

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF LEE     )

In the Matter of the Petition

of

Green River Wind Farm Phase 1, LLC,  
a Delaware Limited Liability Company  
Lee County, Illinois

Volume XV, Pages 1758 - 1927  
Testimony of Witnesses  
Produced, Sworn and  
Examined on this 28th day  
of November A.D. 2012  
before the Lee County  
Zoning Board of Appeals

Present:

Bruce Forster  
Mike Pratt  
Gene Bothe  
Tom Fassler  
Craig Buhrow, Chairman

Alice Henkel, Zoning Clerk  
Chris Henkel, Zoning Officer  
Tim Slavin, Facilitator

Reporter: Doris J. Kennay

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                                  Giles Kalvelage (Cross) . . . . . 1868  
6                                   Rich Boris (Cross) . . . . . 1876  
                                  Steve Robery (Cross) . . . . . 1879  
7                                   Bob Logan (Cross) . . . . . 1888  
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1           **APPEARANCES:**

2  
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20           Rutkowski, Nancy Rutkowski, Patrick  
21           Henry, and Marilyn Henry.  
22  
23  
24

1           **CHAIRMAN BUHROW:** It's 7 o'clock, so we'll  
2           call this evening session in order.

3           Can we please have the roll call by our  
4           secretary.

5                                   (Roll call was taken and all were  
6                                   present.)

7           **CHAIRMAN BUHROW:** Okay, all five here. We  
8           were handed before the meeting last evening's  
9           minutes. Does anyone have any questions or  
10           corrections of last evening's minutes that were  
11           handed out a little while ago?

12           **MR. FORSTER:** I move we accept the  
13           minutes.

14           **MR. BOTHE:** Second.

15           **CHAIRMAN BUHROW:** Bruce; Gene second. All  
16           those in favor say aye.

17                                   (All those simultaneously  
18                                   responded.)

19           **CHAIRMAN BUHROW:** Opposed, same sign.  
20                                   (WHEREUPON, no verbal response by  
21                                   the Board members.)

22           **CHAIRMAN BUHROW:** Motion carried.

23           At this point in time, I was just asked a  
24           minute ago what next week's schedule is, and

1 I'll announce that now and then try to do it  
 2 again.  
 3 Monday and Tuesday of next week are the  
 4 meeting times for our petition. Monday and  
 5 Tuesday of next week. That's December 3rd and  
 6 4th.  
 7 And we also have a regular zoning meeting  
 8 on Thursday night dealing, I think, with a  
 9 Kreider petition; and we welcome all you folks  
 10 to come to that one, too, if you'd like. We're  
 11 going to miss not having a crowd here. We're  
 12 not talking about windmills.  
 13 Okay. At this point, we'll turn it over  
 14 to the Judge.  
 15 JUDGE SLAVIN: Thank you, Mr. Chairman.  
 16 Ladies and Gentlemen, again, welcome. My  
 17 face-recognition capabilities fade as I get a  
 18 little older. Are there any folks here who have  
 19 not been at any previous session where I gave my  
 20 opening remarks? Don't be -- don't be shy about  
 21 raising your hand, please. It's now or forever  
 22 hold your peace. Not forever, but...  
 23 Okay. Seeing no hands, we were -- we're  
 24 in the interested parties' presentation of

1 Q. And in front of you, you should have some  
 2 exhibits that were previously marked. And the  
 3 first exhibit is marked Exhibit 56. Do you see  
 4 that, it's a copy of you're appraisal consulting  
 5 report?  
 6 A. Yes.  
 7 Q. Tell us what that is, please.  
 8 A. Well, that is a report I prepared to address  
 9 the subject matter of my expertise as it relates  
 10 to the proposed special use for the Green River  
 11 Wind Farm in Lee County.  
 12 Q. And the text of the report or the body of the  
 13 report is actually from Pages 1 to 45 -- yeah,  
 14 45 of that document; is that correct?  
 15 A. The majority of the text, yes.  
 16 Q. And then from 46 on is the addenda; is that  
 17 right?  
 18 A. That's correct.  
 19 Q. And the addenda is primarily comprised of the  
 20 sales data that you utilized in order to come to  
 21 your opinions; is that correct?  
 22 A. That is correct, yes, and the exhibits that  
 23 accompany it, aerial photographs.  
 24 Q. Okay, and the reason I dove right into your

1 evidence, and Mr. Porter, the ball's in your  
 2 court.  
 3 MR. PORTER: Thank you, Your Honor. We  
 4 call Mr. Michael McCann.  
 5 JUDGE SLAVIN: Raise your right hand,  
 6 please.  
 7 MICHAEL MCCANN,  
 8 having been first duly sworn, was examined and  
 9 testified as follows:  
 10 DIRECT EXAMINATION  
 11 By Mr. Porter  
 12 Q. Good evening.  
 13 A. Hello.  
 14 Q. Because I'm a creature of habit, go ahead and  
 15 state your name for the record again.  
 16 A. Michael S. McCann, spelled M-C, capital  
 17 C-A-N-N.  
 18 Q. And tell us where you live, Mr. McCann?  
 19 A. I live in Orland Park, Illinois.  
 20 Q. And what do you do?  
 21 A. I'm a real estate appraiser and consultant and  
 22 have been for 30 years.  
 23 (Exhibit No. 56 marked for  
 24 identification.)

1 report, is that at Pages 44 to 45 is something  
 2 entitled, Professional Biography; is that right?  
 3 A. That's correct.  
 4 Q. And is that a true and accurate copy of your  
 5 resume or biography?  
 6 A. It's pretty current, yes.  
 7 Q. And is there anything you'd like to add to  
 8 that?  
 9 A. Uhm, a little more experience on some other  
 10 wind farm evaluations, I suppose I could add to  
 11 that. A recent matter I worked on in Ohio, but  
 12 I don't usually list every single project I work  
 13 on.  
 14 Q. Well, for the benefit of the panel, and by the  
 15 way, I know that this is an inconvenient forum,  
 16 however, I'd ask you to talk to them and not me,  
 17 if you can.  
 18 A. Okay.  
 19 Q. And I realize I'm on your back shoulder, and I  
 20 had apologize for that.  
 21 Tell us a little bit about your real  
 22 estate education background.  
 23 A. Well, my real estate background began with, you  
 24 know, a number of courses, had to do with

1 various types of appraisal techniques, methods  
2 at various degrees of sophistication, including  
3 real estate appraisal principles, residential  
4 evaluation, case studies, and property  
5 valuation, highest and best use of market  
6 analysis and, you know, got into some more  
7 sophisticated types of appraisal techniques such  
8 as income approach valuation and case studies,  
9 environmental contamination and so forth.

10 (Exhibit No. 57 marked for  
11 identification.)

12 Q. And we've had marked as a document No. 57 in  
13 front of you, is that a complete copy of the  
14 Power Point that we're going to use today?

15 A. Yes, it is.

16 Q. And you'll notice Slide 1 does have some of  
17 your qualifications; is that right?

18 Why don't you just go ahead and tell us a  
19 little bit about your qualifications as an  
20 appraiser?

21 A. Well, I'll just briefly summarize, I have over  
22 30 years appraisal and consulting experience,  
23 during which time I've had occasion to appraise  
24 most types of commercial, industrial, and

1 Q. And tell us a little bit about your work  
2 history as an appraiser. Where did you start  
3 your career; how are you employed now?

4 A. Well, I started in the firm William McCann &  
5 Associates, which was a family firm, and during  
6 which time I developed a lot of different  
7 expertises and exposed to many different types  
8 of evaluation assignments, not just what most of  
9 us experience dealing with home appraiser that  
10 comes out when it's time to re-finance or at the  
11 time of a sale, but many types of commercial  
12 assignments, urban renewal. I've worked on, for  
13 example, the Camiskey Park re-development, the  
14 United Center, you know, where the Bulls play,  
15 re-development, a smaller baseball stadium in  
16 Joliet through the Silver Cross Field, other  
17 public right-of-way projects and public  
18 transportation projects, like the CTA being  
19 extended from downtown Chicago out to Midway  
20 Airport. I've also during that time and since  
21 have worked in over 20 states, have qualified  
22 and testified as an expert witness in state  
23 circuit courts, federal courts, various planning  
24 and zoning commissions, county boards, other

1 residential property. I'm a State Certified  
2 General Appraiser in Illinois, which is the  
3 highest of three levels of licensing available  
4 in Illinois, and I've also been a licensed --  
5 I've been licensed in multiple states to meet  
6 their requirements for appraising properties out  
7 of state. I'm a Certified Review Appraiser  
8 designated by the National Association of Review  
9 Appraisers --

10 Q. What is a Certified Review Appraiser mean?

11 A. Well, that's somewhat different than just a  
12 general appraiser, which I also am, but a  
13 Certified Review Appraiser gains that  
14 designation by having had occasion to review a  
15 large volume or many years experience of  
16 reviewing other appraisals prepared by other  
17 people for purposes of, you know, quality  
18 control or determining whether or not  
19 assignments comply with whatever the appropriate  
20 regulations are or appropriate techniques were  
21 used, that kind of thing.

22 Q. So you're actually reviewing the work product  
23 of other appraisers; is that correct?

24 A. I have, many hundreds of times, yes.

1 types of quasi-judicial proceedings like --

2 Q. Have you actually been named as a commissioner  
3 by a federal court?

4 A. I was. I was appointed about 11 years ago by  
5 the federal courts, Northern District of  
6 Illinois, as a condemnation commissioner for a  
7 matter that involved routing a high-pressure  
8 natural gas pipeline through quite a few  
9 different pieces of agricultural land in Will  
10 County. My role as a commissioner was also with  
11 two other appointees, a law professor and an  
12 attorney, and our role was to advise the court  
13 as to the just compensation that should be paid  
14 to the landowners by virtue of the easements  
15 that were being taken to install the natural gas  
16 pipeline.

17 Q. So one of the things that you did as the judge,  
18 so-to-speak, being commissioner, was determine  
19 what damage the particular detrimental  
20 condition, in that case a pipeline, caused on  
21 the remainder of the property; is that right?

22 A. Well, it was to determine just compensation  
23 based on the evidence that was submitted, but  
24 not to come up with my own appraisal, per se.

1 Q. Right, you were the judge as opposed to the  
 2 hired appraiser in that occasion.  
 3 A. That's correct, yes.  
 4 Q. What -- and I kind of stepped on my own  
 5 thunder.  
 6 Have you had experience in -- as an  
 7 appraiser in determining whether or not a  
 8 particular alleged negative trait or detrimental  
 9 condition has on neighboring property?  
 10 A. Many times, yes.  
 11 Q. And how -- how did that experience develop?  
 12 Tell us about how you became acquainted with  
 13 that issue?  
 14 A. Certainly. Although I guess the earliest types  
 15 of assignments of that nature, that you were  
 16 just asking, were predominantly highway takings  
 17 or widenings where there were par -- portions of  
 18 property taken for public improvement projects.  
 19 And in some cases, those takings damaged the  
 20 property value beyond the amount of the land  
 21 area taking, but also included damages for the  
 22 remainder for various issues like bringing  
 23 highway traffic closer to someone's front door  
 24 or in a shopping center --

1 ethical requirements.  
 2 Q. And have you actually been certified as an  
 3 expert on USPAP?  
 4 A. I have, yes.  
 5 Q. By what?  
 6 A. The Cook County Circuit Courts.  
 7 Q. And explain to us what that meant, when you  
 8 were certified as an expert in USPAP?  
 9 A. Well, in the case I was testifying in, where  
 10 some of my opinions related to USPAP, I was  
 11 challenged by counsel on the other side as to  
 12 whether or not I was truly an expert on that  
 13 subject, and after being voir dired for a good  
 14 half hour or so, the court found that I was,  
 15 indeed, qualified as an expert on that subject  
 16 and certified me as such.  
 17 Q. And in particular, we're here to talk about a  
 18 proposed industrial wind turbine project. Have  
 19 you had any experience in relation to those  
 20 projects as they relate to property values?  
 21 A. I have, yes.  
 22 Q. What experience?  
 23 A. Well, it goes back a good seven years now, the  
 24 first wind farm project that I was asked to

1 Q. Okay. I don't want to spend too much time on  
 2 it.  
 3 Did you also have some experience in  
 4 relation to landfills?  
 5 A. I have, yes.  
 6 Q. And what was that?  
 7 A. Uhm, I've been hired over the years on a number  
 8 of assignments related to landfill sitings, some  
 9 hired by the developer, sometimes hired by the  
 10 municipality or county in question. And during  
 11 which time, I had occasion to do extensive  
 12 research on property values, you know, near and  
 13 far from landfills, just to keep it simple.  
 14 Q. And have you been certified by -- well, strike  
 15 that.  
 16 Is there a standard or a guide for  
 17 appraisers?  
 18 A. There is. All licensed appraisers are bound by  
 19 the requirements of the Uniform Standards of  
 20 Professional Appraisal Practice, which is also  
 21 known as -- in the industry as USPAP. It's a  
 22 body of guidelines that include appraisal  
 23 standards for development and reporting of  
 24 appraisal or consulting assignments and also

1 evaluate from my expertise, and since that time  
 2 I've inspected, researched and studied, oh,  
 3 probably a couple dozen at this point, at  
 4 different locations. I've also had occasion to,  
 5 you know, over the last seven years and several  
 6 thousand hours of research time, developed my  
 7 own information regarding sale prices and values  
 8 adjacent to wind projects, as well as reviewing  
 9 independent analyses or industry-hired analyses  
 10 that purport to show what property values  
 11 adjacent to different wind projects have  
 12 actually done.  
 13 Q. Have you actually presented seminars on that  
 14 topic?  
 15 A. I have. I've participated in seminars in a few  
 16 states where, you know, this very question,  
 17 amongst other questions related to wind farms,  
 18 you know, were had, and most recently a seminar  
 19 I was invited by the Appraisal Institute to  
 20 develop a on-line seminar for their -- part of  
 21 their educational curriculum; and in October, I  
 22 presented that seminar for Appraisal Institute  
 23 members and which was peer reviewed by the  
 24 Appraisal Institute Education Committee and

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1 approved for continuing education credit for the  
 2 members who attended that seminar.  
 3 Q. And in regard to this project, what was the  
 4 scope of your work?  
 5 A. Well, it was --  
 6 Q. I'm sorry, before you answer that question, is  
 7 that contained in your report, your scope of  
 8 work?  
 9 A. The scope of work is, and I thought you were  
 10 asking about the purpose of --  
 11 Q. And I am, but isn't it true that the scope of  
 12 work is actually identified at Pages 7 to 8 in  
 13 your report, Exhibit 56?  
 14 A. That's where it's mostly summarized, but there  
 15 are other things described in the report that  
 16 could also fairly be called part of the scope of  
 17 work.  
 18 Q. Okay, and just tell us then what is -- what was  
 19 your scope of work, what did I hire you to do?  
 20 A. Well, the purpose of my assignment, you know,  
 21 was to, first of all, determine whether or not  
 22 the Green River Phase I would cause any  
 23 significant impact on surrounding property  
 24 values, including residential and agricultural

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1 properties, which you know, obviously there's a  
 2 mix in the project footprint area and the area  
 3 that is adjacent to the actual sections that are  
 4 proposed to contain turbines.  
 5 Secondly, in my role as a consultant, to  
 6 review the application against the real estate  
 7 related issues that are cited in the Lee County  
 8 Zoning Ordinance.  
 9 And third, to make any recommendations as  
 10 I saw fit to possibly increase compliance of the  
 11 project as proposed with -- with the Lee County  
 12 Zoning Code.  
 13 Q. And tell us, in general terms, how did you go  
 14 about performing that project?  
 15 A. Well, I first started with reviewing the  
 16 Mainstream application and then the petition for  
 17 the special use. I examined the zoning code,  
 18 you know, pretty much read it cover to cover,  
 19 but focused on the real estate standards and  
 20 real estate related issues, I should say. I  
 21 inspected the property -- excuse me, the project  
 22 area, not any single property, per se, but you  
 23 know, the overall project area. I conducted  
 24 extensive research into sale transactions, both

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1 in Lee County and DeKalb County, both in close  
 2 proximity to existing turbines and at greater  
 3 distances, you know, say beyond five miles  
 4 averaging about 10 miles distance from any  
 5 turbines.  
 6 Q. And why did you study sales close to turbines  
 7 and far away from turbines?  
 8 A. Well, by doing a near-far type of study, I was  
 9 able then to apply the paired sales technique,  
 10 which is a framework -- an analytical framework  
 11 for extracting out the value impact or  
 12 contribution of a single factor by accounting  
 13 for all the other issues or features of a  
 14 property that might not be exactly the same.  
 15 You know, for example, a 5-acre lot is worth  
 16 more than a 2-acre lot. So if a house on a  
 17 5-acre lot is used as a comparison for the  
 18 property nearer a turbine, why then I had to  
 19 make an adjustment for that larger land size.  
 20 And after completing all those adjustments on a  
 21 series of paired sale sets that are contained in  
 22 my addenda, I was able to extract out from each  
 23 of those paired sales what the indicated value  
 24 impact was for the property closest to the

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1 turbine.  
 2 Q. And ultimately, did you come to the conclusion  
 3 on whether or not there was or would be a  
 4 property value impact for homes near turbines?  
 5 A. Yes, I did.  
 6 Q. And what is that conclusion?  
 7 A. Well, it is my professional opinion that as  
 8 proposed, this project will cause 25 to  
 9 40 percent value diminution for the nearest  
 10 residential properties. Also, for different  
 11 reasons and different issues, agricultural  
 12 property in close proximity will experience  
 13 probable value diminution of 10 percent of its  
 14 value.  
 15 Q. And we'll get into how you came to those  
 16 conclusions in a while, but I wanted the panel  
 17 to hear what the conclusions were.  
 18 Your next slide here, Slide 3 is entitled,  
 19 Zoning, and indeed, at Pages 21 through 25 of  
 20 your report, there's also a rather lengthy  
 21 discussion of zoning. Tell us what that's  
 22 about.  
 23 A. Well, first was to review the zoning code to  
 24 determine what parts of it relate to real estate

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1 related issues. And recognizing that zoning is  
 2 intended to, you know, minimize the conflicts  
 3 between any special use and existing uses, this  
 4 was a good background from which to measure how  
 5 the market also looks at properties. But as  
 6 I've cited on the Slide 3, there's several  
 7 specific things mentioned in the purpose of Lee  
 8 County Zoning --

9 Q. So this is language out of the Lee County  
 10 Zoning Code; is that right?

11 A. Yes, it is, exactly.

12 Q. In particular, you're referring to  
 13 Section 10-1-3, which is the purpose section,  
 14 right?

15 A. That's correct.

16 Q. And what does it provide, and why is it  
 17 relevant?

18 A. Well, it provides that it's to regulate and  
 19 control the classification of land uses and the  
 20 use of land and buildings within the County in  
 21 order to promote the public health, safety, and  
 22 welfare of its citizens and to minimize any  
 23 conflict between farming and other land uses.  
 24 Also to conserve the value of land or buildings

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1 throughout the County -- excuse me -- and to  
 2 provide safe and affordable housing to County  
 3 residents. It also limits, as one of the  
 4 specific reasons that this is designed, is to  
 5 limit non-agricultural development in areas of  
 6 prime farmland and to preserve, encourage and  
 7 enhance aesthetic considerations in connection  
 8 with development of any areas of the County.

9 Q. I notice that your report not only cites 10-1-3  
 10 at Page 21, but the very next section as well,  
 11 10-1-4, and in particular, the definition of a  
 12 special use as one that is a use, either public  
 13 or private, that would not be appropriate  
 14 generally or without restriction throughout a  
 15 district, because of its unique characteristics,  
 16 but which is controlled as a member area  
 17 location or relation to the neighboring uses  
 18 might complement and promote the public health,  
 19 morals, order, comfort, convenience, appearance,  
 20 propriety, or general welfare. After due  
 21 consideration in each case, such a use may be  
 22 permitted, and then there's some additional  
 23 language. Why did you cite that language in  
 24 your report?

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1 A. Well, because first of all, it's a definition  
 2 of a special use, and so it was helpful to me to  
 3 understand how Lee County defines that, which is  
 4 also pretty consistent with what my  
 5 understanding had been up to this point in time  
 6 from other counties elsewhere in Illinois and,  
 7 you know, other states, for that matter. It's  
 8 not identical language, but it showed me that  
 9 the intent of creating a special use is, in  
 10 part, to take into consideration the surrounding  
 11 community and the characteristics and to prevent  
 12 any, you know, adverse influence or impact on  
 13 those existing uses.

14 Q. And toward that end, your next slide is also  
 15 entitled, Zoning, and what's this about? Slide  
 16 4.

17 A. Well, there I'm discussing that the purpose of  
 18 the zoning as cited in Lee County Code  
 19 encompasses core issues that are fairly typical  
 20 reflection of industrial scale wind energy  
 21 projects and their applications in that.  
 22 Briefly, you know, changes the -- a large-scale  
 23 turbine project changes the character of an  
 24 area, to what I would term an industrial

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1 overlay, as opposed to the existing agricultural  
 2 and rural residential character. The  
 3 compatibility issues are very much an issue, as  
 4 I understand it, from other experts and also  
 5 having spoken with any number, quite a few of  
 6 different residents that live in existing wind  
 7 projects and hear what their actual experiences  
 8 have been and where the conflicts with  
 9 compatibility lie. And those include noise,  
 10 those include heights that, you know, how it  
 11 dominates the landscape, things like flicker  
 12 affect, the FAA lights completely changing the  
 13 character of the night sky. Perhaps the most  
 14 common complaint is that the setbacks are never,  
 15 you know, far enough from residential properties  
 16 to prevent the conflicts that do occur. And  
 17 then finally the project footprint, you know,  
 18 encompasses thousands of acres and, you know,  
 19 even excluding the participating property  
 20 owners, that the impact extends, at a minimum,  
 21 in a fairly significant fashion to a mile and  
 22 then measurable fashion out to at least 2 to 3  
 23 miles, based on a number of studies. And I have  
 24 found this to be the case also with people's

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1 actual experience in living in and amongst and  
 2 near wind farms.  
 3 Q. Your next slide goes on to identify various  
 4 nuisance-related issues as they concern wind  
 5 farms. What are those and why, as an appraiser,  
 6 are you considering those?  
 7 A. Well, what they are, are -- the nuisances are  
 8 again, wildly reported, easily discoverable by  
 9 anybody that has a computer or that, you know,  
 10 can read a newspaper. If you look into the  
 11 issue at all, you'll find, you know, any -- a  
 12 large variety of nuisance complaints and  
 13 experiences that people have experienced,  
 14 including in some cases, participating  
 15 landowners that have decided not to keep quiet.  
 16 The -- from a real estate perspective why it's  
 17 important is because it helps understand the  
 18 background of the nature and severity of the  
 19 impacts that occur for people buying and selling  
 20 properties and to understand the framework for  
 21 the stigma or the detrimental condition to help  
 22 understand why value changes occur.  
 23 Q. Your next slide is entitled, Detrimental  
 24 Conditions. What is a detrimental condition to

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1 an appraiser?  
 2 A. Well, a detrimental condition can be something  
 3 exterior from the property, an external  
 4 influence, it could be a landfill, it could be a  
 5 noisy highway or an airport project, it could be  
 6 a wind farm project. It could also be something  
 7 that has direct impact on a property itself,  
 8 such as a leaking underground storage tank from  
 9 a gas station contaminating neighboring  
 10 property. It's detrimental conditions are also  
 11 sometimes called, you know, LULUs or Locally  
 12 Unwanted Land Uses, and they tend to represent  
 13 dis-amenities that people searching for  
 14 residential property tend to steer away from  
 15 unless there's a significant discount in the  
 16 price that balances out -- creates an incentive  
 17 to balance out that loss in value over the  
 18 amenity value.  
 19 Q. And as an appraiser -- well, strike that.  
 20 While I understand the general description  
 21 of what a detrimental condition is, is there a  
 22 methodology for quantifying and determining  
 23 whether or not a condition actually is  
 24 detrimental to a neighboring property?

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1 A. Yes, there are empirical methods for extracting  
 2 out what the market is actually saying in terms  
 3 of dollars and cents. How are they actually  
 4 treating this when it comes to the buy-sell  
 5 decision which can be somewhat different than  
 6 what they might say, you know, at the dinner  
 7 table or, you know, to a newspaper reporter, but  
 8 while I listen to what people have to say, you  
 9 know, pro and con, I base my opinions on the  
 10 empirical information.  
 11 Q. Okay. We'll talk more about how you go about  
 12 determining if a condition is actually  
 13 detrimental in a moment.  
 14 But ultimately at Page 25 and at Slide 7  
 15 -- I'm sorry, Page 24 of your report and at  
 16 Slide 7, you come to some conclusions regarding  
 17 zoning. After you did your discussion of the  
 18 zoning issues in Lee County, what were those  
 19 conclusions?  
 20 A. Well, that the -- understanding the stigma  
 21 issues is important to understanding both the  
 22 buyer and the seller sides of the market for  
 23 property near proposed turbines.  
 24 I'm also of the opinion that turbines are

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1 decidedly industrial use that represent an  
 2 encroachment into areas with bona fide  
 3 agricultural uses, and they can impair the  
 4 aerial spraying options for neighboring  
 5 agricultural land and/or increase the costs of,  
 6 you know, aerial spraying.  
 7 Residential uses will experience impaired  
 8 aesthetic appeal, impaired quiet use and  
 9 enjoyment and marketability and value, and that  
 10 the proposed setbacks are inadequate to prevent  
 11 such impacts.  
 12 Finally, that the project does not comply  
 13 with the purpose of Lee Zoning -- Lee County  
 14 Zoning Code, in my opinion. And finally, in my  
 15 opinion, a property value guarantee would be  
 16 necessary to protect the neighboring property  
 17 values in the event this application were  
 18 approved.  
 19 Q. So when you say it does not comply with the  
 20 purpose of the Lee County Zoning Code, are you  
 21 indicating -- what do you mean?  
 22 A. Well, I'm really looking at it from just a real  
 23 estate perspective, and because of the setbacks  
 24 that are not nearly long enough, because of the

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1 dominating character of the turbines, it does  
 2 change the character of any area where these  
 3 type of projects are built, and Lee County is no  
 4 exception.  
 5 I'm sorry, what was your --  
 6 Q. Well, the question was, you said that  
 7 ultimately you concluded that the zoning --  
 8 after your zoning analysis, that it did not  
 9 comply with the purpose that you had identified  
 10 earlier, 10-1-3, in Lee County, and I was asking  
 11 you to elaborate, what do you mean?  
 12 A. Yes, and also as far as the zoning purpose to  
 13 protect and conserve neighboring property  
 14 values, as proposed in this application and this  
 15 project, you know, simply would not accomplish  
 16 that, it would work against that. A property  
 17 value guarantee would, in my opinion, would  
 18 partially mitigate that, but it would still have  
 19 impacts.  
 20 (Exhibit No. 58 marked for  
 21 identification.)  
 22 Q. Now, you mentioned the property value  
 23 guarantee, and that's also contained in  
 24 number -- Page 24 in your conclusions regarding

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1 zoning. And I've had marked as an exhibit,  
 2 Exhibit 58, which is a section of the proposed  
 3 Lee County Ordinance. Have you had a chance to  
 4 review that?  
 5 A. I have, yes.  
 6 Q. Is it your -- you mentioned earlier that you  
 7 reviewed a variety of documents. Is one of  
 8 those a petition that had been filed by  
 9 Mainstream, Green River Wind?  
 10 A. Yes.  
 11 Q. And did you understand in that petition that  
 12 Green River Wind, at Paragraph 8, stated that it  
 13 was asking the Lee County Board to impose the  
 14 following conditions based upon the Lee County  
 15 Wind Energy Ordinance --  
 16 A. Yes.  
 17 Q. -- as proposed by the Lee County Zoning Board  
 18 of Appeals?  
 19 A. That's what I read, yes.  
 20 Q. And contained within that proposal of the  
 21 Zoning Board of Appeals was a Home Seller  
 22 Protection Program; is that right?  
 23 A. Yes.  
 24 Q. So that the property value guarantee, that type

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1 of thing that you were discussing a moment, that  
 2 would have more aligned this proposal with the  
 3 zoning?  
 4 A. Yes, I believe it would have.  
 5 Q. And in the proposed conditions of the  
 6 Petitioner, does the Home Seller Protection  
 7 Program that was identified as a proposal of the  
 8 Zoning Board of Appeals, is that contained in  
 9 their petition?  
 10 A. It is not.  
 11 Q. Okay. You began to touch upon the fact that  
 12 there are methods which can be used to determine  
 13 whether or not a particular proposal is actually  
 14 a detrimental condition to neighboring  
 15 properties. What are the methods that are  
 16 generally accepted by appraisers for making a  
 17 determination of whether or not a potential  
 18 detrimental condition causes damage?  
 19 A. Well, it can all be done within the framework  
 20 of the traditional three approaches, depending  
 21 on the property type. And the traditional three  
 22 approaches are the sales comparison approach,  
 23 the cost approach, and the income approach. In  
 24 the case of single-family properties, the

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1 techniques that are generally accepted and  
 2 approved for value and detrimental conditions  
 3 include a paired sales and resales analysis. A  
 4 paired sales analysis is essentially, what I was  
 5 describing earlier, a near sale and a far sale  
 6 and all differences accounted for except for the  
 7 turbine to financially adjust the controlled  
 8 sale to the nearby target sale and indicate what  
 9 that target sale should have sold for but for  
 10 the turbine, the difference being the value  
 11 impact where the damages to the property is a  
 12 result of that detrimental condition, that  
 13 neighboring condition, in this case turbines.  
 14 Q. And you've got a slide you prepared for us as  
 15 No. 8, which has a definition of a paired sales  
 16 analysis. Where did that come from?  
 17 A. That came from -- excuse me -- the Appraisal  
 18 Institute's dictionary on real estate appraisal.  
 19 Q. And what is that definition?  
 20 A. A paired sale analysis or a paired data  
 21 analysis is a quantitative technique used to  
 22 identify and measure adjustments to the sale  
 23 prices or rents of comparable properties. To  
 24 apply this technique, sales or rental data on



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1 nearly identical properties are analyzed to  
 2 isolate a single characteristics affect on value  
 3 or rent.  
 4 Q. And so if I understand correctly then, when one  
 5 -- when an appraiser does a paired sales  
 6 analysis, do you adjust a control sale to a  
 7 target sale such that you end up with as best as  
 8 can be estimated, two identical homes except for  
 9 one isolated condition, that being the condition  
 10 you're trying to determine is a detrimental  
 11 condition; is that right?  
 12 A. Determine whether or not it is from a market  
 13 value standpoint, yes.  
 14 Q. And so you try to end up with two homes that  
 15 are identical, except one is by a turbine and  
 16 one isn't.  
 17 A. Correct.  
 18 Q. Okay. Now, are you familiar with Randall  
 19 Bell's book entitled, "Real Estate Damages: An  
 20 Analysis of Detrimental Conditions"?  
 21 A. I am, I've read it.  
 22 Q. Is that an authoritative treatise?  
 23 A. Very much so.  
 24 Q. And does that book identify the accepted

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1 methodologies in your profession for determining  
 2 whether or not a condition is detrimental to a  
 3 neighboring use?  
 4 A. It -- not just the conditions, but also the  
 5 valuation techniques or procedures for measuring  
 6 any impact on value of those detrimental  
 7 conditions.  
 8 Q. And those methods that he identifies are paired  
 9 sales analysis, resale analysis, cost to  
 10 remediate analysis, direct capitalization  
 11 analysis and discounted cash flow; is that  
 12 right?  
 13 A. Yes, but the distinction being really the first  
 14 two, the paired sales and the resales analysis  
 15 is within the sales comparison approach and that  
 16 applies and lends itself best to residential  
 17 properties. When you have an income property,  
 18 an income approach might measure any rental  
 19 value loss, increased vacancy or higher risk  
 20 that all translates into a, you know, change in  
 21 value. That's something that applies to  
 22 farmland that has a demonstrable rental market  
 23 as well as an owner-user market.  
 24 Q. Okay. Is it appropriate to -- for an appraiser

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1 to come to an opinion regarding damage to  
 2 property value without doing an appraisal?  
 3 A. Well, I think under USPAP an appraiser is  
 4 required to undertake any appropriate  
 5 investigation and research and apply any  
 6 recognized techniques in order to develop their  
 7 opinion and then there's also reporting  
 8 standards for how to go about reporting the work  
 9 that was undertaken to develop that opinion.  
 10 Q. And is it appropriate for an appraiser to base  
 11 an opinion on value solely on interviews of  
 12 other appraisers and tax assessors?  
 13 A. In my opinion, no, there's -- the texts I've  
 14 read actually state the contrary, including the  
 15 Randall Bell detrimental conditions text,  
 16 Appraisal Journal articles and so forth.  
 17 Surveys are only suggested as appropriate to use  
 18 when there is an absolute absence of any data,  
 19 any empirical data and then with extreme  
 20 limitations. But surveys, just generally  
 21 speaking, no, they are not a valuation  
 22 technique.  
 23 Q. As a matter of fact, are you familiar with the  
 24 publication by Thomas Jackson, PhD, entitled,

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1 Methods and Techniques for Contaminated Property  
 2 Valuation?  
 3 A. I've read it, yes.  
 4 Q. And isn't it true -- well, strike that.  
 5 Would you consider that to be an  
 6 authoritative text?  
 7 A. Uhm, it was published in the Appraisal Journal,  
 8 so it did go through a peer review process; and  
 9 therefore, yes, I believe it's authoritative.  
 10 Q. And isn't it true that he concluded or one of  
 11 his conclusions was that quote, market  
 12 interviews are not methods or techniques for  
 13 valuing contaminated properties, but are useful  
 14 for collecting and understanding the data and  
 15 information necessary to apply the other methods  
 16 and techniques discussed herein?  
 17 A. That does sound very familiar, yes. It's a  
 18 starting point, it's not the end.  
 19 Q. And do you agree that in order to come to an  
 20 opinion on value, you have to apply one of these  
 21 techniques that are based on data, and then it  
 22 can be corroborated by interviews perhaps?  
 23 A. It doesn't really matter if the data comes  
 24 first or the interviews to kind of give you some

1 guidelines for what are you looking for. For  
 2 example, if nobody had ever looked at -- if an  
 3 appraiser had never looked into a wind farm  
 4 matter before, they might have no idea how far  
 5 the impacts extend, so -- or how far they've  
 6 been reported to extend, so they would have no  
 7 frame of reference for where to measure the near  
 8 and far sale type of research that should be  
 9 done, and that's where the interviews and that  
 10 kind of thing could come in handy.

11 But basing opinions on opinions from a --  
 12 just a telephone survey or that kind of thing,  
 13 no, that's definitely not an accepted technique.

14 Q. Okay, so moving on now to what you did in  
 15 relation to coming to your conclusions as to  
 16 residential properties. I've put up Slide No.  
 17 9. Explain to us what Slide 9 is.

18 A. Well, Slide 9 is a summary of the paired sales  
 19 data stats that are contained in the addenda to  
 20 my report. Each one of those -- we'll get to an  
 21 example in a moment, but is -- it's on the left  
 22 column you'll see the paired number, which is  
 23 which paired data set is it, and then I have it  
 24 broken into two main columns, target and control

1 A. It would be --

2 Q. It's Page 32; is that correct?

3 A. You're a step ahead of me, Rick, yes, it's Page  
 4 32.

5 Q. And this diagram, table, provides a summary of  
 6 all of the data that is contained in the  
 7 addenda; is that correct?

8 A. That is correct.

9 Q. And if I understand what you've done here is  
 10 that there are a variety of pairing sales in Lee  
 11 County and DeKalb County; is that right?

12 A. That's correct.

13 Q. And in Lee County, you had eight sales that you  
 14 looked at -- eight pairings that you looked at.

15 A. Had eight pairings, that's correct.

16 Q. And in DeKalb County, you had five pairings  
 17 that you looked at.

18 A. That's correct.

19 Q. And what was a pair, a pair of what?

20 A. Well, a pair sale where I first found a sale of  
 21 a home, and I had to be careful in doing this  
 22 that I was not including any sales that were  
 23 foreclosure sales, short sales, or had some  
 24 other motivation for -- that could be -- could

1 area. The target area being the relevant  
 2 information or portions of relevant information  
 3 for the near and far target and control areas.  
 4 And that includes the distance from the nearest  
 5 turbine, the CDOM, which is the cumulative days  
 6 on the market or how long each of those  
 7 properties sat on the market before it  
 8 ultimately sold, and the SP/OLP percentage is  
 9 the actual sale price as a percentage of list  
 10 price. And I did that for both target and  
 11 control areas, and I did it in the Lee County  
 12 study area, as well as in DeKalb near the  
 13 Florida Power & Light project. And that  
 14 resulted in pretty consistent indications of  
 15 impact within both Lee County and DeKalb County,  
 16 and I summarized those separately, but then also  
 17 combined it as an overall project study area  
 18 and --

19 Q. Okay. I -- I'm sorry for interrupting, but I  
 20 want to break this down a little more.

21 A. Sure.

22 Q. Is this chart contained in your report?

23 A. It is.

24 Q. Where's it at?

1 render that sale close to the turbine as being  
 2 not demonstrably a stigma-affected sale. I  
 3 wanted to make sure any target sales I was  
 4 using, that there was no indicated duress, as is  
 5 often the case when you review multiple listing  
 6 print-outs for homes. There's a high rate of  
 7 foreclosure in both the Lee and DeKalb and many  
 8 short sales over the last, you know, several  
 9 years, so in order to make sure the data was  
 10 reliable as possible, I excluded any that had  
 11 those characteristics and found a series of --  
 12 pardon me -- property, you know, home sales  
 13 located within the distances as shown on  
 14 Slide 9.

15 Q. The distances from what?

16 A. The distances from the nearest turbine. Now,  
 17 there's, in some of these cases, multiple  
 18 turbines that are within close proximity, view  
 19 and, you know, that would have a combined  
 20 effect, you might say, on the aesthetics of a  
 21 given property and some that there's only one  
 22 nearby turbine.

23 Q. Okay, and so the first section, the target  
 24 area, are sales that you found in DeKalb County

1 of homes that were near turbines. And then you  
 2 would pair that sale with another sale of a home  
 3 that is away from a turbine; is that right?  
 4 A. Correct.  
 5 Q. And so how many control area sales did you  
 6 find?  
 7 A. Well, in -- I had to select them on the basis  
 8 of, again, making sure they were clean sales, no  
 9 foreclosure, that kind of issue, and then went  
 10 by how comparable the homes were in overall  
 11 market appeal, age, size, land size, those kinds  
 12 of things. And within the Lee County study area  
 13 I used six control sales that I paired up with  
 14 the various target sales, and in DeKalb four  
 15 control sales that paired up with the three  
 16 target sales. You know, sometimes in using a  
 17 different control to pair with each target  
 18 sale --  
 19 Q. Okay.  
 20 A. -- to kind of corroborate or see if the  
 21 original analysis is corroborated.  
 22 Q. Okay, and in each of these columns here, so  
 23 you've got the distance away from the turbine,  
 24 and the next one is CDOM, which is what?

1 A. That's correct.  
 2 Q. Now, you've got this next column here, which is  
 3 SP/OLP, that's sales price compared to list  
 4 price?  
 5 A. The original list price, yes.  
 6 Q. And so in Lee County, the homes that were near  
 7 turbines got about 73 percent of the list price.  
 8 A. On average, yes.  
 9 Q. And in the ones that were far away from  
 10 turbines, 92 percent.  
 11 A. That's correct.  
 12 Q. Now, the last column is the most important  
 13 column; is that right?  
 14 A. I believe so, yes, for this very purpose.  
 15 Q. And it says, impact percent. What is that?  
 16 A. Well, that is the indicated value diminution  
 17 for each of those target sale transaction pairs,  
 18 as determined by comparison with the control  
 19 column. So, for example, paired sale one using  
 20 the first target sale and the first control sale  
 21 indicated that the home near the turbines sold  
 22 for 27 percent lower than it should have, or  
 23 that's what the value impact was as a result of  
 24 the turbine.

1 A. That is, simply put, the total marketing time  
 2 for that property sale.  
 3 Q. And how did you determine the marketing time  
 4 for each sale?  
 5 A. Well, that's listed in the full agent printouts  
 6 that if you're a subscriber to the MRED, Midwest  
 7 Real Estate Data, you know, you can get the  
 8 level of detail that tells you what the  
 9 marketing times have been. In some cases it was  
 10 more than one listing. A listing would expire,  
 11 they would list it with a new realtor, they'd  
 12 cancel it and list it with a new realtor.  
 13 Q. Okay, so in Lee County, your average distance  
 14 from a turbine for the target area was 3326  
 15 feet, right?  
 16 A. Correct.  
 17 Q. And your average distance for the control area  
 18 from a turbine was 10.5 miles.  
 19 A. That's right.  
 20 Q. You also then found that the average time on  
 21 market in Lee County for a sale was 635 days in  
 22 the target area.  
 23 A. Correct.  
 24 Q. And 297 days in the control area.

1 Q. So the last column is the result after you've  
 2 adjusted the comparables, the two properties, so  
 3 that they are as similar as possible except for  
 4 being close to a turbine. The last column shows  
 5 the difference in value between those two  
 6 properties, and it was always consistently  
 7 negative in Lee County; is that right?  
 8 A. That's correct.  
 9 Q. And as a matter of fact, it spans pretty  
 10 consistently around the 25 percent mark; is that  
 11 right?  
 12 A. Yes, some a little lower, some a little higher,  
 13 but that's -- that's about the average is  
 14 22.5 percent is the exact average for Lee County  
 15 on these paired data sets.  
 16 Q. All right. Now, in DeKalb County you've  
 17 actually used some turbine -- or some homes that  
 18 were closer to turbines, 1637 feet on average;  
 19 is that right?  
 20 A. That's correct, there was a much closer average  
 21 distance.  
 22 Q. And the market time was about the same at 638  
 23 days.  
 24 A. That's correct.

1 Q. The sales price to list price, they got less in  
 2 DeKalb at 66 percent for the homes close to  
 3 turbines; is that right?  
 4 A. That's right, yes.  
 5 Q. And as the control area, you again used about  
 6 10 miles away, 9.6, and the time on market was  
 7 again pretty consistent with what it was in Lee,  
 8 a little less in DeKalb, at 232 days; is that  
 9 right?  
 10 A. That's right, yes.  
 11 Q. And the sales price to list price, DeKalb got a  
 12 little less than Lee was at 89 percent for those  
 13 that were far away.  
 14 A. That's right, the control area for DeKalb  
 15 was -- showed an average sale price to list  
 16 price ratio of 89 percent.  
 17 Q. And the total impact -- or average impact in  
 18 DeKalb for being close to a turbine was what?  
 19 A. 32.8 percent on the average, ranging from 15.6  
 20 to 46.9 percent.  
 21 Q. Did you -- do you have any explanation as to  
 22 why there's a noticeable difference in DeKalb --  
 23 that there appears to be a greater impact in  
 24 DeKalb in being in close proximity to turbines

1 Q. Okay. So now if you would, take us through the  
 2 next slide and tell us what that is.  
 3 A. The next slide is one of the paired sales from  
 4 the DeKalb analysis and --  
 5 Q. Which one is this?  
 6 A. This is paired Sale No. 3 if you wanted to  
 7 compare it to the chart.  
 8 Q. Okay. So No. 3 in the DeKalb chart.  
 9 A. Yes, and you can see how I've labeled each of  
 10 those sales, DeKalb Sale 1-T and DeKalb Sale  
 11 3-C. You see the photographs above. The  
 12 photograph on the left is the one nearest the  
 13 turbine, that was an old packer farm property,  
 14 actually, and the one on the right, you know, a  
 15 very similar home, but with some differences.  
 16 And the main columns you can see, you know, what  
 17 the distance was, how long it was on the market,  
 18 the sale price, the percentage of list price  
 19 that it sold for and so on. And then down the  
 20 far right column under adjustments, you can see  
 21 where I've noted what the differences are or  
 22 made adjustments for what the differences are  
 23 except for the turbine, and when you get near  
 24 the bottom you see a line that says, net

1 than in Lee?  
 2 A. Well, two possibilities, but one that I believe  
 3 is the most probable reason is the closer  
 4 distance, on average, of the DeKalb sales at  
 5 1637 feet versus 3300 feet in Lee.  
 6 I would also point out that in DeKalb,  
 7 Florida Power & Light turbines, if I recall  
 8 correctly, are about 476 feet and the Mendota  
 9 Hills turbines in Lee County were, oh, about 75  
 10 to a hundred feet shorter, so they're not quite  
 11 as dominant. They're still large  
 12 industrial-scale turbines, they still have a bit  
 13 of a dis-amenity effect, but they're just not as  
 14 dominant as the larger turbines.  
 15 Q. And the turbines here, at least we're guessing,  
 16 are going to be the larger ones; is that right?  
 17 A. Well, from what I've read, it's right in the  
 18 neighborhood of 500 feet, just under to just  
 19 over.  
 20 Q. And when you average the impacts with Lee and  
 21 DeKalb, it came to an average impact of a  
 22 negative 26 percent -- 26.4 percent if you were  
 23 close to turbines, right?  
 24 A. That's right.

1 adjustments, and that is how much, in this case,  
 2 was added to the sale price of this control  
 3 property to balance out the differences with the  
 4 target sale.  
 5 Q. Okay, so I want to slow you down.  
 6 So you actually added \$33,000 to the sale  
 7 price of the control property. Why?  
 8 A. Well, because, for example, it's built in 1966  
 9 compared to the target property built in 1979,  
 10 it's 13 years older. That much more wear and  
 11 tear. I used a half a percent per year  
 12 depreciation, so it worked out to 6 and a half  
 13 percent, and since it's inferior in that one  
 14 respect, I had to adjust that sale up. You can  
 15 also see right beneath that that it had a dining  
 16 room counted in its six room count versus only a  
 17 five room count in the target sale. And even  
 18 though they were very similar in size, that  
 19 dining room is a feature that some people would  
 20 find to enhance the value, and I made a  
 21 deduction for the fact that property had a  
 22 dining room. Other differences were the target  
 23 sale had a full finished basement with bedrooms  
 24 and a family room and the control sale had a

1 full basement, but was unfinished, so I had to  
 2 make an adjustment for the value contribution of  
 3 \$10 a square foot for a finished basement.  
 4 Q. Okay. So if one were to go and look at your  
 5 addenda and each one of these cover sheets, they  
 6 would see the adjustments you made to the  
 7 control property to make it as similar as  
 8 possible to the target.  
 9 A. Exactly.  
 10 Q. It just so happens in this case you actually  
 11 had to add value to the control property,  
 12 because in your opinion, the target was a little  
 13 nicer.  
 14 A. In some respects it was, yes, and that's how it  
 15 netted out. This was also a smaller lot area,  
 16 which -- not significantly, but enough to make,  
 17 you know, about an \$8,000 difference.  
 18 Q. So if you hadn't made those adjustments on the  
 19 control, it actually would have shown even  
 20 substantially more damage; is that right?  
 21 A. Well, I think you actually got that inversed.  
 22 Q. Oh.  
 23 A. If you look at the lower left hand corner of  
 24 this particular sheet, you can see a separate

1 analysis that compared both these sales with  
 2 absolutely no adjustment, no accounting for the  
 3 differences in the property, it's just the  
 4 actual sale price of the far sale, subtract from  
 5 that the actual sale price of the near sale, and  
 6 you can see the dollar amount difference, it  
 7 sold for 75,000 less or almost 35 percent less.  
 8 On its face -- they're both very comparable  
 9 properties, and on its face it sold for  
 10 35 percent less than the one 11.7 miles away  
 11 from a turbine. But that's not the proper way  
 12 to do a paired sales adjustment, that's just  
 13 provided the unadjusted sales price analysis,  
 14 just for background purposes and to allow a  
 15 reader to full transparency on what I've done  
 16 here. But the adjusted sale price analysis,  
 17 then you can see how each of the deferring  
 18 features were balanced out so that the adjusted  
 19 sale price represents the market value of the  
 20 near sale using that control sale as adjusted to  
 21 make that determination. And then simply  
 22 subtract the actual mirrored property or target  
 23 sale price, which in this case translated into  
 24 about a hundred and -- almost \$109,000 lower

1 value or 43.8 percent. This was a pretty  
 2 significant one.  
 3 Q. The next slide, what is that, Slide 11?  
 4 A. Slide 11 is an aerial photograph that shows,  
 5 you know, each of these data sets and addenda is  
 6 the same. The first aerial is going to show the  
 7 location of the target sale and the nearest  
 8 turbine -- pardon me -- and that's represented  
 9 by those orange flags, the line shows how the  
 10 measuring tool, you know, tracked the direction.  
 11 There's quite a few other turbines in this --  
 12 that I can see on this aerial, you know, north,  
 13 northeast and east. In some cases, you can see  
 14 there's shadows being cast, you know, on the  
 15 land that must have been, you know, in the  
 16 afternoon or whatever, but I only -- the  
 17 distance is only from the nearest turbine, it  
 18 doesn't count all the turbines.  
 19 Q. Okay, and then the next slide?  
 20 A. The next slide, again, it doesn't -- it wasn't  
 21 scaled or zoomed out enough to show, in this  
 22 particular instance, exactly where the turbine  
 23 is in relation to the house, but it has a flag  
 24 where the house is and then the line drawing in

1 the direction of the turbine, but, you know, you  
 2 can clearly see that it's not presented on the  
 3 map.  
 4 Q. So this is the controlled sale showing that  
 5 they're far away from turbines. And one more  
 6 time, why do you have a control so far away from  
 7 turbines?  
 8 A. Well, to make sure that there is no effect of  
 9 turbines on those sale prices of the control  
 10 sales.  
 11 Q. Okay. So after you did your paired sales  
 12 analysis, you averaged all these adjustments in  
 13 sales and came to your conclusion between 25 and  
 14 40 percent loss. Why that range?  
 15 A. Well, it's kind of the low-high representing  
 16 shorter setbacks and even longer setbacks. I  
 17 would expect that properties in the -- in the  
 18 setback ranges, they're talking about here, at a  
 19 minimum of around 1400 feet from the foundation  
 20 of a house which, as a side point, I would like  
 21 to point out that from my target sales I  
 22 measured the distance from the property line not  
 23 from the foundation of the houses. So just to  
 24 make clear that distinction. But you know at

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1 1637 feet, you get a higher value impact or a  
 2 greater value impact than at further distances  
 3 of about, you know, over half a mile, and so  
 4 that's why that range.  
 5 Q. When you say you made measurements to the  
 6 property line, did you do that both for the  
 7 control and for the target?  
 8 A. Exactly.  
 9 Q. Okay. Did you do anything else to corroborate  
 10 or test the results that you found using your  
 11 paired sales analysis?  
 12 A. Well, yes, I conducted a literature review,  
 13 which frankly is an ongoing thing for me. It's  
 14 anytime a new study comes out, I try to obtain a  
 15 copy of it. Or in some cases, I'm invited to  
 16 review it. The one the industry likes to use  
 17 the most, the Berkeley or LBNL study, I was  
 18 invited by one of the authors to peer review  
 19 that study which I did prior to its publication.  
 20 Others have been sent to me unsolicited.  
 21 Others I had been provided by clients where  
 22 people who know I'm active in looking into  
 23 property values in these type of sites.  
 24 Q. Okay, and we put up Slide 13, which is another

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1 chart entitled, Literature Review. Is that  
 2 chart somewhere in your report as well?  
 3 A. It is.  
 4 Q. I'm sorry, I'm going to test you here, do you  
 5 know where?  
 6 A. It's on Page 36 and 37.  
 7 Q. Might be a little easier for people to follow  
 8 on that chart, in the report rather than the  
 9 Power Point.  
 10 If I'm looking at this correctly, it  
 11 appears that you've taken all of these  
 12 publications and had a conclusion at the end as  
 13 to what they found the impacts to be from wind  
 14 turbines; is that right?  
 15 A. It partially reflects, in the right column,  
 16 what they claim the study found, but it also  
 17 shows other impacts that were actually reflected  
 18 in those -- in those analyses in some cases.  
 19 Q. So in broad terms, what did the independent  
 20 studies show?  
 21 A. Well, pretty consistently that there was value  
 22 impacts, you know, in the 25 to 40 percent  
 23 range, in some cases higher.  
 24 Q. And did you review any of the common ones that

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1 are cited by the wind industry?  
 2 A. Every one I've been able to locate, yes.  
 3 Q. And are they contained on your literature  
 4 review chart?  
 5 A. Several of them are, the most recent ones.  
 6 Q. And I notice that you've particularly cited  
 7 Canning & Simmons, Hinman, and the Hoen reports  
 8 which are often cited as showing no impacts to  
 9 property values. But I see you have on the end  
 10 here, that they indeed have shown impacts,  
 11 ranging from, it looks like 5-and-a-half percent  
 12 to 12 percent loss. Explain that to me, how is  
 13 that possible if these are the wind industry  
 14 ones?  
 15 A. Well, you need to understand that those are not  
 16 truly value studies, those are statistical  
 17 studies, and they use a different form of  
 18 near-far analysis, but what they're really  
 19 focusing all their opinions on are the most  
 20 distant sales and whether or not there's any  
 21 statistical sales difference in the sale prices,  
 22 but by using and pooling data the way they do,  
 23 it actually creates an almost impossible  
 24 scenario to determine that there is any

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1 statistical significance. What they do not do  
 2 is focus on anything like paired sales or any  
 3 recognized valuation method for extracting, in a  
 4 more defined and focused manner, what the  
 5 impacts, you know, may or may not have been.  
 6 So those -- each of those studies, even  
 7 though, for example, Canning & Simmons used  
 8 three different types of regression analyses,  
 9 and each one of them came to a negative value  
 10 indication, their conclusion was that there is  
 11 no statistical significance, and take that for  
 12 what it's worth, but it often gets cited as a  
 13 report that says that there's no value impact,  
 14 and that's not really what it says.  
 15 Q. So if you look at their data, it actually shows  
 16 a loss between 7 percent to 13 percent, but  
 17 their conclusion is that's not significant, is  
 18 that --  
 19 A. Well, now statistically significant, I don't  
 20 know that they're saying people losing money on  
 21 their houses isn't significant, but I guess it's  
 22 how it gets used.  
 23 Q. Okay. Your next slide entitled, footnotes,  
 24 Slide 14, what's that all about?

1 A. Well, that's some of my notes regarding the --  
 2 the indications in those studies and features of  
 3 the studies, some critic critiques where  
 4 pointing out, you know, errors or things that I  
 5 think are substantively significant that were,  
 6 for example, buried in footnotes, but are very  
 7 relevant to the issue of property value impacts.  
 8 Q. Okay. Our time is limited, so I'm going to  
 9 pass on getting too deep into that, if that's  
 10 all right.  
 11 A. No, that's fine.  
 12 Q. Is it safe to say that you can be questioned  
 13 about any of these studies and have a discussion  
 14 about those notes?  
 15 A. Sure.  
 16 Q. Okay. In relation to the next slide, it's  
 17 called the Lansink study. Why are you honing in  
 18 on that study?  
 19 A. Well, Lansink is an appraiser. He understands  
 20 appropriate appraisal techniques, as well as,  
 21 anybody I've talked to in the business that has  
 22 studied these types of impacts. He's from  
 23 Ontario, and I'm focusing on this because he's  
 24 using one of those recognized methods for resale

1 homes. So from my perspective as an appraiser,  
 2 both buyer and seller were fully informed, well  
 3 advised, acting in their own self interest and  
 4 these are the prices they agreed on, and Lansink  
 5 didn't just take the first sale price and  
 6 measure it against the second sale price, he  
 7 only needed to make a time adjustment for the  
 8 passage of time between when the developer  
 9 bought them out and when the developer sold  
 10 them, and that was easily ascertainable from the  
 11 local MLS service up there, just by virtue of  
 12 the change in the average sale price in the rest  
 13 of the community outside the wind farm. So it's  
 14 a very accurate analysis of what the impacts  
 15 are, at least for these five properties, with  
 16 those conditions that everybody living in close  
 17 proximity to a wind farm is exposed to.  
 18 Q. And earlier when we talked about the accepted  
 19 methodologies, was resale or looking at a  
 20 subsequent sale of the same property, one of  
 21 those methods that is utilized to determine  
 22 whether or not a particular condition  
 23 detrimentally impacts value of a neighboring  
 24 property?

1 studies. And what this chart demonstrates is  
 2 the value impairment that was actually measured  
 3 from five different transactions of  
 4 single-family homes in the Melancthon area of  
 5 Ontario that the wind developer had actually  
 6 bought out from these property owners on the  
 7 basis of the nuisances and so forth, you know,  
 8 just apparently to make peace with them, buy  
 9 them out.  
 10 The developer then turned around and  
 11 resold those properties, you know, having put  
 12 them through the multiple listing service and  
 13 giving them appropriate marketing exposure, but  
 14 they had a very unique condition as far as the  
 15 buyers had to accept in order for them to  
 16 actually get a contract, and that condition was  
 17 that the buyer had to grant them back an  
 18 easement in gross to allow the wind developer to  
 19 continue to create noise, vibration, shadow  
 20 flicker and any other type of affects be  
 21 recorded in these easements in gross on each of  
 22 these transactions that, in fact, said that both  
 23 parties acknowledge that there may, in fact, be  
 24 impacts on the living environment in those

1 A. Yeah, sale, resale, it's the same -- means the  
 2 same thing, yes.  
 3 Q. And so original sale happened before the  
 4 condition was there, and then there's a  
 5 subsequent sale after the turbine's up; is that  
 6 right?  
 7 A. Well, yes and no. Because in this particular  
 8 case, what Mr. Lansink also did was determine  
 9 whether or not that first sale price, what the  
 10 developer paid, was what the market should have  
 11 been, and by doing so, he researched the market  
 12 for what the average sale prices were, and these  
 13 were pretty average houses in the area, and the  
 14 purchase prices essentially matched up to the  
 15 market very closely. So the developer didn't  
 16 pay too much in the first place. He paid market  
 17 value but for the turbines, and then when he  
 18 sold them, he sold them with full  
 19 acknowledgment, acceptance of those conditions  
 20 that are imposed by turbine in the form of a  
 21 recorded easement that runs with the land  
 22 forever.  
 23 (Exhibit No. 59 marked for  
 24 identification.)

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1 Q. I have had marked Exhibit 59. Is that the  
 2 Lansink study that you were referring to?  
 3 A. It is.  
 4 Q. And is it a true and accurate copy?  
 5 A. I believe it is, yes.  
 6 Q. So if the Zoning Board of Appeals is so  
 7 inclined, they can look through that actual  
 8 appraisal that was done by Lansink in coming to  
 9 their conclusions, which ultimately were what  
 10 loss in value?  
 11 A. Well, the average was 38.8 percent, ranging  
 12 from 23 and a quarter to 58.56 percent value  
 13 loss.  
 14 Q. And in general, if you know, how close were  
 15 those homes to turbines?  
 16 A. They're all stated in -- in the report under  
 17 each of the write-ups. I don't have them  
 18 memorized, but they were all very close based on  
 19 the Ontario standard of 550 meters, which is  
 20 about 1600 feet.  
 21 Q. So the minimum setback there is 1600 feet, so  
 22 they would be somewhere further than that.  
 23 A. Yeah, one of them was actually closer than  
 24 that, for some reason, but however that squeaked

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1 in, but...  
 2 Q. Okay. You've also got a slide here entitled,  
 3 Clarkson study. What is that and why did you  
 4 believe it important to give a slide on that  
 5 issue?  
 6 A. Well, this is a study that used the regression  
 7 analysis, but it was not one that was  
 8 commissioned by the wind industry. It was  
 9 prepared by a Professor Heintzelman of Clarkson  
 10 University in New York, and studied several wind  
 11 farms and using regression techniques. And this  
 12 Table 9 from that study, what it shows down that  
 13 far right column is, for example, in Franklin  
 14 County, using two different techniques, repeat  
 15 sales and census block analysis, as he's defined  
 16 it, you can see that at 1/10th of a mile, his  
 17 findings were 45.8 percent value loss near  
 18 turbines; and under the repeat sales analysis,  
 19 21 and a half -- 21.5 percent. He continues  
 20 down that left margin, as you can see a quarter  
 21 mile, half mile, 1, 2, and 3-mile increments.  
 22 And even when you get up to 3 miles, he's still  
 23 finding 9 to almost 21 percent of value impact.  
 24 This chart is also broken into three clusters

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1 where the initial distance of any turbines from  
 2 the homes that were studied was -- this is an  
 3 area where turbines are going up quite a bit  
 4 like we're seeing in Illinois, and so at  
 5 different points in time, their turbines might  
 6 have been at greater distances and that's what  
 7 the three groupings show is where, for example,  
 8 at the bottom, the initial distance there was  
 9 already turbines within 5 miles. And then the  
 10 very top grouping the initial distance was at  
 11 least 25 miles. I would also point out that you  
 12 can see that where the starting distance was  
 13 greater at 25 miles versus 5 miles. The impacts  
 14 measured are greater, which just logically tends  
 15 to indicate that even at 5 miles there is some  
 16 impact. He doesn't make that opinion, so I'm  
 17 not saying that's what the study says, I'm just  
 18 pointing it out as kind of an interesting  
 19 sidenote, that the data at the 5-mile distance  
 20 were -- the sales initially were -- nearest  
 21 turbine was 5 miles, there's only a 35 percent  
 22 value loss under the 1/10th of a mile, and at  
 23 that same analytical framework where the  
 24 turbines were at least 25 miles away, the impact

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1 is greater. That implies there was already some  
 2 impact at the 5-mile range.  
 3 Q. Who is that study drafted by again?  
 4 A. Professor Heintzelman and Assistant Carrie  
 5 Tuttle.  
 6 Q. And so that's the study referenced as the third  
 7 independent study you have on your summary; is  
 8 that right, on your literature review?  
 9 A. I'm just trying to confirm that it was, in  
 10 fact, the third one, I think so.  
 11 Q. Ultimately, did your document literature review  
 12 support, corroborate, or refute your findings  
 13 after you did your specific study of Lee and  
 14 DeKalb Counties?  
 15 A. Well, it was very consistent overall, very much  
 16 corroborated it. It definitely recognized that,  
 17 you know, depending on which study focused more  
 18 on it, and some might not have as much, the  
 19 relationship distance broken down in different  
 20 increments. But you know, clearly the  
 21 independent studies show that there is value  
 22 impacts at distances far greater than typical  
 23 setbacks that are being proposed, you know, and  
 24 that the furthest I've seen it actually measured



1 is out to 3 miles, and there is still an impact.  
 2 Q. Now, did you do any analysis concerning farm  
 3 properties?  
 4 A. I did.  
 5 Q. And what was that analysis?  
 6 A. That analysis was really a fundamental income  
 7 approach analysis or a model that recognizes  
 8 farmland as an income-producing property -- or  
 9 potentially income-producing property. And when  
 10 a real estate appraiser talks about income,  
 11 they're not really talking about the farm income  
 12 or, you know, the commodity prices, they're  
 13 talking about the land value as it relates to  
 14 the rental income that the property could  
 15 generate by, you know, offering it up for cash  
 16 rent.  
 17 And in that -- this particular analysis,  
 18 what I have become aware of and studied up on  
 19 some is the fact that aerial spraying  
 20 applications can very much be interfered with  
 21 and the aerial sprayers associations and  
 22 individuals, many have decided that they -- it's  
 23 too risky to fly near turbines at least in close  
 24 distances. So the Illinois Association of

1 risk relates to aerial applications, not being  
 2 able to get in close, especially when the  
 3 turbines are not lined up in a row. That's  
 4 where if they're lined up in a row then  
 5 applicators feel they can get closer to it.  
 6 When they're kind of scattered in a hodgepodge  
 7 manner, why it just creates a blanket area that  
 8 they really can't get into that easily.  
 9 Q. So earlier you mentioned that property value  
 10 guarantees might be something that could be  
 11 utilized to address the 25 to 40 percent loss  
 12 for residential properties and 10 percent loss  
 13 for agricultural; is that right?  
 14 A. Yes.  
 15 Q. Let me show you what I've had marked as  
 16 Exhibit 59.  
 17 JUDGE SLAVIN: Hold on. The last one  
 18 should have been 59.  
 19 MR. PORTER: Then I need to mark it 60.  
 20 Thank you, Judge.  
 21 (Exhibit No. 60 marked for  
 22 identification.)  
 23 MR. PORTER: Okay. For the record, we now  
 24 had that marked Exhibit 60.

1 Aerial Sprayers several years back -- of Aerial  
 2 Applicators, excuse me, had passed a resolution  
 3 that basically said -- had recognized these  
 4 issues and the hazards that are there for  
 5 pilots. And so as a purchaser of a farmland  
 6 that knows the aerial application options might  
 7 be interfered with, it doesn't automatically  
 8 mean they're not going to make the same money in  
 9 farming it, but it does represent an elevated  
 10 level of risk. And risk is something that can  
 11 be fairly quantified in the framework of an  
 12 income approach, which is exactly what I did.  
 13 Q. And is that contained at Page 34 and 35 of your  
 14 report?  
 15 A. Yes.  
 16 Q. And after you utilized your income approach  
 17 using a risk analysis, what did you conclude?  
 18 A. I concluded that a pretty reliable analysis of  
 19 a fully-informed buyer and fully-informed  
 20 seller, is that the value diminution would be  
 21 10 percent, or that's how much value impact  
 22 nearest the turbines. And that is a different  
 23 distance relation than the residential, for  
 24 example, because it has more to do with how the

1 And is that a copy of an example of a Real  
 2 Property Value Protection Plan?  
 3 A. Yes.  
 4 Q. And under that plan -- well, strike that.  
 5 Your report came to some conclusions as to  
 6 how far away certain properties would be to  
 7 suffer those expected losses; is that right?  
 8 A. Well, yes and no. I'm recognizing that there  
 9 is a much higher likelihood of significant value  
 10 impacts in the 2-mile range, but, you know,  
 11 frankly, they can extend beyond that to 3 or  
 12 potentially even more.  
 13 Q. Okay, but I guess what I'm trying to get at is,  
 14 at Page 6, you've indicated that alternately  
 15 that a panel could approve a conditional  
 16 requirement for a bonded Property Value  
 17 Guarantee for residential properties to a  
 18 distance of 2 miles from any footprint section  
 19 and one mile for agriculturally used properties.  
 20 A. Yes.  
 21 Q. First, why the difference? Why are you saying  
 22 that a PVG should at least cover 2 miles for  
 23 residential and 1 mile for agricultural?  
 24 A. Well, it relates to the distance of impacts

1 under the two different property types, where  
2 residential is much more susceptible to  
3 aesthetic issues or even noise issues that can  
4 extend at fairly great distances, you know, and  
5 that 2 miles is born out by the sale data that  
6 shows that the value impacts can extend and  
7 often do extend that far or beyond.

8 With agricultural, however, it's not as  
9 much an issue except to the extent of the -- I  
10 mean, for continued agricultural use. It could  
11 have some issues as far as future development of  
12 land, but just focusing on the properties as  
13 they sit, the 1-mile distance, to my mind, is  
14 what -- where the risk of aerial application  
15 options being impaired starts to fall off  
16 considerably.

17 Q. Okay, and the Real Property Value Protection  
18 Plan that we've handed to the Zoning Board of  
19 Appeals provides that if a residential property  
20 is within 2 miles of a wind -- industrial wind  
21 turbine, that the owner has the option of being  
22 bought out by the turbine company or receiving  
23 his damage, that damage being determined by a  
24 well-qualified appraiser; is that right?

1 Q. Do you agree that if for some reason the Zoning  
2 Board of Appeals were to recommend this  
3 application, that they should also recommend a  
4 condition that this Property Value Protection  
5 Plan be included?

6 A. Yes, I do, and one certainly would not be  
7 unprecedented either in the context of wind  
8 farms or other large-scaled land uses such as  
9 quarries, landfills -- which much more commonly  
10 now, Property Value Guarantees or some type of  
11 Property Value Protection Plan are being  
12 required as a condition for approval of very  
13 questionable uses as far as, you know, how well  
14 are they going to get along with their  
15 neighbors.

16 Q. For example, did DeKalb recently require one?

17 A. Yes.

18 Q. All right, and your slide here identifies what  
19 must be included in effective Property Value  
20 Guarantee Plan; is that right?

21 A. Well, it's certainly a starting point.

22 Q. And does the Property Value Plan that we have  
23 suggested here today meet those effective  
24 criteria of your slide here, 22?

1 A. Yes, yes.

2 Q. It also then provides that from 3 miles -- from  
3 2 to 3 miles that the only option for the  
4 homeowner would be to receive damages; is that  
5 right?

6 A. That's how it's written, yes.

7 Q. And then -- and that -- that opportunity under  
8 this plan lasts for 10 years; is that correct?

9 A. That's again how it's written, and I think  
10 that's a good idea so as not to create any undue  
11 pressure, let people see if they can --

12 Q. And having read the proposed Property Value  
13 Protection Plan of the Zoning Board of Appeals,  
14 they also used the 10-year figure; is that  
15 correct?

16 A. I seem to recall that, yes.

17 Q. And as far as agricultural land, this also  
18 provides protection for those non-participating  
19 landowners that own agricultural land, and  
20 again, allows for a buy-out if one is within  
21 that 1 mile you talked about or receiving  
22 damage, but only receiving damage between 1 and  
23 2 miles; is that right?

24 A. That's right.

1 A. I believe it does. What I don't recall for  
2 sure is if that reflects the current value at  
3 the time of the option or sale. For example, if  
4 somebody entered into the agreement, if the  
5 condition were imposed today and the property  
6 values were established today, if somebody lived  
7 for three or four years and the market  
8 conditions went up, they certainly shouldn't be  
9 penalized for electing to sell later if they  
10 found that they couldn't peacefully use and  
11 enjoy the property.

12 Q. Right, but that's addressed, because the  
13 appraisers have to determine that the impact is  
14 caused by the turbine?

15 A. Yes, my whole point is it should be current at  
16 the time of the transaction what the value  
17 should have been versus what it is near the  
18 turbines or a buyout at the current value  
19 excluding any affect of the turbines.

20 Q. Now, you've got a slide here entitled, Ben Hoen  
21 Interview where he's talking about Property  
22 Value Guarantees. Why did you feel it important  
23 to give us that quote from Ben Hoen?

24 A. Well, Ben Hoen and the Berkeley or LBNL study

1 are again, very often cited by developers just  
 2 saying there's no property value impact. You  
 3 have to read the report cover to cover and read  
 4 it carefully to understand that that's not what  
 5 it actually says, but that's how it's presented.  
 6 But Ben Hoen has been interviewed and has even  
 7 prepared other Power Point presentations. He's  
 8 one of authors of that study, in fact, the  
 9 principal author; and this is what he said to a  
 10 Board member up in Cape Vincent, New York, a  
 11 gentleman by the name of Clif Schneider, who  
 12 interviewed and spoke with Mr. Hoen. The  
 13 recording, actually, can be heard on-line or at  
 14 least it was the last time I checked. And this  
 15 is basically a transcript of that conversation  
 16 regarding Property Value Guarantees.

17 Q. And what'd he say?

18 A. Well, he says that one of the things that often  
 19 happens is that, you know, wind developers put  
 20 forward that LBNL report and say, look, property  
 21 values aren't affected. He goes on to say, but  
 22 that's not what we would say specifically in  
 23 regarding, you know, Property Value Guarantees.  
 24 He says, on the other hand, they have little

1 real estate perspective with the Lee County  
 2 Zoning Code.

3 And finally, that if this application  
 4 should be approved, that I truly believe that it  
 5 would be -- it would behoove the County and the  
 6 neighboring property owners for a Property Value  
 7 Guarantee to be a conditional part of that  
 8 approval.

9 Q. Since Lee County requires consideration of  
 10 impacts on neighboring uses before a special use  
 11 is awarded, should this request be allowed?

12 A. I'm sorry, would you repeat the question?

13 Q. You earlier indicated that the purpose of the  
 14 zoning code was to, in part, consider the  
 15 impacts on neighboring uses. Considering the  
 16 fact that you have found that there is a 25 to  
 17 40 percent loss to neighboring uses, in your  
 18 opinion, should this application be allowed?

19 A. I don't believe it should be, no.

20 MR. PORTER: I have nothing further.

21 JUDGE SLAVIN: Thank you. Mr. Lee,  
 22 Applicant's Counsel may inquire.

23 MR. LEE: Thank you, Judge.  
 24

1 ground to stand on if they say we won't  
 2 guarantee that. So he's acknowledged separately  
 3 that Property Value Guarantees are an effective  
 4 means to manage, you know, the risk for  
 5 neighboring property owners, and I think even  
 6 advising the American Wind Energy Association  
 7 that its something they have to take a good hard  
 8 look at in order to keep moving forward with  
 9 their development plans.

10 Q. And if, indeed, the appraisers find that there  
 11 was no property value loss as caused by  
 12 turbines, under the Real Property Protection  
 13 Plan that we've proposed, there would be no  
 14 payment then, right?

15 A. That's right.

16 Q. Okay. What were your conclusions after doing  
 17 your studies, analysis and literature review?

18 A. Well, first that there will, indeed, be a  
 19 significant impact to neighboring property  
 20 values, in particular the residential, but  
 21 agricultural properties at a 10 percent value  
 22 loss. I consider that to be significant, too.

23 It does not comply with the application,  
 24 and the proposed project does not comply from a

1 CROSS EXAMINATION  
 2 By Mr. Lee

3 Q. Now, Mr. McCann, you mentioned that you have  
 4 testified in a number of proceedings?

5 A. Yes.

6 Q. Illinois Pollution -- or I'm sorry, Illinois  
 7 Property Tax Appeal Board proceedings?

8 A. Yes.

9 Q. Do you recall a case in which you testified  
 10 regarding an assessment regarding a landfill in  
 11 Ogle County?

12 A. Yes.

13 Q. You were retained by a school district to  
 14 assess the landfill?

15 A. Well, to appraise the market value of the  
 16 landfill for various assessment purposes, yes.

17 Q. And one of the approaches you used in that  
 18 analysis was a sales comparison approach?

19 A. Yes.

20 Q. The Property Tax Appeal Board rejected that,  
 21 didn't they?

22 A. I don't recall actually, you know, getting a  
 23 copy of the decision, which is often the case.

24 Q. Well, let me provide you with the Appellate

1 Court decision.  
 2 I think this is 61.  
 3 (Exhibit No. 61 marked for  
 4 identification.)  
 5 Q. You've never seen this opinion before?  
 6 A. It does not look familiar. I don't recall  
 7 seeing it.  
 8 Q. The client didn't discuss the findings of the  
 9 Property Tax Appeal Board with you?  
 10 A. Not that I recall, no.  
 11 Q. You never heard that -- and this is on Page 7  
 12 of the Appellate Court opinion, that the  
 13 Property Tax Appeal Board found that the entire  
 14 sales comparison analysis performed by McCann is  
 15 questionable and unreliable. Further, the PTAB  
 16 found that the data considered by McCann, quote,  
 17 lacks credibility or reliability; and,  
 18 therefore, the PTAB finds McCann's sales  
 19 comparison approach does not support the subject  
 20 property's 2003 assessed value. You never heard  
 21 that before?  
 22 A. Uhm, I don't think I have, but I can tell you  
 23 that -- certainly I see a front that the basis  
 24 of that was Department of Justice ordered to

1 misleading to suggest that somehow his opinions  
 2 were thrown out for some credibility issue, when  
 3 it actually had nothing to do with that, it had  
 4 to do with a finding that there was not an  
 5 arm's-length transaction based on the Department  
 6 of Justice order.  
 7 JUDGE SLAVIN: You presented a resume --  
 8 you presented a resume that included him  
 9 testifying here today that he'd been accepted  
 10 and certified, were some of the words he used.  
 11 Overruled.  
 12 Q. And the appraiser on the other side of the  
 13 issue was man named Mr. Main; is that correct?  
 14 A. Doug Main, sure.  
 15 Q. And again, looking at Page 7, at the very  
 16 bottom, in summary, the PTAB found that Main  
 17 presented the more competent, professional, and  
 18 logical testimony in support of his appraisal  
 19 methodology, data used, and final values --  
 20 MR. PORTER: Again, objection, how is that  
 21 relevant to the testimony here today that some  
 22 judicial finder found the other expert was more  
 23 relevant? I mean, you could go to hundreds of  
 24 cases that experts have testified and to the

1 divest those landfills, which was the reason  
 2 why, as I recall during the hearing, that there  
 3 was a lot of issue as to whether or not those  
 4 comparable sales were truly comparable. I had  
 5 corroborated them in other ways, but since they  
 6 were ordered by the Department of Justice as a  
 7 divestiture, I think that is why the Property  
 8 Tax Appeal Board must have deemed these to not  
 9 be credible sales.  
 10 MR. PORTER: And I'm going to object.  
 11 This is completely irrelevant to his opinions  
 12 concerning --  
 13 JUDGE SLAVIN: You're the one that  
 14 advanced him as a qualified expert.  
 15 MR. PORTER: And this doesn't in any way  
 16 say he's not qualified. As a matter of fact,  
 17 what it says is, with respect to the finding,  
 18 PTAB found that due to the compulsion created  
 19 the Department of Justice order, the sales of  
 20 landfills did not meet the definition of  
 21 arm's-length transactions and thus PTAB could  
 22 not rely on those sales transactions. It has  
 23 absolutely nothing to do with his testimony  
 24 here. And as a matter of fact, it's highly

1 exact same thing. This is highly misleading.  
 2 JUDGE SLAVIN: Yes, you could, but Mr. Lee  
 3 just read that the methodology that other  
 4 gentleman used was -- I thought that was the  
 5 basis of your question.  
 6 MR. PORTER: But that methodology isn't  
 7 what we're discussing here today.  
 8 JUDGE SLAVIN: No, he's testified that his  
 9 cost comparison approach is the legitimate  
 10 method.  
 11 Go ahead and re-ask your question, Mr.  
 12 Lee.  
 13 Overruled.  
 14 MR. LEE: If I can go without being  
 15 interrupted, I'll try.  
 16 In summary, the PTAB found that Main  
 17 presented the more competent, professional, and  
 18 logical testimony in support of his appraisal  
 19 methodology that he used and final value  
 20 conclusion over the presentation of McCann.  
 21 Because Main's appraisal was more credible and a  
 22 better indicator of the subject's fair market  
 23 value using the income approach, that PTAB gave  
 24 McCann's final value conclusion little weight in

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1           it's analysis. That's what it says, right?

2       A. Just following along with you, if that's what

3           it says, that's what it says.

4           JUDGE SLAVIN: Do you have one?

5           MR. LEE: Yes.

6           JUDGE SLAVIN: 62.

7                   (Exhibit No. 62 marked for

8                   identification.)

9           JUDGE SLAVIN: You may go ahead. I'll

10          hand these over in a minute.

11       Q. Mr. McCann, you have what's marked 62?

12       A. I do.

13       Q. And that's the Berkeley study?

14       A. I'm sorry.

15       Q. That's the Hoen --

16           THE WITNESS: Should I write 62 on that?

17           JUDGE SLAVIN: Thank you.

18       A. I'm sorry, Counsel.

19       Q. That's the Hoen report you've been talking

20          about, the Berkeley report?

21       A. Yes, it is.

22       Q. And this is the report you've relied on in the

23          past, right?

24       A. Well, I wouldn't say relied on except for the

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1           parts of it that are actually reasonably

2           accurate.

3       Q. And you've given us Mr. Hoen's quote, well,

4           what is the conclusion that was reached?

5       A. Well, it depends on exactly where you read it.

6           But what it essentially says is a series of

7           hoops as far as value conclusions, because it

8           says that their statistical analysis does not

9           find a wide-spread, consistent and statistically

10          significant difference of values, but it goes on

11          to say this, however, does not exclude or the

12          possibility of value impacts up close to

13          turbines where -- but to the extent that there

14          are any such examples, they are so infrequent

15          and inconsistent as to not be statistically

16          measurable.

17       Q. So if we look at page, Roman Numeral 12, it's

18          called, Base Model Results.

19           JUDGE SLAVIN: What page is that, Counsel.

20           MR. LEE: It's 12.

21           JUDGE SLAVIN: Thank you.

22           THE WITNESS: Roman Numeral 12.

23       Q. Roman Numeral 12, and they talk about the area

24          stigma, and isn't it true they say to

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1           investigate Area Stigma, the model tests whether

2           the sales prices of homes situated anywhere

3           outside of one mile, inside of five miles of the

4           nearest wind facility are measurably different

5           from the sales price of those homes located

6           outside of five miles. No statistically

7           significant differences in sales prices between

8           these homes are found, correct?

9       A. Well, that's what it says, but they certainly

10       excluded some sales that are entirely relevant

11       to that very analysis, and those are listed or

12       cited on the footnotes on Page 14 of this

13       report, Footnote 27, to be specific, where they

14       reveal the fact that they excluded a couple of

15       properties that a Pennsylvania wind developer

16       bought out and then resold. They don't report

17       what the loss was, but I've checked it out and,

18       in fact, of the four properties they bought out,

19       two of them were resold at 80 percent and

20       36 percent losses. So not including that data,

21       they might get that result.

22       Q. And that's your opinion they should have

23          included that data.

24       A. Absolutely.

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1       Q. This author obviously thought otherwise.

2       A. Well, that's right, they thought otherwise.

3       Q. And in regards to Scenic Vista Stigma,

4           nonetheless, when the model tests for whether

5           homes with minor, moderate, substantial, or

6           extreme views of wind turbines have measurably

7           different sales prices, no statistically

8           significant differences are apparent, correct?

9       A. Well, that's with a broad range of data that

10       they can fit anything within that and that's

11       exactly what they did, yes.

12       Q. And then if you look at page, Roman Numeral 16,

13          they talk about all sales model. And in fact,

14          you've used this chart in reports of yours

15          before, correct?

16       A. I have.

17       Q. Right, and what it says is that Temporal

18          Aspects Model finds that homes located within

19          one mile of where the wind turbines would

20          eventually be located sold for depressed prices

21          well before the wind facility was even announced

22          or constructed. In all time periods following

23          the commencement of wind facility construction,

24          however, inflation-adjusted sales prices

1 increased - not decreased - relative to  
 2 pre-announcement levels, demonstrating no  
 3 statistical evidence of a Nuisance Stigma. The  
 4 results from the All Sales Model (and, for that  
 5 matter, the negative, albeit statistically  
 6 insignificant coefficients inside of one mile in  
 7 the Base Model) are therefore an indication of  
 8 sales price levels that preceded wind facility  
 9 announcement construction, and that are not  
 10 sustained after construction. Correct?  
 11 A. If you're -- I wasn't following along with you.  
 12 If you're representing that that's what they  
 13 state in the report, I'm not going to argue with  
 14 you; but I do argue with their interpretation of  
 15 those trend lines.  
 16 Q. But that's a trend line that's been found by  
 17 others, too, right?  
 18 A. No, people have copied Hoen, yes, but no, that  
 19 is not quite accurate because clearly the -- if  
 20 you look at the first trend line, which this is  
 21 not in color, so other people can't necessarily  
 22 follow, but that bottom line is the one-mile  
 23 line, and you can clearly see that between two  
 24 and four years after construction that the

1 denigrate her work because it's a Master's  
 2 thesis?  
 3 MR. PORTER: Objection, argumentative.  
 4 JUDGE SLAVIN: Sustained. Lets move  
 5 along.  
 6 Q. Looking at Page 8 of 143, she talks about the  
 7 location of turbines in her research, correct?  
 8 A. She has some opinions.  
 9 Q. And doesn't she say in there that additionally,  
 10 the results show that property value impacts  
 11 vary based on the different stages of wind farm  
 12 development. These stages of wind farm  
 13 development roughly correspond to the different  
 14 levels of risk as perceived by local residents  
 15 and potential home buyers. Some of the  
 16 estimation results support the existence of wind  
 17 farm anticipation stigma theory, meaning that  
 18 property values may have diminished in  
 19 anticipation of the wind farm after the wind  
 20 farm project was approved by the McLean County  
 21 Board. Wind farm anticipation stigma is likely  
 22 due to the impact associated with a fear of the  
 23 unknown, a general uncertainty surrounding a  
 24 proposed wind farm project regarding the

1 properties within a mile drop off to over  
 2 5 percent value loss.  
 3 Now, what -- I don't see how that  
 4 translates into not being statistically  
 5 significant. If you have a broad enough  
 6 standard deviation as they do from using pooled  
 7 data from 24 projects in nine states, then you  
 8 have wildly dissimilar prices. That's why it's  
 9 important to look in the local market and use  
 10 data that's relevant instead of data that  
 11 broadens the horizon, so-to-speak, to the point  
 12 where you really can't measure anything with any  
 13 statistical significance.  
 14 (Exhibit No. 63 marked for  
 15 identification.)  
 16 Q. Well, that's what Ms. Hinman did in Exhibit 63,  
 17 right, she looked at property values in Central  
 18 Illinois, correct?  
 19 A. 63? Well, here we go.  
 20 Well, that's what she purports to do in  
 21 her, really a Master's thesis.  
 22 Q. Have you ever written a Master's thesis?  
 23 A. I have not.  
 24 Q. So you're well aware -- are you trying to

1 aesthetic impacts on the landscape, the actual  
 2 noise impacts from the wind turbines, and just  
 3 how disruptive the wind farm will be. However,  
 4 during the operational stage of the wind farm  
 5 project, as surrounding property owners living  
 6 close to the wind turbines acquired additional  
 7 information on the aesthetic impacts on the  
 8 landscape and actual noise impacts of the wind  
 9 turbines to see if any of their concerns  
 10 materialized, property values rebounded and  
 11 soared higher in real terms than were they were  
 12 prior to wind farm approval. Correct?  
 13 A. No, it's patently not a complete recitation of  
 14 what she says, because clearly in her report she  
 15 also states, as she cites a realtor that she --  
 16 one realtor that she spoke with in the conduct  
 17 of this study, the only real estate  
 18 professional, mind you, that she was at all  
 19 involved with in trying to understand real  
 20 estate values. So this is another statistical  
 21 study, but she does state that that realtor says  
 22 that they believe there's no impact beyond three  
 23 miles. She's opining less than that.  
 24 Q. I understand you disagree.

1 A. Well, she also --  
 2 MR. PORTER: Well, let him finish his  
 3 answer, Counsel.  
 4 A. Yes, she also concludes that some results  
 5 indicate wind farm anticipation stigma, but the  
 6 results neither support nor reject the existence  
 7 of a wind farm nuisance stigma after the wind  
 8 farm achieved commercial operation.  
 9 And if you look to Page -- Page 120 of her  
 10 report, you can see that the values soaring, as  
 11 she talks about, is a bit misleading, because  
 12 what really happened there is, in her  
 13 statistical analysis, that there was \$21,916  
 14 decline and it came back 13,500, but there's  
 15 still a net loss of \$8,392, on average, pre-  
 16 versus post-construction and that's -- I think I  
 17 calculated that out to 11.8 percent. What else  
 18 can I say?  
 19 Q. I don't know. The Board will have to read the  
 20 report and come to its own conclusion, I guess.  
 21 MR. PORTER: We hope so.  
 22 JUDGE SLAVIN: All right, gentlemen, let's  
 23 move along. Ask questions; answer questions.  
 24 Q. Did I hear you correctly that you testified in

1 of the project site?  
 2 A. I've been through it a number of times, yeah.  
 3 Q. In your opinion, is it densely populated?  
 4 A. Depends on how you define densely, but there  
 5 are certainly a lot of families living within  
 6 the project and adjacent to it.  
 7 Q. Would it surprise you to learn it's one of the  
 8 least densely-populated areas in Lee County?  
 9 A. Uhm, no, it wouldn't surprise me.  
 10 Q. And I guess it was your testimony that this  
 11 project is inconsistent with the purposes of the  
 12 zoning code?  
 13 A. In my opinion, from a real estate perspective,  
 14 yes, sir.  
 15 Q. And that's not unique to this project, in your  
 16 opinion, any wind farm would be inconsistent?  
 17 A. It's a matter of scale, Counsel, if a wind farm  
 18 is proposing structures that otherwise fit  
 19 within zoning guidelines, for example, 35- or  
 20 49-foot height limitation, it wouldn't even come  
 21 up. It's a matter of scale and how it changes  
 22 the character of an area, and the larger these  
 23 turbines get. It appears that the market is  
 24 speaking pretty clearly that the greater the

1 landfill proceedings?  
 2 A. I have, yes.  
 3 Q. And on behalf of applicants?  
 4 A. On behalf of applicants and on behalf of --  
 5 siting authorities.  
 6 Q. And on behalf of applicants, has your testimony  
 7 been that -- that a landfill doesn't affect  
 8 surrounding property values?  
 9 A. Well, I've given a lot of testimony on that  
 10 subject over the years and it depends. For  
 11 properly-operated screen, where there is no  
 12 conflict with the neighboring residential, my --  
 13 the empirical evidence, using resale analysis is  
 14 shown that was there was not in, you know,  
 15 closer in areas to the Chicago metropolitan  
 16 area. I haven't studied every landfill, and I  
 17 can't say that that's true of every landfill.  
 18 In fact, I've studied others where there were  
 19 actual physical impacts that constituted a  
 20 nuisance to the neighboring property owners and  
 21 those, in some cases, involved abandonment of  
 22 homes much is the case sometimes with wind  
 23 farms.  
 24 Q. You mentioned you explored this area, the area

1 impacts are, the further they extend, so...  
 2 Q. Were you aware that this County's already  
 3 approved 231 industrial wind turbines?  
 4 A. I'm well aware that Lee County has approved  
 5 turbines in the past, yes.  
 6 Q. And so the County doesn't understand its own  
 7 zoning code, is that your testimony?  
 8 MR. PORTER: Objection, it calls for  
 9 conjecture.  
 10 JUDGE SLAVIN: Overruled, he made these  
 11 recommendations.  
 12 MR. PORTER: Different than saying what  
 13 the County understands.  
 14 JUDGE SLAVIN: Overruled.  
 15 A. I'm sure different degrees, each member of the  
 16 Zoning Board and the County Board has their own  
 17 understanding of it. I don't pretend to know  
 18 what their understanding is. I also know that  
 19 there's been more and more information that has  
 20 come to light since those original projects were  
 21 approved and, you know, sometimes things change,  
 22 not just the size of turbines, but how -- you  
 23 know, the greater the impacts, the more they  
 24 become noticeable.

1 Q. Obviously, I've not had the chance to go  
 2 through all of your paired sales analysis.  
 3 Well, I'll ask you about the one on your slide.  
 4 You didn't do appraisals of these  
 5 properties before and after the wind farm went  
 6 in, correct?  
 7 A. These transactions both occurred after the  
 8 DeKalb project went in, which was late 2009.  
 9 The target sale was November 2012. The control  
 10 sale was February 2012, so they're both  
 11 post-construction.  
 12 Q. Right, but you didn't do an appraisal pre and  
 13 an appraisal post and then compare those?  
 14 A. Well, I didn't really do an appraisal of either  
 15 property, I used one property to control for the  
 16 lack of a turbine to determine if there was any  
 17 affects on the value or sale price of the one  
 18 near the turbine.  
 19 Q. And your analysis depends, to a considerable  
 20 extent, at least on a percentage basis, on what  
 21 the listing price was, correct?  
 22 A. Well, no, because it's based on the sale price.  
 23 So the only thing -- the only correlation  
 24 between listing price and my analysis is what

1 say, qualitative than quantitative. It's -- you  
 2 know, looking at the pictures, for example, you  
 3 can see that these homes very similar curb  
 4 appeal. That's not something you can draw a  
 5 line around and put an exact number on, it's  
 6 more of a judgment call. But that's what I  
 7 attempted to do in each of the current sales is,  
 8 you know, whatever I found near a turbine, try  
 9 to find a control sale that, for all practical  
 10 purposes, would have the same market appeal, you  
 11 know, but for the presence of the turbine.  
 12 Q. And by taking your control group out 10 miles  
 13 or more, I mean, you run the risk you end up in  
 14 different markets, right?  
 15 A. Well, I broke it down into Lee and DeKalb, you  
 16 know, recognizing that there are two different  
 17 counties, two different county governments, two  
 18 different tax rates, for example, but for  
 19 comparison purposes had to get far enough away  
 20 to make sure that there was not any turbine  
 21 influence.  
 22 Q. And so is it your belief that the real estate  
 23 market in Lee, Illinois, is the same real estate  
 24 market in Sycamore, Illinois?

1 percentage of list price to the properties  
 2 ultimately sell for, and that's a separate  
 3 indication that is significantly impaired  
 4 compared to property of more distant.  
 5 Q. Well, like in the on the one in your slide,  
 6 what you call the target property, lists the --  
 7 that list price was significantly higher than  
 8 the list price for the control property, wasn't  
 9 it?  
 10 A. Well, no, I don't think it's significant in the  
 11 context of the market, because the property  
 12 listed at about 240, another property listed at  
 13 275. That's within the range that the same  
 14 buyers' pool would be looking within, typically.  
 15 Q. So 35,000 difference isn't significant?  
 16 A. Well, it is if you lose it, but it's not when  
 17 you're shopping in that price range.  
 18 Q. I see. Now, your efforts to make these  
 19 properties identical, you considered the items  
 20 on the sheet that are listed here, correct?  
 21 A. Yes.  
 22 Q. Are there any items you considered that aren't  
 23 listed on the sheet?  
 24 A. Well, some of it is a little more, I guess I'll

1 A. I excluded anything within incorporated limits  
 2 of Sycamore or DeKalb, for example, for that  
 3 very reason, to make sure that I was not  
 4 crossing the line from rural residential to, you  
 5 know, small town or urban residential.  
 6 Q. Well, it's got an address of Sycamore, it's  
 7 near Sycamore, at least?  
 8 A. Well, if we go to the area though, you can see  
 9 that it's not in town and it's a -- again, it's  
 10 a -- this one's a 4.1-acre lot. That's not an  
 11 in town lot. Now, you can see a wall stump in  
 12 the front yard on that control sale. No city  
 13 water. It's a rural property.  
 14 Q. I understood it's rural, but whether it's --  
 15 what might be close to it could be relevant to  
 16 its value, correct?  
 17 A. That's my whole point.  
 18 Q. And it could be -- if it's closer to a more  
 19 metropolitan area, so-to-speak, that could be  
 20 more attractive than if it's way out in the  
 21 country or vice-versa?  
 22 A. Anything's possible, but certainly when  
 23 somebody's looking for rural property and they  
 24 don't want to live in town, these two properties



1 would have qualified as candidates for any buyer  
 2 in that price range that's looking for a ranch  
 3 on roughly 5 acres.  
 4 Q. And the 10 miles difference you don't think  
 5 that would matter to anybody?  
 6 A. It could matter to certain individuals. As to  
 7 the market in general, no.  
 8 Q. School systems, they make a difference?  
 9 A. For some people, if they have school-aged  
 10 children, and they're more concerned --  
 11 Q. You didn't look at that?  
 12 A. Not specifically, no. I assumed DeKalb to be a  
 13 pretty homogenous school district or series of  
 14 school districts. I know there's some  
 15 differences, some spend more, but I have not  
 16 seen any demonstration in any of the work I was  
 17 looking at that tells me that one school  
 18 district property values are 50 percent higher  
 19 or some other demonstrable difference in school  
 20 districts.  
 21 Q. Well, I know, but you testified you're trying  
 22 to make these identical, but you didn't look at  
 23 school districts?  
 24 A. Well, I think it's as nearly identical as

1 A. I did.  
 2 Q. All right, and those all have specific  
 3 characteristics.  
 4 A. And as close as possible for general market  
 5 appeal and various features of them, but for the  
 6 turbines, yes, sir.  
 7 Q. But they are different. You have to conceive  
 8 they're different, they're 10 miles away,  
 9 different markets, maybe different schools?  
 10 A. I agree that they're somewhat different, and  
 11 that's why I had to make adjustments. If  
 12 they're identical, there would be no  
 13 adjustments, it would just shake out under the  
 14 unadjusted sales price range which, you know,  
 15 was still 35 percent difference.  
 16 Q. And then do you get into all the factors of  
 17 interest rates, timing --  
 18 A. Well, looking at the timing here in  
 19 November 2012 and February 2012 when they sold.  
 20 Put it this way, they were both on the market at  
 21 the same time, it just took the one by the  
 22 turbine that much longer to sell.  
 23 Q. And in your opinion, it's only because of the  
 24 turbines?

1 possible to make -- to take the major factors  
 2 that are ascertainable and determine the  
 3 differences.  
 4 Q. So they're not really identical.  
 5 A. No two properties are identical, that's why  
 6 appraisers need to make adjustments in any case.  
 7 Q. And neighborhoods are important?  
 8 A. Sure.  
 9 Q. Proximity to health care is important?  
 10 A. Can be.  
 11 Q. People's personal circumstances are important,  
 12 where they work?  
 13 A. Well, it's -- it can be, but if you're talking  
 14 about value to an individual user, that's not  
 15 market value, that's value in use or other  
 16 definitions of value. But market value's much  
 17 more generic. How does it apply to the market  
 18 in general? So somebody --  
 19 Q. Well, but your --  
 20 A. -- might want to live near a hospital, somebody  
 21 else might want to live near a slightly better  
 22 school district, but the market in general is  
 23 what I'm reflecting here in market value.  
 24 Q. But you picked specific properties.

1 A. It certainly fits within the framework of the  
 2 paired sales analysis. In my opinion, all the  
 3 other differences have been accounted for  
 4 suitably for the indicated value impact to be a  
 5 pretty reliable indication, yes, sir.  
 6 Q. And it also fits within the conclusion you  
 7 wanted to reach for your client, correct?  
 8 A. I think you misunderstood the nature of my  
 9 assignment, but put it however you want.  
 10 Q. Well, you knew your assignment was given to you  
 11 by someone opposed to the project, right?  
 12 A. Well, yes.  
 13 Q. And that the agricultural analysis, you looked  
 14 solely at the aerial application?  
 15 A. Well, not solely. I know there's also  
 16 aesthetic concerns, but I have not seen that  
 17 translate directly into lower land values,  
 18 because, for example, a farmer doesn't want to  
 19 look at turbines on his neighbor's property  
 20 while he's working the land. It's more of a  
 21 fundamental analysis that recognizes there is an  
 22 elevated level of risk from a -- from an  
 23 investment standpoint and very nominal  
 24 adjustment to the risk rate and the

1 capitalization rate, and it makes that much  
 2 difference in value, about -- about 10 percent.  
 3 Q. But you didn't do a paired sales analysis for  
 4 the farmland.  
 5 A. I did not.  
 6 Q. Because that would have required you to  
 7 consider things like soil types and acreage  
 8 and --  
 9 A. For adjusting comparables, it very well could  
 10 have, yes.  
 11 Q. And you didn't do that.  
 12 A. I did not.  
 13 Q. And this Lansink study, I just want to make  
 14 sure I understand it.  
 15 Am I correct that the transaction -- in  
 16 the first transaction, the wind farm company was  
 17 the buyer and the second the seller?  
 18 A. Correct.  
 19 Q. And you consider those arms-length  
 20 transactions?  
 21 A. I consider them to reflect everybody acting in  
 22 their own best interest. In the first  
 23 transaction, clearly the wind developer was  
 24 looking at some type of action on the part of

1 that data is so clean in the respect of meeting  
 2 the definition of market value, which requires a  
 3 fully-informed buyer and seller and both parties  
 4 acting in their own best interest, but that's  
 5 not always ascertainable, you know, from other  
 6 MLS records. But when there is a recorded  
 7 document that clearly shows that both parties  
 8 were aware of these affects on the living  
 9 environment, and the buyers were accepting that  
 10 willingly, there's -- that's what came out in  
 11 the wash and how much they had to discount the  
 12 price to get buyers to buy the property under  
 13 that condition.  
 14 Q. Are you familiar with foreclosure sales?  
 15 A. Pardon me?  
 16 Q. Are you familiar with foreclosure sales?  
 17 A. Somewhat.  
 18 Q. And those are -- you mentioned that you didn't  
 19 include those as part of your analysis, correct?  
 20 A. That's correct.  
 21 Q. And that's because the bank owns the property  
 22 and wants to get rid of it, right?  
 23 A. That's right.  
 24 Q. And again, I apologize, I haven't had a chance

1 the neighbors that were being disturbed by the  
 2 nuisances from the turbines. Bought them out,  
 3 made peace that way.  
 4 Q. Wanted to get rid of them.  
 5 A. Well, apparently so, wanted to get rid of those  
 6 neighbors, you know, after he built the turbines  
 7 by them, but whatever, I'm not trying to put --  
 8 Q. And they paid a premium for that.  
 9 A. Excuse me?  
 10 Well, that's not what the data showed.  
 11 You might assume that, and that would be a  
 12 logical assumption, but that's not what the data  
 13 showed.  
 14 Q. And now you've got this inventory of homes,  
 15 there's a developer, you got to unload them,  
 16 right?  
 17 A. Well, they didn't unload them in any kind of  
 18 fire-sale situation. They listed them with  
 19 realtors on a Multiple Listing Service. They  
 20 sat there some time until they found buyers that  
 21 were willing to accept those conditions that  
 22 say, we can retain the right to broadcast noise,  
 23 vibration, flicker, or any affects on the living  
 24 environment you're purchasing from us. And so

1 to really review your proposed property -- Real  
 2 Property Value Protection Plan. I guess I'm  
 3 trying to understand the concept. What's the  
 4 concept in terms of how is it supposed to work?  
 5 A. The overall concept is leaving people whole. I  
 6 think that's as good a concept as any.  
 7 Q. Well, I asked a bad question.  
 8 My question is procedurally, as I skim  
 9 through this, I don't find any reference to when  
 10 the property is sold. So this is not a value  
 11 protection plan based on sale of property; is  
 12 that right?  
 13 A. Well, I think there's a lot of ways it could  
 14 take turns, but I did not write that particular  
 15 plan; I reviewed it. It's consistent with my  
 16 recommendations on the property value protection  
 17 plans or property value guarantees.  
 18 Q. You know who did write it?  
 19 A. Excuse me?  
 20 Q. Do you know who did write it?  
 21 A. I believe it was written by Mr. Porter.  
 22 Q. And is there -- is there a sales component  
 23 here, because most of the -- a lot of plans -- I  
 24 shouldn't say most, a lot of the plans deal with

1 the sale of the property, and then at that point  
 2 trying to make the owner whole.  
 3 A. Well, I think it does certainly allow for  
 4 people to sell their own home, and I don't  
 5 recall using that as a measuring stick. The  
 6 appraised value is the measuring stick, if you  
 7 will, and then if they can't sell it at that  
 8 price they can elect to sell it to the  
 9 developer, you know, anytime within the, what 10  
 10 years, in that plan?  
 11 Q. And but I think you testified if they do sell  
 12 and -- well, I guess I want to make sure I  
 13 understand it.  
 14 The procedure would be, they go through  
 15 this appraisal process, in your opinion the  
 16 appraiser will find the 25 percent or more  
 17 diminution in value, the wind farm either buys  
 18 the house or writes them a check for the  
 19 25 percent, and then they can -- then the owner  
 20 can sell the property later, and if they sell it  
 21 for way more than it was appraised, they get the  
 22 benefit of that, too, right?  
 23 A. I'm not entirely sure I followed your question,  
 24 but the value impact in these close ranges could

1 made it clear that it was not something they  
 2 administer, so he doesn't have access to Florida  
 3 Power & Light's confidential -- or NextEra's  
 4 confidential records.  
 5 MR. LEE: That's all I have, thank you.  
 6 JUDGE SLAVIN: Thank you, Mr. Lee.  
 7 Remainder of the interested parties -- oh  
 8 no, I'm sorry.  
 9 Gentlemen. Mr. Buhrow, questions of Mr.  
 10 McCann?  
 11 CHAIRMAN BUHROW: Okay. Mr. McCann, you  
 12 completed this study, and what's the date you  
 13 completed it?  
 14 THE WITNESS: I just actually completed  
 15 the report this morning.  
 16 CHAIRMAN BUHROW: Your report, okay.  
 17 Did the DeKalb study you were just  
 18 referring to, or the DeKalb property protection  
 19 plan, was that in place before the Florida Power  
 20 windmills got put in or after?  
 21 THE WITNESS: Well, exactly when the --  
 22 the zoning board hearing officer had recommended  
 23 denial, because Florida Power & Light and  
 24 NextEra did not want to include that in their

1 be not just 25 percent, but 25 to 40 percent.  
 2 Q. Well --  
 3 A. Sometimes more, depends on how well informed  
 4 and how onerous the nuisances might be in a  
 5 given location.  
 6 Q. But if it turns out that it doesn't turn out  
 7 that way, if the property values actually go up,  
 8 the owner gets the benefit of what was perceived  
 9 to be a diminution of value without there ever  
 10 being one, right?  
 11 A. I don't think I read it that way, but if a  
 12 developer bought out a property that they're  
 13 saying there is going to be no value impact and  
 14 they end up selling it for more, then they made  
 15 out.  
 16 Q. Have you ever seen a plan like this in place?  
 17 A. Exactly like that one? Not word for word, but  
 18 yes, DeKalb has a plan in place.  
 19 Q. Like this?  
 20 A. A Property Value Protection Plan that,  
 21 unfortunately, the county doesn't administer it.  
 22 They ignored some good recommendations, but  
 23 there have been a couple claims made against it.  
 24 When I spoke with the planning commissioner, he

1 application, a property value plan. So as I  
 2 understand it, then the NextEra went to the  
 3 county board and said, well, you know, we'll go  
 4 ahead and do a property value plan, and  
 5 apparently then the county board approved it  
 6 with that, as well as some other conditions that  
 7 were objectionable to the developer in the first  
 8 place.  
 9 CHAIRMAN BUHROW: Did you find this  
 10 appraisal of this report more difficult than  
 11 your normal appraisals that you do on  
 12 residential houses?  
 13 THE WITNESS: Well, I don't do residential  
 14 homes for mortgage purposes, most of my work is  
 15 a little more complex. It often involves  
 16 litigation or potential litigation, whether it's  
 17 property being condemned or a zoning matter like  
 18 this. Uhm, complex, yes, there was a lot of  
 19 information to go through. At first blush  
 20 seemed pretty easy to, you know, go out and  
 21 find, you know, half a dozen, a dozen properties  
 22 that sold near turbines, but you'd be surprised  
 23 how many of them are located near turbines were  
 24 foreclosures or short sales, which, you know, I

1 can't say that was because of the turbines, but  
 2 I made sure I excluded any of those. It's time  
 3 consuming.  
 4 CHAIRMAN BUHROW: So you did -- did you  
 5 take into account then that the probable -- of  
 6 foreclosure -- I mean, as far as the whole  
 7 market, you took that out as best you could then  
 8 on your appraisals?  
 9 THE WITNESS: Yes, by making sure that  
 10 each of the target and control sales were,  
 11 indeed, not foreclosures, not to short-sale  
 12 properties.  
 13 CHAIRMAN BUHROW: I think that's all I  
 14 have.  
 15 THE WITNESS: Thank you, sir.  
 16 JUDGE SLAVIN: Mr. Bothe?  
 17 MR. BOTHE: I have nothing.  
 18 JUDGE SLAVIN: Mr. Fassler?  
 19 MR. FASSLER: How hard is it if, you know,  
 20 we did something like this Property Value  
 21 Protection Plan, to get two appraisers to be  
 22 within that 10 percent?  
 23 THE WITNESS: I can't speak for any other  
 24 appraiser will or won't do, but I can tell you

1 MR. FORSTER: No questions.  
 2 JUDGE SLAVIN: Remainder of interested  
 3 parties.  
 4 Pat Scully?  
 5 Robin Ackerson?  
 6 MS. ACKERSON: Pass.  
 7 JUDGE SLAVIN: I thought I saw her.  
 8 MS. ACKERSON: I'm here.  
 9 JUDGE SLAVIN: Okay. There you are.  
 10 Questions?  
 11 MS. ACKERSON: Pass.  
 12 JUDGE SLAVIN: Giles Kalvelage?  
 13 MR. KALVELAGE: I have a couple.  
 14 Good evening, Mr. McCann, how are you?  
 15 THE WITNESS: Pretty well. Yourself?  
 16 MR. KALVELAGE: Good, good.  
 17 THE WITNESS: Thank you.  
 18 MR. KALVELAGE: Taking turbines off the  
 19 table for just a half a second. Do you think  
 20 that there may be some people from Orland Park  
 21 or maybe Schaumburg who may wish to be able to  
 22 move into the fine communities of Lee, Paw Paw,  
 23 or other areas because they might appreciate the  
 24 open skies, the lack of population, the small

1 that if they're state licensed, state certified,  
 2 then they do have minimum level of performance  
 3 standards that they have to adhere to. And  
 4 where the devil's in the details is making sure  
 5 that appraisers are given clear instructions,  
 6 but no direction in value. No -- you got to  
 7 find an impact or you got to find no impact, so  
 8 I think the process has to be done in a -- more  
 9 of a mediation or arbitration fashion where, for  
 10 example, if the property owner or the developer  
 11 can't control the direction of those appraiser's  
 12 opinions.  
 13 I think I would also suggest, and maybe  
 14 this is just personal preference on my part, but  
 15 that any appraiser be paid in advance so that  
 16 there is no financial pressure that anybody  
 17 could bring to bear on them to try to, you know,  
 18 make a number or not make a number, as the case  
 19 may be. Keep the process clean, and I think  
 20 it's very doable.  
 21 MR. FASSLER: Okay. That's all I have.  
 22 JUDGE SLAVIN: Thank you. Mr. Pratt?  
 23 MR. PRATT: No questions.  
 24 JUDGE SLAVIN: Mr. Forster?

1 schools, or even get individualized attention,  
 2 maybe more than staying in the larger urban  
 3 areas?  
 4 THE WITNESS: I know of more than one  
 5 example like that, and I have spoken with at  
 6 least a couple realtors who have described where  
 7 a big part of the market for the, you know,  
 8 farmsteads, the renovated farm houses. The  
 9 market was coming from Chicago area and suburbs  
 10 out, you know, just to Route 39 area, you know,  
 11 and looking for those charming, little  
 12 communities, and that's part of the reason that  
 13 values went up higher, frankly, in eastern Lee  
 14 than in western Lee. But you know, there's just  
 15 more -- there was more demand for those  
 16 properties, but clearly if you look at the days  
 17 on the market, you know, and close to the  
 18 turbines you can see that there is a --  
 19 JUDGE SLAVIN: Just answer the question,  
 20 please.  
 21 THE WITNESS: Oh, I'm sorry.  
 22 JUDGE SLAVIN: Thank you.  
 23 MR. KALVELAGE: You're very familiar, it  
 24 sounds like from your previous testimony, with

1 Mendota Hills?  
 2 THE WITNESS: Reasonably familiar, yes.  
 3 MR. KALVELAGE: You're familiar with the  
 4 DeKalb and somewhat Lee County portion of the  
 5 Florida Light & Power?  
 6 THE WITNESS: Correct.  
 7 MR. KALVELAGE: You already testified on  
 8 some of the effects that Mendota Hills has  
 9 brought forth. Have you found anything unusual  
 10 around the Lee County, DeKalb County area that  
 11 might be unusual as far as the siting of some  
 12 wind turbines regarding smaller properties?  
 13 THE WITNESS: I'm sorry, regarding what?  
 14 MR. KALVELAGE: Smaller properties.  
 15 THE WITNESS: No, the part before that, I  
 16 didn't hear that.  
 17 MR. KALVELAGE: In the area near Lee  
 18 County and DeKalb County forward.  
 19 JUDGE SLAVIN: I think you better ask that  
 20 question again.  
 21 MR. KALVELAGE: Let me try this. Let me  
 22 be a little more specific.  
 23 JUDGE SLAVIN: I don't know about him, but  
 24 I certainly got lost.

1 of homes being surrounded and some at just some  
 2 greater distances.  
 3 JUDGE SLAVIN: Please, just answer the  
 4 question. The question was just, are you  
 5 familiar with that.  
 6 THE WITNESS: Not that particular one.  
 7 MR. KALVELAGE: If I -- and you're going  
 8 to have to take my word for it, because I don't  
 9 have a tape measure that long. If I were to  
 10 tell you that there's approximately nine  
 11 turbines surrounding these three homes, all  
 12 within about 2,000 feet of each other, would  
 13 that -- would that draw any type of a concern  
 14 from a resale standpoint?  
 15 THE WITNESS: In my opinion, yes.  
 16 MR. KALVELAGE: Have you ever come across  
 17 any properties that once a wind farm was erected  
 18 that were deemed unsellable?  
 19 THE WITNESS: Yes. In fact, developers  
 20 have bought some of them out and torn them down  
 21 for basically that reason.  
 22 MR. KALVELAGE: When you described  
 23 different types of -- you described residential  
 24 properties and you were -- you were discussing,

1 MR. KALVELAGE: I didn't, I know exactly  
 2 what I'm talking about.  
 3 All right. There is an area, and I don't  
 4 expect you to know the roads.  
 5 THE WITNESS: Okay.  
 6 MR. KALVELAGE: There is an area where  
 7 there are three properties off a road called  
 8 Haughty and County Line Road, it's right on the  
 9 border. So there are turbines that are  
 10 surrounding these three small, small homes. I  
 11 can't describe them any other way than --  
 12 THE WITNESS: Okay.  
 13 MR. KALVELAGE: Are you familiar with  
 14 that? Because it seems unusual that they're  
 15 surrounded by turbines.  
 16 JUDGE SLAVIN: One question at a time.  
 17 Are you familiar with that?  
 18 MR. KALVELAGE: Right, but I needed to  
 19 give the direction.  
 20 JUDGE SLAVIN: All right.  
 21 THE WITNESS: I'm not specifically  
 22 picturing the three houses you must be referring  
 23 to. I've driven all through those areas at  
 24 different points in time and seen many examples

1 I think, in a rural area residential properties  
 2 because you were talking about wind turbines.  
 3 What do you consider residential property?  
 4 THE WITNESS: Well, in the conduct of this  
 5 study really, single-family homes, it can be old  
 6 farmhouse that still has outbuildings around it,  
 7 but is not part of the working farm necessarily.  
 8 It can also be a residential part of a working  
 9 farm. It can be a freestanding, you know,  
 10 branch on a slab. Residential single family.  
 11 MR. KALVELAGE: How would you classify 10-  
 12 or 20-acre farmette where there is livestock and  
 13 possibly even some crops?  
 14 THE WITNESS: Well, that sounds more like  
 15 a hobby farm, but if there's a residential  
 16 component to it, that's not terribly unusual.  
 17 MR. KALVELAGE: Would the entire property  
 18 be considered residential, in your mind, as far  
 19 as WECS development or should it be reduced?  
 20 THE WITNESS: Well, I would consider -- if  
 21 the primary use is for residential and the hobby  
 22 farm is a -- just that, a hobby or a sideline or  
 23 a little retirement business or something like  
 24 that, it's still primarily residential.

1 MR. KALVELAGE: Okay. You were -- you  
2 started mentioning about different values around  
3 the Route 39 area. Do you have an opinion about  
4 a saturation point for the number of wind  
5 turbines when it should absolutely not be  
6 expanded? When any additional wind farm should  
7 not be expanded.

8 JUDGE SLAVIN: That question -- I'm sorry,  
9 Mr. Kalvelage, but saturation can be in terms of  
10 engineering, in terms of wind capture, it can be  
11 in terms of house value. You're going to have  
12 to qualify it a little more than that.

13 MR. KALVELAGE: All right. As far as land  
14 value, is there a point where the small  
15 residential farmettes, which are recently more  
16 and more popular in that area, at least I think  
17 you would agree with that, that -- that  
18 saturation of wind turbines makes that value  
19 less -- less appealing?

20 I'm not sure I asked that quite right.  
21 I'm trying to find out if the land -- if there  
22 is a saturation point. Two or three -- one  
23 turbine's probably, I think every one's agreeing  
24 is relatively benign. However, larger farms,

1 citizens is their home?

2 THE WITNESS: I've not only heard it, I've  
3 said it many times. That's where most people's  
4 wealth is tied up is in their homes.

5 MR. BORIS: So if we follow that and say  
6 the value of a home may be diminished in value  
7 by 25 to 40 percent, is it quite likely that  
8 might be devastating to that homeowner and/or  
9 cause him to lose his home and/or go into  
10 bankruptcy?

11 THE WITNESS: As a -- I don't know whether  
12 I can answer that generically. There are  
13 certainly some circumstances where -- that those  
14 kind of effects could follow, but --

15 MR. BORIS: Sure.

16 THE WITNESS: -- I would only look that  
17 far if it was an individual case that I was  
18 looking at, but on a broader scale, the  
19 potential exists.

20 MR. BORIS: Is it true that property value  
21 surveys and statistics only rely on sales  
22 transactions and would, therefore, exclude  
23 abandoned properties, even if it is caused by  
24 wind turbines in close proximity?

1 wind farms, is there a point when it's just not  
2 attractive to small farmette-type buyers?

3 THE WITNESS: I think the best way I can  
4 answer that is that most properties that have  
5 experienced impact from turbines in the form of  
6 noise or flicker. It affects that property  
7 pretty significantly. The more turbines that  
8 are built, the more opportunity there is for  
9 those kind of conflicts and nuisance issues to  
10 occur.

11 Saturation point, I don't know when it  
12 becomes too much because for any individual, you  
13 know, one might be too many.

14 For a community, when does its reputation  
15 become known as, you know, turbine town. You  
16 know, I don't know.

17 MR. KALVELAGE: Okay. Well, thank you so  
18 very much. I have no further questions.

19 JUDGE SLAVIN: Okay. Thank you.

20 Mr. Boris, Rick Boris?

21 MR. BORIS: Mr. McCann.

22 THE WITNESS: Good evening.

23 MR. BORIS: Have you heard the term or  
24 expression that the greatest asset of many

1 THE WITNESS: I think I understand your  
2 question. Yes, even my own study, it did not  
3 pick up any homes that may have gone into  
4 foreclosure because people were upside down in  
5 their mortgages but living near a turbine, and  
6 maybe that's why, but about the ability to  
7 ascertain that that is the reason, I just  
8 excluded any foreclosure or short sales.

9 MR. BORIS: Are you personally aware of  
10 other families who are trapped in their homes  
11 living near turbines and would like to move, but  
12 cannot financially because of the diminution of  
13 value?

14 THE WITNESS: I have spoken with many,  
15 yes.

16 MR. BORIS: If 500-foot turbines circled a  
17 municipality, relatively small, what -- in your  
18 judgment, what would be the impact on the future  
19 economic development of that municipality?

20 THE WITNESS: It could vary. If it was a  
21 -- if the turbines were of a scale that they did  
22 not dominate beyond, let's say an industrial  
23 area, that might be perfectly compatible with  
24 other industrial uses. It might even be part of

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1 a reasonable industrial development. But only  
 2 the most risk-tolerant investors or builders  
 3 will build homes near turbines. So as far as  
 4 economic development that includes residential,  
 5 I'm not saying it never happens, it's just the  
 6 most risk-tolerant builders will do that.  
 7 MR. BORIS: Okay. Like you to play the  
 8 role of a futurist. If Lee County were to fill  
 9 in all available land with turbines, 1400 feet  
 10 setbacks, what is -- can you project future  
 11 economic impact on the County of Lee related to  
 12 agri-business, commercial development, and/or  
 13 residential development?  
 14 MR. LEE: Objection --  
 15 JUDGE SLAVIN: Sustained.  
 16 MR. LEE: -- that's well beyond his  
 17 expertise.  
 18 JUDGE SLAVIN: Yeah, that's development.  
 19 He's not been presented as an expert on  
 20 development.  
 21 MR. BORIS: Okay.  
 22 JUDGE SLAVIN: He's been presented as an  
 23 expert on property values.  
 24 MR. BORIS: Okay. That's all the

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1 questions I have.  
 2 JUDGE SLAVIN: Thank you.  
 3 THE WITNESS: Thank you.  
 4 JUDGE SLAVIN: Marie DeSomer?  
 5 Steven Robery?  
 6 MR. ROBERY: Good evening, Mr. McCann.  
 7 THE WITNESS: Good evening.  
 8 MR. ROBERY: If someone was trying to make  
 9 a real estate valuation based on interviewing  
 10 tax assessors, does the fact that the tax  
 11 assessor hasn't reduced the assessed value  
 12 necessarily indicate that the market value has  
 13 not been reduced?  
 14 THE WITNESS: No, it doesn't. Assessors  
 15 are often wrong, and they have really two jobs:  
 16 One is ad valorem or according to the value  
 17 assessment; and the other is uniformity of  
 18 assessment, so it's kind of built in that they  
 19 are very reluctant to, you know, change values  
 20 out of a uniform category, you know.  
 21 Residential should all be valued roughly the  
 22 same.  
 23 MR. ROBERY: In your testimony, you  
 24 mentioned -- you used the phrase that similar to

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1 the character of the land. Is character  
 2 equivalent to land use?  
 3 THE WITNESS: Well, character is partially  
 4 defined by land use and surrounding land uses  
 5 and any consistency in those uses.  
 6 MR. ROBERY: You also talked about the  
 7 wind turbines being an overlaid and dominating  
 8 the character of the land, correct?  
 9 THE WITNESS: Yes.  
 10 MR. ROBERY: So if somebody were to say  
 11 that the character of land remains agricultural,  
 12 say on the basis that farmers can still farm  
 13 under and around the wind turbines, would you  
 14 agree if there were 200 or 60 wind turbines or  
 15 80 wind turbines, that the character of that  
 16 land has remained agricultural?  
 17 THE WITNESS: Well, the use might remain  
 18 agricultural, but I would define it as  
 19 agricultural with an industrial overlay. But  
 20 that's only addressing the agricultural land.  
 21 MR. ROBERY: The slide you had up there  
 22 with paired sales analysis, comparing the two  
 23 properties, and you made adjustments to the  
 24 properties in order to compare them. That's not

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1 your approach, is it, isn't that industry  
 2 standard?  
 3 THE WITNESS: It is. It's a  
 4 well-recognized technique.  
 5 MR. ROBERY: And that's extremely common  
 6 in all types of appraisals, not just when you're  
 7 trying to appraise wind turbines or the effects  
 8 of wind turbines?  
 9 THE WITNESS: Anybody that's ever had  
 10 their home appraised and the bank sent out an  
 11 appraiser, they pulled out a little grid similar  
 12 in content to what I've done to adjust the comps  
 13 to the subject.  
 14 MR. ROBERY: And then part of the that  
 15 paired sales analysis is then trying to  
 16 determine what difference -- what difference is  
 17 making the value impact change, correct?  
 18 THE WITNESS: You're trying to isolate one  
 19 factor, yes. That's exactly what this paired  
 20 sales analysis does by virtue of the distance.  
 21 MR. ROBERY: So if someone says it's  
 22 difficult or impossible to attribute a value  
 23 reduction to one particular thing, would you  
 24 agree that?

1 THE WITNESS: If it's impossible, no, I  
 2 would not agree with that. I think it's  
 3 entirely possible and --  
 4 MR. ROBERY: Isn't that kind of what  
 5 appraisers do?  
 6 THE WITNESS: This is an unusual type of  
 7 circumstance for many appraisers, I'll agree  
 8 with that, but if they are applying the  
 9 appropriate methodology, it's doable, because  
 10 there are sales, you just have to spend the time  
 11 looking for them.  
 12 MR. ROBERY: Do you still have the Hoen  
 13 report in front of you?  
 14 THE WITNESS: Yes.  
 15 MR. ROBERY: Looking on Page 35 of that  
 16 particular report, and not being a real estate  
 17 professional myself, I'm curious as to your  
 18 opinion or thoughts regarding Table 11 at the  
 19 top of the page. And you had characterized, I  
 20 believe, made a statement that the Hoen report  
 21 kind of used a broad-brush approach. And I'm  
 22 looking at this table, and I see -- and this  
 23 table is looking at the characteristics of the  
 24 views to determine anywhere from no view to

1 out of actually a total of 7500 sales that they  
 2 claim makes the study robust. But in my  
 3 opinion, the statistical analysis is first of  
 4 all, creates too broad of a standard deviation  
 5 for it to be reliable from a real estate  
 6 perspective. It might be fine from a  
 7 statistical analysis, you know, training  
 8 technique, but with 28 sales at the extreme  
 9 view, those are exactly the sales that should  
 10 have been compared to others within the same  
 11 communities, not across the country, but in the  
 12 same general communities. So I don't think it  
 13 provides a reliable indication.  
 14 MR. ROBERY: So does it give a better  
 15 indication of maybe the sales values of quite  
 16 some distance, maybe not ground zero impacts,  
 17 for the, you know, inside 3,000 feet or between  
 18 3,000 feet and a mile, but does it give it a  
 19 better indication of property values for sales  
 20 that are further away, between a mile and  
 21 outside of five miles?  
 22 THE WITNESS: Well, there's one chart in  
 23 there.  
 24 Could you pull up that --

1 extreme view, and then it's also looking -- and  
 2 that's the -- on the Y-axis vertical on the left  
 3 and then across the left it's also looking at  
 4 the distance to the turbines.  
 5 And I'd be curious if you have an opinion  
 6 as to the conclusions in this report, given the  
 7 fact that if you look at all this -- the  
 8 locations of the homes between one to three  
 9 miles, three to five miles, and five miles out,  
 10 that if you add the numbers at the bottom of the  
 11 chart, 2019, 1923 and 870, that's some 4800  
 12 sales of the total 4937 sales --  
 13 JUDGE SLAVIN: That's a question, but  
 14 maybe one of the world's longest questions.  
 15 MR. ROBERY: Yeah, sorry.  
 16 JUDGE SLAVIN: It started with, do you  
 17 have an opinion.  
 18 MR. ROBERY: Do you have an opinion -- can  
 19 you provide an opinion on that chart with  
 20 respect to the conclusion of the report?  
 21 THE WITNESS: Well, I guess I would point  
 22 out in the lower-left corner of that chart, you  
 23 can see there's only 28 sales with an extreme  
 24 view and 11 with a substantial view, and this is

1 MR. PORTER: Which one, this one?  
 2 THE WITNESS: Keep going. That one.  
 3 You can see on that chart that the center  
 4 column is the -- is the reference category and  
 5 here when you have property views or vistas that  
 6 are above-average or premium, on the far right  
 7 side you can see that there is a significant  
 8 increase above-average value, and on the left  
 9 side you can see that when you have a poor --  
 10 poor vistas -- and this is all determined from  
 11 the Berkeley study, by the way, I didn't create  
 12 this graph. What it clearly shows is there's  
 13 about a 30 percent or more swing between a  
 14 premium vista and a poor vistas. Poor vistas  
 15 for residential property can include dominating  
 16 industrial uses in their views, unnatural  
 17 features, things like that. But premium vistas  
 18 are, you know, a lake and, you know, mountain  
 19 views, things that people find serene and  
 20 enjoyable, pay a premium for. Their own study  
 21 found that when the views are premium, there's a  
 22 premium value; when the views are impaired, that  
 23 the values are lower. They just use it  
 24 differently than how I see that chart, but it



1 clearly shows, and they claim to a very high  
2 degree of statistical significance, that the  
3 views, in fact, have a lot to do with value.  
4 And this is no secret in the real estate  
5 community.

6 MR. ROBERY: And then you interpret this  
7 chart that says -- to say that -- I'm looking at  
8 the far right-hand column, that 4207 of the  
9 sales out of a total of 4937, did not have a  
10 view of the turbines.

11 THE WITNESS: Right.

12 MR. ROBERY: Mr. Lee mentioned the Hinman  
13 report as well. Are you familiar with that  
14 report?

15 THE WITNESS: Fairly familiar with it,  
16 yes.

17 MR. ROBERY: And are you aware that the  
18 author of the report was a student of Dr. David  
19 Loomis, who was the -- from Illinois State  
20 University, and he's the head of the Illinois  
21 Wind Working Group?

22 THE WITNESS: I am.

23 MR. ROBERY: Mr. Lee also asked if you did  
24 -- in doing appraisals, did you do an appraisal

1 the further back in time you go, the more  
2 speculative you might be getting. So just  
3 looking at current sales that are near and far,  
4 eliminates the need for tracking something into  
5 ancient history. And another way of looking at  
6 it is sale and resale, you can tell what the  
7 value change or direction has been.

8 MR. ROBERY: That's all the questions I  
9 have, thanks.

10 JUDGE SLAVIN: Thank you, sir.  
11 Bob Logan?

12 MR. LOGAN: Good evening, Mr. McCann.

13 THE WITNESS: Good evening.

14 MR. LOGAN: You were questioned about the  
15 landfill appraisal that you made for Ogle  
16 County; is that correct?

17 THE WITNESS: I was.

18 MR. LOGAN: And you were one of at least  
19 three professionals who were asked to make  
20 appraisals; is that correct?

21 THE WITNESS: Of that property, I believe  
22 that's correct, yes.

23 MR. LOGAN: Yes, sir.

24 Is it common practice in situations like

1 before the wind turbine was put up and then do  
2 one after, and you said that your appraisals  
3 were all done after. Is it normal in the  
4 appraisal business to do an -- to appraise value  
5 in the past?

6 MR. LEE: Objection.

7 JUDGE SLAVIN: Sustained. He's never  
8 testified that any of these were appraisals.  
9 They're all cost comparisons, they are not  
10 appraisals.

11 MR. ROBERY: Okay. So Mr. Lee, I believe,  
12 asked if you did a cost comparison before the  
13 wind turbines and then after the wind turbines;  
14 is that correct.

15 THE WITNESS: Uhm, yes -- or he actually  
16 asked me if I had done a sales comparison as  
17 opposed to a cost comparison, that's correct.

18 MR. ROBERY: And is it normally -- normal  
19 in the appraisal business to do a sales  
20 comparison in the past?

21 THE WITNESS: With enough reliable  
22 information, a retrospective value opinion can  
23 be developed, but that isn't necessarily the  
24 most appropriate or most revealing method; and

1 that to use more than one appraisal process to  
2 determine a --

3 THE WITNESS: Appraisal methods, yes.  
4 Sales comparison, income approach, or cost  
5 approach, if it applies, yes.

6 MR. LOGAN: In this particular case, is it  
7 true then that the discovering body, the  
8 discerning body, chose a method other than  
9 yours?

10 THE WITNESS: If I understood, and what he  
11 said and what I recall from a fairly lengthy  
12 hearing on the value of that property, the  
13 question wasn't really the use of comparable  
14 sales, the question that the taxpayer was  
15 arguing was that since this group of landfills  
16 that Onyx had bought out was a result of a  
17 Department of Justice order to divest these  
18 assets for whatever, anti-trust rules. They  
19 made the argument that it was a duress sale, but  
20 in fact, they were very high prices. They  
21 marketed these to their competitors, to other  
22 landfill companies, and they were not duress  
23 sales. They were ordered sales, but they got  
24 good prices for them, they got fair prices.

1 MR. LOGAN: That being said, have you been  
2 involved in other situations where multi  
3 appraisal groups have made -- or have been asked  
4 to make an analysis?

5 THE WITNESS: I've been involved in many  
6 cases where there's been multiple appraisers on  
7 each side of the issue, hired by each side of  
8 the issue.

9 MR. LOGAN: Has there ever been a time  
10 when your appraisal was chosen over someone  
11 else's?

12 THE WITNESS: Many times, yes.

13 MR. LOGAN: All right. I think it's a  
14 fair question.

15 Are there -- have any of the wind  
16 developers asked your group for -- to perform a  
17 cost analysis of their proposal for comparative  
18 purposes?

19 THE WITNESS: Has any wind developer asked  
20 me to do an impact valuation or a study of  
21 property values?

22 MR. LOGAN: Yes, sir.

23 THE WITNESS: No.

24 MR. LOGAN: Do you understand the term

1 will. Noise, there's a very common complaint.  
2 Sleep disturbances, a common complaint.  
3 Flashing FAA lights all night long, you know,  
4 ruining the night sky as far as, you know, star  
5 watching and that kind of thing is another  
6 common complaint. Vibration effects is a common  
7 complaint, day or night. Inability to sell  
8 their property is a pretty common complaint.

9 MR. LOGAN: All right. Now, with what you  
10 said there, does the reduction in potential  
11 buyers have an affect on the likely sale of a  
12 property -- the cost value of the property? You  
13 may be able to sell it, but the cost value.

14 THE WITNESS: Well, sure, supply and  
15 demand is working in the real estate market as  
16 in any market.

17 MR. LOGAN: Are you aware that the  
18 Mainstream proposal, which is drafted after a  
19 proposed ordinance rather than the existing Lee  
20 County Ordinance?

21 THE WITNESS: Can you ask it again?

22 MR. LOGAN: The appli -- have you had an  
23 opportunity to review the application?

24 THE WITNESS: Yes.

1 NIMBY?

2 THE WITNESS: Sure.

3 MR. LOGAN: What does that mean?

4 THE WITNESS: It's commonly used as Not in  
5 My Back Yard, but it's taken on a new meaning  
6 from some of the people I've talked with, you  
7 know, Next Idiot Might Be You.

8 MR. LOGAN: Uhm, that wasn't the -- I  
9 mean, that wasn't the answer I was asking for,  
10 but...

11 THE WITNESS: I'm sorry, sir.

12 JUDGE SLAVIN: You asked the question.

13 MR. LOGAN: I understand I can't control  
14 the answers.

15 JUDGE SLAVIN: No. Wise lawyers always  
16 say, if you don't know the answer to the  
17 question, don't ask it.

18 MR. LOGAN: With that in mind, not in my  
19 back yard, what characteristics of a wind  
20 turbine makes it an undesirable for not in my  
21 backyard?

22 THE WITNESS: The scale is, from an  
23 aesthetic standpoint the starting point. It  
24 takes over the view -- a view scape, if you

1 MR. LOGAN: Are you aware that the  
2 application sets many conditions based on a  
3 proposed ordinance that was never adopted,  
4 rather than -- or in addition to, the existing  
5 ordinance? Are you aware that they're using a  
6 proposed order rather than the existing  
7 ordinance for many of their --

8 THE WITNESS: I was aware of that to some  
9 degree, and certainly with respect to the  
10 proposed ordinance having a Property Value  
11 Protection Plan component, but not actually then  
12 being part of the application.

13 MR. LOGAN: All right. Would it surprise  
14 you to know that the reason that that proposed  
15 ordinance carried so much weight was because it  
16 was nearly universally accepted that the  
17 original ordinance was outdated?

18 MR. LEE: Objection.

19 JUDGE SLAVIN: We're we going with this?

20 MR. LOGAN: Uhm --

21 JUDGE SLAVIN: As to property values.

22 MR. LOGAN: All right. What I would like  
23 to say in a sense that -- because I was going  
24 through, and I can ask the question without

1 using that question.  
 2 My question is, is have you seen, since  
 3 2002, a difference in public outlook toward wind  
 4 turbines over the last decade?  
 5 THE WITNESS: Definitely.  
 6 MR. LOGAN: All right. Would that number  
 7 have increased or decreased the number of  
 8 NIMBYs, not in my back yard?  
 9 THE WITNESS: Well, there's certainly a  
 10 lot more applications. There's a lot more  
 11 people that feel they're being, you know,  
 12 threatened by turbine developments. It's really  
 13 a compatibility issue, so, you know, the more  
 14 projects, the more turbines, the more people  
 15 are, let's just say, at least very concerned.  
 16 MR. LOGAN: Would you say that the  
 17 increased public knowledge has contributed to  
 18 the objectors?  
 19 JUDGE SLAVIN: Let's -- let's move along.  
 20 That's a psychological thing, I mean --  
 21 MR. LOGAN: All right.  
 22 JUDGE SLAVIN: Remember what he is,  
 23 property value expert.  
 24 MR. LOGAN: Does an increase in the number

1 type of evidence, if you're talking about  
 2 residential property.  
 3 MR. LOGAN: I'm talking about residential  
 4 property.  
 5 THE WITNESS: No, that's a -- no, not the  
 6 tourist attraction it's often touted to be.  
 7 MR. LOGAN: Just a couple of other  
 8 questions.  
 9 Over the past four years, have residential  
 10 properties, in general, decreased or increased?  
 11 THE WITNESS: Over the last four years in  
 12 general, property values have decreased.  
 13 MR. LOGAN: Over the past four years have  
 14 commercial or industrial values generally  
 15 increased or decreased?  
 16 THE WITNESS: That really depends on the  
 17 type of commercial property. But in general,  
 18 there's been a decrease.  
 19 MR. LOGAN: Okay. Would it surprise you  
 20 to find that of all those three types of  
 21 properties that I've mentioned, that have been  
 22 reduced -- well, fist of all, let me ask you the  
 23 question. With a decreased factor, what amount  
 24 of decrease would you, from a professional

1 of turbines surrounding a single home contribute  
 2 to a more substantial impact -- negative impact  
 3 on the property values?  
 4 THE WITNESS: I believe there is some  
 5 evidence to indicate that, that not just  
 6 proximity, but the number that are in close  
 7 proximity can have that effect, but it's --  
 8 absolutely uniform, but it does create more  
 9 potential for multiple nuisance sources.  
 10 MR. LOGAN: You've addressed the issue  
 11 concerning the property values agreement. We  
 12 were not, as a group here tonight, provided  
 13 the -- Mr. Porter's agreement, you were, but  
 14 does that agreement involve a cost to the  
 15 developer if there is no loss or an increase in  
 16 the property values?  
 17 THE WITNESS: No, I don't think so, other  
 18 than potentially the cost of the appraisal fee.  
 19 MR. LOGAN: In your involvement with wind  
 20 energy and your seminars, the things you've  
 21 participated in, have you ever found a trend  
 22 towards people desiring to buy certain property  
 23 because it has a wind turbine on it?  
 24 THE WITNESS: No, I've not run into that

1 standpoint, suggest that has occurred, over the  
 2 last four years, 2008 till now?  
 3 THE WITNESS: For where, I mean --  
 4 MR. LOGAN: Okay. First for residential,  
 5 what type -- what percentage of reduction would  
 6 you say?  
 7 THE WITNESS: It's varied from probably  
 8 15 percent to 40 percent. If you go out to some  
 9 areas with a high, high number of foreclosures,  
 10 like in California or Las Vegas, maybe as much  
 11 as 60 percent.  
 12 MR. LOGAN: On industrial or commercial  
 13 properties, what type of comparative loss would  
 14 you suggest has taken place?  
 15 THE WITNESS: Again, it varies and  
 16 location has a lot to do with it, of course, and  
 17 the quality of the property. But I'd say in  
 18 general, something that is not guaranteed by  
 19 high-quality tenants with a really deep pocket,  
 20 as far as the rental income, values have dropped  
 21 about 30 percent.  
 22 MR. LOGAN: Would it surprise you that the  
 23 values of all those types of properties have not  
 24 been reduced by such proportions, but in fact,

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1 have been raised during the past four years by  
 2 assessors in Lee County?  
 3 THE WITNESS: No, it wouldn't surprise me.  
 4 I get a lot of calls for just those kind of  
 5 reasons. Not from Lee County, but...  
 6 MR. LOGAN: You mentioned two duties of a  
 7 county assessor. One of them was to, I think,  
 8 establish uniformity --  
 9 THE WITNESS: Right.  
 10 MR. LOGAN: -- in the price values?  
 11 What was the other one?  
 12 THE WITNESS: According to the value,  
 13 ad valorem assessment.  
 14 MR. LOGAN: All right. Is an additional  
 15 burden falling upon assessors, does that include  
 16 the necessity to protect the financial basis of  
 17 the county?  
 18 THE WITNESS: I guess I can't speak for  
 19 any particular assessor.  
 20 MR. LOGAN: All right. Those are my  
 21 questions. Thank you.  
 22 MR. PORTER: Bob?  
 23 JUDGE SLAVIN: Elizabeth Hartman?  
 24 MS. HARTMAN: I have no questions.

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1 JUDGE SLAVIN: Thank you.  
 2 Kathryn Guither?  
 3 MS. GUITHER: I have no questions.  
 4 JUDGE SLAVIN: Ed Gerdes?  
 5 MR. GERDES: No.  
 6 JUDGE SLAVIN: I'm sorry, I just didn't  
 7 hear. No?  
 8 MR. GERDES: No questions.  
 9 JUDGE SLAVIN: Kendall Guither?  
 10 MR. GUITHER: Good evening.  
 11 THE WITNESS: Good evening.  
 12 MR. GUITHER: You stated that agricultural  
 13 property was looking at about a 10 percent  
 14 decrease in value?  
 15 THE WITNESS: In my opinion, yes, sir.  
 16 MR. GUITHER: What were the factors that  
 17 would have caused that?  
 18 THE WITNESS: Well, I tried to describe it  
 19 pretty clearly, but I'll recap.  
 20 That aerial spraying applications and  
 21 pilots have gone on record pretty clearly that  
 22 they consider it too risky to fly near the  
 23 turbines, particularly when they're not in a  
 24 straight row where they can, for example, fly

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1 next to power lines. They do that, but they  
 2 won't fly in a maze of them. And with turbines  
 3 raised as high as they are and so forth, as well  
 4 as turbulence that they can create, there's a  
 5 higher level of risk, so many of the crop  
 6 dusters, if you will, have instituted policies  
 7 that they'll either not fly within -- any closer  
 8 than a half mile, but even if they will work  
 9 within a half mile to a mile, that they'll  
 10 charge a 50 percent premium to a hundred percent  
 11 premium for the same services, as they would  
 12 have otherwise without any turbines, you know,  
 13 to dodge. Some cases they're just -- you know,  
 14 the safety issues are too -- make maneuvering  
 15 the plane too difficult, as I understand it, and  
 16 they just won't do it. Maybe with a helicopter,  
 17 but that's even more costly.  
 18 So the basis for the 10 percent is that  
 19 any farmer that's buying land or investor that's  
 20 going to buy on the basis of the cash rents they  
 21 can achieve, are going to realize that,  
 22 especially with some rents being indexed to the  
 23 production, that there's a higher level of risk,  
 24 and crop dusting acts, in a way, it's kind of an

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1 insurance policy if and when you need it.  
 2 Everyone doesn't use it every year, but without  
 3 the ability to get that insurance policy there's  
 4 a higher --  
 5 MR. GUITHER: So the crop dusting is the  
 6 main -- was the main issue for the reduction?  
 7 THE WITNESS: The higher risk of investing  
 8 in land because of that issue, more  
 9 specifically, yes.  
 10 MR. GUITHER: You say --  
 11 JUDGE SLAVIN: Gentlemen, gentlemen, will  
 12 you do me a favor? I know it's getting late.  
 13 She's got to be getting tired. You can't talk  
 14 on top of each other --  
 15 MR. GUITHER: Oh, I was trying --  
 16 JUDGE SLAVIN: -- especially when she's  
 17 getting tired.  
 18 MR. GUITHER: -- to shorten it up, that's  
 19 why I did that, sorry.  
 20 JUDGE SLAVIN: I understand I'm just --  
 21 MR. GUITHER: Okay.  
 22 JUDGE SLAVIN: After about three hours,  
 23 she's got to be tired, and it's tougher to do.  
 24 MR. GUITHER: Do irrigation systems add

1 value to ag property?  
 2 THE WITNESS: Generally speaking, yes.  
 3 MR. GUITHER: Would there be a substantial  
 4 loss potential then if property could not have  
 5 an irrigator put on because of a wind turbine  
 6 system?  
 7 THE WITNESS: Potentially, yes.  
 8 MR. GUITHER: Okay, thank you.  
 9 JUDGE SLAVIN: Thank you, Mr. Guither.  
 10 Dean Gelden?  
 11 MR. GELDEN: No questions.  
 12 JUDGE SLAVIN: Nancy Timble?  
 13 MS. TIMBLE: Good evening.  
 14 THE WITNESS: Hello.  
 15 MS. TIMBLE: If there are no property  
 16 value guarantees in place, what options would a  
 17 landowner have to recoup lost value?  
 18 JUDGE SLAVIN: That -- that's not a  
 19 question he's here to -- I mean, he's a property  
 20 value expert, not on -- not an expert on options  
 21 or alternatives for homeowners to recoup. I  
 22 think there's a question in there you could  
 23 probably ask, but...  
 24 MS. TIMBLE: If there's not a property

1 THE WITNESS: Well, that's where the  
 2 ownership begins and end of that particular  
 3 property as opposed to at the foundation.  
 4 MR. TIMBLE: I believe -- but I'm not  
 5 clear, but I believe that you found that deeper  
 6 loss of property value is caused by taller  
 7 turbines located at the same setback distances,  
 8 am I correct?  
 9 THE WITNESS: Might be a slight  
 10 misunderstanding of what I said. What I did  
 11 indicate is that I felt that the closer  
 12 proximity of the turbines on the average in  
 13 DeKalb, part of the paired sales study, was the  
 14 primary reason, but could also be that they are  
 15 the larger, newer generation of turbines than  
 16 the older ones, somewhat older in the Mendota  
 17 Hills project.  
 18 MR. TIMBLE: So you are saying that you  
 19 believe that the additional height is a factor,  
 20 an intensified factor?  
 21 THE WITNESS: I think that's a fair way to  
 22 put it, yes, sir.  
 23 MR. TIMBLE: You answered, I believe, Mr.  
 24 Kalvelage's question about abandoned homes by

1 value guarantee, have you seen other situations  
 2 where they've used something else?  
 3 THE WITNESS: Uhm, most common is trying  
 4 to negotiate. If that doesn't work, you know,  
 5 filing a lawsuit. Quite frankly that's very  
 6 costly for your typical citizen.  
 7 MS. TIMBLE: Okay. Would a possible  
 8 property value impact for agricultural land be  
 9 the inability to sell 5-acre plots to city folks  
 10 to build houses on?  
 11 THE WITNESS: I hadn't thought about that,  
 12 honestly, so I guess I'd have to give it more  
 13 thought before I could give you a real  
 14 conclusive answer, but it sounds reasonable.  
 15 MS. TIMBLE: Okay. That's all my  
 16 questions.  
 17 JUDGE SLAVIN: Thank you.  
 18 Jim Timble?  
 19 MR. TIMBLE: Hello, Mr. McCann.  
 20 THE WITNESS: Hello.  
 21 MR. TIMBLE: You stated that for your cost  
 22 comparisons, you measured from the property  
 23 line. May I ask why you used from that  
 24 criteria?

1 stating that abandoned -- homes abandoned near  
 2 wind projects have been torn down by developers.  
 3 In your experience, have you encountered cases  
 4 where abandoned homes have been sold and  
 5 re-inhabited --  
 6 THE WITNESS: Well --  
 7 MR. TIMBLE: -- those conditions?  
 8 THE WITNESS: -- part of that could swing  
 9 on how you define the term abandoned. If people  
 10 are leaving because of turbines, whether they,  
 11 you know, actually just packed up the truck and  
 12 left, that's one form of abandonment. Another  
 13 that is a move out of a house that they didn't  
 14 want to move out of for any other reason.  
 15 MR. TIMBLE: I'm talking about leaving  
 16 because of turbines, health problems.  
 17 THE WITNESS: Okay. And then your  
 18 question again was?  
 19 MR. TIMBLE: Have you, in your experience,  
 20 you gave an example of, I believe, it was  
 21 leaving homes because of turbines where  
 22 developers have come in and just torn the homes  
 23 down. Have you, in your experience, seen the  
 24 opposite case where such homes abandoned because

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1 of wind turbines, but were eventually sold and  
 2 re-inhabited?  
 3 THE WITNESS: Well, I think that's how a  
 4 good number of the sale data actually qualifies,  
 5 as far as the target sales or other case study  
 6 examples that I've, you know, reviewed or  
 7 developed over the years now. When the  
 8 properties do resell, they tend to be at pretty  
 9 significant discounts.  
 10 MR. TIMBLE: Ever done a cost comparison  
 11 between a home far away from a wind project and  
 12 an abandoned home on the project? You'd have  
 13 to --  
 14 THE WITNESS: Well, I'm trying to think --  
 15 JUDGE SLAVIN: No, no.  
 16 MR. TIMBLE: Whoops, whoops.  
 17 THE WITNESS: I'm trying to think if any  
 18 of these in here were vacant at the time they  
 19 sold and if that could qualify as an abandoned  
 20 home, then yes, there are some that were vacant  
 21 in the target sale data and some that were  
 22 vacant in the control sale data, too. So not  
 23 every home's lived in right up until the point  
 24 of sale.

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1 MR. TIMBLE: Okay. You were reminded that  
 2 the Green River Wind Farm would be located in  
 3 the least-densely populated area of Lee County.  
 4 Isn't it true though that the turbine density,  
 5 not the population -- it's turbine density, not  
 6 population density that drives turbine-driven  
 7 nuisances?  
 8 THE WITNESS: Well, from the real estate  
 9 perspective, yes, it's -- whether you're trying  
 10 to develop a series of turbines in a rural area  
 11 with, you know, one home per 40 acres on the  
 12 average or in Cape Cod with, you know, right at  
 13 the edge of town. All those little Cape Cod  
 14 towns, there's a trend out there, too. It's --  
 15 the more people there are, the more people are  
 16 likely to be impacted. But certainly the --  
 17 anybody's property rights are roughly similar  
 18 whether you're living in a rural area or  
 19 suburban area or an urban area.  
 20 MR. TIMBLE: You testified that wind farms  
 21 have bought homes back from families having  
 22 major wind farm nuisance complaints, I believe  
 23 that was the Lansink study; is that correct?  
 24 THE WITNESS: Correct.

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1 MR. TIMBLE: Are not such transactions  
 2 credible proof that wind turbines can seriously  
 3 reduce property values?  
 4 THE WITNESS: I consider it to be pretty  
 5 much prima facie evidence on its face. The  
 6 developers have admitted it by selling the  
 7 properties for whatever market would bear, as  
 8 the case was, but with the conditions that they  
 9 were imposing in the easement of gross,  
 10 everybody knew it was happening, actually, so  
 11 it's a fair reflection of value from  
 12 knowledgeable buyers and sellers.  
 13 MR. TIMBLE: Okay you. Thank you very  
 14 much, Mr. McCann.  
 15 JUDGE SLAVIN: Thank you, Mr. Timble.  
 16 Greg Gonigam?  
 17 Marcia Thompson?  
 18 MS. THOMPSON: No.  
 19 JUDGE SLAVIN: Mark Wagner?  
 20 MR. WAGNER: Good evening, Mr. McCann.  
 21 THE WITNESS: Evening.  
 22 MR. WAGNER: Would you agree that in the  
 23 United States of America when an individual or a  
 24 family or an investor buys a piece of real

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1 estate, that their pretty much expecting that  
 2 they're going to -- that's going to gain value  
 3 over time, that piece of real estate?  
 4 THE WITNESS: Well, that's a typical  
 5 expectation. It doesn't always work out just  
 6 for a lot of reasons, but yes.  
 7 MR. WAGNER: Uh-huh. But how about in  
 8 particular a homeowner?  
 9 THE WITNESS: Well, I think most people do  
 10 expect a home to be an investment that will  
 11 appreciate in value.  
 12 MR. WAGNER: Okay, so would you say that  
 13 zoning plays a role in helping to protect the  
 14 value of that property?  
 15 THE WITNESS: That's part of the very  
 16 purpose and function of zoning, yes.  
 17 MR. WAGNER: Okay. You mentioned earlier  
 18 the word aesthetics.  
 19 THE WITNESS: Yes.  
 20 MR. WAGNER: I just want to be sure that  
 21 everybody here understands. Can you just  
 22 briefly explain what that word means,  
 23 aesthetics?  
 24 THE WITNESS: Well, from a real estate

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1 perspective, it's just a reflection of what the  
 2 market sees as desirable in terms of the  
 3 characteristics of the community, whether it's a  
 4 flat open space and, you know, beautiful night  
 5 skies, cropland that can be very peaceful to  
 6 just look out over or any other type of user  
 7 vistas. But aesthetics aren't just visual, they  
 8 can also be related to the sounds and the  
 9 environment, you know, the ambient background  
 10 noise, being lower tends to be much more  
 11 comfortable for people, especially if they're  
 12 accustomed to living in a rural residential  
 13 environment.  
 14 MR. WAGNER: Okay. So when somebody buys  
 15 a home in a rural area or maybe they've lived  
 16 there for generations, there's a certain  
 17 aesthetic to that property.  
 18 THE WITNESS: Certainly, quite a driving  
 19 force in the purchaser.  
 20 MR. WAGNER: There's a visual aesthetic,  
 21 there's an oral aesthetic, there's a certain  
 22 feel to that property.  
 23 THE WITNESS: Fair enough.  
 24 MR. WAGNER: When wind turbines come into

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1 the neighborhood, would you -- and I'm talking  
 2 about the industrial-type wind turbine, would  
 3 you say the aesthetics of the property has  
 4 changed?  
 5 THE WITNESS: Well, I would not only say  
 6 it, but the market has spoken pretty clearly on  
 7 that. As far as the home buying and the home  
 8 selling market, it's spoken pretty clearly on  
 9 that. Not absolutely every person, mind you,  
 10 but a significant enough part of the market that  
 11 it has had the effect of driving demand and  
 12 prices down.  
 13 MR. WAGNER: Uh-huh, and one of the  
 14 symptoms of the change in aesthetic could be  
 15 that the homeowner no longer wants to live  
 16 there, and they want to sell their home. But I  
 17 think you're clearly saying that that home is  
 18 most likely going to sell for less than what the  
 19 market value would have been if there were no  
 20 wind turbines.  
 21 THE WITNESS: That's -- depending on  
 22 distance, but yes, in these closer setback  
 23 areas, yes, I believe that.  
 24 MR. WAGNER: Okay. So would you then say

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1 that when you read the Lee County Zoning  
 2 Ordinance or whatever, did you see anything in  
 3 there that said that the property owner has the  
 4 right to do whatever it is that they want to do  
 5 with their property, or did you see that there  
 6 are limitations put on what you can do with  
 7 property?  
 8 THE WITNESS: There's a number of  
 9 restrictions in the zoning code on the use of  
 10 any property: Residential, agricultural,  
 11 industrial, commercial.  
 12 MR. WAGNER: Okay. So your neighbor or  
 13 someone nearby maybe even you made a mistake,  
 14 something was done on your property that  
 15 affected someone else's ability to enjoy their  
 16 property and their property value went down.  
 17 Would you say that zoning failed its job?  
 18 THE WITNESS: If it was the zoning that  
 19 approved that use that turned out to be a  
 20 nuisance, just the use itself, nothing --  
 21 anything personal or individual, but just the  
 22 nature of the use --  
 23 MR. WAGNER: Okay.  
 24 THE WITNESS: -- I would say that could

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1 constitute a failure of meeting the purpose of  
 2 the zoning.  
 3 MR. WAGNER: And it seems as if an order  
 4 to remedy this problem, we talk about this home  
 5 owner protection plan, property value protection  
 6 plan, whatever you want to call it.  
 7 Now, it's my understanding here that the  
 8 basic assumption is that the homeowner cannot  
 9 sell their home for an agreed-upon assessed  
 10 valuation, and there's going to be a difference  
 11 between what they sell their home for and what  
 12 it's worth and someone's going to make up for  
 13 that difference.  
 14 THE WITNESS: That's definitely a part of  
 15 the property value plan that Mr. Porter's  
 16 drafted.  
 17 MR. WAGNER: Okay. So let's say that  
 18 you're using 25 to 40 percent as the loss --  
 19 let's just say 30 percent is the number, okay?  
 20 THE WITNESS: Okay.  
 21 MR. WAGNER: So a home that should have  
 22 sold for a hundred thousand dollars, it sold for  
 23 \$70,000, but the guy got a hundred thousand  
 24 dollars for the home, however it worked. If it

1 was agreed that that home was worth a hundred  
2 thousand, but they could only get 70,000 for it,  
3 someone gave \$30,000 to the home seller, is  
4 that -- is that generally the way that that  
5 works?

6 THE WITNESS: I think you've got the  
7 concept pretty clearly, yes.

8 MR. WAGNER: Okay. At that point, what is  
9 that home worth to the next seller? Is it worth  
10 a hundred thousand dollars or is it now worth  
11 \$70,000.

12 THE WITNESS: Well, it doesn't change the  
13 value of the home. What it does have the affect  
14 of doing is leaving that property owner whole  
15 through -- being as financially whole as they  
16 would have been without the turbines.

17 MR. WAGNER: Well, I'm talking about the  
18 new buyer --

19 THE WITNESS: Usually --

20 MR. WAGNER: -- not the seller.

21 THE WITNESS: I understand, but usually  
22 the sale price of a property, with full  
23 knowledge on both parties is -- no duress of  
24 anybody to buy or sell, is going to best

1 you're saying, but I think you might be missing  
2 the point that if somebody buys -- moves into an  
3 area with the turbines existing, now they're  
4 going in there with their eyes open, presumably.

5 MR. WAGNER: Well, sure.

6 THE WITNESS: They're getting the property  
7 for a 30 percent discount from what it otherwise  
8 would have been worth, then they're getting a  
9 bargain price, but the trade-off is living among  
10 turbines.

11 MR. WAGNER: But -- right, but in the  
12 future when they sell that home, even if it's  
13 just a year later, can we expect that they're  
14 going to sell that for the \$70,000 that they  
15 paid for it?

16 THE WITNESS: I don't know.

17 MR. WAGNER: You don't know.

18 THE WITNESS: I don't know that I can  
19 answer that.

20 MR. WAGNER: Okay. If they did sell it  
21 for the \$70,000, would there then not be a  
22 reduction in the tax base for the county?

23 THE WITNESS: As I understand it, it might  
24 lower the assessed valuation of the tax base,

1 represent the market value of that property.  
2 It's not always the case, but it's usually the  
3 case.

4 MR. WAGNER: Okay. When that new buyer  
5 turns around and decides to sell their home, for  
6 whatever reason, all right? Is that home worth  
7 the \$70,000 that they paid for it or is it worth  
8 the \$100,000 difference?

9 THE WITNESS: I don't see how the \$30,000  
10 difference would attach to the property value,  
11 if all the owner was willing -- or the buyer was  
12 willing to pay was 70,000 and that's the highest  
13 price that can be obtained --

14 MR. WAGNER: Okay.

15 THE WITNESS: -- that seems to set the  
16 value under the scenario you're describing.

17 MR. WAGNER: So in essence, the homes have  
18 lost property value. That homeowner protection  
19 program was good for the first people that lived  
20 on the land, but now the people who come after  
21 that actually have homes that are worth less  
22 than what the initial who paid for it. There's  
23 a loss in property value, wouldn't there be?

24 THE WITNESS: I think I understand what

1 but the tax rates are really going to control  
2 what taxes are collected. So changing the value  
3 of one property relative to the others, you  
4 know, this property owner might get a smaller  
5 tax bill, but the same amount of taxes is going  
6 to be collected because of the levies by the  
7 various taxing bodies.

8 MR. WAGNER: So somebody else might pick  
9 up the difference?

10 THE WITNESS: Yes.

11 MR. WAGNER: Okay. So would you say --  
12 have you seen any studies that show this  
13 phenomenon that I'm talking about?

14 I mean, let's put it this way. If wind  
15 turbines are supposed to bring in additional tax  
16 revenue for the County, which is generally why  
17 they get approved, but there is this future  
18 phenomenon where property values can be  
19 diminished and less tax can be collected, have  
20 you seen any studies that show the offset of  
21 that?

22 THE WITNESS: I have not seen a  
23 comprehensive study. I've seen some  
24 partially-developed studies, and I know there's



1 a couple underway, but I don't have anything  
2 conclusive yet to show that, you know, one way  
3 or the other.

4 MR. WAGNER: Okay. Thank you.

5 THE WITNESS: Thank you.

6 JUDGE SLAVIN: Thank you.

7 Thomas Stephan?

8 David Ackerson?

9 MR. ACKERSON: No.

10 JUDGE SLAVIN: Jose Ware?

11 Karen Kenney?

12 Julie Van Laar?

13 Brian Van Laar?

14 Tony Savino?

15 MR. SAVINO: No questions.

16 JUDGE SLAVIN: And back to the beginning.

17 Mr. McCann, you may step down.

18 THE WITNESS: Thank you, Judge.

19 JUDGE SLAVIN: Before I turn it to the  
20 Chair -- Ladies and Gentlemen, at the next  
21 session, which will be Monday, December 3rd, Mr.  
22 Porter has indicated he cannot be here, he kind  
23 of has one more witness -- well, not including  
24 his clients, but --

1 say, I think you ought to or I think you should,  
2 that's closing argument. Which there will be a  
3 time that comes for that. Facts are things you  
4 can touch, feel, see, hear, those are -- when  
5 you testify, those are what you're testifying  
6 about. I certainly wouldn't presume to tell  
7 anybody here that their testimony is really  
8 argument, because I haven't heard what you have  
9 to say, but please be cognizant that there will  
10 be a time for to you make an argument, to pour  
11 out your hearts and tell these gentlemen what  
12 you think they ought to do. And then there --  
13 what's coming up is the time to testify about  
14 facts, things that you know, touch, feel,  
15 observe, hear, or see.

16 I'm trying to give an example, one of --  
17 and I won't use any names, but one of the  
18 interested parties has asked about the  
19 difference between testifying and giving a  
20 closing argument, and he or she wanted to show  
21 or is going to show, some kind of video or slide  
22 show about a day in their life. That's fine,  
23 that's -- this is my -- this is what I do  
24 everyday, I get up in the morning, and I do

1 MR. PORTER: I have at least one more  
2 expert, perhaps two, and then there are  
3 landowners that will be testifying, so I've  
4 got --

5 JUDGE SLAVIN: Part of my duty for  
6 everybody is not to waste time. The hearing  
7 dates have been published, so what I'm going to  
8 do, the next one, is begin with the testimony of  
9 interested parties -- interested parties other  
10 than those represented by Mr. Porter. That  
11 means everybody should be prepared -- everybody  
12 who wants to testify, should be prepared to  
13 testify that evening.

14 Now, I'm going to say a couple things.  
15 We've got four days to try and -- I hope I can  
16 do a decent job of explaining it, four days to  
17 try and think about what I'm explaining.

18 Testimony means that you will be under  
19 oath, and you will be testifying as to facts.  
20 If you want to testify, obviously we invite you  
21 to do so. But I do want to distinguish  
22 testifying from giving a closing argument. If  
23 you make a statement such as, I think, or it's  
24 my opinion, or you look at these gentlemen and

1 this. Those are facts. That's great testimony.  
2 However, to then turn around and say to the  
3 Board, and because of these things, I don't want  
4 a wind turbine in my back yard, that's an  
5 argument. I mean, that person will certainly be  
6 allowed to testify how they spend their day and  
7 where their house is and so forth, but it ends  
8 there.

9 Then on closing argument they can say, you  
10 saw my slide show and the reason I don't think  
11 you should approve this WECS project based on  
12 what I showed you are as follows, and that's an  
13 argument. So I'm trying to explain the  
14 difference.

15 Now, somebody else asked, if you call my  
16 name and I'm not ready yet to testify, can I  
17 pass? My answer, and I want to be consistent  
18 is, the answer is yes. However, if everybody  
19 continues to pass, and I get back to the  
20 beginning -- again, part of my duty is to move  
21 this thing along, and we haven't used up the two  
22 and a half hours, then I'm going to give you --  
23 then I give somebody the last chance to either  
24 testify. I mean, you can't keep passing

1 until -- until the cows come home, is what I'm  
2 trying to say.  
3 We'll move through the half sheets and  
4 we'll end it up -- well, next time, hopefully  
5 about two-and-a-half hours. But if you want to  
6 pass, that's acceptable, but if we get back to  
7 you and the two-and-a-half hours hasn't been  
8 used, it's your time now or -- then or forever.  
9 Enough of me talking.  
10 Mr. Chair, I recommend we --  
11 MR. PORTER: Judge Slavin, I'm sorry.  
12 JUDGE SLAVIN: Sure.  
13 MR. PORTER: What is our calendar then? I  
14 know --  
15 MR. TIMBLE: Your Honor --  
16 JUDGE SLAVIN: Wait a minute, I can only  
17 hear one person at a time.  
18 MR. PORTER: What is our calendar? I know  
19 the 3rd we're back.  
20 JUDGE SLAVIN: 3rd, 4th --  
21 MR. HENKEL: 10, 12 and 18.  
22 JUDGE SLAVIN: -- 10, 12 and 18.  
23 MR. PORTER: And I'm back in the hot seat  
24 10 and 12 then.

1 JUDGE SLAVIN: I don't know. We'll see  
2 how we're --  
3 MR. PORTER: I'm back here the 10th.  
4 JUDGE SLAVIN: Okay.  
5 MR. PORTER: Can I re-start my case at  
6 that time? Is that -- I do have experts I'm  
7 trying to --  
8 JUDGE SLAVIN: Yeah, I understand. I  
9 don't know how far we'll get with some of these  
10 folks, and I don't want to cut them off in the  
11 middle, but yes.  
12 MR. PORTER: Would you mind making a  
13 record on the 4th, so that I'll know -- I mean,  
14 I'll find out what you say.  
15 JUDGE SLAVIN: Sure. Well, you can --  
16 it's not like ex parte back in the courtroom  
17 where I'm -- just call me, I mean.  
18 MR. PORTER: Okay. All right. I will,  
19 thank you.  
20 JUDGE SLAVIN: And we'll call Mr. Lee,  
21 too.  
22 Mr. Timble?  
23 MR. TIMBLE: Your Honor, usually at the  
24 end of going through the sign-ups, you ask if

1 there's anybody else --  
2 JUDGE SLAVIN: Yes, I did. Yes, I do and  
3 I didn't tonight, did I?  
4 MR. TIMBLE: No.  
5 JUDGE SLAVIN: Thank you.  
6 Anybody have any questions of Mr. McCann  
7 that were not on the half sheets?  
8 MR. KELLEY: I only had a couple.  
9 JUDGE SLAVIN: Go ahead. Absolutely, Mr.  
10 Kelley.  
11 Mr. McCann?  
12 I absolutely apologize.  
13 Thank you, Mr. Timble.  
14 It got to be 10 after 10, and I think I  
15 was ready to go.  
16 THE WITNESS: That was your chance to  
17 leave.  
18 MR. KELLEY: Hi, Mr. McCann, sorry.  
19 THE WITNESS: That's all right.  
20 MR. KELLEY: Hopefully still have the Hoen  
21 report available?  
22 THE WITNESS: That I do.  
23 MR. KELLEY: Just a couple more questions  
24 on that report, if you don't mind.

1 On Page 35 on Table 11, is it a correct  
2 interpretation of that table that only 67 of the  
3 4,937 sales were within 3,000 feet of the  
4 nearest turbine?  
5 THE WITNESS: Yes.  
6 MR. KELLEY: In your opinion, what then  
7 does that report say about the impact of wind  
8 turbines on property values within 3,000 feet?  
9 THE WITNESS: Well, I think I see what  
10 you're getting at, that there's very few sales  
11 near the turbines. What it also says is they're  
12 trying to draw their conclusions based primarily  
13 on a large volume of sales that are completely  
14 irrelevant to -- to the ones that are nearby.  
15 MR. KELLEY: Thank you.  
16 JUDGE SLAVIN: Anybody else besides Mr.  
17 Kelley? And I apologize again. Raise your hand  
18 and I'll call on you.  
19 All right. Mr. Chair, I recommend next  
20 Monday night at 7. Oh.  
21 MR. KALVELAGE: I did have one question,  
22 for testimony if you need to present paperwork,  
23 is it eight copies?  
24 JUDGE SLAVIN: It's eight copies.

1 Actually, I'll be honest -- eight copies is the  
2 rule, so that's the rule. I will tell you as a  
3 courtesy, I'm finding that nine is a little  
4 better, by the time we spread them out, but I'm  
5 not going to -- the rule's eight.

6 MR. PORTER: And I very much appreciate  
7 copies as well.

8 CHAIRMAN BUHROW: Do we have a motion to  
9 continue the hearing?

10 MR. FORSTER: So move.

11 CHAIRMAN BUHROW: By Bruce.  
12 Second?

13 MR. FASSLER: Second.

14 CHAIRMAN BUHROW: Tom. All those in favor  
15 say aye?

16 (All those simultaneously  
17 responded.)

18 (The hearing was concluded at  
19 10:13 p.m.)  
20  
21  
22  
23  
24

1 Now on this 3rd day of  
2 December A.D. 2012, I do signify  
3 that the foregoing testimony was  
4 given before the Lee County  
5 Zoning Board of Appeals.  
6  
7  
8  
9

10 Craig Buhrow, Chairman  
11  
12  
13  
14

15 Chris Henkel,  
16 Zoning Officer  
17  
18  
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