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STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE:

Local Finance Board :

Location: Department of Community Affairs  
101 South Broad Street  
Trenton, New Jersey 08625  
Date: Wednesday, April 11, 2018  
Commencing At: 11:17 a.m.

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1 HELD BEFORE:

2

3 TIMOTHY J. CUNNINGHAM, Chairman

4 DOMINICK DIROCCO

5 FRANCIS BLEE

6 IDIDA RODRIGUEZ

7 TED LIGHT

8 ADRIAN MAPP

9 ALAN AVERY

10

11 A L S O P R E S E N T:

12

13 MELANIE WALTER, DAG

14 PATRICIA PARKIN MCNAMARA, Executive Secretary

15 EMMA SALAY, Deputy Executive Secretary

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1 I N D E X

2 ITEM PAGE

3 Opening Remarks

4 By: Mr. Cunningham 4

5 City of Union City 5

6 Chesterfield Township 6

7 Camden City 9

8 East Orange City 18

9 Vineland City Housing Authority 28

10 Hudson County Improvement Authority 34

11 Edgewater Borough Housing Authority 41

12 Beverly C. Baytops v. Township of 46

13 Irvington

14 Knowlton Township v. Lisa Patton 50

15 Lakewood Township Fire District #1 52

16 Hudson County 68

17 Adjournment 82

18

19

20

21

22 E X H I B I T S

23 ID DESCRIPTION PAGE

24 (NO EXHIBITS WERE MARKED.)

25

1 MR. CUNNINGHAM: Good morning. We  
2 will resume this morning's Local Finance Board  
3 Agenda. The matter being previously open to the  
4 public in a separate session upstairs.  
5 Obviously, no need for us to do any formalities.  
6 I would like to say, if there are any members of  
7 the public that are here that wish to speak on  
8 any particular application, kindly raise your  
9 hand at the appropriate time and the board will  
10 certainly hear from you.

11 Before we jump into the application,  
12 I just want to acknowledge that one of the, I  
13 think very well respected counsels that have  
14 appeared in front of this board, certainly longer  
15 than I've been here, passed away, Tony Pannella,  
16 lost his battle with pancreatic cancer. I had a  
17 great respect for Tony, and I would, as we take  
18 the first Local Finance Board meeting after his  
19 passing, I want to take a second to remember  
20 Tony, and I ask all of you that work with him to  
21 do the same. Tony was a class act, a funny guy  
22 and just a brilliant lawyer, so I'm sorry to see  
23 that Tony is no longer with us.

24 We have one item on the Consent  
25 Agenda today, so we'll dispatch of that very

1 quickly. The City of Union City applied to the  
2 board to simply move money between line items on  
3 an ordinance. They wanted to shift \$55,000 from  
4 one project to another. Instead of  
5 reconstruction and repaving of streets, it was in  
6 a separate line item that they're looking to move  
7 money to for citywide roadway striping, no new  
8 debt is issued, so we listed this on the Consent  
9 Agenda. Nevertheless, we have to take a vote, so  
10 I would ask my colleagues to take a vote on this  
11 particular matter.

12 MR. BLEE: Motion.

13 MR. CUNNINGHAM: Mr. Blee makes a  
14 motion.

15 MR. AVERY: Second.

16 MR. CUNNINGHAM: Roll call, please,  
17 Pat.

18 MS. MCNAMARA: Mr. Cunningham?

19 MR. CUNNINGHAM: Yes.

20 MS. MCNAMARA: Mr. Mapp?

21 MR. MAPP: Yes.

22 MS. MCNAMARA: Mr. DiRocco?

23 MR. DIROCCO: Yes.

24 MS. MCNAMARA: Mr. Avery?

25 MR. AVERY: Yes.

1 MS. MCNAMARA: Miss Rodriguez?

2 MS. RODRIGUEZ: Yes.

3 MS. MCNAMARA: Mr. Blee?

4 MR. BLEE: Yes.

5 MS. MCNAMARA: Mr. Light?

6 MR. LIGHT: Yes.

7 MR. CUNNINGHAM: First matter in  
8 front of the board, Chesterfield Township,  
9 proposed CAP waiver. Good morning. Nice to see  
10 you again. Would you kindly identify yourself  
11 for the record, and if not counsel, you'll need  
12 to be sworn in.

13 MS. ROMEU: Rita Romeu, Mayor.

14 MS. WULSTEIN: Wendy Wulstein, Chief  
15 Financial Officer to the Township of  
16 Chesterfield.

17 (At which time those wishing to  
18 testify were sworn in.)

19 MR. CUNNINGHAM: Thank you for your  
20 appearance. I know you've been in front of the  
21 board on this same matter for a couple times. We  
22 have new members of the board which is why I  
23 didn't want to necessarily waive the appearance.  
24 So what I'd like to do is turn it over to you and  
25 maybe you can explain the issue in Chesterfield

1 and why you appear in front of the board.

2 MS. WULSTEIN: Okay. We are here on  
3 the waiver of the 1977 appropriation CAP.

4 Chesterfield is a very small farming community  
5 going back 20 years ago. Mount Laurel came  
6 around, development was happening. In 2010, one  
7 could estimate the population doubled as a result  
8 of the changes that were coming in.

9 Going back to when it was run by the  
10 state police, eventually they did bring in a  
11 police chief, brought in two members of a police  
12 force and that need, as time, residents grew,  
13 that became higher and higher. Our current  
14 staffing of police is two per shift and a police  
15 chief and a police secretary, so we are not  
16 overly staffed, but it is that staffing that puts  
17 us above and beyond the CAP, so we do come to the  
18 Finance Board to ask for the consideration of the  
19 waiver.

20 We are looking at bringing this to a  
21 vote to the members of Chesterfield. We started  
22 the education on that process, and we believe  
23 we're going to get to a levy CAP referendum as  
24 well and we are looking to do them at the same  
25 timing, and that brings us here, I want to say

1 19 years in a row since that 1977, but we're not  
2 overstaffed. They don't have over benefits.  
3 It's a very streamlined operation.

4 MR. CUNNINGHAM: I think it's also  
5 worth noting though that you realize the  
6 significant money from the sale of the TDR  
7 program.

8 MS. WULSTEIN: Yes

9 MR. CUNNINGHAM: And because of  
10 that, you have --

11 MS. WULSTEIN: We have surplus.

12 MR. CUNNINGHAM: The surplus to be  
13 used for the ongoing operations.

14 MS. WULSTEIN: Correct. And there  
15 is a surplus plan that we look at every year. We  
16 certainly have our eyes on that surplus. It is a  
17 managed process on how we are, you know,  
18 retaining it, as well as trying to develop, you  
19 know, future going into it.

20 MR. CUNNINGHAM: Mayor, is there  
21 anything you wanted to add on behalf of the  
22 municipality?

23 MS. ROMEU: No, not really.

24 MR. CUNNINGHAM: Okay. Any  
25 questions from the board?



1 MR. BLEE: Motion to approve.

2 MR. MAPP: Second.

3 MR. CUNNINGHAM: Mr. Blee, Mr. Mapp.

4 Roll call, please.

5 MS. MCNAMARA: Mr. Cunningham?

6 MR. CUNNINGHAM: Yes.

7 MS. MCNAMARA: Mr. Mapp?

8 MR. MAPP: Yes.

9 MS. MCNAMARA: Mr. DiRocco?

10 MR. DIROCCO: Yes.

11 MS. MCNAMARA: Mr. Avery?

12 MR. AVERY: Yes.

13 MS. MCNAMARA: Miss Rodriguez?

14 MS. RODRIGUEZ: Yes.

15 MS. MCNAMARA: Mr. Blee?

16 MR. BLEE: Yes.

17 MS. MCNAMARA: Mr. Light?

18 MR. LIGHT: Yes.

19 MR. CUNNINGHAM: See you next year.

20 MS. WULSTEIN: Thank you.

21 MR. CUNNINGHAM: City of Camden.

22 Good morning. Kindly identify yourself for the

23 record, and those who need to be sworn in,

24 please.

25 MR. WALKER: Keith Walker, Director

1 of Public Works.

2 MR. KEATING: Pat Keating, Director  
3 of Finance.

4 MS. OBERDORF: Cheryl Oberdorf, bond  
5 counsel to the city, DeCotiis, Fitzpatrick, Cole  
6 and Giblin.

7 MR. THOMPSON: And David Thompson,  
8 Phoenix Advisors, municipal advisor to the city.

9 (At which time those wishing to  
10 testify were sworn in.)

11 MS. OBERDORF: Good morning. This  
12 is an application by the City of Camden for  
13 approval to adopt a 2.6 million dollar bond  
14 ordinance which will be used to fund the city  
15 share of road improvements, streetscape  
16 improvements, sidewalk, curbing improvements, an  
17 area two miles north and south of the Benjamin  
18 Franklin Bridge within the city for approval to  
19 adopt a bond ordinance, also to adopt a bond  
20 ordinance without a down payment.

21 So for a waiver of down payment  
22 pursuant to 40A2-7D also to issue any bonds under  
23 the bond ordinance as municipal qualified bonds  
24 pursuant to the Municipal Bond Statute. The  
25 project is actually -- the total cost of the

1 project is actually 21.2 million dollars and the  
2 2.5 million represents the city's share of the  
3 scope of the project. Other funds are coming  
4 from the United States Department of  
5 Transportation through a TIGER grant as well the  
6 EDA in the amount of approximately 2.5 million  
7 dollars. The CFO can speak, Mr. Keating can  
8 speak to the scope of the project and the scope  
9 of the improvement

10 MR. KEATING: Good morning. This  
11 project is, as Cheryl said, is an area around the  
12 Walt Whitman Bridge extending east from the  
13 Delaware River -- the Ben Franklin Bridge, and in  
14 this area is where Rutgers University exists, and  
15 the waterfront development, which Camden is  
16 doing, and the Liberty Trust Project and this  
17 will be going into some of the neighborhoods of  
18 the north Camden section and the East Cooper  
19 Grant section.

20 This will take our Cooper Street all  
21 the way from the river down to Center City and  
22 redo that. We'll be doing streetscapes and the  
23 traffic signalization and street lighting in that  
24 neighborhood and then as a commercial, general  
25 commercial neighborhood. The residential piece

1 will be the Cooper Grant, the neighborhoods  
2 around Cooper Hospital and on the north side of  
3 the bridge, and that will be improvements to  
4 water, sewer which is being done under a separate  
5 application that we've come before you for.

6           And this will be doing the streets,  
7 and the funding will be through the federal  
8 highway, the special TIGER grant with a 2014  
9 allocation and the ERB committed 2.5 million, and  
10 the city is putting up this 2.5 million is our  
11 commitment, but we'll have some other costs  
12 associated with that.

13           So the whole thing would give access  
14 to the new Rutgers facilities, the new waterfront  
15 facilities and generally the downtown to be back  
16 into 2,000 generation improvements for our  
17 residents. Any other specific questions, I'd be  
18 more than happy to address them.

19           MR. CUNNINGHAM: I have a general  
20 question or maybe a statement. I just want to  
21 work a little bit with John Salvatore, the  
22 monitor and you and Cheryl, maybe, I want to get  
23 a sense of the city's planned borrowing because I  
24 certainly think that this initiative to borrow,  
25 you know, 2526 with associated costs in order to

1 release, you know, millions of dollars in both  
2 EDA and DOT money is certainly worthwhile and  
3 something I support.

4           But between this and some of the EDA  
5 borrowing and capital borrowing, when I look at  
6 the city kind of holistically, just because it  
7 receives a significant amount of transitional  
8 aid, I want to get a sense of the borrowing plan  
9 going forward, so I want to make you aware of  
10 that, but obviously, you know, I think this  
11 particular financing has merit for the fact that  
12 we're just paying for the down payment of a much  
13 larger initiative.

14           MR. THOMPSON: I will, if I might,  
15 we met just last month with the mayor and his  
16 staff, administrator, city attorney, Drew, Pat,  
17 big group, to discuss the city's capital plan.  
18 The initial capital plan is going to be focused  
19 on a much neglected capital improvement process  
20 within some of the streets and roads within the  
21 city, other than this redevelopment area.

22           The mayor feels strongly that other  
23 parts of the city to serve some capital  
24 investment and the streets and roads are one of  
25 those points. A tie in, in the plan to look at

1 sewer lines, water lines, under those roads so it  
2 can be a coordinated process, is under way. The  
3 initial borrowing that we're looking at, and have  
4 indicated to the mayor, we thought was quite  
5 affordable would be about three million dollars  
6 in capital improvements this year.

7           The city, as I know you know, has  
8 made great strides, from a standpoint of its  
9 fiscal operations, over the last eight to 10  
10 years and it certainly appears as though it's  
11 going to continue that way. The bond rating is  
12 held stable. Went from being in the junk bond  
13 category to now with Standard and Poor's at a  
14 triple B plus, a very significant rating.

15           And the indications from Standard  
16 and Poor's is that it's all in the right track to  
17 tip into the A category, once some of that  
18 downtown waterfront redevelopment gets in there,  
19 employment picks up, local employment picks up,  
20 we would see within probably, it's never  
21 tomorrow, three to five years that those things  
22 will flow into the underlying finances of the  
23 city from a ratings standpoint and give us a good  
24 opportunity in an A rated town.

25           The capital projects are not done in

1 a willy-nilly fashion. They are well planned  
2 out, and this step with the roads unleashes, as  
3 you said, a great deal of additional money from  
4 other sources which the leveraging is so  
5 important. The water and sewer is moving towards  
6 a rate study because there's a lot of  
7 infrastructure being put where you don't see it  
8 and it's almost all done.

9                   It is all being done through the  
10 infrastructure bank over the last several years  
11 and projected forward that way, so we'll take  
12 advantage of the low interest rates there and  
13 we'll make sure with, once the rate study gets  
14 done, which will probably be by next early fiscal  
15 year, to have it remain in a self-liquidating  
16 status which it has been for the last several  
17 years.

18                   MR. CUNNINGHAM: So when we sit down  
19 and talk at some point, I don't want to limit our  
20 conversation to capital borrowing, I want to talk  
21 about all borrowing, and I don't know whether you  
22 have plans for additional borrowing, but I want  
23 to sit down and have a conversation about how  
24 that fits in to the overall city, not just in one  
25 budget year, but kind of looking out long term,

1 just to gauge what the continued need and  
2 expectation for a transitional aid is, but I make  
3 that point to you. We'll have the conversation  
4 off line.

5 MR. THOMPSON: Fine.

6 MR. CUNNINGHAM: The only other  
7 question I have was, if you can give me the  
8 status of the audit, 2017 audit.

9 MR. KEATING: The audit has been  
10 completed and submitted.

11 MR. CUNNINGHAM: It has been  
12 submitted?

13 MR. KEATING: Yes.

14 MR. CUNNINGHAM: When? In recent  
15 days?

16 MR. KEATING: About two weeks ago.  
17 The directive action plan has been submitted as  
18 well and the BMPs were done, so I believe we're  
19 on target. The council approved the audit last  
20 night at last night's meeting, approved the audit  
21 findings and signed off on it, so all that  
22 information should be there.

23 To your other point, as you know,  
24 Mr. John Salvatore and I have been meeting and  
25 we're looking to make those same points and to



1 make sure all our potential future liabilities  
2 are identified and we can address those things  
3 coming into a new fiscal year starting in a  
4 couple of weeks, so whatever you need, we'll be  
5 more than happy to assist.

6 MR. CUNNINGHAM: Thank you very  
7 much. Any other questions from the board?

8 MR. BLEE: Motion to approve.

9 MR. CUNNINGHAM: Mr. Blee makes a  
10 motion.

11 MR. DIROCCO: I'll second it.

12 MR. CUNNINGHAM: Roll call, please.

13 MS. MCNAMARA: Mr. Cunningham?

14 MR. CUNNINGHAM: Yes.

15 MS. MCNAMARA: Mr. Mapp?

16 MR. MAPP: Yes.

17 MS. MCNAMARA: Mr. DiRocco?

18 MR. DIROCCO: Yes.

19 MS. MCNAMARA: Mr. Avery?

20 MR. AVERY: Yes.

21 MS. MCNAMARA: Miss Rodriguez?

22 MS. RODRIGUEZ: Yes.

23 MS. MCNAMARA: Mr. Blee?

24 MR. BLEE: Yes.

25 MS. MCNAMARA: Mr. Light?

1 MR. LIGHT: Yes.

2 MS. OBERDORF: Thank you very much.

3 MR. CUNNINGHAM: Thank you. We'll  
4 turn to the City of East Orange.

5 MR. CUNNINGHAM: Good morning.

6 MR. JOHNSON: Good morning.

7 MR. CUNNINGHAM: As with the other  
8 applicants, if you please introduce yourself and  
9 those that can be sworn in, we can get going.

10 MR. JOHNSON: Director, before we  
11 begin, I want to thank you for the kind words you  
12 said about Tony Pannella earlier in the meeting.  
13 He was a great man, and the Wilentz firm, and  
14 myself personally, will miss him very much, so  
15 thank you very much for those kind words.

16 MR. CUNNINGHAM: Of course.

17 MR. JOHNSON: Before we begin, I can  
18 introduce everyone on the table. We have a full  
19 team for you here today. I want to start all the  
20 way to the far right. We have Dan Mariniello,  
21 financial advisor from NW Financial. We have  
22 Frank McEnerny, the city's auditor. We have Shuh  
23 Yang, the city CFO. Next we have Ryan Linder,  
24 the city's corporation counsel. To my right is  
25 Solomon Steplight, the city's business

1 administrator, and I am Everett Johnson from  
2 Wilentz, the city's bond attorney.

3 (At which time those wishing to  
4 testify were sworn in.)

5 MR. JOHNSON: Thank you. The city  
6 submits this application before you today to  
7 request your endorsement, a Refunding Bond  
8 Ordinance in the amount of \$1,970,000 and also  
9 for your approval to issue refunding bonds or  
10 notes in such amount to pay refunds from tax  
11 appeals related to judgments and settlements with  
12 various taxpayers.

13 The city's requesting that the  
14 refunds be paid over a three year period with the  
15 first year being included in the 2018 budget.  
16 The tax impact, over a three year period to each  
17 household, is approximately 46 dollars per  
18 household which is pretty much in line with the  
19 directive of the Local Finance Board that the tax  
20 impact be approximately 50 dollars per household.

21 If the tax appeals were paid all in  
22 the current year, the impact would be 134 dollars  
23 per household. The city has spoken with members  
24 of your staff. We understand that the Local  
25 Finance Board would like the city to reduce some

1 of the appeals that were filed and settled prior  
2 to 2017 in the aggregate amount of approximately  
3 \$145,000.

4           We are okay with that reduction, so  
5 we would agree to issue actually, have a  
6 liability of 1,825,000 approximately and to pay  
7 that amount over a three year period, and we're  
8 seeking approval of both the ordinance and the  
9 ability to issue debt in such amounts. If you  
10 have any questions, we're here.

11           MR. CUNNINGHAM: Thank you. There's  
12 been some members of the board that have  
13 expressed reluctance to approve ongoing tax  
14 appeal financings. One of the issues that hasn't  
15 been asked of applicants is whether or not  
16 reserves have been set up to deal with this as  
17 opposed to waiting for bonding, and I think your  
18 application speaks to that, and I was hoping that  
19 you could just put that on the record, the city's  
20 plan.

21           MR. JOHNSON: Sure. I'm actually  
22 going to have Frank speak to that.

23           MR. MCENERNY: We have, right now in  
24 the introduced budget, \$750,000 which would need  
25 to be increased just to absorb the one third

1 amount of these tax bills being financed. In  
2 addition, we have to add the 145,000 that we're  
3 no longer going to be included. That brings us  
4 up to roughly a little over 800,000 so that would  
5 have to be increased.

6           The budget has just been introduced,  
7 but we have to go back and look to amend that to  
8 see if we can increase that appropriation amount  
9 to include additional amounts to try to create a  
10 reserve for future appeals, and that's where it  
11 is right now at this point.

12           MR. CUNNINGHAM: Well, I thought the  
13 application, and I realize that the amount that  
14 we're reducing the ordinance by is changing,  
15 putting this in flux a little bit, but I think  
16 the application made the two important points as  
17 it related to what I thought were good financial  
18 practices or preparations.

19           Number one, the first payment is  
20 going to be made in this year's budget as opposed  
21 to a future year's budget, and secondly, I was  
22 expecting testimony that the municipality was  
23 going to be setting aside \$750,000 each of the  
24 next four budgets. Now, I realize that this  
25 particular governing body can't bind future

1 legislatures as it relates to the outgoing budget  
2 years, but for this budget year, you have 750 in  
3 reserve. You're going to go back, Frank, and see  
4 how to deal with this other 145,000?

5 MR. MCENERNY: Correct.

6 MR. CUNNINGHAM: But is, at least  
7 the testimony in front of the board that you're  
8 planning on continuing to establish a significant  
9 reserve over a four year period?

10 MR. MCENERNY: It would be the  
11 intention of the city to do so but we do have to  
12 go back. The city council has budget now. We  
13 have to go back and amend that in order to cover  
14 for those reserves in the future, for the future  
15 tax appeals.

16 MR. CUNNINGHAM: So if I was to make  
17 the resolution authorizing this contingent upon  
18 both the payment this year and the reserve of at  
19 least 750 when the budget's adopted, I realize  
20 it's been introduced and it's going to require  
21 modifications, is that something that the  
22 municipality would be able to live with?

23 MR. MCENERNY: I think it's doable.  
24 From a financial standpoint, I think it's doable,  
25 yes. We've already identified some other

1 reductions in appropriations since we introduced  
2 the budget.

3                   MR. CUNNINGHAM: Again, we can't  
4 bind what happens in years two, three and four,  
5 but for the one particular year we have in front  
6 of us, the budget has been introduced, so  
7 assuming the balance of the board supports the  
8 application, I'm going ask that the motion, as I  
9 already articulated, state that it be contingent  
10 or conditional on the first payment being in the  
11 budget year and the reserve of at least \$750,000  
12 in the adopted budget. Do you have a sense of  
13 when you're going to adopt?

14                   MR. STEPLIGHT: End of May.

15                   MR. DIROCCO: I wanted to concur  
16 with the Chairman's comments on that point. I  
17 think that it makes great sense. I appreciate  
18 the willingness on the part of the city to do  
19 that, and I know we can't bind future actions by  
20 the city but maybe even going a step further in  
21 the resolution indicating that even though it's  
22 just more window dressing to even indicate where  
23 our hopes -- I think it's a first great step. Is  
24 this the first time you've had a reserve set up  
25 in the budget for this purpose?

1 MR. MCENERNY: There is a very small  
2 reserve set up, less than 100,000. This would be  
3 the first time that we're making that initiative.

4 MR. DIROCCO: Which I commend you  
5 guys for. Maybe we can put in the --

6 MR. CUNNINGHAM: We can reference  
7 the testimony what was included in the testimony.

8 MR. DIROCCO: I support that. I  
9 appreciate that.

10 MR. AVERY: Does that 750,000 that  
11 goes in the upcoming budget, does that include  
12 the 145,000 coming out of the bond?

13 MR. CUNNINGHAM: You're going to  
14 have to go back and make modifications.

15 MR. MCENERNY: That's a good  
16 question because the 145, does that get included  
17 in the 750?

18 MR. AVERY: Or is it in addition to?

19 MR. MCENERNY: Or is it in addition  
20 to.

21 MR. CUNNINGHAM: I thought I heard  
22 you say that you already had some strategies for  
23 dealing with that so --

24 MR. MCENERNY: It's in addition to.

25 MR. MAPP: The 145 give you any



1 issue with the CAP?

2 MR. MCENERNY: No.

3 MR. CUNNINGHAM: I guess we're  
4 having a bit of a side bar. It's my  
5 understanding, and let me be just clear. But the  
6 introduced budget, the introduced budget had the  
7 payment in for this year.

8 MR. MCENERNY: 750.

9 MR. CUNNINGHAM: Not the reserve,  
10 but the payment off of this particular issuance.

11 MR. MCENERNY: It had 750,000,  
12 period.

13 MR. CUNNINGHAM: Everett, I'm sorry.  
14 I'm going to have to pull the application. I  
15 thought the application had the first payment  
16 being received being made this year. Is that  
17 what the application said?

18 MR. JOHNSON: That's what the  
19 application said, that's correct.

20 MR. CUNNINGHAM: So apparently,  
21 we're operating off of a bit of a different --

22 MR. JOHNSON: I don't think so. I  
23 think what the city is saying is that there was a  
24 disconnect between what we were planning to do in  
25 the reserve. But I think that now it's been laid

1 out, I believe the city is saying they're willing  
2 to do that. We'll do both in the amended budget  
3 before it's adopted in May.

4 MR. CUNNINGHAM: That's not what I'm  
5 hearing from Frank.

6 MR. MCENERNY: We have identified  
7 subsequent -- we did identify areas that we can  
8 reduce the budget elsewhere to make up the  
9 difference in the tax appeal appropriation, in  
10 the provision for taxes.

11 MR. JOHNSON: I asked that very  
12 question yesterday whether or not, the same  
13 question you're asking now, whether or not the  
14 payment for this year in the reserve was  
15 including the budget. At that point in time, I  
16 was told that it was not, but that the budget  
17 would be amended to include that payment.

18 So what you're saying and what  
19 you're asking is something that we had discussed  
20 internally as of yesterday, and that the city was  
21 in agreement to doing so, so I think Frank, and  
22 Solomon is next to me shaking his head as well,  
23 that although it wasn't in the introduced budget,  
24 it will be in the final budget both. It will  
25 increase the 145 as well, so it will be the first

1 payment, the 750 plus the 145 in the final  
2 budget.

3 MR. CUNNINGHAM: And I will make the  
4 approval conditional in that regard, but that was  
5 my understanding, so thank you for that and  
6 Frank, I see you're nodding.

7 MR. MCENERNY: Yes.

8 MR. CUNNINGHAM: So we are on the  
9 same page. Any other questions or comments from  
10 the board? So hearing none, I'll make the motion  
11 to approve the adoption of Refunding Bond  
12 Ordinance and the issuance of refunding bonds  
13 subject to the condition that the first payment  
14 under the issuance is included in the  
15 municipality's soon to be adopted budget along  
16 with a \$750,000 reserve for tax appeals and the  
17 \$145,000 payment which was extracted out of the  
18 totality of the settlements.

19 MR. JOHNSON: Yes.

20 MR. CUNNINGHAM: That's my motion on  
21 the table. I would ask for a second from one of  
22 my colleagues.

23 MR. MAPP: Second.

24 MR. CUNNINGHAM: Mr. Mapp makes the  
25 second. Roll call, please.

1 MS. MCNAMARA: Mr. Cunningham?  
2 MR. CUNNINGHAM: Yes.  
3 MS. MCNAMARA: Mr. Mapp?  
4 MR. MAPP: Yes.  
5 MS. MCNAMARA: Mr. DiRocco?  
6 MR. DIROCCO: Yes.  
7 MS. MCNAMARA: Mr. Avery?  
8 MR. AVERY: Yes.  
9 MS. MCNAMARA: Miss Rodriguez?  
10 MS. RODRIGUEZ: Yes.  
11 MS. MCNAMARA: Mr. Light?  
12 MR. LIGHT: Yes.  
13 MR. CUNNINGHAM: Thank you.  
14 MR. JOHNSON: Thank you.  
15 MR. CUNNINGHAM: Move to the  
16 Vineland City Housing Authority.  
17 (Mr. Blee Left Hearing.)  
18 MR. CUNNINGHAM: Welcome. Just ask  
19 that you be introduced for the record, and those  
20 that aren't counsel will need to be sworn in.  
21 MR. INVERSO: Anthony Inverso from  
22 Phoenix Advisors, financial advisor to the  
23 Housing Authority. To my direct left is David  
24 Weinstein bond counsel. To his left is Rick  
25 Ginnetti who is consultant to the Housing

1 Authority, and Jacqueline Jones, the executive  
2 director sitting to Rick's left.

3 (At which time those wishing to  
4 testify were sworn in.)

5 MR. INVERSO: Good morning. Here on  
6 behalf of the Vineland Housing Authority in  
7 connection with the Authority's request for  
8 approval for the issuance of not to exceed  
9 2.4 million dollars of tax exempt housing revenue  
10 bonds. The proceeds of the bonds will be used  
11 for a Rental Assistance Demonstration, or a RAD  
12 conversion program in connection with 200 of the  
13 Housing Authority's 600 units.

14 This has already been approved by  
15 HUD, and the proceeds of the bonds will  
16 specifically be used for capital improvements and  
17 capital reserves in connection with those  
18 projects. The refinancing of existing debt  
19 that's associated with the properties that are  
20 being converted, fund required reserves and pay  
21 the cost of issuance, the bonds.

22 The bonds will be sold via a private  
23 sale to Capital Bank of New Jersey and will be  
24 secured by revenues associated with those  
25 200 units. Rick and or Jackie would be happy to

1 give you some background or details regarding the  
2 projects that are being converted if you'd like.  
3 Happy to answer any questions.

4 MR. CUNNINGHAM: Anthony, that would  
5 be great. The board, by this point, has seen  
6 numerous RAD applications. We've seen them done,  
7 the vast majority of the time, private placement,  
8 so none of this is particularly -- it's certainly  
9 not a matter of first impression.

10 But what we do is typically ask the  
11 applicants to do is to discuss which of their  
12 inventory is being improved by this RAD  
13 conversion, and if you could speak a little bit  
14 about what, generally, the type of improvements  
15 being made to those facilities would be.

16 MR. GINNETTI: So this conversion,  
17 the 200 units is really two separate Housing  
18 Authority projects that are adjacent to each  
19 other and operate as one. It's 50 units of  
20 family and 150 units of senior housing. The debt  
21 that's being refinanced is a capital bond that  
22 was taken out about a decade ago which went into  
23 the family units, so they're pretty much  
24 complete.

25 The work that's going to be done on

1 the family units is more phased in over the next  
2 five years. This property is not in terrible  
3 condition, but there is a phasing issue. We're  
4 going to do roofs on the senior units. We're  
5 going to do kitchens in the senior units, and  
6 actually back in the family units, we're going to  
7 do new electric services on all of them over the  
8 next several year plan.

9           The only initial work that gets done  
10 at closing are energy improvements with water  
11 saving, shower heads, faucets and all the  
12 electrical work inside and out are going to be  
13 parking lots, and all the interior lighting is  
14 going to be converted to LED for energy savings.

15           MR. CUNNINGHAM: And included in the  
16 one, I guess the Tarclan Acre site is also a  
17 community center?

18           MR. GINETTI: There's a community  
19 center. There's actually two community centers  
20 in the project. The Tarkiln Site has a Senior  
21 Brown Center which they hold meetings and  
22 residents, but we also have the Corbin  
23 Educational Center which sits between the two  
24 sites with a computer lab, after school programs  
25 are run there and those kind of programs for the

1 children and educational programs for adults.

2 MR. CUNNINGHAM: Anthony, the one  
3 thing I would ask you to touch on is a little bit  
4 about the rates and how the rates were ultimately  
5 determined.

6 MR. INVERSO: The rates for the  
7 financing?

8 MR. CUNNINGHAM: Yeah.

9 MR. INVERSO: Well, Capital Bank was  
10 chosen, I'll let Rick and Jacqueline speak  
11 further regarding this. The Authority has looked  
12 at various options going back a number of years  
13 ago, and the institution that presented the best  
14 package of financing was Capital Bank, we looked  
15 at the Housing Mortgage Finance Authority.

16 MR. GINETTI: For our application,  
17 which was actually, it's a HUD program, back in  
18 2013, we were required to identify the lender.  
19 We went to three institutions for financing, not  
20 particularly for tax exempt bonds, but for  
21 financing in general to do the transaction. One  
22 was the New Jersey Housing and Mortgage Finance  
23 Agency, but we also discussed it with Rockhall  
24 Financial who handles FHA multi family loans.

25 They're familiar with this kind of



1 program. And Capital Bank, which is the local  
2 bank in town who had participated in a new  
3 development, the Housing Authority built a couple  
4 years ago with tax credits. And Capital Bank  
5 made the easiest proposal and recommended a tax  
6 exempt bond issuance, which had the lowest cost  
7 and, you know, the rates at the time were  
8 different than where they are now, but it also  
9 had the lowest rates and the best terms as it  
10 related, not only to the financing, but the other  
11 requirements that would be involved in the  
12 financing.

13                   Rockhall Financial, as a HUD multi  
14 family lender, carries all the HUD regulatory  
15 requirements that housing authorities are trying  
16 to move away from to be able to operate more like  
17 a private business, so you didn't have the  
18 administrative savings going with that loan as  
19 you do going with Capital Bank.

20                   So Capital Bank was chosen then, and  
21 frankly a year ago when we were resubmitting the  
22 plans to HUD for approval, we went back out and  
23 checked the financial rates and terms again to  
24 multiple lenders to see if there was an advantage  
25 to us with the interest rate, and Capital Bank

1 was, we felt, very competitive.

2 MR. CUNNINGHAM: Okay. Other  
3 questions?

4 MR. LIGHT: I'll make a motion the  
5 application be approved.

6 MR. CUNNINGHAM: Mr. Light makes a  
7 motion.

8 MR. DIROCCO: Second.

9 MR. CUNNINGHAM: Mr. DiRocco  
10 seconds. Roll call, please.

11 MS. MCNAMARA: Mr. Cunningham?

12 MR. CUNNINGHAM: Yes.

13 MS. MCNAMARA: Mr. Mapp?

14 MR. MAPP: Yes.

15 MS. MCNAMARA: Mr. DiRocco?

16 MR. DIROCCO: Yes.

17 MS. MCNAMARA: Mr. Avery?

18 MR. AVERY: Yes.

19 MS. MCNAMARA: Miss Rodriguez?

20 MS. RODRIGUEZ: Yes.

21 MS. MCNAMARA: Mr. Light?

22 MR. LIGHT: Yes.

23 MR. INVERSO: Thank you.

24 MR. CUNNINGHAM: Thank you. Hudson  
25 County Improvement Authority.

1 MR. MCMANIMON: Ed McManimon from  
2 McManimon, Scotland and Baumann, bond counsel to  
3 the authority. I have, to my right, Cosmo  
4 Cirillo, who is the administrator for the town of  
5 Guttenberg. Steve Wielkocz, who is the auditor  
6 to the town of Guttenberg and Dan Mariniello who  
7 is the financial advisor to everyone in Hudson  
8 County.

9 (At which time those wishing to  
10 testify were sworn in.)

11 MR. MCMANIMON: Thank you. Steve  
12 Wielkocz and I flipped a coin as to who was going to  
13 present this. This financing is being undertaken  
14 by the Improvement Authority, on behalf of the  
15 town of Guttenberg, to permanently finance a  
16 series of notes that have been outstanding for a  
17 number of years, and the reason that Guttenberg  
18 is going through the Improvement Authority is  
19 they are a small town with large debt and they  
20 don't have a credit rating at the moment because  
21 they don't have any outstanding bonds.

22 By having the Hudson County  
23 guarantee on top of this, it significantly  
24 enhances the credit of the issue and lowers the  
25 interest rate for the town and the taxpayers.

1 Generally, the county guarantees the obligations  
2 on the short term notes in the program that  
3 constantly has questions about it when it comes  
4 up here, but the view was this would be a  
5 significant benefit to Guttenberg.

6           The primary amount is for the  
7 project, I think the director is pretty familiar  
8 with, which is the Anna Klein schooling  
9 community. It's a very significant shared  
10 services between the school district and the  
11 town. During the day, the facility, which  
12 ironically opened a couple months ago, it houses  
13 seventh and eighth grade students that used to be  
14 in the school before where they had trailers for  
15 the kindergarten people.

16           They have moved in over the last two  
17 to three months, and during the day, it's a  
18 school and at night it's a community center, so  
19 it's a perfect combination of community services  
20 and school district facilities. And by  
21 undertaking this financing through the  
22 Improvement Authority and the county's credit,  
23 it's viewed that there's a significant savings in  
24 debt service over \$50,000 a year by virtue of the  
25 credit of the county. So Cosmo is here to

1 address any questions you have about the project,  
2 and Dan and Steve can discuss the financing  
3 issues related to it, if you have any.

4 MR. CUNNINGHAM: We talked about the  
5 school concept years ago when I was in the  
6 governor's office. Cosmo, I don't think you were  
7 administrator at the time, right?

8 MR. CIRILLO: No. I've been the  
9 administrator for just about a year now.

10 MR. CUNNINGHAM: I'm so glad to see  
11 that it's finally -- we got traction a while ago,  
12 but it's nice to see that it's finally opened up.  
13 Steve, who are you representing?

14 MR. WIELKOTZ: The town.

15 MR. CUNNINGHAM: And I guess I  
16 scared ACIA away?

17 MR. MCMANIMON: It's funny because  
18 Matt asked me, should I call Kurt Cherry. I  
19 said, no, he's here all the time because he lives  
20 here and this is a half a day that he gets to  
21 spend here. I don't know why he's not here. He  
22 has come to every Hudson County Improvement  
23 Authority matter we've had, so I didn't think he  
24 needed a call. I'll make sure I call him for the  
25 next one.

1                   MR. CUNNINGHAM:  It's quite all  
2 right.  I beat him up enough.  We'll give him a  
3 reprieve on this one.  I'll direct all my ire  
4 towards Dan.  I think it's better off that way.  
5 He's been silent so far, and it's making me  
6 nervous.

7                   Cosmo, do me a favor.  In addition  
8 to the school project, I know there is a new  
9 money piece of a million and-a-half and you're  
10 going to do some improvements.  Would you apprise  
11 the board of what makes up the new money piece  
12 that you're planning on doing?

13                  MR. CIRILLO:  Sure.  I can tell you,  
14 just to expand on the project itself, it has been  
15 a significant benefit to the residents of  
16 Guttenberg.  School wise, seventh and eighth  
17 graders who were housed in a very crowded  
18 building, now have a brand new facility with  
19 updated labs and classrooms.  And the  
20 recreational community center piece for the  
21 evenings and the weekends have been instrumental  
22 for the children and the seniors of Guttenberg.

23                  MR. CUNNINGHAM:  In a town that's  
24 fully build out?

25                  MR. CIRILLO:  Correct.

1 MR. CUNNINGHAM: Which, as somebody  
2 kind of growing up on the central to southern end  
3 of the state, it's kind of a foreign concept, so  
4 I think that some of us that have come from more  
5 rural areas, it's a real issue. When I first sat  
6 down to talk about this project, it was  
7 interesting to see how, you know, you just  
8 couldn't take another cornfield and build a  
9 community center some place?

10 MR. CIRILLO: We're very, very land  
11 locked. It's between North Bergen and West New  
12 York, a quarter of a square mile, and it becomes  
13 very difficult to find any piece of land, to be  
14 able to develop any type of property, so this  
15 opportunity that presented itself is really  
16 something unique for our town to be able to  
17 pursue.

18 So now that we're on the final  
19 stages of this, the mayor and counsel are very,  
20 very excited it got off the ground, and as we  
21 said, within the last month and-a-half, the  
22 school has been able to move into the new  
23 building and recreational services started about  
24 two and-a-half to three weeks ago there, so it's  
25 great to see it's come to light.

1 MR. CUNNINGHAM: Wonderful.

2 MR. CIRILLO: In regard to the  
3 financial piece, the improvements for the 1.3  
4 million in new money?

5 MR. WIELKOTZ: It's various  
6 improvements ordinance that is predominantly  
7 sewer repairs. Old town, old sewers.

8 MR. CUNNINGHAM: Infrastructure.

9 MR. WIELKOTZ: But again, part of it  
10 was we would be rolling the notes for a number of  
11 years because we didn't want to go final long  
12 term until the center was open and it was  
13 finished. There's some money that's come in,  
14 both open space money, the state construction  
15 fund money, so this is a clearly net financing.

16 MR. CIRILLO: The open space money  
17 was used for a roof top park. That's available  
18 to members of the public to be able to use in  
19 addition to educational activities for the  
20 children to use during the day.

21 MR. CUNNINGHAM: That's all I had.  
22 Any questions from my colleagues? I'd ask for --

23 MS. RODRIGUEZ: I'll make a motion.

24 MR. CUNNINGHAM: Miss Rodriguez  
25 makes a motion.



1 MR. LIGHT: I'll second it.

2 MR. CUNNINGHAM: Mr. Light seconds.

3 Roll call, please.

4 MS. MCNAMARA: Mr. Cunningham?

5 MR. CUNNINGHAM: Yes.

6 MS. MCNAMARA: Mr. Mapp?

7 MR. MAPP: Yes.

8 MS. MCNAMARA: Mr. DiRocco?

9 MR. DIROCCO: Yes.

10 MS. MCNAMARA: Mr. Avery?

11 MR. AVERY: Yes.

12 MS. MCNAMARA: Miss Rodriguez?

13 MS. RODRIGUEZ: Yes.

14 MS. MCNAMARA: Mr. Light?

15 MR. LIGHT: Yes.

16 MR. MCMANIMON: Thank you very much.

17 MR. CUNNINGHAM: Thank you.

18 Edgewater Borough Housing Authority.

19 MR. MARINIELLO: Dan Mariniello,

20 financial advisor to the Edgewater Housing

21 Authority. To my left is Cheryl Oberdorf, bond

22 counsel to the Housing Authority. And the

23 executive director of the Housing Authority, Joe

24 Capano.

25 (At which time those wishing to

1 testify were sworn in.)

2 MR. MARINIELLO: Okay. We are here  
3 with regards to the RAD conversion program that  
4 we heard previously and you've heard many times  
5 before. Edgewater Housing Authority had  
6 determined, well over a year or so, again to  
7 enter the RAD program. They have one building of  
8 30 units, senior building that is -- has been  
9 very well managed and is in very good condition.

10 When going through the process for  
11 RAD and approval through HUD, the engineers put  
12 together a 20 year needs assessment which  
13 included up front costs of approximately 180,000,  
14 and over the course of the 20 years, about 480 or  
15 so thousand of additional improvements.

16 In addition to this financing, which  
17 is a not to exceed 250,000, the Housing Authority  
18 is receiving a \$60,000 grant from the county CDBG  
19 funds which is specifically set aside for new  
20 elevators. They went out -- it's a small loan,  
21 so difficult to get too much interest from a lot  
22 of the lenders. The Edgewater Housing Authority  
23 has a strong relationship with Mariner's Bank.  
24 We got a, what we felt was a good interest rate  
25 for a longer term financing, and I believe you

1 currently bank with Mariner's Bank.

2 MR. CAPANO: Mariner's Bank of New  
3 Jersey.

4 MR. MARINIELLO: So it was an  
5 opportunity for them to continue to be able to  
6 leave their funds with the bank that they have a  
7 relationship with in town. If there's any  
8 questions, feel free to ask. Executive Director,  
9 do you want to go through some of the work that's  
10 going to be done at the building?

11 MR. CAPANO: The building was built  
12 in 1986. It's in great shape. It's a senior  
13 disabled building of 30 units. We got some  
14 community development block grant money to do new  
15 elevators. We want to clean up the hallways,  
16 bring them up to par with today's modernization,  
17 LED lighting, water saver in the bathrooms, rehab  
18 the 30 bathrooms in the building, the kitchens  
19 were done a few years ago, some parking lot  
20 upgrades. As you know, Edgewater is on a cliff,  
21 some retaining wall work and some concrete work.

22 MR. CUNNINGHAM: Did you have  
23 questions on it before I go?

24 MR. AVERY: I think we were looking  
25 at the percentages of the cost of issuance versus

1 the proceeds of the financing.

2 MR. MARINIELLO: I think the cost of  
3 issuance, as I went through it, are not all that  
4 different than what you might see in a typical --  
5 the problem with this project, particularly, is  
6 that the loan is so low.

7 MR. AVERY: Yeah.

8 MR. MARINIELLO: The work that's  
9 being done, whether it's a million or a two  
10 million dollar loan versus a 250,000 dollar loan  
11 is really the same work, so you're seeing,  
12 obviously, the percentage would be higher. If  
13 anything specifically sticks out.

14 MR. AVERY: It isn't necessarily any  
15 specific item. Does the authority have any debt  
16 now?

17 MR. MARINIELLO: No.

18 MR. AVERY: I would look for a  
19 reason not to borrow the money, but that's  
20 neither here nor there. I don't know the  
21 specifics well enough to make an informed  
22 judgment.

23 MR. MARINIELLO: So the authority  
24 has, if you look on the sources and uses, HUD  
25 requires you to really put all of your funding

1 into the deal and pull any out that you don't  
2 necessarily need, so we do have our operating  
3 reserves included in here along with the CDB  
4 grant. It's 187,000 plus the 55,000 that is  
5 going to the work that's being done, so there is  
6 just not enough funds to do that kind of work.

7 MR. AVERY: I understand.

8 MR. CAPANO: It's a small Housing  
9 Authority. We don't get much funding from HUD,  
10 so this is a way to go for longevity. I am also  
11 the executive director of the Cliffside Park  
12 Housing Authority. We have converted to RAD with  
13 no debt, so I'm very familiar with it, and these  
14 were questions I have asked our experts. But in  
15 longevity, this can hold the Housing Authority as  
16 a whole moving forward.

17 MR. AVERY: You're much more  
18 familiar with it. I'll take you at your word.

19 MR. CUNNINGHAM: That's really the  
20 only question I had on the application, so I'd  
21 ask for a motion and a second.

22 MR. MAPP: Move.

23 MS. RODRIGUEZ: Second.

24 MR. CUNNINGHAM: Motion and second.

25 Roll call, please.

1 MS. MCNAMARA: Mr. Cunningham?

2 MR. CUNNINGHAM: Yes.

3 MS. MCNAMARA: Mr. Mapp?

4 MR. MAPP: Yes.

5 MS. MCNAMARA: Mr. DiRocco?

6 MR. DIROCCO: Yes.

7 MS. MCNAMARA: Mr. Avery?

8 MR. AVERY: Yes.

9 MS. MCNAMARA: Miss Rodriguez?

10 MS. RODRIGUEZ: Yes.

11 MS. MCNAMARA: Mr. Light?

12 MR. LIGHT: Yes.

13 MR. CUNNINGHAM: The remaining four  
14 applications on the agenda are appeals of the  
15 director's decision, so I'm going to recuse  
16 myself from the dais and turn the gavel over to  
17 Miss Rodriguez as the Vice Chairwoman.

18 MS. RODRIGUEZ: The first appeal we  
19 are going to be hearing is the Township of  
20 Irvington versus Baytops. So today we're  
21 listening to whatever testimony from the township  
22 because we received correspondence for the  
23 attorney for Miss Beverly Baytops that they were  
24 going to -- they were not going to be here today.

25 (At which time those wishing to

1 testify were sworn in.)

2 MR. TAYLOR: Good morning, Madam  
3 Vice Chair, Commissioners. I am Lester Taylor of  
4 the law firm of Florio, Perrucci, Steinhardt and  
5 Cappelli. With me is my associate, Shontae Gray,  
6 and Musa Malik, the business administrator for  
7 the township. Essentially, the appellant, Miss  
8 Baytops, has appealed a settlement agreement that  
9 was entered into voluntarily by parties before  
10 Judge Betancourt back in November 2017.

11 Essentially, stating that there were  
12 two issues that they neglected to request, be  
13 incorporated into the settlement. Namely,  
14 reimbursement for a two day unpaid suspension a  
15 number of years ago as well as removal from her  
16 personnel file, certain punitive letters, what  
17 have you.

18 Our position is that we are opposed  
19 to the appeal as the matter was voluntarily and  
20 amicably resolved by the parties in open court on  
21 the record. The appellant refused to sign the  
22 agreement and filed this appeal, so we are here.  
23 We just got the letter from opposing counsel  
24 saying that they would not be here, so we wanted  
25 to place our objection, our position rather, to

1 their appeal on the record. Thank you.

2 MR. MALIK: I think counsel  
3 summarized our position on this matter succinctly  
4 and we have nothing to add.

5 MS. RODRIGUEZ: I'm going to ask any  
6 of my colleagues, do you have any questions? You  
7 heard the testimony from the opposition.

8 MR. LIGHT: The issue that remains  
9 is just the two day suspension; is that correct?

10 MR. TAYLOR: Correct. And if I may  
11 for the record, we did submit a brief in  
12 opposition of this back in January, and again,  
13 the director did affirm and approve the  
14 settlement agreement, so we would ask that that  
15 not be disturbed.

16 MR. LIGHT: And so the complainant,  
17 who is not here today, and asked for it to be  
18 turned around so that she would be paid for the  
19 two day suspension, which there was an agreement  
20 before that that suspension was there and now  
21 she's claiming she's to be paid for. Do we  
22 understand correctly?

23 MR. TAYLOR: Correct. The two day  
24 suspension occurred, I'll say back in early 2017  
25 or '16. This matter started by the township



1 through my law firm filing tenure charges to  
2 remove Miss Baytops from her tenured position as  
3 tax collector for the township. The settlement  
4 agreement, essentially, resulted in her waiving  
5 her right to that position and accepting a  
6 demotion to the assistant tax collector at a  
7 significant reduction in pay to \$75,000.

8 MR. LIGHT: I think we've had  
9 information on this before. I'm prepared to make  
10 a motion that we uphold the director's decision  
11 which I think would settle the situation and I  
12 wanted your opinion so I can move. I make a  
13 motion that we uphold the director's decision.

14 MS. RODRIGUEZ: Can I get a second?

15 MR. MAPP: Second.

16 MS. MCNAMARA: Mr. Mapp?

17 MR. MAPP: Yes.

18 MS. MCNAMARA: Mr. DiRocco?

19 MR. DIROCCO: Yes.

20 MS. MCNAMARA: Mr. Avery?

21 MR. AVERY: Yes.

22 MS. MCNAMARA: Miss Rodriguez?

23 MS. RODRIGUEZ: Yes.

24 MS. MCNAMARA: Mr. Light?

25 MR. LIGHT: Yes.

1 MR. MALIK: Thank you.

2 MR. TAYLOR: Thank you all.

3 MS. RODRIGUEZ: The next appeal is  
4 the Township of Knowlton versus Patton.

5 MS. HUDAK: Shannon Hudak, manager  
6 for the certification unit.

7 MR. CORRIGAN: Good afternoon. My  
8 name is David Corrigan. I am from the Corrigan  
9 Law Firm. I am the attorney for the township of  
10 Knowlton. This case is here on remand from a  
11 previous decision by the Local Finance Board.  
12 The only issue is whether the settlement  
13 agreement is valid. We presented below a  
14 decision. We moved for a summary decision.

15 The Office of Administrative Law and  
16 Judge DePascale following submissions,  
17 determined, relying in most part on the written  
18 settlement agreement, determined that the  
19 settlement agreement was valid. Several  
20 extensions were requested and received from Miss  
21 Patton's attorney.

22 There's an absence of exceptions, so  
23 we believe that the recommendation should be  
24 adopted. Noting that Miss Patton's attorney  
25 received notice of this hearing, did not file

1 exceptions and is not here today.

2 MR. LIGHT: I didn't hear the last  
3 few words you said. Did not file what?

4 MR. CORRIGAN: Did not file  
5 exceptions to the Administrative Law Judge  
6 decision approving the settlement agreement and  
7 is not here today.

8 MS. HUDAK: So procedurally, this  
9 board is just being asked whether to affirm the  
10 decision of Judge DePascale, the initial  
11 decision, which granted the township's motion for  
12 summary judgment finding that there was a valid  
13 settlement, so that's what the issue is being  
14 presented to you today.

15 MR. LIGHT: It sounds like the same  
16 thing, that we're asked to accept what the  
17 director's decision was.

18 MS. HUDAK: Well, the director's  
19 decision was heard. The appeal of the director's  
20 decision was originally heard by this board in  
21 October of 2016. The matter was remanded to the  
22 OAL, so now we're being asked to determine  
23 whether to affirm this decision of the OAL on  
24 remand.

25 MR. LIGHT: Or turn it over.

1 MS. HUDAK: Right.

2 MR. LIGHT: What other choices?

3 MS. HUDAK: So you adopt, modify or  
4 reject the initial decision of the Administrative  
5 Law Judge. In this case, there was no exceptions  
6 to the decision that was filed, so there was no,  
7 in essence, opposition to the decision that was  
8 rendered.

9 MR. AVERY: In that case, I'll move  
10 that we adopt the OAL decision as written as  
11 presented.

12 MR. MAPP: I'll second that motion.

13 MS. MCNAMARA: Mr. Mapp?

14 MR. MAPP: Yes.

15 MS. MCNAMARA: Mr. DiRocco?

16 MR. DIROCCO: Yes.

17 MS. MCNAMARA: Mr. Avery?

18 MR. AVERY: Yes.

19 MS. MCNAMARA: Miss Rodriguez?

20 MS. RODRIGUEZ: Yes.

21 MS. MCNAMARA: Mr. Light?

22 MR. LIGHT: Yes.

23 MS. RODRIGUEZ: Thank you.

24 MR. CORRIGAN: Thank you.

25 MS. RODRIGUEZ: The next is Lakewood

1 Fire District. I would like to call up Alyssa.

2 (At which time those wishing to  
3 testify were sworn in.)

4 MR. SENDZIK: Good afternoon. My  
5 name is Jay Sendzik. I'm the attorney for the  
6 Board of Fire Commissioners. I'm from the firm  
7 of Sendzik and Sendzik. To my left is Vincent J.  
8 Vitiello who is the fire district administrator  
9 to Lakewood.

10 MR. HENSEL: Good afternoon, Vice  
11 Chair. My name is Harold Hensel. I'm a lawyer  
12 with the firm of Secare and Hensel, Toms River,  
13 on behalf of the Township of Lakewood.

14 MR. LOIGMAN: Good afternoon, Madam  
15 Chairwoman. My name is Larry Loigman. I'm an  
16 attorney representing both myself and the  
17 concerned citizens for fire protection.

18 MS. PANE: I am Alyssa Pane. I work  
19 for the LGS, and I am a fire district budget  
20 auditor.

21 MR. LOIGMAN: It's my application.  
22 That's correct. And I do appreciate the board  
23 scheduling this so promptly after my request for  
24 a hearing. Once again, as in previous years, the  
25 Lakewood Township Fire District and the Lakewood

1 Township Committee have ignored the statutes and  
2 the regulations regarding fire district budgets.

3           I have been here in previous years,  
4 at least last year and the previous year,  
5 regarding these budgets and the board has seen  
6 fit at that time to affirm what the director's  
7 decision was. I ask you today, not to rubber  
8 stamp what the director has done, but instead, to  
9 look at what is going on in that fire district  
10 with special scrutiny and to disapprove the  
11 budget, and if there is any factual issue, to  
12 send the matter to the Office of Administrative  
13 Law for a factual hearing.

14           The budget was defeated by the  
15 voters at the February election. Thereafter, the  
16 township committee approved a resolution, which I  
17 believe has been sent to you on March 8th of 2018  
18 and the resolution indicates that N.J.S.A.  
19 40A1478.5 requires the governing body to hold a  
20 public hearing for review. In fact, there was no  
21 public hearing advertised and there was no public  
22 hearing conducted in violation of the statute.

23           The resolution doesn't say that the  
24 governing body held a public hearing. It says  
25 that they are required to hold a public hearing.

1 That part's accurate. What they left out was  
2 that they advertised a public hearing because  
3 they did not and that they conducted a public  
4 hearing because they did not. And I note that  
5 they have submitted to you a copy of the  
6 advertisement that they placed in the newspaper.

7           The advertisement says that the  
8 township committee will be voting on the 2018  
9 Lakewood Fire Budget at the next regularly  
10 scheduled township committee meeting on March  
11 8th. Formal action will be taken. It doesn't  
12 say that there will be a public hearing  
13 conducted, and the statute very clearly requires  
14 a public hearing and requires that because the  
15 public has a right to be heard.

16           The public in fact was heard on this  
17 matter when they voted at the election to defeat  
18 the budget. The township committee then approved  
19 the budget without any changes whatsoever. The  
20 resolution indicates that the township manager  
21 has recommended that the defeated budget of  
22 \$6,310,957 be approved.

23           In fact, there is no communication,  
24 no written communication, between the manager and  
25 the township committee which made that

1 recommendation. The resolution indicates that  
2 the total budget of that amount, \$6,310,957, is  
3 approved and the amount raised by taxation,  
4 \$6,250,980, is approved. It fails to distinguish  
5 between operating expenses and capital expenses,  
6 which is a requirement of the statute.

7           It fails to advise the voters or the  
8 residents, or anyone reading the resolution, of  
9 how it is that the township committee came to the  
10 determination that, in spite of what the voters  
11 wanted to do, the township committee decided to  
12 approve the budget. Now, the budget process  
13 actually started in December of 2017 when there  
14 was -- when there was some form of election that  
15 was conducted to approve certain capital projects  
16 that the Board of Fire Commissioners wanted to  
17 undertake.

18           That election in December of 2017  
19 failed to comply with Local Finance Notice 2017  
20 23. There was no resolution of the Board of Fire  
21 Commissioners to authorize the holding of that  
22 election, and there was no absentee voting  
23 allowed, contrary to the election statutes, so  
24 those people that were unable to get to the Board  
25 of Fire Commissioners office, during that



1 particular evening in December, were deprived of  
2 the rights to vote on the capital projects.

3           Those people that had requested from  
4 the Ocean County Board of Elections that they  
5 receive mail ballots for all elections were not  
6 notified of the election and did not receive mail  
7 ballots either. Had that particular election  
8 been conducted properly, it is likely that the  
9 voters would have disapproved the capital project  
10 at that point, but instead, because there were  
11 only a limited number of people who were able to  
12 vote, the capital projects were approved and  
13 folded into the budget when there was a budget  
14 referendum in February at the February fire  
15 district election.

16           There was no distinction between the  
17 capital projects and the operating projects, so  
18 that the voters could only vote for the total  
19 budget. Nonetheless, they disapproved of the  
20 budget, and then the township committee, as I  
21 have said, failed to do what they are required by  
22 the statute to do. Statute that we're talking  
23 about is 40A1478.5, Subsection B which  
24 specifically requires that a public hearing be  
25 conducted.

1           It requires that the governing body  
2 fix an annual budget for the fire district which,  
3 according to the decisions of the Division of  
4 Local Government Services, means that they can't  
5 just say, here's the total number. They have to  
6 actually fix what the sections of the budget  
7 would be in accordance with the law that governs  
8 fire district budgets, and it specifically says  
9 that the amount of each appropriation section of  
10 the budget so fixed shall not exceed the amount  
11 for each as previously voted upon.

12           We don't know what the amounts are  
13 in appropriate sections because there are no  
14 sections in the resolution. So for all of those  
15 reasons, the director should not have approved  
16 this budget, should not have certified it and  
17 taxes should not be collected to support this  
18 budget.

19           What this board needs to do is to  
20 freeze the budget at last year's level and  
21 descend the entire matter back to the township  
22 committee and to the Board of Fire Commissioners  
23 or to the Office of Administrative Law. There  
24 needs to be some fact finding, but in no event  
25 should the board allow spending to occur at the

1 levels that are set forth in this budget. Thank  
2 you.

3 MS. RODRIGUEZ: You're welcome.  
4 First, I want you to take a look at this board.  
5 We're not rubber stamps.

6 MR. LOIGMAN: I have been here --  
7 Madam Chair --

8 MS. RODRIGUEZ: I let you speak. I  
9 want you to let me speak. So I personally take  
10 offense to that. This staff works very hard and  
11 they review everything that comes here, so for  
12 you to say, you know, we should not rubber stamp  
13 the director's decision, I think it's a statement  
14 that is out of line here to this commission, to  
15 the members of this board.

16 From where I'm sitting and I'm  
17 hearing, you know, you want us to go and tell  
18 your governing body what to do. I don't know. I  
19 could be wrong, maybe the DAG can correct me,  
20 that's not what this board does. I'm going to  
21 leave it at that and let the defense.

22 MR. SENDZIK: From the Board of Fire  
23 Commissioners perspective, this board should know  
24 that Mr. Loigman, right after our December 5th  
25 2017 special meeting, not special election, but a

1 special meeting, and that special meeting was  
2 advertised pursuant to the pertinent statute in a  
3 timely fashion. The balloting was conducted on  
4 paper ballots which this board has required in  
5 the past.

6           We submitted those paper ballots to  
7 this board. In any event, right after that  
8 special meeting, Mr. Loigman filed a matter  
9 before Superior Court in Ocean County wherein one  
10 of those issues that he raised at that time was  
11 to invalidate the December 5th 2017 special  
12 meeting results and not to allow the budget to be  
13 placed on the ballot as presented to the Local  
14 Finance Board.

15           Judge Wellerson denied that motion.  
16 Judge Wellerson also denied a stay to allow Mr.  
17 Loigman to appeal that particular issue, and that  
18 was denied. Mr. Loigman did make an appeal, an  
19 emergent appeal, to the Appellate Court. That  
20 was denied by the Appellate Court. Mr. Loigman  
21 then forwarded a motion to the Appellate Court  
22 requesting that they overturn Judge Wellerson's  
23 decision. The Appellate Court denied that.

24           Mr. Loigman, and at the time, when  
25 we presented this to Judge Wellerson, we

1 indicated that Mr. Loigman was not able to bring  
2 his motion at the time because he didn't exhaust  
3 his administrative remedies which would have been  
4 through this board. He was well aware that if he  
5 had a complaint, he could have gone through this  
6 board. Yet, he chose not to.

7           For him now to say to this board is  
8 that this board should nullify the meeting of  
9 December 5th 2017 is kind of raised you to -- he  
10 should be stopped from even asserting that. In  
11 any event, the board did hold a meeting, and we  
12 did hold it with the proper notice and the proper  
13 procedures seeking guidance, whenever we had to,  
14 from the Local Finance Board and the statute.

15           We did forward all our notices to  
16 this board at that time. We do it every year.  
17 We reported the results to the Local Finance  
18 Board. We had our budget introduction on that  
19 date and we also followed through with our budget  
20 adoption. All of those notices had been  
21 forwarded to the Local Finance Board for their  
22 records, and in fact, my office submitted  
23 additional copies of the notices, I believe it  
24 was two days ago, to the Local Finance Board, in  
25 addition to, copies of where all the notices were

1 published and where they were posted throughout  
2 the township.

3                   For Mr. Loigman to say that mail in  
4 ballots were required is incorrect. There is no  
5 requirement under the statute. This is a special  
6 meeting, and it says where the registered voters  
7 can vote.

8                   Traditionally, up until about three  
9 or four years ago, these meetings were conducted  
10 by those present being asked whether they voted  
11 in favor of or opposed, each one of the capital  
12 projects that were presented, and those votes  
13 were traditionally taken by hand. The Local  
14 Finance Board came down and said that the vote  
15 would have to be by paper ballot as opposed to  
16 hands, but they didn't say there was any  
17 requirement relative to mail in ballots.

18                   I did make inquiry at that time  
19 whether that was necessary and I was advised, no,  
20 it wasn't. It was a special meeting, not an  
21 election which would fall under the Title 19. It  
22 was specifically for the purpose of placing these  
23 capital projects into the budget, okay. Once  
24 they got placed into the budget, then the elector  
25 has an opportunity to say yes or no by voting on

1 the budget, okay.

2           And that's what they did do on the  
3 February 17th 2018 annual election. Mr. Loigman  
4 makes reference to a purported election or an  
5 election of some kind that occurred on that date.  
6 We had an election which was run in accordance  
7 with Title 19 and Title 40A at that time. Yes,  
8 the voters did vote it down, not by a large  
9 margin, but they did vote it down and we took the  
10 appropriate procedures from that point forward,  
11 forwarding it to the township for their review  
12 and recommendation.

13           MS. RODRIGUEZ: Thank you.

14           MR. HENSEL: On behalf of Lakewood  
15 Township, I would indicate respectfully that we  
16 believe the public notice was satisfactory. It  
17 did alert the public to the fact that there would  
18 be consideration of the fire budget on the  
19 meeting that was scheduled for March 8th. There  
20 was a public hearing.

21           My partner indicated, as the minutes  
22 reflect, and I believe were referred, that it was  
23 a statutorily required hearing on the fire  
24 budget. There was input from the public,  
25 individuals got up and spoke to it. The township

1 had already received information from the town  
2 manager that he supported the budget in its  
3 entirety. All three eligible voting members of  
4 the township committee at that time were in favor  
5 of it and did in fact vote. Respectfully, we  
6 would submit that statutorily, the requirements  
7 were met from the township committee's  
8 perspective.

9 MR. LIGHT: Unless you have further  
10 questions --

11 MS. RODRIGUEZ: I have no further  
12 questions.

13 MR. LIGHT: Summarizing this in my  
14 mind it's been a legal battle that's gone back  
15 and forth. You know, I've been involved, in a  
16 number of times, with cases such as this. And  
17 usually when they go out to vote, the vote  
18 becomes positive or negative and it's accepted.  
19 The bottom line is that the township council or  
20 the governing body has the final responsibility.

21 MS. RODRIGUEZ: Exactly.

22 MR. LIGHT: And if they have  
23 accepted the fact that the defeated budget was  
24 satisfactory to them and the amounts are listed  
25 here. On March 8th, the governing body



1 apparently voted to accept the budget as approved  
2 even though it was not approved by the elector,  
3 and that's the governing body's job to decide.

4 I don't see that we, as a board,  
5 here as a finance board, should overturn the  
6 governing body of the township. I think we would  
7 not be doing the right thing legally because it's  
8 their responsibility.

9 MR. DIROCCO: I think to your point  
10 then, the remedies as to the ballot box, the  
11 public feels that the township committee acted  
12 properly, democratic process still --

13 MR. LIGHT: Vote them out.

14 MR. DIROCCO: That's how that works  
15 in that sense as well.

16 MR. AVERY: They could also vote at  
17 the fire district level with the commissioners.

18 MR. DIROCCO: Absolutely.

19 MR. LOIGMAN: Madam Chair, I would  
20 like to respond if I could.

21 MR. AVERY: Let the gentleman  
22 respond and I'll formulate my question better.

23 MR. LOIGMAN: Thank you. I  
24 understand your concern about the fact that I  
25 said that this board is a rubber stamp, and I'm

1 sorry that you took offense to that, but I stand  
2 by those words. This board consistently has  
3 disregarded the statutory obligation to protect  
4 the interest of the taxpayers.

5           This board, not just for the  
6 purposes of Lakewood, but for all the  
7 municipalities and all the counties in the state  
8 of New Jersey could have a tremendous positive  
9 impact on reducing property taxes in this state  
10 so the citizens of this state who are  
11 overburdened by property taxes and by  
12 mismanagement in government.

13           This board could start to correct  
14 that, but instead, it insists, time after time  
15 after time on simply approving what the  
16 bureaucratic process wants to do, what the  
17 people --

18           MS. RODRIGUEZ: I'm going to stop  
19 you right there because you are off topic  
20 completely and this board fulfills its statutory  
21 duties and responsibilities.

22           MR. LOIGMAN: Not very well.

23           MS. RODRIGUEZ: Not only are you  
24 wanting to tell your council what to do and tell  
25 us what to tell your council what to do, you want

1 to come and tell this board what to do.

2 MR. LOIGMAN: Yes, ma'am. I have  
3 been appearing before this board on various  
4 matters for probably 30 or 35 years. I think I  
5 was last year --

6 MR. LIGHT: I call for a motion to  
7 vote.

8 MS. RODRIGUEZ: We're going to take  
9 a motion. Do you want to make a motion?

10 MR. LIGHT: I think he wanted to say  
11 something.

12 MR. AVERY: No. Go ahead.

13 MR. LIGHT: I make a motion to  
14 approve the director's decision.

15 MR. MAPP: I second that motion.

16 MS. MCNAMARA: Mr. Mapp?

17 MR. MAPP: Yes.

18 MS. MCNAMARA: Mr. DiRocco?

19 MR. DIROCCO: Yes.

20 MS. MCNAMARA: Mr. Avery?

21 MR. AVERY: Yes.

22 MS. MCNAMARA: Miss Rodriguez?

23 MS. RODRIGUEZ: Yes.

24 MS. MCNAMARA: Mr. Light?

25 MR. LIGHT: Yes.

1 MS. RODRIGUEZ: Thank you very much.

2 MR. HENSEL: Thank you.

3 MR. SENDZIK: Thank you.

4 MR. LOIGMAN: Would you have a copy  
5 of that resolution available in some short order?

6 MS. MCNAMARA: You'll get a  
7 resolution as soon as we can put one together.

8 MR. LOIGMAN: Thank you.

9 MS. RODRIGUEZ: Now, we're going to  
10 ask Hudson to come up.

11 (At which time those wishing to  
12 testify were sworn in.)

13 MR. WITT: Madam Vice Chair and  
14 board members, again, my name is Michael Witt. I  
15 represent the county of Hudson in the matter of  
16 County of Hudson Executive Order TAD-70, and I  
17 just wanted to start out by saying I appreciate  
18 what this board does and its function, and I know  
19 that you don't rubber stamp things. You do very  
20 much consider things carefully, so I appreciate  
21 that.

22 MR. MARTUCCI: Thank you. Madam  
23 Chairwoman, members of the board, Jason Martucci,  
24 Legislative and Regulatory Affairs Officer,  
25 Division of Local Government Services.

1 MR. JOVAN: Dominic Jovan, Madam  
2 Chairman, Deputy Attorney General, here on behalf  
3 of Division of Local Government Services.

4 MR. MARTUCCI: Just want to present  
5 to the board, just summarizing, again, since it's  
6 been a couple months since the prior hearing, the  
7 director's decision that's before the board today  
8 subject to the appeal. This is Executive Order  
9 TAD-70. N.J.S.A. 40A:11-25 requires a special  
10 advertised public hearing and director approval  
11 before contracting a set certain criteria over  
12 and above that lowest responsible bidder as a  
13 condition of either furnishing the bidder with  
14 any plans or specifications for any public  
15 contract or considering any bid made by the  
16 bidder for any contract.

17 The Executive Contract at issue  
18 here, which restricts the award Public Works  
19 contracts over 500,000 involving craft workers to  
20 those contractors with apprenticeships programs  
21 registered with the U.S. Department of Labor, or  
22 that meets certain alternate criteria, the  
23 director found fell within the purview of the  
24 statute.

25 And further that, because the county

1 did not follow the specific notice, hearing and  
2 application procedure, that's set forth in the  
3 statute, before the Executive Order was signed on  
4 September 14th of 2017, and concurred with by the  
5 resolution of the freeholder board on that same  
6 date, the Executive Order is not operative as a  
7 matter of law.

8           Now, pursuant to N.J.S.A. 48:11-25,  
9 the director can disapprove pre qualification  
10 regulations upon finding that they are, A, are  
11 written in a manner which unnecessarily  
12 discourages full, free, fair and open  
13 competition, or B, unnecessarily restricts  
14 participation of small businesses in the bidding  
15 process, or C, creates undue preferences or  
16 violates any other permission of the Local Public  
17 Contracts Law or any other law.

18           Even if the county had followed the  
19 procedure set forth in the statute, the director  
20 had found that the Executive Order would have  
21 been disapproved. This disapproval was on the  
22 basis that the order as written runs afoul of A,  
23 B and C as referenced above. The Executive Order  
24 unnecessarily restricts competition.

25           It's a unionized contract because a

1 de facto restricts contract award to contractors  
2 and subcontractors that are affiliated with a  
3 registered apprenticeship program. The Executive  
4 Order de facto stand alone apprenticeship  
5 requirement inherently favors unionized  
6 contractors because, unlike for nonunion  
7 contractors, the burden of administering a  
8 registered apprenticeship program is outsourced  
9 to the union.

10           The administrative burden is indeed  
11 heavier on nonunion firms that are small  
12 businesses with fewer resources. The county  
13 argued, in its presentation to the board, in its  
14 papers that has a valid interest in ensuring that  
15 a substantial Public Works and construction  
16 project is done in a competent and safe manner  
17 and that the best way to ensure that is either  
18 via registered apprenticeship program or  
19 alternative means specified in the Executive  
20 Order.

21           The order does not go into the  
22 policy implications of a registered  
23 apprenticeship, but it rather, the decision is  
24 set forth with respect to law. As written, the  
25 alternative criteria are vague and allow the

1 county to arbitrarily bar awards to contractors  
2 that do not operate a registered apprenticeship  
3 program.

4           The basis for these conclusions as  
5 set forth in the director's decision are as  
6 follows. Paragraphs three and four together  
7 require, of the Executive Order, require that all  
8 employees consider craft workers, quote unquote,  
9 as defined as those employees who engage in a  
10 technical speciality, such as welding or  
11 electrical work, are either concurrently  
12 participate or graduates of a registered  
13 apprenticeship program, or alternatively, that  
14 the contractor provide verifiable evidence that  
15 all craft workers have been employed full-time  
16 for at least seven years in the trade in which  
17 the craft worker is seeking to be qualified.

18           The county does not set forth the  
19 specific rational for choosing seven as the  
20 minimum number of years. Further, pursuant to  
21 State Department of Labor regulations,  
22 specifically, N.J.A.C. 12:60-6.3, contractors  
23 with craft worker apprenticeship programs can  
24 have minimum ratio of journeymen to apprentices  
25 that work on a particular job. Usually this will



1 be one apprentice to every four journeymen or  
2 journey worker.

3           The county provided no rational as  
4 to why a contractor without an apprenticeship  
5 program would not be permitted to have some  
6 similar ratio of workers with greater versus less  
7 experience. Paragraph 6 requires proof that the  
8 prospective contractors and subcontractors will  
9 hire individuals who will obtain at least the  
10 minimum OSHA 10 hour or 30 hour construction  
11 industry safety certifications as applicable to  
12 each particular job title and or job description  
13 or an acceptable equivalent.

14           The phrase, quote unquote,  
15 applicable safety training is defined as training  
16 equivalent to at least the minimum safety  
17 training that would be required by the county for  
18 its own employees performing the same job titles  
19 and or job descriptions. The phrase, applicable  
20 safety training is defined, but not actually  
21 used, in paragraph six in the order and the  
22 standard for determining equivalent training is  
23 excessively vague.

24           It is unclear what safety training  
25 is required of county employees working on Public

1 Works projects. Further, the county failed to  
2 set forth what would be considered equivalent to  
3 safety training where the county does not employ  
4 an equivalent type of worker.

5           And finally, the director's decision  
6 cited paragraph seven which required proof that  
7 the respective contractor and subcontractors will  
8 hire individuals who have undergone at least  
9 eight hours per year of annual continuing safety  
10 education for at least the prior year. In the  
11 decision, the director outlined the county failed  
12 to set forth its specific rational for choosing  
13 eight as the minimum number of hours, and the  
14 provision does not set forth what would qualify  
15 as continuing safety education.

16           So that, Madam Chairwoman, Members  
17 of the Board, is the director's decision and the  
18 rational there for as presented to the board. If  
19 there are any questions. I neglected to say, I'm  
20 an attorney so I didn't need to get sworn in.

21           MS. RODRIGUEZ: Any questions?

22           MR. DIROCCO: I appreciate that  
23 recitation. It was comprehensive, very good, but  
24 certainly helpful as well and I know we went over  
25 this, and Mr. Witt, you did a great job for your

1 client last time when we talked about this so I  
2 understand that the county's interest in ensuring  
3 safety and security of folks working on those job  
4 sites, completely understand that.

5           But I also, for my -- still from my  
6 perspective, understand why we have the statute  
7 in place that requires that determination be made  
8 on these type of ordinances by the director, and  
9 based upon what staff, really have not changed, I  
10 think last time I was of the mindset that we  
11 ought to confirm the director's decision. I  
12 didn't see any reason for us to change course,  
13 and from my perspective, I'm still there, so  
14 that's my two-cents to help the discussion move  
15 along.

16           MR. WITT: Madam Vice Chair, may I  
17 briefly address some of the comments that were  
18 made?

19           MS. RODRIGUEZ: Please.

20           MR. WITT: Starting at the  
21 beginning, the requirement under Local Public  
22 Contract Law for director approval of this  
23 Executive Order, only applies if this board makes  
24 the preliminary finding that this does qualify as  
25 a pre qualification on the contract. Maybe I

1 missed it. I don't believe that this board was  
2 given advice from legislative affairs,  
3 representative or the DAG as to what pre  
4 qualification is.

5           Satisfying this requirement does not  
6 guarantee that you're going to be awarded any  
7 contract. It's no different than you having to  
8 present that you have to be a registered business  
9 in New Jersey to get these contracts or any other  
10 matter like that, so I think until you get a  
11 definition of what is a pre qualification, to me,  
12 it would be very difficult if I was a board  
13 member on making that determination.

14           Moving on to the more substantive  
15 part, and again, there is no doubt that we did  
16 not provide a special notice and follow that  
17 statute because, again, it's our position that  
18 this is not a pre qualification, so that is  
19 correct. Moving on to the substantive part of  
20 this. We did give testimony as to the rational  
21 as to why this is important to us.

22           Why Public Works contracts that are  
23 half a million dollars or more need to have  
24 people working on it that are competent and that  
25 have had at least some minimum training. We did

1 provide testimony as to why we chose seven years.  
2 The testimony we were provided was that the state  
3 itself says that most apprenticeship programs  
4 last four years, minimum, and they're really  
5 between four and six years.

6           And every one of those years is  
7 2,000 hours of training, classroom work and on  
8 the job training, so we chose seven years because  
9 it's highly unlikely that somebody else is going  
10 to be, who is not in one of these programs, is  
11 going to be working 2,000 hours a year and we  
12 wanted to make sure there was some equivalency  
13 there as far as the training goes, so there is a  
14 rational that was given for that, much like there  
15 is a rational that was given for the safety  
16 training.

17           And again, to say that the minimum  
18 requirement is minimum OSHA training is not vague  
19 whatsoever. Minimum OSHA, OSHA 10 and OSHA 30 is  
20 well known. You can look it up anywhere you want  
21 and it will tell you exactly what kind of  
22 training is. OSHA 10 training is the training  
23 for a day laborer on a construction site. It's  
24 nothing special, but it is required by OSHA.

25           So why wouldn't be it be required

1 for everyone? And as far as what is the  
2 equivalent. We give you the language in there,  
3 or you could have the equivalent training that if  
4 a Hudson County worker was going to do this work,  
5 you'd have to have the same amount of training.  
6 We can't define that in the Executive Order  
7 because that's going to change from contract to  
8 contract.

9           I don't know what minimum training a  
10 county worker is going to need on a contract  
11 until I know what the subject matter of the  
12 contract is. It will be different for a contract  
13 that is laying concrete on a sidewalk versus  
14 putting up a 10 story building so you can't put  
15 that definition right away, and it is unfairly  
16 and arbitrarily applied when there is a contract  
17 in front of the county, well, that's a different  
18 subject and that's something that would be  
19 subject to challenge by the bidder, and that's  
20 how that gets taken care of.

21           So I understand and I appreciate the  
22 state's position, but the state is a little bit  
23 trying to have it both ways here. They're  
24 telling you what apprenticeship programs are and  
25 how great they are and how much training people

1 should have, but then they're saying, well, but  
2 you know what, we really shouldn't employ that,  
3 we shouldn't make that a requirement and we  
4 shouldn't even have an alternate to that.

5                   And really, that's just an  
6 inconsistent position, so I will rely on my prior  
7 testimony and I do appreciate, again, the close  
8 consideration that you all have given this, but  
9 let's just be clear. There is plenty of rational  
10 behind the county's decisions here. I don't  
11 think that there is necessarily the rational that  
12 was in the original decision on this as to why  
13 this is anti-competitive.

14                   What is anti-competitive about this?  
15 Nobody is precluded from getting their workers  
16 training. Nobody is precluded from getting their  
17 workers safety training. There is nothing  
18 anti-competitive about this. This is just making  
19 sure that people who are doing the job do it the  
20 right way for half a million dollars or more.  
21 Thank you.

22                   MR. AVERY: Madam Chairwoman, my  
23 concern about this, and I've administered and  
24 worked on bids for a number of significant  
25 projects in the public sector that have gone

1 through the Local Public Contracts Law, and it  
2 has been my experience, it is very difficult and  
3 very fact specific to get any pre qualification  
4 included in a bid document.

5           We renovated a historic courthouse,  
6 we needed very specific work and we were able to  
7 make sure that the people that were awarded that  
8 contract had the skills to do historic  
9 preservation. I think the problem I have here is  
10 I think one of your definitions of craft worker  
11 is overly broad.

12           And I think that, while I understand  
13 your point about challenging the pre  
14 qualification through the bid award process, I  
15 think what this does is it prevents people from  
16 even bidding to get to the point where they have  
17 any standing to challenge the award or the bid,  
18 and I think for the reasons that have been  
19 outlined, I have not changed my position that we  
20 ought to confirm the director's decision.

21           MR. WITT: Madam Vice Chair, may I  
22 briefly address that point? And Mr. Avery, you  
23 had the same comment before last time and, again,  
24 I appreciate that, but if you find the county's  
25 definition of craft worker is over broad, then



1 you have to find that the state's definition of  
2 craft worker is over broad because that's where  
3 we got it.

4           As I testified last time, it's an  
5 amalgam of both federal law and state law and  
6 that's where we got the definition, so again, it  
7 we're over broad, they're over broad.

8           MR. LIGHT: It's a tough decision,  
9 but I think we have to come to the conclusion  
10 because we've discussed it before and we're back  
11 to discussing it again, and I agree with Mr.  
12 Avery, that I think that I would uphold the  
13 director's decision also. I don't know if you  
14 want to make a motion.

15           MR. AVERY: I'll make a motion to  
16 uphold the director's decision.

17           MR. MAPP: I'll second the motion.

18           MS. MCNAMARA: Mr. Mapp?

19           MR. MAPP: Yes.

20           MS. MCNAMARA: Mr. DiRocco?

21           MR. DIROCCO: Yes.

22           MS. MCNAMARA: Mr. Avery?

23           MR. AVERY: Yes.

24           MS. MCNAMARA: Miss Rodriguez?

25           MS. RODRIGUEZ: Yes.

1 MS. MCNAMARA: Mr. Light?

2 MR. LIGHT: Yes.

3 MR. WITT: Thank you all for your  
4 time and consideration. I appreciate it.

5 MS. RODRIGUEZ: Motion to adjourn?

6 MR. AVERY: So moved.

7 MR. LIGHT: Second.

8 MS. RODRIGUEZ: All in favor?

9 BOARD MEMBERS: Aye.

10 (Hearing Concluded at 12:57 p.m.)

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## 1 C E R T I F I C A T E

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3 I, LAUREN ETIER, a Certified Court  
4 Reporter, License No. XI 02211, and Notary Public  
5 of the State of New Jersey, that the foregoing is  
6 a true and accurate transcript of the testimony  
7 as taken stenographically by and before me at the  
8 time, place and on the date hereinbefore set  
9 forth.

10 I DO FURTHER CERTIFY that I am neither a  
11 relative nor employee nor attorney nor council of  
12 any of the parties to this action, and that I am  
13 neither a relative nor employee of such attorney  
14 or council, and that I am not financially  
15 interested in the action.

16

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22

*Lauren M. Etier*



23

Notary Public of the State of New Jersey

24

My Commission Expires June 14, 2018

25

Dated: April 23, 2018

<b>A</b>			
<b>a.m</b> 1:13	<b>address</b> 12:18 17:2 37:1 75:17 80:22	68:24 76:2	<b>amalgam</b> 81:5
<b>ability</b> 20:9	<b>adjacent</b> 30:18	<b>affiliated</b> 71:2	<b>amend</b> 21:7 22:13
<b>able</b> 22:22 33:16 39:14 39:16,22 40:18 43:5 57:11 61:1 80:6	<b>adjourn</b> 82:5 <b>Adjournment</b> 3:17	<b>affirm</b> 48:13 51:9,23 54:6	<b>amended</b> 26:2 26:17
<b>absence</b> 50:22	<b>administered</b> 79:23	<b>affordable</b> 14:5	<b>amicably</b> 47:20
<b>absentee</b> 56:22	<b>administering</b> 71:7	<b>afoul</b> 70:22	<b>amount</b> 11:6 13:7 19:8,10 20:2,7 21:1 21:8,13 36:6 56:2,3 58:9 58:10 78:5
<b>Absolutely</b> 65:18	<b>administra...</b> 33:18 50:15 51:5 52:4 54:12 58:23 61:3 71:10	<b>Agency</b> 32:23	<b>amounts</b> 20:9 21:9 58:12 64:24
<b>absorb</b> 20:25	<b>administrator</b> 13:16 19:1 35:4 37:7,9 47:6 53:8	<b>agenda</b> 4:3,25 5:9 46:14	<b>and-a-half</b> 38:9 39:21 39:24
<b>accept</b> 51:16 65:1	<b>adopt</b> 10:13,19 10:19 23:13 52:3,10	<b>aggregate</b> 20:2	<b>Anna</b> 36:8
<b>acceptable</b> 73:13	<b>adoption</b> 27:11 61:20	<b>ago</b> 7:5 16:16 30:22 32:13 33:4,21 36:12 37:5 37:11 39:24 43:19 47:15 61:24 62:9	<b>annual</b> 58:2 63:3 74:9
<b>accepted</b> 64:18 64:23	<b>ADRIAN</b> 2:8	<b>agree</b> 20:5 81:11	<b>answer</b> 30:3
<b>accepting</b> 49:5	<b>adults</b> 32:1	<b>agreement</b> 26:21 47:8 47:22 48:14 48:19 49:4 50:13,18,19 51:6	<b>Anthony</b> 28:21 30:4 32:2
<b>access</b> 12:13	<b>advantage</b> 15:12 33:24	<b>aid</b> 13:8 16:2	<b>anti-compe...</b> 79:13,14,18
<b>accurate</b> 55:1 83:6	<b>advertised</b> 54:21 55:2 60:2 69:10	<b>ALAN</b> 2:9	<b>apparently</b> 25:20 65:1
<b>ACIA</b> 37:16	<b>advertisement</b> 55:6,7	<b>alert</b> 63:17	<b>appeal</b> 20:14 26:9 46:18 47:19,22 48:1 50:3 51:19 60:17 60:18,19 69:8
<b>acknowledge</b> 4:12	<b>advice</b> 76:2	<b>allocation</b> 12:9	<b>appealed</b> 47:8
<b>Acre</b> 31:16	<b>advise</b> 56:7	<b>allow</b> 58:25 60:12,16 71:25	<b>appeals</b> 19:11 19:21 20:1 21:10 22:15 27:16 46:14
<b>act</b> 4:21	<b>advised</b> 62:19	<b>allowed</b> 56:23	<b>appear</b> 7:1
<b>acted</b> 65:11	<b>advisor</b> 10:8 18:21 28:22 35:7 41:20	<b>alternate</b> 69:22 79:4	<b>appearance</b> 6:20,23
<b>action</b> 16:17 55:11 83:12 83:15	<b>Advisors</b> 10:8 28:22	<b>alternative</b> 71:19,25	<b>appeared</b> 4:14
<b>actions</b> 23:19	<b>affairs</b> 1:2,9	<b>alternatively</b> 72:13	<b>appearing</b> 67:3
<b>activities</b> 40:19		<b>Alyssa</b> 53:1,18	<b>appears</b> 14:10
<b>add</b> 8:21 21:2 48:4			
<b>addition</b> 21:2 24:18,19,24 38:7 40:19 42:16 61:25			
<b>additional</b> 15:3,22 21:9 42:15 61:23			

<b>appellant</b> 47:7 47:21	<b>appropriation</b> 7:3 21:8	62:10	56:21
<b>Appellate</b> 60:19,20,21 60:23	26:9 58:9	<b>asking</b> 26:13 26:19	<b>authorizing</b> 22:17
<b>applicable</b> 73:11,15,19	<b>appropriat...</b> 23:1	<b>asserting</b> 61:10	<b>available</b> 40:17 68:5
<b>applicants</b> 18:8 20:15 30:11	<b>approval</b> 10:13 10:18 19:9 20:8 27:4 29:8 33:22 42:11 69:10 75:22	<b>assessment</b> 42:12	<b>Avery</b> 2:9 5:15 5:24,25 9:11 9:12 17:19 17:20 24:10 24:18 28:7,8 34:17,18 41:10,11 43:24 44:7 44:14,18 45:7,17 46:7 46:8 49:20 49:21 52:9 52:17,18 65:16,21 67:12,20,21 79:22 80:22 81:12,15,22 81:23 82:6
<b>application</b> 4:8,11 10:12 12:5 19:6 20:18 21:13 21:16 23:8 25:14,15,17 25:19 32:16 34:5 45:20 53:21 70:2	<b>approve</b> 9:1 17:8 20:13 27:11 48:13 56:12,15 67:14	<b>assistant</b> 49:6	
<b>applications</b> 30:6 46:14	<b>approved</b> 16:19 16:20 29:14 34:5 54:16 55:18,22 56:3,4 57:12 58:15 65:1,2	<b>assistance</b> 29:11	
<b>applied</b> 5:1 78:16	<b>approving</b> 51:6 66:15	<b>assistant</b> 47:5	
<b>applies</b> 75:23	<b>approximately</b> 11:6 19:17 19:20 20:2,6 42:13	<b>associated</b> 12:12,25 29:19,24	
<b>appreciate</b> 23:17 24:9 53:22 68:17 68:20 74:22 78:21 79:7 80:24 82:4	<b>April</b> 1:12 83:25	<b>ASSOCIATES</b> 1:19	
<b>apprentice</b> 73:1	<b>arbitrarily</b> 72:1 78:16	<b>assuming</b> 23:7	
<b>apprentices</b> 72:24	<b>area</b> 10:17 11:11,14 13:21	<b>attorney</b> 13:16 19:2 46:23 50:9,21,24 53:5,16 69:2 74:20 83:11 83:13	
<b>apprentice...</b> 71:3,4,8,18 71:23 72:2 72:13,23 73:4 77:3 78:24	<b>areas</b> 26:7 39:5	<b>audit</b> 16:8,8,9 16:19,20	
<b>apprentice...</b> 69:20	<b>argued</b> 71:13	<b>auditor</b> 18:22 35:5 53:20	
<b>apprise</b> 38:10	<b>articulated</b> 23:9	<b>authorities</b> 33:15	
<b>appropriate</b> 4:9 58:13 63:10	<b>aside</b> 21:23 42:19	<b>authority</b> 3:9 3:10,11 28:16,23 29:1,6 30:18 32:11,15 33:3 34:25 35:3,14,18 36:22 37:23 41:18,21,22 41:23 42:5 42:17,22 44:15,23 45:9,12,15	
	<b>asked</b> 20:15 26:11 37:18 45:14 48:17 51:9,16,22	<b>Authority's</b> 29:7,13	
		<b>authorize</b>	
			<b>award</b> 69:18 71:1 80:14 80:17
			<b>awarded</b> 76:6 80:7
			<b>awards</b> 72:1
			<b>aware</b> 13:9 61:4
			<b>Aye</b> 82:9
			<b>B</b>
			<b>B</b> 3:22 14:14 57:23 70:13 70:23
			<b>back</b> 7:5,9 12:15 21:7 22:3,12,13 24:14 31:6 32:12,17 33:22 47:10 48:12,24 58:21 64:14 81:10

<b>background</b> 30:1	<b>best</b> 32:13 33:9 71:17	58:22,25 59:4,15,20	<b>brand</b> 38:18
<b>balance</b> 23:7	<b>Betancourt</b> 47:10	59:22,23 60:4,7,14	<b>bridge</b> 10:18 11:12,13 12:3
<b>ballot</b> 60:13 62:15 65:10	<b>better</b> 38:4 65:22	61:4,6,7,8 61:11,14,16	<b>brief</b> 48:11
<b>balloting</b> 60:3	<b>Beverly</b> 3:12 46:23	61:18,21,24 62:14 65:4,5	<b>briefly</b> 75:17 80:22
<b>ballots</b> 57:5,7 60:4,6 62:4 62:17	<b>beyond</b> 7:17	65:25 66:2,5 66:13,20	<b>brilliant</b> 4:22
<b>bank</b> 15:10 29:23 32:9 32:14 33:1,2 33:4,19,20 33:25 42:23 43:1,1,2,6	<b>bid</b> 69:15 80:4 80:14,17	67:1,3 68:14 68:18,23	<b>bring</b> 7:10 43:16 61:1
<b>bar</b> 25:4 72:1	<b>bidder</b> 69:12 69:13,16 78:19	69:5,7 70:5 71:13 74:17	<b>bringing</b> 7:20
<b>based</b> 75:9	<b>bidding</b> 70:14 80:16	74:18 75:23 76:1,12 82:9	<b>brings</b> 7:25 21:3
<b>basis</b> 70:22 72:4	<b>bids</b> 79:24	<b>body</b> 21:25 54:19,24	<b>broad</b> 1:10 80:11,25 81:2,7,7
<b>bathrooms</b> 43:17,18	<b>big</b> 13:17	58:1 59:18 64:20,25 65:6	<b>brought</b> 7:11
<b>battle</b> 4:16 64:14	<b>bills</b> 21:1	<b>body's</b> 65:3	<b>Brown</b> 31:21
<b>Baumann</b> 35:2	<b>bind</b> 21:25 23:4,19	<b>bond</b> 10:4,13 10:19,19,23 10:24 14:11 14:12 19:2,7 24:12 27:11 28:24 30:21 33:6 35:2 41:21	<b>budget</b> 15:25 19:15 20:24 21:6,20,21 22:1,2,12 23:2,6,11,12 23:25 24:11 25:6,6 26:2 26:8,15,16 26:23,24 27:2,15 53:19 54:11 54:14 55:9 55:18,19,21 56:2,12,12 57:13,13,19 57:20 58:2,6 58:10,16,18 58:20 59:1 60:12 61:18 61:19 62:23 62:24 63:1 63:18,24 64:2,23 65:1
<b>Baytops</b> 3:12 46:20,23 47:8 49:2	<b>bit</b> 12:21 21:15 25:4 25:21 30:13 32:3 78:22	<b>bonding</b> 20:17	<b>budget's</b> 22:19
<b>beat</b> 38:2	<b>Blee</b> 2:5 5:12 5:13 6:3,4 9:1,3,15,16 17:8,9,23,24 28:17	<b>bonds</b> 10:22,23 19:9 27:12 29:10,10,15 29:21,22 32:20 35:21	<b>budgets</b> 21:24 54:2,5 58:8
<b>beginning</b> 75:21	<b>block</b> 43:14	<b>Borough</b> 3:11 41:18	<b>build</b> 38:24 39:8
<b>behalf</b> 8:21 29:6 35:14 53:13 63:14 69:2	<b>BMPs</b> 16:18	<b>borrow</b> 12:24 44:19	
<b>believe</b> 7:22 16:18 26:1 42:25 50:23 54:17 61:23 63:16,22 76:1	<b>board</b> 1:5 4:2 4:9,14,18 5:2 6:8,21 6:22 7:1,18 8:25 17:7 19:19,25 20:12 22:7 23:7 27:10 30:5 38:11 50:11 51:9 51:20 53:6 53:22 54:5 56:16,20,24 57:4 58:19	<b>borrowing</b> 12:23 13:5,5 13:8 14:3 15:20,21,22	
<b>Ben</b> 11:13		<b>bottom</b> 64:19	
<b>benefit</b> 36:5 38:15		<b>box</b> 65:10	
<b>benefits</b> 8:2			
<b>Benjamin</b> 10:17			
<b>Bergen</b> 39:11			

<b>building</b> 38:18 39:23 42:7,8 43:10,11,13 43:18 78:14	68:20 <b>carries</b> 33:14 <b>case</b> 50:10 52:5,9 <b>cases</b> 64:16 <b>category</b> 14:13 14:17 <b>CDB</b> 45:3 <b>CDBG</b> 42:18 <b>center</b> 1:21 11:21 31:17 31:19,21,23 36:18 38:20 39:9 40:12 <b>centers</b> 31:19 <b>central</b> 39:2 <b>certain</b> 47:16 56:15 69:11 69:22 <b>certainly</b> 4:10 4:14 8:16 12:24 13:2 14:10 30:8 74:24 <b>certification</b> 50:6 <b>certificat...</b> 73:11 <b>certified</b> 1:20 58:16 83:3 <b>CERTIFY</b> 83:10 <b>CFO</b> 11:7 18:23 <b>Chair</b> 47:3 53:11 59:7 65:19 68:13 75:16 80:21 <b>Chairman</b> 2:3 69:2 <b>Chairman's</b> 23:16 <b>Chairwoman</b> 46:17 53:15 68:23 74:16 79:22 <b>challenge</b> 78:19 80:17	<b>challenging</b> 80:13 <b>change</b> 75:12 78:7 <b>changed</b> 75:9 80:19 <b>changes</b> 7:8 55:19 <b>changing</b> 21:14 <b>charges</b> 49:1 <b>checked</b> 33:23 <b>Cherry</b> 37:18 <b>Cheryl</b> 10:4 11:11 12:22 41:21 <b>Chesterfield</b> 3:6 6:8,16 6:25 7:4,21 <b>chief</b> 6:14 7:11,15 <b>children</b> 32:1 38:22 40:20 <b>choices</b> 52:2 <b>choosing</b> 72:19 74:12 <b>chose</b> 61:6 77:1,8 <b>chosen</b> 32:10 33:20 <b>Cirillo</b> 35:4 37:8 38:13 38:25 39:10 40:2,16 <b>cited</b> 74:6 <b>citizens</b> 53:17 66:10 <b>city</b> 3:5,5,7,8 3:9 5:1,1 9:21 10:5,8 10:12,14,18 11:21 12:10 13:6,16,21 13:23 14:7 14:23 15:24 18:4,23 19:5 19:23,25	22:11,12 23:18,20 25:23 26:1 26:20 28:16 <b>city's</b> 11:2 12:23 13:17 18:22,24,25 19:2,13 20:19 <b>citywide</b> 5:7 <b>claiming</b> 48:21 <b>class</b> 4:21 <b>classroom</b> 77:7 <b>classrooms</b> 38:19 <b>clean</b> 43:15 <b>clear</b> 25:5 79:9 <b>clearly</b> 40:15 55:13 <b>client</b> 75:1 <b>cliff</b> 43:20 <b>Cliffside</b> 45:11 <b>close</b> 79:7 <b>closing</b> 31:10 <b>coin</b> 35:12 <b>Cole</b> 10:5 <b>colleagues</b> 5:10 27:22 40:22 48:6 <b>collected</b> 58:17 <b>collector</b> 49:3 49:6 <b>combination</b> 36:19 <b>come</b> 7:17 12:5 37:22 39:4 39:25 40:13 67:1 68:10 81:9 <b>comes</b> 36:3 59:11 <b>coming</b> 7:8 11:3 17:3
<b>C</b>			
<b>C</b> 3:12 70:15 70:23 83:1,1 <b>call</b> 5:16 9:4 17:12 27:25 34:10 37:18 37:24,24 41:3 45:25 53:1 67:6 <b>Camden</b> 3:7 9:21 10:12 11:15,18 <b>cancer</b> 4:16 <b>CAP</b> 6:9 7:3,17 7:23 25:1 <b>Capano</b> 41:24 43:2,11 45:8 <b>capital</b> 13:5 13:17,18,19 13:23 14:6 14:25 15:20 29:16,17,23 30:21 32:9 32:14 33:1,4 33:19,20,25 56:5,15 57:2 57:9,12,17 62:11,23 <b>Cappelli</b> 47:5 <b>care</b> 78:20 <b>carefully</b>			

24:12	16:10	<b>considered</b>	<b>converted</b>
<b>Commencing</b>	<b>completely</b>	74:2	29:20 30:2
1:13	66:20 75:4	<b>considering</b>	31:14 45:12
<b>commend</b> 24:4	<b>comply</b> 56:19	69:15	<b>Cooper</b> 11:18
<b>comment</b> 80:23	<b>comprehensive</b>	<b>consistently</b>	11:20 12:1,2
<b>comments</b> 23:16	74:23	66:2	<b>coordinated</b>
27:9 75:17	<b>computer</b> 31:24	<b>constantly</b>	14:2
<b>commercial</b>	<b>concept</b> 37:5	36:3	<b>copies</b> 61:23
11:24,25	39:3	<b>construction</b>	61:25
<b>commission</b>	<b>concern</b> 65:24	40:14 71:15	<b>copy</b> 55:5 68:4
59:14 83:24	79:23	73:10 77:23	<b>Corbin</b> 31:22
<b>commissioners</b>	<b>concerned</b>	<b>consultant</b>	<b>cornfield</b> 39:8
47:3 53:6	53:17	28:25	<b>CORPORATE</b> 1:21
56:16,21,25	<b>Concluded</b>	<b>contingent</b>	<b>corporation</b>
58:22 59:23	82:10	22:17 23:9	18:24
65:17	<b>conclusion</b>	<b>continue</b> 14:11	<b>correct</b> 8:14
<b>commitment</b>	81:9	43:5	22:5 25:19
12:11	<b>conclusions</b>	<b>continued</b> 16:1	38:25 48:9
<b>committed</b> 12:9	72:4	<b>continuing</b>	48:10,23
<b>committee</b> 54:1	<b>concrete</b> 43:21	22:8 74:9,15	53:22 59:19
54:16 55:8	78:13	<b>contract</b> 69:15	66:13 76:19
55:10,18,25	<b>concur</b> 23:15	69:16,17	<b>correctly</b>
56:9,11	<b>concurred</b> 70:4	70:25 71:1	48:22
57:20 58:22	<b>concurrently</b>	75:22,25	<b>correspond...</b>
64:4 65:11	72:11	76:7 78:7,8	46:22
<b>committee's</b>	<b>condition</b>	78:10,12,12	<b>Corrigan</b> 50:7
64:7	27:13 31:3	78:16 80:8	50:8,8 51:4
<b>communication</b>	42:9 69:13	<b>contracting</b>	52:24
55:23,24	<b>conditional</b>	69:11	<b>Cosmo</b> 35:3
<b>community</b> 1:2	23:10 27:4	<b>contractor</b>	36:25 37:6
1:9 7:4	<b>conducted</b>	72:14 73:4	38:7
31:17,18,19	54:22 55:3	74:7	<b>cost</b> 10:25
36:9,18,19	55:13 56:15	<b>contractors</b>	29:21 33:6
38:20 39:9	57:8,25 60:3	69:20 71:1,6	43:25 44:2
43:14	62:9	71:7 72:1,22	<b>costs</b> 12:11,25
<b>competent</b>	<b>confirm</b> 75:11	73:8	42:13
71:16 76:24	80:20	<b>contracts</b>	<b>council</b> 16:19
<b>competition</b>	<b>connection</b>	69:19 70:17	22:12 64:19
70:13,24	29:7,12,17	76:9,22 80:1	66:24,25
<b>competitive</b>	<b>Consent</b> 4:24	<b>contrary</b> 56:23	83:11,14
34:1	5:8	<b>conversation</b>	<b>counsel</b> 6:11
<b>complainant</b>	<b>consider</b> 68:20	15:20,23	10:5 18:24
48:16	72:8	16:3	28:20,24
<b>complaint</b> 61:5	<b>consideration</b>	<b>conversion</b>	35:2 39:19
<b>complete</b> 30:24	7:18 63:18	29:12 30:13	41:22 47:23
<b>completed</b>	79:8 82:4	30:16 42:3	48:2



<b>counsels</b> 4:13	6:7,19 8:4,9	<b>day</b> 36:11,17	73:15,20
<b>counties</b> 66:7	8:12,20,24	37:20 40:20	<b>definition</b>
<b>county</b> 3:10,16	9:3,5,6,19	47:14 48:9	76:11 78:15
34:25 35:8	9:21 12:19	48:19,23	80:25 81:1,6
35:22 36:1	15:18 16:6	77:23	<b>definitions</b>
36:25 37:22	16:11,14	<b>days</b> 16:15	80:10
42:18 57:4	17:6,9,12,13	61:24	<b>Delaware</b> 11:13
60:9 68:15	17:14 18:3,5	<b>de</b> 71:1,4	<b>democratic</b>
68:16 69:25	18:7,16	<b>deal</b> 15:3	65:12
70:18 71:12	20:11 21:12	20:16 22:4	<b>Demonstration</b>
72:1,18 73:3	22:6,16 23:3	45:1	29:11
73:17,25	24:6,13,21	<b>dealing</b> 24:23	<b>demotion</b> 49:6
74:1,3,11	25:3,9,13,20	<b>debt</b> 5:8 20:9	<b>denied</b> 60:15
78:4,10,17	26:4 27:3,8	29:18 30:20	60:16,18,20
<b>county's</b> 36:22	27:20,24	35:19 36:24	60:23
75:2 79:10	28:1,2,13,15	44:15 45:13	<b>Department</b> 1:2
80:24	28:18 30:4	<b>decade</b> 30:22	1:9 11:4
<b>couple</b> 6:21	31:15 32:2,8	<b>December</b> 56:13	69:21 72:21
17:4 33:3	34:2,6,9,11	56:18 57:1	<b>DePascale</b>
36:12 69:6	34:12,24	59:24 60:11	50:16 51:10
<b>course</b> 18:16	37:4,10,15	61:9	<b>deprived</b> 57:1
42:14 75:12	38:1,23 39:1	<b>decide</b> 65:3	<b>Deputy</b> 2:15
<b>court</b> 1:20	40:1,8,21,24	<b>decided</b> 56:11	69:2
47:20 60:9	41:2,4,5,17	<b>decision</b> 46:15	<b>descend</b> 58:21
60:19,20,21	43:22 45:19	49:10,13	<b>description</b>
60:23 83:3	45:24 46:1,2	50:11,14,14	3:23 73:12
<b>courthouse</b>	46:13	51:6,10,11	<b>descriptions</b>
80:5	<b>curbing</b> 10:16	51:17,19,20	73:19
<b>cover</b> 22:13	<b>current</b> 7:13	51:23 52:4,6	<b>details</b> 30:1
<b>craft</b> 69:19	19:22	52:7,10 54:7	<b>determination</b>
72:8,15,17	<b>currently</b> 43:1	59:13 60:23	56:10 75:7
72:23 80:10		67:14 69:7	76:13
80:25 81:2	<b>D</b>	71:23 72:5	<b>determine</b>
<b>create</b> 21:9	<b>D</b> 3:1	74:5,11,17	51:22
<b>creates</b> 70:15	<b>DAG</b> 2:13 59:19	75:11 79:12	<b>determined</b>
<b>credit</b> 35:20	76:3	80:20 81:8	32:5 42:6
35:24 36:22	<b>dais</b> 46:16	81:13,16	50:17,18
36:25	<b>Dan</b> 18:20 35:6	<b>decisions</b> 58:3	<b>determining</b>
<b>credits</b> 33:4	37:2 38:4	79:10	73:22
<b>CREST</b> 1:21	41:19	<b>DeCotiis</b> 10:5	<b>develop</b> 8:18
<b>criteria</b> 69:11	<b>date</b> 1:12	<b>defeat</b> 55:17	39:14
69:22 71:25	61:19 63:5	<b>defeated</b> 54:14	<b>development</b>
<b>crowded</b> 38:17	70:6 83:8	55:21 64:23	7:6 11:15
<b>Cunningham</b> 2:3	<b>Dated</b> 83:25	<b>defense</b> 59:21	33:3 43:14
3:4 4:1 5:13	<b>David</b> 10:7	<b>define</b> 78:6	<b>difference</b>
5:16,18,19	28:23 50:8	<b>defined</b> 72:9	26:9

<b>different</b> 25:21 33:8 44:4 76:7 78:12,17	<b>disapproval</b> 70:21	13:1 14:5 19:17,20,22 29:9 76:23 79:20	57:6,7,15 59:25 62:21 63:3,4,5,6
<b>difficult</b> 39:13 42:21 76:12 80:2	<b>disapprove</b> 54:10 70:9	<b>Dominic</b> 69:1	<b>elections</b> 57:4 57:5
<b>direct</b> 28:23 38:3	<b>disapproved</b> 57:9,19 70:21	<b>DOMINICK</b> 2:4	<b>elector</b> 62:24 65:2
<b>directive</b> 16:17 19:19	<b>disconnect</b> 25:24	<b>DOT</b> 13:2	<b>electric</b> 31:7
<b>director</b> 9:25 10:2 18:10 29:2 36:7 41:23 43:8 45:11 48:13 54:8 58:15 69:10,23 70:9,19 74:11 75:8 75:22	<b>discourage</b> 70:12	<b>doubled</b> 7:7 <b>doubt</b> 76:15	<b>electrical</b> 31:12 72:11
<b>director's</b> 46:15 49:10 49:13 51:17 51:18,19 54:6 59:13 67:14 69:7 72:5 74:5,17 75:11 80:20 81:13,16	<b>discuss</b> 13:17 30:11 37:2	<b>downtown</b> 12:15 14:18	<b>elevators</b> 42:20 43:15
<b>DiRocco</b> 2:4 5:22,23 9:9 9:10 17:11 17:17,18 23:15 24:4,8 28:5,6 34:8 34:9,15,16 41:8,9 46:5 46:6 49:18 49:19 52:15 52:16 65:9 65:14,18 67:18,19 74:22 81:20 81:21	<b>discussed</b> 26:19 32:23 81:10	<b>dress</b> 23:22 <b>Drew</b> 13:16 <b>duties</b> 66:21	<b>eligible</b> 64:3 <b>emergent</b> 60:19 <b>EMMA</b> 2:15
<b>disabled</b> 43:13	<b>discussing</b> 81:11	<hr/> <b>E</b> <hr/>	<b>employ</b> 74:3 79:2
	<b>discussion</b> 75:14	<b>E</b> 2:11,11 3:1 3:22 83:1,1	<b>employed</b> 72:15
	<b>dispatch</b> 4:25	<b>earlier</b> 18:12	<b>employee</b> 83:11 83:13
	<b>disregarded</b> 66:3	<b>early</b> 15:14 48:24	<b>employees</b> 72:8 72:9 73:18 73:25
	<b>distinction</b> 57:16	<b>easiest</b> 33:5	<b>employment</b> 14:19,19
	<b>distinguish</b> 56:4	<b>east</b> 3:8 11:12 11:18 18:4	<b>endorsement</b> 19:7
	<b>district</b> 3:15 36:10,20 53:1,8,19,25 54:2,9 57:15 58:2,8 65:17	<b>Ed</b> 35:1	<b>energy</b> 31:10 31:14
	<b>disturbed</b> 48:15	<b>EDA</b> 11:6 13:2 13:4	<b>engage</b> 72:9
	<b>Division</b> 58:3 68:25 69:3	<b>Edgewater</b> 3:11 41:18,20 42:5,22 43:20	<b>engineers</b> 42:11
	<b>doable</b> 22:23 22:24	<b>education</b> 7:22 74:10,15	<b>enhances</b> 35:24
	<b>document</b> 80:4	<b>educational</b> 31:23 32:1 40:19	<b>ensure</b> 71:17
	<b>doing</b> 11:16,22 12:6 26:21 38:12 65:7 79:19	<b>eight</b> 14:9 74:9,13	<b>ensuring</b> 71:14 75:2
	<b>dollar</b> 10:13 44:10,10	<b>either</b> 36:13 38:16	<b>enter</b> 42:7
	<b>dollars</b> 11:1,7	<b>eighth</b> 36:13 38:16	<b>entered</b> 47:9
		<b>election</b> 54:15 55:17 56:14 56:18,22,23	<b>entire</b> 58:21
			<b>entirety</b> 64:3
			<b>equivalency</b> 77:12
			<b>equivalent</b> 73:13,16,22 74:2,4 78:2 78:3

<b>ERB</b> 12:9	56:5	<b>farming</b> 7:4	28:22 32:24
<b>essence</b> 52:7	<b>experience</b>	<b>fashion</b> 15:1	33:13,23
<b>essentially</b>	73:7 80:2	60:3	35:7 40:3
47:7,11 49:4	<b>experts</b> 45:14	<b>faucets</b> 31:11	41:20
<b>establish</b> 22:8	<b>Expires</b> 83:24	<b>favor</b> 38:7	<b>financially</b>
<b>estimate</b> 7:7	<b>explain</b> 6:25	62:11 64:4	83:14
<b>ETIER</b> 83:3	<b>expressed</b>	82:8	<b>financing</b>
<b>evening</b> 57:1	20:13	<b>favors</b> 71:5	13:11 32:7
<b>evenings</b> 38:21	<b>extending</b>	<b>February</b> 54:15	32:14,19,21
<b>event</b> 58:24	11:12	57:14,14	33:10,12
60:7 61:11	<b>extensions</b>	63:3	35:13 36:21
<b>eventually</b>	50:20	<b>federal</b> 12:7	37:2 40:15
7:10	<b>extracted</b>	81:5	42:16,25
<b>Everett</b> 19:1	27:17	<b>feel</b> 43:8	44:1
25:13	<b>eyes</b> 8:16	<b>feels</b> 13:22	<b>financings</b>
<b>evidence</b> 72:14		65:11	20:14
<b>exactly</b> 64:21	<b>F</b>	<b>fell</b> 69:23	<b>find</b> 39:13
77:21	<b>F</b> 83:1	<b>felt</b> 34:1	80:24 81:1
<b>exceed</b> 29:8	<b>facilities</b>	42:24	<b>finding</b> 51:12
42:17 58:10	12:14,15	<b>fewer</b> 71:12	58:24 70:10
<b>exceptions</b>	30:15 36:20	<b>FHA</b> 32:24	75:24
50:22 51:1,5	<b>facility</b> 36:11	<b>file</b> 47:16	<b>findings</b> 16:21
52:5	38:18	50:25 51:3,4	<b>Fine</b> 16:5
<b>excessively</b>	<b>fact</b> 13:11	<b>filed</b> 20:1	<b>finished</b> 40:13
73:23	54:20 55:16	47:22 52:6	<b>fire</b> 3:15 53:1
<b>excited</b> 39:20	55:23 58:24	60:8	53:6,8,17,19
<b>executive</b> 2:14	61:22 63:17	<b>filing</b> 49:1	53:25 54:2,9
2:15 29:1	64:5,23	<b>final</b> 26:24	55:9 56:16
41:23 43:8	65:24 80:3	27:1 39:18	56:20,25
45:11 68:16	<b>facto</b> 71:1,4	40:11 64:20	57:14 58:2,8
69:8,17 70:3	<b>factual</b> 54:11	<b>finally</b> 37:11	58:22 59:22
70:6,20,23	54:13	37:12 74:5	63:18,23
71:3,19 72:7	<b>failed</b> 56:19	<b>finance</b> 1:5	65:17
75:23 78:6	57:21 74:1	4:2,18 7:18	<b>firm</b> 18:13
<b>exempt</b> 29:9	74:11	10:3 19:19	47:4 49:1
32:20 33:6	<b>fails</b> 56:4,7	19:25 32:15	50:9 53:6,12
<b>exhaust</b> 61:2	<b>fair</b> 70:12	32:22 35:15	<b>firms</b> 71:11
<b>EXHIBITS</b> 3:24	<b>fall</b> 62:21	50:11 56:19	<b>first</b> 4:18 6:7
<b>existing</b> 29:18	<b>familiar</b> 32:25	60:14 61:14	19:15 21:19
<b>exists</b> 11:14	36:7 45:13	61:17,21,24	23:10,23,24
<b>expand</b> 38:14	45:18	62:14 65:5	24:3 25:15
<b>expectation</b>	<b>family</b> 30:20	<b>financed</b> 21:1	26:25 27:13
16:2	30:23 31:1,6	<b>finances</b> 14:22	30:9 39:5
<b>expecting</b>	32:24 33:14	<b>financial</b> 6:15	46:18 59:4
21:22	<b>far</b> 18:20 38:5	18:21,21	<b>fiscal</b> 14:9
<b>expenses</b> 56:5	77:13 78:1	21:17 22:24	15:14 17:3

<b>fit</b> 54:6	<b>four</b> 21:24	21:21,25	21:20,23
<b>fits</b> 15:24	22:9 23:4	22:14,14	22:3,20 23:8
<b>Fitzpatrick</b>	46:13 62:9	23:19	23:13,20
10:5	72:6 73:1		24:13 25:14
<b>five</b> 14:21	77:4,5	<b>G</b>	30:25 31:4,5
31:2	<b>FRANCIS</b> 2:5	<b>gauge</b> 16:1	31:6,12,14
<b>fix</b> 58:2,6	<b>Frank</b> 18:22	<b>gavel</b> 46:16	32:12 33:18
<b>fixed</b> 58:10	20:22 22:3	<b>general</b> 11:24	33:19 35:12
<b>flipped</b> 35:12	26:5,21 27:6	12:19 32:21	35:18 38:10
<b>Florio</b> 47:4	<b>Franklin</b> 10:18	69:2	42:10 43:10
<b>flow</b> 14:22	11:13	<b>generally</b>	45:5 46:15
<b>flux</b> 21:15	<b>frankly</b> 33:21	12:15 30:14	46:19,24,24
<b>focused</b> 13:18	<b>free</b> 1:24 43:8	36:1	48:5 54:9
<b>folded</b> 57:13	70:12	<b>generation</b>	59:20 66:18
<b>folks</b> 75:3	<b>freeholder</b>	12:16	67:8 68:9
<b>follow</b> 70:1	70:5	<b>gentleman</b>	76:6 77:9,11
76:16	<b>freeze</b> 58:20	65:21	78:4,7,10
<b>followed</b> 61:19	<b>front</b> 4:14 6:8	<b>getting</b> 79:15	<b>GOLDEN</b> 1:21
70:18	6:20 7:1	79:16	<b>good</b> 4:1 6:9
<b>following</b>	22:7 23:5	<b>Giblin</b> 10:6	9:22 10:11
50:16	42:13 78:17	<b>Ginnetti</b> 28:25	11:10 14:23
<b>follows</b> 72:6	<b>fulfills</b> 66:20	30:16 31:18	18:5,6 21:17
<b>force</b> 7:12	<b>full</b> 18:18	32:16	24:15 29:5
<b>foregoing</b> 83:5	70:12	<b>give</b> 12:13	42:9,24 47:2
<b>foreign</b> 39:3	<b>full-time</b>	14:23 16:7	50:7 53:4,10
<b>form</b> 56:14	72:15	24:25 30:1	53:14 74:23
<b>Formal</b> 55:11	<b>fully</b> 38:24	38:2 76:20	<b>governing</b>
<b>formalities</b>	<b>function</b> 68:18	78:2	21:25 54:19
4:5	<b>fund</b> 10:14	<b>given</b> 76:2	54:24 58:1
<b>formulate</b>	29:20 40:15	77:14,15	59:18 64:20
65:22	<b>funding</b> 12:7	79:8	64:25 65:3,6
<b>forth</b> 59:1	44:25 45:9	<b>glad</b> 37:10	<b>government</b>
64:15 70:2	<b>funds</b> 11:3	<b>go</b> 21:7 22:3	58:4 66:12
70:19 71:24	42:19 43:6	22:12,13	68:25 69:3
72:5,18 74:2	45:6	24:14 40:11	<b>governor's</b>
74:12,14	<b>funny</b> 4:21	43:9,23	37:6
83:9	37:17	45:10 59:17	<b>governs</b> 58:7
<b>forward</b> 13:9	<b>furnishing</b>	64:17 67:12	<b>grade</b> 36:13
15:11 45:16	69:13	71:21	<b>graders</b> 38:17
61:15 63:10	<b>further</b> 23:20	<b>goes</b> 24:11	<b>graduates</b>
<b>forwarded</b>	32:11 64:9	77:13	72:12
60:21 61:21	64:11 69:25	<b>going</b> 7:5,9,23	<b>grant</b> 11:5,19
<b>forwarding</b>	72:20 74:1	8:19 11:17	12:1,8 42:18
63:11	83:10	13:9,18	43:14 45:4
<b>found</b> 69:23	<b>future</b> 8:19	14:11 18:9	<b>granted</b> 51:11
70:20	17:1 21:10	20:22 21:3	<b>Gray</b> 47:5

<b>great</b> 4:17 14:8 15:3 18:13 23:17 23:23 30:5 39:25 43:12 74:25 78:25	55:15,16 <b>hearing</b> 26:5 27:10 28:17 46:19 50:25 53:24 54:13 54:20,21,22 54:24,25 55:2,4,12,14 57:24 59:17 63:20,23 69:6,10 70:1 82:10	<b>houses</b> 36:12 <b>housing</b> 3:9,11 28:16,23,25 29:6,9,13 30:17,20 32:15,22 33:3,15 41:18,20,22 41:23 42:5 42:17,22 45:8,12,15 <b>HUD</b> 29:15 32:17 33:13 33:14,22 42:11 44:24 45:9 <b>Hudak</b> 50:5,5 51:8,18 52:1 52:3 <b>Hudson</b> 3:10,16 34:24 35:7 35:22 37:22 68:10,15,16 78:4	3:10 11:9 13:19 34:25 35:14,18 36:22 37:22 <b>improvements</b> 10:15,16,16 12:3,16 14:6 29:16 30:14 31:10 38:10 40:3,6 42:15 <b>include</b> 21:9 24:11 26:17 <b>included</b> 19:15 21:3 24:7,16 27:14 31:15 42:13 45:3 80:4 <b>including</b> 26:15 <b>inconsistent</b> 79:6 <b>incorporated</b> 47:13 <b>incorrect</b> 62:4 <b>increase</b> 21:8 26:25 <b>increased</b> 20:25 21:5 <b>indicate</b> 23:22 63:15 <b>indicated</b> 14:4 61:1 63:21 <b>indicates</b> 54:18 55:20 56:1 <b>indicating</b> 23:21 <b>indications</b> 14:15 <b>individuals</b> 63:25 73:9 74:8 <b>industry</b> 73:11 <b>information</b> 16:22 49:9 64:1
<b>greater</b> 73:6 <b>grew</b> 7:12 <b>ground</b> 39:20 <b>group</b> 13:17 <b>growing</b> 39:2 <b>guarantee</b> 35:23 76:6 <b>guarantees</b> 36:1 <b>guess</b> 25:3 31:16 37:15 <b>guidance</b> 61:13 <b>Guttenberg</b> 35:5,6,15,17 36:5 38:16 38:22 <b>guy</b> 1:19 4:21 <b>guys</b> 24:5	<b>heavier</b> 71:11 <b>held</b> 2:1 14:12 54:24 <b>help</b> 75:14 <b>helpful</b> 74:24 <b>Hensel</b> 53:10 53:11,12 63:14 68:2 <b>hereinbefore</b> 83:8 <b>higher</b> 7:13,13 44:12 <b>highly</b> 77:9 <b>highway</b> 12:8 <b>hire</b> 73:9 74:8 <b>historic</b> 80:5 80:8 <b>hold</b> 31:21 45:15 54:19 54:25 61:11 61:12 <b>holding</b> 56:21 <b>holistically</b> 13:6 <b>hopes</b> 23:23 <b>hoping</b> 20:18 <b>Hospital</b> 12:2 <b>hour</b> 73:10,10 <b>hours</b> 74:9,13 77:7,11 <b>housed</b> 38:17 <b>household</b> 19:17,18,20 19:23	<hr/> <b>H</b> <hr/> <b>H</b> 3:22 <b>half</b> 37:20 76:23 79:20 <b>hallways</b> 43:15 <b>hand</b> 4:9 62:13 <b>handles</b> 32:24 <b>hands</b> 62:16 <b>happening</b> 7:6 <b>happens</b> 23:4 <b>happy</b> 12:18 17:5 29:25 30:3 <b>hard</b> 59:10 <b>Harold</b> 53:11 <b>head</b> 26:22 <b>heads</b> 31:11 <b>hear</b> 4:10 51:2 <b>heard</b> 24:21 42:4,4 48:7 51:19,20	<hr/> <b>I</b> <hr/> <b>ID</b> 3:23 <b>identified</b> 17:2 22:25 26:6 <b>identify</b> 6:10 9:22 26:7 32:18 <b>IDIDA</b> 2:6 <b>ignored</b> 54:1 <b>impact</b> 19:16 19:20,22 66:9 <b>implications</b> 71:22 <b>important</b> 15:5 21:16 76:21 <b>impression</b> 30:9 <b>improved</b> 30:12 <b>improvement</b>

<b>informed</b> 44:21	<b>inventory</b>	1:23 29:23	63:5 77:21
<b>infrastruc...</b>	30:12	32:22 43:3	<b>kindergarten</b>
15:7,10 40:8	<b>Inverso</b> 28:21	66:8 76:9	36:15
<b>inherently</b>	28:21 29:5	83:5,23	<b>kindly</b> 4:8
71:5	32:6,9 34:23	<b>job</b> 65:3 72:25	6:10 9:22
<b>initial</b> 13:18	<b>investment</b>	73:12,12,18	<b>kitchens</b> 31:5
14:3 31:9	13:24	73:19 74:25	43:18
51:10 52:4	<b>involved</b> 33:11	75:3 77:8	<b>Klein</b> 36:8
<b>initiative</b>	64:15	79:19	<b>know</b> 6:20 8:17
12:24 13:13	<b>involving</b>	<b>Joe</b> 41:23	8:19 12:25
24:3	69:19	<b>John</b> 12:21	13:1,10 14:7
<b>input</b> 63:24	<b>ire</b> 38:3	16:24	14:7 15:21
<b>inquiry</b> 62:18	<b>ironically</b>	<b>Johnson</b> 18:6	16:23 23:19
<b>inside</b> 31:12	36:12	18:10,17	33:7 37:21
<b>insists</b> 66:14	<b>Irvington</b> 3:13	19:1,5 20:21	38:8 39:7
<b>institution</b>	46:20	25:18,22	43:20 44:20
32:13	<b>issuance</b> 25:10	26:11 27:19	58:12 59:12
<b>institutions</b>	27:12,14	28:14	59:17,18,23
32:19	29:8,21 33:6	<b>Jones</b> 29:1	64:15 68:18
<b>instrumental</b>	43:25 44:3	<b>journey</b> 73:2	74:24 78:9
38:21	<b>issue</b> 6:25	<b>journeymen</b>	78:11 79:2
<b>intention</b>	10:22 19:9	72:24 73:1	81:13
22:11	20:5,9 25:1	<b>Jovan</b> 69:1,1	<b>Knowlton</b> 3:14
<b>interest</b> 15:12	31:3 35:24	<b>Judge</b> 47:10	50:4,10
33:25 35:25	39:5 48:8	50:16 51:5	<b>known</b> 77:20
42:21,24	50:12 51:13	51:10 52:5	<b>Kurt</b> 37:18
66:4 71:14	54:11 60:17	60:15,16,22	
75:2	69:17	60:25	<hr/> <b>L</b> <hr/>
<b>interested</b>	<b>issued</b> 5:8	<b>judgment</b> 44:22	<b>L</b> 2:11
83:15	<b>issues</b> 20:14	51:12	<b>lab</b> 31:24
<b>interesting</b>	37:3 47:12	<b>judgments</b>	<b>Labor</b> 69:21
39:7	60:10	19:11	72:21
<b>interior</b> 31:13	<b>item</b> 3:2 4:24	<b>jump</b> 4:11	<b>laborer</b> 77:23
<b>internally</b>	5:6 44:15	<b>June</b> 83:24	<b>labs</b> 38:19
26:20	<b>items</b> 5:2	<b>junk</b> 14:12	<b>laid</b> 25:25
<b>introduce</b> 18:8			<b>Lakewood</b> 3:15
18:18	<hr/> <b>J</b> <hr/>	<hr/> <b>K</b> <hr/>	52:25 53:9
<b>introduced</b>	<b>J</b> 1:19 2:3	<b>Keating</b> 10:2,2	53:13,25,25
20:24 21:6	53:7	11:7,10 16:9	55:9 63:14
22:20 23:1,6	<b>Jackie</b> 29:25	16:13,16	66:6
25:6,6 26:23	<b>Jacqueline</b>	<b>Keith</b> 9:25	<b>land</b> 39:10,13
28:19	29:1 32:10	<b>kind</b> 13:6	<b>language</b> 78:2
<b>introduction</b>	<b>January</b> 48:12	15:25 18:11	<b>large</b> 35:19
61:18	<b>Jason</b> 68:23	18:15 31:25	63:8
<b>invalidate</b>	<b>Jay</b> 53:5	32:25 39:2,3	<b>larger</b> 13:13
60:11	<b>Jersey</b> 1:1,11	45:6 61:9	<b>Larry</b> 53:15

<b>Laurel</b> 7:5	<b>light</b> 2:7 6:5	60:13 61:14	65:19 68:13
<b>LAUREN</b> 83:3	6:6 9:17,18	61:17,21,24	68:22 69:1
<b>law</b> 47:4 49:1	17:25 18:1	62:13 68:25	74:16 75:16
50:9,15 51:5	28:11,12	69:3 70:16	79:22 80:21
52:5 54:13	34:4,6,21,22	75:21 80:1	<b>mail</b> 57:5,6
58:7,23 70:7	39:25 41:1,2	<b>Location</b> 1:9	62:3,17
70:17,17	41:14,15	<b>locked</b> 39:11	<b>majority</b> 30:7
71:24 75:22	46:11,12	<b>Loigman</b> 53:14	<b>making</b> 24:3
80:1 81:5,5	48:8,16 49:8	53:15,21	38:5 76:13
<b>lawyer</b> 4:22	49:24,25	59:6,24 60:8	79:18
53:11	51:2,15,25	60:17,18,20	<b>Malik</b> 47:6
<b>laying</b> 78:13	52:2,21,22	60:24 61:1	48:2 50:1
<b>leave</b> 43:6	64:9,13,22	62:3 63:3	<b>man</b> 18:13
59:21	65:13 67:6	65:19,23	<b>managed</b> 8:17
<b>LED</b> 31:14	67:10,13,24	66:22 67:2	42:9
43:17	67:25 81:8	68:4,8	<b>manager</b> 50:5
<b>left</b> 28:17,23	82:1,2,7	<b>long</b> 15:25	55:20,24
28:24 29:2	<b>lighting</b> 11:23	40:11	64:2
41:21 53:7	31:13 43:17	<b>longer</b> 4:14,23	<b>manner</b> 70:11
55:1	<b>limit</b> 15:19	21:3 42:25	71:16
<b>legal</b> 64:14	<b>limited</b> 57:11	<b>longevity</b>	<b>Mapp</b> 2:8 5:20
<b>legally</b> 65:7	<b>Linder</b> 18:23	45:10,15	5:21 9:2,3,7
<b>legislative</b>	<b>line</b> 5:2,6	<b>look</b> 8:15 13:5	9:8 17:15,16
68:24 76:2	16:4 19:18	13:25 21:7	24:25 27:23
<b>legislatures</b>	59:14 64:19	44:18,24	27:24 28:3,4
22:1	<b>lines</b> 14:1,1	54:9 59:4	34:13,14
<b>lender</b> 32:18	<b>Lisa</b> 3:14	77:20	41:6,7 45:22
33:14	<b>listed</b> 5:8	<b>looked</b> 32:11	46:3,4 49:15
<b>lenders</b> 33:24	64:24	32:14	49:16,17
42:22	<b>listening</b>	<b>looking</b> 5:6	52:12,13,14
<b>Lester</b> 47:3	46:21	7:20,24 14:3	67:15,16,17
<b>let's</b> 79:9	<b>little</b> 12:21	15:25 16:25	81:17,18,19
<b>letter</b> 47:23	21:4,15	43:24	<b>March</b> 54:17
<b>letters</b> 47:16	30:13 32:3	<b>lost</b> 4:16	55:10 63:19
<b>level</b> 58:20	78:22	<b>lot</b> 15:6 42:21	64:25
65:17	<b>live</b> 22:22	43:19	<b>margin</b> 63:9
<b>levels</b> 59:1	<b>lives</b> 37:19	<b>lots</b> 31:13	<b>Mariner's</b>
<b>leveraging</b>	<b>loan</b> 33:18	<b>low</b> 15:12 44:6	42:23 43:1,2
15:4	42:20 44:6	<b>lowers</b> 35:24	<b>Mariniello</b>
<b>levy</b> 7:23	44:10,10	<b>lowest</b> 33:6,9	18:20 35:6
<b>LGS</b> 53:19	<b>loans</b> 32:24	69:12	41:19,19
<b>liabilities</b>	<b>local</b> 1:5 4:2		42:2 43:4
17:1	4:18 14:19	<b>M</b>	44:2,8,17,23
<b>liability</b> 20:6	19:19,24	<b>ma'am</b> 67:2	<b>MARKED</b> 3:24
<b>Liberty</b> 11:16	33:1 50:11	<b>Madam</b> 47:2	<b>Martucci</b> 68:22
<b>License</b> 83:4	56:19 58:4	53:14 59:7	68:23 69:4

<b>Matt</b> 37:18	81:18, 20, 22	<b>missed</b> 76:1	50:14 82:6
<b>matter</b> 4:3	81:24 82:1	<b>modernization</b>	<b>moving</b> 15:5
5:11 6:7, 21	<b>means</b> 58:4	43:16	45:16 76:14
30:9 37:23	71:19	<b>modifications</b>	76:19
47:19 48:3	<b>meeting</b> 4:18	22:21 24:14	<b>multi</b> 32:24
48:25 51:21	16:20, 24	<b>modify</b> 52:3	33:13
54:12 55:17	18:12 55:10	<b>moment</b> 35:20	<b>multiple</b> 33:24
58:21 60:8	59:25 60:1, 1	<b>money</b> 5:2, 7	<b>municipal</b> 10:8
68:15 70:7	60:8, 12 61:8	8:6 13:2	10:23, 24
76:10 78:11	61:11 62:6	15:3 38:9, 11	<b>municipali...</b>
<b>matters</b> 67:4	62:20 63:19	40:4, 13, 14	66:7
<b>mayor</b> 6:13	<b>meetings</b> 31:21	40:15, 16	<b>municipality</b>
8:20 13:15	62:9	43:14 44:19	8:22 21:22
13:22 14:4	<b>meets</b> 69:22	<b>monitor</b> 12:22	22:22
39:19	<b>MELANIE</b> 2:13	<b>month</b> 13:15	<b>municipali...</b>
<b>McEnergy</b> 18:22	<b>member</b> 76:13	39:21	27:15
20:23 22:5	<b>members</b> 4:6	<b>months</b> 36:12	<b>Musa</b> 47:6
22:10, 23	6:22 7:11, 21	36:17 69:6	
24:1, 15, 19	19:23 20:12	<b>morning</b> 4:1	<b>N</b>
24:24 25:2, 8	40:18 59:15	6:9 9:22	<b>N</b> 2:11 3:1
25:11 26:6	64:3 68:14	10:11 11:10	<b>N.J.A.C</b> 72:22
27:7	68:23 74:16	18:5, 6 29:5	<b>N.J.S.A</b> 54:18
<b>McManimon</b> 35:1	82:9	47:2	69:9 70:8
35:1, 2, 11	<b>merit</b> 13:11	<b>morning's</b> 4:2	<b>name</b> 50:8 53:5
37:17 41:16	<b>met</b> 13:15 64:7	<b>Mortgage</b> 32:15	53:11, 15
<b>MCNAMARA</b> 2:14	<b>Michael</b> 68:14	32:22	68:14
5:18, 20, 22	<b>mile</b> 39:12	<b>motion</b> 5:12, 14	<b>necessarily</b>
5:24 6:1, 3, 5	<b>miles</b> 10:17	9:1 17:8, 10	6:23 44:14
9:5, 7, 9, 11	<b>million</b> 10:13	23:8 27:10	45:2 79:11
9:13, 15, 17	11:1, 2, 6	27:20 34:4, 7	<b>necessary</b>
17:13, 15, 17	12:9, 10 14:5	40:23, 25	62:19
17:19, 21, 23	29:9 38:9	45:21, 24	<b>need</b> 4:5 6:11
17:25 28:1, 3	40:4 44:9, 10	49:10, 13	7:12 9:23
28:5, 7, 9, 11	76:23 79:20	51:11 52:12	16:1 17:4
34:11, 13, 15	<b>millions</b> 13:1	60:15, 21	20:24 28:20
34:17, 19, 21	<b>mind</b> 64:14	61:2 67:6, 9	45:2 74:20
41:4, 6, 8, 10	<b>mindset</b> 75:10	67:9, 13, 15	76:23 78:10
41:12, 14	<b>minimum</b> 72:20	81:14, 15, 17	<b>needed</b> 37:24
46:1, 3, 5, 7, 9	72:24 73:10	82:5	80:6
46:11 49:16	73:16 74:13	<b>Mount</b> 7:5	<b>needs</b> 42:12
49:18, 20, 22	76:25 77:4	<b>move</b> 5:2, 6	58:19, 24
49:24 52:13	77:17, 18, 19	28:15 33:16	<b>negative</b> 64:18
52:15, 17, 19	78:9	39:22 45:22	<b>neglected</b>
52:21 67:16	<b>minutes</b> 63:21	49:12 52:9	13:19 47:12
67:18, 20, 22	<b>mismanagement</b>	75:14	74:19
67:24 68:6	66:12	<b>moved</b> 36:16	<b>neighborhood</b>



11:24,25	<b>November</b> 47:10	<b>once</b> 14:17	<b>ordinances</b>
<b>neighborhoods</b>	<b>nullify</b> 61:8	15:13 53:24	75:8
11:17 12:1	<b>number</b> 21:19	62:23	<b>original</b> 79:12
<b>neither</b> 44:20	32:12 35:17	<b>ongoing</b> 8:13	<b>originally</b>
83:10,13	40:10 47:15	20:13	51:20
<b>nervous</b> 38:6	57:11 58:5	<b>open</b> 4:3 40:12	<b>OSHA</b> 73:10
<b>net</b> 40:15	64:16 72:20	40:14,16	77:18,19,19
<b>never</b> 14:20	74:13 79:24	47:20 70:12	77:19,22,24
<b>Nevertheless</b>	<b>numerous</b> 30:6	<b>opened</b> 36:12	<b>ought</b> 75:11
5:9	<b>NW</b> 18:21	37:12	80:20
<b>new</b> 1:1,11,23		<b>Opening</b> 3:3	<b>outgoing</b> 22:1
5:7 6:22	<b>O</b>	<b>operate</b> 30:19	<b>outlined</b> 74:11
12:14,14	<b>O</b> 2:11	33:16 72:2	80:19
17:3 29:23	<b>OAL</b> 51:22,23	<b>operating</b>	<b>outsourced</b>
31:7 32:22	52:10	25:21 45:2	71:8
33:2 38:8,11	<b>Oberdorf</b> 10:4	56:5 57:17	<b>outstanding</b>
38:18 39:11	10:4,11 18:2	<b>operation</b> 8:3	35:16,21
39:22 40:4	41:21	<b>operations</b>	<b>overall</b> 15:24
42:19 43:2	<b>objection</b>	8:13 14:9	<b>overburdened</b>
43:14 66:8	47:25	<b>operative</b> 70:6	66:11
76:9 83:5,23	<b>obligation</b>	<b>opinion</b> 49:12	<b>overly</b> 7:16
<b>newspaper</b> 55:6	66:3	<b>opportunity</b>	80:11
<b>nice</b> 6:9 37:12	<b>obligations</b>	14:24 39:15	<b>overstaffed</b>
<b>night</b> 16:20	36:1	43:5 62:25	8:2
36:18	<b>obtain</b> 73:9	<b>opposed</b> 20:17	<b>overturn</b> 60:22
<b>night's</b> 16:20	<b>obviously</b> 4:5	21:20 47:18	65:5
<b>nodding</b> 27:6	13:10 44:12	62:11,15	
<b>nonunion</b> 71:6	<b>occur</b> 58:25	<b>opposing</b> 47:23	<b>P</b>
71:11	<b>occurred</b> 48:24	<b>opposition</b>	<b>P</b> 2:11
<b>north</b> 10:17	63:5	48:7,12 52:7	<b>p.m</b> 82:10
11:18 12:2	<b>Ocean</b> 57:4	<b>options</b> 32:12	<b>package</b> 32:14
39:11	60:9	<b>Orange</b> 3:8	<b>page</b> 3:2,23
<b>Notary</b> 83:4,23	<b>October</b> 51:21	18:4	27:9
<b>note</b> 55:4	<b>offense</b> 59:10	<b>order</b> 12:25	<b>paid</b> 19:14,21
<b>notes</b> 19:10	66:1	22:13 68:5	48:18,21
35:16 36:2	<b>office</b> 37:6	68:16 69:8	<b>pancreatic</b>
40:10	50:15 54:12	70:3,6,20,22	4:16
<b>notice</b> 50:25	56:25 58:23	70:23 71:4	<b>Pane</b> 53:18,18
56:19 61:12	61:22	71:20,21	<b>Pannella</b> 4:15
63:16 70:1	<b>Officer</b> 6:15	72:7 73:21	18:12
76:16	68:24	75:23 78:6	<b>paper</b> 60:4,6
<b>notices</b> 61:15	<b>okay</b> 7:2 8:24	<b>ordinance</b> 5:3	62:15
61:20,23,25	20:4 34:2	10:14,19,20	<b>papers</b> 71:14
<b>notified</b> 57:6	42:2 62:23	10:23 19:8	<b>par</b> 43:16
<b>noting</b> 8:5	63:1	20:8 21:14	<b>paragraph</b> 73:7
50:24	<b>old</b> 40:7,7	27:12 40:6	73:21 74:6

72:6	26:14,17	60:13 62:24	<b>practices</b>
<b>park</b> 40:17	27:1,13,17	<b>placement</b> 30:7	21:18
45:11	<b>people</b> 36:15	<b>placing</b> 62:22	<b>pre</b> 70:9 75:25
<b>PARKIN</b> 2:14	56:24 57:3	<b>plan</b> 8:15 13:8	76:3,11,18
<b>parking</b> 31:13	57:11 66:17	13:17,18,25	80:3,13
43:19	76:24 78:25	16:17 20:20	<b>precluded</b>
<b>part</b> 23:18	79:19 80:7	31:8	79:15,16
40:9 50:17	80:15	<b>planned</b> 12:23	<b>predominantly</b>
76:15,19	<b>percentage</b>	15:1	40:6
<b>part's</b> 55:1	44:12	<b>planning</b> 22:8	<b>preferences</b>
<b>participate</b>	<b>percentages</b>	25:24 38:12	70:15
72:12	43:25	<b>plans</b> 15:22	<b>preliminary</b>
<b>participated</b>	<b>perfect</b> 36:19	33:22 69:14	75:24
33:2	<b>performing</b>	<b>please</b> 5:16	<b>preparations</b>
<b>participation</b>	73:18	9:4,24 17:12	21:18
70:14	<b>period</b> 19:14	18:8 27:25	<b>prepared</b> 49:9
<b>particular</b> 4:8	19:16 20:7	34:10 41:3	<b>present</b> 35:13
5:11 13:11	22:9 25:12	45:25 75:19	62:10 69:4
21:25 23:5	<b>permanently</b>	<b>plenty</b> 79:9	76:8
25:10 57:1,7	35:15	<b>plus</b> 14:14	<b>presentation</b>
60:17 72:25	<b>permission</b>	27:1 45:4	71:13
73:12	70:16	<b>point</b> 15:19	<b>presented</b>
<b>particularly</b>	<b>permitted</b> 73:5	16:3,23	32:13 39:15
30:8 32:20	<b>Perrucci</b> 47:4	21:11 23:16	50:13 51:14
44:5	<b>personally</b>	26:15 30:5	52:11 60:13
<b>parties</b> 47:9	18:14 59:9	57:10 63:10	60:25 62:12
47:20 83:12	<b>personnel</b>	65:9 80:13	74:18
<b>partner</b> 63:21	47:16	80:16,22	<b>preservation</b>
<b>parts</b> 13:23	<b>perspective</b>	<b>points</b> 13:25	80:9
<b>passed</b> 4:15	59:23 64:8	16:25 21:16	<b>pretty</b> 19:18
<b>passing</b> 4:19	75:6,13	<b>police</b> 7:10,11	30:23 36:7
<b>Pat</b> 5:17 10:2	<b>pertinent</b> 60:2	7:11,14,14	<b>prevents</b> 80:15
13:16	<b>phased</b> 31:1	7:15	<b>previous</b> 50:11
<b>PATRICIA</b> 2:14	<b>phasing</b> 31:3	<b>policy</b> 71:22	53:24 54:3,4
<b>Patton</b> 3:14	<b>Phoenix</b> 10:8	<b>Poor's</b> 14:13	<b>previously</b> 4:3
50:4	28:22	14:16	42:4 58:11
<b>Patton's</b> 50:21	<b>phrase</b> 73:14	<b>population</b> 7:7	<b>primary</b> 36:6
50:24	73:19	<b>position</b> 47:18	<b>prior</b> 20:1
<b>pay</b> 19:10 20:6	<b>picks</b> 14:19,19	47:25 48:3	69:6 74:10
29:20 49:7	<b>piece</b> 11:25	49:2,5 76:17	79:6
<b>paying</b> 13:12	38:9,11,20	78:22 79:6	<b>private</b> 29:22
<b>payment</b> 10:20	39:13 40:3	80:19	30:7 33:17
10:21 13:12	<b>place</b> 39:9	<b>positive</b> 64:18	<b>probably</b> 14:20
21:19 22:18	47:25 75:7	66:8	15:14 67:4
23:10 25:7	83:8	<b>posted</b> 62:1	<b>problem</b> 44:5
25:10,15	<b>placed</b> 55:6	<b>potential</b> 17:1	80:9

51:8	65:12	<b>put</b> 15:7 20:19	<b>rate</b> 15:6,13
<b>procedure</b> 70:2	<b>properties</b>	24:5 42:11	33:25 35:25
70:19	29:19	44:25 68:7	42:24
<b>procedures</b>	<b>property</b> 31:2	78:14	<b>rated</b> 14:24
61:13 63:10	39:14 66:9	<b>puts</b> 7:16	<b>rates</b> 15:12
<b>proceeds</b> 29:10	66:11	<b>putting</b> 12:10	32:4,4,6
29:15 44:1	<b>proposal</b> 33:5	21:15 78:14	33:7,9,23
<b>process</b> 7:22	<b>proposed</b> 6:9		<b>rating</b> 14:11
8:17 13:19	<b>prospective</b>	<b>Q</b>	14:14 35:20
14:2 42:10	73:8	<b>qualification</b>	<b>ratings</b> 14:23
56:12 65:12	<b>protect</b> 66:3	70:9 75:25	<b>ratio</b> 72:24
66:16 70:15	<b>protection</b>	76:4,11,18	73:6
80:14	53:17	80:3,14	<b>rational</b> 72:19
<b>program</b> 8:7	<b>provide</b> 72:14	<b>qualified</b>	73:3 74:12
29:12 32:17	76:16 77:1	10:23 72:17	74:18 76:20
33:1 36:2	<b>provided</b> 73:3	<b>qualify</b> 74:14	77:14,15
42:3,7 71:3	77:2	75:24	79:9,11
71:8,18 72:3	<b>provision</b>	<b>quarter</b> 39:12	<b>reading</b> 56:8
72:13 73:5	26:10 74:14	<b>question</b> 12:20	<b>real</b> 39:5
<b>programs</b> 31:24	<b>public</b> 4:4,7	16:7 24:16	<b>realize</b> 8:5
31:25 32:1	10:1 40:18	26:12,13	21:13,24
69:20 72:23	54:20,21,21	45:20 65:22	22:19
77:3,10	54:24,25	<b>questions</b> 8:25	<b>really</b> 8:23
78:24	55:2,3,12,14	12:17 17:7	30:17 39:15
<b>project</b> 5:4	55:15,16	20:10 27:9	44:11,25
10:25 11:1,3	57:24 63:16	30:3 34:3	45:19 75:9
11:8,11,16	63:17,20,24	36:3 37:1	77:4 79:2,5
31:20 36:7	65:11 69:10	40:22 43:8	<b>reason</b> 35:17
37:1 38:8,14	69:14,18	43:23 45:14	44:19 75:12
39:6 44:5	70:16 71:15	48:6 64:10	<b>reasons</b> 58:15
57:9 71:16	73:25 75:21	64:12 74:19	80:18
<b>projected</b>	76:22 79:25	74:21	<b>receive</b> 57:5,6
15:11	80:1 83:4,23	<b>quickly</b> 5:1	<b>received</b> 25:16
<b>projects</b> 14:25	<b>published</b> 62:1	<b>quite</b> 14:4	46:22 50:20
29:18 30:2	<b>pull</b> 25:14	38:1	50:25 64:1
30:18 56:15	45:1	<b>quote</b> 72:8	<b>receives</b> 13:7
57:2,12,17	<b>punitive</b> 47:16	73:14	<b>receiving</b>
57:17 62:12	<b>purported</b> 63:4		42:18
62:23 74:1	<b>purpose</b> 23:25	<b>R</b>	<b>recitation</b>
79:25	62:22	<b>R</b> 2:11 83:1	74:23
<b>promptly</b> 53:23	<b>purposes</b> 66:6	<b>RAD</b> 29:11 30:6	<b>recommenda...</b>
<b>proof</b> 73:7	<b>pursuant</b> 10:22	30:12 42:3,7	50:23 56:1
74:6	10:24 60:2	42:11 45:12	63:12
<b>proper</b> 61:12	70:8 72:20	<b>raise</b> 4:8	<b>recommended</b>
61:12	<b>pursue</b> 39:17	<b>raised</b> 56:3	33:5 55:21
<b>properly</b> 57:8	<b>purview</b> 69:23	60:10 61:9	<b>reconstruc...</b>

<b>record</b> 6:11 9:23 20:19 28:19 47:21 48:1,11	<b>regularly</b> 55:9 <b>regulations</b> 54:2 70:10 72:21	68:15 <b>representa...</b> 76:3	11:25 <b>residents</b> 7:12 12:17 31:22 38:15 56:8
<b>records</b> 61:22	<b>regulatory</b> 33:14 68:24	<b>representing</b> 37:13 53:16	<b>resolution</b> 22:17 23:21 54:16,18,23 55:20 56:1,8 56:20 58:14 68:5,7 70:5
<b>recreational</b> 38:20 39:23	<b>rehab</b> 43:17	<b>represents</b> 11:2	<b>resolved</b> 47:20
<b>recuse</b> 46:15	<b>reimbursement</b> 47:14	<b>reprieve</b> 38:3	<b>resources</b> 71:12
<b>redevelopment</b> 13:21 14:18	<b>reject</b> 52:4	<b>request</b> 19:7 29:7 47:12 53:23	<b>respect</b> 4:17 71:24
<b>redo</b> 11:22	<b>related</b> 19:11 21:17 33:10 37:3	<b>requested</b> 50:20 57:3	<b>respected</b> 4:13
<b>reduce</b> 19:25 26:8	<b>relates</b> 22:1	<b>requesting</b> 19:13 60:22	<b>respectfully</b> 63:15 64:5
<b>reducing</b> 21:14 66:9	<b>relationship</b> 42:23 43:7	<b>require</b> 22:20 72:7,7	<b>respective</b> 74:7
<b>reduction</b> 20:4 49:7	<b>relative</b> 62:17 83:11,13	<b>required</b> 29:20 32:18 54:25 57:21 60:4 62:4 63:23 73:17,25 74:6 77:24 77:25	<b>respond</b> 65:20 65:22
<b>reductions</b> 23:1	<b>release</b> 13:1	<b>requirements</b> 56:6 62:5,17 71:5 75:21 76:5 77:18 79:3	<b>responsibi...</b> 66:21
<b>reference</b> 24:6 63:4	<b>reluctance</b> 20:13	<b>requirement</b> 56:6 62:5,17 71:5 75:21 76:5 77:18 79:3	<b>responsibi...</b> 64:20 65:8
<b>referenced</b> 70:23	<b>rely</b> 79:6	<b>requirements</b> 33:11,15 64:6	<b>responsible</b> 69:12
<b>referendum</b> 7:23 57:14	<b>relying</b> 50:17	<b>requires</b> 44:25 54:19 55:13 55:14 57:24 58:1 69:9 73:7 75:7	<b>restricts</b> 69:18 70:13 70:24 71:1
<b>referred</b> 63:22	<b>remain</b> 15:15	<b>reserves</b> 20:16 22:14 29:17 29:20 45:3	<b>resubmitting</b> 33:21
<b>refinanced</b> 30:21	<b>remaining</b> 46:13	<b>reserve</b> 21:10 22:3,9,18 23:11,24 24:2 25:9,25 26:14 27:16	<b>result</b> 7:7
<b>refinancing</b> 29:18	<b>remains</b> 48:8	<b>residential</b>	<b>resulted</b> 49:4
<b>reflect</b> 63:22	<b>remand</b> 50:10 51:24		<b>results</b> 60:12 61:17
<b>refunding</b> 19:7 19:9 27:11 27:12	<b>remanded</b> 51:21		<b>resume</b> 4:2
<b>refunds</b> 19:10 19:14	<b>Remarks</b> 3:3		<b>retaining</b> 8:18 43:21
<b>refused</b> 47:21	<b>remedies</b> 61:3 65:10		<b>revenue</b> 29:9
<b>regard</b> 27:4 40:2	<b>remember</b> 4:19		<b>revenues</b> 29:24
<b>regarding</b> 30:1 32:11 54:2,5	<b>removal</b> 47:15		<b>review</b> 54:20 59:11 63:11
<b>regards</b> 42:3	<b>remove</b> 49:2		<b>Rick</b> 28:24 29:25 32:10
<b>registered</b> 62:6 69:21 71:3,8,18,22 72:2,12 76:8	<b>rendered</b> 52:8		
	<b>renovated</b> 80:5		
	<b>Rental</b> 29:11		
	<b>RENZI</b> 1:19		
	<b>repairs</b> 40:7		
	<b>repaving</b> 5:5		
	<b>reported</b> 61:17		
	<b>Reporter</b> 83:4		
	<b>REPORTERS</b> 1:20		
	<b>represent</b>		

<b>Rick's</b> 29:2	8:23	<b>scheduled</b>	<b>seen</b> 30:5,6
<b>right</b> 14:16	<b>roof</b> 40:17	55:10 63:19	54:5
18:20,24	<b>roofs</b> 31:4	<b>scheduling</b>	<b>self-liqui...</b>
20:23 21:11	<b>roughly</b> 21:4	53:23	15:15
35:3 37:7	<b>ROUTE</b> 1:22	<b>school</b> 31:24	<b>send</b> 54:12
38:2 49:5	<b>row</b> 8:1	36:10,14,18	<b>Sendzik</b> 53:4,5
52:1 55:15	<b>rubber</b> 54:7	36:20 37:5	53:7,7 59:22
59:24 60:7	59:5,12	38:8,16	68:3
65:7 66:19	65:25 68:19	39:22	<b>senior</b> 30:20
78:15 79:20	<b>run</b> 7:9 31:25	<b>schooling</b> 36:8	31:4,5,20
<b>rights</b> 57:2	63:6	<b>scope</b> 11:3,8,8	42:8 43:12
<b>Rita</b> 6:13	<b>runs</b> 70:22	<b>Scotland</b> 35:2	<b>seniors</b> 38:22
<b>river</b> 11:13,21	<b>rural</b> 39:5	<b>scrutiny</b> 54:10	<b>sense</b> 12:23
53:12	<b>Rutgers</b> 11:14	<b>Secare</b> 53:12	13:8 23:12
<b>road</b> 10:15	12:14	<b>second</b> 4:19	23:17 65:15
<b>roads</b> 13:20,24	<b>Ryan</b> 18:23	5:15 9:2	<b>sent</b> 54:17
14:1 15:2		17:11 27:21	<b>separate</b> 4:4
<b>roadway</b> 5:7	<b>S</b>	27:23,25	5:6 12:4
<b>Rockhall</b> 32:23	<b>S</b> 2:11,11 3:22	34:8 41:1	30:17
33:13	<b>safe</b> 71:16	45:21,23,24	<b>September</b> 70:4
<b>Rodriguez</b> 2:6	<b>safety</b> 73:11	49:14,15	<b>series</b> 35:16
6:1,2 9:13	73:15,16,20	52:12 67:15	<b>serve</b> 13:23
9:14 17:21	73:24 74:3,9	81:17 82:7	<b>service</b> 36:24
17:22 28:9	74:15 75:3	<b>secondly</b> 21:21	<b>services</b> 31:7
28:10 34:19	77:15 79:17	<b>seconds</b> 34:10	36:10,19
34:20 40:23	<b>SALAY</b> 2:15	41:2	39:23 58:4
40:24 41:12	<b>sale</b> 8:6 29:23	<b>secretary</b> 2:14	68:25 69:3
41:13 45:23	<b>Salvatore</b>	2:15 7:15	<b>session</b> 4:4
46:9,10,17	12:21 16:24	<b>section</b> 11:18	<b>set</b> 20:16
46:18 48:5	<b>sat</b> 39:5	11:19 58:9	23:24 24:2
49:14,22,23	<b>satisfactory</b>	<b>sections</b> 58:6	42:19 59:1
50:3 52:19	63:16 64:24	58:13,14	69:11 70:2
52:20,23,25	<b>Satisfying</b>	<b>sector</b> 79:25	70:19 71:24
59:3,8 63:13	76:5	<b>secured</b> 29:24	72:5,18 74:2
64:11,21	<b>saver</b> 43:17	<b>security</b> 75:3	74:12,14
66:18,23	<b>saving</b> 31:11	<b>see</b> 4:22 6:9	83:8
67:8,22,23	<b>savings</b> 31:14	9:19 14:20	<b>setting</b> 21:23
68:1,9 74:21	33:18 36:23	15:7 21:8	<b>settle</b> 49:11
75:19 81:24	<b>saying</b> 25:23	22:3 27:6	<b>settled</b> 20:1
81:25 82:5,8	26:1,18	33:24 37:10	<b>settlement</b>
<b>Roll</b> 5:16 9:4	47:24 68:17	37:12 39:7	47:8,13
17:12 27:25	79:1	39:25 44:4	48:14 49:3
34:10 41:3	<b>says</b> 54:24	65:4 75:12	50:12,18,19
45:25	55:7 58:8	<b>seeing</b> 44:11	51:6,13
<b>rolling</b> 40:10	62:6 77:3	<b>seeking</b> 20:8	<b>settlements</b>
<b>Romeu</b> 6:13,13	<b>scared</b> 37:16	61:13 72:17	19:11 27:18

<b>seven</b> 72:16,19 74:6 77:1,8	<b>sitting</b> 29:2 59:16	58:8 62:22 72:22	81:5 83:5,23
<b>seventh</b> 36:13 38:16	<b>situation</b> 49:11	<b>specificat...</b> 69:14	<b>state's</b> 78:22 81:1
<b>sewer</b> 12:4 14:1 15:5 40:7	<b>six</b> 73:21 77:5	<b>specifics</b> 44:21	<b>statement</b> 12:20 59:13
<b>sewers</b> 40:7	<b>skills</b> 80:8	<b>specified</b> 71:19	<b>States</b> 11:4
<b>shaking</b> 26:22	<b>small</b> 7:4 24:1 35:19 42:20 45:8 70:14 71:11	<b>spend</b> 37:21	<b>stating</b> 47:11
<b>Shannon</b> 50:5	<b>sold</b> 29:22	<b>spending</b> 58:25	<b>status</b> 15:16 16:8
<b>shape</b> 43:12	<b>Solomon</b> 18:25 26:22	<b>spite</b> 56:10	<b>statute</b> 10:24 54:22 55:13 56:6 57:22 57:22 60:2 61:14 62:5 69:24 70:3 70:19 75:6 76:17
<b>share</b> 10:15 11:2	<b>somebody</b> 39:1 77:9	<b>spoke</b> 63:25	<b>statutes</b> 54:1 56:23
<b>shared</b> 36:9	<b>soon</b> 27:15 68:7	<b>spoken</b> 19:23	<b>statutorily</b> 63:23 64:6
<b>shift</b> 5:3 7:14	<b>sorry</b> 4:22 25:13 66:1	<b>square</b> 39:12	<b>statutory</b> 66:3 66:20
<b>Shontae</b> 47:5	<b>sounds</b> 51:15	<b>stable</b> 14:12	<b>stay</b> 60:16
<b>short</b> 36:2 68:5	<b>sources</b> 15:4 44:24	<b>staff</b> 13:16 19:24 59:10 75:9	<b>Steinhardt</b> 47:4
<b>shower</b> 31:11	<b>south</b> 1:10 10:17	<b>staffed</b> 7:16	<b>stenograph...</b> 83:7
<b>Shuh</b> 18:22	<b>southern</b> 39:2	<b>staffing</b> 7:14 7:16	<b>step</b> 15:2 23:20,23
<b>side</b> 12:2 25:4	<b>space</b> 40:14,16	<b>stages</b> 39:19	<b>Steplight</b> 18:25 23:14
<b>sidewalk</b> 10:16 78:13	<b>speak</b> 4:7 11:7 11:8 20:22 30:13 32:10 59:8,9	<b>stamp</b> 54:8 59:12 65:25 68:19	<b>Steve</b> 35:5,11 37:2,13
<b>sign</b> 47:21	<b>speaks</b> 20:18	<b>stamps</b> 59:5	<b>sticks</b> 44:13
<b>signalization</b> 11:23	<b>special</b> 12:8 54:10 59:25 59:25 60:1,1 60:8,11 62:5 62:20 69:9 76:16 77:24	<b>stand</b> 66:1 71:4	<b>stop</b> 66:18
<b>signed</b> 16:21 70:3	<b>speciality</b> 72:10	<b>standard</b> 14:13 14:15 73:22	<b>stopped</b> 61:10
<b>significant</b> 8:6 13:7 14:14 22:8 36:5,9,23 38:15 49:7 79:24	<b>specific</b> 12:17 44:15 70:1 72:19 74:12 80:3,6	<b>standing</b> 80:17	<b>story</b> 78:14
<b>significantly</b> 35:23	<b>specifically</b> 29:16 42:19 44:13 57:24	<b>standpoint</b> 14:8,23 22:24	<b>strategies</b> 24:22
<b>silent</b> 38:5		<b>start</b> 18:19 66:13 68:17	<b>streamlined</b> 8:3
<b>similar</b> 73:6		<b>started</b> 7:21 39:23 48:25 56:13	<b>street</b> 1:10 11:20,23
<b>simply</b> 5:2 66:15		<b>starting</b> 17:3 75:20	<b>streets</b> 5:5 12:6 13:20
<b>sit</b> 15:18,23		<b>state</b> 1:1 7:10 23:9 39:3 40:14 66:7,9 66:10 72:21 77:2 78:22	
<b>site</b> 31:16,20 77:23			
<b>sites</b> 31:24 75:4			
<b>sits</b> 31:23			

13:24	<b>supported</b> 64:2	22:15 26:9	18:2,3,11,15
<b>streetscape</b>	<b>supports</b> 23:7	27:16 29:9	19:5 20:11
10:15	<b>sure</b> 15:13	32:20 33:4,5	27:5 28:13
<b>streetscapes</b>	17:1 20:21	49:3,6	28:14 34:23
11:22	37:24 38:13	<b>taxation</b> 56:3	34:24 35:11
<b>strides</b> 14:8	77:12 79:19	<b>taxes</b> 26:10	41:16,17
<b>striping</b> 5:7	80:7	58:17 66:9	48:1 50:1,2
<b>strong</b> 42:23	<b>surplus</b> 8:11	66:11	52:23,24
<b>strongly</b> 13:22	8:12,15,16	<b>taxpayers</b>	59:1 63:13
<b>students</b> 36:13	<b>suspension</b>	19:12 35:25	65:23 68:1,2
<b>study</b> 15:6,13	47:14 48:9	66:4	68:3,8,22
<b>subcontrac...</b>	48:19,20,24	<b>Taylor</b> 47:2,3	79:21 82:3
71:2 73:8	<b>sworn</b> 6:12,18	48:10,23	<b>thing</b> 12:13
74:7	9:23 10:10	50:2	32:3 51:16
<b>subject</b> 27:13	18:9 19:4	<b>TDR</b> 8:6	65:7
69:8 78:11	28:20 29:4	<b>team</b> 18:19	<b>things</b> 14:21
78:18,19	35:10 42:1	<b>technical</b>	17:2 68:19
<b>submissions</b>	47:1 53:3	72:10	68:20
50:16	68:12 74:20	<b>TED</b> 2:7	<b>think</b> 4:13 8:4
<b>submit</b> 48:11		<b>TEL</b> 1:24	12:24 13:10
64:6	<b>T</b>	<b>tell</b> 38:13	20:17 21:15
<b>submits</b> 19:6	<b>T</b> 2:11 3:22	59:17 66:24	22:23,24
<b>submitted</b>	83:1,1	66:24,25	23:17,23
16:10,12,17	<b>table</b> 18:18	67:1 77:21	25:22,23,25
55:5 60:6	27:21	<b>telling</b> 78:24	26:21 36:7
61:22	<b>TAD-70</b> 68:16	<b>tenure</b> 49:1	37:6,23 38:4
<b>Subsection</b>	69:9	<b>tenured</b> 49:2	39:4 43:24
57:23	<b>take</b> 4:17,19	<b>term</b> 15:25	44:2 48:2
<b>subsequent</b>	5:9,10 11:20	36:2 40:12	49:8,11
26:7	15:11 39:8	42:25	59:13 65:6,9
<b>substantial</b>	45:18 59:4,9	<b>terms</b> 33:9,23	67:4,10
71:15	67:8	<b>terrible</b> 31:2	75:10 76:10
<b>substantive</b>	<b>taken</b> 30:22	<b>testified</b> 81:4	79:11 80:9
76:14,19	55:11 62:13	<b>testify</b> 6:18	80:10,12,15
<b>succinctly</b>	78:20 83:7	10:10 19:4	80:18 81:9
48:3	<b>talk</b> 15:19,20	29:4 35:10	81:12
<b>SUITE</b> 1:22	39:6	42:1 47:1	<b>third</b> 20:25
<b>summarized</b>	<b>talked</b> 37:4	53:3 68:12	<b>Thompson</b> 10:7
48:3	75:1	<b>testimony</b>	10:7 13:14
<b>summarizing</b>	<b>talking</b> 57:22	21:22 22:7	16:5
64:13 69:5	<b>Tarclan</b> 31:16	24:7,7 46:21	<b>thought</b> 14:4
<b>summary</b> 50:14	<b>target</b> 16:19	48:7 76:20	21:12,17
51:12	<b>Tarkiln</b> 31:20	77:1,2 79:7	24:21 25:15
<b>Superior</b> 60:9	<b>tax</b> 19:10,16	83:6	<b>thousand</b> 42:15
<b>support</b> 13:3	19:19,21	<b>thank</b> 6:19	<b>three</b> 14:5,21
24:8 58:17	20:13 21:1	9:20 17:6	19:14,16

20:7 23:4	4:20,21,23	77:7,8,13,16	<b>ultimately</b>
32:19 36:17	18:12	77:18,22,22	32:4
39:24 62:8	<b>top</b> 35:23	77:22 78:3,5	<b>unable</b> 56:24
64:3 72:6	40:17	78:9,25	<b>unclear</b> 73:24
<b>tie</b> 13:25	<b>topic</b> 66:19	79:16,17	<b>undergone</b> 74:8
<b>TIGER</b> 11:5	<b>total</b> 10:25	<b>transaction</b>	<b>underlying</b>
12:8	56:2 57:18	32:21	14:22
<b>time</b> 4:9 6:17	58:5	<b>transcript</b>	<b>understand</b>
7:12 10:9	<b>totality</b> 27:18	83:6	19:24 45:7
19:3 23:24	<b>touch</b> 32:3	<b>transitional</b>	48:22 65:24
24:3 26:15	<b>tough</b> 81:8	13:7 16:2	75:2,4,6
29:3 30:7	<b>town</b> 14:24	<b>Transporta...</b>	78:21 80:12
33:7 35:9	33:2 35:4,6	11:5	<b>understanding</b>
37:7,19	35:15,19,25	<b>tremendous</b>	25:5 27:5
41:25 46:25	36:11 37:14	66:8	<b>undertake</b>
53:2 54:6	38:23 39:16	<b>Trenton</b> 1:11	56:17
60:10,24	40:7 43:7	1:23	<b>undertaken</b>
61:2,16	64:1	<b>triple</b> 14:14	35:13
62:18 63:7	<b>township</b> 3:6	<b>true</b> 83:6	<b>undertaking</b>
64:4 66:14	3:12,14,15	<b>Trust</b> 11:16	36:21
66:14,15	6:8,15 46:19	<b>try</b> 21:9	<b>undue</b> 70:15
68:11 75:1	46:21 47:7	<b>trying</b> 8:18	<b>unfairly</b> 78:15
75:10 80:23	48:25 49:3	33:15 78:23	<b>union</b> 3:5 5:1
81:4 82:4	50:4,9 53:13	<b>turn</b> 6:24 18:4	71:9
83:8	53:25 54:1	46:16 51:25	<b>unionized</b>
<b>timely</b> 60:3	54:16 55:8	<b>turned</b> 48:18	70:25 71:5
<b>times</b> 6:21	55:10,18,20	<b>two</b> 7:11,14	<b>unique</b> 39:16
42:4 64:16	55:25 56:9	10:17 16:16	<b>unit</b> 50:6
<b>timing</b> 7:25	56:11 57:20	21:16 23:4	<b>United</b> 11:4
<b>TIMOTHY</b> 2:3	58:21 62:2	30:17 31:19	<b>units</b> 29:13,25
<b>tip</b> 14:17	63:11,15,25	31:23 36:16	30:17,19,20
<b>title</b> 62:21	64:4,7,19	39:24 44:9	30:23 31:1,4
63:7,7 73:12	65:6,11	47:12,14	31:5,6 42:8
<b>titles</b> 73:18	<b>township's</b>	48:9,19,23	43:13
<b>today</b> 4:25	51:11	61:24	<b>University</b>
18:19 19:6	<b>track</b> 14:16	<b>two-cents</b>	11:14
46:20,24	<b>traction</b> 37:11	75:14	<b>unleashes</b> 15:2
48:17 51:1,7	<b>trade</b> 72:16	<b>type</b> 30:14	<b>unnecessarily</b>
51:14 54:7	<b>traditionally</b>	39:14 74:4	70:11,13,24
69:7	62:8,13	75:8	<b>unpaid</b> 47:14
<b>today's</b> 43:16	<b>traffic</b> 11:23	<b>typical</b> 44:4	<b>unquote</b> 72:8
<b>told</b> 26:16	<b>trailers</b> 36:14	<b>typically</b>	73:14
<b>TOLL</b> 1:24	<b>training</b> 73:15	30:10	<b>upcoming</b> 24:11
<b>tomorrow</b> 14:21	73:15,17,20		<b>updated</b> 38:19
<b>Toms</b> 53:12	73:22,24		<b>upgrades</b> 43:20
<b>Tony</b> 4:15,17	74:3 76:25		<b>uphold</b> 49:10
		<b>U</b>	
		<b>U.S</b> 69:21	



49:13 81:12 81:16 <b>upstairs</b> 4:4 <b>use</b> 40:18, 20 <b>uses</b> 44:24 <b>usually</b> 64:17 72:25	64:5, 17, 17 65:13, 16 67:7 <b>voted</b> 55:17 58:11 62:10 65:1 <b>voters</b> 54:15 56:7, 10 57:9 57:18 62:6 63:8 <b>votes</b> 62:12 <b>voting</b> 55:8 56:22 62:25 64:3	<b>water</b> 12:4 14:1 15:5 31:10 43:17 <b>waterfront</b> 11:15 12:14 14:18 <b>way</b> 11:21 14:2 14:11 15:11 18:20 38:4 45:10 71:17 79:20 <b>ways</b> 78:23 <b>we'll</b> 4:25 11:22 12:11 15:11, 13 16:3 17:4 18:3 26:2 38:2 <b>we're</b> 7:23 8:1 13:12 14:3 16:18, 25 20:7, 10 21:2 21:14 24:3 25:3, 21 31:3 31:4, 6 39:10 39:18 46:20 51:16, 22 57:22 59:5 67:8 68:9 81:7, 10 <b>we've</b> 12:5 22:25 30:6 37:23 49:8 81:10 <b>Wednesday</b> 1:12 <b>weekends</b> 38:21 <b>weeks</b> 16:16 17:4 39:24 <b>Weinstein</b> 28:24 <b>welcome</b> 28:18 59:3 <b>welding</b> 72:10 <b>Wellerson</b> 60:15, 16, 25 <b>Wellerson's</b>	60:22 <b>Wendy</b> 6:14 <b>went</b> 14:12 30:22 32:19 33:22 42:20 44:3 74:24 <b>West</b> 39:11 <b>whatsoever</b> 55:19 77:19 <b>Whitman</b> 11:12 <b>Wielkocz</b> 35:5 35:12 37:14 40:5, 9 <b>Wilentz</b> 18:13 19:2 <b>willing</b> 26:1 <b>willingness</b> 23:18 <b>willy-nilly</b> 15:1 <b>window</b> 23:22 <b>wise</b> 38:16 <b>wish</b> 4:7 <b>wishing</b> 6:17 10:9 19:3 29:3 35:9 41:25 46:25 53:2 68:11 <b>Witt</b> 68:13, 14 74:25 75:16 75:20 80:21 82:3 <b>Wonderful</b> 40:1 <b>word</b> 45:18 <b>words</b> 18:11, 15 51:3 66:2 <b>work</b> 4:20 12:21 30:25 31:9, 12 43:9 43:21, 21 44:8, 11 45:5 45:6 53:18 72:11, 25 77:7 78:4 80:6 <b>worked</b> 79:24
<b>V</b>	<b>W</b>		
<b>v</b> 3:12, 14 <b>vague</b> 71:25 73:23 77:18 <b>valid</b> 50:13, 19 51:12 71:14 <b>various</b> 19:12 32:12 40:5 67:3 <b>vast</b> 30:7 <b>verifiable</b> 72:14 <b>versus</b> 43:25 44:10 46:20 50:4 73:6 78:13 <b>Vice</b> 46:17 47:3 53:10 68:13 75:16 80:21 <b>VIDEOGRAPHERS</b> 1:20 <b>view</b> 36:4 <b>viewed</b> 36:23 <b>Vincent</b> 53:7 <b>Vineland</b> 3:9 28:16 29:6 <b>violates</b> 70:16 <b>violation</b> 54:22 <b>virtue</b> 36:24 <b>Vitiello</b> 53:8 <b>voluntarily</b> 47:9, 19 <b>vote</b> 5:9, 10 7:21 57:2, 12 57:18 62:7 62:14 63:8, 9	<b>waiting</b> 20:17 <b>waive</b> 6:23 <b>waiver</b> 6:9 7:3 7:19 10:21 <b>waiving</b> 49:4 <b>Walker</b> 9:25, 25 <b>wall</b> 43:21 <b>Walt</b> 11:12 <b>WALTER</b> 2:13 <b>want</b> 4:12, 19 6:23 7:25 12:20, 22 13:8, 9 15:19 15:20, 22 18:11, 19 40:11 43:9 43:15 59:4, 9 59:17 66:25 67:9 69:4 77:20 81:14 <b>wanted</b> 5:3 8:21 23:15 47:24 49:12 56:11, 16 67:10 68:17 77:12 <b>wanting</b> 66:24 <b>wants</b> 66:16 <b>wasn't</b> 26:23 62:20		

<b>worker</b> 72:17 72:23 73:2 74:4 78:4,10 80:10,25 81:2	36:24 37:9 42:6,12 54:4 54:4 61:16 67:5 74:9,10 77:11	<b>134</b> 19:22 <b>14</b> 83:24 <b>145</b> 24:16,25 26:25 27:1 <b>145,000</b> 20:3 21:2 22:4 24:12 27:17	<b>250,000</b> 42:17 44:10 <b>2526</b> 12:25 <b>28</b> 3:9
<b>workers</b> 69:19 72:8,15 73:6 79:15,17	<b>year's</b> 21:20 21:21 58:20	<b>14th</b> 70:4 <b>150</b> 30:20 <b>16</b> 48:25 <b>17th</b> 63:3 <b>18</b> 3:8 <b>180,000</b> 42:13 <b>187,000</b> 45:4 <b>198</b> :1 62:21 63:7 <b>1977</b> 7:3 8:1 <b>1986</b> 43:12	<hr/> <b>3</b> <hr/> <b>30</b> 42:8 43:13 43:18 67:4 73:10 77:19 <b>33</b> 1:22 <b>34</b> 3:10 <b>35</b> 67:4
<b>working</b> 73:25 75:3 76:24 77:11	<b>years</b> 7:5 8:1 14:10,21 15:10,17 22:2 23:4 31:2 32:12 33:4 35:17 37:5 40:11 42:14 43:19 47:15 53:24 54:3 62:9 67:4 72:16 72:20 77:1,4 77:5,6,8	<b>183</b> 8 <b>180,000</b> 42:13 <b>187,000</b> 45:4 <b>198</b> :1 62:21 63:7 <b>1977</b> 7:3 8:1 <b>1986</b> 43:12	<hr/> <b>4</b> <hr/> <b>4</b> 3:4 <b>40A</b> 63:7 <b>40A:11-25</b> 69:9 <b>40A1478.5</b> 54:19 57:23 <b>40A2-7D</b> 10:22 <b>41</b> 3:11 <b>410</b> 1:22 <b>46</b> 3:12 19:17 <b>48:11-25</b> 70:8 <b>480</b> 42:14
<b>works</b> 10:1 59:10 65:14 69:18 71:15 74:1 76:22	<b>York</b> 39:12	<hr/> <b>2</b> <hr/> <b>2,000</b> 12:16 77:7,11 <b>2.4</b> 29:9 <b>2.5</b> 11:2,6 12:9,10 <b>2.6</b> 10:13 <b>20</b> 7:5 42:12 42:14 <b>200</b> 29:12,25 30:17 <b>2010</b> 7:6 <b>2013</b> 32:18 <b>2014</b> 12:8 <b>2016</b> 51:21 <b>2017</b> 16:8 20:2 47:10 48:24 56:13,18,19 59:25 60:11 61:9 70:4 <b>2018</b> 1:12 19:15 54:17 55:8 63:3 83:24,25 <b>21.2</b> 11:1 <b>2277</b> 1:22 <b>23</b> 56:20 83:25	<hr/> <b>5</b> <hr/> <b>5</b> 3:5 <b>50</b> 3:14 19:20 30:19 <b>50,000</b> 36:24 <b>500,000</b> 69:19 <b>52</b> 3:15 <b>55,000</b> 5:3 45:4 <b>5th</b> 59:24 60:11 61:9
<b>worth</b> 8:5	<b>Y</b>		<hr/> <b>6</b> <hr/> <b>6</b> 3:6 73:7 <b>6,250,980</b> 56:4 <b>6,310,957</b> 55:22 56:2 <b>60,000</b> 42:18 <b>600</b> 29:13 <b>609)989-9199</b>
<b>worthwhile</b> 13:2	<b>Y</b>		
<b>wouldn't</b> 77:25	<b>Y</b>		
<b>written</b> 50:17 52:10 55:24 70:11,22 71:24	<b>Y</b>		
<b>wrong</b> 59:19	<b>Y</b>		
<b>Wulstein</b> 6:14 6:14 7:2 8:8 8:11,14 9:20	<b>Y</b>		
<b>www.renzia...</b> 1:25	<b>Y</b>		
<hr/> <b>X</b> <hr/> <b>X</b> 3:1,22 <b>XI</b> 83:4	<hr/> <b>Z</b> <hr/> <b>0</b> <hr/> <b>02211</b> 83:4 <b>08625</b> 1:11 <b>08690</b> 1:23		
<hr/> <b>Y</b> <hr/> <b>Yang</b> 18:23 <b>Yeah</b> 32:8 44:7 <b>year</b> 8:15 9:19 14:6 15:15 15:25 17:3 19:14,15,16 19:22 20:7 22:2,9,18 23:5,11 25:7 25:16 26:14 31:8 33:21	<hr/> <b>1</b> <hr/> <b>1</b> 3:15 <b>1,825,000</b> 20:6 <b>1,970,000</b> 19:8 <b>1.3</b> 40:3 <b>10</b> 14:9 73:10 77:19,22 78:14 <b>100,000</b> 24:2 <b>101</b> 1:10 <b>11</b> 1:12 <b>11:17</b> 1:13 <b>12:57</b> 82:10 <b>12:60-6.3</b> 72:22		

1:24 68 3:16			
<hr/> <b>7</b> <hr/>			
75,000 49:7 750 22:2,19 24:17 25:8 27:1 750,000 20:24 21:23 23:11 24:10 25:11 27:16			
<hr/> <b>8</b> <hr/>			
800)368-7652 1:24 800,000 21:4 82 3:17 8th 54:17 55:11 63:19 64:25			
<hr/> <b>9</b> <hr/>			
9 3:7			