 referenced. There was a matter involving Egg Harbor  
 23 Township?  
 24 A. That's correct.  
 25 Q. And was that the Strathmere or the other

1 one?  
 2 A. That was -- I'm sorry. I didn't  
 3 complete that. The neighborhood in Egg Harbor  
 4 Township that wanted to become part of Longport is  
 5 Seaview Harbor.  
 6 Q. And so your local knowledge is basically  
 7 further south, although you have been involved in this  
 8 matter now for a number of years; correct?  
 9 A. I guess you could say that.  
 10 Q. Okay. When's the last time you were in  
 11 South Seaside Park?  
 12 A. I don't remember exactly. I have been  
 13 there about three or four times since this matter  
 14 began.  
 15 Q. And this matter began approximately five  
 16 years ago. And you've only been there three or four  
 17 times. That's it?  
 18 A. I've been there about three or four  
 19 times since roughly January of 2015.  
 20 Q. Okay. And I believe the petition for  
 21 this matter was filed in the Fall of 2014.  
 22 A. The first hearing for this matter was  
 23 January 2015.  
 24 Q. Okay. And so you've been there three or  
 25 four times. What was the purpose for which you were

1 there three or four times?

2 A. To observe, to take a look at the  
3 conditions, to take a look at the neighborhood. To  
4 provide myself with a context of what the various  
5 testimony was going -- was and was likely to -- to  
6 provide a context going into the process and  
7 continuing through the process for the testimony.

8 Q. So it was to gather information and  
9 knowledge about the area.

10 A. Sure.

11 Q. Okay. Now, you're not a licensed  
12 engineer; correct?

13 A. Correct.

14 Q. Okay. And --

15 A. I should say, though, I'm a licensed  
16 professional planner. And I do hold the AICP  
17 certification.

18 Q. Have you ever testified as a --

19 A. Which is a national certification.

20 Q. Have you ever testified as an expert in  
21 engineering? I'm asking about engineering.

22 A. No.

23 Q. Okay. So you're not able to give an  
24 opinion of an engineering nature from an expert's  
25 standpoint; correct? Isn't that correct?

1 A. I would not give an opinion. No.

2 Q. Because you're not qualified; right?

3 A. I'm not an engineer.

4 Q. All right. Similarly you're not an  
5 attorney; correct?

6 A. Correct.

7 Q. Never went to law school?

8 A. No.

9 Q. Never passed the bar?

10 A. No.

11 Q. Similarly, you are not a CPA?

12 A. Correct.

13 Q. And you are not a municipality  
14 accountant?

15 A. Correct.

16 Q. Okay. So you are not qualified to give  
17 an opinion, a professional opinion, as to any of those  
18 areas; isn't that correct?

19 A. I'm not qualified to give an opinion --  
20 to generate primary research or primary information on  
21 that. I believe I am qualified to review information  
22 that was submitted by those experts to -- to provide  
23 an opinion to the Board on that. And the Board can  
24 take that opinion for what it's worth.

25 Q. So you think you are qualified to take

1 other experts' information and to weigh that  
2 information and then make a decision about which  
3 information is better and provide that to the Board?  
4 Because experts disagree; correct?

5 A. Experts disagree.

6 Q. In this case the experts have disagreed.

7 We got Mr. Bowman on one side. We have Mr. Slachetka  
8 on the other side; right?

9 A. Yes. Both planners.

10 Q. We have Barbara Woolley-Dillon on one  
11 side. We have Mr. Slachetka again on the other side.

12 A. Correct.

13 Q. Right?

14 And in this case we have Mr. Moore and  
15 we had Mr. Ebeneau, who is the CPO.

16 A. Correct.

17 Q. Correct?

18 And they disagreed; correct?

19 A. Correct. On certain matters.

20 Q. Right. But they had totally different  
21 conclusions, did they not?

22 A. Yes.

23 Q. And okay. And so you think that you are  
24 qualified to weigh the experts' opinions and to tell  
25 the Board what you think they should do; is that

1 correct?

2 A. No. I do not tell the Board what I  
3 think they should do. I tell the Board what my  
4 opinion from what -- I've heard is. And then the  
5 Board then makes their opinion, forms their opinion  
6 based on that.

7 Q. So you didn't make any recommendations  
8 in your report then; correct? That's what you're  
9 telling us?

10 A. I think it's likely we did make  
11 recommendations, which the Board is free to agree with  
12 or disagree with.

13 Q. Okay. So you did give them a direction.  
14 You made recommendation -- specific recommendations  
15 against de-annexation, did you not?

16 A. I think overall, it was our  
17 recommendation to the Board that -- that based on our  
18 understanding of the tests that are required that --  
19 that de-annexation should not be approved.

20 Q. Okay. So when -- you keep saying "our."  
21 Who is our?

22 A. When did I say "our"?

23 Q. I thought you prepared the report.  
24 Didn't you prepare the report?

25 A. The report was prepared largely by me,

1 but there were -- there was a representative -- Mr.  
2 Dickerson is here who assisted as well as Mr. Jones  
3 from R&V and Mr. Peters and Mr. Oris from R&V who  
4 assisted in the preparation of the report.

5 Q. And where is Mr. Dickerson from?

6 A. He -- he was with T&M. Now you're with  
7 Maser? Maser Consulting.

8 Q. So -- because it was my understanding  
9 that we were -- I was told that you prepared the  
10 report and that I was going to be able to  
11 cross-examine you. Now you're telling me that four  
12 people prepared the report; is that correct?

13 A. It was prepared under my direction. But  
14 I was not the only author.

15 Q. All right. So the report is 400 pages  
16 long; correct?

17 A. Yes. Something like that.

18 Q. Well, you can check it. Go ahead. It's  
19 right in front of you.

20 A. Well, the last page of the text is 399.

21 Q. Well, that's pretty close; right?

22 A. Pretty close.

23 Q. Okay. How much time was involved in  
24 preparing that report?

25 A. I couldn't tell you. A lot of time.

1 Q. Hundreds of hours? Would that be fair  
2 to say?

3 A. I couldn't tell you, but a lot of time.  
4 You're going to tell me how much it is, so.

5 Q. I'm not going to tell you. I'm going to  
6 tell you how much you spent. But I'm not going to  
7 tell you how much time. You got to tell me how much time.

8 MR. MICHELINI: So let's have this  
9 marked. Mark this. I don't know we're up to.

10 (Remington & Vernick Invoice, 9-6-19,  
11 was marked as Exhibit A-110.)

12 Q. I'm going to show you an invoice from  
13 Remington & Vernick. It's dated September 6, 2019,  
14 and for clarity's sake and brevity, it purports to  
15 show all time billed on the de-annexation matter,  
16 referenced that project specifically, through August  
17 of 2019. Just -- if that's not accurate, let me know.  
18 But that's the way I read it. And the number of this  
19 is A-110.

20 So tell me how much money has been spent  
21 with Remington & Vernick through August of this year  
22 simply on the de-annexation matter. According to  
23 that?

24 A. Hold on a second because there's a  
25 couple of columns. (Reviewing.)

1 Q. There's a column for what was previously  
2 billed, a column for what's represented in this bill,  
3 and then a total; correct?

4 A. Yeah. Except there -- just bear with me  
5 a second. It appears to be \$350,792.66.

6 Q. And does that include ARH billing as  
7 well? Or is ARH in addition to that, if you know?

8 A. I don't know.

9 Q. So it could be more?

10 A. Bear with me. (Reviewing.) On this  
11 particular invoice, there doesn't -- on this invoice  
12 there is nothing to indicate that there's ARH time  
13 included.

14 Q. And also, this only includes time  
15 through August. It's been a month and three days  
16 since this bill was rendered; correct? Or the time  
17 shown on it.

18 A. I suppose.

19 Q. Okay. So there's additional time to as  
20 well and possibly ARH after that. After that \$350,000  
21 that's been spent?

22 A. I suppose.

23 Q. Where did that money come from? Did it  
24 come from a general fund, or did it come from some  
25 specific fund? If you know.

1 A. I have no idea.

2 Q. All you know is you got the money.

3 A. Well, I didn't get the money. I can  
4 tell --

5 Q. You must have gotten some --

6 A. I did not get the money. I got my  
7 salary.

8 Q. All right.

9 A. I don't know -- I don't know what the  
10 contractual arrangements were between the Board, the  
11 Township, and R&V.

12 Q. And there were other professionals  
13 involved besides those that worked at R&V who also got  
14 paid for this matter; correct? Such as Mr. Dickerson,  
15 Mr. Siachetka; right?

16 A. One would assume.

17 Q. Mr. McGuckin. We know Mr. McGuckin's  
18 bills are reasonable. He's an attorney.

19 MR. GINGRICH: You really got paid?

20 A. Are you under oath, sir?

21 Q. I'm asking questions.

22 So was there any restraints on how much  
23 you could bill the Planning Board or for  
24 this matter -- bill your client for this matter?

25 A. None that was expressed to me.

1 Q. All right. So you could just bill as  
2 much as you wanted basically.

3 A. There were no constraints that were  
4 expressed to me.

5 Q. And I would imagine, you've prepared  
6 almost a 400 page report, that a substantial amount of  
7 that billing related to that report. Would that be  
8 accurate?

9 A. An -- yeah. I suppose. An amount  
10 related to the report. An amount related to coming to  
11 meetings. And an amount -- but it all feathered into  
12 the report. So I guess, yes.

13 Q. Okay. And you were the final editor.  
14 Even though you had help from these other people, you  
15 were the final editor; correct?

16 A. Yes.

17 Q. And you reviewed each section of the  
18 report?

19 A. Yes.

20 Q. So you spent time -- there's -- as I see  
21 it, there's bolded sections in the report. There's  
22 four bolded sections. Background and Procedural  
23 History is one section. Legal standards. Synopsis of  
24 Proceeding. Summary and Conclusions.

25 A. Yes.

1 Q. Okay. And you spent time on each of  
2 those sections; correct?

3 A. Yes.

4 Q. And you analyzed -- or attempted to  
5 analyze -- the information that was brought forth in  
6 these hearings in each of those sections as they  
7 related to those specific things, background,  
8 procedural history, legal standards, et cetera;  
9 correct?

10 A. Yes.

11 Q. Is it fair --

12 A. With the assistance of the other people  
13 that I described.

14 Q. Okay. So let me ask you about  
15 background. From background, procedural history. Was  
16 that your -- did you do that, or did somebody else do  
17 that?

18 A. I think it was an iterative process  
19 between all the individuals that I described. I do  
20 not believe that we can say, okay, this sentence is  
21 mine and this sentence is somebody else's. This --

22 Q. And --

23 A. This section is mine and this section is  
24 somebody else's.

25 Q. And all the individual sections took --

1 would it be fair to say -- I know you don't know the  
2 exact hours. But all the individual sections took a  
3 considerable amount of attention and effort?

4 A. Yes.

5 Q. Okay. And you billed for it and got  
6 paid for it; correct?

7 A. I billed for it.

8 Q. And the firm got paid for it.

9 A. Somebody got paid for it.

10 Q. Okay.

11 A. I hope.

12 Q. All right. Who did -- so the background  
13 section was a collaborative effort. What about the  
14 legal standards? Who did that?

15 A. The legal standards was me.

16 Q. That was solely you?

17 A. There may have been some editorial  
18 review but -- some scrivener review -- but it was me.

19 Q. Okay. And how much time did you spend  
20 on that, if you know?

21 A. I -- honestly, I didn't keep time as to  
22 which section I was working on at any particular time.

23 Q. All right. So just generally, did you  
24 spend more than ten hours on the legal section?

25 A. I couldn't tell. I couldn't tell you.

1 Q. You couldn't tell me. It's 40 pages  
2 long, I think. According to this. Page 13 -- I  
3 think -- I think I counted 40 pages on that. And you  
4 can't tell me that if you -- you spent certainly more  
5 than an hour on it?

6 A. I spent probably -- spent certainly -- I  
7 don't know. I didn't keep those -- that level of  
8 detail on my time.

9 Q. Okay. And then who did the Synopsis of  
10 the Proceedings?

11 A. What page are you on?

12 Q. It's Section 3 of your report. Synopsis  
13 of the Proceedings? Who worked on that?

14 A. What page are you on?

15 Q. I'm not -- I'm on the Table of Contents.

16 A. Are you on my report?

17 Q. I'm on the Table of Contents.

18 A. I'm sorry. I'm sorry. (Reviewing.) I  
19 think that was a collaborative effort.

20 Q. All right. And the Summary and  
21 Conclusions. Was that you or --

22 A. Also a collaborative effort.

23 Q. Okay. And is it fair to say that for  
24 each specific section, you not only spent a lot of  
25 time putting it together, but you spent a lot of time

1 trying to take the information that related to that  
 2 specific section and apply it specifically to this  
 3 case, South Seaside Park and de-annexation?  
 4 A. I'm sorry. Can you rephrase that? I'm  
 5 not sure I understand what you're asking.  
 6 MR. MICHELINI: You can read it back.  
 7 (The Court Reporter so complied.)  
 8 A. I'm going to try to answer the question.  
 9 I still don't -- not sure I understand it. But I took  
 10 the testimony that was given as the -- for the  
 11 hearings related to whatever the topic was and put  
 12 them into sections or chapters, if you will, for this  
 13 report.  
 14 Q. All right. This was a new creation;  
 15 correct?  
 16 A. Yes.  
 17 Q. Okay. You didn't copy it from some  
 18 other report you did in some other matter; correct?  
 19 A. I took the report that I did for  
 20 Seaview -- Seaview Harbor and used it as guide. Was  
 21 there --  
 22 Q. Okay.  
 23 A. -- some general language that was cut  
 24 and paste? Probably. Definitely.  
 25 Q. Okay.

1 A. But it was used as a guide and as -- as  
 2 an outline.  
 3 Q. Okay. So you only used it as -- because  
 4 you'd done this before, you used the information from  
 5 other reports as an outline. You didn't do it -- you  
 6 didn't take it word for word and just change the names  
 7 of the places and the parties; correct?  
 8 A. There may be some -- where it was --  
 9 might be applicable, I probably did do that. But it  
 10 would have been edited to fit this situation.  
 11 Q. All right. So it wouldn't be word for  
 12 word. It would be edited to fit this situation;  
 13 correct?  
 14 A. Exactly.  
 15 Q. Okay.  
 16 MR. MICHELINI: Let's have this marked.  
 17 (Report of Seaview Harbor was marked as  
 18 Exhibit A-111.)  
 19 Q. I'm going to show you what's been marked  
 20 A-111, Mr. Wiser. Tell me if you can identify it.  
 21 A. This is the report that Remington &  
 22 Vernick did that I authored in the Seaview Harbor  
 23 de-annexation matter.  
 24 Q. All right. And that's the place --  
 25 that's the report for the place where you live; right?

1 That was Egg Harbor Township?  
 2 A. That's the report --  
 3 Q. Trying to de-annexation?  
 4 A. -- for Egg Harbor Township.  
 5 Q. Right.  
 6 So I'd like you to go to the Legal  
 7 Standards section of that report.  
 8 A. Do you have a page number?  
 9 Q. I don't because you have my only copy.  
 10 A. Okay. Bear with me.  
 11 Q. I'll tell you what. I'll make it easy.  
 12 I'll find it in your report, that's this matter.  
 13 A. Legal Standards. Page 6. (Reviewing.)  
 14 Okay.  
 15 Q. Okay. So I'd like you to look at Page 6  
 16 of A-11 -- A-111. I'm sorry. And look at your report  
 17 that you rendered in this matter, and tell me if they  
 18 are the same or they are different.  
 19 A. They're substantially the same.  
 20 Q. Aren't they identically the same?  
 21 A. I wouldn't say they're identically the  
 22 same, but they're substantially the statements.  
 23 Q. How are they are not identical?  
 24 A. Well, I'm pretty sure that -- maybe  
 25 they -- you know what?

1 Q. They look identical to me.  
 2 A. They're pretty doggone close. I'll give  
 3 you that.  
 4 Q. The first sentence is exactly the same,  
 5 isn't it?  
 6 A. Yeah.  
 7 Q. Okay. And the first sentence in the  
 8 next paragraph are exactly the same?  
 9 A. Yeah.  
 10 Q. And the first sentence of the third  
 11 paragraph on that page is exactly the same.  
 12 A. Okay.  
 13 Q. And the paragraphs each end with the  
 14 same words. I think it's identical. Do you think  
 15 it's identical?  
 16 A. I think that -- that page is identical.  
 17 Now --  
 18 Q. Okay. So then let's -- let's look --  
 19 A. Well, wait a second now. You're --  
 20 Q. Excuse me.  
 21 A. You're talking about what's identical.  
 22 That page is identical. The next --  
 23 Q. I didn't ask --  
 24 A. The next page isn't identical.  
 25 Q. That's fine. But I didn't ask you about



1 the next page, did I?

2 A. No. But if you're drawing a conclusion  
3 here, then this section is not identical.

4 Q. Okay.

5 A. So when I say it's substantially  
6 identical, it's substantially identical.

7 Q. So Page 1, Legal Standards, is actually  
8 identical; correct?

9 A. I didn't read every word, but I will  
10 stipulate that it's probably pretty doggone close, if  
11 not --

12 Q. All right. So let's go then to the  
13 statutory standards.

14 CHAIR WINWARD: They didn't mention a  
15 page.

16 Q. Okay? See if you can find the statutory  
17 consistency.

18 A. In which one?

19 Q. In both of them.

20 A. Bear with me.

21 Q. Well, you know what? Let's do this. Go  
22 to your section on the case law. Go to your section  
23 on the case law.

24 MR. MACKRES: Mr. Michelini, what page  
25 were you comparing that was identical?

1 THE WITNESS: Page 13.

2 MR. MICHELINI: Page 13 of his -- or --  
3 I'm sorry. It was page 13 of his report.

4 MR. MACKRES: Thank you very much.

5 THE WITNESS: So that was 13 and Page 6  
6 of the Seaview Harbor report. And now Mr.  
7 Michelini is asking me to jump to 17 in the --

8 Q. Well, go to 16. Okay?

9 A. Okay.

10 Q. Which is dealing with proceedings.

11 A. So that's 27 on the Seaview Harbor  
12 report.

13 Q. Okay. Is the statutory law listed as  
14 exactly the same, or is it different?

15 A. It's probably -- as with Page 6, it's  
16 probably pretty close if not exact.

17 Q. Okay. And how about on Page 28, the  
18 case law? You start with the case law.

19 A. Yeah.

20 Q. And in both reports at Section 2.2.2. I  
21 would like you to read through the case law, page by  
22 page. Just take a moment. And tell me if -- how long  
23 that section is.

24 A. How --

25 COUNCILMAN BACCHIONE: Through the

1 Chair, if I can interrupt a second?

2 Mr. Michelini, if you're speaking to the  
3 Board, we don't have anything to compare.

4 MR. MICHELINI: You should have his --  
5 well, I understand that. But if he's going to  
6 tell you it's the same --

7 COUNCILMAN BACCHIONE: Well, you're  
8 testifying that. And we can't follow the  
9 testimony because we don't have the comparison.  
10 Just saying.

11 MR. MICHELINI: Yeah. Okay. Well, then  
12 I'll make sure you can get to look at it.

13 COUNCILMAN BACCHIONE: Okay.

14 MR. MICHELINI: That's fine.

15 A. Can you -- can you clarify what you're  
16 asking me to do now, please?

17 Q. You discuss the cases in your report, do  
18 you not?

19 A. Yeah.

20 Q. Okay. And how many cases do you  
21 discuss?

22 A. I could count. I didn't -- I just went  
23 through them. A through -- bear with me a second. A  
24 through. (Reviewing.) Oh, two-sided. Bear with me.  
25 I'm sorry. A through H.

1 Q. Okay. How many pages is that? How many  
2 pages of case law?

3 A. Bear with me. For Seaview Harbor, it  
4 starts on Page 28. And it ends on -- little bit onto  
5 69.

6 Q. Okay. And in your report that you did  
7 in this matter, it starts on Page 17; correct?

8 A. Yes.

9 Q. And does it end on -- where does it end?  
10 Does it end on Page 54?

11 A. Let me try to find it.

12 Q. Or after that?

13 A. Let me try to find it. (Reviewing.) It  
14 ends towards the bottom of 54.

15 Q. Okay. So that's in your reports 17  
16 through 54. How many pages is that? That's a lot of  
17 pages; right? That's almost 30 pages.

18 A. Okay.

19 Q. Okay? Seventeen to 54. So almost 40  
20 pages; right?

21 MR. CALLAHAN: Thirty-seven.

22 MR. MICHELINI: Thirty-seven pages.

23 Q. So tell me if the case law is  
24 different -- if anything is different between those 37  
25 pages in the old report that you did and the 37 pages

1 in the new report, or whether your entire discussion  
2 of the case law and as it applies to this case --  
3 because you analyzed each case in relation to South  
4 Seaside Park; right?

5 A. Right.

6 Q. Is that what you said? Did you analyze  
7 each case, each case in relation to South Seaside  
8 Park?

9 A. I -- no. Actually, that part -- the --  
10 the -- the case law was largely lifted from -- for the  
11 presentation purposes in this section was largely --  
12 was lifted from the previous report.

13 Q. Well, let's look at your report.  
14 Doesn't your report after each case -- and I'll refer  
15 because the Board has this, Page 23, you're  
16 referring -- you're discussing the first case, I  
17 believe. Or one of the cases.

18 A. Actually, we'll go to Page 18. You  
19 start the case law on Page 17 with a discussion of the  
20 West Point Island case. And then on Page 18 of your  
21 report, you talk about in Paragraph 5 relevance to  
22 South Seaside Park Petition.

23 A. Uh-hum.

24 Q. So you -- you made it -- you did an  
25 analysis based upon South Seaside Park's Petition.

1 That's what this says; correct?

2 A. Yes.

3 Q. Okay. And then you did that for each  
4 case. So the next case is Demarest found at Page 20  
5 of your report in this matter. And at the end, you  
6 did a discussion. Relevance to South Seaside Park.  
7 It looks like it's on Page 23.

8 A. Uh-hum.

9 Q. Is that correct?

10 A. That's correct.

11 Q. And then the next case was the Carton  
12 case versus the Borough of Tinton Falls on Page 26 of  
13 your report.

14 A. Uh-hum.

15 Q. And then you did relevance to South  
16 Seaside Park on Page 27. And we can take that all the  
17 way up to 54 and go through each case. And in each  
18 case you discussed the case and then you talk about  
19 its relevance to South Seaside Park and the particular  
20 petition in this case; right?

21 A. Yes.

22 Q. Isn't that what it says?

23 A. Yes.

24 Q. Yes. Okay.

25 Now, your report that you did in the --

1 in the -- it's marked A-111 -- in the Seaview Harbor  
2 matter -- when was that done, by the way? When was  
3 that report done?

4 A. Whenever it's --

5 Q. It's done before this matter?

6 A. It's dated January 29th, 2016.

7 Q. All right. So it's done several years  
8 ago. That report insofar as the case law is  
9 concerned, I will tell you, is identical to the report  
10 that you did in this one from Page 17 to Page 54  
11 except that wherever it says "Seaview Harbor," you put  
12 in "South Seaside Park." And wherever it said "Egg  
13 Harbor Township," you put in "Berkeley Township." Do  
14 you accept that to be true?

15 A. Sure.

16 Q. So you did not do an analysis, separate  
17 analysis, for South Seaside Park when it came to the  
18 case law. You simply just changed the place names;  
19 isn't that right?

20 A. I presented the case law, and I  
21 presented what I perceived to be the major takeaways  
22 from the case law for -- that came out of it.

23 Q. You copied 37 pages from a prior  
24 expert's report and billed this town for it, didn't  
25 you?

1 A. Come on.

2 Q. Isn't that the case?

3 A. What does that have to do with  
4 de-annexation?

5 Q. It has a lot to do with your  
6 credibility, sir.

7 A. Well, then talk about my credibility.

8 Q. I am.

9 A. Are you suggesting that I defrauded the  
10 Township?

11 Q. I don't have to answer any questions.

12 A. Well, you are making an accusation like  
13 that. Are you suggesting that I am defrauding the  
14 Township?

15 Q. I don't know. You tell me. Did you  
16 bill for that time that you put this together? You  
17 told this panel that a few minutes ago that you spent  
18 time on each section, including the Legal Standards.  
19 That you couldn't quantify it, but you spent a lot of  
20 time and you analyzed the facts as they relate to this  
21 de-annexation petition with regard to each section,  
22 including Legal Standards. And now we find out that  
23 37 pages was lifted from another report, and all you  
24 did was change the place names.

25 A. That's not true.

1 Q. That doesn't sound like analyzing to me,  
2 sir.

3 A. I went through at all. I read through  
4 it all. That the fact that changes were made, I'll  
5 accept no changes were made. But that's a very  
6 serious accusation that --

7 Q. Am I factually wrong about what I just  
8 said? That you didn't do that?

9 A. I read through the whole thing.

10 Q. I didn't ask you if you read through it.  
11 Am I factually wrong about the fact that 37 pages are  
12 identical and that all you did was change the place  
13 names?

14 A. No. Because I read through the whole  
15 thing.

16 Q. Okay. Thank you.

17 Now, did you copy anything else from  
18 that report, to the best of your knowledge, from the  
19 Seaview Harbor one? Or is it just the Legal  
20 Standards?

21 A. I told you I used this as template. I  
22 used this and went through it and made the adjustments  
23 as necessary to fit this -- this situation.

24 Q. And charged hundreds of thousands of  
25 dollars to do it; correct?

1 A. The bill is the bill.

2 MR. MCGUCKIN: Hold on. Are you talking  
3 about just the report?

4 MR. MICHELINI: We'll -- we'll go on.

5 MR. MCGUCKIN: Why don't you clarify  
6 that? Are you going to withdraw that statement  
7 or clarify it?

8 MR. MICHELINI: I'll go on.

9 MR. MCGUCKIN: Why don't you clarify the  
10 statement? You just said he made three --  
11 hundreds of thousands of dollars for the  
12 report. And I don't think that's an accurate  
13 statement whatsoever. You're saying that --

14 MR. MICHELINI: Mr. McGuckin, the  
15 testimony is the testimony. I mean, he --

16 A. You're the one who testified to that. I  
17 didn't say I made a hundred thousand dollars from --  
18 or hundreds of thousand dollars from it-- from the  
19 report.

20 Q. How much time did you spend making up  
21 the report?

22 A. I told you. I don't know.

23 Q. So other than the section that we just  
24 talked about which has no real analysis, new analysis,  
25 relative to South Seaside Park, is there any other

1 section that you copied where you didn't do an  
2 analysis and you simply changed the place names?

3 A. I -- as I said before, there may be some  
4 language that's identical. There may be some language  
5 that I retained from the prior report to this report.  
6 I couldn't tell you. I'm sure you're going to tell  
7 me.

8 Q. Well, isn't it a fact that in those  
9 prior reports that you did, or the prior matters that  
10 you did, in both those cases you recommended to the  
11 Board or you came out against the idea of  
12 de-annexation in both those cases? And you've done  
13 that here, too; isn't that right?

14 A. It happens to be the case.

15 Q. Okay. And is it a fact that you were  
16 hired to prepare a report with a predetermined result  
17 so that it would -- it would go against the idea of  
18 de-annexation just like you did in those other  
19 reports?

20 A. I was not hired. And if I had been  
21 hired under that premise, I wouldn't have taken the  
22 assignment.

23 I would also add that the first case was  
24 tried at the local level and then tried at the  
25 Appellate Division. And they tried to go to the

1 Supreme Court, and the Supreme Court wouldn't take the  
2 case. And it ends up that the Township's findings  
3 were affirmed.

4 Q. Okay. You're familiar with the Upper  
5 Township Strathmere case. You were involved in it;  
6 correct?

7 A. Yes. That's the one I was just talking  
8 about.

9 Q. And you are familiar, are you not, with  
10 the initial decision of Judge Armstrong -- because  
11 you've read the law -- regarding the role of the  
12 planning board and the role of the township; that is,  
13 maintaining separate and independent functions of the  
14 planning board and the governing body as provided for  
15 in the statute which allows a better as well as an  
16 unbiased record.

17 Are you familiar with that statement  
18 from Judge Armstrong?

19 A. Yeah.

20 Q. Okay. And you agree that your report is  
21 to be independent of the governing body and the  
22 township; correct?

23 A. Yes.

24 Q. Okay. And the planning board members  
25 are to be independent of the governing body in the

1 township and their evaluation of this matter; correct?  
 2 A. Correct.  
 3 Q. Okay. And you also agree, of course,  
 4 that you're not to prejudge the matter; correct?  
 5 A. Correct.  
 6 Q. And you agree that you and other  
 7 professionals of this planning board are to avoid the  
 8 appearance of impropriety and bias in the work that  
 9 you do here.  
 10 A. Absolutely.  
 11 Q. Okay. Do you agree that the information  
 12 to be received should be information that's  
 13 established in the record that you make your decision  
 14 and render your report on? In other words, do you  
 15 agree that your report is supposed to be based upon  
 16 information that's brought before this board in -- in  
 17 the record, testimony?  
 18 A. I think that I have the ability to  
 19 supplement that where I think it's necessary, but it's  
 20 largely on the record.  
 21 Q. Okay. And did you supplement in this  
 22 case or no?  
 23 A. Yeah, I did.  
 24 Q. Okay. How much supplementing did you  
 25 do?

1 A. In the grand scheme of things, probably  
 2 not a lot.  
 3 Q. Okay.  
 4 A. Some.  
 5 Q. All right. And the reason that it's  
 6 supposed to be on the record is so that the Board can  
 7 ask questions, so that I can cross-examine; right?  
 8 A. Yeah.  
 9 Q. That's all -- that's all important;  
 10 right?  
 11 A. Yes.  
 12 Q. Did you have meetings with employees of  
 13 the Township regarding de-annexation without notice to  
 14 me or my clients?  
 15 A. I have no idea what you were noticed  
 16 about.  
 17 Q. Well, you didn't notice me of any  
 18 meetings.  
 19 A. I certainly did not.  
 20 Q. So let me show you what's been marked  
 21 previously as A-79. Take a moment and read it.  
 22 A. (Reviewing.) Okay.  
 23 Q. What is A-79?  
 24 A. It is an e-mail from Christopher Reid,  
 25 who was the Administrator for the Township at the

1 time. This is dated April 2015.  
 2 Q. And who is it sent to?  
 3 A. It was sent to Mr. McGuckin, myself,  
 4 Rodney Haines, who is the -- I guess was the  
 5 auditor -- Township's auditor at the time. Jim would  
 6 be -- there's a couple of Jims here. I don't know --  
 7 I'm going to assume it's Jim Oris. And Stan  
 8 Slachetka.  
 9 Q. Okay. And several of those people are  
 10 involved in the de-annexation matter, are they not?  
 11 A. I think they all were.  
 12 Q. And it was copied to several other  
 13 people. Mayor Amato of the Township. Fred Ebeneau,  
 14 CFO of the Township. Karin DiMichele, Chief of Police  
 15 for the Township. John Bacchione who sits here as a  
 16 council member. Judy Noonan. Who is she? Is she on  
 17 the council?  
 18 A. I believe she's a councilperson.  
 19 Q. Sophia Gingrich. That would be Mr.  
 20 Gingrich's wife. I believe she's on the council, too.  
 21 A. I really don't know.  
 22 Q. You don't know?  
 23 Jim Byrnes, Tom Gross, Angelo Guadagno,  
 24 and Anthony DePaola. Anthony DePaola was the Chairman  
 25 of the Planning Board.

1 A. He was the Board Chair at the very  
 2 beginning, if I remember correctly.  
 3 Q. Right. And this was the very beginning;  
 4 correct?  
 5 A. Yeah.  
 6 Q. Okay. And this e-mail said: Greg,  
 7 Stuart, Rodney, Jim, and Stan, thank you for the  
 8 courtesy of your time during our most recent  
 9 conversations. Right? Says that.  
 10 As you are aware, the de-annexation of  
 11 South Seaside Park is a critical issue to the  
 12 Township. Please plan a meeting to identify the  
 13 material issues, review the completed hearings, and  
 14 create a strategy for the Township portion of the  
 15 meeting, including but not limited to, material items  
 16 to refute from Applicant testimony, documentation  
 17 required, priority of testimony, and witnesses for the  
 18 Township. Thank you.  
 19 Did I read that correctly?  
 20 A. You did.  
 21 Q. So that is a -- referencing a meeting to  
 22 do all those things, inviting several people from the  
 23 Township and people -- or copying at least several  
 24 people from the Township -- to assist the Township to  
 25 refute the testimony of the Petitioners; correct?

1 A. It is what that e-mail says.  
 2 Q. Okay. That certainly does seem like  
 3 it's unbiased and that the separate and independent  
 4 functions of the planning board and the governing  
 5 body, which the statute allows for an un -- a better  
 6 and unbiased record -- it doesn't seem to fit that.  
 7 Does it?  
 8 A. That particular e-mail does not.  
 9 Q. In fact, that e-mail would show bias,  
 10 would it not, in your mind?  
 11 A. Probably. Yeah.  
 12 Q. And so you did have that meeting;  
 13 correct? You attended a meeting after that.  
 14 A. I attended a meeting.  
 15 Q. Okay. Was it the meeting that's  
 16 referenced there?  
 17 A. If it wasn't this meeting -- I'm sure it  
 18 was. I -- there were two meetings that were project  
 19 coordination meetings that happened very early in the  
 20 process that I was in. I'm going to assume this is  
 21 one of them.  
 22 Q. And did you keep notes from that  
 23 meeting?  
 24 A. No.  
 25 Q. And that meeting certainly was outside

1 the record; correct?  
 2 A. Yes.  
 3 Q. In other words, it wasn't done here.  
 4 A. Correct.  
 5 Q. And I -- you never notified me of that  
 6 meeting; correct?  
 7 A. I never notified you of any meetings.  
 8 Q. That's right.  
 9 And then after you got that, did you  
 10 care to write an e-mail or a letter or a text or  
 11 anything that said, hey, this shouldn't be. We  
 12 shouldn't have people from the Township getting  
 13 together with professionals from the Planning Board  
 14 because their roles in the de-annexation process -- I  
 15 know. I've done it two times before -- should be  
 16 separate and unbiased. Did you write a text, a  
 17 letter, any kind of written communication to that  
 18 effect?  
 19 A. There would have -- I did not do a  
 20 written communication. No.  
 21 Q. Did you do an oral communication?  
 22 A. I may have.  
 23 Q. You may have, but you don't have notes  
 24 so you don't know; correct?  
 25 A. Correct.

1 Q. And I suppose you're going to tell us  
 2 that nothing of that nature that was discussed in the  
 3 e-mail actually occurred at the meeting. Is that what  
 4 you're going to tell us?  
 5 A. The meetings that I were in were project  
 6 coordination meetings that talked about what -- the  
 7 testimony that was likely to come down -- the  
 8 testimony that had been offered to date. The  
 9 testimony that was likely to be proffered by the  
 10 Petitioners and who the individuals or the departments  
 11 were that were best suited to answer that.  
 12 Q. And did you assist in that process?  
 13 A. I was there. I probably assisted in the  
 14 conversation.  
 15 Q. So you assisted the Township in trying  
 16 to determine who would be best advised to come and  
 17 give testimony to address the issues that the  
 18 Petitioners had testified to so they could be refuted;  
 19 is that correct?  
 20 A. No. To address the issues.  
 21 Q. Well, the issues at that point had only  
 22 been raised by the Petitioners in April of 2015.  
 23 A. Yes. Right. Whether --  
 24 Q. So it would be the issues that the  
 25 Petitioners raised; correct?

1 A. This was to coordinate the Township's  
 2 response and the Township's testimony related to the  
 3 issues raised by the Petitioners to the -- for the  
 4 Board.  
 5 Q. Right. And you didn't tell any of us  
 6 about that; correct? Did you object at the meeting  
 7 and say, gee, this shouldn't be. There's a potential  
 8 for bias and a lack of independence as the case law  
 9 talks about?  
 10 A. There were four attorneys in that  
 11 meeting.  
 12 Q. So you expected them to raise it?  
 13 A. I -- if there was anything improper, I'm  
 14 sure one of the four attorneys would have raised the  
 15 issue.  
 16 Q. Who were the four attorneys?  
 17 A. Mr. Reid. Mr. McGuckin. George  
 18 Gilmore. And one of his associates, who I think  
 19 serves as the day-to-day solicitor for the Township.  
 20 Q. Is it fair to say that those attorneys  
 21 were all against de-annexation? Is that fair to say?  
 22 Certainly Mr. Reid was. He wrote that e-mail.  
 23 A. I'm not going to speak for them.  
 24 Q. Well, you agree Mr. Reid was; correct?  
 25 A. I agree this e-mail was.

1 Q. And that's from Mr. Reid?  
 2 A. From Mr. Reid.  
 3 Q. Is it a fact that after that e-mail, you  
 4 then produced annotated transcripts, which we have  
 5 marked. Transcripts A-64, A-65, A-71 all annotated  
 6 transcripts; is that correct?  
 7 A. Those were produced, to my recollection,  
 8 after the last of the testimony from the Petitioners.  
 9 Q. Okay. But you produced them.  
 10 A. Yes.  
 11 Q. And that's certainly after the e-mail at  
 12 some point; correct?  
 13 A. Correct.  
 14 Q. And you provided these animated -- these  
 15 annotated transcripts to Mr. Camera or someone in the  
 16 Township so they could be used by the Township  
 17 witnesses; isn't that correct?  
 18 A. Yes.  
 19 Q. And you don't see that as violating your  
 20 duty to be independent and unbiased from the Township?  
 21 A. What I did was to coordinate for the  
 22 various township officers or officials or  
 23 representatives -- I broke the transcripts out based  
 24 on subject matter. So, for example, the police  
 25 wouldn't have to go through the DPW section.

1 Q. So you made it easy for them. That's  
 2 what you did.  
 3 A. I did.  
 4 Q. You facilitated it and made it easier.  
 5 A. I facilitated their review.  
 6 Q. So you helped the Township present their  
 7 case by facilitating their review so when they  
 8 testified, they could focus in on things that you  
 9 thought were important?  
 10 A. That they could focus in on things that  
 11 were subject to their professional responsibilities.  
 12 Q. And specifically so that they could  
 13 refute the testimony of the Petitioners; isn't that  
 14 correct?  
 15 Tell the truth.  
 16 A. How -- I always tell the truth.  
 17 MR. MCGUCKIN: Mr. Michelini, that's  
 18 uncalled for.  
 19 A. I always tell the truth, sir.  
 20 MR. MCGUCKIN: That's uncalled for.  
 21 He's under oath.  
 22 A. How they responded was up to them. I  
 23 gave them the testimony from the transcript.  
 24 Q. And did you give it to me at the same  
 25 time?

1 A. I think you received it at the same  
 2 time.  
 3 Q. I did not receive it at the same time.  
 4 And I'll make that representation. But I did receive  
 5 it. And our office received it inadvertently; isn't  
 6 that correct?  
 7 A. Yeah.  
 8 Q. You didn't intend to give it to me. It  
 9 got sent to my office. And I looked at it, and I  
 10 said, gee, what's this? And then I got a call from  
 11 your office immediately asking to retrieve it; isn't  
 12 that accurate? That part --  
 13 A. I'm not --  
 14 Q. -- about retrieving?  
 15 A. I don't know. Honestly, I don't doubt  
 16 it, but I don't -- I was not involved in that.  
 17 Q. I will make that representation. And  
 18 you have no reason to doubt it?  
 19 A. I do not.  
 20 Q. And did you give any -- any of your own  
 21 comments in this -- you have a whole column that says  
 22 "SW Comments" on each of these annotated transcripts.  
 23 Those are your comments; correct?  
 24 A. To the extent there are any. Yeah.  
 25 Q. So what was the purpose of having your

1 comments? Wasn't it to interpret the testimony, maybe  
 2 guide how somebody would read it? Isn't it correct?  
 3 A. They were just thoughts. You'll notice  
 4 they are not on every section.  
 5 Q. Well, let's look at A-65. It talks  
 6 about police on A-65. And then in your comment  
 7 section, it says: Get Chief to testify and explain  
 8 exactly what she meant. Any way to determine what  
 9 happened?  
 10 That's your comment; right?  
 11 A. Yeah. Clarify what -- what she meant  
 12 and determine what happened.  
 13 Q. Chief, speak to jurisdiction issue.  
 14 Catch and hold versus actual arrest?  
 15 A. Which she did.  
 16 Q. So you're telling her what to do.  
 17 You're guiding her with your comments, aren't you?  
 18 Didn't you guide her with your comments to tell her  
 19 what she needed to testify about; isn't that correct?  
 20 A. To the extent there were any comments  
 21 made, they were suggestions that would clarify the  
 22 record. I did not put words in her mouth. And, you  
 23 know -- you've met the Chief. You've cross-examined  
 24 the Chief. You know you don't put words in the  
 25 Chief's mouth.

1 Q. Rodney. I suppose that's Rodney Haines;  
 2 right? Now I'm looking at A-71.  
 3 A. Uh-hum.  
 4 Q. Your comment to Rodney -- would that be  
 5 Rodney Haines?  
 6 A. It would be.  
 7 Q. Did not follow this at all. Is it  
 8 material?  
 9 So you're asking advice from Mr. Haines;  
 10 correct? Who works for the Township? Did he work for  
 11 the Township --  
 12 A. At the time --  
 13 Q. -- or was he specially hired for this?  
 14 A. At the time he was the Township Auditor.  
 15 I believe.  
 16 Q. So he's part of the Township.  
 17 A. Well, he's an independent consultant  
 18 hired by the Township.  
 19 Q. And then on Page 52 of A-71, there's a  
 20 whole line of comments. So it's more than just a  
 21 little bit, Mr. Wiser. It says: So we go from no  
 22 cops when it's convenient to say there is no service  
 23 to police presence with a car when they need to --  
 24 when they need to evidence savings.  
 25 That's what it says. Do you see that

1 comment?  
 2 A. Uh-hum.  
 3 Q. Okay. So you're actually characterizing  
 4 your testimony there, aren't you?  
 5 A. I guess I did have an editorial comment  
 6 there.  
 7 Q. Sure you did.  
 8 And you have others. I'm not going to--  
 9 I think I've made my point with those. But the bottom  
 10 line is, you helped the Township witnesses, didn't  
 11 you? That's accurate?  
 12 A. I coordinated with the Township  
 13 witnesses. I -- I assisted the Township witnesses in  
 14 what they needed to testify for.  
 15 Q. To refute the testimony of the  
 16 Petitioners?  
 17 A. To testify.  
 18 I find it interesting that you didn't  
 19 ask any of the witnesses --  
 20 Q. I didn't ask you a question, sir.  
 21 A. No, you didn't.  
 22 Q. Sir, this is not for your comment. This  
 23 is cross-examination.  
 24 THE WITNESS: Mr. McGuckin?  
 25 MR. MCGUCKIN: That's okay. Somebody

1 will redirect.  
 2 THE WITNESS: So I'm allowed to ask  
 3 or --  
 4 MR. MCGUCKIN: I'll take it. We'll do  
 5 it on redirect.  
 6 THE WITNESS: Okay. Okay.  
 7 Q. Now, let's talk about the case law  
 8 cited. You include in your report and also in the  
 9 Seaview Harbor report, those 37 pages of case law  
 10 which are identical, you include in there a discussion  
 11 of trial court matters, appellate court matters,  
 12 Supreme Court matters, published cases, and  
 13 unpublished cases; correct?  
 14 A. Yup.  
 15 Q. Okay. It includes cases that were  
 16 before the statute was changed in regard to the burden  
 17 of proof and after the statute that was changed with  
 18 regard to the burden of proof; right?  
 19 A. Correct.  
 20 Q. And yet there isn't one reference in  
 21 there, in that discussion of the case law, of the case  
 22 that happened in this very case 40 years ago.  
 23 A. Correct.  
 24 Q. Why is that? Why did you leave out the  
 25 case that would appear to be the most relevant case,

1 the case that actually happened with the same section  
 2 of land in Berkeley Township?  
 3 A. These are the cases that were cited in  
 4 successive cases. So I felt that they were pertinent.  
 5 And I didn't have access to that case.  
 6 Q. You didn't -- did you ask Mr. McGuckin  
 7 for it?  
 8 A. I did.  
 9 Q. And he didn't give it to you?  
 10 A. I hadn't gotten it when I wrote that.  
 11 Q. And in five years you haven't gotten a  
 12 copy of the case that was -- that was rendered in this  
 13 matter 40 years ago involving Don Whiteman, Sr., the  
 14 same Don Whiteman, only his father, and the South  
 15 Seaside Park Homeowners and Voters Association. You  
 16 didn't get a copy of that case?  
 17 A. I did not.  
 18 Q. In the five years?  
 19 A. I did not.  
 20 Q. Did you ask anybody for it besides Mr.  
 21 McGuckin?  
 22 A. Yes.  
 23 Q. Who did you ask?  
 24 A. I have some friends that are attorneys.  
 25 And I asked them to use their search engines to find

1 it, and nobody could. And I did an internet search on  
2 my own and couldn't find it.

3 Q. Did you ever ask me?

4 A. No.

5 Q. Do you think I might have had a copy of  
6 it, being involved in the case today?

7 A. You might have.

8 Q. So you've never read it. Is that what  
9 you're telling us?

10 A. I have not. I have not.

11 Q. You think it's relevant, though, don't  
12 you? If you're going to discuss case law, shouldn't  
13 you discuss the very case that occurred 40 years ago  
14 involving the same land?

15 A. I can't say whether it's relevant or not  
16 because I haven't read it.

17 MR. MICHELINI: Let's have it marked.  
18 And it's South Seaside Park Voters and  
19 Taxpayers Association versus Berkeley Township.  
20 (Case Law, 7-20-78, was marked as  
21 Exhibit A-112.)

22 Q. I'm going to show you what's been marked  
23 A-112.

24 Do you know what the outcome was in that  
25 case?

1 A. It is my understanding from the -- I  
2 believe the first hearing -- that the initial court  
3 that reviewed this approved the de-annexation but that  
4 Seaside Park did not approve the annexation.

5 Q. That is correct. And this decision,  
6 A-112, is a decision by Judge Addison -- oh, I'm  
7 sorry. A decision by Judge Addison who was a Superior  
8 Court judge in Toms River who rendered this decision  
9 dated July 20th, 1978. So we're -- it's over 40  
10 years. Hard to believe. Finding that the -- the  
11 Township of Berkeley acted in an arbitrary,  
12 capricious, and unreasonable way in not allowing  
13 de-annexation. Okay?

14 So let me -- I'm going to go through and  
15 read some of the sections and ask you if you think  
16 it's relevant, okay? to what we're doing here today?

17 MR. MCGUCKIN: So you have no objection  
18 to him testifying to legal conclusions and  
19 legal opinions?

20 MR. MICHELINI: Oh, no. He's already  
21 testified extensively by giving a report that  
22 discusses legal matters.

23 MR. MCGUCKIN: So you agree then he's  
24 qualified to testify --

25 MR. MICHELINI: No. I don't agree he's

1 qualified.

2 MR. MCGUCKIN: Then you can't ask him a  
3 question about it.

4 MR. MICHELINI: Certainly I can because  
5 it's already included in his report. Is he  
6 going to take it out of his report?

7 MR. MCGUCKIN: You said --

8 MR. MICHELINI: Excuse me. Is he going  
9 to take away all the legal testimony that he  
10 gave about the legal standards?

11 MR. MCGUCKIN: You just told me that he  
12 did not include that case law in his report.

13 MR. MICHELINI: He did not include this  
14 case in his report.

15 MR. MCGUCKIN: Okay.

16 MR. MICHELINI: But based upon his  
17 analysis of all the other cases that he did  
18 include in this report, except this one, I want  
19 to know if he thinks the issues that are raised  
20 in this decision are relevant.

21 MR. MCGUCKIN: So it's okay for him to  
22 testify with respect to Judge Addison's  
23 opinion, but you object to him testifying about  
24 to other cases?

25 MR. MICHELINI: He's already testified

1 to the other cases.

2 MR. MCGUCKIN: You objected to it --

3 MR. MICHELINI: I objected to it on the  
4 record.

5 MR. MCGUCKIN: -- strenuously in the  
6 record.

7 MR. MICHELINI: That's correct.

8 MR. MCGUCKIN: But now it's okay for him  
9 to give a legal opinion.

10 MR. MICHELINI: This is  
11 cross-examination. Absolutely.

12 MR. MCGUCKIN: But for now it's okay for  
13 him to give a legal opinion.

14 MR. MICHELINI: I'm not asking for his  
15 legal opinion.

16 MR. MCGUCKIN: You are asking for his  
17 analysis.

18 MR. MICHELINI: I'm asking if it's -- he  
19 thinks if it's relevant to his legal analysis.  
20 That's correct.

21 MR. MCGUCKIN: That's fine. You can ask  
22 him.

23 MR. MICHELINI: You are absolutely  
24 right. He isn't qualified. But since he  
25 already gave it --



1 MR. MCGUCKIN: I didn't say he was not  
2 qualified, Mr. Michelini.

3 MR. MICHELINI: -- I have to go down  
4 that road.

5 MR. MCGUCKIN: You said it.

6 MR. MICHELINI: Well, I did. And I said  
7 it in the past hearings, too.

8 MR. MCGUCKIN: And now you can  
9 cross-examine.

10 MR. MICHELINI: I objected on the  
11 record. And I have a continuing objection on  
12 the record to him testifying about the legal  
13 standard, but he did.

14 MR. MCGUCKIN: So now you're not  
15 objecting --

16 MR. MICHELINI: Now I'm entitled -- I  
17 don't think he's qualified, but now I'm  
18 entitled to ask cross-examination about legal  
19 standards because he gave testimony concerning  
20 it. I'm entitled to that.

21 MR. MCGUCKIN: So when you do  
22 cross-examination --

23 MR. MICHELINI: If you're going to deny  
24 me, we'll put that right on the record.

25 MR. MCGUCKIN: I didn't deny you. I'm

1 going to put for the record just like you did.  
2 You want to cross-examine him on now  
3 legal issues on a case that he has not cited in  
4 his report yet you testified about cases that  
5 were cited in his report. You are here to ask  
6 anything you want. I just want to get that on  
7 the record. That's all.

8 MR. MICHELINI: That's absolutely true.

9 MR. MCGUCKIN: Thank you.

10 MR. MICHELINI: That is a hundred  
11 percent true because he didn't include this in  
12 his report. I'm sure if included it in his  
13 report, I'd be asking him about from the report  
14 itself.

15 MR. MCGUCKIN: But you'd be objecting to  
16 him testifying.

17 MR. MICHELINI: I did object on his  
18 direct. But since the door was opened by the  
19 Board to allow that testimony in, I have the  
20 absolute right under the law to ask him  
21 questions about it.

22 MR. MCGUCKIN: Nobody's stopping you.

23 MR. MICHELINI: That doesn't mean that I  
24 am conceding that he's an expert.

25 MR. MCGUCKIN: I understand that.

1 MR. MICHELINI: He's not an expert in  
2 the law. You heard it from his own mouth. He  
3 said that tonight.

4 MR. MCGUCKIN: I understand you're not  
5 conceding. I just wanted it for the record.  
6 That's all. Go ahead.

7 Q. So this case -- and I'm just going to  
8 pick sections from it.

9 A. You're going to cherry-pick sections?

10 Q. It gives -- it gives a history of  
11 Berkeley Township being set off from Dover Township in  
12 1875, and then various portions being transferred to  
13 Seaside Park, Seaside Heights, Beachwood, Ocean Gate,  
14 Pine Beach, South Toms River, Island Beach at  
15 different times. Do you see that?

16 A. Yes.

17 Q. Okay. And that's -- and that's history.  
18 History is relevant; right?

19 A. Generally.

20 Q. That's what I'm asking you.

21 A. Generally consistent with what your  
22 clients testified to in the very beginning.

23 Q. And you have background in your report.

24 A. From your client's testimony.

25 Q. Okay. So you thought that history was

1 relevant; correct? You only included relevant  
2 information in your report; correct?

3 A. I tried.

4 Q. Right. So you thought history was  
5 relevant, just like Judge Addison did; correct?

6 A. Sure.

7 Q. Then it gives a description of the area  
8 and says: South Seaside Park is an area. It covers  
9 three-tenths of a square mile of the approximately  
10 41.9 square mile total area of the municipality. Or  
11 less than one percent. And extends 2500 feet from  
12 north to south. Is that relevant?

13 A. Actually, I don't know that it is  
14 relevant.

15 Q. Is it accurate?

16 A. Without seeing a map, I don't know what  
17 he's talking about, specifically. He doesn't -- did  
18 he bound it by streets?

19 Q. He's talking about the area of South  
20 Seaside Park. Okay? And he's saying in area it  
21 covers three-tenths of a square mile of the  
22 approximately 41.9 square miles of the municipality or  
23 less than one percent thereof, and extends  
24 approximately 2500 feet from north to south. Isn't  
25 that the same area we're talking about here?

1 A. Is it all the same area? I don't know.  
 2 Q. Okay. Well, do you know how big the  
 3 area is that is sought to be de-annexed here?  
 4 A. There could be different blocks and  
 5 different lots in the area that he's talking about. I  
 6 don't know what he's talking about.  
 7 Q. Well, how big is the area as far as your  
 8 report says? Do you say how big it is?  
 9 A. (Reviewing.) I have the township as  
 10 approximately 55.8 square miles.  
 11 Q. That includes water, though; correct?  
 12 A. Forty -- if I can complete my sentence.  
 13 Q. Go ahead.  
 14 A. 42.9 square miles of land and 12.9  
 15 square miles of water. (Reviewing.) And then we  
 16 described the area of de-annexation bounded by the  
 17 Atlantic Ocean, 24th Avenue, Barnegat Bay, and 14th  
 18 Avenue.  
 19 Q. And how big is that in area?  
 20 A. I'm trying to find it. (Reviewing.)  
 21 I -- I can't find it real quickly.  
 22 Q. You don't doubt that it's approximately  
 23 a third of a square mile?  
 24 A. It's --  
 25 Q. Very small; correct?

1 A. It's small. It's small.  
 2 Q. Okay. And the size of the area is  
 3 relevant, is it not?  
 4 A. I don't think so.  
 5 Q. You don't think it's relevant.  
 6 A. No.  
 7 Q. What about the distant geographical  
 8 location? Because that's talked about in here. Is  
 9 that relevant?  
 10 A. I don't know the context within which it  
 11 is discussed. To the extent that it may mirror some  
 12 of the testimony here, there may be some components of  
 13 it or -- when I say "here," I mean this hearing.  
 14 There may be some components of it that are relevant.  
 15 There may be some components that are not. I don't  
 16 know.  
 17 Q. So you don't know. You don't know if  
 18 distance is relevant? The fact that it's 16 miles  
 19 away. Okay? Distance is or is not a relevant issue?  
 20 A. I can tell you that -- quite sure the  
 21 distance hasn't changed. Whether it's relevant to any  
 22 particular issue, those --  
 23 Q. Come on.  
 24 A. -- issues may have different --  
 25 different elements to them that may have caused that

1 to change.  
 2 Q. Well, Mr. Wiser, isn't distance  
 3 relevant? I mean, these people, if they become part  
 4 of South Seaside Park [sic], they can walk, they can  
 5 bike, or they can drive to a municipal meeting. And  
 6 instead they have to drive over here, being part of  
 7 Berkeley Township, which in your own report says can  
 8 take 45 minutes each way in the summer and 25 minutes  
 9 if there isn't traffic or it's not the summer.  
 10 A. And in terms of --  
 11 Q. Each way.  
 12 A. -- travel distance from there -- from  
 13 South Seaside Park to here -- or South Seaside Park to  
 14 Seaside Park, I would agree with you.  
 15 Q. So it is relevant?  
 16 A. That aspect of it is.  
 17 Q. Okay. Geographical isolation. Is that  
 18 relevant?  
 19 A. Without having gone through the hearings  
 20 and understanding what they're talking about  
 21 specifically, I really can't speak to that.  
 22 Q. What about first aid services? Is that  
 23 relevant?  
 24 A. I don't know. I can't -- without  
 25 knowing the details, I can't -- I can't speak to it.

1 Q. Was it relevant in your report?  
 2 A. It was relative -- it was relevant in  
 3 our report. I can't speak to what the prior case was.  
 4 Q. Well, I'm going to read different issues  
 5 from A-112, and I'll ask you if they are relevant in  
 6 this matter. Okay?  
 7 First aid. Relevant in this matter?  
 8 A. I don't know. Oh, well, no. I'm sorry.  
 9 Q. That's relevant.  
 10 A. First aid. Yes. Is relevant in this  
 11 matter.  
 12 Q. Okay. The extent to which the mainland  
 13 township is undeveloped. Is that relevant in this  
 14 matter?  
 15 A. It was brought up by your witnesses.  
 16 Q. Do you think it's relevant?  
 17 A. No, but it was brought up by your  
 18 witnesses.  
 19 Q. You don't think that's relevant. Okay.  
 20 That's fine.  
 21 Police protection. Is that relevant?  
 22 It's mentioned in your report.  
 23 A. It's mentioned in our report. Yes.  
 24 Q. So you think it's relevant; right?  
 25 A. Yes.

1 Q. What about the involvement of people in  
2 South Seaside Park in terms of where they worship? Is  
3 that relevant? That was in your report; correct?

4 A. It was in our report. Yes.

5 Q. And where they shop, where they work.  
6 That's all relevant, is it not?

7 A. It's in our report. The degree of  
8 relevance -- those are what your clients testified to.  
9 I'm not conceding that all of that is relevant, and  
10 that was explained in detail in our report.

11 Q. But you only included relevant  
12 information in your report. You did say that;  
13 correct?

14 A. I included what was testified to by your  
15 clients.

16 Q. There's a whole discussion in here about  
17 a place called White Sands Beach. Are you familiar  
18 with White Sands Beach?

19 A. Yes.

20 Q. That's relevant, isn't it?

21 A. In what context?

22 Q. In the context of de-annexation and  
23 whether or not there would be injury to the people of  
24 Berkeley Township as a result of losing White Sands  
25 Beach?

1 A. It was part of the discussion.

2 Q. Do you -- is it part of your report?

3 A. It is.

4 Q. So it's relevant?

5 A. It -- yes.

6 Q. The makeup of the Black and Hispanic  
7 residents in South Seaside Park, is that relevant?

8 A. In terms of the judge's decision, or in  
9 terms of our report?

10 Q. In terms of your report. Well, it's in  
11 the judge's decision. I'm pulling from the judge's  
12 decision. But is it relevant in terms of your report?

13 A. We've -- read the demographic issue  
14 again?

15 Q. The makeup of Black and Hispanic  
16 residents that populate South Seaside Park. Is that  
17 relevant?

18 A. I guess you could say it's relevant. It  
19 ends up being a de minimus issue, but I guess you  
20 could say it's relevant.

21 Q. It ends up being a de minimus issue or a  
22 very minor issues because there are few minorities in  
23 South Seaside Park; correct?

24 A. Correct.

25 Q. So, therefore, the makeup of the

1 minority population in Berkeley Township in the event  
2 of de-annexation would be extremely small in terms of  
3 any change?

4 A. I'm sorry. Say that again? I  
5 apologize. Say that again?

6 Q. No problem.

7 If South Seaside Park successfully  
8 de-annexes, what impact is that going to have on the  
9 percentage of minorities in Berkeley Township  
10 Mainland? What impact?

11 A. Very small impact.

12 Q. Less than one percent?

13 A. Whatever the number is.

14 Q. Probably less than one-tenth of one  
15 percent.

16 A. Whatever the number is.

17 Q. Did you analyze that?

18 A. I did. But I'm sitting here. I don't  
19 remember all the numbers in here.

20 Q. This talks about how participation in  
21 municipal affairs is difficult given the distance.  
22 Did you -- that's a relevant issue, isn't it?

23 A. Yes.

24 Q. And isn't it a fact that if  
25 de-annexation occurs, my clients will be in a position

1 to participate at a much greater level in municipal  
2 matters because they can walk, they can bike, they can  
3 drive to a municipal meeting that's within a half a  
4 mile of their home?

5 A. If they choose to do that. Yes.

6 Q. Well, sure. Isn't it logical to assume  
7 that a population would participate -- more likely  
8 participate if they don't have to drive 45 minutes  
9 each way to a municipal meeting? Isn't it logical to  
10 assume that?

11 A. That is a logical assumption.

12 Q. Okay.

13 A. But it also does not seem to be -- have  
14 been a hinderance to many of your clients who  
15 testified that they do participate.

16 Q. Right. And they have been participating  
17 for years principally on the issue, they testified,  
18 that they wanted services over there. They wanted  
19 de-annexation. Both those things came up; correct?

20 A. They came up, but I don't know how  
21 participating on the Housing Authority deals with  
22 de-annexation.

23 Q. Okay.

24 A. And I don't know how participating on  
25 the School Board deals with de-annexation. And I

1 don't know how participating on the Zoning Board deals  
2 with de-annexation.

3 Q. And how many people -- how many people  
4 in total are in South Seaside Park?

5 A. I think the number was 490.

6 Q. And how many of them actually  
7 participated on those boards that you just mentioned?  
8 Three?

9 A. No. Three testified.

10 Q. Okay. How many participated?

11 A. I don't know.

12 Q. So how many --

13 A. You never said whether there were more  
14 or less so.

15 Q. And you never found that there were more  
16 or less; correct?

17 A. You have the burden of proof.

18 Q. Isn't it reasonable to assume that if  
19 the municipal facilities are within a half mile of  
20 walking that more than three would participate?

21 A. If they are inclined to.

22 Q. The case talks about an area of Barnegat  
23 Bay set aside for a bathing beach. Do you know what  
24 that's talking about?

25 A. I do not. I mean, if you're -- other

1 than geography.

2 Q. Well, that's what the case says. I show  
3 you A-6. That shows the bayside beach, does it not?

4 A. Shows a portion of it. Yes.

5 Q. Right. Wouldn't that be the area set  
6 aside for a bathing beach?

7 MR. MCGUCKIN: Well, hold on.

8 Q. If you know. If you know.

9 A. I don't know what the judge was talking  
10 about.

11 Q. So you don't know what the judge was  
12 talking about when he said there was an area set aside  
13 for a bathing beach?

14 A. That's the first I'm hearing of that.

15 Q. Okay. And what's happened in 40 years  
16 in terms of an area set aside for a bathing beach?

17 Nothing; right? There's no beach.

18 MR. MCGUCKIN: Well, are you talking  
19 about the ocean beach or the bay beach?

20 MR. MICHELINI: No.

21 MR. MCGUCKIN: What was the judge  
22 talking about?

23 MR. MICHELINI: We're talking about a  
24 bay beach.

25 MR. MCGUCKIN: Is that what Judge

1 Addison said?

2 MR. MICHELINI: He's talking about --  
3 yes. He's talking about a bay beach.

4 A. You know, I don't know whether there  
5 were any encumbrances --

6 Q. An area on Barnegat Bay --

7 MR. MCGUCKIN: Thank you.

8 Q. -- set aside for a bathing beach.

9 A. I don't know what the ownership  
10 situation was like. I don't know what the tideland  
11 situation was like. The DEP situation. It may have  
12 changed. I don't know. I know now the testimony was  
13 that it's really a shoreline. It's not a beach. It's  
14 very narrow. And it is not conducive to recreation.

15 Q. Well, one of the reasons why it's not  
16 conducive to recreation is because A-6 shows it has  
17 all kinds of stuff on it, including pipes and large  
18 rocks -- and I'm not talking about the softball-size  
19 rocks. It has asphalt on it. Do you see those things  
20 in A-6?

21 A. I think those are two different issues.  
22 Those are -- that's an issue of litter and debris.  
23 That -- that is not an issue as to whether that beach  
24 is suitable to be a bathing beach.

25 Q. Do you agree that A-6 shows a lot of

1 litter and debris --

2 A. Absolutely.

3 Q. -- on the bay beach?

4 A. Yes.

5 (There was a cell phone interruption.)

6 Q. And nothing has changed in 40 years in  
7 terms of the area that was set aside on Barnegat Bay  
8 for a bathing beach. Nothing has changed there.  
9 There isn't one there; correct?

10 A. I don't know anything about anything  
11 being set aside for a bathing beach.

12 Q. So you're --

13 A. I know that this area is not a bathing  
14 beach. It's not on the ROSI. It's not on the DEP's  
15 area for beaches. And the testimony was it's more of  
16 a natural shoreline than it is intended for that kind  
17 of bathing recreation.

18 Q. Do you agree that people living in South  
19 Seaside Park generally have a greater community of  
20 interests and activity with Seaside Park and other  
21 municipalities on the beach than they do with Mainland  
22 Berkeley?

23 A. That was their testimony.

24 Q. Okay. And I'm -- that's also in Judge  
25 Addison's. I know you haven't read it.

1 The case talks about the loss of White  
 2 Sands Beach and talks about how Berkeley still retains  
 3 numerous parks. Berkeley does still retain numerous  
 4 parks in the event of de-annexation; doesn't it?  
 5 A. Township-wide, yes.  
 6 Q. And it talks about how residents of  
 7 Berkeley Township can go to other ocean beaches that  
 8 are actually beaches closer. And there are other  
 9 beaches that are closer. Seaside Heights is closer?  
 10 MR. McGUICKIN: Are you talking about  
 11 Judge Addison's report or his report?  
 12 MR. MICHELINI: Judge Addison's.  
 13 Q. But that's true, thought; right? Isn't  
 14 South Seaside Heights closer to Mainland Berkeley, the  
 15 Seaside Heights beaches?  
 16 A. I guess in terms of traveling in from  
 17 the Mainland.  
 18 Q. And Seaside Park is closer; isn't that  
 19 correct?  
 20 A. Yeah.  
 21 Q. And Ortleigh Beach is closer; isn't that  
 22 correct?  
 23 A. I'm not really sure about Ortleigh Beach.  
 24 Q. You don't know.  
 25 And he mentions a county bay beach on

1 the mainland as well. Is there a county bay beach on  
 2 the mainland?  
 3 A. It wasn't testified to. I don't know.  
 4 (There was a cell phone interruption.)  
 5 Q. But we do know there were other bay  
 6 beaches that have since been developed in the last 40  
 7 years, don't we? From the testimony of  
 8 the Petitioners and the pictures?  
 9 A. I'm not sure when they were developed.  
 10 I know they are there.  
 11 Q. Midway Beach. Has there been any real  
 12 changes to Midway Beach between 1978 and now?  
 13 A. I have no idea.  
 14 Q. You have no idea. So you don't really  
 15 know.  
 16 A. Yeah. When I said, "I have no idea," it  
 17 means I don't know.  
 18 Q. What -- what about Midway Beach makes it  
 19 unique? Is it the single -- single-story cottages?  
 20 Is it narrow lanes? What is it that makes it unique  
 21 in your mind?  
 22 A. Give me a second.  
 23 Q. If it's unique. Is it unique?  
 24 A. I believe it is.  
 25 Q. I think you testified to that.

1 A. (Reviewing.) If you go to Page 10 and  
 2 11 of our report, Page 10 shows a tax map with Midway  
 3 Beach as the little tiny polygons or rectangles.  
 4 Q. Okay.  
 5 A. That are different from the rest of  
 6 South Seaside Park. And then on Page 11 is an aerial  
 7 of that same area and -- and shows those -- I don't  
 8 remember the number, but shows those same properties.  
 9 Q. And are they single-story or  
 10 double-story cottages?  
 11 A. My recollection is that they are a story  
 12 or a story and a half.  
 13 Q. You don't really know?  
 14 A. I don't remember.  
 15 Q. Okay. Is -- is the size of them, is  
 16 that what makes them unique?  
 17 A. I think the size. I think their layout.  
 18 I think if you just simply look at the aerial, you can  
 19 see that it's different than the rest of that section  
 20 of the township, South Seaside Park.  
 21 Q. Yeah. But just because something is  
 22 different doesn't make it necessarily unique; correct?  
 23 You could say that about every neighborhood in  
 24 Berkeley Township on the mainland, that they are  
 25 different from the other ones; isn't that correct?

1 A. Yeah. I think that -- to the extent  
 2 they are different, they are unique. That's sort of  
 3 the definition of the word.  
 4 Q. All right. So --  
 5 A. But I think you're dealing with a  
 6 community or a nexus of a couple hundred -- whatever  
 7 the number is -- small little cottages or bungalows  
 8 that are very close together that are rem -- probably  
 9 have been there a long, long, long time. Clearly more  
 10 than 40 years. And that have a charm, and dare I say  
 11 a uniqueness, that is different from the rest of the  
 12 community. The rest of South Seaside Park.  
 13 MR. MICHELINI: Can we mark this?  
 14 MR. McGUICKIN: 113?  
 15 (Photograph was marked as Exhibit A-113  
 16 for identification.)  
 17 Q. I'll show you what's being marked as  
 18 A-113, which is identified on the back as a photo of  
 19 Robert Schwartz, one of the Petitioners that  
 20 testified, of the Lanes, which is the area that we're  
 21 talking about. Do you see that?  
 22 A. Yeah.  
 23 Q. And that was taken in September. This  
 24 year.  
 25 A. Okay.

1 Q. What's so unique about that?

2 A. That particular house? In this  
3 particular picture, I don't see anything unique about  
4 that particular house.

5 Q. And if that's representative of much of  
6 the Lanes or Midway Beach, there's really nothing  
7 unique about it. If that's what it looks like; right?

8 A. I don't think that's representative.

9 Q. Okay.

10 A. I drove through there. That, I don't  
11 think, is representative.

12 Q. In what way is it not representative?

13 A. I do not believe that when I drove  
14 through that there were a substantial amount of  
15 those houses -- of houses of that size. That height.

16 Q. Well, let's check another one. Okay?

17 MR. MICHELINI: Let's mark this one.

18 (Photograph was marked as Exhibit  
19 A-114.)

20 Q. Again, A-114. Photo by Robert Schwartz  
21 dated 9-1-2019 of the Lanes and the oceanfront.

22 A. Is that the same house?

23 Q. That shows -- that shows a small cottage  
24 and a big house. And I believe in the background, you  
25 see another adjacent large house; isn't that correct?

1 A. Perhaps.

2 Q. And even that --

3 A. Perhaps even -- is this the same house?

4 MR. MCGUCKIN: Mr. Michelini, did you  
5 say oceanfront?

6 MR. MICHELINI: Yes. In the Lanes.

7 Q. So several of the homes along the ocean  
8 are two story in Midway Beach; correct?

9 A. That's what it would appear.

10 Q. And there's nothing unique about that, a  
11 two-story house on the ocean; correct?

12 A. I -- I -- based on the limited  
13 information you've shown me, it does not appear that  
14 those houses -- those individual two-story houses are  
15 unique except to say they may be unique within the  
16 larger context of Midway Beach.

17 Q. The Historic -- is Midway Beach on the  
18 Historic Register?

19 A. The testimony was it's eligible to be  
20 but it is not.

21 Q. Why not? Do you know?

22 A. I have no idea.

23 Q. So it's not on the Historic Register --

24 A. That's what I said.

25 Q. -- to answer my question.

1 A. That's what I said.

2 Q. Let's talk a little bit about social  
3 detriment. You talked a little bit about people from  
4 South Seaside Park, in order to go to church, they  
5 have to go outside of South Seaside Park because there  
6 are no churches in South Seaside Park; correct?

7 A. Correct.

8 Q. But the fact is they are not going to  
9 Berkeley; isn't that right? They are not going to  
10 Berkeley Mainland. If they are Catholic, they're  
11 going to Seaside Park or Seaside Heights; correct? To  
12 St. Catherine's or Our Lady of Help; isn't that  
13 correct?

14 A. Our Lady of Help?

15 Q. Perpetual Help. I left out a word.

16 A. I have in here -- and I'm trying to find  
17 it -- different denomin -- a matrix of different  
18 denominations and where the closest -- or what I  
19 believe to be the closest --

20 Q. Well, let me help you out. You talk  
21 about Catholics going to St. Catherine's in South  
22 Seaside Park. You talk about Protestants going to the  
23 nondenominational church in Seaside Park called the  
24 Union Church. You talked about Lutherans going to  
25 Lutheran Church in Lavallette. Hindi go to a worship

1 center in Toms River. Methodists, Toms River.

2 Baptists, Toms River. Mormon, Toms River. Greek  
3 Orthodox, Toms River. Muslims, Toms River. Jewish,  
4 Toms River. So a lot of people that -- of various  
5 faiths -- would have to go outside of South Seaside  
6 Park in order to worship; correct?

7 A. And outside of Seaside Park as well.

8 Q. And unless they are Catholic or they are  
9 nondenominational Protestant; correct?

10 A. Exactly.

11 Q. Okay. But they are not going to  
12 Berkeley Township. They were not driving 16 miles  
13 through 45 minutes to go to church in Berkeley  
14 Township; is that correct?

15 A. What page is that chart on?

16 Q. It's not on -- I don't have your -- I  
17 don't have it open to your -- your report.

18 A. Because I believe -- and I want to hold  
19 my --

20 Q. The Jehovah's Witnesses have a place in  
21 Berkeley but also have one in Toms River.

22 A. Okay.

23 Q. If that's what you're referring to, if  
24 you're a Jehovah's Witness, you're not driving all the  
25 way to the Berkeley if you can go to Toms River which

1 is closer most likely; am I correct?  
 2 A. I wouldn't necessarily concede that  
 3 point.  
 4 Q. Okay.  
 5 A. I go to a particular synagogue --  
 6 Q. Okay.  
 7 A. -- that is not the closest synagogue to  
 8 my house.  
 9 Q. All right. But the point is, is that  
 10 the people from South Seaside Park, they are not going  
 11 to Berkeley generally to worship; isn't that correct?  
 12 A. I don't know that.  
 13 Q. You don't know that.  
 14 But you acknowledge that every place I  
 15 mentioned is closer than Berkeley. Toms River,  
 16 Seaside Park, Seaside Heights; correct? Lavallette.  
 17 That's all closer than Berkeley, isn't it?  
 18 A. If you're Methodist, you could go to  
 19 Bayville, Island Heights.  
 20 Q. But why would you go to Bayville if you  
 21 could go to the big Methodist church in Toms River?  
 22 A. Because maybe you don't like big  
 23 Methodist churches and maybe you like the pastor at  
 24 the Bayville Church.  
 25 Q. Okay.

1 A. That's the reason I go to the place of  
 2 worship that I go to.  
 3 Q. And how many people in South Seaside  
 4 Park do you know that actually go outside of the area  
 5 all the way to Bayville to worship? We had several  
 6 people testify they go to the Union Church or Catholic  
 7 Church. Did anybody testify that they drive all the  
 8 way to Bayville to worship?  
 9 A. No.  
 10 Q. Anyone?  
 11 A. No.  
 12 Q. Okay.  
 13 A. But we're not looking just now. We're  
 14 looking into the future as well. This is not a  
 15 snapshot in time.  
 16 Q. Correct. And, therefore, you think it's  
 17 reasonable to assume that people will drive 90 minutes  
 18 roundtrip in the middle of the summer to go to church  
 19 in Bayville. Not likely, is it?  
 20 A. I think if I'm -- if I'm living in South  
 21 Seaside Park, I'm driving a distance to go to where I  
 22 would worship.  
 23 Q. Okay. Okay, Mr. Wiser. That's your  
 24 testimony. I got it.  
 25 Most people testify that they shop in

1 places other than Seaside -- other than Bayville. I  
 2 mean, they testified that they shop -- their big  
 3 shopping they would do at the Kohl's Shopping Plaza in  
 4 Toms River or the Ocean County Mall. Food shopping,  
 5 they would go to the Acme in Seaside Heights. If they  
 6 were going out to eat, they might be going to one of  
 7 the places in Seaside Heights or outside the Seaside  
 8 Heights into Lavallette. Did anybody testify they  
 9 would be driving all the way to Bayville to do their  
 10 shopping or to go out to eat? No one; correct?  
 11 A. I do not believe so.  
 12 Q. And it's not reasonable to assume that  
 13 that would be a first choice, going all the way to  
 14 Bayville; isn't that right?  
 15 A. I don't know whether it's reasonable or  
 16 not. What's the store? If there's a Whole Foods in  
 17 Bayville, I know a lot of people that would drive to  
 18 the Whole Foods in Bayville.  
 19 Q. The -- Mr. Slachetka -- well, there  
 20 isn't a Whole Foods in Bayville.  
 21 Mr. Slachetka testified that if -- if  
 22 the town lost South Seaside Park that they would be  
 23 losing the second largest commercial area in the  
 24 township. Do you remember that testimony? It's in  
 25 his report.

1 A. I -- I have a recollection of it.  
 2 Q. Is that accurate?  
 3 A. I don't know whether it's accurate or  
 4 not. I know we didn't include it. I don't believe we  
 5 included it in our report.  
 6 Q. But you did rely upon Mr. Slachetka's  
 7 report, did you not?  
 8 A. Yeah.  
 9 Q. Okay. Well, in South Seaside Park, you  
 10 have -- what do you have over there in terms of  
 11 commercial? Do you know?  
 12 A. There's a couple of small delis.  
 13 There's a couple of liquor stores. I think there's a  
 14 bar restaurant. Tavern -- a tavern or two. It's not  
 15 a lot.  
 16 Q. There's not a lot. You got Ebby's, Chef  
 17 Mike's, Bum Rogers, Stan's Subs, Art's Sandbar. And  
 18 if you want to call the Motor Lodge as being a  
 19 commercial establishment, the Motor Lodge; right?  
 20 That's pretty much it; right?  
 21 A. I would guess.  
 22 Q. Do you know how much larger the  
 23 commercial area is on Mule Road? Do you know how much  
 24 larger it is?  
 25 A. Specifically, no, but it's larger.

1 Q. It's a lot larger, isn't it?  
 2 A. Significantly larger.  
 3 Q. So let me -- let me give you a  
 4 statistic, and you can check it. I'm not going to  
 5 take the time to check it because it would take  
 6 forever. But the assessments on the Mule Road  
 7 businesses, which include the Berkeley -- the Holiday  
 8 City Mini Mall, is 500 -- over \$546 million. And the  
 9 total assessments of the commercial property in South  
 10 Seaside Park is a little over 11 million. So that  
 11 would be a much, much bigger area?  
 12 MR. GINGRICH: Through the Chair?  
 13 Q. Correct?  
 14 MR. GINGRICH: Through the Chair?  
 15 CHAIR WINWARD: Okay.  
 16 MR. GINGRICH: Your assessment of the  
 17 mini mall in Holiday City, Berkeley -- being I  
 18 live across the street -- has to be changed  
 19 because that's a dying mall. There is hardly  
 20 any activity in that mall as of any date you  
 21 would like to talk about. There is more empty  
 22 stores than there are full stores. And the  
 23 merchants are having a problem because people  
 24 simply don't go there anymore.  
 25 Thank you very much.

1 Q. So are you aware that there's a  
 2 Crossroads Realty in the mini mall?  
 3 A. No.  
 4 Q. Are you aware there's a place called  
 5 Paper Hut in the mini mall?  
 6 A. No.  
 7 Q. Are you aware that there's a dentist in  
 8 the mini mall?  
 9 A. No.  
 10 Q. Are you aware there's a watch repair  
 11 shop in the minimal?  
 12 MR. GINGRICH: Not anymore.  
 13 Q. Okay. Are you aware of a Happy Hour Bar  
 14 and Restaurant?  
 15 A. No.  
 16 Q. Are you aware of Morales' General  
 17 Market?  
 18 A. I'm not aware of any specific  
 19 establishment.  
 20 Q. Well, I could go on. The list has about  
 21 20 different commercial --  
 22 A. Okay.  
 23 Q. -- establishments.  
 24 You don't doubt that they actually exist  
 25 in the mini mall, to the extent maybe that one or two

1 have shut down?  
 2 MR. GINGRICH: Not one, Budd. I can't  
 3 let you go with that.  
 4 Q. How about Santander Bank? Is that in  
 5 the mini mall?  
 6 A. I don't know.  
 7 Q. Okay.  
 8 A. I will stipulate -- or I will concede  
 9 that there are larger commercial nodes on the mainland  
 10 than there are in South Seaside Park.  
 11 Q. Right. And all of Route 9 is a huge  
 12 commercial area?  
 13 A. Is that on the mainland?  
 14 Q. Is it?  
 15 A. Yeah. It's on the mainland. Nice.  
 16 Q. Let's talk about the economic cost to  
 17 the people for living over in South Seaside Park.  
 18 Every time they want to come to a municipal meeting,  
 19 they have to drive 16 miles as we've talked about.  
 20 That's understood; correct?  
 21 A. Yup.  
 22 Q. And you included in your report a  
 23 discussion of economic costs to them. There is an  
 24 economic cost to them, is there not?  
 25 A. Uh-hum.

1 Q. Okay. And I think you said it was \$2  
 2 and something per trip.  
 3 A. I don't remember the number --  
 4 Q. Do you know what that is?  
 5 A. -- but I did do an estimated  
 6 calculation. Very rough.  
 7 Q. All right. Okay. Why don't you find it  
 8 in your report?  
 9 A. Oh, boy. That's going to take some  
 10 time.  
 11 Q. Take a moment.  
 12 A. (Reviewing.) I think at the time I did  
 13 the calculation, \$2.70 -- excuse me. \$2.07.  
 14 Q. Each way?  
 15 A. Yeah. Correct.  
 16 Q. Okay. And so \$4.14 each -- roundtrip.  
 17 Plus if you get off and take the Parkway, you got a 50  
 18 cent toll. If you don't take the Parkway, you don't  
 19 have the toll; correct?  
 20 A. Sure.  
 21 Q. And you also analyzed that in relation  
 22 to the postal rate, postal reimbursement rate. Don't  
 23 you talk about that?  
 24 A. The postal reimbursement rate?  
 25 Q. In other words, the mileage rate that



1 the employees gets from the post office -- or not --  
 2 sorry. Not for the post office. I'm misstating.  
 3 The reimbursement rate from the IRS?  
 4 A. Correct.  
 5 Q. I said "post office." I'm sorry.  
 6 A. Yeah. I didn't know what you were  
 7 talking about.  
 8 Q. Sorry. The IRS rate. I believe it's up  
 9 to 58 cents, but it might be different per mile;  
 10 correct?  
 11 A. The number that we have is 2018, and it  
 12 was for business travel, .545 cents. And then there's  
 13 other categories that are much lower.  
 14 Q. What is it? Fifty-four?  
 15 A. Fifty-four and-a-half cents.  
 16 Q. Okay. And --  
 17 MR. MACKRES: For the record, the State  
 18 of New Jersey just increased it to 35 cents.  
 19 MR. MICHELINI: Thirty-five cents.  
 20 MR. MACKRES: Where 31 cents --  
 21 MR. MICHELINI: I believe the Federal  
 22 right now is 58. But I could be wrong.  
 23 Q. So would it be fair to say that that  
 24 rate takes into account other things such as not  
 25 simply the gas but the wear and tear on your vehicle?

1 Would you concede that?  
 2 A. I believe that's the case.  
 3 Q. Okay. Does it take into account  
 4 anything else?  
 5 A. I don't know.  
 6 Q. Presumably the rate that the IRS sets is  
 7 for businesses where employees are actually getting  
 8 paid. That's not what they're getting paid, 58 cents  
 9 or 54 and-a-half cents an hour for a trip. They are  
 10 getting a wage plus they're getting reimbursement fee.  
 11 A. It's the reimbursement fee. Correct.  
 12 Q. So that's in addition to the wage, to  
 13 the best of your knowledge?  
 14 A. In addition. Yeah. That would be if  
 15 they don't drive it, they don't get it. If they drive  
 16 it, they're entitled to, depending on the business.  
 17 Q. Right. And so taking into account the  
 18 wear and tear of a vehicle as well as the gas, at the  
 19 IRS reimbursement rate, what would a 32 mile trip or  
 20 16 each way, what would you get paid?  
 21 You can use the calculator if you like.  
 22 A. Hold on. Hold on. Hold on. Hold on  
 23 (Reviewing.) We had calculated between -- hold on a  
 24 second.  
 25 We have a range of \$2.88 to \$8.72.

1 Q. That's one way. \$8.72 one way; correct?  
 2 A. Could range from 2.88 to 8.72 one way.  
 3 Yes.  
 4 Q. So if somebody is being reimbursed at  
 5 roughly 55 cents a mile and they go 32 miles, that's  
 6 going to be a little over \$16; correct?  
 7 A. Say that again? I'm sorry.  
 8 Q. If somebody is being reimbursed at the  
 9 rate of 55 cents or 54 and-a-half cents -- you can do  
 10 it. If you can do it on here. .554 times 32 equals  
 11 \$17.72; correct? Or 73 cents?  
 12 A. Okay.  
 13 Q. Is that -- okay.  
 14 So that's the real cost when you take  
 15 into effect -- into effect the wear and tear; right?  
 16 A. If you were --  
 17 Q. And not just the gas.  
 18 A. Well, this is the cost for business  
 19 travel.  
 20 Q. Right.  
 21 A. There are different costs that are lower  
 22 for different types of travel. But if we're going to  
 23 use business travel just to compare apples to apples,  
 24 I'll accept your figure.  
 25 Q. Right. And in addition to that, not

1 only is there the gas cost, the wear and tear on the  
 2 vehicle, but there is also the cost to somebody's  
 3 time. Because time is valuable. Time has a value,  
 4 does it not?  
 5 A. Yes.  
 6 Q. Okay. And if somebody can get on their  
 7 bike and be to the municipal meeting at three minutes  
 8 or walk and be there in ten minutes or drive and be  
 9 there in one minute, that -- that saves a lot of time  
 10 as compared with driving 16 miles, 45 minutes and then  
 11 driving 16 miles, 45 minutes back; correct?  
 12 A. Self-evident.  
 13 Q. Right. And that would be a tremendous  
 14 benefit to the people of South Seaside Park from an  
 15 economic standpoint if de-annexation were to occur;  
 16 correct?  
 17 A. I don't -- I don't disagree with that.  
 18 I wouldn't say "tremendous" benefit, but a benefit.  
 19 Q. It's a matter of perspective, isn't it?  
 20 A. It is.  
 21 Q. Now, in the last -- let's say from 2014  
 22 to 2017, are you aware as to whether or not Berkeley  
 23 Township residents have suffered significant or  
 24 irremedial harm as a result of tax increases?  
 25 MR. MCGUCKIN: Every resident?

1 MR. MICHELINI: Every resident.  
 2 A. I know there are -- there was -- there  
 3 were numbers submitted. Those numbers would be based  
 4 on the assessments of their properties times a tax  
 5 rate. And I think everybody in the township is  
 6 subject to the same tax rate and the same, presumably,  
 7 method of assessment.

8 MR. MICHELINI: Have this marked.  
 9 (Tax Rates were marked as Exhibit  
 10 A-115.)

11 Q. I'm going to show you what's been marked  
 12 A-115. I will represent to you that it was printed  
 13 off the Ocean County Tax Board's website. The first  
 14 link.

15 A. Okay.  
 16 Q. Okay? And as you can see, I've  
 17 highlighted in green the tax rate for Berkeley  
 18 Township for a number of years. Do you see that?

19 A. Uh-hum.  
 20 Q. Okay? And there's no reason to believe  
 21 that that's wrong; correct?

22 A. I'm going to take you at your word.

23 Q. Okay. So it appears that between 2014  
 24 and 2019 that the rate has gone up every year, and  
 25 it's -- it's gone up a little bit every year; right?

1 A. (Reviewing.) Yeah.

2 Q. Okay. From 2014 to 2019. Gone up every  
 3 year.

4 A. Actually --

5 Q. Just 2014 to '19?

6 A. If you look back --

7 Q. I'm not asking you to look back.

8 A. Since 2010.

9 Q. Okay. Well, that's fine. But I'm just  
 10 dealing with 2014 to '19, because I believe our  
 11 experts talked about those -- well, they talked about  
 12 2014 and 2017 but now we're in 2019; correct?

13 A. Yes.

14 Q. Okay. So that means that taxes have  
 15 gone up. If the rate's gone up and assessments stayed  
 16 the same -- and I'll represent there hasn't been a  
 17 reassessment since 2010 -- taxes have gone up;  
 18 correct?

19 MR. MCGUCKIN: Well, objection. I mean,  
 20 it's not just a question of whether the  
 21 assessments go up. It's a question whether the  
 22 assessed base value of the town has changed.  
 23 And with Sandy it certainly changed between  
 24 2010 and 2019.

25 Q. Well, let me ask you a question.

1 MR. MCGUCKIN: If you want to ask him a  
 2 question about tax rates, that's fine. But you  
 3 got to ask -- you got to get -- you got to go  
 4 through the whole process as to that.

5 MR. MICHELINI: We'll get there.

6 Q. So are you aware of any significant harm  
 7 being suffered by Berkeley Township residents as a  
 8 result of these taxes -- tax rate changes?

9 A. I'm aware that your clients have  
 10 testified that their -- or perhaps you have stated it.  
 11 I honestly don't remember -- that there are -- or  
 12 somebody has stated it, that there are -- that the  
 13 people in South Seaside Park pay a lot in taxes.

14 Q. Okay. But this isn't about tax  
 15 shopping. We've never -- nobody has testified about  
 16 tax shopping, per se; correct. Of my clients?

17 A. Actually, I wouldn't --

18 Q. Of my clients that have testified.

19 A. I wouldn't say that.

20 Q. Generally speaking, they did not. They  
 21 testified about services. They testified about  
 22 distance. They testified about lack of recycling  
 23 pickup. They testified about the inability to  
 24 participate in community affairs. They testified  
 25 about how if -- if they became part of South Seaside

1 Park [sic], they would represent roughly 25 percent of  
 2 the voting public in South Seaside Park -- in Seaside  
 3 Park; correct? They talked about a lot of things but  
 4 not a whole lot about taxes; correct?

5 A. I think in the grand scheme of things,  
 6 not a whole lot, but I'm not saying it wasn't  
 7 discussed.

8 Q. And were you here when Ken Moore  
 9 testified that he never told the Petitioners the tax  
 10 impact of de-annexation?

11 A. I believe he never told them. Yes.

12 Q. Yeah. And he never told them. I mean,  
 13 you think he was telling the truth. He was under  
 14 oath; correct?

15 A. I have no reasonable reason to believe  
 16 that Mr. Moore did not tell the truth.

17 Q. So are you aware as to whether or not  
 18 the people on the mainland -- let's limit it to the  
 19 mainland -- did they suffer serious tax harm or  
 20 economic harm as a result of those rates going up?  
 21 The tax rate changing from 2014 through 2019.

22 MR. MCGUCKIN: How can he possibly  
 23 testify -- how can he possibly testify as to  
 24 individuals and residents of Berkeley as to the  
 25 impact of the tax increases on them?

1 MR. MICHELINI: Well, he can tell me if  
 2 he can't.  
 3 MR. MCGUCKIN: There's 50,000 people in  
 4 Berkeley Township.  
 5 MR. MICHELINI: He can tell me if he  
 6 can't.  
 7 MR. MCGUCKIN: It's not a proper  
 8 question. He can't give an answer as to  
 9 property owners --  
 10 Q. Let me ask you another question.  
 11 Do you know if there was massive layoff  
 12 between 2014 and 2019?  
 13 A. I do not know.  
 14 Q. Okay. Do you think you would know? You  
 15 think you would have heard about that?  
 16 A. Only if you had brought it in.  
 17 Q. Okay. Do you know whether the budget  
 18 was balanced between 2014 and 2019?  
 19 MR. MCGUCKIN: By statute it's balanced  
 20 every single year, Mr. Michelini. By law.  
 21 MR. MICHELINI: It was balanced. Thank  
 22 you. Thank you. I was asking Mr. Wisner.  
 23 MR. MCGUCKIN: Well, it's a legal  
 24 question. It was balanced by law.  
 25 Q. It was balanced; right?

1 A. It's required to be balanced.  
 2 Q. The town doesn't declare bankruptcy;  
 3 correct?  
 4 MR. CALLAHAN: We're not talking about  
 5 the Federal budget; correct?  
 6 MR. MICHELINI: No. We're not talking  
 7 about the Federal budget. Good point.  
 8 Q. There's been testimony -- you're not  
 9 aware -- you've been working in this town for the last  
 10 five years; correct?  
 11 A. Yes.  
 12 Q. Okay. And you haven't heard about  
 13 massive layoffs. You haven't heard that the police  
 14 were reduced in number; correct?  
 15 A. There's been no testimony to that  
 16 effect.  
 17 Q. Okay. The budget has been balanced.  
 18 The town hasn't declared bankruptcy. Has there been  
 19 any protests or uprising as a result of the tax rate  
 20 changes?  
 21 A. I do not know.  
 22 Q. Okay. So let's -- let's figure out what  
 23 the taxes were. So I believe you testified that Mr.  
 24 Moore was using the -- either average or median home  
 25 of, what was it? One-eighty-three-six? Is that what

1 it was? Check your report. You gave a lot of  
 2 testimony about that.  
 3 A. (Reviewing.) Yeah. One-eighty-three-  
 4 six.  
 5 MR. MCGUCKIN: What page are you  
 6 referring to?  
 7 THE WITNESS: There's a bunch of charts  
 8 that say the same -- that use that number. But  
 9 let's for now go with Page 345.  
 10 Q. All right. So and you testified that  
 11 based upon the tax rate from the year that he used --  
 12 what was it, up from 2013 or '14?  
 13 A. I think it was '14.  
 14 Q. Okay. And what were the taxes based on  
 15 that?  
 16 A. Let me make sure I have the right --  
 17 (Reviewing.) So before -- for a house that's assessed  
 18 at 183,600, the total tax was thirty-five-eighty-nine.  
 19 Q. Okay. So let's check that. So taxes  
 20 are based on a per hundred basis; right?  
 21 A. Yes.  
 22 Q. The -- the rate is times per hundred.  
 23 So if you divide one-eighty-three-six by a hundred,  
 24 you get one-eight-three-six; right? And then when you  
 25 times that times the rate in order to get the tax;

1 correct? So what was the -- what's the rate in  
 2 2000 -- let's try '14. One-nine-five-five; right? Is  
 3 that correct?  
 4 A. (Reviewing.) 1.9 -- yes. Nine-five-  
 5 five.  
 6 Q. All right. So you can watch when we do  
 7 this. I'll do it so that's faster. I know you can do  
 8 it. But one-eight-three-six times 1.955 equals  
 9 three-five-eight-nine. Are we at the right number?  
 10 Yes. Sure we are.  
 11 A. Yeah.  
 12 Q. It comes out perfect.  
 13 A. Wow.  
 14 Q. So the tax --  
 15 MR. MACKRES: Mr. Michelini, are you a  
 16 CPA or a tax assessor?  
 17 MR. MICHELINI: No. But I know how to  
 18 do math. I'm very good at math. I don't know  
 19 if you picked it up at these hearings, but I  
 20 should have been a mathematician. But thank  
 21 you.  
 22 Q. So a tax for 2013; right? This is --  
 23 well, we'll put it over here. Okay. So --  
 24 A. 2014.  
 25 Q. It was 2014. I'm sorry. Thank you.

1 Okay. So 2015, what was the rate?  
 2 A. (Reviewing.) 2.012.  
 3 Q. 2.012. So if we go one-eight-thirty-six  
 4 times 2.012, we come up with three-six-nine-four. Let  
 5 me see. I did this myself. I just want to make sure  
 6 it's right.  
 7 COUNCILMAN BACCHIONE: Correct. It's  
 8 correct.  
 9 Q. Yup. So three-six-nine-four and that's  
 10 2015; right?  
 11 MR. MCGUCKIN: Well, Mr. Michelini --  
 12 Q. So for that average, for a median-priced  
 13 home --  
 14 MR. MCGUCKIN: Well, was the  
 15 medium-priced home in 2015, 183,600?  
 16 MR. MICHELINI: Well, the assessment  
 17 didn't change.  
 18 MR. MCGUCKIN: I'm sorry?  
 19 MR. MICHELINI: The assessment didn't  
 20 change. There wasn't a reassessment.  
 21 MR. MCGUCKIN: It doesn't matter whether  
 22 there's a reassessment. It matters how many  
 23 houses there are.  
 24 MR. MICHELINI: What matters --  
 25 MR. MCGUCKIN: How many line items there

1 are. It matters --  
 2 Q. If the house is assessed at one-eighty-  
 3 three-six --  
 4 MR. MCGUCKIN: In 2014.  
 5 Q. Okay. Right? The taxes are going to  
 6 be three-five-eight-nine based on the rate.  
 7 MR. MCGUCKIN: Yeah. But you're  
 8 using the median --  
 9 MR. MICHELINI: Excuse me.  
 10 Q. If the house is assessed at  
 11 one-eight-three-six in 2015, and there hasn't been a  
 12 reassessment, the tax is going to be  
 13 three-six-nine-four?  
 14 A. But that doesn't mean --  
 15 MR. MCGUCKIN: The median assessed value  
 16 of the properties in 2014 was 183,600 -- the  
 17 median-assessed value in 2014 is most likely  
 18 different.  
 19 MR. MICHELINI: It's probably higher.  
 20 We'll get there. Okay? We'll get there.  
 21 MR. MCGUCKIN: Well --  
 22 Q. But for the purposes of my discussion,  
 23 let's assume that the value of the house stays the  
 24 same. We'll also get there. We'll use -- I'll tell  
 25 you what. For Mr. McGuckin's sake, we'll also do this

1 with the number that Mr. Ebeneau used of 199,500 for  
 2 the year 2017. Do you remember that testimony? He  
 3 had a higher number. It was one-ninety-nine-five.  
 4 Okay.  
 5 But for the purposes of explaining this,  
 6 let's assume the house doesn't go up in value. Let's  
 7 assume it remains flat. Okay? So if the house  
 8 remains flat, it doesn't go up in value, and there  
 9 isn't a reassessment, the tax goes up because of the  
 10 rate change between 2014 and 2015; right?  
 11 A. Okay.  
 12 Q. Okay? And it goes up how much? How  
 13 much is that? That's about -- that's going up from  
 14 thirty-five-eighty-nine to thirty-six-nine-four.  
 15 That's a pretty significant increase; right? What is  
 16 that? Is that \$104? No. Yeah. About a hundred four  
 17 bucks.  
 18 A. Well, let's figure it out.  
 19 MR. MCGUCKIN: One-oh-five.  
 20 A. Thirty-five-eighty-nine minus \$105.  
 21 \$105.  
 22 Q. \$105. Okay. And we do that again, we  
 23 go -- we divide --  
 24 MR. GINGRICH: Through the Chair?  
 25 Berkeley -- Berkeley Township taxes have

1 not gone up a dime. County taxes have gone up.  
 2 So any money you're putting up there went to  
 3 the County, not to Berkeley Township.  
 4 MR. MICHELINI: Well, that may or may  
 5 not be the case.  
 6 MR. GINGRICH: No. That is the case.  
 7 MR. MICHELINI: Okay. Fine.  
 8 MR. GINGRICH: So, okay? That is the  
 9 case.  
 10 MR. MICHELINI: For every year all the  
 11 way through 2019.  
 12 MR. GINGRICH: We haven't had a tax  
 13 increase in Berkeley Township in four years.  
 14 MR. MICHELINI: But I'm not talking --  
 15 I'm not talking about the local purpose tax.  
 16 I'm talking about the --  
 17 MR. GINGRICH: You got to talk about  
 18 that. That's the only money that comes into  
 19 Berkeley.  
 20 MR. MICHELINI: Within the context of my  
 21 questions --  
 22 MR. GINGRICH: That money does not come  
 23 to Berkeley. That goes elsewhere.  
 24 MR. MICHELINI: That's fine, Mr.  
 25 Gingrich.

1 MR. GINGRICH: Thank you.  
 2 MR. MICHELINI: That is not why --  
 3 you're missing my point.  
 4 MR. GINGRICH: Oh. You're missing my  
 5 point.  
 6 MR. MICHELINI: No. I got your point.  
 7 You said there's no increase in the local  
 8 purpose tax. That's not my point.  
 9 MR. GINGRICH: Okay.  
 10 MR. MICHELINI: My point -- I'm not  
 11 saying there was an increase the local tax.  
 12 I'm saying that generally if the house stays  
 13 the same value, you're going to pay more tax  
 14 because the rate keeps going up in Berkeley.  
 15 MR. GINGRICH: Berkeley Township rate  
 16 doesn't go up. That's what I'm trying to tell  
 17 you. That is the County rates that go up.  
 18 MR. MICHELINI: This is the general rate  
 19 for Berkeley Township. It's right on the form.  
 20 MR. GINGRICH: And --  
 21 MR. MICHELINI: It includes all kinds of  
 22 taxes.  
 23 MR. GINGRICH: And does that include the  
 24 County tax?  
 25 MR. MICHELINI: It includes school tax.

1 It includes local purpose tax.  
 2 MR. GINGRICH: Everybody. How about  
 3 that?  
 4 MR. MICHELINI: That is correct. It is  
 5 the general tax.  
 6 MR. GINGRICH: Even the County tax is in  
 7 there.  
 8 MR. MICHELINI: That is correct.  
 9 MR. GINGRICH: And that's where  
 10 that money is going.  
 11 MR. MICHELINI: That's correct.  
 12 MR. GINGRICH: Thank you.  
 13 MR. MICHELINI: But that's not my point  
 14 of why I'm doing it. But thank you for that  
 15 clarification.  
 16 MR. GINGRICH: Okay.  
 17 Q. So in the year 2016, what is the rate?  
 18 A. Bear with me. 2.069.  
 19 Q. All right. So it went up a little bit;  
 20 right? So if we figure out the tax for 2016 -- let's  
 21 see. We got 18.36 times 2.069 equals thirty-seven-  
 22 ninety-eight. So now it's up again. Right? So  
 23 that's up -- that's up another \$104 or \$5; correct?  
 24 A. Let's do the math. A hundred four.  
 25 Q. That's a hundred four. Okay. Almost

1 the same as the year before.  
 2 A. Uh-hum.  
 3 Q. Okay. And then 2017, what's the rate?  
 4 You want to do the math on that? Eighteen-thirty-six  
 5 times the rate?  
 6 A. No. I'm going to let you do the math on  
 7 it, but 2017 we're at?  
 8 Q. Sure.  
 9 A. 2.080.  
 10 Q. Thirty-eight-twenty-five. All right.  
 11 Was that 2. -- 2017. What was the rate  
 12 for 2017?  
 13 A. 2017. I'm sorry. Hold on. 2.080.  
 14 Q. Is that right?  
 15 A. Thirty-eight-twenty-five minus  
 16 thirty-seven-ninety-eight. \$108.  
 17 Q. Okay. So that's \$108 increase. So and  
 18 then 2008 [sic]?  
 19 A. 2008?  
 20 Q. '18. I'm sorry.  
 21 What is the rate?  
 22 A. 2.160.  
 23 Q. 2.160, eighteen-thirty-six. So the  
 24 taxes for that same house would be how much? How much  
 25 is that? 3,000 what?

1 A. Thirty-nine-sixty-five rounded.  
 2 Q. Okay. And then for 2019?  
 3 A. 2. -- 2.167.  
 4 Q. Okay. Thirty-nine-seventy-eight-  
 5 sixty-one. Thirty-nine-seventy-eight. So in this  
 6 period of time the taxes will have -- if --  
 7 MR. MCGUCKIN: Have we done 2018? I  
 8 didn't hear the number.  
 9 THE WITNESS: Yeah.  
 10 MR. MICHELINI: Yeah. 396,065?  
 11 MR. MCGUCKIN: Yeah. But how much did  
 12 they go up?  
 13 THE WITNESS: Oh, I haven't done that  
 14 yet. I haven't done that yet. Hold on one  
 15 second.  
 16 Q. Subtract. Thirty-nine-six-five minus  
 17 thirty-eight-twenty-five?  
 18 A. Six-five minus three-nine-two-five?  
 19 Q. Three-eight-two-five.  
 20 A. Oh, I'm sorry.  
 21 Q. It's about 140 -- about 140 bucks. It  
 22 is 140 bucks?  
 23 A. It's not working out. Hold on.  
 24 Q. Thirty-nine-six-five?  
 25 A. Thirty-nine-six-five minus --

1 Q. Three-eight-twenty-five?  
 2 A. -- thirty-eight-twenty-five.  
 3 Q. \$140?  
 4 A. It's not working out here.  
 5 There's something going on. Why don't  
 6 you try it?  
 7 Q. Somehow we got to clear this.  
 8 A. Yeah. It's...  
 9 Q. I don't know what happened there.  
 10 Three-nine-seventy-eight. Let's see. I did the wrong  
 11 one. Let's see if it's working. So okay. So well,  
 12 we can do the math, is three-nine-sixty-five minus  
 13 three-eight-two-five. That's \$140; right? You can do  
 14 that in your head.  
 15 A. Never do math in my head.  
 16 Q. All right. And then this is  
 17 three-nine-six-five to three-nine-seven-eight. That's  
 18 a mild increase of \$13; correct?  
 19 A. Correct.  
 20 Q. All right. And the difference  
 21 between -- I mean the difference between the top  
 22 number and the bottom number is almost \$400. It's  
 23 about 390 bucks; correct?  
 24 A. Whatever the math works out.  
 25 Q. Well, it's the difference between

1 three-nine-seven-eight and three-five-eight-nine. So  
 2 given a house -- you can do that. It's about \$390.  
 3 \$389?  
 4 A. \$389.  
 5 Q. Okay. So \$389. So if a house stays the  
 6 same in terms of value and the rate has changed, if  
 7 the house is assessed at one-eighty-three-six and  
 8 hasn't gone up in value, all right? Then the taxes  
 9 have gone up \$389 between 2014 when we filed our  
 10 petition and 2019, now. On the average, for what was  
 11 then back in 2014, the median-value house.  
 12 MR. MCGUCKIN: Two things.  
 13 Q. Do you understand that?  
 14 MR. MCGUCKIN: No. I don't. And I want  
 15 to understand the question. Because you're  
 16 talking -- you're talking six years. You're  
 17 talking increases of five years, however;  
 18 correct? You keep saying 2014. The first  
 19 increase was 2015.  
 20 MR. MICHELINI: Yes. That's correct.  
 21 MR. MCGUCKIN: So it's five years of  
 22 increase.  
 23 MR. MICHELINI: Five years of increase.  
 24 MR. MCGUCKIN: Not six.  
 25 MR. MICHELINI: That is correct.

1 MR. MCGUCKIN: Okay. And 105 --  
 2 MR. MICHELINI: I said 2014 to 2019, but  
 3 it is five years of increases.  
 4 MR. MCGUCKIN: And 105, 104, 108, 140  
 5 and 13; correct?  
 6 MR. MICHELINI: Whatever what the math  
 7 is.  
 8 MR. MCGUCKIN: Well, I just want to  
 9 confirm it.  
 10 MR. MICHELINI: Whatever the math is.  
 11 Whatever he testified to.  
 12 Q. So and Mr. Moore, you testified to --  
 13 MR. MCGUCKIN: And I want to make this  
 14 clear. I come up with \$470. You said  
 15 something about three-something.  
 16 MR. MICHELINI: I think it's  
 17 three-eighty-nine.  
 18 THE WITNESS: So if we go three-nine-  
 19 seven-eight, which is the 2019 figure, minus  
 20 thirty-five-eighty-nine, which is the 2014  
 21 figure --  
 22 MR. MICHELINI: I think we're looking at  
 23 the increases, though. But go ahead.  
 24 MR. MCGUCKIN: Correct.  
 25 MR. MICHELINI: Go ahead.

1 THE WITNESS: Is \$389.  
 2 MR. MCGUCKIN: But if you add \$105  
 3 starting 2015, \$104 in '16, 108 in '17, \$140 in  
 4 '18, \$13 in '19, that's the increases. And  
 5 it's \$470 divided by five.  
 6 MR. MICHELINI: All right.  
 7 MR. MCGUCKIN: Right?  
 8 MR. MICHELINI: I didn't do the math the  
 9 way that you just did it. So it's either the  
 10 389 or 470, but it's a lot of money; right?  
 11 Q. It's a significant amount of increase --  
 12 MR. MCGUCKIN: It's ninety-some dollars  
 13 a year.  
 14 Q. All right. And what Mr. Moore found,  
 15 according to the schedule that he was using with the  
 16 one-eighty-three-six and what you testified about  
 17 specifically with regard to Moore, was using his  
 18 analysis, eliminating one cop and one car, that the --  
 19 the cost increase to the median-priced home of  
 20 \$183,600 would be \$156; correct? That's on the next  
 21 page I believe.  
 22 A. (Reviewing.) Correct.  
 23 Q. Okay. And yet there have been increases  
 24 of \$400 or so over the last five years, which is just  
 25 by virtue of the fact that the tax rate has changed;

1 isn't that correct?  
 2 A. Yeah.  
 3 Q. Okay. And if we took Mr. -- in 2017 if  
 4 we took the average price according to Mr. Ebeneau of  
 5 one-ninety-nine-five and applied the tax rate, which  
 6 would be one-nine-nine-five -- or the -- divided by a  
 7 hundred, and applied the tax rate of 2.167, using what  
 8 Mr. -- Mr. McGuckin referred to is --  
 9 You know what? Let's go to 2'17 and  
 10 assume that this house at one-eighty-three-six  
 11 actually increased in value and was taxed at an  
 12 increased value. There hasn't been a reassessment, so  
 13 it wouldn't be taxed. But assuming, using Mr.  
 14 McGukin's information of the more current value.  
 15 Okay? So we got one-nine-nine-five times 2. --  
 16 one-nine-nine-five times 2.167. The increase in the  
 17 tax would be forty-three-twenty-three. Another over  
 18 \$300. So now we're talking \$700 in increased taxes;  
 19 right?  
 20 A. Okay.  
 21 Q. Math doesn't lie. We may get it wrong,  
 22 but it still doesn't lie.  
 23 So my point is that the increases that  
 24 the average Berkeley homeowner has endured as a result  
 25 of the tax rate changing actually far exceeds what Mr.

1 Moore says the impact will be from de-annexation in  
 2 the example that you were testifying about; isn't that  
 3 correct?  
 4 A. Well, the impact would be stacked. So  
 5 you've got the impact from de-annexation on top of the  
 6 background increases.  
 7 Q. You would. Right. If the rate changes,  
 8 you're going to have all these increases. Without a  
 9 doubt you're going to have these increases. But we're  
 10 adding an additional increase of \$156, which pales in  
 11 comparison to the increases that have just naturally  
 12 occurred over the last several years; isn't that  
 13 correct? Has there been any -- there have been no  
 14 protests. There's been no layoffs; correct?  
 15 A. I don't know that.  
 16 CHAIR WINWARD: Mr. Michelini?  
 17 MR. MICHELINI: Yeah.  
 18 CHAIR WINWARD: We hit over the two-hour  
 19 point, but I was wondering if you could wrap  
 20 this up.  
 21 But I still don't know if I understand.  
 22 Like, how does this compare with the tax  
 23 increases for Seaside Park or Toms River?  
 24 Other areas adjacent? We have no frame of  
 25 reference --

1 MR. MICHELINI: It's not relevant.  
 2 CHAIR WINWARD: -- to base this on.  
 3 MR. MICHELINI: I'm not presenting it  
 4 for relevance to comparing to Seaside Park.  
 5 What I am showing is Mr. Moore talked about  
 6 there would be \$156 tax increase. And that is  
 7 not -- the reality is, is that the average  
 8 homeowner has an increase of -- had an increase  
 9 of more than that in a two-year period between  
 10 2014 and 2016.  
 11 CHAIR WINWARD: But did Mr. Moore  
 12 testify on your behalf?  
 13 MR. MICHELINI: Yes, he did. So the  
 14 point is --  
 15 CHAIR WINWARD: So that's where we're  
 16 confused here.  
 17 MR. MICHELINI: Well, the point is, is  
 18 that if the people of Berkeley Township could  
 19 abide these types of increases over the years,  
 20 \$156 increase -- I mean, if you're basing it on  
 21 the actual value in 2017, that's -- that's a  
 22 \$700 swing between 2014 and 2017 if you go  
 23 from --  
 24 MR. MCGUCKIN: We said over the five  
 25 years, it was \$94. And what you're telling us

1 is that \$94 a year average increase on top of  
 2 that, they're going to get \$156. So that's one  
 3 and-a-half times more of a tax increase than  
 4 they would get -- and they received over the  
 5 past five years. One and-a-half times  
 6 multiplier based on the tax increases they  
 7 already have. Plus they're going to receive  
 8 annual increase, I'm sure. Just because that's  
 9 the way life is right now. So and that goes on  
 10 forever. So you're changing the base tax that  
 11 they pay, and that will continue assuming there  
 12 is de-annexation.  
 13 MR. MICHELINI: Well, yeah. But the  
 14 base tax stays steady at 156. It doesn't  
 15 necessarily go up. Okay? Number one.  
 16 And the point of showing this is \$156  
 17 increase is not going to be the disaster that  
 18 everybody projects it to be when the taxes have  
 19 been going up hundreds of dollars over a period  
 20 of five years.  
 21 MR. MCGUCKIN: They average \$94 an  
 22 increase per year.  
 23 MR. MICHELINI: That's correct.  
 24 MR. MCGUCKIN: And the increase is going  
 25 to \$156 on top of the next \$94, that would also

1 be realistic to assume.  
 2 MR. MICHELINI: Right. Right.  
 3 MR. MCGUCKIN: So for that year, it's  
 4 going to be almost \$250 increase in one year,  
 5 and that base is going to stay that way forever  
 6 after that if de-annexation occurs; am I  
 7 correct?  
 8 MR. MICHELINI: No. It won't stay that  
 9 way forever because the town is going to add  
 10 ratables on the mainland.  
 11 MR. MCGUCKIN: Well, that's an  
 12 assumption that's never proven true.  
 13 MR. MICHELINI: It's not an assumption.  
 14 Q. Isn't it a fact, Mr. Wiser, that Mr.  
 15 Ebeneau testified that ratables would be added on the  
 16 mainland? That he projected that? Not for purposes  
 17 of de-annexation but for other purposes. He projected  
 18 over the next five years, there would be \$50 million?  
 19 MR. MCGUCKIN: He could project -- you  
 20 could project anything you want. But as of  
 21 right now, they're going to get \$250 rate  
 22 increase.  
 23 A. Well, that's true. And those ratables  
 24 are specifically designed to reduce and ameliorate the  
 25 impact of tax -- of tax increases absent

1 de-annexation.  
 2 Q. Okay. But didn't Mr. Ebeneau testify  
 3 that he expected \$50 million in ratables over the next  
 4 five years?  
 5 A. I forget the number.  
 6 Q. Okay. Well, I will represent to you  
 7 that he testified that.  
 8 A. Okay.  
 9 Q. Didn't Mr. Ebeneau testify --  
 10 Well, by the way, do you accept Mr.  
 11 Ebeneau's conclusions? You didn't talk about it much  
 12 in his report -- in your report.  
 13 A. Frankly, I thought Mr. Ebeneau had --  
 14 there was so much confusion between his first report  
 15 and his second report and then his various testimonies  
 16 that I decided it was better just to go with  
 17 your number -- with Mr. Moore's number.  
 18 Q. But you couldn't really rely on Mr.  
 19 Ebeneau's reports with all the confusion. Wouldn't  
 20 that be fair to say?  
 21 A. I didn't understand it well enough to be  
 22 able to rely on it.  
 23 Q. And so you went with Mr. Moore's number.  
 24 But you're not in a position as a -- as a planner to  
 25 criticize the methodology that Mr. Moore used;

1 correct? You're not in a position to criticize the  
 2 methodology that he used in determining how much  
 3 de-annexation would cost taxpayers in Berkeley  
 4 Township Mainland?  
 5 A. I accept his number.  
 6 Q. Okay. You accepted his number.  
 7 A. I accept that number.  
 8 Q. Okay. And Mr. Ebeneau never criticized  
 9 the methodology of Mr. Moore in his report or his  
 10 testimony, did he? He did it different, but he never  
 11 criticized Mr. Moore; isn't that correct?  
 12 A. He did it differently. He came up with  
 13 different numbers. Did he actually come out and say  
 14 that Mr. Moore was wrong? No, he did not.  
 15 Q. Okay. And we can't rely upon Mr.  
 16 Ebeneau because his reports -- even his latest  
 17 reports -- had errors in them. Even the final reports  
 18 had errors; isn't that correct?  
 19 A. Yeah. So that 500 million is also  
 20 suspect.  
 21 Q. So you think all of his testimony is  
 22 suspect?  
 23 A. I think it's questionable. I don't  
 24 know.  
 25 Q. What about his testimony that -- and

1 this is from the Township -- that the Berkeley  
 2 Township can recover in less than five years from the  
 3 economic impact of de-annexation? Do you remember  
 4 that testimony?  
 5 A. Yes.  
 6 Q. Okay. And you don't know if that's true  
 7 or not.  
 8 A. I don't. And I also don't know that  
 9 it's relevant.  
 10 Q. Oh, you don't think it might be -- you  
 11 don't think it's relevant?  
 12 A. No.  
 13 Q. If they can recover in five years?  
 14 A. No.  
 15 Q. Or less -- actually, his testimony was  
 16 less than five years.  
 17 A. Okay.  
 18 Q. He also said that the impact of the tax  
 19 rate was 12.5 cents per hundred as a result of  
 20 de-annexation. He first started out at 15.5, you may  
 21 recall, and then I got him down to 12.5 or 12.3?  
 22 A. That's why I never used his numbers.  
 23 CHAIR WINWARD: Excuse me, Mr.  
 24 Michelini.  
 25 MR. MICHELINI: Yes,



1 CHAIR WINWARD: We're going way over the  
 2 two hours now. Even though he's -- his firm  
 3 may by getting hundreds of thousands of  
 4 dollars. We just had a few Reese's Pieces  
 5 ourselves, and a lot of us have to work  
 6 tomorrow.  
 7 MR. MICHELINI: I'll wrap it up now.  
 8 CHAIR WINWARD: I assume you're going to  
 9 have another meeting.  
 10 MR. MICHELINI: I'll let you know.  
 11 Maybe I did enough that I don't, but I'll let  
 12 you know.  
 13 CHAIR WINWARD: And, also, I have a  
 14 question for our attorney. Since the  
 15 40-year-old report was admitted into evidence.  
 16 Is that something we need to evaluate in order  
 17 to make a decision?  
 18 MR. MCGUCKIN: Mr. Michelini introduced  
 19 the court case from 1978, and it's an exhibit.  
 20 And the Board should review all the exhibits in  
 21 this matter.  
 22 CHAIR WINWARD: And should we know tax  
 23 rates from that year, too? Does that matter?  
 24 MR. MCGUCKIN: No. I don't think 1978.  
 25 CHAIR WINWARD: I'm just making sure.

1 entertain a motion to adjourn.  
 2 MR. CALLAHAN: I'll make a motion.  
 3 CHAIR WINWARD: And a second?  
 4 COUNCILMAN BACCHIONE: Second.  
 5 (The meeting was adjourned at 9:41 p.m.)  
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1 So anyhow --  
 2 FROM THE FLOOR: Time to quit.  
 3 MR. MCGUCKIN: We'll be in touch then,  
 4 Joe? We'll talk?  
 5 MR. MICHELINI: Yeah. We'll be in  
 6 touch.  
 7 MR. MCGUCKIN: All right.  
 8 MR. MICHELINI: I'll just decide. I'll  
 9 just be going over stuff that, if I made my  
 10 points, then I'll let you know.  
 11 THE WITNESS: Can we assume that --  
 12 CHAIR WINWARD: Thank you very much.  
 13 THE WITNESS: -- the Board will have --  
 14 what is it, redirect for me?  
 15 CHAIR WINWARD: I think it's fair to say  
 16 that the Board has some questions.  
 17 THE WITNESS: And what is the next  
 18 meeting date, if I may?  
 19 CHAIR WINWARD: November 8th or 7th.  
 20 MS. HUGG: Seventh.  
 21 CHAIR WINWARD: It's a Thursday night.  
 22 THE WITNESS: Gotcha.  
 23 MS. HUGG: November 7th.  
 24 THE WITNESS: Gotcha. Thank you.  
 25 CHAIR WINWARD: Okay. At this time I'll

1 CERTIFICATE  
 2  
 3 I, DARLENE SILLITOE, a Certified Court  
 4 Reporter and Notary Public of the State of New  
 5 Jersey, certify that the foregoing is a true  
 6 and accurate transcript of the proceedings.  
 7  
 8 I further certify that I am neither  
 9 attorney, of counsel for, nor related to or  
 10 employed by any of the parties to the action;  
 11 further that I am not a relative or employee of  
 12 any attorney or counsel employed in this case;  
 13 nor am I financially interested in the action.  
 14  
 15  
 16  
 17  
 18  
 19  
 20 *Darlene Sillitoe (LH)*  
 21 \_\_\_\_\_  
 22 DARLENE SILLITOE, CCR  
 23 License No 30XI0102300  
 24  
 25 Dated: October 30, 2019  
 My Notary Commission Expires  
 December 9, 2019  
 ID No 50006932

<b>\$</b>	<b>0</b>	2.069 [2] - 111:18, 111:21	24th [1] - 66:17	52 [1] - 54:19	98:10, 98:12
	08723 [1] - 2:7	2.080 [2] - 112:9, 112:13	25 [2] - 68:8, 101:1	54 [2] - 33:10, 33:14, 33:16, 33:19, 35:17, 36:10, 95:9, 96:9	A-116 [1] - 3:16
\$104 [3] - 106:16, 111:23, 117:3	08731 [1] - 2:3	2.160 [2] - 112:22, 112:23	2500 [2] - 65:11, 65:24	55 [2] - 96:5, 96:9	A-6 [4] - 75:3, 76:16, 76:20, 76:25
\$105 [4] - 108:20, 108:21, 108:22, 117:2	<b>1</b>	2.167 [3] - 113:3, 118:7, 118:16	26 [1] - 35:12	554 [1] - 96:10	A-64 [1] - 50:5
\$108 [2] - 112:16, 112:17	1 [1] - 30:7	2.2.2 [1] - 31:20	27 [3] - 3:13, 31:11, 35:16	558 [1] - 66:10	A-65 [3] - 50:5, 53:5, 53:6
\$109 [2] - 114:18, 117:4	1.955 [1] - 105:8	2.88 [1] - 96:2	28 [2] - 31:17, 33:4	554 [1] - 96:10	A-71 [3] - 50:5, 54:2, 54:19
\$113 [2] - 114:18, 117:4	10 [2] - 80:1, 80:2	20 [2] - 35:4, 91:21	29th [1] - 36:6	58 [4] - 3:14, 94:9, 94:22, 95:8	A-79 [2] - 43:21, 43:23
\$114 [3] - 114:3, 114:13, 117:3	104 [1] - 116:4	2000 [1] - 105:2	<b>3</b>	<b>6</b>	abide [1] - 120:19
\$117 [2] - 117:20, 119:10, 120:6, 120:20, 121:2, 121:16, 121:25	105 [2] - 116:1, 116:4	2001 [1] - 6:13	3 [1] - 25:12	6 [5] - 19:13, 28:13, 28:15, 31:5, 31:15	ability [1] - 42:18
\$119 [1] - 96:6	108 [2] - 116:4, 117:3	2008 [2] - 112:18, 112:19	3,000 [1] - 112:25	620 [1] - 2:3	able [3] - 14:23, 18:10, 123:22
\$120 [1] - 96:11	11 [3] - 80:2, 80:6, 90:10	2010 [3] - 99:8, 99:17, 99:24	30 [1] - 33:17	69 [1] - 33:5	absent [1] - 122:25
\$121 [1] - 96:11	113 [1] - 81:14	2013 [2] - 104:12, 105:22	31 [1] - 94:20	<b>7</b>	absolute [1] - 63:20
\$122 [1] - 96:11	12.3 [1] - 125:21	2014 [23] - 13:21, 97:21, 98:23, 99:2, 99:5, 99:10, 99:12, 101:21, 102:12, 102:18, 105:24, 105:25, 107:4, 107:16, 107:17, 108:10, 115:9, 115:11, 115:18, 116:2, 116:20, 120:10, 120:22	32 [3] - 95:19, 96:5, 96:10	7-20-78 [2] - 3:14, 58:20	absolutely [6] - 8:7, 42:10, 61:11, 61:23, 63:8, 77:2
\$123 [1] - 96:11	12.5 [2] - 125:19, 125:21	2015 [11] - 13:19, 13:23, 44:1, 48:22, 106:1, 106:10, 106:15, 107:11, 108:10, 115:19, 117:3	345 [1] - 104:9	73 [1] - 96:11	accept [6] - 36:14, 38:5, 96:24, 123:10, 124:5, 124:7
\$124 [1] - 96:11	12.9 [1] - 66:14	2016 [4] - 36:6, 111:17, 111:20, 120:10	35 [1] - 94:18	7:30 [1] - 4:8	accepted [1] - 124:6
\$125 [1] - 96:11	13 [6] - 25:2, 31:1, 31:2, 31:3, 31:5, 116:5	2017 [11] - 97:22, 99:12, 108:2, 112:3, 112:7, 112:11, 112:12, 112:13, 118:3, 120:21, 120:22	37 [6] - 33:24, 33:25, 36:23, 37:23, 38:11, 56:9	7th [2] - 127:19, 127:23	access [1] - 57:5
\$126 [1] - 96:11	140 [4] - 113:21, 113:22, 116:4	2018 [3] - 5:21, 94:11, 113:7	389 [2] - 115:3, 117:10	<b>8</b>	according [4] - 19:22, 25:2, 117:15, 118:4
\$127 [1] - 96:11	14th [1] - 66:17	2019 [14] - 19:13, 19:17, 98:24, 99:2, 99:12, 99:24, 101:21, 102:12, 102:18, 109:11, 113:2, 115:10, 116:2, 116:19	390 [1] - 114:23	8.72 [1] - 96:2	account [3] - 94:24, 95:3, 95:17
\$128 [1] - 96:11	15 [1] - 10:25	20th [1] - 59:9	396,065 [1] - 113:10	81 [1] - 3:15	accountant [1] - 15:14
\$129 [1] - 96:11	15.5 [1] - 125:20	23 [2] - 34:15, 35:7	399 [1] - 18:20	82 [1] - 3:16	accurate [9] - 7:1, 19:17, 22:8, 39:12, 52:12, 55:11, 65:15, 89:2, 89:3
\$130 [1] - 96:11	156 [1] - 121:14		<b>4</b>	8th [1] - 127:19	accusation [2] - 37:12, 38:6
\$131 [1] - 96:11	16 [7] - 31:8, 67:18, 85:12, 92:19, 95:20, 97:10, 97:11		40 [11] - 25:1, 25:3, 33:19, 56:22, 57:13, 58:13, 59:9, 75:15, 77:6, 79:6, 81:10	<b>9</b>	acknowledge [1] - 86:14
\$132 [1] - 96:11	17 [6] - 2:6, 31:7, 33:7, 33:15, 34:19, 36:10		40-year-old [1] - 126:15	9 [1] - 92:11	Acme [1] - 88:5
\$133 [1] - 96:11	18 [2] - 34:18, 34:20		400 [2] - 18:15, 22:6	9-1-2019 [1] - 82:21	acted [1] - 59:11
\$134 [1] - 96:11	18.36 [1] - 111:21		41.9 [2] - 65:10, 65:22	9-6-19 [1] - 19:10	activity [2] - 77:20, 90:20
\$135 [1] - 96:11	183,600 [3] - 104:18, 106:15, 107:16		42.9 [1] - 66:14	90 [1] - 87:17	actual [2] - 53:14, 120:21
\$136 [1] - 96:11	1875 [1] - 64:12		45 [5] - 68:8, 73:8, 85:13, 97:10, 97:11	98 [1] - 3:17	add [3] - 40:23, 117:2, 122:9
\$137 [1] - 96:11	19 [1] - 3:12		470 [1] - 117:10	9:41 [1] - 128:5	added [1] - 122:15
\$138 [1] - 96:11	1978 [4] - 59:9, 79:12, 126:19, 126:24		490 [1] - 74:5	<b>A</b>	adding [1] - 119:10
\$139 [1] - 96:11	199,500 [1] - 108:1		<b>5</b>	A-11 [1] - 28:16	
\$140 [1] - 96:11	<b>2</b>		5 [3] - 3:4, 34:21, 111:23	A-110 [3] - 3:12, 19:11, 19:19	
\$141 [1] - 96:11	2 [4] - 93:1, 112:11, 113:3, 118:15		50 [1] - 93:17	A-111 [5] - 3:13, 27:18, 27:20, 28:16, 36:1	
\$142 [1] - 96:11	2*17 [1] - 118:9		50,000 [1] - 102:3	A-112 [5] - 3:14, 58:21, 58:23, 59:6, 69:5	
\$143 [1] - 96:11	2.012 [3] - 106:2, 106:3, 106:4		500 [2] - 90:8, 124:19	A-113 [3] - 3:15, 81:15, 81:18	
\$144 [1] - 96:11				A-114 [3] - 3:16, 82:19, 82:20	
\$145 [1] - 96:11				A-115 [3] - 3:17,	

<b>Addison</b> [4] - 59:6, 59:7, 65:5, 76:1	111:25, 114:22, 122:4	<b>annual</b> [1] - 121:8	6:2, 6:6, 6:20, 9:15, 20:6, 20:7, 20:12, 20:20	<b>assuming</b> [2] - 116:13, 121:11	22:22, 23:7, 23:15, 24:12, 64:23, 82:24, 119:6
<b>Addison's</b> [4] - 60:22, 77:25, 78:11, 78:12	<b>ALSO</b> [1] - 2:11	<b>answer</b> [5] - 26:8, 37:11, 48:11, 83:25, 102:8	<b>Armstrong</b> [2] - 41:10, 41:18	<b>assumption</b> [3] - 73:11, 122:12, 122:13	<b>balanced</b> [7] - 102:18, 102:19, 102:21, 102:24, 102:25, 103:1, 103:17
<b>addition</b> [4] - 20:7, 95:12, 95:14, 96:25	<b>Amato</b> [1] - 44:13	<b>Anthony</b> [2] - 44:24	<b>arrangement</b> [2] - 6:21, 7:15	<b>Atlantic</b> [3] - 10:4, 12:19, 66:17	<b>Bank</b> [1] - 92:4
<b>additional</b> [2] - 20:19, 119:10	<b>ameliorate</b> [1] - 122:24	<b>anyhow</b> [1] - 127:1	<b>arrangements</b> [1] - - 21:10	<b>attempted</b> [1] - 23:4	<b>bankruptcy</b> [2] - 103:2, 103:18
<b>address</b> [2] - 48:17, 48:20	<b>amount</b> [7] - 22:6, 22:9, 22:10, 22:11, 24:3, 82:14, 117:11	<b>apologize</b> [1] - 72:5	<b>arrest</b> [1] - 53:14	<b>attended</b> [2] - 46:13, 46:14	<b>Baptists</b> [1] - 85:2
<b>adjacent</b> [2] - 82:25, 119:24	<b>analysis</b> [10] - 34:25, 36:16, 36:17, 39:24, 40:2, 60:17, 61:17, 61:19, 117:18	<b>appear</b> [3] - 56:25, 83:9, 83:13	<b>Art's</b> [1] - 89:17	<b>attorney</b> [4] - 10:23, 15:5, 21:18, 126:14	<b>bar</b> [2] - 15:9, 89:14
<b>adjourn</b> [1] - 128:1	<b>analyze</b> [3] - 23:5, 34:6, 72:17	<b>appearance</b> [1] - 42:8	<b>aside</b> [7] - 74:23, 75:6, 75:12, 75:16, 76:8, 77:7, 77:11	<b>attorneys</b> [6] - 2:4, 49:10, 49:14, 49:16, 49:20, 57:24	<b>Bar</b> [1] - 91:13
<b>adjourned</b> [1] - 128:5	<b>analyzed</b> [4] - 23:4, 34:3, 37:20, 93:21	<b>APPEARANCES</b> [1] - 2:1	<b>aspect</b> [1] - 68:16	<b>Attorneys</b> [1] - 2:8	<b>Barneget</b> [4] - 66:17, 74:22, 76:6, 77:7
<b>adjustments</b> [1] - 38:22	<b>analyzing</b> [1] - 38:1	<b>appearing</b> [1] - 4:16	<b>asphalt</b> [1] - 76:19	<b>Auditor</b> [1] - 54:14	<b>Barneget</b> [4] - 66:17, 74:22, 76:6, 77:7
<b>Administrator</b> [1] - 43:25	<b>and-a-half</b> [5] - 94:15, 95:9, 96:9, 121:3, 121:5	<b>Appellate</b> [1] - 40:25	<b>assessed</b> [7] - 99:22, 104:17, 107:2, 107:10, 107:15, 107:17, 115:7	<b>auditor</b> [2] - 44:5	<b>based</b> [14] - 5:12, 17:6, 17:17, 34:25, 42:15, 50:23, 60:16, 83:12, 98:3, 104:11, 104:14, 104:20, 107:6, 121:6
<b>admitted</b> [1] - 126:15	<b>Angelo</b> [1] - 44:23	<b>appellate</b> [1] - 56:11	<b>assessment</b> [4] - 90:16, 98:7, 106:16, 106:19	<b>August</b> [3] - 19:16, 19:21, 20:15	<b>basin</b> [1] - 120:20
<b>advice</b> [1] - 54:9	<b>animated</b> [1] - 50:14	<b>apples</b> [2] - 96:23	<b>assessments</b> [5] - 90:6, 90:9, 98:4, 99:15, 99:21	<b>author</b> [1] - 18:14	<b>basis</b> [1] - 104:20
<b>advised</b> [1] - 48:16	<b>annexation</b> [48] - 4:5, 4:14, 4:17, 8:1, 9:12, 9:15, 10:20, 11:15, 12:6, 17:15, 17:19, 19:15, 19:22, 26:3, 27:23, 28:3, 37:4, 37:21, 40:12, 40:18, 43:13, 44:10, 45:10, 47:14, 49:21, 59:3, 59:4, 59:13, 66:16, 70:22, 72:2, 72:25, 73:19, 73:22, 73:25, 74:2, 78:4, 97:15, 101:10, 119:1, 119:5, 121:12, 122:6, 122:17, 123:1, 124:3, 125:3, 125:20	<b>application</b> [3] - 4:12, 5:23, 6:25	<b>assessor</b> [1] - 105:16	<b>authored</b> [1] - 27:22	<b>bathing</b> [10] - 74:23, 75:6, 75:13, 75:16, 76:8, 76:24, 77:8, 77:11, 77:13, 77:17
<b>aerial</b> [2] - 80:6, 80:18	<b>annexed</b> [1] - 66:3	<b>applied</b> [2] - 118:5, 118:7	<b>assigned</b> [2] - 7:18, 7:25	<b>authorities</b> [2] - 8:13, 9:7	<b>Bay</b> [4] - 66:17, 74:23, 76:6, 77:7
<b>affairs</b> [2] - 72:21, 100:24	<b>annexes</b> [1] - 72:8	<b>applies</b> [1] - 34:2	<b>assignment</b> [2] - 7:24, 40:22	<b>Authority</b> [1] - 73:21	<b>bay</b> [7] - 75:19, 75:24, 76:3, 77:3, 78:25, 79:1, 79:5
<b>affirmed</b> [1] - 41:3	<b>annotated</b> [4] - 50:4, 50:5, 50:15, 52:22	<b>apply</b> [1] - 26:2	<b>assist</b> [2] - 45:24, 48:12	<b>Avenue</b> [2] - 66:17, 66:18	<b>beach</b> [2] - 74:23, 75:3, 75:6, 75:13, 75:16, 75:17,
<b>ago</b> [7] - 5:15, 13:16, 36:8, 37:17, 56:22, 57:13, 58:13		<b>approve</b> [1] - 59:4	<b>assistance</b> [1] - 23:12	<b>average</b> [8] - 103:24, 106:12, 115:10, 118:4, 118:24, 120:7, 121:1, 121:21	
<b>agree</b> [13] - 17:11, 41:20, 42:3, 42:6, 42:11, 42:15, 49:24, 49:25, 59:23, 59:25, 68:14, 76:25, 77:18		<b>approved</b> [2] - 17:19, 59:3	<b>assisted</b> [5] - 18:2, 18:4, 48:13, 48:15, 55:13	<b>avoid</b> [1] - 42:7	
<b>ahead</b> [6] - 4:25, 18:18, 64:6, 66:13, 116:23, 116:25		<b>April</b> [3] - 5:21, 44:1, 48:22	<b>Associates</b> [4] - 5:9, 5:10, 5:20, 5:24	<b>aware</b> [13] - 45:10, 91:1, 91:4, 91:7, 91:10, 91:13, 91:16, 91:18, 97:22, 100:6, 100:9, 101:17, 103:9	
<b>AICP</b> [2] - 3:3, 14:16		<b>arbitrary</b> [1] - 59:11	<b>associates</b> [1] - 49:18		
<b>aid</b> [3] - 68:22, 69:7, 69:10		<b>area</b> [29] - 14:9, 65:7, 65:8, 65:10, 65:19, 65:20, 65:25, 66:1, 66:3, 66:5, 66:7, 66:16, 66:19, 67:2, 74:22, 75:5, 75:12, 75:16, 76:6, 77:7, 77:13, 77:15, 80:7, 81:20, 87:4, 88:23, 89:23, 90:11, 92:12	<b>Association</b> [3] - 4:5, 57:15, 58:19		
<b>allow</b> [1] - 63:19		<b>areas</b> [2] - 15:18, 119:24	<b>assume</b> [15] - 21:16, 44:7, 46:20, 73:6, 73:10, 74:18, 87:17, 88:12, 107:23, 108:6, 108:7, 118:10, 122:1, 126:8, 127:11		
<b>allowed</b> [1] - 56:2		<b>ARH</b> [12] - 5:9, 5:10, 5:19, 5:24,		<b>B</b>	
<b>allowing</b> [1] - 59:12				<b>Bacchione</b> [1] - 44:15	
<b>allows</b> [2] - 41:15, 46:5				<b>BACCHIONE</b> [5] - 31:25, 32:7, 32:13, 106:7, 128:4	
<b>almost</b> [6] - 22:6, 33:17, 33:19,				<b>background</b> [8] -	

75:19, 75:24, 76:3, 76:8, 76:13, 76:23, 76:24, 77:3, 77:8, 77:11, 77:14, 77:21, 78:25, 79:1 <b>Beach</b> [17] - 9:24, 64:14, 70:17, 70:18, 70:25, 78:2, 78:21, 78:23, 79:11, 79:12, 79:18, 80:3, 82:6, 83:8, 83:16, 83:17 <b>beaches</b> [6] - 77:15, 78:7, 78:8, 78:9, 78:15, 79:6 <b>Beachwood</b> [1] - 64:13 <b>bear</b> [8] - 20:4, 20:10, 28:10, 30:20, 32:23, 32:24, 33:3, 111:18 <b>Beaverson</b> [1] - 2:6 <b>became</b> [1] - 100:25 <b>become</b> [4] - 10:1, 10:6, 13:4, 68:3 <b>began</b> [3] - 5:14, 13:14, 13:15 <b>beginning</b> [4] - 4:20, 45:2, 45:3, 64:22 <b>behalf</b> [3] - 4:16, 11:24, 120:12 <b>benefit</b> [3] - 97:14, 97:18 <b>Berkeley</b> [45] - 7:20, 36:13, 57:2, 58:19, 59:11, 64:11, 68:7, 70:24, 72:1, 72:9, 77:22, 78:2, 78:3, 78:7, 78:14, 80:24, 84:9, 84:10, 85:12, 85:13, 85:21, 85:25, 86:11, 86:15, 86:17, 90:7, 90:17, 97:22, 98:17, 100:7, 101:24, 102:4, 108:25, 109:3, 109:13, 109:19, 109:23, 110:14, 110:15, 110:19, 118:24, 120:18, 124:3, 125:1 <b>best</b> [6] - 11:25, 12:1, 38:18, 48:11, 48:16, 95:13 <b>better</b> [4] - 16:3, 41:15, 46:5, 123:16 <b>between</b> [18] - 5:23, 21:10, 23:19, 33:24, 79:12, 95:23, 98:23, 99:23, 102:12, 102:18, 108:10, 114:21, 114:25, 115:9, 120:9, 120:22, 123:14 <b>bias</b> [3] - 42:8, 46:9, 49:8 <b>big</b> [10] - 12:10, 66:2, 66:7, 66:8, 66:19, 82:24, 86:21, 86:22, 88:2 <b>bigger</b> [1] - 90:11 <b>bike</b> [3] - 68:5, 73:2, 97:7 <b>bill</b> [8] - 20:2, 20:16, 21:23, 21:24, 22:1, 37:16, 39:1 <b>billed</b> [5] - 19:15, 20:2, 24:5, 24:7, 36:24 <b>billing</b> [2] - 20:6, 22:7 <b>bills</b> [6] - 6:4, 6:6, 6:8, 6:10, 21:18 <b>bit</b> [6] - 33:4, 54:21, 84:2, 84:3, 98:25, 111:19 <b>Black</b> [2] - 71:6, 71:15 <b>blocks</b> [1] - 66:4 <b>board</b> [9] - 7:22, 7:23, 11:20, 41:12, 41:14, 41:24, 42:7, 42:16, 46:4 <b>Board</b> [35] - 2:4, 2:13, 2:13, 4:23, 6:9, 7:11, 7:12, 7:13, 7:18, 7:20, 15:23, 16:3, 16:25, 17:2, 17:3, 17:5, 17:11, 17:17, 21:10, 21:23, 32:3, 34:15, 40:11, 43:6, 44:25, 45:1, 47:13, 49:4, 63:19, 73:25, 74:1, 126:20, 127:13, 127:16 <b>Board's</b> [1] - 98:13 <b>boards</b> [4] - 8:12, 9:6, 12:6, 74:7 <b>body</b> [4] - 41:14, 41:21, 41:25, 46:5 <b>bolded</b> [2] - 22:21, 22:22 <b>Borough</b> [1] - 35:12 <b>bottom</b> [3] - 33:14, 55:9, 114:22 <b>Boulevard</b> [1] - 2:6 <b>bound</b> [1] - 65:18 <b>bounded</b> [1] - 66:16 <b>bowman</b> [1] - 16:7 <b>boy</b> [1] - 93:9 <b>break</b> [1] - 4:7 <b>brevity</b> [1] - 19:14 <b>brick</b> [1] - 2:7 <b>brief</b> [1] - 4:8 <b>broke</b> [1] - 50:23 <b>brought</b> [6] - 12:13, 23:5, 42:16, 69:15, 69:17, 102:16 <b>bucks</b> [4] - 108:17, 113:21, 113:22, 114:23 <b>Budd</b> [1] - 92:2 <b>budget</b> [4] - 102:17, 103:5, 103:7, 103:17 <b>Bum</b> [1] - 89:17 <b>bunch</b> [1] - 104:7 <b>bungalows</b> [1] - 81:7 <b>burden</b> [3] - 56:16, 56:18, 74:17 <b>business</b> [5] - 7:15, 94:12, 95:16, 96:18, 96:23 <b>businesses</b> [2] - 90:7, 95:7 <b>BY</b> [3] - 2:4, 2:7, 5:4 <b>Byrnes</b> [1] - 44:23  <b>C</b> <b>calculated</b> [1] - 95:23 <b>calculation</b> [2] - 93:6, 93:13 <b>calculator</b> [1] - 95:21 <b>CALLAHAN</b> [3] - 33:21, 103:4, 128:2 <b>camera</b> [1] - 50:15 <b>Cape</b> [1] - 9:23 <b>capricious</b> [1] - 59:12 <b>car</b> [2] - 54:23, 117:18 <b>care</b> [1] - 47:10 <b>Carton</b> [1] - 35:11 <b>case</b> [69] - 10:8, 16:6, 16:14, 26:3, 30:22, 30:23, 31:18, 31:21, 33:2, 33:23, 34:2, 34:3, 34:7, 34:10, 34:14, 34:16, 34:19, 34:20, 35:4, 35:11, 35:12, 35:17, 35:18, 35:20, 36:8, 36:18, 36:20, 36:22, 37:2, 40:14, 40:23, 41:2, 41:5, 42:22, 49:8, 51:7, 56:7, 56:9, 56:21, 56:22, 56:25, 57:1, 57:5, 57:12, 57:16, 58:6, 58:12, 58:13, 58:25, 60:12, 60:14, 63:3, 64:7, 69:3, 74:22, 75:2, 78:1, 95:2, 109:5, 109:6, 109:9, 126:19 <b>Case</b> [2] - 3:14, 58:20 <b>cases</b> [17] - 10:7, 10:14, 10:17, 32:17, 32:20, 34:17, 40:10, 40:12, 56:12, 56:13, 56:15, 57:3, 57:4, 60:17, 60:24, 61:1, 63:4 <b>catch</b> [1] - 53:14 <b>categories</b> [1] - 94:13 <b>catherine's</b> [2] - 84:12, 84:21 <b>Catholic</b> [3] - 84:10, 85:8, 87:6 <b>Catholics</b> [1] - 84:21 <b>caused</b> [1] - 67:25 <b>cell</b> [2] - 77:5, 79:4 <b>cent</b> [1] - 93:18 <b>center</b> [1] - 85:1 <b>cents</b> [13] - 94:9, 94:12, 94:15, 94:18, 94:19, 94:20, 95:8, 95:9, 96:5, 96:9, 96:11, 125:19 <b>certain</b> [1] - 16:19 <b>certainly</b> [9] - 25:4, 25:6, 43:19, 46:2, 46:25, 49:22, 50:11, 60:4, 99:23 <b>certification</b> [2] - 14:17, 14:19 <b>cetera</b> [1] - 23:8 <b>CFO</b> [1] - 44:14 <b>CHAIR</b> [22] - 4:3, 4:10, 4:25, 30:14, 90:15, 119:16, 119:18, 120:2, 120:11, 120:15, 125:23, 126:1, 126:8, 126:13, 126:22, 126:25, 127:12, 127:15, 127:19, 127:21, 127:25, 128:3 <b>Chair</b> [5] - 32:1, 45:1, 90:12, 90:14, 108:24 <b>Chairman</b> [1] - 44:24 <b>change</b> [8] - 27:6, 37:24, 38:12, 68:1, 72:3, 106:17, 106:20, 108:10 <b>changed</b> [13] - 36:18, 40:2, 56:16, 56:17, 67:21, 76:12, 77:6, 77:8, 90:18, 99:22, 99:23, 115:6, 117:25 <b>changes</b> [6] - 38:4, 38:5, 79:12, 100:8, 103:20, 119:7 <b>changing</b> [3] - 101:21, 118:25, 121:10 <b>chapters</b> [1] - 26:12 <b>characterizing</b> [1] - 55:3 <b>charge</b> [1] - 6:17 <b>charged</b> [1] - 38:24 <b>charm</b> [1] - 81:10 <b>chart</b> [1] - 85:15 <b>charts</b> [1] - 104:7 <b>check</b> [6] - 18:18, 82:16, 90:4, 90:5, 104:1, 104:19 <b>Chef</b> [1] - 89:16 <b>cherry</b> [1] - 64:9 <b>cherry-pick</b> [1] - 64:9 <b>chief</b> [1] - 53:13 <b>Chief</b> [4] - 44:14, 53:7, 53:23, 53:24 <b>Chief's</b> [1] - 53:25 <b>choice</b> [1] - 88:13 <b>choose</b> [1] - 73:5 <b>Christopher</b> [1] - 43:24 <b>church</b> [5] - 84:4, 84:23, 85:13, 86:21, 87:18 <b>Church</b> [5] - 84:24, 84:25, 86:24, 87:6, 87:7 <b>churches</b> [2] - 84:6, 86:23 <b>cited</b> [4] - 56:8, 57:3, 63:3, 63:5 <b>City</b> [3] - 10:1, 90:8, 90:17 <b>clarification</b> [1] - 111:15 <b>clarify</b> [6] - 32:15, 39:5, 39:7, 39:9, 53:11, 53:21
---

<p><b>clarity's</b> [1] - 19:14</p> <p><b>clear</b> [2] - 114:7, 116:14</p> <p><b>clearly</b> [1] - 81:9</p> <p><b>client</b> [6] - 5:25, 7:6, 7:8, 7:10, 10:23, 21:24</p> <p><b>client's</b> [1] - 64:24</p> <p><b>clients</b> [18] - 7:4, 8:5, 8:9, 8:16, 8:17, 8:22, 8:23, 8:25, 9:4, 43:14, 64:22, 70:8, 70:15, 72:25, 73:14, 100:9, 100:16, 100:18</p> <p><b>close</b> [6] - 18:21, 18:22, 29:2, 30:10, 31:16, 81:8</p> <p><b>closer</b> [9] - 78:8, 78:9, 78:14, 78:18, 78:21, 86:1, 86:15, 86:17</p> <p><b>closest</b> [3] - 84:18, 84:19, 86:7</p> <p><b>collaborative</b> [3] - 24:13, 25:19, 25:22</p> <p><b>column</b> [3] - 20:1, 20:2, 52:21</p> <p><b>columns</b> [1] - 19:25</p> <p><b>coming</b> [1] - 22:10</p> <p><b>comment</b> [6] - 53:6, 53:10, 54:4, 55:1, 55:5, 55:22</p> <p><b>comments</b> [7] - 52:21, 52:23, 53:1, 53:17, 53:18, 53:20, 54:20</p> <p><b>Comments</b> [1] - 52:22</p> <p><b>commercial</b> [8] - 88:23, 89:11, 89:19, 89:23, 90:9, 91:21, 92:9, 92:12</p> <p><b>communication</b> [3] - 47:17, 47:20, 47:21</p> <p><b>community</b> [4] - 77:19, 81:6, 81:12, 100:24</p>	<p><b>compare</b> [3] - 32:3, 96:23, 119:22</p> <p><b>compared</b> [2] - 8:15, 97:10</p> <p><b>comparing</b> [2] - 30:25, 120:4</p> <p><b>comparison</b> [3] - 8:17, 32:9, 119:11</p> <p><b>complete</b> [2] - 13:3, 66:12</p> <p><b>completed</b> [1] - 45:13</p> <p><b>complied</b> [1] - 26:7</p> <p><b>components</b> [3] - 67:12, 67:14, 67:15</p> <p><b>concede</b> [3] - 86:2, 92:8, 95:1</p> <p><b>conceding</b> [3] - 63:24, 64:5, 70:9</p> <p><b>concerned</b> [1] - 36:9</p> <p><b>concerning</b> [1] - 62:19</p> <p><b>conclusion</b> [1] - 30:2</p> <p><b>conclusions</b> [3] - 16:21, 59:18, 123:11</p> <p><b>Conclusions</b> [2] - 22:24, 25:21</p> <p><b>conditions</b> [1] - 14:3</p> <p><b>conductive</b> [2] - 76:14, 76:16</p> <p><b>confirm</b> [1] - 116:9</p> <p><b>confused</b> [1] - 120:16</p> <p><b>confusion</b> [2] - 123:14, 123:19</p> <p><b>CONNORS</b> [1] - 2:2</p> <p><b>considerable</b> [1] - 24:3</p> <p><b>consistency</b> [1] - 30:17</p> <p><b>consistent</b> [1] - 64:21</p> <p><b>constraints</b> [1] - 22:3</p> <p><b>consultant</b> [1] - 54:17</p> <p><b>consultation</b> [1] - 10:23</p> <p><b>consultations</b> [2]</p>	<p>- 10:21, 10:24</p> <p><b>consulted</b> [1] - 10:19</p> <p><b>consulting</b> [1] - 5:12</p> <p><b>Consulting</b> [1] - 18:7</p> <p><b>Contents</b> [2] - 25:15, 25:17</p> <p><b>context</b> [7] - 14:4, 14:6, 67:10, 70:21, 70:22, 83:16, 109:20</p> <p><b>continue</b> [1] - 121:11</p> <p><b>continuing</b> [3] - 4:18, 14:7, 62:11</p> <p><b>contractual</b> [1] - 21:10</p> <p><b>convenient</b> [1] - 54:22</p> <p><b>conversation</b> [1] - 48:14</p> <p><b>conversations</b> [1] - 45:9</p> <p><b>coordinate</b> [2] - 49:1, 50:21</p> <p><b>coordinated</b> [1] - 55:12</p> <p><b>coordination</b> [2] - 46:19, 48:6</p> <p><b>cop</b> [1] - 117:18</p> <p><b>copied</b> [3] - 36:23, 40:1, 44:12</p> <p><b>cops</b> [1] - 54:22</p> <p><b>copy</b> [6] - 26:17, 28:9, 38:17, 57:12, 57:16, 58:5</p> <p><b>copying</b> [1] - 45:23</p> <p><b>correct</b> [17] - 5:6, 5:7, 5:17, 5:18, 6:17, 7:1, 7:13, 8:3, 8:13, 9:7, 9:8, 9:9, 9:10, 9:12, 9:13, 10:15, 12:15, 12:16, 12:24, 13:8, 14:12, 14:13, 14:25, 15:5, 15:6, 15:12, 15:15, 15:18, 16:4, 16:12, 16:16, 16:17, 16:18, 16:19, 17:1, 17:8, 18:12,</p>	<p>18:16, 20:3, 20:16, 21:14, 22:15, 23:2, 23:9, 24:6, 26:15, 26:18, 27:7, 27:13, 30:8, 33:7, 35:1, 35:9, 35:10, 38:25, 41:6, 41:22, 42:1, 42:2, 42:4, 42:5, 45:4, 45:25, 46:13, 47:1, 47:4, 47:6, 47:24, 47:25, 48:19, 48:25, 49:6, 49:24, 50:6, 50:12, 50:13, 50:17, 51:14, 52:6, 52:23, 53:2, 53:19, 54:10, 56:13, 56:19, 56:23, 59:5, 61:7, 61:20, 65:1, 65:2, 65:5, 66:11, 66:25, 70:3, 70:13, 71:23, 71:24, 73:19, 74:16, 77:9, 78:19, 78:22, 80:22, 80:25, 82:25, 83:8, 83:11, 84:6, 84:7, 84:11, 84:13, 85:6, 85:9, 85:14, 86:1, 86:11, 86:16, 87:16, 88:10, 90:13, 92:20, 93:15, 93:19, 94:4, 94:10, 95:11, 96:1, 96:6, 96:11, 97:11, 97:16, 98:21, 99:12, 99:18, 100:16, 101:3, 101:4, 101:14, 103:3, 103:5, 103:10, 103:14, 105:1, 105:3, 106:7, 106:8, 111:4, 111:8, 111:11, 111:23, 114:18, 114:19, 114:23, 115:18, 115:20, 115:25, 116:5, 116:24, 117:20, 117:22, 118:1,</p>	<p>119:3, 119:13, 119:14, 121:23, 122:7, 124:1, 124:11, 124:18</p> <p><b>correctly</b> [2] - 45:2, 45:19</p> <p><b>cost</b> [6] - 92:16, 92:24, 96:14, 96:18, 97:1, 97:2, 117:19, 124:3</p> <p><b>costs</b> [2] - 92:23, 96:21</p> <p><b>cottage</b> [1] - 82:23</p> <p><b>cottages</b> [3] - 79:19, 80:10, 81:7</p> <p><b>council</b> [3] - 44:16, 44:17, 44:20</p> <p><b>COUNCILMAN</b> [5] - 31:25, 32:7, 32:13, 106:7, 128:4</p> <p><b>councilperson</b> [1] - 44:18</p> <p><b>count</b> [1] - 32:22</p> <p><b>counted</b> [1] - 25:3</p> <p><b>County</b> [10] - 9:23, 10:4, 12:14, 12:20, 88:4, 98:13, 109:3, 110:17, 110:24, 111:6</p> <p><b>county</b> [3] - 78:25, 79:1, 109:1</p> <p><b>couple</b> [5] - 19:25, 44:6, 81:6, 89:12, 89:13</p> <p><b>course</b> [1] - 42:3</p> <p><b>court</b> [4] - 56:11, 59:2, 126:19</p> <p><b>Court</b> [5] - 26:7, 41:1, 56:12, 59:8</p> <p><b>courtesy</b> [1] - 45:8</p> <p><b>covers</b> [2] - 65:8, 65:21</p> <p><b>CPA</b> [2] - 15:11, 105:16</p> <p><b>CPO</b> [1] - 16:15</p> <p><b>create</b> [1] - 45:14</p> <p><b>creation</b> [1] - 26:14</p> <p><b>credibility</b> [2] - 37:6, 37:7</p>	<p><b>critical</b> [1] - 45:11</p> <p><b>criticize</b> [2] - 123:25, 124:1</p> <p><b>criticized</b> [2] - 124:8, 124:11</p> <p><b>cross</b> [10] - 4:19, 18:11, 43:7, 53:23, 55:23, 61:11, 62:9, 62:18, 62:22, 63:2</p> <p><b>CROSS</b> [1] - 5:4</p> <p><b>cross-examination</b> [5] - 4:19, 55:23, 61:11, 62:18, 62:22</p> <p><b>CROSS-EXAMINATION</b> [1] - 5:4</p> <p><b>cross-examine</b> [4] - 18:11, 43:7, 62:9, 63:2</p> <p><b>cross-examined</b> [1] - 53:23</p> <p><b>Crossroads</b> [1] - 91:2</p> <p><b>current</b> [1] - 118:14</p> <p><b>cut</b> [1] - 26:23</p>
<b>D</b>					
			<p><b>dare</b> [1] - 81:10</p> <p><b>DASTI</b> [1] - 2:2</p> <p><b>date</b> [3] - 48:8, 90:20, 127:18</p> <p><b>dated</b> [5] - 19:13, 36:6, 44:1, 59:9, 82:21</p> <p><b>day-to-day</b> [1] - 49:13</p> <p><b>days</b> [1] - 20:15</p> <p><b>de</b> [5] - 4:5, 4:14, 4:17, 8:1, 9:12, 9:15, 10:20, 11:15, 12:6, 17:15, 17:19, 19:15, 19:22, 26:3, 27:23, 28:3, 37:4, 37:21, 40:12, 40:18, 43:13, 44:10, 45:10, 47:14, 49:21, 59:3, 59:13, 66:3, 66:16, 70:22, 71:19, 71:21, 72:2, 72:8, 72:25, 73:19, 73:22,</p>		

73:25, 74:2, 78:4, 97:15, 101:10, 119:1, 119:5, 121:12, 122:6, 122:17, 123:1, 124:3, 125:3, 125:20	26:24 <b>definition</b> [1] - 81:3 <b>defrauded</b> [1] - 37:9 <b>defrauding</b> [1] - 37:13 <b>degree</b> [1] - 70:7 <b>delis</b> [1] - 89:12 <b>Demarest</b> [1] - 35:4 <b>demographic</b> [1] - 71:13 <b>denomin</b> [1] - 84:17 <b>denominations</b> [1] - 84:18 <b>dentist</b> [1] - 91:7 <b>deny</b> [2] - 62:23, 62:25 <b>DEP</b> [1] - 76:11 <b>DEP's</b> [1] - 77:14 <b>DePaola</b> [2] - 44:24 <b>departments</b> [1] - 48:10 <b>described</b> [3] - 23:13, 23:19, 66:16 <b>DESCRIPTION</b> [1] - 3:10 <b>description</b> [1] - 65:7 <b>designed</b> [1] - 122:24 <b>detail</b> [2] - 25:8, 70:10 <b>details</b> [1] - 68:25 <b>determine</b> [3] - 48:16, 53:8, 53:12 <b>determining</b> [1] - 124:2 <b>detriment</b> [1] - 84:3 <b>developed</b> [2] - 79:6, 79:9 <b>dickerson</b> [3] - 18:2, 18:5, 21:14 <b>difference</b> [3] - 114:20, 114:21, 114:25 <b>different</b> [27] - 16:20, 28:18, 31:14, 33:24, 64:15, 66:4, 66:5, 67:24, 67:25, 69:4, 76:21, 80:5,	80:19, 80:22, 80:25, 81:2, 81:11, 84:17, 91:21, 94:9, 96:21, 96:22, 107:18, 124:10, 124:13 <b>differently</b> [1] - 124:12 <b>difficult</b> [1] - 72:21 <b>Dillon</b> [1] - 16:10 <b>dime</b> [1] - 109:1 <b>DiMichele</b> [1] - 44:14 <b>direct</b> [1] - 63:18 <b>direction</b> [2] - 17:13, 18:13 <b>director</b> [2] - 6:16, 6:18 <b>disagree</b> [4] - 16:4, 16:5, 17:12, 97:17 <b>disagreed</b> [2] - 16:6, 16:18 <b>disaster</b> [1] - 121:17 <b>discuss</b> [4] - 32:17, 32:21, 58:12, 58:13 <b>discussed</b> [4] - 35:18, 48:2, 67:11, 101:7 <b>discusses</b> [1] - 59:22 <b>discussing</b> [1] - 34:16 <b>discussion</b> [10] - 5:25, 34:1, 34:19, 35:6, 56:10, 56:21, 70:16, 71:1, 92:23, 107:22 <b>distance</b> [7] - 67:18, 67:21, 68:2, 68:12, 72:21, 87:21, 100:22 <b>Distance</b> [1] - 67:19 <b>distant</b> [1] - 67:7 <b>dittenhofner</b> [1] - 7:16 <b>divide</b> [2] - 104:23, 108:23 <b>divided</b> [2] - 117:5, 118:6 <b>Division</b> [1] - 40:25 <b>documentation</b>	[1] - 45:16 <b>doggone</b> [2] - 29:2, 30:10 <b>dollars</b> [7] - 38:25, 39:11, 39:17, 39:18, 117:12, 121:19, 126:4 <b>Don</b> [2] - 57:13, 57:14 <b>done</b> [11] - 27:4, 36:2, 36:3, 36:5, 36:7, 40:12, 47:3, 47:15, 113:7, 113:13, 113:14 <b>door</b> [1] - 63:18 <b>double</b> [1] - 80:10 <b>double-story</b> [1] - 80:10 <b>doubt</b> [5] - 52:15, 52:18, 66:22, 91:24, 119:9 <b>Dover</b> [1] - 64:11 <b>down</b> [7] - 9:23, 11:6, 11:7, 48:7, 62:3, 92:1, 125:21 <b>DPW</b> [1] - 50:25 <b>drawing</b> [1] - 30:2 <b>drive</b> [11] - 68:5, 68:6, 73:3, 73:8, 87:7, 87:17, 88:17, 92:19, 95:15, 97:8 <b>driving</b> [6] - 85:12, 85:24, 87:21, 88:9, 97:10, 97:11 <b>drove</b> [2] - 82:10, 82:13 <b>during</b> [1] - 45:8 <b>duty</b> [1] - 50:20 <b>dying</b> [1] - 90:19	<b>Ebeneau</b> [10] - 16:15, 44:13, 108:1, 118:4, 122:15, 123:2, 123:9, 123:13, 124:8, 124:16 <b>Ebeneau's</b> [2] - 123:11, 123:19 <b>economic</b> [6] - 92:16, 92:23, 92:24, 97:15, 101:20, 125:3 <b>edited</b> [2] - 27:10, 27:12 <b>editor</b> [2] - 22:13, 22:15 <b>editorial</b> [2] - 24:17, 55:5 <b>effect</b> [4] - 47:18, 96:15, 103:16 <b>effort</b> [4] - 24:3, 24:13, 25:19, 25:22 <b>Egg</b> [9] - 10:4, 10:5, 12:17, 12:19, 12:22, 13:3, 28:1, 28:4, 36:12 <b>eight</b> [22] - 104:24, 105:8, 105:9, 106:3, 107:6, 107:11, 111:22, 112:10, 112:15, 112:16, 113:4, 113:5, 113:17, 113:19, 114:1, 114:2, 114:10, 114:13, 114:17, 115:1, 116:19 <b>eighteen</b> [2] - 112:4, 112:23 <b>eighteen-thirty-</b> <b>six</b> [2] - 112:4, 112:23 <b>eighty</b> [12] - 103:25, 104:3, 104:18, 104:23, 107:2, 108:14, 108:20, 115:7, 116:17, 116:20, 117:16, 118:10 <b>either</b> [2] - 103:24, 117:9 <b>elements</b> [1] - 67:25 <b>eligible</b> [1] - 83:19 <b>eliminating</b> [1] - 117:18 <b>elsewhere</b> [1] -	109:23 <b>employees</b> [3] - 43:12, 94:1, 95:7 <b>employer</b> [1] - 5:8 <b>empty</b> [1] - 90:21 <b>encumbrances</b> [1] - 76:5 <b>end</b> [5] - 29:13, 33:9, 33:10, 35:5 <b>ends</b> [5] - 33:4, 33:14, 41:2, 71:19, 71:21 <b>endured</b> [1] - 118:24 <b>Editorial</b> [1] - 2:13 <b>engineer</b> [2] - 14:12, 15:3 <b>engineering</b> [4] - 5:11, 14:21, 14:22 <b>engines</b> [1] - 57:25 <b>entertain</b> [1] - 128:1 <b>entire</b> [1] - 34:1 <b>entitled</b> [4] - 62:16, 62:18, 62:20, 95:16 <b>environment</b> [1] - 11:21 <b>environmental</b> [1] - 5:12 <b>equals</b> [3] - 96:10, 105:8, 111:21 <b>errors</b> [2] - 124:17, 124:18 <b>especially</b> [1] - 7:25 <b>ESQ</b> [2] - 2:4, 2:7 <b>ESQS</b> [1] - 2:2 <b>established</b> [1] - 42:13 <b>establishment</b> [2] - 89:19, 91:19 <b>establishments</b> [1] - 91:23 <b>estimated</b> [1] - 93:5 <b>et</b> [1] - 23:8 <b>evaluate</b> [1] - 126:16 <b>evaluation</b> [1] - 42:1 <b>evening</b> [1] - 4:15 <b>event</b> [3] - 4:4, 72:1, 78:4 <b>evidence</b> [2] -
--	--	---	---	---	---

54:24, 126:15 <b>evident</b> (1) - 97:12 <b>exact</b> (2) - 24:2, 31:16 <b>exactly</b> (8) - 13:12, 27:14, 29:4, 29:8, 29:11, 31:14, 53:8, 85:10 <b>EXAMINATION</b> (1) - 5:4 <b>examination</b> (5) - 4:19, 55:23, 61:11, 62:18, 62:22 <b>examine</b> (4) - 18:11, 43:7, 62:9, 63:2 <b>examined</b> (1) - 53:23 <b>example</b> (2) - 50:24, 119:2 <b>exceeds</b> (1) - 118:25 <b>except</b> (4) - 20:4, 36:11, 60:18, 83:15 <b>excuse</b> (5) - 29:20, 60:8, 93:13, 107:9, 125:23 <b>exhibit</b> (1) - 126:19 <b>Exhibit</b> (6) - 19:11, 27:18, 58:21, 81:15, 82:18, 98:9 <b>exhibits</b> (1) - 126:20 <b>exist</b> (1) - 91:24 <b>expected</b> (2) - 49:12, 123:3 <b>expert</b> (3) - 14:20, 63:24, 64:1 <b>expert's</b> (2) - 14:24, 36:24 <b>experts</b> (5) - 15:22, 16:4, 16:5, 16:6, 99:11 <b>experts'</b> (2) - 16:1, 16:24 <b>explain</b> (1) - 53:7 <b>explained</b> (1) - 70:10 <b>explaining</b> (1) - 108:5 <b>expressed</b> (2) - 21:25, 22:4	<b>extends</b> (2) - 65:11, 65:23 <b>extensively</b> (1) - 59:21 <b>extent</b> (6) - 52:24, 53:20, 67:11, 69:12, 81:1, 91:25 <b>extremely</b> (1) - 72:2  <b>F</b> <b>facilitated</b> (2) - 51:4, 51:5 <b>facilitating</b> (1) - 51:7 <b>facilities</b> (1) - 74:19 <b>fact</b> (16) - 7:4, 8:4, 8:8, 8:15, 8:20, 38:4, 38:11, 40:8, 40:15, 46:9, 50:3, 67:18, 72:24, 84:8, 117:25, 122:14 <b>facts</b> (1) - 37:20 <b>factually</b> (2) - 38:7, 38:11 <b>fair</b> (11) - 11:12, 11:15, 19:1, 23:11, 24:1, 25:23, 49:20, 49:21, 94:23, 123:20, 127:15 <b>faiths</b> (1) - 85:5 <b>Fall</b> (1) - 13:21 <b>Falls</b> (1) - 35:12 <b>familiar</b> (4) - 41:4, 41:9, 41:17, 70:17 <b>far</b> (3) - 6:1, 66:7, 118:25 <b>faster</b> (1) - 105:7 <b>father</b> (1) - 57:14 <b>feathered</b> (1) - 22:11 <b>Federal</b> (3) - 94:21, 103:5, 103:7 <b>fee</b> (2) - 95:10, 95:11 <b>feet</b> (2) - 65:11, 65:24 <b>felt</b> (1) - 57:4 <b>few</b> (5) - 8:17, 8:21, 37:17, 71:22, 126:4 <b>fifty</b> (2) - 94:14, 94:15	<b>fifty-four</b> (2) - 94:14, 94:15 <b>figure</b> (6) - 96:24, 103:22, 108:18, 111:20, 116:19, 116:21 <b>filed</b> (2) - 13:21, 115:9 <b>final</b> (3) - 22:13, 22:15, 124:17 <b>findings</b> (1) - 41:2 <b>fine</b> (8) - 29:25, 32:14, 61:21, 69:20, 99:9, 100:2, 109:7, 109:24 <b>finishing</b> (1) - 4:21 <b>firm</b> (8) - 5:12, 6:22, 8:23, 9:5, 12:10, 24:8, 126:2 <b>first</b> (18) - 7:7, 9:22, 13:22, 29:4, 29:7, 29:10, 34:16, 40:23, 59:2, 68:22, 69:7, 69:10, 75:14, 88:13, 98:13, 115:18, 123:14, 125:20 <b>fit</b> (4) - 27:10, 27:12, 38:23, 46:6 <b>five</b> (53) - 4:7, 5:15, 13:15, 57:11, 57:18, 94:19, 103:10, 104:18, 105:2, 105:4, 105:5, 105:9, 107:6, 108:3, 108:14, 108:19, 108:20, 112:10, 112:15, 113:1, 113:16, 113:17, 113:18, 113:19, 113:24, 113:25, 114:1, 114:2, 114:12, 114:13, 114:17, 115:1, 115:17, 115:21, 115:23, 116:3, 116:20, 117:5, 117:24, 118:5, 118:6, 118:15, 118:16, 120:24, 121:5, 121:20, 122:18, 123:4, 125:2,	125:13, 125:16 <b>five-minute</b> (1) - 4:7 <b>flat</b> (2) - 108:7, 108:8 <b>FLOOR</b> (1) - 127:2 <b>focus</b> (2) - 51:8, 51:10 <b>follow</b> (2) - 32:8, 54:7 <b>follows</b> (1) - 5:2 <b>food</b> (1) - 88:4 <b>Foods</b> (3) - 88:16, 88:18, 88:20 <b>forever</b> (4) - 90:6, 121:10, 122:5, 122:9 <b>forget</b> (1) - 123:5 <b>Forked</b> (1) - 2:3 <b>form</b> (1) - 110:19 <b>forms</b> (1) - 17:5 <b>forth</b> (1) - 23:5 <b>forty</b> (2) - 66:12, 118:17 <b>forty-three-</b> <b>twenty-three</b> (1) - 118:17 <b>four</b> (20) - 13:13, 13:16, 13:18, 13:25, 14:1, 18:11, 22:22, 49:10, 49:14, 49:16, 94:14, 94:15, 106:4, 106:9, 107:13, 108:14, 108:16, 109:13, 111:24, 111:25 <b>frame</b> (1) - 119:24 <b>frankly</b> (1) - 123:13 <b>Fred</b> (1) - 44:13 <b>free</b> (1) - 17:11 <b>friends</b> (1) - 57:24 <b>FROM</b> (1) - 127:2 <b>front</b> (1) - 18:19 <b>full</b> (1) - 90:22 <b>functions</b> (2) - 41:13, 46:4 <b>fund</b> (2) - 20:24, 20:25 <b>future</b> (1) - 87:14  <b>G</b> <b>gas</b> (4) - 94:25, 95:18, 96:17, 97:1 <b>Gate</b> (1) - 64:13	<b>gather</b> (1) - 14:8 <b>gee</b> (2) - 49:7, 52:10 <b>General</b> (1) - 91:16 <b>general</b> (4) - 20:24, 26:23, 110:18, 111:5 <b>generally</b> (7) - 24:23, 64:19, 64:21, 77:19, 86:11, 100:20, 110:12 <b>generate</b> (1) - 15:20 <b>geographical</b> (2) - 67:7, 68:17 <b>geography</b> (1) - 75:1 <b>George</b> (1) - 49:17 <b>Gilmore</b> (1) - 49:18 <b>GINGRICH</b> (23) - 21:19, 90:12, 90:14, 90:16, 91:12, 92:2, 108:24, 109:6, 109:8, 109:12, 109:17, 109:22, 110:1, 110:4, 110:9, 110:15, 110:20, 110:23, 111:2, 111:6, 111:9, 111:12, 111:16 <b>Gingrich</b> (2) - 44:19, 109:25 <b>Gingrich's</b> (1) - 44:20 <b>given</b> (4) - 8:22, 26:10, 72:21, 115:2 <b>gotcha</b> (2) - 127:22, 127:24 <b>governing</b> (4) - 41:14, 41:21, 41:25, 46:4 <b>grand</b> (2) - 43:1, 101:5 <b>greater</b> (2) - 73:1, 77:19 <b>Greek</b> (1) - 85:2 <b>green</b> (1) - 98:17 <b>Greg</b> (1) - 45:6 <b>GREGORY</b> (1) - 2:4 <b>Gross</b> (1) - 44:23 <b>Guadagno</b> (1) - 44:23	<b>guess</b> (8) - 13:9, 22:12, 44:4, 55:5, 71:18, 71:19, 78:16, 89:21 <b>guide</b> (4) - 26:20, 27:1, 53:2, 53:18 <b>guiding</b> (1) - 53:17  <b>H</b> <b>Haines</b> (4) - 44:4, 54:1, 54:5, 54:9 <b>half</b> (8) - 73:3, 74:19, 80:12, 94:15, 95:9, 96:9, 121:3, 121:5 <b>Hammonton</b> (1) - 5:13 <b>Happy</b> (1) - 91:13 <b>Harbor</b> (21) - 3:13, 10:4, 10:5, 12:17, 12:19, 12:22, 13:3, 13:5, 26:20, 27:17, 27:22, 28:1, 28:4, 31:6, 31:11, 33:3, 36:1, 36:11, 36:13, 38:19, 56:9 <b>hard</b> (1) - 59:10 <b>hardly</b> (1) - 90:19 <b>harm</b> (4) - 97:24, 100:6, 101:19, 101:20 <b>head</b> (2) - 114:14, 114:15 <b>hear</b> (1) - 113:8 <b>heard</b> (6) - 4:2, 17:4, 64:2, 102:15, 103:12, 103:13 <b>hearing</b> (7) - 4:6, 4:14, 11:20, 13:22, 59:2, 67:13, 75:14 <b>hearings</b> (6) - 23:6, 26:11, 45:13, 62:7, 68:19, 105:19 <b>height</b> (1) - 82:15 <b>Heights</b> (10) - 64:13, 78:9, 78:14, 78:15, 84:11, 86:16, 86:19, 88:5, 88:7, 88:8
---	---	--	---	--	---

<p><b>help</b> [2] - 22:14, 84:20  <b>Help</b> [3] - 84:12, 84:14, 84:15  <b>helped</b> [2] - 51:6, 55:10  <b>higher</b> [2] - 107:19, 108:3  <b>highlighted</b> [1] - 98:17  <b>hinderance</b> [1] - 73:14  <b>Hindi</b> [1] - 84:25  <b>hired</b> [7] - 7:12, 10:16, 40:16, 40:20, 40:21, 54:13, 54:18  <b>Hispanic</b> [2] - 71:6, 71:15  <b>Historic</b> [3] - 83:17, 83:18, 83:23  <b>History</b> [1] - 22:23  <b>history</b> [7] - 23:8, 23:15, 64:10, 64:17, 64:18, 64:25, 65:4  <b>hit</b> [1] - 119:18  <b>hold</b> [14] - 14:16, 19:24, 39:2, 53:14, 75:7, 85:18, 95:22, 95:23, 112:13, 113:14, 113:23  <b>Holiday</b> [2] - 90:7, 90:17  <b>home</b> [5] - 73:4, 103:24, 106:13, 106:15, 117:19  <b>homeowner</b> [2] - 118:24, 120:8  <b>Homeowners</b> [1] - 57:15  <b>homes</b> [1] - 83:7  <b>honestly</b> [4] - 11:16, 24:21, 52:15, 100:11  <b>hope</b> [1] - 24:11  <b>Hour</b> [1] - 91:13  <b>hour</b> [3] - 25:5, 95:9, 119:18  <b>hours</b> [4] - 19:1, 24:2, 24:24, 126:2  <b>house</b> [21] - 82:2, 82:4, 82:22, 82:24, 82:25, 83:3, 83:11, 86:8, 104:17, 107:2, 107:10,</p>	<p>107:23, 108:6, 108:7, 110:12, 112:24, 115:2, 115:5, 115:7, 115:11, 118:10  <b>houses</b> [5] - 82:15, 83:14, 106:23  <b>Housing</b> [1] - 73:21  <b>huge</b> [1] - 92:11  <b>HUGG</b> [2] - 127:20, 127:23  <b>Hugg</b> [1] - 2:12  <b>hum</b> [9] - 8:8, 34:23, 35:8, 35:14, 54:3, 55:2, 92:25, 98:19, 112:2  <b>hundred</b> [11] - 39:17, 63:10, 81:6, 104:20, 104:22, 104:23, 108:16, 111:24, 111:25, 118:7, 125:19  <b>hundreds</b> [6] - 19:1, 38:24, 39:11, 39:18, 121:19, 126:3  <b>Hut</b> [1] - 91:5</p>	<p>101:10, 101:25, 119:1, 119:4, 119:5, 122:25, 125:3, 125:18  <b>important</b> [2] - 43:9, 51:9  <b>improper</b> [1] - 49:13  <b>impropriety</b> [1] - 42:8  <b>inability</b> [1] - 100:23  <b>inadvertently</b> [1] - 52:5  <b>inclined</b> [1] - 74:21  <b>include</b> [10] - 20:6, 56:8, 56:10, 60:12, 60:13, 60:18, 63:11, 89:4, 90:7, 110:23  <b>Included</b> [8] - 20:13, 60:5, 63:12, 65:1, 70:11, 70:14, 89:5, 92:22  <b>includes</b> [6] - 20:14, 56:15, 66:11, 110:21, 110:25, 111:1  <b>including</b> [4] - 37:18, 37:22, 45:15, 76:17  <b>increase</b> [25] - 108:15, 109:13, 110:7, 110:11, 112:17, 114:18, 115:19, 115:22, 115:23, 117:11, 117:19, 118:16, 119:10, 120:6, 120:8, 120:20, 121:1, 121:3, 121:8, 121:17, 121:22, 121:24, 122:4, 122:22  <b>increased</b> [4] - 94:18, 118:11, 118:12, 118:18  <b>increases</b> [16] - 97:24, 101:25, 115:17, 116:3, 116:23, 117:4, 117:23, 118:23, 119:6, 119:8, 119:9, 119:11, 119:23, 120:19, 121:6, 122:25  <b>independence</b> [1]</p>	<p>- 49:8  <b>independent</b> [6] - 41:13, 41:21, 41:25, 46:3, 50:20, 54:17  <b>indicate</b> [1] - 20:12  <b>individual</b> [3] - 23:25, 24:2, 83:14  <b>Individuals</b> [3] - 23:19, 48:10, 101:24  <b>information</b> [16] - 14:8, 15:20, 15:21, 16:1, 16:2, 16:3, 23:5, 26:1, 27:4, 42:11, 42:12, 42:16, 65:2, 70:12, 83:13, 118:14  <b>initial</b> [2] - 41:10, 59:2  <b>injury</b> [1] - 70:23  <b>insofar</b> [1] - 36:8  <b>instead</b> [1] - 68:6  <b>institution</b> [1] - 8:16  <b>institutions</b> [3] - 8:10, 9:7, 11:2  <b>intend</b> [1] - 52:8  <b>intended</b> [1] - 77:16  <b>interesting</b> [1] - 55:18  <b>interests</b> [1] - 77:20  <b>internet</b> [1] - 58:1  <b>interpret</b> [1] - 53:1  <b>interrupt</b> [1] - 32:1  <b>interruption</b> [2] - 77:5, 79:4  <b>introduced</b> [1] - 126:18  <b>inverse</b> [1] - 8:18  <b>inviting</b> [1] - 45:22  <b>invoice</b> [3] - 19:12, 20:11  <b>Invoice</b> [2] - 3:12, 19:10  <b>involved</b> [13] - 7:14, 8:1, 9:11, 9:14, 9:18, 10:8, 13:7, 18:23, 21:13, 41:5, 44:10, 52:16,</p>	<p>58:6  <b>involvement</b> [1] - 70:1  <b>involving</b> [3] - 12:22, 57:13, 58:14  <b>irremedial</b> [1] - 97:24  <b>IRS</b> [4] - 94:3, 94:8, 95:6, 95:19  <b>Island</b> [3] - 34:20, 64:14, 86:19  <b>Isle</b> [1] - 10:1  <b>isolation</b> [1] - 68:17  <b>issue</b> [12] - 45:11, 49:15, 53:13, 67:19, 67:22, 71:13, 71:19, 71:21, 72:22, 73:17, 76:22, 76:23  <b>issues</b> [12] - 45:13, 48:17, 48:20, 48:21, 48:24, 49:3, 60:19, 63:3, 67:24, 69:4, 71:22, 76:21  <b>it's..</b> [1] - 114:8  <b>items</b> [2] - 45:15, 106:25  <b>iterative</b> [1] - 23:18  <b>itself</b> [2] - 10:24, 63:14</p>	<p><b>Judge</b> [9] - 41:10, 41:18, 59:6, 59:7, 60:22, 65:5, 75:25, 77:24, 78:11  <b>Judge's</b> [3] - 71:8, 71:11  <b>Judy</b> [1] - 44:16  <b>July</b> [1] - 59:9  <b>jump</b> [1] - 31:7  <b>jurisdiction</b> [1] - 53:13</p>
<b>K</b>					
<p><b>Karin</b> [1] - 44:14  <b>keep</b> [5] - 17:20, 24:21, 25:7, 46:22, 115:18  <b>keeps</b> [1] - 110:14  <b>kelly</b> [1] - 2:12  <b>Ken</b> [1] - 101:8  <b>kind</b> [3] - 11:4, 47:17, 77:16  <b>kinds</b> [2] - 76:17, 110:21  <b>knowing</b> [1] - 68:25  <b>knowledge</b> [7] - 11:25, 12:1, 12:8, 13:6, 14:9, 38:18, 95:13  <b>Kohl's</b> [1] - 88:3  <b>KOUTSOURIS</b> [1] - 2:2</p>					
<b>L</b>					
<p><b>Lacey</b> [1] - 2:3  <b>lack</b> [2] - 49:8, 100:22  <b>Lady</b> [2] - 84:12, 84:14  <b>land</b> [3] - 57:2, 58:14, 66:14  <b>lanes</b> [1] - 79:20  <b>Lanes</b> [4] - 81:20, 82:6, 82:21, 83:6  <b>language</b> [3] - 26:23, 40:4  <b>large</b> [2] - 76:17, 82:25  <b>largely</b> [4] - 17:25, 34:10, 34:11, 42:20  <b>larger</b> [7] - 83:16, 89:22, 89:24, 89:25, 90:1, 90:2, 92:9  <b>largest</b> [1] - 88:23</p>					



<p><b>last</b> [8] - 13:10, 18:20, 50:8, 79:6, 97:21, 103:9, 117:24, 119:12</p> <p><b>lasted</b> [1] - 10:25</p> <p><b>latest</b> [1] - 124:16</p> <p><b>Lavallette</b> [3] - 84:25, 86:16, 88:8</p> <p><b>Law</b> [2] - 3:14, 58:20</p> <p><b>law</b> [27] - 15:7, 30:22, 30:23, 31:13, 31:18, 31:21, 33:2, 33:23, 34:2, 34:10, 34:19, 36:8, 36:18, 36:20, 36:22, 41:11, 49:8, 56:7, 56:9, 56:21, 58:12, 60:12, 63:20, 64:2, 102:20, 102:24</p> <p><b>layoff</b> [1] - 102:11</p> <p><b>layoffs</b> [2] - 103:13, 119:14</p> <p><b>layout</b> [1] - 80:17</p> <p><b>least</b> [2] - 11:13, 45:23</p> <p><b>leave</b> [4] - 9:23, 9:25, 10:5, 56:24</p> <p><b>left</b> [1] - 84:15</p> <p><b>legal</b> [19] - 22:23, 23:8, 24:14, 24:15, 24:24, 28:13, 59:18, 59:19, 59:22, 60:9, 60:10, 61:9, 61:13, 61:15, 61:19, 62:12, 62:18, 63:3, 102:23</p> <p><b>Legal</b> [5] - 28:6, 30:7, 37:18, 37:22, 38:19</p> <p><b>less</b> [10] - 10:25, 65:11, 65:23, 72:12, 72:14, 74:14, 74:16, 125:2, 125:15, 125:16</p> <p><b>letter</b> [2] - 47:10, 47:17</p> <p><b>level</b> [3] - 25:7, 40:24, 73:1</p> <p><b>licensed</b> [3] - 5:5,</p>	<p>14:11, 14:15</p> <p><b>lie</b> [2] - 118:21, 118:22</p> <p><b>life</b> [1] - 121:9</p> <p><b>lifted</b> [3] - 34:10, 34:12, 37:23</p> <p><b>likely</b> [8] - 14:5, 17:10, 48:7, 48:9, 73:7, 86:1, 87:19, 107:17</p> <p><b>limit</b> [1] - 101:18</p> <p><b>limited</b> [2] - 45:15, 83:12</p> <p><b>line</b> [3] - 54:20, 55:10, 106:25</p> <p><b>link</b> [1] - 98:14</p> <p><b>liquor</b> [1] - 89:13</p> <p><b>list</b> [1] - 91:20</p> <p><b>listed</b> [1] - 31:13</p> <p><b>litter</b> [2] - 76:22, 77:1</p> <p><b>live</b> [4] - 12:14, 12:17, 27:25, 90:18</p> <p><b>living</b> [3] - 77:18, 87:20, 92:17</p> <p><b>local</b> [6] - 13:6, 40:24, 109:15, 110:7, 110:11, 111:1</p> <p><b>location</b> [1] - 67:8</p> <p><b>Lodge</b> [2] - 89:18, 89:19</p> <p><b>logical</b> [3] - 73:6, 73:9, 73:11</p> <p><b>Longport</b> [2] - 10:6, 13:4</p> <p><b>look</b> [12] - 14:2, 14:3, 28:15, 28:16, 29:1, 29:18, 32:12, 34:13, 53:5, 80:18, 99:6, 99:7</p> <p><b>looked</b> [1] - 52:9</p> <p><b>looking</b> [4] - 54:2, 87:13, 87:14, 116:22</p> <p><b>looks</b> [2] - 35:7, 82:7</p> <p><b>losing</b> [2] - 70:24, 88:23</p> <p><b>loss</b> [1] - 78:1</p> <p><b>lost</b> [1] - 88:22</p> <p><b>lower</b> [2] - 94:13, 96:21</p> <p><b>Lutheran</b> [1] - 84:25</p> <p><b>Lutherans</b> [1] - 84:24</p>	<p><b>M</b></p> <p><b>MACKRES</b> [5] - 30:24, 31:4, 94:17, 94:20, 105:15</p> <p><b>mail</b> [11] - 43:24, 45:6, 46:1, 46:8, 46:9, 47:10, 48:3, 49:22, 49:25, 50:3, 50:11</p> <p><b>main</b> [1] - 4:4</p> <p><b>mainland</b> [11] - 69:12, 79:1, 79:2, 80:24, 92:9, 92:13, 92:15, 101:18, 101:19, 122:10, 122:16</p> <p><b>Mainland</b> [6] - 72:10, 77:21, 78:14, 78:17, 84:10, 124:4</p> <p><b>maintaining</b> [1] - 41:13</p> <p><b>major</b> [1] - 36:21</p> <p><b>majority</b> [3] - 7:4, 8:5, 8:9</p> <p><b>makeup</b> [4] - 8:22, 71:6, 71:15, 71:25</p> <p><b>Mall</b> [2] - 88:4, 90:8</p> <p><b>mall</b> [8] - 90:17, 90:19, 90:20, 91:2, 91:5, 91:8, 91:25, 92:5</p> <p><b>map</b> [2] - 65:16, 80:2</p> <p><b>March</b> [2] - 5:21, 7:1</p> <p><b>mark</b> [3] - 19:9, 81:13, 82:17</p> <p><b>marked</b> [17] - 19:9, 19:11, 27:16, 27:17, 27:19, 36:1, 43:20, 50:5, 58:17, 58:20, 58:22, 81:15, 81:17, 82:18, 98:8, 98:9, 98:11</p> <p><b>Market</b> [1] - 91:17</p> <p><b>Maser</b> [1] - 18:7</p> <p><b>maser</b> [1] - 18:7</p> <p><b>massive</b> [2] - 102:11, 103:13</p> <p><b>material</b> [3] - 45:13, 45:15,</p>	<p>54:8</p> <p><b>math</b> [12] - 105:18, 111:24, 112:4, 112:6, 114:12, 114:15, 114:24, 116:6, 116:10, 117:8, 118:21</p> <p><b>mathematician</b> [1] - 105:20</p> <p><b>matrix</b> [1] - 84:17</p> <p><b>matter</b> [40] - 4:19, 7:9, 8:1, 10:22, 11:7, 11:14, 11:15, 12:21, 12:22, 13:8, 13:13, 13:15, 13:21, 13:22, 19:15, 19:22, 21:14, 21:24, 26:18, 27:23, 28:12, 28:17, 33:7, 35:5, 36:2, 36:5, 42:1, 42:4, 44:10, 50:24, 57:13, 69:6, 69:7, 69:11, 69:14, 97:19, 106:21, 126:21, 126:23</p> <p><b>matters</b> [16] - 4:2, 9:12, 9:15, 9:17, 10:20, 12:6, 16:19, 40:9, 56:11, 56:12, 59:22, 73:2, 106:22, 106:24, 107:1</p> <p><b>Mayor</b> [1] - 44:13</p> <p><b>McGuckin</b> [92] - 2:2, 2:4, 21:17, 39:2, 39:5, 39:9, 39:14, 44:3, 49:17, 51:17, 51:20, 55:24, 55:25, 56:4, 57:6, 57:21, 59:17, 59:23, 60:2, 60:7, 60:11, 60:15, 60:21, 61:2, 61:5, 61:8, 61:12, 61:16, 61:21, 62:1, 62:5, 62:8, 62:14, 62:21, 62:25, 63:9, 63:15, 63:22, 63:25, 64:4, 75:7, 75:18,</p>	<p>75:21, 75:25, 76:7, 78:10, 81:14, 83:4, 97:25, 99:19, 100:1, 101:22, 102:3, 102:7, 102:19, 102:23, 104:5, 106:11, 106:14, 106:18, 106:21, 106:25, 107:4, 107:7, 107:15, 107:21, 108:19, 113:7, 113:11, 115:12, 115:14, 115:21, 115:24, 116:1, 116:4, 116:8, 116:13, 116:24, 117:2, 117:7, 117:12, 118:8, 120:24, 121:21, 121:24, 122:3, 122:11, 122:19, 126:18, 126:24, 127:3, 127:7</p> <p><b>McGuckin's</b> [1] - 107:25</p> <p><b>McGukin's</b> [2] - 21:17, 118:14</p> <p><b>mean</b> [11] - 39:15, 63:23, 67:13, 68:3, 74:25, 88:2, 99:19, 101:12, 107:14, 114:21, 120:20</p> <p><b>means</b> [2] - 79:17, 99:14</p> <p><b>meant</b> [2] - 53:8, 53:11</p> <p><b>median</b> [7] - 103:24, 106:12, 107:8, 107:15, 107:17, 115:11, 117:19</p> <p><b>median-assessed</b> [1] - 107:17</p> <p><b>median-priced</b> [2] - 106:12, 117:19</p> <p><b>median-value</b> [1] - 115:11</p> <p><b>medium</b> [1] - 106:15</p> <p><b>medium-priced</b> [1] - 106:15</p> <p><b>meeting</b> [23] - 4:1, 45:12, 45:15, 45:21, 46:12, 46:13, 46:14, 46:15, 46:17,</p>	<p>46:23, 46:25, 47:6, 48:3, 49:6, 49:11, 68:5, 73:3, 73:9, 92:18, 97:7, 126:9, 127:18, 128:5</p> <p><b>meetings</b> [8] - 22:11, 43:12, 43:18, 46:18, 46:19, 47:7, 48:5, 48:6</p> <p><b>member</b> [1] - 44:16</p> <p><b>members</b> [1] - 41:24</p> <p><b>mention</b> [1] - 30:14</p> <p><b>mentioned</b> [4] - 69:22, 69:23, 74:7, 86:15</p> <p><b>mentions</b> [1] - 78:25</p> <p><b>merchants</b> [1] - 90:23</p> <p><b>met</b> [1] - 53:23</p> <p><b>method</b> [1] - 98:7</p> <p><b>Methodist</b> [3] - 86:18, 86:21, 86:23</p> <p><b>methodists</b> [1] - 85:1</p> <p><b>methodology</b> [3] - 123:25, 124:2, 124:9</p> <p><b>MICHELINI</b> [104] - 2:6, 2:7, 4:15, 5:4, 19:8, 26:6, 27:16, 31:2, 32:4, 32:11, 32:14, 33:22, 39:4, 39:8, 39:14, 58:17, 59:20, 59:25, 60:4, 60:8, 60:13, 60:16, 60:25, 61:3, 61:7, 61:10, 61:14, 61:18, 61:23, 62:3, 62:6, 62:10, 62:16, 62:23, 63:8, 63:10, 63:17, 63:23, 64:1, 75:20, 75:23, 76:2, 78:12, 81:13, 82:17, 83:6, 94:19, 94:21, 98:1, 98:8,</p>
---	---	--	--	--	--

<p>100:5, 102:1, 102:5, 102:21, 103:6, 105:17, 106:16, 106:19, 106:24, 107:9, 107:19, 109:4, 109:7, 109:10, 109:14, 109:20, 109:24, 110:2, 110:6, 110:10, 110:18, 110:21, 110:25, 111:4, 111:8, 111:11, 111:13, 113:10, 115:20, 115:23, 115:25, 116:2, 116:6, 116:10, 116:16, 116:22, 116:25, 117:6, 117:8, 119:17, 120:1, 120:3, 120:13, 120:17, 121:13, 121:23, 122:2, 122:8, 122:13, 125:25, 126:7, 126:10, 127:5, 127:8</p> <p><b>micellini</b> [1] - 126:18</p> <p><b>Michellini</b> [13] - 3:4, 4:16, 30:24, 31:7, 32:2, 51:17, 62:2, 83:4, 102:20, 105:15, 106:11, 119:16, 125:24</p> <p><b>middle</b> [1] - 87:18</p> <p><b>Midway</b> [8] - 79:11, 79:12, 79:18, 80:2, 82:6, 83:8, 83:16, 83:17</p> <p><b>might</b> [8] - 27:9, 58:5, 58:7, 88:6, 94:9, 125:10</p> <p><b>Mike's</b> [1] - 89:17</p> <p><b>mild</b> [1] - 114:18</p> <p><b>mile</b> [9] - 65:9, 65:10, 65:21, 66:23, 73:4, 74:19, 94:9, 95:19, 96:5</p> <p><b>mileage</b> [1] - 93:25</p> <p><b>miles</b> [10] - 65:22, 66:10, 66:14, 66:15, 67:18, 85:12, 92:19, 96:5, 97:10, 97:11</p>	<p><b>million</b> [5] - 90:8, 90:10, 122:18, 123:3, 124:19</p> <p><b>mind</b> [2] - 46:10, 79:21</p> <p><b>mine</b> [2] - 23:21, 23:23</p> <p><b>Mini</b> [1] - 90:8</p> <p><b>mini</b> [8] - 90:17, 91:2, 91:5, 91:8, 91:25, 92:5</p> <p><b>minimall</b> [1] - 91:11</p> <p><b>minus</b> [2] - 71:19, 71:21</p> <p><b>minor</b> [1] - 71:22</p> <p><b>minorities</b> [2] - 71:22, 72:9</p> <p><b>minority</b> [1] - 72:1</p> <p><b>minus</b> [7] - 108:20, 112:15, 113:16, 113:18, 113:25, 114:12, 116:19</p> <p><b>minute</b> [2] - 4:7, 97:9</p> <p><b>minutes</b> [1] - 10:25, 37:17, 68:8, 73:8, 85:13, 87:17, 97:7, 97:8, 97:10, 97:11</p> <p><b>miracle</b> [1] - 4:21</p> <p><b>miracles</b> [1] - 4:22</p> <p><b>mirror</b> [1] - 67:11</p> <p><b>missing</b> [2] - 110:3, 110:4</p> <p><b>misstating</b> [1] - 94:2</p> <p><b>moment</b> [3] - 31:22, 43:21, 93:11</p> <p><b>money</b> [10] - 19:20, 20:23, 21:2, 21:3, 21:6, 109:2, 109:18, 109:22, 111:10, 117:10</p> <p><b>month</b> [1] - 20:15</p> <p><b>Moore</b> [12] - 101:8, 103:24, 116:12, 117:14, 117:17, 119:1, 120:5, 120:11, 123:25, 124:9, 124:11, 124:14</p> <p><b>moore</b> [2] - 16:14, 101:16</p> <p><b>Moore's</b> [2] -</p>	<p>123:17, 123:23</p> <p><b>Morales</b>* [1] - 91:16</p> <p><b>Mormon</b> [1] - 85:2</p> <p><b>most</b> [5] - 45:8, 56:25, 86:1, 87:25, 107:17</p> <p><b>motion</b> [2] - 128:1, 128:2</p> <p><b>Motor</b> [2] - 89:18, 89:19</p> <p><b>mouth</b> [3] - 53:22, 53:25, 64:2</p> <p><b>moving</b> [1] - 10:3</p> <p><b>MR</b> [215] - 4:15, 5:4, 19:8, 21:19, 26:6, 27:16, 30:24, 31:2, 31:4, 32:4, 32:11, 32:14, 33:21, 33:22, 39:2, 39:4, 39:5, 39:8, 39:9, 39:14, 51:17, 51:20, 55:25, 56:4, 58:17, 59:17, 59:20, 59:23, 59:25, 60:2, 60:4, 60:7, 60:8, 60:11, 60:13, 60:15, 60:16, 60:21, 60:25, 61:2, 61:3, 61:5, 61:7, 61:8, 61:10, 61:12, 61:14, 61:16, 61:18, 61:21, 61:23, 62:1, 62:3, 62:5, 62:6, 62:8, 62:10, 62:14, 62:16, 62:21, 62:23, 62:25, 63:8, 63:9, 63:10, 63:15, 63:17, 63:22, 63:23, 63:25, 64:1, 64:4, 75:7, 75:18, 75:20, 75:21, 75:23, 75:25, 76:2, 76:7, 78:10, 78:12, 81:13, 81:14, 82:17, 83:4, 83:6, 90:12, 90:14, 90:16, 91:12, 92:2, 94:17, 94:19, 94:20, 94:21, 97:25,</p>	<p>98:1, 98:8, 99:19, 100:1, 100:5, 101:22, 102:1, 102:3, 102:5, 102:7, 102:19, 102:21, 102:23, 103:4, 103:6, 104:5, 105:15, 105:17, 106:11, 106:14, 106:16, 106:18, 106:19, 106:21, 106:24, 106:25, 107:4, 107:7, 107:9, 107:15, 107:19, 107:21, 108:19, 108:24, 109:4, 109:6, 109:7, 109:8, 109:10, 109:12, 109:14, 109:17, 109:20, 109:22, 109:24, 110:1, 110:2, 110:4, 110:6, 110:9, 110:10, 110:15, 110:18, 110:20, 110:21, 110:23, 110:25, 111:2, 111:4, 111:6, 111:8, 111:9, 111:11, 111:12, 111:13, 111:16, 113:7, 113:10, 113:11, 115:12, 115:14, 115:20, 115:21, 115:23, 115:24, 115:25, 116:1, 116:2, 116:4, 116:6, 116:8, 116:10, 116:13, 116:16, 116:22, 116:24, 116:25, 117:2, 117:6, 117:7, 117:8, 117:12, 119:17, 120:1, 120:3, 120:13, 120:13, 120:17, 120:24, 121:13, 121:21, 121:23, 121:24, 122:2, 122:3, 122:8, 122:11, 122:13, 122:19, 125:25, 126:7, 126:10, 126:18, 126:24, 127:3, 127:5, 127:7, 127:8, 128:2</p> <p><b>MS</b> [2] - 127:20, 127:23</p>	<p><b>Mule</b> [2] - 89:23, 90:6</p> <p><b>multiplier</b> [1] - 121:6</p> <p><b>municipal</b> [8] - 68:5, 72:21, 73:1, 73:3, 73:9, 74:19, 92:18, 97:7</p> <p><b>municipalities</b> [2] - 11:2, 77:21</p> <p><b>municipality</b> [3] - 15:13, 65:10, 65:22</p> <p><b>MURPHY</b> [1] - 2:2</p> <p><b>Muslims</b> [1] - 85:3</p> <p><b>must</b> [1] - 21:5</p>	<p>29:24, 30:1, 35:4, 35:11, 117:20, 121:25, 122:18, 123:3, 127:17</p> <p><b>nexus</b> [1] - 81:6</p> <p><b>nice</b> [1] - 92:15</p> <p><b>night</b> [1] - 127:21</p> <p><b>nine</b> [35] - 104:18, 105:2, 105:4, 105:9, 106:4, 106:9, 107:6, 107:13, 108:3, 108:14, 108:20, 113:1, 113:4, 113:5, 113:16, 113:18, 113:24, 113:25, 114:10, 114:12, 114:17, 115:1, 116:17, 116:18, 116:20, 118:5, 118:6, 118:15, 118:16</p> <p><b>nine-five</b> [1] - 105:4</p> <p><b>narrow</b> [2] - 76:14, 79:20</p> <p><b>national</b> [1] - 14:19</p> <p><b>natural</b> [1] - 77:16</p> <p><b>naturally</b> [1] - 119:11</p> <p><b>nature</b> [3] - 8:13, 14:24, 48:2</p> <p><b>necessarily</b> [4] - 12:3, 80:22, 86:2, 121:15</p> <p><b>necessary</b> [2] - 38:23, 42:19</p> <p><b>need</b> [3] - 54:23, 54:24, 126:16</p> <p><b>needed</b> [2] - 53:19, 55:14</p> <p><b>neighborhood</b> [4] - 9:25, 13:3, 14:3, 80:23</p> <p><b>neutral</b> [1] - 11:21</p> <p><b>never</b> [17] - 11:24, 15:7, 15:9, 47:5, 47:7, 58:8, 74:13, 74:15, 100:15, 101:9, 101:11, 101:12, 114:15, 122:12, 124:8, 124:10, 125:22</p> <p><b>New</b> [4] - 2:3, 2:7, 5:13, 94:18</p> <p><b>new</b> [5] - 26:14, 34:1, 39:24</p> <p><b>next</b> [12] - 4:12, 29:8, 29:22,</p>
--	---	--	---	---	---

127:19, 127:23 <b>number</b> [28] - 8:16, 13:8, 19:18, 28:8, 72:13, 72:16, 74:5, 80:8, 81:7, 93:3, 94:11, 98:18, 103:14, 104:8, 105:9, 108:1, 108:3, 113:8, 114:22, 121:15, 123:5, 123:17, 123:23, 124:5, 124:6, 124:7 <b>NUMBER</b> [1] - 3:10 <b>numbers</b> [5] - 72:19, 98:3, 124:13, 125:22 <b>numerous</b> [2] - 78:3	94:2, 94:5 <b>officers</b> [1] - 50:22 <b>officials</b> [1] - 50:22 <b>old</b> [1] - 33:25 <b>once</b> [1] - 7:21 <b>one</b> [67] - 9:16, 9:22, 10:3, 10:22, 11:24, 13:1, 16:7, 16:10, 21:16, 22:23, 30:18, 34:17, 36:10, 38:19, 39:16, 41:7, 46:21, 49:14, 49:18, 56:20, 60:18, 65:11, 65:23, 72:12, 72:14, 76:15, 77:9, 81:19, 82:16, 82:17, 85:21, 88:6, 88:10, 91:25, 92:2, 96:1, 96:2, 97:9, 103:25, 104:3, 104:23, 104:24, 105:2, 105:8, 106:3, 107:2, 107:11, 108:3, 108:19, 113:5, 113:14, 114:11, 115:7, 117:16, 117:18, 118:5, 118:6, 118:10, 118:15, 118:16, 121:2, 121:5, 121:15, 122:4 <b>one-eight-thirty-six</b> [1] - 106:3 <b>one-eight-three-six</b> [3] - 104:24, 105:8, 107:11 <b>one-eighty</b> [1] - 107:2 <b>one-eighty-three</b> [1] - 104:3 <b>one-eighty-three-six</b> [5] - 103:25, 104:23, 115:7, 117:16, 118:10 <b>one-nine-five-five</b> [1] - 105:2 <b>one-nine-nine-five</b> [3] - 118:6, 118:15, 118:16 <b>one-ninety-nine-five</b> [2] - 108:3, 118:5	<b>one-oh-five</b> [1] - 108:19 <b>one-tenth</b> [1] - 72:14 <b>ones</b> [1] - 80:25 <b>open</b> [1] - 85:17 <b>opened</b> [1] - 63:18 <b>opinion</b> [14] - 14:24, 15:1, 15:17, 15:19, 15:23, 15:24, 17:4, 17:5, 60:23, 61:9, 61:13, 61:15 <b>opinions</b> [2] - 16:24, 59:19 <b>oral</b> [1] - 47:21 <b>order</b> [5] - 4:1, 84:4, 85:6, 104:25, 126:16 <b>Oris</b> [3] - 2:13, 18:3, 44:7 <b>Orthodox</b> [1] - 85:3 <b>Ortley</b> [2] - 78:21, 78:23 <b>ourselves</b> [1] - 126:5 <b>outcome</b> [1] - 58:24 <b>outline</b> [2] - 27:2, 27:5 <b>outside</b> [6] - 46:25, 84:5, 85:5, 85:7, 87:4, 88:7 <b>overall</b> [1] - 17:16 <b>own</b> [6] - 8:22, 9:1, 52:20, 58:2, 64:2, 68:7 <b>owner</b> [1] - 11:5 <b>Owners</b> [1] - 4:4 <b>owners</b> [1] - 102:9 <b>ownership</b> [1] - 76:9	35:4, 35:7, 35:12, 35:16, 36:10, 54:19, 80:1, 80:2, 80:6, 104:9 <b>page</b> [21] - 18:20, 22:6, 25:2, 25:11, 25:14, 28:8, 29:11, 29:16, 29:22, 29:24, 30:1, 30:15, 30:24, 31:1, 31:2, 31:3, 31:21, 31:22, 85:15, 104:5, 117:21 <b>PAGE</b> [2] - 3:2, 3:10 <b>pages</b> [16] - 18:15, 25:1, 25:3, 33:1, 33:2, 33:16, 33:17, 33:20, 33:22, 33:25, 36:23, 37:23, 38:11, 56:9 <b>paid</b> [9] - 6:6, 21:14, 21:19, 24:6, 24:8, 24:9, 95:8, 95:20 <b>pales</b> [1] - 119:10 <b>panel</b> [1] - 37:17 <b>Paper</b> [1] - 91:5 <b>Paragraph</b> [1] - 34:21 <b>paragraph</b> [2] - 29:8, 29:11 <b>paragraphs</b> [1] - 29:13 <b>Park</b> [60] - 4:4, 4:17, 13:11, 26:3, 34:4, 34:8, 34:22, 35:6, 35:16, 35:19, 36:12, 36:17, 39:25, 45:11, 57:15, 58:18, 59:4, 64:13, 65:8, 65:20, 68:4, 68:13, 68:14, 70:2, 71:7, 71:16, 71:23, 72:7, 74:4, 77:19, 77:20, 78:18, 80:6, 80:20, 81:12, 84:4, 84:5, 84:6, 84:11, 84:22, 84:23, 85:6,	85:7, 86:10, 86:16, 87:4, 87:21, 88:22, 89:9, 90:10, 92:10, 92:17, 97:14, 100:13, 101:1, 101:2, 101:3, 119:23, 120:4 <b>Park's</b> [1] - 34:25 <b>parks</b> [2] - 78:3, 78:4 <b>Parkway</b> [2] - 93:17, 93:18 <b>part</b> [11] - 10:1, 10:6, 13:4, 34:9, 52:12, 54:16, 68:3, 68:6, 71:1, 71:2, 100:25 <b>participate</b> [6] - 73:1, 73:7, 73:8, 73:15, 74:20, 100:24 <b>participated</b> [2] - 74:7, 74:10 <b>participating</b> [4] - 73:16, 73:21, 73:24, 74:1 <b>participation</b> [1] - 72:20 <b>particular</b> [9] - 20:11, 24:22, 35:19, 46:8, 67:22, 82:2, 82:3, 82:4, 86:5 <b>parties</b> [1] - 27:7 <b>passed</b> [1] - 15:9 <b>past</b> [2] - 62:7, 121:5 <b>paste</b> [1] - 26:24 <b>pastor</b> [1] - 86:23 <b>pay</b> [3] - 100:13, 110:13, 121:11 <b>people</b> [30] - 18:12, 22:14, 23:12, 44:9, 44:13, 45:22, 45:23, 45:24, 47:12, 68:3, 70:1, 70:23, 74:3, 77:18, 84:3, 85:4, 86:10, 87:3, 87:6, 87:17, 87:25, 88:17, 90:23, 92:17, 97:14, 100:13, 101:18, 102:3, 120:18 <b>per</b> [7] - 93:2,	94:9, 100:16, 104:20, 104:22, 121:22, 125:19 <b>perceived</b> [1] - 36:21 <b>percent</b> [6] - 63:11, 65:11, 65:23, 72:12, 72:15, 101:1 <b>percentage</b> [1] - 72:9 <b>perfect</b> [1] - 105:12 <b>perhaps</b> [3] - 83:1, 83:3, 100:10 <b>period</b> [3] - 113:6, 120:9, 121:19 <b>perpetual</b> [1] - 84:15 <b>personal</b> [2] - 8:22, 9:4 <b>personally</b> [1] - 9:3 <b>perspective</b> [1] - 97:19 <b>pertinent</b> [1] - 57:4 <b>Peters</b> [3] - 7:15, 7:23, 18:3 <b>petition</b> [5] - 4:5, 13:20, 35:20, 37:21, 115:10 <b>Petition</b> [2] - 34:22, 34:25 <b>petitioner</b> [2] - 11:14, 11:25 <b>Petitioner</b> [1] - 4:16 <b>Petitioners</b> [13] - 2:8, 45:25, 48:10, 48:18, 48:22, 48:25, 49:3, 50:8, 51:13, 55:16, 79:8, 81:19, 101:9 <b>petitioners</b> [1] - 10:14 <b>phone</b> [3] - 10:24, 77:5, 79:4 <b>photo</b> [2] - 81:18, 82:20 <b>Photograph</b> [5] - 3:15, 3:16, 3:17, 81:15, 82:18 <b>phrase</b> [1] - 11:21 <b>pick</b> [2] - 64:8, 64:9 <b>picked</b> [1] -
<b>O</b>	<b>O'MALLEY</b> [1] - 2:6 <b>oath</b> [3] - 21:20, 51:21, 101:14 <b>object</b> [3] - 49:6, 60:23, 63:17 <b>objected</b> [3] - 61:2, 61:3, 62:10 <b>objecting</b> [2] - 62:15, 63:15 <b>objection</b> [3] - 59:17, 62:11, 99:19 <b>observe</b> [1] - 14:2 <b>obviously</b> [1] - 11:19 <b>occur</b> [1] - 97:15 <b>occurred</b> [3] - 48:3, 58:13, 119:12 <b>occurs</b> [2] - 72:25, 122:6 <b>Ocean</b> [5] - 12:14, 64:13, 66:17, 88:4, 98:13 <b>ocean</b> [4] - 75:19, 78:7, 83:7, 83:11 <b>oceanfront</b> [2] - 82:21, 83:5 <b>OF</b> [1] - 3:2 <b>offered</b> [1] - 48:8 <b>office</b> [7] - 7:17, 52:5, 52:9, 52:11, 94:1,	<b>one-oh-five</b> [1] - 108:19 <b>one-tenth</b> [1] - 72:14 <b>ones</b> [1] - 80:25 <b>open</b> [1] - 85:17 <b>opened</b> [1] - 63:18 <b>opinion</b> [14] - 14:24, 15:1, 15:17, 15:19, 15:23, 15:24, 17:4, 17:5, 60:23, 61:9, 61:13, 61:15 <b>opinions</b> [2] - 16:24, 59:19 <b>oral</b> [1] - 47:21 <b>order</b> [5] - 4:1, 84:4, 85:6, 104:25, 126:16 <b>Oris</b> [3] - 2:13, 18:3, 44:7 <b>Orthodox</b> [1] - 85:3 <b>Ortley</b> [2] - 78:21, 78:23 <b>ourselves</b> [1] - 126:5 <b>outcome</b> [1] - 58:24 <b>outline</b> [2] - 27:2, 27:5 <b>outside</b> [6] - 46:25, 84:5, 85:5, 85:7, 87:4, 88:7 <b>overall</b> [1] - 17:16 <b>own</b> [6] - 8:22, 9:1, 52:20, 58:2, 64:2, 68:7 <b>owner</b> [1] - 11:5 <b>Owners</b> [1] - 4:4 <b>owners</b> [1] - 102:9 <b>ownership</b> [1] - 76:9	<b>P</b>		
		<b>p.m</b> [2] - 4:9, 128:5 <b>packaged</b> [1] - 6:9 <b>Page</b> [24] - 28:13, 28:15, 30:7, 31:5, 31:15, 31:17, 33:4, 33:7, 33:10, 34:15, 34:18, 34:19, 34:20,			

105:19 pickup [1] - 100:23 picture [1] - 82:3 pictures [1] - 79:8 Pieces [1] - 126:4 Pine [1] - 64:14 pipes [1] - 76:17 place [11] - 27:24, 27:25, 36:18, 37:24, 38:12, 40:2, 70:17, 85:20, 86:14, 87:1, 91:4 places [3] - 27:7, 88:1, 88:7 plan [1] - 45:12 Planner [1] - 2:13 planner [3] - 5:6, 14:16, 123:24 planners [1] - 16:9 Planning [7] - 7:11, 7:12, 7:13, 7:20, 21:23, 44:25, 47:13 planning [8] - 5:12, 6:18, 7:22, 41:12, 41:14, 41:24, 42:7, 46:4 Plaza [1] - 88:3 pleases [1] - 4:23 plus [3] - 93:17, 95:10, 121:7 Point [1] - 34:20 point [18] - 6:3, 48:21, 50:12, 55:9, 86:3, 86:9, 103:7, 110:3, 110:5, 110:6, 110:8, 110:10, 111:13, 118:23, 119:19, 120:14, 120:17, 121:16 points [1] - 127:10 police [5] - 50:24, 53:6, 54:23, 69:21, 103:13 Police [1] - 44:14 polygons [1] - 80:3 populate [1] - 71:16 population [2] - 72:1, 73:7 portion [2] - 45:14, 75:4 portions [1] -	64:12 position [2] - 72:25, 123:24, 124:1 possibly [5] - 4:20, 10:20, 20:20, 101:22, 101:23 post [3] - 94:1, 94:2, 94:5 postal [3] - 93:22, 93:24 potential [1] - 49:7 PP [1] - 3:3 predetermined [1] - 40:16 prejudge [1] - 42:4 premise [1] - 40:21 preparation [1] - 18:4 prepare [2] - 17:24, 40:16 prepared [6] - 17:23, 17:25, 18:9, 18:12, 18:13, 22:5 preparing [1] - 18:24 presence [1] - 54:23 PRESENT [1] - 2:11 present [1] - 51:6 presentation [1] - 34:11 presented [2] - 36:20, 36:21 presenting [1] - 120:3 President [2] - 7:16, 7:17 presumably [2] - 95:6, 98:6 pretty [9] - 6:14, 18:21, 18:22, 28:24, 29:2, 30:10, 31:16, 89:20, 108:15 previous [1] - 34:12 previously [4] - 4:13, 5:2, 20:1, 43:21 price [1] - 118:4 priced [3] - 106:12, 106:15, 117:19	primary [2] - 15:20 principally [1] - 73:17 printed [1] - 98:12 priority [1] - 45:17 private [3] - 8:16, 8:25, 11:5 problem [2] - 72:6, 90:23 Procedural [1] - 22:22 procedural [2] - 23:8, 23:15 proceed [1] - 4:24 proceeded [2] - 11:8, 11:9 Proceeding [1] - 22:24 proceedings [1] - 31:10 Proceedings [2] - 25:10, 25:13 process [11] - 5:14, 7:18, 7:20, 11:10, 14:6, 14:7, 23:18, 46:20, 47:14, 48:12, 100:4 produced [3] - 50:4, 50:7, 50:9 professional [3] - 14:16, 15:17, 51:11 professionals [3] - 21:12, 42:7, 47:13 proffered [1] - 48:9 project [5] - 19:16, 46:18, 48:5, 122:19, 122:20 projected [2] - 122:16, 122:17 projects [1] - 121:18 proof [3] - 56:17, 56:18, 74:17 proper [1] - 102:7 properties [3] - 80:8, 98:4, 107:16 property [3] - 11:5, 90:9, 102:9 protection [1] - 69:21 Protestant [1] - 85:9	Protestants [1] - 84:22 protests [2] - 103:19, 119:14 proven [1] - 122:12 provide [4] - 14:4, 14:6, 15:22, 16:3 provided [2] - 41:14, 50:14 public [5] - 8:10, 8:16, 9:7, 11:2, 101:2 published [1] - 56:12 pulling [1] - 71:11 purports [1] - 19:14 purpose [5] - 13:25, 52:25, 109:15, 110:8, 111:1 purposes [5] - 34:11, 107:22, 108:5, 122:16, 122:17 pursue [1] - 11:11 put [9] - 26:11, 36:11, 36:13, 37:16, 53:22, 53:24, 62:24, 63:1, 105:23 putting [2] - 25:25, 109:2	8:5, 8:10, 8:17, 18:3, 21:11, 21:13 raise [1] - 49:12 raised [5] - 48:22, 48:25, 49:3, 49:14, 60:19 range [2] - 95:25, 96:2 ratables [4] - 122:10, 122:15, 122:23, 123:3 rate [40] - 93:22, 93:24, 93:25, 94:3, 94:8, 94:24, 95:6, 95:19, 96:9, 98:5, 98:6, 98:17, 98:24, 100:8, 101:21, 103:19, 104:11, 104:22, 104:25, 105:1, 106:1, 107:6, 108:10, 110:14, 110:15, 110:18, 111:17, 112:3, 112:5, 112:11, 112:21, 115:6, 117:25, 118:5, 118:7, 118:25, 119:7, 122:21, 125:19 rate's [1] - 99:15 Rates [2] - 3:18, 98:9 rates [4] - 100:2, 101:20, 110:17, 126:23 read [18] - 19:18, 26:6, 30:9, 31:21, 38:3, 38:9, 38:10, 38:14, 41:11, 43:21, 45:19, 53:2, 58:8, 58:16, 59:15, 69:4, 71:13, 77:25 real [4] - 39:24, 66:21, 79:11, 96:14 realistic [1] - 122:1 reality [1] - 120:7 really [9] - 21:19, 44:21, 68:21, 76:13, 78:23, 79:14, 80:13, 82:8, 123:18 Realty [1] - 91:2	reason [5] - 43:5, 52:18, 87:1, 98:20, 101:15 reasonable [6] - 21:18, 74:18, 87:17, 88:12, 88:15, 101:15 reasons [1] - 76:15 reassessment [6] - 99:17, 106:20, 106:22, 107:12, 108:9, 118:12 receive [3] - 52:3, 52:4, 121:7 received [4] - 42:12, 52:1, 52:5, 121:4 recent [1] - 45:8 recently [1] - 6:24 recess [1] - 4:8 recollection [3] - 50:7, 80:11, 89:1 recommendatio n [2] - 17:14, 17:17 recommendatio ns [3] - 17:7, 17:11, 17:14 recommended [1] - 40:10 record [17] - 41:16, 42:13, 42:17, 42:20, 43:6, 46:6, 47:1, 53:22, 61:4, 61:6, 62:11, 62:12, 62:24, 63:1, 63:7, 64:5, 94:17 recover [2] - 125:2, 125:13 recreation [3] - 76:14, 76:16, 77:17 rectangles [1] - 80:3 recycling [1] - 100:22 redevelopment [1] - 6:19 redirect [3] - 56:1, 56:5, 127:14 reduce [1] - 122:24 reduced [1] - 103:14 Reese's [1] - 126:4
<b>Q</b>					
qualified [11] - 15:2, 15:16, 15:19, 15:21, 15:25, 16:24, 59:24, 60:1, 61:24, 62:2, 62:17 quantify [1] - 37:19 questionable [1] - 124:23 questions [6] - 21:21, 37:11, 43:7, 63:21, 109:21, 127:16 quickly [1] - 66:21 quit [1] - 127:2 quite [1] - 67:20					
<b>R</b>					
R&V [11] - 6:8, 6:10, 7:17, 8:2,					

refer [1] - 34:14	65:5, 65:12,	28:16, 31:3,	11:19, 12:6	59:8, 64:14,	se [1] - 100:16
reference [2] -	65:14, 67:3,	31:6, 31:12,	required [3] -	65:1, 65:2, 65:3,	Sea [1] - 10:1
56:20, 119:25	67:5, 67:9,	32:17, 33:6,	17:18, 45:17,	65:4, 65:21,	search [2] -
referenced [3] -	67:14, 67:16,	33:25, 34:1,	103:1	85:25, 86:15,	57:25, 58:1
12:22, 19:16,	67:19, 67:21,	34:12, 34:13,	research [1] -	86:21, 88:4,	Seaside [71] - 4:4,
46:16	68:3, 68:15,	34:14, 34:21,	15:20	119:23	4:17, 13:11,
referencing [1] -	68:18, 68:23,	35:5, 35:13,	resident [2] -	road [1] - 62:4	26:3, 34:4, 34:7,
45:21	69:1, 69:2, 69:5,	35:25, 36:3,	97:25, 98:1	Road [3] - 2:3,	34:22, 34:25,
referred [1] -	69:7, 69:9,	36:8, 36:9,	residents [6] -	89:23, 90:6	35:6, 35:16,
118:8	69:10, 69:13,	36:24, 37:23,	71:7, 71:16,	Robert [2] -	35:19, 36:12,
referring [3] -	69:16, 69:19,	38:18, 39:3,	78:6, 97:23,	81:19, 82:20	36:17, 39:25,
34:16, 85:23,	69:21, 69:24,	39:12, 39:19,	100:7, 101:24	rocks [2] - 76:18,	45:11, 57:15,
104:6	70:3, 70:6, 70:9,	39:21, 40:5,	respect [1] -	76:19	58:18, 59:4,
refute [4] - 45:16,	70:11, 70:20,	40:16, 41:20,	60:22	Rodney [6] - 44:4,	64:13, 65:8,
45:25, 51:13,	71:4, 71:7,	42:14, 42:15,	responded [1] -	45:7, 54:1, 54:4,	65:20, 68:4,
55:15	71:12, 71:17,	56:8, 56:9,	51:22	54:5	68:13, 68:14,
refuted [1] - 48:18	71:18, 71:20,	59:21, 60:5,	response [1] -	Rogers [1] - 89:17	70:2, 71:7,
regard [4] - 37:21,	72:22, 120:1,	60:6, 60:12,	49:2	role [3] - 10:11,	71:16, 71:23,
56:16, 56:18,	125:9, 125:11	60:14, 60:18,	responsibilities	41:11, 41:12	72:7, 74:4,
117:17	rely [4] - 89:6,	63:4, 63:5,	[1] - 51:11	roles [1] - 47:14	77:19, 77:20,
regarding [2] -	123:18, 123:22,	63:12, 63:13,	rest [4] - 80:5,	ROSI [1] - 77:14	78:9, 78:14,
41:11, 43:13	124:15	64:23, 65:2,	80:19, 81:11,	rough [1] - 93:6	78:15, 78:18,
regards [1] - 5:23	rem [1] - 81:8	66:8, 68:7, 69:1,	81:12	roughly [4] - 5:21,	80:6, 80:20,
regional [1] - 6:18	remains [2] -	69:3, 69:22,	restaurant [1] -	13:19, 96:5,	81:12, 84:4,
Register [2] -	108:7, 108:8	69:23, 70:3,	89:14	101:1	84:5, 84:6,
83:18, 83:23	remember [10] -	70:4, 70:7,	Restaurant [1] -	rounded [1] -	84:11, 84:22,
reid [1] - 49:22	13:12, 45:2,	70:10, 70:12,	91:14	113:1	84:23, 85:5,
Reid [5] - 43:24,	72:19, 80:8,	71:2, 71:9,	restraints [1] -	roundtrip [2] -	85:7, 86:10,
49:17, 49:24,	80:14, 88:24,	71:10, 71:12,	21:22	87:18, 93:16	86:16, 87:3,
50:1, 50:2	93:3, 100:11,	78:11, 80:2,	result [8] - 40:16,	Route [1] - 92:11	87:21, 88:1,
reimbursed [2] -	108:2, 125:3	85:17, 88:25,	70:24, 97:24,	RR [1] - 6:10	88:5, 88:7,
96:4, 96:8	Remington [20] -	89:5, 89:7,	100:8, 101:20,		88:22, 89:9,
reimbursement	3:12, 5:15, 5:24,	92:22, 93:8,	103:19, 118:24,	<b>S</b>	90:10, 92:10,
[6] - 93:22,	6:3, 6:5, 6:6,	104:1, 123:12,	125:19	sake [2] - 19:14,	92:17, 97:14,
93:24, 94:3,	6:11, 6:23, 7:3,	123:14, 123:15,	retain [1] - 78:3	107:25	100:13, 100:25,
95:10, 95:11,	8:6, 8:9, 8:21,	124:9, 126:15	retained [1] - 40:5	salary [1] - 21:7	101:2, 119:23,
95:19	9:1, 9:11, 11:12,	Report [2] - 3:13,	retains [1] - 78:2	Sandbar [1] -	120:4
relate [1] - 37:20	12:7, 19:10,	27:17	retrieve [1] -	89:17	Seaview [13] -
related [7] - 22:7,	19:13, 19:21,	Reporter [1] -	52:11	Sands [4] - 70:17,	3:13, 13:5,
22:10, 23:7,	27:21	26:7	retrieving [1] -	70:18, 70:24,	26:20, 27:17,
26:1, 26:11,	render [1] - 42:14	reports [9] - 27:5,	52:14	78:2	27:22, 31:6,
49:2	rendered [4] -	31:20, 33:15,	review [7] - 15:21,	Sandy [1] - 99:23	31:11, 33:3,
relation [4] - 6:25,	20:16, 28:17,	40:9, 40:19,	24:18, 45:13,	Santander [1] -	36:1, 36:11,
34:3, 34:7,	57:12, 59:8	123:19, 124:16,	51:5, 51:7,	92:4	38:19, 56:9
93:21	repair [1] - 91:10	124:17	126:20	second [13] -	10:3, 19:24,
relationship [1] -	rephrase [1] -	represent [5] -	reviewed [2] -	20:5, 29:19,	32:1, 32:23,
5:22	26:4	10:13, 98:12,	22:17, 59:3	29:22, 86:23,	79:22, 86:23,
relative [2] -	report [102] - 17:8,	99:16, 101:1,	Reviewing [17] -	95:24, 113:15,	95:24, 113:15,
39:25, 69:2	17:23, 17:24,	123:6	19:25, 20:10,	123:15, 128:3,	128:4
relatively [2] -	17:25, 18:4,	representation	25:18, 28:13,	Secretary [1] -	2:12
6:24, 8:17	18:10, 18:12,	[2] - 52:4, 52:17	32:24, 43:22,	23:23, 24:13,	24:22, 24:24,
relevance [6] -	18:15, 18:24,	representative [5]	66:9, 66:20,	25:24, 26:2,	
34:21, 35:6,	22:6, 22:7,	- 18:1, 82:5,	80:1, 93:12,		
35:15, 35:19,	22:10, 22:12,	82:8, 82:11,	95:23, 99:1,		
70:8, 120:4	22:18, 22:21,	82:12	104:3, 104:17,		
relevant [49] -	25:12, 25:16,	representatives	105:4, 106:2,		
56:25, 58:11,	26:13, 26:18,	[1] - 50:23	117:22		
58:15, 59:16,	26:19, 27:21,	represented [1] -	reviewing [2] -		
60:20, 61:19,	27:25, 28:2,	20:2	33:13, 66:15		
64:18, 65:1,	28:7, 28:12,	representing [2] -	River [16] - 2:3,		

28:7, 30:3, 30:22, 31:23, 34:11, 37:18, 37:21, 39:23, 40:1, 50:25, 53:4, 53:7, 57:1, 80:19	116:19 <b>seventeen</b> [1] - 33:19 <b>seventh</b> [1] - 127:20 <b>seventy</b> [3] - 113:4, 113:5, 114:10 <b>several</b> [8] - 36:7, 44:9, 44:12, 45:22, 45:23, 83:7, 87:5, 119:12 <b>shop</b> [4] - 70:5, 87:25, 88:2, 91:11 <b>shopping</b> [5] - 88:3, 88:4, 88:10, 100:15, 100:16 <b>Shopping</b> [1] - 88:3 <b>shoreline</b> [2] - 76:13, 77:16 <b>show</b> [9] - 19:12, 19:15, 27:19, 43:20, 46:9, 58:22, 75:2, 81:17, 98:11 <b>showing</b> [2] - 120:5, 121:16 <b>shown</b> [2] - 20:17, 83:13 <b>shows</b> [9] - 75:3, 75:4, 76:16, 76:25, 80:2, 80:7, 80:8, 82:23 <b>shut</b> [1] - 92:1 <b>sic</b> [3] - 68:4, 101:1, 112:18 <b>side</b> [4] - 16:7, 16:8, 16:11 <b>sided</b> [1] - 32:24 <b>signers</b> [1] - 4:17 <b>significant</b> [4] - 97:23, 100:6, 108:15, 117:11 <b>significantly</b> [1] - 90:2 <b>similar</b> [4] - 6:20, 6:22, 10:10, 10:11 <b>similarly</b> [2] - 15:4, 15:11 <b>simply</b> [6] - 19:22, 36:18, 40:2, 80:18, 90:24, 94:25 <b>single</b> [4] - 79:19,	80:9, 102:20 <b>single-story</b> [2] - 79:19, 80:9 <b>sits</b> [1] - 44:15 <b>sitting</b> [1] - 72:18 <b>situation</b> [6] - 27:10, 27:12, 38:23, 76:10, 76:11 <b>six</b> [24] - 103:25, 104:4, 104:23, 104:24, 105:8, 106:3, 106:4, 106:9, 107:3, 107:11, 107:13, 108:14, 112:4, 112:23, 113:16, 113:18, 113:24, 113:25, 114:17, 115:7, 115:16, 115:24, 117:16, 118:10 <b>six-five</b> [1] - 113:18 <b>sixty</b> [3] - 113:1, 113:5, 114:12 <b>sixty-one</b> [1] - 113:5 <b>size</b> [5] - 67:2, 76:18, 80:15, 80:17, 82:15 <b>Slachetka</b> [6] - 16:7, 16:11, 21:15, 44:8, 88:19, 88:21 <b>Slachetka's</b> [1] - 89:6 <b>small</b> [8] - 66:25, 67:1, 72:2, 72:11, 81:7, 82:23, 89:12 <b>snapshot</b> [1] - 87:15 <b>social</b> [1] - 84:2 <b>softball</b> [1] - 76:18 <b>softball-size</b> [1] - 76:18 <b>solely</b> [1] - 24:16 <b>solicitor</b> [1] - 49:19 <b>someone</b> [1] - 50:15 <b>Sophia</b> [1] - 44:19 <b>sorry</b> [19] - 13:2, 25:18, 26:4, 28:16, 31:3, 32:25, 59:7, 69:8, 72:4, 94:2, 94:5, 94:8, 96:7,	105:25, 106:18, 112:13, 112:20, 113:20 <b>sort</b> [1] - 81:2 <b>sought</b> [1] - 66:3 <b>sound</b> [1] - 38:1 <b>South</b> [51] - 4:4, 4:17, 13:11, 26:3, 34:3, 34:7, 34:22, 34:25, 35:6, 35:15, 35:19, 36:12, 36:17, 39:25, 45:11, 57:14, 58:18, 64:14, 65:8, 65:19, 68:4, 68:13, 70:2, 71:7, 71:16, 71:23, 72:7, 74:4, 77:18, 78:14, 80:6, 80:20, 81:12, 84:4, 84:5, 84:6, 84:21, 85:5, 86:10, 87:3, 87:20, 88:22, 89:9, 90:9, 92:10, 92:17, 97:14, 100:13, 100:25, 101:2 <b>south</b> [3] - 13:7, 65:12, 65:24 <b>speaking</b> [2] - 32:2, 100:20 <b>specialy</b> [3] - 10:16, 12:14, 54:13 <b>specific</b> [6] - 17:14, 20:25, 23:7, 25:24, 26:2, 91:18 <b>specifically</b> [6] - 19:16, 26:2, 51:12, 65:17, 68:21, 89:25, 117:17, 122:24 <b>spend</b> [3] - 24:19, 24:24, 39:20 <b>spent</b> [12] - 19:6, 19:20, 20:21, 22:20, 23:1, 25:4, 25:6, 25:24, 25:25, 37:17, 37:19 <b>square</b> [6] - 65:9, 65:10, 65:21, 65:22, 66:10, 66:14, 66:15, 66:23	<b>Sr</b> [1] - 57:13 <b>St</b> [2] - 84:12, 84:21 <b>stacked</b> [1] - 119:4 <b>Stan</b> [2] - 44:7, 45:7 <b>Stan's</b> [1] - 89:17 <b>standard</b> [1] - 62:13 <b>standards</b> [7] - 22:23, 23:8, 24:14, 24:15, 30:13, 60:10, 62:19 <b>Standards</b> [6] - 28:7, 28:13, 30:7, 37:18, 37:22, 38:20 <b>standpoint</b> [2] - 14:25, 97:15 <b>start</b> [2] - 31:18, 34:19 <b>started</b> [2] - 4:11, 125:20 <b>starting</b> [1] - 117:3 <b>starts</b> [2] - 33:4, 33:7 <b>State</b> [1] - 94:17 <b>statement</b> [4] - 39:6, 39:10, 39:13, 41:17 <b>statements</b> [1] - 28:22 <b>statistic</b> [1] - 90:4 <b>statute</b> [5] - 41:15, 46:5, 56:16, 56:17, 102:19 <b>statutory</b> [3] - 30:13, 30:16, 31:13 <b>stay</b> [3] - 6:1, 122:5, 122:8 <b>stayed</b> [1] - 99:15 <b>stays</b> [4] - 107:23, 110:12, 115:5, 121:14 <b>steady</b> [1] - 121:14 <b>still</b> [5] - 26:9, 78:2, 78:3, 118:22, 119:21 <b>stipulate</b> [2] - 30:10, 92:8 <b>stopping</b> [1] - 63:22 <b>store</b> [1] - 88:16 <b>stores</b> [3] - 89:13,	90:22 <b>story</b> [8] - 79:19, 80:9, 80:10, 80:11, 80:12, 83:8, 83:11, 83:14 <b>strategy</b> [1] - 45:14 <b>Strathmere</b> [3] - 9:24, 12:25, 41:5 <b>street</b> [1] - 90:18 <b>streets</b> [1] - 65:18 <b>strenuously</b> [1] - 61:5 <b>Stuart</b> [3] - 2:13, 4:20, 45:7 <b>STUART</b> [1] - 3:3 <b>stuff</b> [2] - 76:17, 127:9 <b>subconsultant</b> [1] - 6:3 <b>subject</b> [4] - 11:20, 50:24, 51:11, 98:6 <b>submit</b> [3] - 6:5, 6:8, 6:10 <b>submitted</b> [3] - 6:5, 15:22, 98:3 <b>Subs</b> [1] - 89:17 <b>substantial</b> [2] - 22:6, 82:14 <b>substantially</b> [4] - 28:19, 28:22, 30:5, 30:6 <b>subtract</b> [1] - 113:16 <b>successfully</b> [1] - 72:7 <b>successive</b> [1] - 57:4 <b>suffer</b> [1] - 101:19 <b>suffered</b> [2] - 97:23, 100:7 <b>suggesting</b> [2] - 37:9, 37:13 <b>suggestions</b> [1] - 53:21 <b>suitable</b> [1] - 76:24 <b>suited</b> [1] - 48:11 <b>summary</b> [1] - 22:24 <b>Summary</b> [1] - 25:20 <b>summer</b> [3] - 68:8, 68:9, 87:18 <b>Superior</b> [1] - 59:7
--	--	--	--	--	---

<p><b>supplement</b> [2] - 42:19, 42:21</p> <p><b>supplementing</b> [1] - 42:24</p> <p><b>suppose</b> [5] - 20:18, 20:22, 22:9, 48:1, 54:1</p> <p><b>supposed</b> [2] - 42:15, 43:6</p> <p><b>Supreme</b> [3] - 41:1, 56:12</p> <p><b>SURMAN</b> [1] - 2:6</p> <p><b>surveying</b> [1] - 5:11</p> <p><b>suspect</b> [2] - 124:20, 124:22</p> <p><b>SW</b> [1] - 52:22</p> <p><b>swear</b> [1] - 12:4</p> <p><b>swing</b> [1] - 120:22</p> <p><b>sworn</b> [1] - 5:2</p> <p><b>synagogue</b> [2] - 86:5, 86:7</p> <p><b>synopsis</b> [2] - 22:23, 25:12</p> <p><b>Synopsis</b> [1] - 25:9</p>	<p>120:6, 121:3, 121:6, 121:10, 121:14, 122:25, 125:18, 126:22</p> <p><b>taxed</b> [2] - 118:11, 118:13</p> <p><b>taxes</b> [17] - 99:14, 99:17, 100:8, 100:13, 101:4, 103:23, 104:14, 104:19, 107:5, 108:25, 109:1, 110:22, 112:24, 113:6, 115:8, 118:18, 121:18</p> <p><b>taxpayers</b> [1] - 124:3</p> <p><b>Taxpayers</b> [1] - 58:19</p> <p><b>tear</b> [4] - 94:25, 95:18, 96:15, 97:1</p> <p><b>template</b> [1] - 38:21</p> <p><b>ten</b> [2] - 24:24, 97:8</p> <p><b>tenth</b> [1] - 72:14</p> <p><b>tenths</b> [2] - 65:9, 65:21</p> <p><b>terms</b> [12] - 68:10, 70:2, 71:8, 71:9, 71:10, 71:12, 72:2, 75:16, 77:7, 78:16, 89:10, 115:6</p> <p><b>testified</b> [36] - 5:2, 14:18, 14:20, 39:16, 48:18, 51:8, 59:21, 60:25, 63:4, 64:22, 70:8, 70:14, 73:15, 73:17, 74:9, 79:3, 79:25, 81:20, 88:2, 88:21, 100:10, 100:15, 100:18, 100:21, 100:22, 100:23, 100:24, 101:9, 103:23, 104:10, 116:11, 116:12, 117:16, 122:15, 123:7</p> <p><b>testify</b> [15] - 53:7, 53:19, 55:14, 55:17, 59:24, 60:22, 87:6, 87:7, 87:25, 88:8, 101:23, 120:12, 123:2,</p>	<p>123:9</p> <p><b>testifying</b> [6] - 32:8, 59:18, 60:23, 62:12, 63:16, 119:2</p> <p><b>testimonies</b> [1] - 123:15</p> <p><b>testimony</b> [42] - 14:5, 14:7, 26:10, 32:9, 39:15, 42:17, 45:16, 45:17, 45:25, 48:7, 48:8, 48:9, 48:17, 49:2, 50:8, 51:13, 51:23, 53:1, 55:4, 55:15, 60:9, 62:19, 63:19, 64:24, 67:12, 76:12, 77:15, 77:23, 79:7, 83:19, 87:24, 88:24, 103:8, 103:15, 104:2, 108:2, 124:10, 124:21, 124:25, 125:4, 125:15</p> <p><b>tests</b> [1] - 17:18</p> <p><b>text</b> [3] - 18:20, 47:10, 47:16</p> <p><b>THE</b> [16] - 31:1, 31:5, 55:24, 56:2, 56:6, 104:7, 113:9, 113:13, 116:18, 117:1, 127:2, 127:11, 127:13, 127:17, 127:22, 127:24</p> <p><b>therefore</b> [2] - 71:25, 87:16</p> <p><b>thereof</b> [1] - 65:23</p> <p><b>they've</b> [1] - 11:24</p> <p><b>thinks</b> [2] - 60:19, 61:19</p> <p><b>third</b> [4] - 9:19, 9:20, 29:10, 66:23</p> <p><b>thirty</b> [22] - 33:21, 33:22, 94:19, 104:18, 106:3, 108:14, 108:20, 111:21, 112:4, 112:10, 112:15, 112:16, 112:23, 113:1, 113:5, 113:16, 113:17, 113:24, 113:25,</p>	<p>114:2, 116:20</p> <p><b>Thirty</b> [1] - 113:4</p> <p><b>thirty-eight-</b></p> <p><b>twenty-five</b> [4] - 112:10, 112:15, 113:17, 114:2</p> <p><b>thirty-five</b> [1] - 94:19</p> <p><b>thirty-five-eighty-nine</b> [4] - 104:18, 108:14, 108:20, 116:20</p> <p><b>Thirty-nine-seventy-eight</b> [1] - 113:4</p> <p><b>thirty-nine-seventy-eight</b> [1] - 113:5</p> <p><b>thirty-nine-six-five</b> [3] - 113:16, 113:24, 113:25</p> <p><b>thirty-nine-sixty-five</b> [1] - 113:1</p> <p><b>thirty-seven</b> [3] - 33:21, 33:22, 111:21</p> <p><b>thirty-seven-ninety-eight</b> [1] - 112:16</p> <p><b>thirty-six-nine-four</b> [1] - 108:14</p> <p><b>thoughts</b> [1] - 53:3</p> <p><b>thousand</b> [2] - 39:17, 39:18</p> <p><b>thousands</b> [3] - 38:24, 39:11, 126:3</p> <p><b>three</b> [43] - 13:13, 13:16, 13:18, 13:24, 14:1, 20:15, 39:10, 65:9, 65:21, 74:8, 74:9, 74:20, 97:7, 103:25, 104:3, 104:23, 104:24, 105:8, 105:9, 106:4, 106:9, 107:3, 107:6, 107:11, 107:13, 113:18, 113:19, 114:1, 114:10, 114:12, 114:13, 114:17, 115:1, 115:7, 116:15, 116:17, 116:18, 117:16, 118:10, 118:17</p> <p><b>three-eight-</b></p>	<p><b>twenty-five</b> [1] - 114:1</p> <p><b>three-eight-two-five</b> [2] - 113:19, 114:13</p> <p><b>three-eighty-nine</b> [1] - 116:17</p> <p><b>three-five-eight-nine</b> [3] - 105:9, 107:6, 115:1</p> <p><b>three-nine</b> [1] - 116:18</p> <p><b>three-nine-seven-eight</b> [2] - 114:17, 115:1</p> <p><b>three-nine-seventy-eight</b> [1] - 114:10</p> <p><b>three-nine-six-five</b> [1] - 114:17</p> <p><b>three-nine-sixty-five</b> [1] - 114:12</p> <p><b>three-nine-two-five</b> [1] - 113:18</p> <p><b>three-six</b> [1] - 107:3</p> <p><b>three-six-nine-four</b> [3] - 106:4, 106:9, 107:13</p> <p><b>three-something</b> [1] - 116:15</p> <p><b>three-tenths</b> [2] - 65:9, 65:21</p> <p><b>Thursday</b> [1] - 127:21</p> <p><b>tideland</b> [1] - 76:10</p> <p><b>Tinton</b> [1] - 35:12</p> <p><b>tiny</b> [1] - 80:3</p> <p><b>today</b> [2] - 58:6, 59:16</p> <p><b>together</b> [4] - 25:25, 37:16, 47:13, 81:8</p> <p><b>toff</b> [2] - 93:18, 93:19</p> <p><b>Tom</b> [1] - 44:23</p> <p><b>tomorrow</b> [1] - 126:6</p> <p><b>Toms</b> [15] - 59:8, 64:14, 85:1, 85:2, 85:3, 85:4, 85:21, 85:25, 86:15, 86:21, 88:4, 119:23</p> <p><b>tonight</b> [4] - 4:18, 4:20, 4:21, 64:3</p> <p><b>took</b> [6] - 23:25, 24:2, 26:9, 26:19, 118:3,</p>	<p>118:4</p> <p><b>top</b> [4] - 114:21, 119:5, 121:1, 121:25</p> <p><b>topic</b> [1] - 26:11</p> <p><b>total</b> [5] - 20:3, 65:10, 74:4, 90:9, 104:18</p> <p><b>totally</b> [2] - 11:21,</p> <p><b>touch</b> [2] - 127:3, 127:6</p> <p><b>towards</b> [1] - 33:14</p> <p><b>town</b> [8] - 11:19, 36:24, 88:22, 99:22, 103:2, 103:9, 103:18, 122:9</p> <p><b>towns</b> [2] - 8:12, 9:7</p> <p><b>township</b> [10] - 41:12, 41:22, 42:1, 50:22, 66:9, 69:13, 78:5, 80:20, 88:24, 98:5</p> <p><b>Township</b> [69] - 9:23, 9:24, 9:25, 10:5, 12:17, 12:19, 12:23, 13:4, 21:11, 28:1, 28:4, 36:13, 37:10, 37:14, 41:5, 43:13, 43:25, 44:13, 44:14, 44:15, 45:12, 45:14, 45:18, 45:23, 45:24, 47:12, 48:15, 49:19, 50:16, 50:20, 51:6, 54:10, 54:11, 54:14, 54:16, 54:18, 55:10, 55:12, 55:13, 57:2, 58:19, 59:11, 64:11, 68:7, 70:24, 72:1, 72:9, 78:7, 80:24, 85:12, 85:14, 97:23, 98:18, 100:7, 102:4, 108:25, 109:3, 109:13, 110:15, 110:19, 120:18, 124:4, 125:1, 125:2</p> <p><b>Township's</b> [4] -</p>
--	---	---	---	--	--

T

**T&M** [1] - 18:6

**Table** [2] - 25:15, 25:17

**takeaways** [1] - 36:21

**talks** [7] - 49:9, 53:5, 72:20, 74:22, 78:1, 78:2, 78:6

**tavern** [2] - 89:14

**Tax** [3] - 3:18, 98:9, 98:13

**tax** [48] - 80:2, 97:24, 98:4, 98:6, 98:17, 100:2, 100:8, 100:14, 100:16, 101:9, 101:19, 101:21, 101:25, 103:19, 104:11, 104:18, 104:25, 105:14, 105:16, 105:22, 107:12, 108:9, 109:12, 109:15, 110:8, 110:11, 110:13, 110:24, 110:25, 111:1, 111:5, 111:6, 111:20, 117:25, 118:5, 118:7, 118:17, 118:25, 119:22,

41:2, 44:5, 49:1, 49:2	32:24	108:13, 109:1, 109:2, 110:14, 110:16, 110:17, 111:19, 111:22, 111:23, 113:12, 115:8, 115:9, 116:14, 119:20, 121:15, 121:19, 124:12, 126:7	walking (1) - 74:20	127:11, 127:13, 127:17, 127:22, 127:24	59:10, 73:17, 75:15, 77:6, 79:7, 81:10, 98:18, 103:10, 109:13, 115:16, 115:17, 115:21, 115:23, 116:3, 117:24, 119:12, 120:19, 120:25, 121:5, 121:20, 122:18, 123:4, 125:2, 125:13, 125:16
<b>township-wide</b> (1) - 78:5	<b>two-story</b> (2) - 83:11, 83:14		<b>watch</b> (2) - 91:10, 105:6	<b>Witness</b> (1) - 85:24	98:18, 103:10, 109:13, 115:16, 115:17, 115:21, 115:23, 116:3, 117:24, 119:12, 120:19, 120:25, 121:5, 121:20, 122:18, 123:4, 125:2, 125:13, 125:16
<b>traffic</b> (1) - 68:9	<b>two-year</b> (1) - 120:9		<b>water</b> (2) - 66:11, 66:15	<b>witnesses</b> (8) - 45:17, 50:17, 55:10, 55:13, 55:19, 69:15, 69:18	yup (3) - 56:14, 92:21, 106:9
<b>transcript</b> (1) - 51:23	<b>type</b> (1) - 6:20		<b>wear</b> (4) - 94:25, 95:18, 96:15, 97:1	<b>Witnesses</b> (1) - 85:20	
<b>transcripts</b> (6) - 50:4, 50:5, 50:6, 50:15, 50:23, 52:22	<b>types</b> (2) - 96:22, 120:19		<b>website</b> (1) - 98:13	<b>wondering</b> (1) - 119:19	
<b>transfer</b> (1) - 5:19	<b>U</b>	<b>Upper</b> (4) - 9:22, 9:24, 9:25, 41:4	<b>weigh</b> (2) - 16:1, 16:24	<b>Woolley</b> (1) - 16:10	
<b>transferred</b> (2) - 6:25, 64:12	<b>Uh-hum</b> (1) - 8:8	<b>uprising</b> (1) - 103:19	<b>West</b> (2) - 2:3, 34:20	<b>Woolley-Dillon</b> (1) - 16:10	
<b>travel</b> (5) - 68:12, 94:12, 96:19, 96:22, 96:23	<b>uh-hum</b> (8) - 34:23, 35:8, 35:14, 54:3, 55:2, 92:25, 98:19, 112:2	<b>V</b>	<b>Whale</b> (1) - 9:24	<b>word</b> (8) - 27:6, 27:11, 27:12, 30:9, 81:3, 84:15, 98:22	<b>zoning</b> (1) - 7:23
<b>traveling</b> (1) - 78:16	<b>ULAKY</b> (1) - 2:2	<b>valuable</b> (1) - 97:3	<b>whatsoever</b> (2) - 9:5, 39:13	<b>words</b> (6) - 29:14, 42:14, 47:3, 53:22, 53:24, 93:25	<b>Zoning</b> (1) - 74:1
<b>tremendous</b> (2) - 97:13, 97:18	<b>unbiased</b> (5) - 41:16, 46:3, 46:6, 47:16, 50:20	<b>value</b> (15) - 97:3, 99:22, 107:15, 107:17, 107:23, 108:6, 108:8, 110:13, 115:6, 115:8, 115:11, 118:11, 118:12, 118:14, 120:21	<b>White</b> (4) - 70:17, 70:18, 70:24, 78:1	<b>works</b> (3) - 6:7, 54:10, 114:24	
<b>trial</b> (1) - 56:11	<b>uncalled</b> (2) - 51:18, 51:20	<b>various</b> (5) - 14:4, 50:22, 64:12, 85:4, 123:15	<b>Whiteman</b> (2) - 57:13, 57:14	<b>worship</b> (8) - 70:2, 84:25, 85:6, 86:11, 87:2, 87:5, 87:8, 87:22	
<b>tried</b> (4) - 40:24, 40:25, 65:3	<b>under</b> (6) - 18:13, 21:20, 40:21, 51:21, 63:20, 101:13	<b>vast</b> (3) - 7:4, 8:4, 8:9	<b>Whole</b> (3) - 88:16, 88:18, 88:20	<b>worth</b> (1) - 15:24	
<b>trip</b> (3) - 93:2, 95:9, 95:19	<b>understood</b> (1) - 92:20	<b>vehicle</b> (3) - 94:25, 95:18, 97:2	<b>whole</b> (8) - 38:9, 38:14, 52:21, 54:20, 70:16, 100:4, 101:4, 101:6	<b>wow</b> (1) - 105:13	
<b>true</b> (9) - 8:23, 36:14, 37:25, 63:8, 63:11, 78:13, 122:12, 122:23, 125:6	<b>undeveloped</b> (1) - 69:13	<b>Vena</b> (1) - 8:6	<b>wide</b> (1) - 78:5	<b>wrap</b> (2) - 119:19, 126:7	
<b>truth</b> (5) - 51:15, 51:16, 51:19, 101:13, 101:16	<b>Union</b> (2) - 84:24, 87:6	<b>Vernick</b> (20) - 3:12, 5:16, 5:24, 6:3, 6:5, 6:6, 6:12, 6:24, 7:3, 8:6, 8:9, 8:21, 9:1, 9:12, 11:13, 12:7, 19:10, 19:13, 19:21, 27:22	<b>wife</b> (1) - 44:20	<b>write</b> (2) - 47:10, 47:16	
<b>try</b> (5) - 26:8, 33:11, 33:13, 105:2, 114:6	<b>unique</b> (13) - 79:19, 79:20, 79:23, 80:16, 80:22, 81:2, 82:1, 82:3, 82:7, 83:10, 83:15	<b>Vice</b> (2) - 7:16, 7:17	<b>WINWARD</b> (22) - 4:3, 4:10, 4:25, 30:14, 90:15, 119:16, 119:18, 120:2, 120:11, 120:15, 125:23, 126:1, 126:8, 126:13, 126:22, 126:25, 127:12, 127:15, 127:19, 127:21, 127:25, 128:3	<b>written</b> (2) - 47:17, 47:20	
<b>trying</b> (6) - 26:1, 28:3, 48:15, 66:20, 84:16, 110:16	<b>uniqueness</b> (1) - 81:11	<b>violating</b> (1) - 50:19	<b>wiser</b> (1) - 68:2	<b>wrote</b> (2) - 49:22, 57:10	
<b>turn</b> (2) - 11:6, 11:7	<b>unless</b> (1) - 85:8	<b>virtue</b> (1) - 117:25	<b>Wiser</b> (8) - 2:13, 4:20, 5:5, 27:20, 54:21, 87:23, 102:22, 122:14		
<b>twenty</b> (6) - 112:10, 112:15, 113:17, 114:1, 114:2, 118:17	<b>unpublished</b> (1) - 56:13	<b>Voters</b> (3) - 4:5, 57:15, 58:18	<b>wished</b> (2) - 9:23, 10:5	<b>year</b> (18) - 19:21, 81:24, 98:24, 98:25, 99:3, 102:20, 104:11, 108:2, 109:10, 111:17, 112:1, 117:13, 120:9, 121:1, 121:22, 122:3, 122:4, 126:23	
<b>twice</b> (1) - 7:21	<b>unreasonable</b> (1) - 59:12	<b>voting</b> (1) - 101:2	<b>withdraw</b> (1) - 39:6	<b>years</b> (34) - 5:15, 13:8, 13:16, 36:7, 56:22, 57:11, 57:13, 57:18, 58:13,	
<b>two</b> (17) - 9:21, 32:24, 46:18, 47:15, 76:21, 83:8, 83:11, 83:14, 89:14, 91:25, 113:18, 113:19, 114:13, 115:12, 119:18, 120:9, 126:2	<b>up</b> (49) - 4:6, 10:3, 19:9, 35:17, 39:20, 41:2, 51:22, 69:15, 69:17, 71:19, 71:21, 73:19, 73:20, 94:8, 98:24, 98:25, 99:2, 99:15, 99:17, 99:21, 101:20, 104:12, 105:19, 106:4, 108:6, 108:8, 108:9, 108:12,	<b>W</b>	<b>WITNESS</b> (16) - 3:2, 31:1, 31:5, 55:24, 56:2, 56:6, 104:7, 113:9, 113:13, 116:18, 117:1,		
<b>two-hour</b> (1) - 119:18		<b>wage</b> (2) - 95:10, 95:12			
<b>two-sided</b> (1) -		<b>wait</b> (1) - 29:19			
		<b>walk</b> (3) - 68:4, 73:2, 97:8			