

BEFORE THE KANE COUNTY ZONING BOARD OF APPEALS

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3 In Re:

4 MAXXAM PARTNERS, LLC

5 Special Use request in the :

6 F Farming District for a :
:

7 private-pay alcoholism and :

8 substance abuse treatment :

8 substance abuse treatment : Petition No. 4364

9 facility, 41W400 Silver Glen :

10 Road, Section 19, Campton :

11 Township (08-19-400-004) and :
12

12 Section 34 Plate Township

13 (05-34-300-032 & 05-34-400-035) •

— 665 N.W. 151st St.

25 Pages: 1155 1672

24 Reported by: Faizan M. Qureshi, CSR, RMR

1 PUBLIC HEARING, held at the location of:

3 KANE COUNTY CIRCUIT COURT CLERK -

4 BRANCH COURT

5 530 South Randall Road

6 St. Charles, Illinois 60174

7 (630) 232-3495

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11 Before Paula M. Quetsch, a Certified Shorthand

12 Reporter, Registered Professional Reporter, and a

13 Notary Public in and for the State of Illinois.

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1 PRESENT:

2 ANN MICHALSEN, Vice Chairwoman

3 TRACY ARIS, Member

4 MARC FALK, Member

5 MARY LAKE, Member

6 WENDY MELGIN, Member

7 MARGUERITE MILLEN, Member

8

9 ON BEHALF OF THE APPLICANT MAXXAM PARTNERS, LLC:

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16 ON BEHALF OF THE KANE COUNTY BOARD:

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1 ON BEHALF OF OBJECTOR JOLINE ANDRZEJEWSKI:

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9 ON BEHALF OF FOX RIVER AND COUNTRYSIDE

10 FIRE RESCUE DISTRICT:

11 KENNETH SHEPRO, ESQUIRE

12 KENNETH SHEPRO, COUNSELOR AT LAW

13 33W542 Army Trail Road

14 Wayne, Illinois 60184

15 (630) 377-7372

16

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18 ALSO PRESENT:

19 MARK VAN KERKHOFF, Zoning Enforcing Officer

20 KEITH BERKHOUT, Secretary

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2 (Retained by the Board.)

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4 EXHIBITS ID EVD

5 Exhibit E Building Layout 1568 1593

6 Exhibit I Amendment to Application 1589 1591

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9 FIRE DISTRICT EXHIBITS ID EVD

10 Exhibit 4 Agreement Between Fox River 1536

11 Countryside and Kiva Real

12 Estate Investments

13 Exhibit 5 E-Mail 1542

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1 P R O C E E D I N G S

2 VICE CHAIRWOMAN MICHALSEN: If I can have
3 everyone's attention, we're going to go ahead and
4 call the meeting to order at -- I have 7:03 -- if
5 you all would join me in standing for the Pledge of
6 Allegiance.

7 (The Pledge of Allegiance was recited.)

8 VICE CHAIRWOMAN MICHALSEN: Mr. Secretary,
9 if we could have a roll call, please.

10 MR. BERKHOUT: Aris.

11 MEMBER ARIS: Here.

12 MR. BERKHOUT: Falk.

13 MEMBER FALK: Present.

14 MR. BERKHOUT: Lake.

15 MEMBER LAKE: Here.

16 MR. BERKHOUT: Melgin.

17 MEMBER MELGIN: Here.

18 MR. BERKHOUT: Michalsen.

19 VICE CHAIRWOMAN MICHALSEN: Here.

20 MR. BERKHOUT: Millen.

21 MEMBER MILLEN: Here.

22 VICE CHAIRWOMAN MICHALSEN: Thank you.

23 Good evening to the petitioner, representatives
24 of units of government, adjacent property owners,

1 and other interested parties. The public hearing
2 this evening is for Maxxam Partners, LLC, petition
3 No. 4364 for a Special Use in the F Farming District
4 for a Private Pay Alcoholism of Substance Abuse
5 Treatment Facility. It is a continuation of the
6 public hearing opened on Tuesday, January 10th, 2017.

7 We thank everyone who attended Tuesday
8 evening and apologize we were unable to get to public
9 comments during the three hours of the evening. We
10 hope to get to members of the public this evening.

11 Tonight's public hearing, as well as any
12 subsequent public hearings if needed, are to hear
13 new evidence pertaining to the petition, allow
14 questions of the petitioner regarding the new
15 evidence, and to receive public comment regarding
16 the new evidence. There is no need to repeat
17 submittal of evidence, testimony, or comments already
18 presented in previous hearings except to the extent
19 that they are directly relevant to new evidence
20 presented in these additional hearings.

21 Our first order of business was to check on
22 the compliance with the order to compel, and we do
23 have Mr. Steven Marco here, and we appreciate his
24 compliance with the Board's order.

1 The second order of business in regards to
2 the new evidence from the petitioner, that being a
3 letter dated December 5th, 2016, and the list of
4 conditions agreeable to the petitioner dated
5 November 9th, 2016. These two documents are posted
6 on the County website and included in the notices
7 for this public hearing.

8 The order for this evening's public hearing
9 will be as follows: Staff will review what PowerPoint
10 slides are available for reference. The hearing will
11 continue first with -- I would ask that -- we
12 originally were going to begin with the fire district
13 witnesses that Mr. Shepro has brought. I would ask
14 if the Board would be amenable to allow the first
15 testimony to be from Mr. Marco.

16 MR. SHEPRO: Yes. We would agree.

17 VICE CHAIRWOMAN MICHALSEN: And is that
18 acceptable to the Board? Any objections?

19 (No response.)

20 VICE CHAIRWOMAN MICHALSEN: Great. So first
21 we'll hear from Mr. Marco, and then we will hear
22 from the fire district witnesses that Mr. Shepro has
23 brought. The petitioner may recross, the objectors
24 may cross, units of government may cross, the public

1 may cross-examine the witnesses. Assuming we can
2 get through at least those three witnesses this
3 evening, we will open it up for public comment on
4 the conditions or any new evidence that should be
5 considered by the ZBA.

6 As a reminder, questions and public comments
7 must be limited to the topic of conditions and any
8 new evidence that is presented tonight. They may
9 include the petitioner's agreed conditions, conditions
10 previously stated by the petitioner during previous
11 hearings, and/or additional conditions that the
12 objector, units of government, or the public feel
13 are reasonable and appropriate for the ZBA and the
14 County Board to consider in conjunction with this
15 petition.

16 In the event that an additional meeting is
17 needed to complete testimony or allow comments by
18 the public, we will announce a specific date at the
19 end of this meeting for that additional hearing.

20 Thank you. I'd ask that we start with the
21 PowerPoint from staff at this time.

22 MR. VANKERKHOFF: Thank you. I'm just going
23 to quickly show so that everyone in attendance
24 tonight knows what slides are available in case you

1 want to refer to something in the course of questions
2 or testimony.

3 We have a couple of the aerials that we've
4 shown at other meetings, the 2-mile radius, the
5 half-mile radius, the aerial of the campus, and the
6 site plan from the petitioner. We also have the
7 nine conditions available to put up on the screen,
8 as well, for reference this evening.

9 Thank you.

10 VICE CHAIRWOMAN MICHALSEN: Thank you. At
11 this time we would call Mr. Steven Marco as a witness.
12 Thank you.

13 Is your mic on, Mr. Marco?

14 THE WITNESS: I believe so.

15 (Witness sworn.)

16 VICE CHAIRWOMAN MICHALSEN: At this time I
17 don't know if we'd like to start with the petitioner,
18 if you have any questions you'd like to ask your
19 client while he's here.

20 MR. KOLB: We do not.

21 VICE CHAIRWOMAN MICHALSEN: Thank you. Does
22 Mr. Kinnally have any questions?

23 MR. KINNALLY: I do, Madam Chairman. Thank
24 you very much.

1 STEVEN MARCO,

2 having been duly sworn, testified as follows:

3 EXAMINATION BY COUNSEL FOR THE COUNTY

4 BY MR. KINNALLY:

5 Q Mr. Marco, I'm glad you could be here
6 tonight. We appreciate your attendance. My name is
7 Pat Kinnally, and I'm the special assistant State's
8 Attorney. I've never had the pleasure of meeting
9 you and I welcome you.

10 Who is Mary Hollie?

11 A Who is Mary Hollie?

12 Q Yes.

13 A Mary Hollie?

14 Q H-o-l-l-i-e.

15 A You may be referring to someone unrelated to
16 our -- to Maxxam Partners and potentially unrelated
17 to the conditions, but Mary Hollie -- I believe you're
18 referring to the president for Glenwood School for
19 Boys.

20 Q She's the coapplicant in this particular
21 matter. Did you know that?

22 A The Glenwood School for Boys, I believe
23 Mary Hollie signed on their behalf.

24 Q Did you know that in your application submitted

1 to this Board that Mary Hollie on behalf of the
2 Glenwood not-for-profit corporation is a coapplicant?

3 MR. KOLB: Objection. The common practice
4 in zoning is to have the applicant apply. The
5 underlying property owner will sign an owner's
6 consent allowing the contract applicant to apply for
7 zoning entitlements. Obviously, the applicant doesn't
8 own the property yet, so Ms. Hollie's arrangement
9 with the -- involvement in this case is totally
10 irrelevant to the nine conditions that are listed
11 tonight.

12 So I would object to the question as
13 irrelevant.

14 MR. KINNALLY: With all due respect, I
15 appreciate that information, but the issue is new
16 evidence as well as conditions, and since Mr. Marco
17 was not here to testify on behalf of this
18 application previously, this is new evidence that
19 has never been presented to this Board.

20 MR. KOLB: I'd also like to renew my
21 objection -- I'd like the record to reflect that the
22 transcript of the proceedings before this Board
23 indicates -- specifically, I refer to page 753 of
24 public hearing, Volume V, Petition 4364 conducted on

1 January 26, 2016, wherein Chairman White indicated
2 that Mr. Marco was present to ask any members of the
3 Zoning Board of Appeals whether they wish to ask
4 Mr. Marco questions, and no questions were asked of
5 Mr. Marco.

6 So to the effect that he wasn't here
7 previously, I just want the record to reflect that
8 Mr. Marco was in attendance, was able to answer
9 questions, and that the scope of this particular
10 inquiry tonight should be limited to the conditions
11 and should not be Mr. Kinnally's efforts to revisit
12 other issues that have already been adjudicated
13 previously. We stand on our record.

14 MR. KINNALLY: Well, that's a nice speech,
15 and I appreciate that information, but the fact of
16 the matter is you didn't call your own witness in
17 your case before the Zoning Board of Appeals, called
18 other witnesses that particular evening. You were
19 here and you know that, and I believe your statement
20 is inaccurate.

21 MR. KOLB: We need a ruling.

22 VICE CHAIRWOMAN MICHALSEN: I'm trying to
23 get a word in edgewise.

24 I'm going to overrule your objection. I

1 know this Board has questions for Mr. Marco and is
2 interested to hear what other questions objectors,
3 or staff, or our State's Attorney representative
4 will have, or the public.

5 We do think it's relevant. He did not
6 testify. He may have been in the building, but I
7 believe at the time he was offered it was very late
8 in the evening and time had been run down. That's
9 why we're starting fresh with Mr. Marco so we don't
10 run into that problem again and we don't waste his
11 time hopefully coming back.

12 So I'm overruling your objection. I will
13 allow Mr. Kinnally to continue his line of questioning.

14 BY MR. KINNALLY:

15 Q Ms. Hollie is a coapplicant with Glenwood
16 School with respect to this zoning petition; true?

17 MR. KOLB: I'll just renew my objection to
18 this entire line of questioning as a standing
19 objection for the record.

20 VICE CHAIRWOMAN MICHALSEN: And I'll
21 overrule it. Thank you.

22 Q Is that true?

23 A Repeat the question, please.

24 Q Is Ms. Hollie and the Glenwood not-for-profit

1 corporation a coapplicant with Maxxam Partners, LLC,
2 on this particular zoning use zoning request? Yes
3 or no.

4 A The Glenwood Academy --

5 Q Yes or no, sir?

6 A Well, no because --

7 Q Okay. Thank you.

8 A -- Mary Hollie signed on behalf of the
9 school. So the applicant itself is the actual
10 entity that owns the property, and Mary Hollie is
11 acting president of that school, and that entity is
12 the one that authorized their participation on our
13 application.

14 Q So who owns the property?

15 A The Glenwood School for Boys.

16 Q Thank you. Okay. Now, Maxxam Partners, as
17 I understand it from your application, is a Delaware
18 limited liability company. Is that right?

19 A Yes, it is.

20 Q And the principals for that particular LLC
21 are you -- are you one of them?

22 A Yes, I am.

23 Q And who is the other one?

24 A Adam Glassberg.

1 Q Well, who is Elliott Messing?

2 A Elliott Messing was a consultant, an
3 operational consultant at the time when we originally
4 were working on our application and prior to any of
5 the hearings, and prior to the proper time period of
6 the proper notification we sent an amendment, I
7 think is where you're headed potentially, to make
8 sure that it was clear. And we sent a letter -- I'm
9 sure Andrew can refer to the exact date of it --
10 that we sent to Mark to clarify, to go above and
11 beyond what our application stated when we
12 originally put up the topic of principals, which
13 really didn't define any of those three individuals'
14 role in this process.

15 So we went out of our way before the
16 application really became active to clarify to Mark
17 who the principals were, that I was the only
18 managing director of the entity, and to clarify
19 Elliott Messing's role as purely an operational
20 consultant and to also communicate that he no longer
21 was related to the deal, again, prior to the
22 activation of the application.

23 Q Thank you for that --

24 A You're welcome.

1 Q Thank you for that information. Now --

2 A You're welcome.

3 Q -- prior to the application for special use

4 that I'm looking at says the applicant is Maxxam

5 Partners, LLC. Is that your recollection?

6 A I'm sorry. Repeat the question.

7 Q Okay. Is that your recollection that the

8 rider to your application for special use indicates

9 Maxxam Partners, LLC? Is that true?

10 A I fully don't understand the question.

11 Q Okay. Well, maybe I'm -- you submitted a

12 rider to the application for special use through

13 your lawyer, Mr. Kolb; isn't that true?

14 A That is true.

15 Q Where in that rider does it indicate that

16 Mr. Messing is no longer associated with Maxxam

17 Partners?

18 THE WITNESS: I can take this, Andrew.

19 A If you were to communicate with Mark next to

20 you, Mark received a letter and on the submittal

21 page and publicly recorded and accessible throughout

22 the entire process and, again, prior to the 15-day

23 notification I believe, unless I'm mistaken, that's

24 required to be notified and everyone to access,

1 there was an amendment and clarification that I'm
2 sure Mark has available, and I believe my lawyer
3 does, as well, could be accessed on the website that
4 again clarified who the principals were.

5 Elliott Messing was no longer involved and
6 not related to our entity and was prior an operational
7 consultant purely on a consultant basis and clarified,
8 again, who the principals were, who the owners were,
9 and that I was the only managing director of the
10 entity. And I believe off the top of my head it
11 could have been I think November 5th perhaps, Mark,
12 was potentially that letter. I'm just going off the
13 top of my head here.

14 Q So who is your partner if it's not Messing?

15 A As previously I think in one of your last
16 questions, Adam Glassberg is the only other principal.

17 Q What does he do for Maxxam?

18 A I have no comment. Adam Glassberg is one of
19 the owners and principals of Maxxam, LLC, that you
20 referred to.

21 Q Okay. Well, what does he bring to the table
22 with respect to this particular zoning application?

23 A I have no comment on that.

24 Q Well, what does he do for a living?

1 A I have no comment on that.

2 Q Where does he live?

3 A I have no comment on that.

4 Q Now, as I understand it --

5 A I have no comment because -- just if you
6 could help me to understand the relevance, I would
7 love --

8 Q I don't have to help you understand the
9 relevance.

10 A Okay. No comment.

11 Q If you don't want to answer the questions,
12 that's fine.

13 A I just would love to help in any way to
14 communicate to the Board here -- I appreciate
15 everyone's time -- to get a very comprehensive record,
16 and I'm here to communicate in any way I can to
17 really help this process.

18 Q Let me ask you a different question. We
19 appreciate all that help.

20 Now, it says here that your expert is in
21 real estate development. Is that right?

22 A I have no comment on my expertise.

23 Q You don't have any expertise?

24 A I said I had no comment on my expertise.

1 Q Well, do you have any experience in a substance
2 abuse residential facility?

3 A I have no comment.

4 Q Have you ever run one?

5 A I have no comment.

6 Q Well, let me ask you this since you don't
7 have any comment. In your application Mr. Messing
8 originally was indicated having extensive experience
9 in the health care industry. Would you agree
10 with that?

11 A As I mentioned and we mentioned in the letter
12 that is posted online, as an operational consultant --
13 he was brought in as a consultant for those
14 operations. And the reason he was an operational
15 consultant was because of his experience in these
16 types of facilities but not as a manager, as someone
17 that participated in different aspects. That,
18 again, is why we did not work with him while the
19 application was active in any way, and which is why
20 we clarified that so that it wouldn't cause confusion
21 when we got into the public hearing process and
22 wanted to make sure to mitigate any concerns of
23 anyone and wanted to make sure that everyone
24 understood who was actually the applicant.

1 Q So you would agree with me that Mr. Messing
2 did operate an 80-bed alcoholism and substance abuse
3 and detox facility in Florida in 2012?

4 A I would not agree and I would not comment on
5 Mr. Messing's experience since he is not a principal.
6 He is not an applicant. He was purely a consultant
7 prior to the activation of our application, again,
8 which is the reason that we sent a letter to
9 Mark VanKerkhoff prior to the appropriate notice,
10 which was prior to 15 days, to make sure that our
11 application when it was active and when it was the
12 application that we would stand by for the last few
13 years here, we wanted to make sure it was very clean
14 and clear who was the applicant and who was involved
15 going forward in this process, and who was the one
16 responsible for creating this record, and who was
17 the one providing information and that would be
18 hopefully a part of this community going forward.

19 Q Who is going to run the facility?

20 A I don't have a comment on that.

21 Q Do you know?

22 A I have no comment on that.

23 Q Do you know when it's going to be open?

24 A I do not have a comment on that.

1 Q I see. Okay. And do you know how many
2 employees there are going to be?

3 A I do not have a comment on that.

4 Q Okay. And do you know what kind of drugs
5 they're going to use there?

6 A I don't have a comment on that.

7 Q Have you ever talked to the fire protection
8 district?

9 A I think -- if you refer to minutes of the
10 record, and I think there were a few newspaper
11 articles of when I presented myself to the fire
12 protection district, yes.

13 Q So the answer is yes?

14 A Yes.

15 Q Who did you talk to?

16 A Who did I talk to?

17 Q Yeah, at the fire protection district.

18 A When you say who, are you also referring to --

19 Q I'm talking about a human being.

20 A When you refer to who, what I was going to
21 say is, are you also including Ken Shepro as a
22 representative and lawyer on behalf of the fire
23 district?

24 Q I'm just talking about anybody you talked

1 to, sir, whether it's Ken Shepro, Bob Handley,
2 the chief.

3 A Okay, perfect. I know that we've had
4 conversations with Ken Shepro in this room here,
5 both before and after meetings related to this
6 application and related to their participation and
7 their opposition to this application.

8 MR. SHEPRO: I don't know if it's my objection,
9 but I would move to strike that as nonresponsive to
10 the question. The answer was we have talked, and I
11 think the question was have you talked.

12 VICE CHAIRWOMAN MICHALSEN: Would you like
13 to clarify that, Mr. Marco? Have you personally
14 spoken to anyone at the fire protection district?

15 THE WITNESS: Spoken in what sense? I went
16 and presented. So yes, I actually presented to the
17 Board, I believe the Board or the council. This is
18 at the time when the fire chief resigned. I don't
19 remember everybody's name, but there was a board of
20 six or seven people, and I went in personally to go
21 and speak and to say to everyone I really wanted to
22 present something.

23 I was trying to take information that I had
24 received via e-mail from Ken Shepro related to Kiva,

1 who was an applicant for the Campton Hills -- via
2 the Campton Hills village, and through my lawyers
3 Ken Shepro had sent the previous deal that was made
4 over some sort of time period. I don't know the
5 details of how that was constructed. But what we
6 did was took what I received in that e-mail, a
7 version I had received via e-mail from Ken Shepro
8 and I agreed to it.

9 And I went back and I went and presented
10 this exact same document, and I presented it to the
11 board or whatever it's called -- excuse me; I'm not
12 sure, the council of the fire protection district --
13 and I said I would agree to this; I would agree to
14 exactly what it is that the Kiva group agreed to.

15 I'm not sure exactly but I would appreciate
16 anyone that went back to see the minutes of that
17 because it kind of -- they rejected that. Without
18 getting into some of the tone or the words that were
19 said, I would advise the Board to look into those
20 minutes.

21 So I presented what Ken Shepro had sent
22 through my lawyers and had agreed to that at the
23 time as something that I was willing to do, yes. So
24 I think, yes.

1 BY MR. KINNALLY:

2 Q Are you the managing member of Maxxam
3 Partners, LLC?

4 A If you refer, I think it's to the letter
5 dated November 5th in the same letter where we
6 clarified Elliott Messing's role as an operational
7 consultant and listed the principals as Adam Glassberg
8 and Steven Marco, we declared and asserted that I,
9 Steven Marco am the only managing partner of the
10 entity.

11 Q And can you tell the Board what interest
12 Maxxam has in the property that's going to be
13 operated as a substance abuse and alcohol treatment
14 facility if the Board approves it?

15 A What interest? What do you mean by that?
16 Interest in what sense?

17 Q Do you have some real estate interest? Do
18 you have a lease? Do you have a contract?

19 A Are you talking about equity and ownership
20 in the entity?

21 Q Well, let's start with this. Do you have a
22 contract to purchase it?

23 A Yes.

24 Q Do you have a lease?

1 A Are you asking for details of the contract,
2 the confidential contract that I have with Glenwood
3 School for Boys?

4 Q I didn't ask you for the terms, sir. I just
5 wanted to know whether you had a lease. Do you have
6 a lease?

7 A No.

8 Q So you have a contract to purchase it?

9 A Yes.

10 Q Now, are you going to abide by all the
11 conditions that were agreed to by your lawyers at
12 the prior hearings?

13 A I have no comment.

14 Q Well --

15 MR. KOLB: I'd like to object to that line
16 of questioning if I could.

17 Q Well, let me ask you specifically.

18 MR. KOLB: Can I make my objection for the
19 record?

20 VICE CHAIRWOMAN MICHALSEN: Yes. I'm sorry.
21 Overruled. If Mr. Kinnally would be more specific
22 about those.

23 MR. KINNALLY: I'm going to do that right
24 now, ma'am.

1 VICE CHAIRWOMAN MICHALSEN: Thank you.

2 Q Did you know that your lawyers agreed to
3 provide information as to what drugs would be used
4 at the facility, where they would be stored, and how
5 they would be safeguarded?

6 A No.

7 Q Do you agree to do that?

8 A Please repeat what you just said just so I
9 can know word for word what you just said.

10 Q Sure. Do you agree if this petition is
11 granted to provide information to the Board, this
12 Board as well as the County Board, as well as staff
13 as to what drugs would be used at the facility,
14 where they would be stored, and how they would be
15 safeguarded?

16 MR. KOLB: I'm going to object.

17 A I have no comment.

18 MR. KOLB: Exactly. The governance regarding
19 pharmaceuticals and narcotics that are kept on-site
20 is governed by the Illinois Administrative Code.
21 I'm not even sure the code would allow us to disclose
22 that information to County officials. It's
23 confidential as to what's in a facility.

24 Again, I renew what I had said originally in

1 this process is that the governance of a health care
2 facility like this is governed by State law, and we
3 need to be very careful about drawing those lines.
4 I don't think this line of questioning is relevant.

5 MR. SHEPRO: With all due respect to the
6 question, I guess I would question why that
7 representation was made by Mr. Kolb's cocounsel if
8 their position is that they were legally prohibited
9 from agreeing to it.

10 MR. KINNALLY: Well, I guess somebody smarter
11 than I will decide that.

12 Q Anyway, let me ask you another question,
13 Mr. Marco. Would you agree as the managing member
14 of Maxxam Partners to provide a staffing plan as to
15 all operations and security of the facility?

16 A No comment.

17 Q So you don't agree with that?

18 A I have no comment.

19 Q So this condition that your lawyers indicated
20 you would agree to you don't have a comment on? Is
21 that what you're telling this Board?

22 A I do not have a comment.

23 Q Now, do you agree, as your lawyers did at
24 the prior hearing, as a condition that you would

1 have a medical doctor on-site 40 hours per week at
2 this facility?

3 A I think to answer this --

4 THE WITNESS: Do I address the Board or
5 Pat directly?

6 MR. KINNALLY: Address the Board. They're
7 the ones you want to convince.

8 THE WITNESS: Wonderful. I'm here to answer
9 any questions.

10 (Murmurs from the audience.)

11 VICE CHAIRWOMAN MICHALSEN: Please, I would
12 ask that we remain quiet in the audience so the
13 court reporter can for sure hear all the answers,
14 and the Board would like to hear his answer.

15 Thank you.

16 A (Continuing.) Some of the things that Pat
17 has been mentioning as far as medical directors,
18 drug distribution, staffing plans, we did -- as I'm
19 sure you're all very, very aware by the 1500 pages
20 of transcripts, we brought some incredible people,
21 Laura Garcia, Trina Deidrich, other people with
22 impressive qualifications in the industry here on
23 all levels and on all sides that discussed Part 2060,
24 talked about the real depth of the licensure here.

1 So what Pat is referring to, and some of
2 these things are conditions that he's discussing,
3 all of them are encompassed within this licensure
4 process. So if you were to go into Part 2060, if
5 you were to refer to the testimony as it is in the
6 record, you will be able to see that within it we
7 discuss language, and you can look for language that
8 very clearly outlines every single detail possible
9 of how drugs are allowed to be distributed, what
10 drugs are allowed to be distributed, what type
11 doctors, directors, security plans, staffing plans.

12 This is all covered in 2060 for the purpose
13 of businesses and operations that are not of this
14 size to make sure that they operate with proper
15 policies and procedures. So they make sure to
16 detail as much as possible, and that's why there is
17 the Department of Alcoholism and Substance Abuse
18 within the Department of Human Services. There's a
19 whole department created and that Part 2060 to get
20 into every detail that neither I or I believe anyone
21 where we're all sitting here can really create
22 better details and create better protections than
23 already exist.

24 VICE CHAIRWOMAN MICHALSEN: If I could

1 briefly clarify for the witness, I think what we're
2 missing -- I have read the record. I spent a lot of
3 time reading that.

4 THE WITNESS: I'm sure. I appreciate that.

5 VICE CHAIRWOMAN MICHALSEN: You did bring in
6 witnesses many of whom when it came down to what
7 will be the operations of this facility said they
8 could not comment because they did not have direct
9 knowledge of it.

10 I know I speak for myself and possibly other
11 members of the Board that we're very happy to have
12 you here tonight because you are the missing link
13 between what the standards require and what this
14 facility is going to look like. And I for one am
15 excited to hear from the managing director's mouth
16 what their operations are going to look like to
17 reassure us that this facility will be
18 professionally run.

19 That's -- that's what I think you're here
20 for partly tonight, and that's why it doesn't help
21 that you had experts who in the end could only testify
22 to what the code said but could not testify as to
23 what Maxxam's operations would be.

24 I just wanted to clarify that so you

1 understand you create a lot of value here, and you're
2 here I think partly to provide reassurance that this
3 is going to be a well-run facility. So the more
4 information you give us, the more confidence we're
5 going to be able to have in your ability to run this
6 facility.

7 And I apologize for the lengthy clarification.

8 I'm going to turn it back over to Mr. Kinnally.

9 BY MR. KINNALLY:

10 Q Now, you seem to have some knowledge of
11 these regulations of 2060 with respect to the
12 medical director. Did you know that it was only
13 20 hours a week under those regulations for a
14 medical director at this kind of facility?

15 A I am not a doctor or an expert at Part 2060.

16 Q I know that. That's why I asked you, do you
17 agree with what your lawyers said at the hearing
18 previously that you would have a medical director
19 on-site at this facility for 40 hours per week?

20 A I have no comment.

21 Q You don't know, do you?

22 A Is that a question?

23 Q It sure is.

24 A I don't have a comment.

1 Q Okay. Now, did you know that your lawyer --
2 do you know what JCAHO is?

3 A Yes, I do.

4 Q Okay. And did you know that your lawyer has
5 agreed to provide staffing plans for the levels of
6 additional accreditation under JCAHO and CRF?

7 A I have no comment.

8 Q Were you here when they agreed to that?

9 A I have no recollection of exactly --

10 Q I see. Okay.

11 A -- what you're talking about. I don't have
12 a comment on that specific -- if you want to ask
13 another related question, again, I'm here to answer
14 as much as possible, and I appreciate that
15 clarification of the intent. I'm here to provide
16 any assurance possible that, again, this will be, in
17 my opinion, the best facility in the United States.

18 Q You've never run this kind of facility,
19 have you?

20 A I believe you asked me that earlier. So no,
21 I have not.

22 Q Now, did you know that your lawyers at the
23 prior hearing agreed as a condition to the issuance
24 of a special use if the ZBA saw so fit that they

1 would pay all the expenses of ambulance calls from
2 this facility that went unpaid?

3 MR. KOLB: I'd like to object to this line
4 of questioning, the characterization that lawyers
5 can agree to anything in the context of a special
6 use. As you know, in the zoning process it's the
7 Zoning Board of Appeals that proposes conditions with
8 respect to its recommendations to the actual County
9 Board. What takes place during the public hearings
10 are suggested conditions, things that we would offer
11 and negotiate. It is up to the official Zoning Board
12 in its recommendations to the County Board to set
13 forth conditions it recommends.

14 If you'll recall from the proceedings, the
15 prior Zoning Board never made a conditional
16 recommendation, and the County never adopted a
17 motion subject to conditions.

18 What Mr. Kinnally is doing by characterizing
19 what I said or what Mr. Brown said as an agreement
20 is completely misleading. It's impossible for us to
21 agree to something that wasn't proposed in a formal
22 motion. What we're doing is proposing conditions
23 that might make the process more organic. Those
24 conditions were never adopted by the Zoning Board,

1 and I object to any line of questioning that
2 indicates that a deal was somehow reached between the
3 applicant and the County that now is being reneged
4 on. It's completely inflammatory and inappropriate.

5 VICE CHAIRWOMAN MICHALSEN: I understand
6 your objection, and I'm going to overrule it.

7 Having read the record, it sure sounded like
8 agreements were made. I would like to know if he is
9 aware of those agreements and if he is interested in
10 agreeing to them at this time.

11 MR. KOLB: That's a different line of
12 questioning. If he's willing to agree to something
13 now is a very different question than, "Aren't you
14 aware you had already agreed to it in the past?" I
15 think it's misleading and inaccurate.

16 VICE CHAIRWOMAN MICHALSEN: I think
17 Mr. Kinnally was asking him if he was aware that his
18 lawyers had said repeatedly throughout the
19 transcripts that I read, "We'll provide that later;
20 we'll provide that later" to a laundry list of items.

21 MR. KOLB: I would have no objection to
22 those lines of questions.

23 VICE CHAIRWOMAN MICHALSEN: And he asked if
24 he knew his attorneys said that. He said no. And

1 he's asking I believe whether he would agree to that
2 now, not whether he feels bound by what his attorney
3 said before. Mr. Kinnally can correct me if I
4 understood that incorrectly.

5 MR. SHEPRO: May I also perhaps offer a
6 friendly suggestion that if what we're arguing about
7 is the semantics of as agreed as opposed to the
8 statement, I think the record clearly reflects that
9 statements were made by counsel, and it perhaps is
10 up to the Board to decide what interpretation to put
11 on that. But I think that the questions that were
12 posed in writing refer very specifically to pages in
13 the record where those statements were made by
14 counsel.

15 MR. KINNALLY: I would remind Madam Chairman
16 that Attorneys Brown and Kolb were sworn in with
17 respect to those statements previously, and they
18 were sworn as witnesses at the beginning of the
19 hearing, and I'll just stand by that.

20 BY MR. KINNALLY:

21 Q Now, did you -- were you aware, Mr. Marco, that
22 Maxxam Partners, LLC, agreed to set up a foundation
23 and funding through the Fox Valley Foundation for
24 outreach to the Kane County community in connection

1 with drug use and addiction issues?

2 THE WITNESS: I feel that I didn't get a
3 chance to answer the question about the condition as
4 he stated about guaranteeing the payments to the
5 fire department.

6 VICE CHAIRWOMAN MICHALSEN: I apologize. I
7 think you actually didn't get a chance to answer.

8 Q Fine, I'll be happy -- why don't you tell
9 them what your understanding of that is.

10 A Addressing the Board, that's something I
11 would love to agree to. I would love to make sure
12 that the community doesn't feel that any patient
13 that was treated here, that in the off and rare
14 chance in our opinion that something could ever take
15 place or would take place, would be more than happy
16 to guarantee and make sure that we're responsible
17 for those payments, and we'll be sure to collect or
18 however we need to deal with getting those
19 reimbursements.

20 Because I think that's something very
21 important to make the community feel comfortable to
22 know that this profit center and the schedule of
23 fees that's issued standardly by the fire department
24 that actually I know has recently changed to be

1 updated to increase the prices. We want to be sure
2 that they know they'll be able to collect those
3 payments so that ambulance billings -- can be sure
4 that they can count on any ambulance billings and
5 any profits that come from that.

6 Q Thank you. I'm sure the Board is welcome to
7 hear that.

8 Now, my next question is, do you agree as a
9 condition with respect to this special use application
10 that you will fund through the Fox Valley Foundation
11 an outreach program in the Kane County community in
12 connection with drug use and addiction issues?

13 A I have no comment on that question.

14 THE WITNESS: But to address the Board
15 because, again, the Chairwoman nicely clarified the
16 intention here tonight, and to make everyone feel
17 comfortable, as I'm sure you see, my intent here
18 with the condition that I came up with related to
19 Narcan, when I was reading so much since our last
20 denial -- since our denial here about all the
21 issues, the emergency funds that the Kane County
22 Sheriff's department is needed because they ran out
23 of Narcan, the record number of heroin overdoses
24 that Kane County's been seeing, just felt it was

1 very important.

2 And being very aware of the Federal grants
3 that have recently been issued to all the surrounding
4 counties, Chicago and Kane County actually didn't
5 receive any to go towards the purchasing of Narcan,
6 I felt it was something very important because
7 Narcan is used to stabilize anyone that overdoses on
8 heroin to help them to be able to be transferred to
9 get treatment. And it's something I believe that
10 all of the emergency services and emergency people
11 here in this county should have in their cars and in
12 their ambulances.

13 And I found it to be unfortunate that there
14 was a lack of that, that they needed to go in front
15 of the County Board in order to get the approval to
16 dip into the reserve funds in order to buy the next
17 two-year supply. So since we'll definitely be in
18 operation and will be familiar with sourcing such
19 Narcan, we felt that that would be something
20 responsible that we could contribute.

21 A (Continuing.) So I have no comment to an
22 outreach program you're talking about related to the
23 Fox Valley charities.

24 Q Well, are you going to set one up or not?

1 A No comment.

2 Q So most of these conditions you don't have
3 any comments on that your lawyers talked about when
4 we were here the last time; is that true?

5 A I'm sure if you're finished with the list.

6 I've been trying to answer and comment on --

7 Q I'm finished with my list --

8 A Okay. So then yes.

9 Q -- the first list. These are the ones that we
10 talked about the last time we were here nine meetings
11 ago, about a year ago. These are the conditions that
12 I thought your lawyers agreed to. You basically
13 don't have any comment on these; is that right?

14 A Is there a question? Could you please
15 repeat the question?

16 Q That's the question.

17 A Could you please repeat the question?

18 Q Do you have a comment with respect to these
19 conditions we just talked about that your lawyers
20 apparently agreed to at the last set of hearings?

21 Yes or no.

22 A I have no comment.

23 Q Okay. Now, let me ask you about these new
24 conditions. Were you aware that there were new

1 conditions that were proposed?

2 A Which new conditions? Proposed by you or
3 proposed by us?

4 Q We didn't propose any conditions. I didn't
5 propose any conditions.

6 A Okay. Which conditions are you speaking of?

7 Q The ones you proposed.

8 A Okay. The ones that we submitted?

9 Q Yes.

10 A Okay. Yes, I --

11 Q Do you have comments on those?

12 A (No response.)

13 Q You don't know? Okay. Let me ask you some
14 questions.

15 A Sure, I have a comment. I think they're great.

16 Q You agree that you will not propose any
17 expansion of this particular facility if it's
18 granted without coming back to the County Board or
19 the Zoning Board; is that right?

20 A I agree to all conditions that we submitted
21 on that list. Just to help you, everything that's
22 on that list that we submitted I'm fully aware of
23 and agree to fully, yes.

24 And if you want me to go back to any comments,

1 I'm happy to speak again of just I think the power
2 and just really the effect that making sure that
3 there's a supply of Narcan for this community can
4 help to, again, stabilize the issues here, which,
5 again, I'm -- it's so unfortunate to see that even
6 in these years as we've been going through this
7 process, to see the numbers doubling and really
8 getting aggressive here as far as the overdoses in
9 Kane County I was very surprised to see since our
10 denial really have become even more of a prevalent
11 issue both in the Chicago metropolitan area, in this
12 country, as well as Kane County.

13 Q Why have you proposed a condition on no
14 outpatient treatment of methadone patients at this
15 facility?

16 A Due to the concerns that were raised by
17 opposition and department heads.

18 Q Which department heads were those?

19 A To be specific, I couldn't be specific with
20 you on names and dates, but what I could say is we
21 introduced that because many different -- again,
22 there were many different opposing parties that came
23 up to us and constantly were saying that we're just
24 going to have drug addicts wandering into the

1 facility. There were a lot of comments and people
2 raising issues that we were going to be similar to,
3 again, a methadone clinic, which we are not.

4 So just to clarify, we have no interest here
5 in being a methadone clinic. And I'm not sure the
6 familiarity -- and, again, the record is very
7 comprehensive, and it was included, but I'm glad to
8 repeat it.

9 The issue with a methadone clinic from my
10 personal nondoctor perspective, just my
11 understanding as someone who is very familiar with
12 these types of operations on my own is that
13 methadone clinics -- and the value and beauty of
14 this facility is we provide a full continuum of
15 care, the best, most evidence-based curriculums that
16 exist to treat addictions.

17 Again, all of this is in my personal
18 opinion -- is that methadone clinics, what they do
19 is -- methadone clinics can only distribute
20 medication. They provide a medication like Suboxone
21 or methadone, and what they do is they give it to
22 people, and then they don't monitor them. So what
23 they can do is, it helps to stabilize them perhaps
24 for a moment, but then they're able to go back and

1 find drugs, and they're not actually being treated.
2 They're being treated in a very transitory way. So
3 they don't really get the treatment that they need
4 fully, so when they're reaching that next process,
5 whatever that medication directly helped them to
6 control, they're not able to really get that full
7 continuum of care that takes them through the
8 process and makes sure that they're able to lay a
9 solid foundation going forward in order to be a
10 great part of the community and cure these terrible
11 conditions related to diseases.

12 And that's, again, what we find this to be,
13 unlike many others. To us this is a disease similar
14 to cancer, similar to any other disease you're
15 familiar with, and is not a character flaw, not a
16 moral flailing and is something that needs to be
17 treated as such.

18 So if you were to have any serious disease,
19 you wouldn't want to just take one pill and walk out
20 of the hospital. You'd want to be monitored; you
21 would want to make sure you had all the care you
22 needed to rehabilitate yourself from whatever issue
23 you had that couldn't just be solved by medication.

24 Q Thank you.

1 A You're welcome.

2 Q Now, one of the conditions you propose here
3 is that this special use is only for Maxxam Partners,
4 LLC, and is not transferrable to any other entity.

5 Do you recall that?

6 A I recall -- I recall that condition. And I
7 recall the rationale for that condition was, again,
8 something that the opposing bodies and departmental
9 heads said was an incredibly important condition in
10 order to mitigate, again, further opposition.

11 Q Well, you've obtained special use permits
12 before, haven't you?

13 A No comment.

14 Q Okay. Do you know whether a special use
15 permit is transferrable freely?

16 A No comment.

17 Q You don't know?

18 A No comment.

19 Q So tell me why in Condition No. 9 you
20 indicate that Maxxam, LLC, or its successors shall
21 pay costs and recovery fees to the fire protection
22 district if this is not transferrable.

23 A No comment.

24 Q It's your condition; right?

1 A No comment.

2 Q Well, do you understand the condition?

3 A Yes. Of course, I understand it and as I

4 just --

5 Q What I want to find out --

6 A I was just --

7 Q Let me ask the questions. Okay?

8 A I was just asking --

9 Q Why don't you put that down.

10 VICE CHAIRWOMAN MICHALSEN: Excuse me,

11 gentlemen. The court reporter can only hear one

12 person at a time. If Mr. Kinnally could rephrase --

13 or reask his question and allow the witness a chance

14 to answer.

15 MR. KINNALLY: Let me try to do this because

16 I need a lot of help and I know Mr. Marco is going

17 to supply it to me.

18 MR. KOLB: Can Mr. Marco be treated with

19 respect?

20 MR. KINNALLY: I'm treating him with

21 respect.

22 MR. VANKERKHOFF: We spent considerable time

23 over the course of a year waiting for this hearing

24 to be rescheduled. Obviously, Mr. Kinnally's agenda

1 may be different than the Board's agenda, which is
2 to elicit credible testimony from Mr. Marco.

3 MR. KINNALLY: Well, I object to that. I'm
4 trying --

5 MR. KOLB: Well, I object to his objection.
6 I think we need to be respectful to Mr. Marco, let
7 him finish his responses, and ask him questions that
8 are relevant rather than trying to impeach him on
9 grammatical conditions which we proposed as a
10 gesture of goodwill which ultimately will be the
11 discretion of this Board to adopt as part of its
12 recommendations.

13 VICE CHAIRWOMAN MICHALSEN: I would just ask
14 at this time that we all remind ourselves that
15 everyone here needs to be respectful. That includes
16 all the parties, all the Board members, all the
17 witnesses, all the public, everybody.

18 There is a long history with this case and I
19 know there -- we know as this new Board that there
20 are a lot of hard feelings, and we didn't sit
21 through those nine hearings, but we're going to ask
22 everyone to -- we're going to start fresh; we're
23 going to all be respectful to each other; we're
24 going to all remain quiet so the court reporter can

1 make her record, and moving forward I just ask
2 everyone to be very respectful to each other.

3 MR. KOLB: Mr. Kinnally is a very talented
4 trial attorney. Hence, "no comment." And I
5 personally think that that's an appropriate response,
6 and we're being very careful with Mr. Kinnally
7 tonight. I just want to make sure that my client is
8 given the respect that he deserves to be here.

9 VICE CHAIRWOMAN MICHALSEN: I don't --

10 MR. VANKERKHOFF: He traveled nine hours to
11 be here for this.

12 VICE CHAIRWOMAN MICHALSEN: I would like to
13 just make it clear for the record I did not think
14 Mr. Kinnally was being disrespectful. I believe he
15 is frustrated. His answer most of the time is "No
16 comment."

17 MR. KOLB: Because he's being cross-examined
18 as opposed to just asked questions regarding the
19 petition, the tone, the manner.

20 MR. KINNALLY: Well, I object to that, ma'am.
21 I'll try to do it a different way so we can move on.

22 MR. SHEPRO: May I just also suggest that if
23 this were a court, and maybe even if it's just the
24 Zoning Board of Appeals, I would submit that the

1 answers of the witness border on, if not cross, into
2 contempt of this panel.

3 MR. KINNALLY: All right. Well, let me just --
4 I just have one final area with your permission.

5 VICE CHAIRWOMAN MICHALSEN: Please proceed.

6 THE WITNESS: Can I finish the last question?
7 I was in the middle of answering a question -- the
8 last question of Mr. Kinnally.

9 MR. KINNALLY: Sure.

10 THE WITNESS: Can I address the Board?

11 VICE CHAIRWOMAN MICHALSEN: Sure.

12 THE WITNESS: The last question that I was in
13 the middle of answering when it was getting changed,
14 the direction, it was asking about Condition 9, I
15 believe, which was related -- he was talking about
16 syntax related to successors and Maxxam. But point
17 of that minus successors and Maxxam as I was talking
18 to you was to make sure that you knew that Maxxam and
19 anyone else -- even though it's Maxxam, I mean,
20 we're not trying to do anything -- would guarantee
21 to make sure that these were paid.

22 So the point of the condition was to mitigate
23 any concerns of the community and to reassure the
24 community that if any services were required that we

1 as a business would be responsible to pay those
2 directly and to make sure that anyone that may be
3 disabled or had a disease that the community may be
4 concerned could afford or be able to pay those
5 scheduled fees, that we as a professional entity
6 would be willing to take on that responsibility.

7 That's the point of Condition 9 and nothing
8 else. And, again, I'm very glad to agree to such a
9 condition.

10 BY MR. KINNALLY:

11 Q So as I understand your testimony, you will
12 guarantee that. Maxxam Partners will guarantee
13 Condition No. 9; is that your testimony?

14 A The language that we have written in the
15 condition list and the intent that I am attempting
16 my best to communicate here to the Board tonight is
17 that we would embrace being responsible to any sort
18 of concerns or risks everyone feels may exist by any
19 of our patients that may incur or need services from
20 the County and any concerns they may have about their
21 state of being or their ability to pay those fees.

22 So we would embrace being responsible,
23 whatever the exact language is on that. That is my
24 intent is to be responsible for that.

1 VICE CHAIRWOMAN MICHALSEN: Just for point
2 of clarification, you keep saying all expenses
3 incurred by the County as a result of your clients.

4 THE WITNESS: No. I'm sorry --

5 VICE CHAIRWOMAN MICHALSEN: Did you want to
6 limit it?

7 THE WITNESS: To clarify, as we clarified in
8 the condition to be very specific, we would -- I
9 would be responsible for any equal fee as per the
10 scheduled issued fees as any citizen or anyone
11 within this county would pay.

12 So I'm willing to be responsible for the
13 very clear schedule of payments which was recently
14 amended to increase and to be comparable or higher
15 than surrounding fire departments and to make sure
16 that any of the fees and anything that any citizen
17 here equal to anyone else, any patient that we have.

18 All that we add is any concern that someone
19 with that disease or in our state of being that
20 someone is concerned, which is the only understanding
21 that I have for such a condition is that unlike
22 every other citizen where there's not a business
23 guaranteeing that payment, any way that anyone else
24 in this community would be charged, I'm willing to

1 take on that responsibility due to the concerns,
2 again, of the physical state of the patients in such
3 a facility.

4 So I just want to take away that concern. I
5 will not agree to going above and beyond anything
6 that is not the same treatment and the same cost
7 that any other citizen would pay.

8 VICE CHAIRWOMAN MICHALSEN: Thank you.

9 THE WITNESS: You're welcome.

10 MR. KINNALLY: Thank you, Madam Chairman. I
11 have no further questions.

12 MR. KOLB: Redirect?

13 VICE CHAIRWOMAN MICHALSEN: Yes.

14 MR. KOLB: Briefly.

15 EXAMINATION BY COUNSEL FOR THE PETITIONER
16 BY MR. KOLB:

17 Q Steven, you have a extensive experience in
18 hospitality and commercial real estate? You're not
19 obligated to but do you wish to share any of that
20 with this Board?

21 A I have no comment. No, I don't have
22 anything to say on that.

23 Q Your partner, Adam Glassberg, do you wish to
24 share any of his experience in commercial real estate?

1 A I do not.

2 MR. KOLB: That's it.

3 VICE CHAIRWOMAN MICHALSEN: Does staff have
4 any questions at this time?

5 MR. VANKERKHOFF: Yes, we do, if that's okay
6 with the Board.

7 VICE CHAIRWOMAN MICHALSEN: Yes.

8 MR. VANKERKHOFF: And these are going to be
9 limited to the conditions.

10 EXAMINATION BY THE ZONING ENFORCEMENT OFFICER
11 BY MR. VANKERKHOFF:

12 Q Mr. Marco, thank you for being here tonight.
13 I appreciate that, as does everyone in the room.

14 At our hearing on Tuesday evening with
15 conditions, I made some initial staff comments
16 regarding the conditions that your attorneys
17 provided. Did you have a chance to review those
18 with Mr. Kolb?

19 A I did not have a chance to review them with
20 Mr. Kolb, but on the plane today I did review them.

21 Q Okay. So you're aware most of my comments,
22 a number of them had to do with enforceability?

23 A Yes.

24 Q As the County's zoning enforcing officer,

1 I'll be the one charged with --

2 A I understand.

3 Q -- following up on these items.

4 First question, with regards to the outpatient,
5 No. 3 that there be no outpatient treatment, are you
6 personally aware how that would legally be enforceable
7 by the County?

8 A I am not, Mark. And to comment on it, many
9 of these conditions, Board, were created out of very
10 large concerns that we dealt with prior. So I'm
11 sure as you read in the record, many of these
12 concerns we don't have, and these conditions, many
13 of these conditions -- many of them are not
14 necessary to me. But, again, in order to reassure
15 the community and make them feel comfortable, any
16 way to create something that would mitigate that
17 concern along that line, even though that limits
18 potentially the business -- because I'm here to try
19 and assure you that we're trying to offer full
20 continuum of care and attempt to explain to you why
21 methadone and outpatient-only distribution of
22 medication kind of doesn't provide that type of
23 security to both the patients and doesn't really
24 parallel the point of the facility and what we're

1 trying to do here.

2 So many of these -- not many but some of
3 these conditions that I'm sure Mark will continue to
4 talk about, I'll continue to comment. But that one
5 specifically, the enforceability I'm not aware of.

6 It was just to address a huge concern that kept
7 being raised, "You guys are going to be a methadone
8 clinic; you're just going to distribute drugs; drug
9 addicts are going to be wandering around grabbing
10 drugs." So a lot of these are direct responses to
11 that. I'm saying that's not our intent. So if
12 you'd like to write some language to make sure
13 everyone in the community feels safe, that's the
14 intent -- as you clarified, Chairwoman, that's the
15 intent behind this is to assure the community that
16 this will be a great facility.

17 THE WITNESS: Thank you.

18 Q And I appreciate that. So from there maybe
19 I'll go to Condition No. 6 in terms of the transfer
20 of reality issue that Mr. Kinnally brought up.

21 In my experience as a zoning official,
22 unfortunately or fortunately, I've been at it long
23 enough that properties often transfer, and we're
24 dealing with applying conditions imposed on a

1 special use to a new property owner or new business.
2 So this is a key condition in my mind as zoning
3 officer if this is an enforceable condition. I'm
4 seeking counsel from our State's Attorney.

5 Are you aware of on what basis that would be
6 an enforceable condition for the County?

7 A I'm not aware of the enforceability, again,
8 Chairwoman and Board. That came out of many of the
9 opposition and the public saying, "Well, if we give
10 them the -- if we give Maxxam the approvals, they're
11 just going to go sell it to some terrible operator
12 that collects Medicaid and doesn't know what they're
13 doing, so we have to protect the community by making
14 it only for Maxxam."

15 So this, again, something that limits our
16 business, we created to say our intent is not to do
17 anything with the business except to create one of
18 the best facilities in the country.

19 So it was another condition created off of
20 the opposition in order, again, to go along with the
21 intent, as the Chairwoman said, to be here without
22 me even being here as something attached to the
23 permit in order to ensure the community that our
24 intent is not to sell this to some horrible operator

1 who offers cheap care and could hurt the community.
2 Because we want to add to the community; we want to
3 create value. The last thing we want to do is harm
4 the community in any way.

5 VICE CHAIRWOMAN MICHALSEN: Well, I know
6 that -- Mr. VanKerkhoff was I believe asking you
7 about enforceability, not the reasoning behind it.

8 Just as a -- I believe that the conditions
9 themselves raise the question how viable is
10 Condition No. 6 when you have language in No. 9
11 about successors. If you're not going to transfer
12 the business, then you by definition couldn't have
13 successors.

14 THE WITNESS: You definitely could delete
15 the word successors. I have no issue with
16 successors is why I keep bringing it up.

17 VICE CHAIRWOMAN MICHALSEN: I just want you
18 to understand that's where some of the confusion is
19 coming from. If you say there's nobody else to
20 worry about and then three items later say or the
21 people we sell it to, I don't know which one you mean.

22 THE WITNESS: I think something actually
23 interesting to address that is there's been a
24 mixture of working documents throughout the last

1 year or so. And so language has been mixed around
2 in some of the condition lists.

3 Would you say that's correct, Andrew?

4 And so there's been working documents. So,
5 again, successors and this language, these have all
6 been to address exactly what opposition was saying,
7 "We don't want this; we do want that."

8 But, actually, something that -- you bring
9 up a great point. That's a great point to bring up.

10 I think it was two different ways. One is the
11 direct opposition that we were reacting to saying
12 we're not going to give it to someone that's going
13 to turn it into a prison, and then at the same
14 time -- so that was the intent of that one condition.

15 And then the intent of the one related to the fire
16 department, which is perhaps why the word successors
17 got in there, was to make sure that said, "You know
18 what? At some day or at any point in time, it's
19 going to go back onto these patients that are
20 disabled and injured that maybe will not be able to
21 pay these fees or there's a concern they will not be
22 able to."

23 So that language again served no purpose
24 whatsoever but to address the concern of why, again,

1 these conditions that are inhibiting us really are
2 just to reassure the community that we're here to do
3 something positive.

4 So the intent, again, of that No. 9 with the
5 worked successors is to say no matter what, this
6 business will always protect the community's services,
7 and those fees that everyone else has to pay, we
8 will be responsible for them and want to make sure
9 that the business as it stands will always be
10 responsible for it.

11 I hope that helps to clarify it.

12 VICE CHAIRWOMAN MICHALSEN: I'm afraid that
13 I heard two different answers, so it didn't help to
14 clarify -- maybe three.

15 The first answer was there are lots of
16 working documents, and we believe you when you say
17 there's lots of documents --

18 THE WITNESS: Yes.

19 VICE CHAIRWOMAN MICHALSEN: -- pertaining to
20 this petition, and I'm sure there's drafts of
21 50 million documents on everybody's computers right
22 now, anybody who has been at this table for the
23 history of this.

24 So one explanation was a bunch of working

1 documents, and maybe it was a mistake, or it was a
2 typo, or it was a grander promise of good faith.
3 But a grander promise of good faith is not the same
4 thing as, "It was a working document, and we didn't
5 check it carefully which one we printed out." And
6 you offered to strike it, but then you wanted to
7 leave it in there as a grander promise.

8 So maybe it's just me. I would like
9 clarification. Should we strike the word "and its
10 successors" -- or strike that phrase, or does this
11 put the Zoning Board on notice that there are
12 potential successors down the line and we need to
13 consider that as we consider this petition?

14 THE WITNESS: Okay. So, sorry. There was a
15 lot there.

16 As far as mistake -- as far as the list we
17 submitted, there is no mistake. So there has been
18 no mistake. What we submitted has been read many,
19 many times, was vetted by us, was vetted very, very
20 thoroughly and was thought about very, very
21 thoroughly, and there's no mistake there, no
22 mistake made.

23 VICE CHAIRWOMAN MICHALSEN: So we can move
24 off of this issue --

1 THE WITNESS: Yes.

2 VICE CHAIRWOMAN MICHALSEN: -- you intended
3 to say successors; you're standing by successors; we
4 should leave successors in there as we consider this
5 petition?

6 THE WITNESS: We did not make a mistake. If
7 the Board feels that there's an issue with the word
8 successors, the intent was not create an issue by
9 that condition. The intent was only to provide
10 assurance that this would be a business that in no
11 way would have, again, disabled individuals that may
12 not be able to pay these fees and to make sure that
13 no one was worried about that.

14 That's the intent behind it. There was no
15 mistake to the condition. I do not need to strike
16 it, but if the Board would like me to strike, I'm
17 glad to strike that word because -- I'm glad to
18 strike that word if that's something you would like
19 me to do.

20 VICE CHAIRWOMAN MICHALSEN: Well, I'm not
21 going to speak for my fellow --

22 MEMBER ARIS: I have a --

23 VICE CHAIRWOMAN MICHALSEN: Member Aris,
24 please.

1 MEMBER ARIS: From my perspective, if you
2 feel that the word successors is important, and it
3 wasn't a mistake, and that's your position, then
4 state it and that's fine.

5 If you're saying that -- if the Board is
6 saying that the Board needs to realize that that is
7 a potential business condition somewhere down the
8 line, then just say, "This could be a potential
9 business condition that you can't, you know, gaze
10 into the Crystal ball." But that -- for me, if I
11 see the word and it wasn't a mistake, I'm going to
12 consider that because that was the -- that was your
13 intent, and I'm not going to second guess you.

14 So tell me it's one thing or the other, but
15 don't try to make it both for everybody. Because I
16 look at it and I'm like, there's something wrong.
17 Because we want to have an answer that fits everybody's
18 definition. There's one condition, the word stays
19 in or the word stays out.

20 THE WITNESS: The word stays in. I stand by
21 the condition list as we submitted.

22 MEMBER ARIS: Great. Thank you.

23 THE WITNESS: You're welcome.

24 VICE CHAIRWOMAN MICHALSEN: Member Melgin.

1 MEMBER MELGIN: Usually, when conditions are
2 put on permits, they're written by the agency that
3 issues the permit, and this might be part of the
4 issue here; you're not used to writing conditions.

5 Conditions on permits are meant to be if you
6 follow these special conditions, the permit will be
7 granted. But, also, those conditions are
8 enforceable, and you monitor them, and you are able
9 to tell if they're complied with. If they're not
10 complied with, then the permit can be revoked, or
11 other corrective actions are taken.

12 So I think part of the problem here is that
13 some of these really aren't enforceable conditions
14 because they're not written by the entity that would
15 issue the permit.

16 MR. KINNALLY: At the end of the day with
17 respect to the conditions, if the conditions are
18 imposed -- you can recommend conditions. These
19 conditions were recommended by the petitioner, and
20 at the end of the day the County Board can accept
21 your recommendations, or petitioner's recommendations,
22 or they can create their own conditions and
23 guarantees.

24 VICE CHAIRWOMAN MICHALSEN: Mr. VanKerkhoff.

1 MR. VANKERKHOFF: Just answering
2 Member Melgin's question, staff normally helps
3 recommend conditions to the ZBA or the ZBA creates
4 them, which isn't the case tonight. It's a little
5 bit unusual. We usually looking at only doing
6 conditions that are legally enforceable by the
7 County Board. So that would be our starting point.
8 At this point it's a little unusual we have conditions
9 being proposed by the petitioner, which is why we
10 have questions as to the enforceability of that.

11 BY MR. VANKERKHOFF:

12 Q I'll try not to take up any more time, but
13 my main question to the petitioner is, Mr. Marco, if
14 you have personal knowledge of the enforceability of
15 the conditions being proposed.

16 A I do not.

17 Q Did you have any discussions with your
18 attorneys in crafting them from the perspective of
19 enforceability?

20 A I have no comment on the internal discussions
21 with me and my lawyers.

22 Q Okay. Then since -- help me to understand.
23 No. 6 is sort of the kingpin, and the others would
24 be maybe less of a concern based on your personal

1 testimony for no outpatient, the accreditation, some
2 of the other things that were on my list of items
3 that I'm concerned about their enforceability. But
4 if No. 6 is not enforceable, then it could go to any
5 other entity, the special use be transferred to the
6 property, purchased, operations transferred to any
7 other entity. And then I have more of a concern
8 since part of the special use is that if this is
9 similar to a hospital, it will generally have
10 outpatient facilities as well as inpatient facilities,
11 those types of things.

12 So maybe help me to understand. With how an
13 LLC operates, if ownership of the LLC is in
14 perpetuity, and you're the managing principal right
15 now, the condition would allow other managing
16 principals to take your place or someone else to
17 have control over the LLC, not necessarily yourself;
18 is that correct?

19 A To the enforceability issue that you're
20 speaking to as to No. 6, I have no comment on the
21 enforceability. But what I have a comment on on
22 No. 6 is that I wanted to again reiterate to the
23 Board, that was created -- all the very aggressive
24 opposition we had as far as, "You're going to sell

1 this to someone that doesn't know what they're
2 doing; you're going to sell it to someone that's
3 going to take in very poor people; you're going to
4 sell this to terrible people."

5 So they were telling me that my intent was
6 to transfer this permit to someone that was going to
7 do a poor job or endanger the community, and that's
8 not my intent, and that's why No. 6 exists. So I
9 have no further comment except for the intent of why
10 that condition exists.

11 VICE CHAIRWOMAN MICHALSEN: For clarification,
12 I don't believe you answered Mr. VanKerkhoff's
13 question, which was not whether you were going to
14 transfer it to another party but whether you were
15 limiting your LLC documents to transfer owners
16 within that same LLC.

17 Am I getting that correctly, Mr. VanKerkhoff?

18 MR. VANKERKHOFF: Yes. And I'm out of my
19 area of expertise, so my apologies.

20 Q I'm just trying to understand, in enforcing
21 that provision, does that mean -- not transfer it to
22 any other entity other than the LLC, how does that
23 work in terms of, can other entities gain control of
24 the LLC as a way of having ownership?

1 A I have no further comment on No. 6.

2 MR. VANKERKHOFF: Okay. Like I said, I'm
3 out of my area of expertise, but just for the
4 record, I do appreciate you coming in, and I wanted
5 to find out to what degree you're aware of the
6 enforceability of those provisions both for yourself
7 and if No. 6 were not the whole enforceability of
8 those provisions on subsequent owners or successors.

9 MR. KOLB: I'd like the record to reflect
10 that what Mr. VanKerkhoff is referring to is call
11 the change of control provision that you usually
12 find in an LLC operating agreement. That agreement
13 is subject to confidentiality. Hence, we can't get
14 into a discussion on our fundamental operational
15 documents in this forum.

16 Also, with respect to successor in Condition
17 No. 9, there is a scenario where another entity
18 could apply for its own special use permit down the
19 road in the future, be granted that special use
20 permit subject to a whole bunch of new conditions
21 that some future Zoning Board might impose and then
22 somehow become a successor that way.

23 So I think the general intention was not to
24 trip up the applicant on the use of the word

1 successor but to just provide extra assurance for
2 this board that these fees would be paid even if a
3 subsequent applicant filed for its own application.

4 So in that hypothetical I think the language
5 makes sense, so I just wanted to make those few
6 points of clarification.

7 VICE CHAIRWOMAN MICHALSEN: Thank you.

8 Mr. VanKerkhoff.

9 MR. VANKERKHOFF: And then I just have one
10 final question for Mr. Marco.

11 Q As your attorney restated, conditions are
12 actually drafted and put on a special use permit by
13 the Zoning Board and their recommendation and
14 subsequently by the County Board. Mr. Kinnally had
15 asked questions to the conditions that you -- your
16 attorney submitted. I guess my question is, are you
17 willing to work on semantics and changes to the
18 conditions with us to help improve the enforceability
19 of those items? In other words, rather than just as
20 these are the conditions that --

21 A I'm not sure exactly. I mean, again, I'm
22 here -- as the Chairwoman started with a clarification,
23 I'm here to do what I can to assure the community
24 that this is going to be a spectacular project that's

1 going to be a great success. We spent a lot of time
2 to make sure that after we understood -- after all
3 these years and time and the years before of all the
4 concerns of this community here, we created something
5 that we hoped addressed it. Like the board woman
6 here discussed --

7 VICE CHAIRWOMAN MICHALSEN: Ms. Melgin.

8 THE WITNESS: -- Ms. Melgin has said quite
9 eloquently, it's not typical for us to come up with
10 these. So what we did is we took the concerns and
11 knew that these issues needed to be addressed. We
12 took into consideration all of these concerns, all
13 of this opposition, everything that everyone was
14 concerned about and said what can we do to, again,
15 assure this community that it's not our intent to do
16 anything but have a positive impact.

17 So that's what we did. Again, as Ms. Melgin
18 said, this is not -- we know it's more up to the
19 government than us. We're just trying -- we stand
20 by the condition list as it stands. I have no
21 comment to Mr. VanKerkhoff about us working out
22 semantics. I stand by the condition list as
23 submitted.

24 MEMBER MELGIN: But I think he's asking,

1 would you be willing or have your attorney willing
2 to work with us on developing actual enforceable
3 conditions? They have to be enforceable to determine
4 if you're in violation of the special conditions of
5 your permit. So, you know, working together to get
6 actual conditions that everybody can agree to and
7 are enforceable would be a very good way to have a
8 sensible permit.

9 THE WITNESS: I would be more than willing
10 to -- with all the intent that came from this
11 condition list, the intent stands. I'd be willing
12 to do whatever necessary to make sure that that
13 intent is actually active.

14 So the intent behind all of this to protect
15 the community, again, from things that we don't feel
16 protection is needed. Where, again, all of these
17 actions here, this condition list is to go above and
18 beyond what we feel is necessary to address issues
19 that have been very aggressive throughout this
20 process.

21 So we wanted to make sure that we said we
22 are listening to you, and we want to do whatever we
23 can to reassure the community that this is going to
24 be great because we know it is.

1 VICE CHAIRWOMAN MICHALSEN: So I understand
2 your testimony correctly, is it fair to say, then,
3 that this list of conditions is a starting point for
4 discussions, and if we need to tighten things down
5 for enforceability or clarity that this is something
6 that you and your legal team will work with our
7 legal team on as we move through this process?

8 THE WITNESS: I'm a bit confused -- Andrew,
9 I don't know.

10 I'm a bit confused, Chairwoman, because it's
11 just kind of a general comment. Again, we are not --
12 to my understanding, to this advisory Board, the
13 development committee, and the County Board, we stand
14 by this list as it stands. And if the County, if
15 anyone else -- any development body wanted to come
16 speak to us further, then everything we've heard
17 from the ZBA, prior development bodies, opposition,
18 if anyone wanted to come speak to us -- we stand by
19 and think we did a great job of crafting conditions.
20 If there's further recommendations and things
21 everyone wants to discuss, of course we'll discuss.

22 It's difficult that general kind of -- I've
23 never before or am aware of kind of this -- I'm
24 just -- we're trying to do our best here, again, to

1 reassure the community that this is going to be great.

2 VICE CHAIRWOMAN MICHALSEN: Sure. I do
3 believe you answered the question that you'll discuss.

4 So thank you for that --

5 THE WITNESS: Of course. That's why we're
6 here. We're --

7 VICE CHAIRWOMAN MICHALSEN: -- clarification.

8 THE WITNESS: We're very glad to --

9 Mr. VanKerkhoff.

10 MR. VANKERKHOFF: My apologies. I did not
11 mean to confuse the issue by suggesting that conditions
12 were negotiable. I was merely trying to ascertain
13 Mr. Marco's knowledge and level of legal enforceability
14 of the conditions that they were proposing, and I
15 think he answered that. So I'm done.

16 THE WITNESS: I think one last thing, if I
17 could say, Ms. Chairwoman.

18 VICE CHAIRWOMAN MICHALSEN: Certainly.

19 THE WITNESS: It's just that what I can say --
20 and I think this is why it was difficult for me to
21 answer that question because of the time we spent on
22 the condition list -- is we stand by that condition
23 list. And I can tell you, and the Board, and the
24 community that we would stand by the condition list

1 as it sits.

2 As far as the enforceability, as far as the
3 language, as far as semantics, I can't answer that
4 directly right now, but what I can say is we crafted
5 conditions we feel help to mitigate concerns, and I
6 can stand by them the way that they sit right now.

7 As far as further language, I cannot comment at
8 this time.

9 VICE CHAIRWOMAN MICHALSEN: Okay. Thank
10 you. I believe we have a question from Member Lake.

11 MEMBER LAKE: Yes.

12 Mr. Marco, I just want to give -- I'm going
13 to give you my opinion. How great is that?

14 The reason that we're hashing all of these
15 deals out -- or this verbiage out is because of the
16 concerns that you've heard through all of the
17 previous meeting minutes. The special use is only
18 for Maxxam Partners, LLC, that would make people
19 feel better if it perhaps ended, "As owned by
20 Steven Marco and Andrew Glassberg." That would
21 possibly -- okay, thank you. I'm just saying if it
22 were a little more fine-tuned than just LLC because
23 of transfers.

24 I'm curious how you can guarantee future

1 successors to pay costs in recovery. You don't even
2 know who they may be or anything. The only thing
3 that we're trying to do is we're trying to --

4 MEMBER FALK: Accountability.

5 MEMBER LAKE: -- make sure that we -- yes,
6 accountability in all measures and that if transfer
7 does happen that, you know, we have the opportunity
8 to make sure that it's still a proper special use.
9 That's all we're trying to do.

10 THE WITNESS: I understand. Is there --
11 sorry. I heard what you said. Did you want me to
12 answer something? I apologize.

13 MEMBER LAKE: No. I just wanted to make sure
14 that in addition to everything that our chairperson
15 has said quite well --

16 THE WITNESS: I appreciate that.

17 MEMBER LAKE: -- that we just give further
18 clarity on what we're trying to accomplish.

19 THE WITNESS: Thank you. I appreciate that.
20 And beyond what we submitted and have already admitted
21 we're willing to discuss. All I can do is agree
22 right now to the exact language in the conditions
23 that have been submitted.

24 VICE CHAIRWOMAN MICHALSEN: Thank you.

1 I think at this time, since we have been I
2 believe talking to Mr. Marco for about an hour, we
3 will take a brief recess until 8:30 and continue
4 with the witness at that time.

5 So please come back, Mr. Marco. We appreciate
6 your cooperation here so far and your cooperation
7 after the break, and we'll see everyone at 8:30.

8 Thank you.

9 (Recess taken, 8:20 p.m. to 8:33 p.m.)

10 VICE CHAIRWOMAN MICHALSEN: Just to bring
11 everyone up to speed who may be just joining us at
12 this juncture, Mr. Marco has been very kind to be in
13 that hot seat for a while now answering questions
14 from both State's Attorney Pat Kinnally and staff,
15 as well as some follow-up questions from the Board.

16 Mr. Kolb has informed me that he has
17 requested two minutes of time to add some additional
18 testimony, and then we will move on to Mr. Carrara
19 with an opportunity to cross-examine him or
20 Mr. Shepro. Whichever one of you wants to go first,
21 you'll be the two next in line, but I will give
22 Mr. Kolb two minutes.

23 Thank you.

24 MR. KOLB: I'll move quickly.

1 EXAMINATION BY COUNSEL FOR THE PETITIONER

2 BY MR. KOLB:

3 Q With respect to Condition No. 6, there was a
4 lot of concern. That's the condition that the
5 special use is not transferrable by Maxxam Partners.
6 Mr. VanKerkhoff was concerned that Maxxam Partners
7 itself could change control; so, essentially, it
8 could transfer without necessarily transferring the
9 permit itself.

10 Are you willing to add additional language to
11 Condition No. 6 obligate anything with respect to
12 your personal involvement?

13 A Yes. After discussing it with Andrew and
14 hearing what -- I apologize -- the Board member to
15 the left.

16 VICE CHAIRWOMAN MICHALSEN: Member Lake.

17 A (Continuing.) Member Lake. After speaking
18 with Andrew and again thinking about this --
19 because, again, as you were mentioning before,
20 Chairwoman, the attempt at discussion and hearing
21 what everyone has to say and hearing everyone
22 tonight, it was, as you say, it's important for me
23 to be here and talk. So as far as that specific
24 condition, I would be willing to -- as Ms. Lake was

1 speaking about before, to agree that I will always
2 be a manager of that entity, to put my name and to
3 say I'll always be a manager of Maxxam while I'm
4 alive --

5 Q Perpetually?

6 A -- to hopefully, again, mitigate the concern
7 you had, Ms. Lake.

8 Q Okay. And with respect to Condition No. 9,
9 the words "or its successors," any objection to just
10 removing those words entirely from that condition if
11 that's what the Board so desires?

12 THE WITNESS: Again, just so I know
13 everyone's name at the end.

14 VICE CHAIRWOMAN MICHALSEN: Member Aris.

15 A Member Aris, as you were talking about a bit
16 of confusion related to that language, and my
17 desire -- and after speaking with Andrew and again
18 coming to understand that concern, yes, please
19 delete that. Please strike that language.

20 Q If it causes concern?

21 A Just to help expedite this reconsideration
22 tonight, please strike the language "or successors"
23 so that there's no confusion there related to that
24 issue.

1 Q Lastly, as you all know, there are special
2 use permits that are sometimes specific and run with
3 the land, and there are special use permits that can
4 be applicant specific and conditioned upon a specific
5 operator like a bank or a pharmacy, or things
6 like that.

7 Steve, you have no objection to the special
8 use permit being specific as a condition to Maxxam
9 Partners only, an entity now that you've agreed
10 perpetually to manage?

11 A To be the manager, yes. And I think what we
12 were also going to say is -- weren't you about to --
13 can I speak about the other --

14 Q Yes.

15 A -- issue, as well?

16 Even though it's not on the condition list,
17 because, again, our intent here is to have a positive
18 impact definitely, I don't know the exact language
19 Mr. Kinnally referred to, but we'd be more than
20 willing to work with the Fox Valley charitable
21 organization and to create our own segment and to do
22 some outreach here in the community. That's something
23 that I would love to do.

24 Q If the Board wants it?

1 A If that's something you'd like, I'm more than
2 happy to embrace that and do that beyond other
3 outreach that I know we're going to be doing.
4 Because I think that actual charitable organization
5 that has suborganizations. I forget the exact --
6 1031 -- not 1031, 501(c)(3). Sorry. I've been
7 flying all day.

8 So yes, we think that that helps to really
9 connect us with a lot of the organizations that are
10 doing some great things in this community, and I
11 know that there's a lot of working with each other
12 when you have a segment under that in a 501(c)(3).
13 So we think that's something that definitely we
14 value -- I think that's something that definitely
15 we value.

16 VICE CHAIRWOMAN MICHALSEN: Thank you. Is
17 that all you had, Mr. Kolb?

18 MR. KOLB: Yes.

19 VICE CHAIRWOMAN MICHALSEN: Thank you very
20 much. At this time I would invite Mr. Shepro to
21 cross-examine the witness.

22 MR. SHEPRO: I have some exhibits that I
23 intend to show to the witness that I would like to
24 pass out here.

1 May I approach the witness?

2 VICE CHAIRWOMAN MICHALSEN: You may.

3 MR. SHEPRO: Mr. Marco, I'm going to be
4 asking some questions about these exhibits. I'll
5 drop them off and go back and sit down in my seat.

6 EXAMINATION BY COUNSEL FOR OBJECTOR FOX RIVER AND

7 COUNTRYSIDE FIRE PROTECTION DISTRICT

8 BY MR. SHEPRO:

9 Q Mr. Marco, my name is Ken Shepro, and I'm
10 the attorney for the Fox River Countryside Fire
11 Protection District.

12 A few moments ago you in response to
13 Mr. Kolb's questions clarified your earlier answers
14 with respect to some of the conditions that
15 Mr. Kinnally asked you about.

16 Are there any other conditions that
17 Mr. Kinnally asked you about relative to comments
18 made by your attorneys in prior hearings that you
19 would like to supplement at this time?

20 A I stand by everything I said to Mr. Kinnally
21 or nothing else to add related to -- I stand by what
22 I said to Mr. Kinnally.

23 Q Were you aware that your attorneys had made
24 the statements that Mr. Kinnally has read into the

1 record and otherwise questioned you about? Were you
2 aware of those statements?

3 A To not be repetitive, Mr. Kinnally asked me
4 that same question, and I stand by the answer to
5 that same question that Mr. Kinnally asked.

6 Q You testified that you had -- well, let me
7 strike that.

8 When is the first time you became aware that
9 the property in question was being served by the
10 Fox River Fire Protection District?

11 A When was the first time that I became aware?

12 Q Right.

13 A Well, I think it was after a hearing here,
14 one of the first times I saw you and met you where I
15 became aware. Because Keith Brown and you were
16 having a conversation where I was next to you, and
17 then we spoke about it after who exactly the district
18 was you represented where you told Keith if we were
19 to agree to Kiva's agreement prior that you would
20 support our project, and if we did not that you
21 would go against it.

22 So that's the first time that I became aware
23 of this district and the fire department that's going
24 to serve us and who represented that fire department.

1 That was the first time.

2 Q All right. What's your -- who is Kiva? Why
3 don't you explain that to the Board.

4 A You would like me to explain a former
5 applicant?

6 Q You just brought up the word Kiva and I'm
7 not sure --

8 A Oh, okay. Similar to this exhibit that you
9 just put in, Kiva Real Estate Investments, LLC, and
10 you were referring to an agreement that was drafted
11 and never signed or activated because they never got
12 the approvals.

13 MR. KINNALLY: I want to make an objection,
14 Madam Chairman. I don't think this relevant what
15 happened at Kiva. What is relevant is what happened
16 in 2016 and any new evidence after that date.

17 So I don't see where this is going, and Kiva
18 is not an issue before this body. So I just object.

19 MR. SHEPRO: Well, if I may --

20 VICE CHAIRWOMAN MICHALSEN: Mr. Shepro, if
21 you could explain the relevance, please.

22 MR. SHEPRO: Yes. The relevance of this is
23 that, as the witness testified, his agreement with
24 the fire district that he says he offered was -- his

1 testimony was based on the agreement that was reached
2 with the Kiva Real Estate Investments earlier.

3 So that document is highly relevant because
4 it contains what he is contending was his offer to
5 the fire district. And, in fact, that agreement is
6 also incorporated into an exhibit that we intend to
7 offer to this Board, which is the fire district's
8 request to this Board for conditions to be included
9 in the special use.

10 VICE CHAIRWOMAN MICHALSEN: I do believe you
11 can ask him about the agreement that he referenced,
12 but I don't know that he is qualified to tell this
13 Board who Kiva is, and I would ask that you keep
14 your questions to the agreement, as I'm not sure he
15 knows anything about Kiva that would be helpful to
16 the Board.

17 (Fire District Exhibit 4 marked for
18 identification.)

19 BY MR. SHEPRO:

20 Q Mr. Marco, you're looking at what I've
21 marked -- and I don't know if it's marked on yours --
22 Exhibit 4, which states that it is an agreement
23 between Fox River Countryside and Kiva Real Estate
24 Investments.

1 A Sorry. Is that -- what was the question?

2 Q The question is, do you see that agreement?

3 You have that agreement in front of you?

4 A Yes.

5 Q Have you ever seen that agreement before?

6 A I have not read the agreement, so I am unable
7 to tell you whether I've seen it or not.

8 Q Why don't you take a moment and look through
9 it and see if you've seen it before?

10 A The issue with telling you whether I've seen
11 it before -- and if I can address the Board with
12 what I think you're asking and where you're heading.

13 Again, this form, I'm not sure of the exact
14 numbers in this agreement, but if you were to go to
15 what I submitted and presented in front of the fire
16 district, I'm not sure, again, what is exactly the
17 numbers in this, but something of a similar structure
18 that had the name Kiva on it was received through an
19 e-mail chain from Mr. Shepro post the conversation I
20 witnessed and heard --

21 MR. SHEPRO: I object to the witness testifying
22 without a question pending.

23 A (Continuing.) You asked me a question I'm
24 trying to answer if we agreed to Kiva's agreement

1 that the fire department would support our product;
2 if not, they would stand up against it.

3 So this is why -- there's only one reason
4 that I submitted it to the fire department because I
5 took what came from an e-mail from you through my
6 lawyer, and I said I will agree to what I submitted.

7 And I have that from an e-mail chain from you, from
8 my lawyer, and we just printed it out, put our names
9 on it, and gave it to you so that we would mitigate
10 any concerns and further opposition that we felt
11 wasn't warranted but again to reassure the community
12 that we're here to make a positive impact and not to
13 take away from any services.

14 So we did that kind of, again, to mitigate
15 further opposition, but as we stand today, we just
16 want to be treated equally and stand by being
17 responsible for any costs that anyone else would
18 incur for the same services and that us as a
19 business would pay for those services.

20 MR. SHEPRO: I move to strike the answer as
21 nonresponsive and ask that the witness be admonished
22 to answer the question and not make speeches.

23 VICE CHAIRWOMAN MICHALSEN: I am going to
24 overrule motion to strike, but I will ask the witness

1 to be more concise in your answer. We're trying to
2 make good use of your time here tonight. We have a
3 lot of people who want to talk to you, and we want
4 to accommodate them.

5 So if you could -- we have heard your speech
6 about the intent multiple times. We're good on
7 that. So if you can be as concise as you can be in
8 answering the questions moving forward, that would
9 be very helpful to the whole group.

10 Mr. VanKerkhoff.

11 MR. VANKERKHOFF: If I can make a suggestion
12 to staff, since we do have valuable time of the
13 witness here, if you could request the fire district
14 to pertain to questions about the petition, the
15 operation. This is going into what appears to be
16 more of a negotiation with the fire district, which
17 would be outside the purview of the Zoning Board.

18 So if you could question regarding the
19 operation or how the impact on the fire district would
20 be, that would be my suggestion, Madam Chairman.

21 MR. SHEPRO: May I respond to that?

22 VICE CHAIRWOMAN MICHALSEN: Sure.

23 MR. SHEPRO: The witness testified that he
24 agreed to a particular agreement which he identified

1 by name as the Kiva agreement as something he would
2 agree to do with the fire district. I would think
3 that I would be entitled to inquire into that and
4 find out if we're talking about the same agreement.

5 VICE CHAIRWOMAN MICHALSEN: If you would ask
6 it in two more questions so that we can move on. I
7 don't think any possibly failed negotiations with
8 the Kiva agreement are necessarily relevant to his
9 offer of this condition for this petition.

10 MR. SHEPRO: If that's the case, then I
11 would ask that the Board strike all of his previous
12 testimony with respect to his agreement or his
13 presentation to the fire district board and his
14 statements that "I would agree to what Kiva agreed to."

15 VICE CHAIRWOMAN MICHALSEN: Overruled
16 because he was answering those questions that were
17 asked of him, and we would like his testimony to
18 remain so that it can be of the record.

19 MR. SHEPRO: But I'm not going to be allowed
20 to ask him about that testimony.

21 VICE CHAIRWOMAN MICHALSEN: I'm asking you
22 to try to do it in as few questions as possible.

23 BY MR. SHEPRO:

24 Q Mr. Marco, let's look at the next document,

1 which is an e-mail to me with a copy to you dated
2 February 22nd. Do you see that?

3 VICE CHAIRWOMAN MICHALSEN: Excuse me. We
4 only have one document and that's the agreement. As
5 a matter of housekeeping, you had called it
6 Exhibit 4. My records indicate that at the last
7 hearing we got up through Exhibit D.

8 MR. SHEPRO: This is Fire District Exhibit 4,
9 and I had previously marked previous exhibits, so I
10 apologize for them being out of order, but I can
11 certainly go back and remark all of the other exhibits
12 that I intended to introduce.

13 VICE CHAIRWOMAN MICHALSEN: I'll think about
14 that on break, and we can clean that up later.

15 MR. SHEPRO: Also, I don't know what happened.
16 I gave Mr. VanKerkhoff two sets of exhibits.

17 MR. VANKERKHOFF: You gave us one set of
18 exhibits.

19 MR. KINNALLY: You only gave us one, Ken.

20 MR. SHEPRO: I gave you two.

21 MR. VANKERKHOFF: Let me confirm that this
22 is it.

23 MR. SHEPRO: That's it.

24 VICE CHAIRWOMAN MICHALSEN: Mr. Marco, do

1 you have the exhibit that is being referred to?

2 THE WITNESS: Yes, I do.

3 MR. SHEPRO: This I had marked as Fire

4 District Exhibit 5.

5 VICE CHAIRWOMAN MICHALSEN: Thank you.

6 Everybody has a copy now.

7 (Fire District Exhibit 5 marked for
8 identification.)

9 BY MR. SHEPRO:

10 Q Mr. Marco, is this the e-mail to which you
11 referred earlier in your testimony?

12 A No.

13 Q Have you seen this e-mail before?

14 A Potentially.

15 Q Potentially?

16 A Yes, potentially.

17 Q All right. What would help you decide whether
18 you'd seen it or not?

19 A I'm not sure if I went into my e-mail box
20 and looked at it.

21 Q You have no independent recollection of ever
22 seeing this?

23 A No.

24 Q All right. Do you recognize the second

1 two pages as the agreement that you and your
2 attorney brought to the Fox River Countryside Fire
3 District meeting on February 22nd, 2016?

4 THE WITNESS: Chairwoman -- Ms. Chairwoman?

5 VICE CHAIRWOMAN MICHALSEN: Yes.

6 A Just in order to -- I know you want me to be
7 concise and stick to the condition list. Both of
8 these documents here and the contents within them I
9 find to be inappropriate, and I don't feel that they
10 are appropriate requests of Maxxam.

11 So both of these documents, anything related
12 to the language, the numbers, the actual documents
13 that sit in front of me I find to not be appropriate
14 to ask me about buying ambulances, occupancy levels,
15 all of the details that are in both of these
16 agreements.

17 I feel that the only concern that I chose to
18 mitigate and chose is to assure the community that I
19 would be responsible for the same equal costs as
20 anyone else, and these documents I feel do not treat
21 my patients as equal and treat my business as equal,
22 and I have no comments on these two documents in
23 front of me.

24 MR. SHEPRO: I'll accept that answer.

1 VICE CHAIRWOMAN MICHALSEN: I'm not sure --

2 I apologize. I'm not sure what that was.

3 Mr. Shepro, if you could -- I believe his
4 answer is no comment.

5 MR. SHEPRO: I will accept that answer. I
6 think it speaks for itself.

7 VICE CHAIRWOMAN MICHALSEN: Do you have any
8 other questions?

9 MR. SHEPRO: No.

10 VICE CHAIRWOMAN MICHALSEN: Thank you.

11 Mr. Carrara, would you like a chance to
12 cross-examine Mr. Marco.

13 MR. CARRARA: Yes, thank you.

14 MR. KOLB: I'd like to redirect on that.

15 VICE CHAIRWOMAN MICHALSEN: I apologize.
16 Yes, you may redirect.

17 EXAMINATION BY COUNSEL FOR THE PETITIONER

18 BY MR. KOLB:

19 Q Steven, Condition 9 obligates your --

20 MR. SHEPRO: I object. He didn't answer any
21 questions. How can he redirect?

22 VICE CHAIRWOMAN MICHALSEN: I'll overrule
23 that objection and allow Mr. Kolb to ask his question.

24 Q The purpose of Condition 9 was to guarantee

1 the payment of fees to the fire district; is it not?

2 MR. SHEPRO: Objection. I asked no question
3 on direct on Condition No. 9.

4 VICE CHAIRWOMAN MICHALSEN: The witness did
5 include that in his answer, though, and I feel it's
6 fair game for redirect.

7 Q The fire protection district sets its own
8 fees, to your knowledge?

9 A Yes.

10 Q You mentioned recently that those fees have
11 recently be increased; have they not?

12 A Yes.

13 VICE CHAIRWOMAN MICHALSEN: I'm going to
14 stop you there, Mr. Kolb. I don't believe that is
15 relevant to his testimony, and I believe it's a way
16 to draw down time on our evening here tonight. I'd
17 ask you to redirect on anything that's substantive
18 to the testimony that he gave to Mr. Shepro.

19 MR. KOLB: I'll wrap up.

20 Q The purpose of Condition 9 was to abdicate
21 the concern. That's the entire reason the entire
22 condition was proposed.

23 MR. SHEPRO: Is that a question?

24 VICE CHAIRWOMAN MICHALSEN: Should I swear

1 you in for testimony tonight, Mr. Kolb?

2 Q Steven, what was the purpose of Condition 9?

3 A I already explained that and so I would like
4 to continue on.

5 VICE CHAIRWOMAN MICHALSEN: He's answered
6 that --

7 A (Continuing.) I had already explained that
8 a couple times.

9 VICE CHAIRWOMAN MICHALSEN: -- so I believe
10 that's -- I apologize to the court reporter. I do
11 believe he's answered that, and if that finishes
12 your redirect, I'll move it on over to Mr. Carrara.

13 Thank you.

14 MR. CARRARA: Thank you, Madam Chairwoman.

15 EXAMINATION BY COUNSEL FOR OBJECTOR ANDRZEJEWSKI
16 BY MR. CARRARA:

17 Q Mr. Marco, thank you for attending here this
18 evening.

19 We've heard a lot about the structure or the
20 details of the structure of Maxxam Partners, LLC,
21 you're willing to tell us that aren't considered
22 confidential.

23 Who are the members of the limited liability
24 company?

1 A Again, I've reiterated multiple times to
2 Mr. Kinnally and referenced the public document that
3 has been on since prior to our first public hearing
4 with the ZBA. We clarified without anyone asking us
5 to who the managing member is, who the only owners
6 are of the entity. We went and we put that up on
7 the letter that we sent to Mr. VanKerkhoff.

8 Q Your letter doesn't identify the members.
9 It says principals. Delaware law requires a member.
10 Who are the members? Is it you and Mr. Glassberg?

11 A I stand by the letter as submitted, and I'm
12 not here to provide any syntax in whatever you're
13 saying.

14 Q So are the only members of the LLC you and
15 Mr. Glassberg?

16 A Yes.

17 Q Are you prepared this evening, should the
18 Board wish, to put a condition on that you will not
19 sell your membership interest in the limited
20 liability company?

21 A Sorry. Say that again.

22 MR. KOLB: Can I confer with my client?

23 VICE CHAIRWOMAN MICHALSEN: No. He can answer
24 that question.

1 Q Are you prepared to if the Board would
2 require that you put a restriction or a condition on
3 that would require neither you nor Mr. Glassberg be
4 able to sell their membership interest in the
5 limited liability company?

6 A No comment.

7 Q Okay. So you're not willing to do that?

8 A No comment.

9 Q So your offer of restricting the special use
10 solely to Maxxam based on your experience and all
11 the good things you want to do could be instantly
12 transferred after the special use is granted subject
13 to the sale of the membership interest; is that
14 correct?

15 MR. KOLB: Objection.

16 A No comment.

17 MR. KOLB: For the record, he indicated he
18 would remain a manager of the LLC.

19 MR. CARRARA: Correct. I was asking about
20 membership, not the manager.

21 Do you want to reask that?

22 MR. KOLB: Could you repeat the question?

23 MR. KINNALLY: He said he had no comment,
24 Madam Chairman.

1 MR. CARRARA: I didn't hear him. I apologize.

2 A (Continuing.) No comment.

3 Q What do you do for a living, Mr. Marco?

4 A No comment.

5 Q So you're here to tell how you can satisfy the
6 special use factors from an operational standpoint.

7 Are you prepared to testify as to operational functions
8 of the Maxxam Partners special use facility?

9 A No comment.

10 Q Is there a reason you keep saying "no comment"?

11 A No comment.

12 Q So the accountability that you promised the
13 Board earlier which would be based upon your running
14 of the facility and how it's going to -- I believe
15 you said at least you'll come up to the State
16 licensing. You had no comment on the additional
17 accreditation standards that your attorneys agreed
18 to. So who is going to be the operational person
19 for Maxxam Partners?

20 A No comment.

21 Q Previously your attorneys supplied an exhibit
22 called J18. Do you remember that exhibit, sir?

23 A Do I remember what J18 is?

24 Q The staffing report that you provided to

1 the ZBA.

2 A I'm confused. Are you asking if I know what
3 Exhibit J18 is or the exhibit that you're holding?

4 Q I'm asking, did you have the opportunity to
5 review Exhibit J18 --

6 A I've never --

7 Q Great. That's what we're getting to. So
8 it's titled "Maxxam Capital." Who's Maxxam Capital.

9 A Who is Maxxam Capital?

10 Q Yes.

11 A Maxxam Capital is an entity.

12 Q How do they relate to the petitioner?

13 A No comment.

14 Q Okay. So who is submitting this staffing
15 report, Maxxam Capital or Maxxam Partners?

16 A As an exhibit, it's the applicant.

17 Q Okay. So is the Maxxam Capital going to be
18 the operating entity?

19 A No.

20 Q Okay. So why did they submit the staffing
21 report?

22 A I believe that the applicant submitted the
23 staffing report, and I think you're referring to
24 a logo.

1 Q Okay. So Maxxam Capital has nothing to do
2 with Maxxam Partners or the conditions in this
3 staffing report?

4 A Maxxam Capital is a logo that was submitted --

5 VICE CHAIRWOMAN MICHALSEN: For clarification,
6 the applicant is Maxxam, LLC?

7 THE WITNESS: Right. Exactly. So it's --

8 MR. CARRARA: No --

9 VICE CHAIRWOMAN MICHALSEN: Wait. Excuse
10 me. I think the question Mr. Carrara is asking and
11 the question I'm interested in answering, why would
12 Maxxam Partners, LLC, where corporate names are
13 important submit a staffing document with a logo
14 that says Maxxam Capital, indicating there are
15 additional entities using the name Maxxam?

16 THE WITNESS: Right. So any entity could
17 use the name Maxxam, but the actual applicant
18 itself, the one applying here today and who would
19 own the facility that we're discussing and who is
20 applying is Maxxam Partners.

21 So there could be in the future many different
22 Maxxams for many different projects, for many
23 different anything whatsoever. Maxxam is just a
24 name that's important to me.

1 So this is just a logo, and, again, the
2 exhibit and the content here was meant to help
3 communicate and assure the operations would not only
4 be in compliance but would go above and beyond the
5 compliance of the licensure.

6 So for whatever confusion, this was by the
7 applicant, and the intent and again the content is a
8 staffing plan which compared Part 2060, which is the
9 official licensure to the facility plan and shows
10 just how we go above and beyond as far as what
11 staffing is concerned, beyond what the minimum
12 requirements are, and if you see them, they're quite
13 extreme.

14 VICE CHAIRWOMAN MICHALSEN: Thank you, sir.
15 I think you've answered.

16 THE WITNESS: Perfect.

17 VICE CHAIRWOMAN MICHALSEN: I think you've
18 answered what you're going to answer.

19 Is that answer sufficient for you,
20 Mr. Carrara, or would you like to rephrase it?

21 MR. CARRARA: I'll continue on and we'll get
22 back to that.

23 VICE CHAIRWOMAN MICHALSEN: Thank you.
24 ///

1 BY MR. CARRARA:

2 Q In your initial application you had
3 designated Mr. Elliott Messing, and we've heard your
4 prior testimony about how he was a trusted operational
5 adviser. So did Mr. Messing help you prepare these
6 operational plans for Maxxam Partners' petition?

7 A No.

8 Q So you identified even in your subsequent rider
9 that Mr. Messing was a trusted adviser with operational
10 experience as you disclosed on the application of a
11 facility called the Recovery Village, an 80-bed
12 facility in Florida. Is that correct?

13 A The question is what?

14 Q You previously disclosed Elliott Messing as
15 your operational person was your testimony here
16 earlier, your operational consultant?

17 A An operational consultant. I never said the
18 operational consultant.

19 Q Great. Who are your operational consultants?

20 A No comment.

21 Q Okay. So I guess we will stick with
22 Mr. Messing for a minute.

23 Did Mr. Messing help you prepare any
24 operational strategies, procedures, or anything

1 related to this petition or the operation of the
2 facility?

3 A No.

4 Q Okay. Is Mr. Messing related to you?

5 A Yes.

6 Q How is he related?

7 A Stepfather.

8 Q Okay. So is there any thought that Mr. Messing
9 will at some point be an owner of Maxxam Partners?

10 A No. Actually, if you'd like to know, if
11 this is your line of questioning and you find this
12 to be important, my mother and Elliot are actually
13 getting a divorce right now.

14 So no, he will not have anything to do with
15 and, again, is not an owner, is not a principal, has
16 never invested a dollar, and the reason he was a
17 trusted adviser is because he was my stepfather with
18 some related knowledge.

19 But, again, prior to the application being
20 drafted, activating any of the hearings he had zero
21 involvement. There were no communications related
22 to this application once the application was
23 submitted.

24 Q Well, it was actually submitted and then

1 you --

2 A I'm sorry. Once the hearings began and
3 prior to the 15 days' notice post the amendment that
4 took place with Mr. VanKerkhoff that's on the
5 public's website.

6 Q I understand that. And what was the reason
7 for the change? Why did you decide to remove him?

8 A Because of the opposition in your party and
9 there were a lot of others that were starting to get
10 into who is the owner, who owns what in the past,
11 trying to say, well, there's this facility and that.
12 And the opposition and members of the community were
13 trying to tie in someone that had no ownership
14 interest and really didn't have involvement minus
15 being a trusted adviser and that is all.

16 Q Well, how did all my inquiries or all the
17 public concern over Mr. Messing come if he was
18 changed before the process even began?

19 A Because of the amendment that was posted on
20 the website.

21 Q Right. So are you referring to my inquiries
22 of Mr. Messing and his facility down in Florida
23 before the hearings began? Are those the inquiries
24 you're referring to?

1 A No. I think there were times -- and, again,
2 this is why we had the amendment. When we made the
3 amendment, again, prior to anything being activated,
4 prior to the 15-day notice, prior to this while
5 everything was trying to be figured out.

6 Later on so that we would mitigate any
7 concerns that anyone would come and discuss when we
8 looked back and see how opposition is brought up and
9 tried to find the worst of the worst, I think there
10 was a gentleman Constantine that came up and started
11 talking about here's how many incidents they had in
12 Orlando and came with all these papers.

13 So this was to mitigate prior to the notice,
14 prior to the hearings making sure that this was as
15 clean and transparent as possible. And as we had
16 internal discussions prior to this discussion being
17 activated, we wanted to make sure that it was clear
18 and clear up these questions we knew that would
19 come. We knew questions were coming, and we wanted
20 to make sure you knew, and that's why we went above
21 and beyond and said who were the managing members,
22 who were the owners and who is not.

23 MR. KINNALLY: Madam Chairman, I object to
24 the witness testifying about things that didn't

1 occur at the hearing, prior to the hearing that we
2 had prior, and I move to strike that testimony.

3 VICE CHAIRWOMAN MICHALSEN: I will grant the
4 motion to strike.

5 Any other questions, Mr. Carrara?

6 MR. CARRARA: Yes. Unfortunately, Madam Chair,
7 I have many, as I've been waiting over a year for this.

8 BY MR. CARRARA:

9 Q The question that we were asking of
10 Mr. Messing -- inquiring, again, after the application
11 was filed and before the public hearing so we could
12 prepare for the public hearings were to get his
13 operational experience. You were showing him as the
14 best and brightest, I think is what Judge Brown and
15 others have clarified as to what your operation
16 staff is going to be. We were inquiring into their
17 operational histories so we could look at directly
18 what factor one is of the special use, how their
19 operations affect the general welfare of the
20 surrounding neighborhood.

21 We inquired and not surprisingly we started
22 to find, as you just suggested, a number of concerns
23 about operational facilities that Mr. Messing ran.
24 So my question is --

1 A I did not say that.

2 Q -- were those concerns --

3 A I did not say that. I did not say --

4 VICE CHAIRWOMAN MICHALSEN: Excuse me to the
5 witness. He was not finished asking his question.
6 The court reporter can only take down one person at
7 a time. If you would let Mr. Carrara finish, you will
8 have time to give as concise an answer as you can.

9 Q So were those concerns of his operational
10 history of the facilities you listed in your
11 application the reason you removed them, because you
12 were concerned about our inquiring into those
13 operations to satisfy the special use factors?

14 A No.

15 VICE CHAIRWOMAN MICHALSEN: I have a
16 follow-up, if I may --

17 MR. CARRARA: Please, Madam Chair.

18 VICE CHAIRWOMAN MICHALSEN: -- for
19 clarification, Mr. Carrara. I want to be sure I
20 phrase this correctly.

21 You testified that you took out certain
22 advisers, or members, or partners -- I'm sorry -- I
23 don't remember which --

24 MR. KOLB: Advisers was the term.

1 VICE CHAIRWOMAN MICHALSEN: Thank you,

2 Mr. Kolb.

3 So you took out certain advisers because at
4 least one member of the public found some documents
5 about the adviser that was dismissed. And your
6 answer when Mr. Carrara asked if that's why you
7 dismissed them was -- you testified that's why you
8 dismissed him, and then you told him that's not why
9 you dismissed him. So why did you dismiss him?

10 THE WITNESS: Why I dismissed him was prior
11 to everything that took place, I wanted to make sure
12 that it was clear that his ongoing involvement did
13 not exist. So prior to the application becoming
14 active, he was no longer an active consultant during
15 the entire hearing process, the entire drafting of
16 this he was not involved at all.

17 So I wanted it to be clear that he no longer
18 was involved prior to everything beginning so there
19 was no --

20 VICE CHAIRWOMAN MICHALSEN: Just -- I
21 apologize for interrupting, but to be clear, he was
22 involved -- you didn't just form Maxxam Partners,
23 LLC, on Day 1 and it submitted its petition to
24 Kane County on Day 1. He was involved prior to the

1 submission --

2 THE WITNESS: Right.

3 VICE CHAIRWOMAN MICHALSEN: -- of the
4 petition, and he wouldn't be involved moving
5 forward. But I believe Mr. Carrara is asking about
6 the assistance he offered as Maxxam Partners began
7 the venture that eventually would result in this
8 petition before the Kane County Zoning Board.

9 THE WITNESS: First and foremost, just to
10 answer the question, I have no other comment other
11 than Mr. Messing from prior to the first hearing,
12 prior to the 15 days of appropriate notice was not
13 involved, was no longer involved in the project, has
14 no ongoing involvement, has no management, has no
15 influence whatsoever on the project, did not have an
16 influence once we submitted the -- once we amended
17 the application and prior to all the hearings. He's
18 had no ongoing influence whatsoever.

19 And to answer your question that I think you
20 were asking, the rationale behind it, there was a
21 slew of rationale behind it, and we knew prior
22 because everyone started to ask questions -- it
23 could have been the County -- I don't remember
24 exactly -- who owns the LLC, who was the ownership.

1 So it was at that time that we said -- I
2 want to give the best answer to the question. This
3 is all just --

4 VICE CHAIRWOMAN MICHALSEN: I understand. I
5 believe you've answered the question, which is that
6 you had someone advising you that you thought would
7 give you trouble, and so you separated from them
8 before filing the petition or shortly after filing
9 the petition so that they wouldn't cause you trouble
10 down the line because you said they had concerns,
11 that Messing raised concerns.

12 And I don't -- I'll be honest --

13 THE WITNESS: Then it's misunderstood. Let
14 me make it very clear.

15 VICE CHAIRWOMAN MICHALSEN: In like
16 two sentences can you clarify that?

17 THE WITNESS: Sure. To make it very clear,
18 then that was not the reason. The reason was not
19 that. However the testimony -- because I'm feeling
20 a bit badgered about this issue that to me is
21 incredibly irrelevant to the condition list and is
22 talking about our application and all this, and we
23 went out of our way to not speak about this because
24 the point is he has no connection to the operations.

1 So I take -- whatever it is, I want to
2 answer as best that I can, but I'm feeling that
3 there's 17 different questions coming at me about
4 Elliott Messing, who has no involvement whatsoever
5 with the project.

6 MEMBER FALK: Can I ask a question?

7 VICE CHAIRWOMAN MICHALSEN: Sure.

8 MEMBER FALK: I'm trying to understand if
9 Elliott Messing, who is a confidant or whatever you
10 say he was, and you answer a question with "no
11 comment." Who is running this facility? Who is
12 going to operate this? How can we trust that this
13 is going to be the best, hugest facility in the
14 county if you're not answering questions?

15 I'm frustrated because "no comment" is no
16 answer. So that's where I'm at, and I just -- I
17 just want answers. So if you're telling me you
18 don't have anybody operationally to run this, then
19 you probably should rethink your plan and pull the
20 deal off the table and then figure it out and come
21 back. Because I don't understand why when we ask a
22 question of who is operating this you're not answering
23 the question, and "no comment" is frustrating for me
24 because it's either, "Here's the answer; I don't

1 know, or we're working on it."

2 That's just my two cents. Sorry.

3 THE WITNESS: Can I respond?

4 MEMBER FALK: Yes, please.

5 VICE CHAIRWOMAN MICHALSEN: Yes. Yes, you may.

6 THE WITNESS: First and foremost, in no way

7 do I want to frustrate you, Board Member. In no way

8 is that the intent here. To my understanding we're

9 here to address the condition list, and these lines

10 of questioning related to who Elliot operates --

11 certain things that you just addressed to me are

12 about operational issues and things that were covered

13 in the record that talked -- sorry. I want to be

14 concise -- but that was covered. The operations

15 were covered in the record.

16 VICE CHAIRWOMAN MICHALSEN: I do mean to

17 interrupt you because I want to clarify.

18 We had hoped -- I'll be honest here. We had

19 hoped that the public hearings that began on Tuesday

20 would be limited to the conditions that Maxxam

21 submitted to Kane County. However, your attorney in

22 his opening remarks made significant comments as to

23 the prior history of this case, and I feel since he

24 got 20 to 25 minutes to say what -- how he summarized

1 the case, that other attorneys and other objectors
2 should get the same kind of time to talk about what
3 happened before.

4 Additionally, we're all new. You probably
5 know that if you came to the other hearings. We're
6 not -- we are bound in that we respect the record
7 that was created and that sits on our desks and we --
8 at least I did not want to rehash nine public
9 hearings. I was hoping that we could do this in a
10 lot less.

11 But we are not limited by what that last ZBA
12 asked or what information they sought. We were
13 excited to have the opportunity to have you here
14 today; we are very thankful to have you here today;
15 we appreciate you sitting on the hot seat as long as
16 you have because there's still a long line of people
17 that want to talk to you. But understand we can ask
18 what we need to to consider whether or not we're
19 going to support this, A, as a special use and if we
20 were to support it as a special use what conditions
21 we would recommend to the Kane County Board.

22 So we're allowed to ask -- I'm interested in
23 the answers that Mr. Carrara is getting. It's going
24 to save you time when you get to us for questions.

1 But really your attorney chose to open that door on
2 Tuesday with a very lengthy summary, and everyone
3 else here gets to come in through that open door
4 because it's not fair if I open it to the petitioner
5 and not anyone else.

6 I did state we were hoping to talk about the
7 conditions tonight. Selfishly I want everyone to
8 get to go home at a reasonable hour tonight, which I
9 don't think is going to happen. But we as the Board
10 want to hear -- it's why we issued the motion to
11 compel. We're very happy that you complied with it.

12 We want to know about operations. We want
13 to know about experience. We want to know what you
14 do for a living. Those are questions the current
15 Board has, and they're fair game for tonight's
16 hearing. Whether Mr. Shepro asks it, or Mr. Carrara
17 asks it, or somebody else asks it, it's fair game.
18 And your attorney is welcome to make objections, and
19 I'm happy to rule on them, but I want you to
20 understand if --

21 MEMBER FALK: We need to know.

22 VICE CHAIRWOMAN MICHALSEN: We need to know
23 if we're going to -- we've been asked and tasked by
24 the County Board to finish this hearing. It came

1 back to this board for that work; we're doing the
2 work we've been asked to do by the Board, and this
3 is part of our work.

4 So I find his questions relevant, and if
5 Mr. Carrara has any additional ones, we'd be happy
6 to proceed at this time.

7 MR. CARRARA: Thank you, Madam Chair, I do
8 still have some additional questions.

9 BY MR. CARRARA:

10 Q Will you be dispensing controlled substances
11 at the facility?

12 A I have no comment and refer you to the record.

13 Q Do you believe controlled substances can be
14 distributed by a licensed State agency in a farming
15 district in Kane County?

16 A I have no comment and refer you to the record.

17 Q Thank you. I forgot to ask this -- I
18 apologize -- we were talking back about the LLCs and
19 the members. Is Maxxam Partners, LLC, the Delaware
20 limited liability authorized to do business in
21 Illinois?

22 A I have no comment and refer you to the record.

23 Q So would it surprise you that Maxxam Partners,
24 LLC, is not authorized to transact business within

1 the State of Illinois; it never filed the appropriate
2 paperwork with the Secretary of State?

3 A I have no comment and refer you to the record.

4 AUDIENCE MEMBER: Excuse me. Why are we
5 wasting time?

6 VICE CHAIRWOMAN MICHALSEN: Sir, this is not
7 wasting time. Please, do not yell out. The public
8 will have a chance to speak. We are trying to follow
9 the proper process and allow the questioning. We
10 don't need questions yelled out and making it
11 difficult for the court reporter to report.

12 Mr. Carrara is a very able attorney, and I'm
13 certain that he will make his record and make his
14 point as he is able to.

15 So please proceed. I believe that he said
16 he had no comment and no information on operating in
17 Illinois, and that's where we left it.

18 MR. CARRARA: Thank you.

19 Q How many times were you inside of the
20 patient villas, I think they may have been called, at
21 the facility where the people are going to be
22 staying? I think you called them patient villas --
23 I apologize -- I don't remember exactly what they're
24 called.

1 A No comment.

2 Q How many bedrooms are within those facilities?

3 A No comment. I refer you to the record.

4 Q In your testimony by your counsel at the
5 prior hearings, they testified it was going to be a
6 luxury facility with private or semiprivate living
7 arrangements. Would you agree with that statement?

8 A I have no comment. I refer you to the record.

9 Q To get to the maximum 120 patients you're
10 seeking, how many people would have to live in each
11 one of those villas?

12 A I have no comment. I refer you to the record.

13 MR. CARRARA: May I approach with an exhibit?

14 VICE CHAIRWOMAN MICHALSEN: You may.

15 MR. CARRARA: I have not marked it. We were
16 on D, I think.

17 VICE CHAIRWOMAN MICHALSEN: The last one
18 that I had in my records was D.

19 MR. CARRARA: So we'll go to E.

20 VICE CHAIRWOMAN MICHALSEN: Yes.

21 MR. CARRARA: I'll mark this Exhibit E.

22 (Exhibit E marked for identification.)

23 MR. CARRARA: Are we taking a break so they
24 can confer?

1 VICE CHAIRWOMAN MICHALSEN: I apologize.

2 Mr. Kolb, if you could take your seat again.

3 Thank you.

4 BY MR. CARRARA:

5 Q Sir, does this Exhibit E that I've handed
6 you, does that represent the Glenwood student villas?

7 A I have no comment on that, and the reason
8 that I do, Board members and sir, and gentlemen --

9 VICE CHAIRWOMAN MICHALSEN: Excuse me.

10 Mr. Marco, either your answer is no comment or you
11 have an answer. So you can do your narrative
12 concisely, but you cannot do your narrative and also
13 claim no comment because you are then making a
14 comment.

15 THE WITNESS: I apologize for that, Madam
16 Chairwoman.

17 A I stand by the very clear and comprehensive
18 record that I feel satisfies and answers all of the
19 conditions, and I stand by that record.

20 Q Thank you.

21 How many square feet are these residences?

22 A I have no comment and stand by the record.

23 Q Did anybody from Maxxam when they filed
24 their petition with the number of 120 registered

1 guests do an analysis to determine if 15 people can
2 live in each one of these facilities that I just
3 handed you?

4 A What I will comment on that is that when you
5 understand -- and, again, this is mentioned in the
6 record. When you understand -- and, again, this is
7 mentioned in the record. When you understand the
8 licensure, in Part 2060, if you were to review it in
9 detail, in order to open such a facility and be
10 licensed by the State, all of the policies and
11 procedures have to be in compliance, as well as the
12 physical property.

13 So if you refer to Part 2060, you'll understand
14 that there's incredible detail to which the physical
15 property has to meet in order to --

16 VICE CHAIRWOMAN MICHALSEN: I believe the
17 question, though, was whether your planners had
18 looked at the physical property that we're talking
19 about and determined how many people could fit in
20 there, not what the code would require or that you
21 would be up to State standards, but did the people
22 preparing this petition evaluate the buildings
23 on-site and come up with the number 120 because they
24 thought that's the number of people that could

1 reasonably fit in those buildings. That's a
2 yes-or-no answer.

3 A (Continuing.) Yes -- well -- sorry. If
4 someone can make that more concise because there
5 were -- yes, it's been understood and analyzed.
6 It's completely feasible. Our facility will be
7 completely within compliance, and the 120 beds
8 perfectly fit within the facility as they will be
9 operational.

10 VICE CHAIRWOMAN MICHALSEN: Thank you. And
11 I apologize, Mr. Carrara, if I if rephrased your
12 question inartfully. If I missed anything, please
13 follow up.

14 MR. CARRARA: No, thank you.

15 Q By my count I count six bedrooms in these
16 facilities. So to get 15 people within six bedrooms,
17 is that your operational plan?

18 A No.

19 Q Okay. So your operational plan is to get
20 15 people into these buildings, and you've confirmed
21 that you can under the Kane County building code,
22 the safety codes, the fire codes? You've made that
23 determination?

24 A We have made the determination that at all

1 parts of this facility at 120 beds we'll be fully
2 compliant, and we'll be fully operational with the
3 licensure, and we'll be in compliance with all
4 Kane County codes, and we've confirmed that we will
5 be in compliance with the licensure, both the
6 Kane County will be life and safety and the
7 licensure of the State related to these facilities.

8 We've done all of that analysis. We've
9 done -- architects have done all of that analysis,
10 and we've made sure that we're going to maximize the
11 space. So as you see here, I think is a 20-year-old
12 potentially Glenwood School for Boys -- again, of
13 one type. There's multiple types. Some are mirror
14 images, the exhibit you're looking at. They tend to
15 be similar on the property, but some are mirror
16 images of on another. Three were built in a secondary
17 phase of the building back in 1999, prior to the '89
18 and '90 building.

19 So yes, everything will be in compliance.
20 It's been analyzed; it's all feasible. We've had our
21 architects and life safety report actually. We went
22 out of our way to spend the money during the hearing
23 process, and we sent that in to Mr. VanKerkhoff.
24 We had an architect's and safety life report already

1 sent, and we actually got back from Mr. VanKerkhoff
2 during the -- oh, sorry. I don't mean to be --
3 sorry. I'm just trying to answer the question.

4 Q I have two clarifications on that. The
5 first is the only reason I gave you this old map was
6 because you never provided any of your architectural
7 renderings or all the things you just discussed to
8 the ZBA in your class action. Secondly, I don't
9 believe there's been any life safety analysis that's
10 been done on this facility that was part of the
11 record.

12 MR. CARRARA: If I'm wrong, please,
13 Mr. VanKerkhoff tell me which exhibit number it is.

14 VICE CHAIRWOMAN MICHALSEN: If Mr. VanKerkhoff
15 could give a verbal answer for the court reporter.

16 MR. VANKERKHOFF: My apologies. I heard
17 two things between the two that I have no knowledge
18 of unless someone would refresh my memory by
19 producing the document, one being the life safety
20 reports that Mr. Marco said that he sent in to me.
21 I have no recollection at this time and hour of
22 that, and I would concur with Carrara that none of
23 the exhibits include life safety plans or analysis.

24 THE WITNESS: May clarify what I was

1 attempting to say and communicate here?

2 VICE CHAIRWOMAN MICHALSEN: I think you've
3 explained enough, Mr. Marco, thank you. You --
4 thank you.

5 Mr. Carrara, any other questions?

6 MR. CARRARA: Yes, I do.

7 BY MR. CARRARA:

8 Q In your petition you suggested that from an
9 operational standpoint again, you only anticipated 5
10 to 10 police calls a year. How did you come up with
11 that number?

12 A No comment. I stand by the record.

13 Q Who testified for you in the record the 5 to
14 10 calls? Everybody referred to you, the client,
15 being the one who told them that.

16 A I'd refer to the record.

17 MR. KOLB: I'd like to object to this line
18 of questioning. If you recall, you had cut me off
19 in the middle of all of the testimony regarding
20 police and fire visits as relevant, as the testimony
21 would be limited only to issues regarding the
22 conditions. I was not able to perfect that part of
23 the testimony, and now the door apparently opened on
24 those issues.

1 So if we're going to open the issue regarding
2 police and EMS visits, its FHA implications, the
3 credibility of the witnesses that we proposed as
4 opposed to the opposition, so be it. But at least
5 if we're going to open that can of worms, I'd like
6 to finish all of the testimony so that if the
7 implication is made that somehow our evidence is not
8 credible -- we had a number of experts in that regard.

9 VICE CHAIRWOMAN MICHALSEN: Was there -- did
10 that start with an objection?

11 MR. KOLB: It did.

12 VICE CHAIRWOMAN MICHALSEN: I overrule it.
13 You will be allowed to redirect at the close of
14 Mr. Carrara's questioning.

15 MR. KOLB: Very good.

16 Q Again, which expert testified on your behalf
17 that they, the experts anticipated it would be 5 to
18 10 police or fire emergency calls a year?

19 A I refer you to the record.

20 Q You know, the record is big. Could you give
21 me a name of one of your experts?

22 A No. I refer you to the record.

23 VICE CHAIRWOMAN MICHALSEN: Mr. Carrara, I
24 believe we understand the point you're making.

1 MR. CARRARA: I just have a few more questions.

2 VICE CHAIRWOMAN MICHALSEN: Certainly. I

3 just don't know that he's able to -- I don't know

4 that he's the best -- strike that. Please move on.

5 MR. CARRARA: Thank you.

6 Q From a staffing standpoint you referred,

7 again, to Section 2060, I believe, as you're going

8 to be in compliance, and we showed you Exhibit J18

9 which has the logo. Who have you talked to that's

10 going to be your chief executive officer?

11 MR. KOLB: I would object. A lot of the

12 conversations -- and I can attest that there's been

13 a lot of work done to staff this -- those

14 negotiations are confidential. The identity of

15 those individuals may have -- they may have other

16 positions at other health facilities that they don't

17 want to jeopardize by being exposed to potentially

18 taking a position here.

19 And to Mr. Falk's point about who is going

20 to operate this, Section --

21 VICE CHAIRWOMAN MICHALSEN: If I may, I'm

22 going to swear you in at this time before you

23 finish. I'm going to let you finish. I'm going to

24 swear you in since you are offering testimony.

1 (Witness sworn.)

2 VICE CHAIRWOMAN MICHALSEN: Thank you.

3 Please continue.

4 MR. KOLB: And to Mr. Falk's frustration, I
5 understand your point, who is going to operate the
6 facility. Mr. Marco made it very clear the
7 applicant is a Delaware limited liability company,
8 Maxxam Partners, LLC. It will authorize itself to
9 transact business in Illinois when it does transact
10 business. It has two managers --

11 VICE CHAIRWOMAN MICHALSEN: Mr. Kolb, at
12 this time I am going to go ask you to save those
13 comments for when the Board is questioning Mr. Marco.
14 I don't feel it's appropriate to spend Mr. Carrara's
15 cross-examination time addressing the Board's
16 concerns. So I would just ask that Mr. Carrara
17 continue his questioning. You'll be given a chance
18 to redirect.

19 MR. KOLB: To answer Mr. Falk's question,
20 yes, because I think it's a fair question. I'd
21 like to --

22 VICE CHAIRWOMAN MICHALSEN: And you will
23 have a chance to address, but we want to hear from
24 the witness that's here tonight who may not come

1 again, so we want to be mindful of his time.

2 I would like to explain. I apologize when I
3 stopped midsentence and said he's not the best. The
4 rest of that sentence was he may not be the best
5 person to remember in detail what page number of the
6 record. It was not a comment of the quality of the
7 testimony or anything like that.

8 I want to be clear that I was just saying
9 that -- I'm not the best person -- because I just
10 read 1200 pages, and I know things are in there, but
11 I'm not the best person to ask exactly what page it
12 happened on. That was my thought. I don't want
13 there to be any question on the record that I was
14 impugning the character of the witness or his
15 testimony.

16 Thank you.

17 MR. KOLB: So can you rule on my objection
18 regarding having Steven identify all of the numerous
19 people that he's interviewed or spoken with regarding
20 medical administrator or any of the other key top
21 personnel, the host of key top personnel that are
22 potentially candidates under 2060 to be approved by
23 the State of Illinois to be an operator here?

24 VICE CHAIRWOMAN MICHALSEN: I'm going to ask

1 Mr. Carrara to hold that question. I am going to
2 take it under advisement, and I will rule later
3 whether he has to answer it.

4 MR. KOLB: Thank you.

5 MR. CARRARA: If it will help, Madam Chair,
6 I don't want a name. I would just like to know if
7 he's actually spoken with anyone about filling these
8 key staff positions going to Member Falk's question
9 as to who is going to be doing the operations.

10 But I can move on, and if the Board wishes
11 to inquire of that more specifically, I'll defer.

12 VICE CHAIRWOMAN MICHALSEN: So the record is
13 clear, you're withdrawing that question?

14 MR. CARRARA: No, no. I believe the question
15 was there, the objection, and it was then reserved
16 for later ruling. I don't want to keep asking it
17 because I think we're just going to be in the same
18 position if I move down the operational line of the
19 important people.

20 BY MR. CARRARA:

21 Q Did you have any -- well, you specifically
22 since you're the person here testifying, did you
23 have any communications with any of the local fire
24 safety prior to submitting the application to discuss

1 any concerns they may have or to share with them how
2 your operation was anticipated to be run?

3 A No comment.

4 Q Did you have any communications with the
5 sheriff's department prior to filing the petition as
6 to how you felt you were going to run the operations
7 to see if they had any concerns?

8 A No comment.

9 Q Did you have any conversations with the
10 Village of Campton Hills to discuss any concerns
11 they may have in terms of how your operation would
12 be run?

13 A No comment.

14 Q As the petition was filed and amended, did
15 you approve the filing and all of the exhibits and
16 all the documents within there?

17 A No comment.

18 Q Did you authorize your attorneys to sign and
19 file the petition?

20 A No comment.

21 Q One of the conditions is you've said you'll
22 submit a security plan -- excuse me -- it's
23 Condition No. -- I apologize.

24 AUDIENCE MEMBER: 5.

1 MR. CARRARA: Thank you.

2 Q No. 5, "Petitioner must submit a security
3 plan, including a copy of post orders, procedures,
4 and proof of contracts prior to Kane County issuing
5 a certificate of occupancy."

6 So, in essence, what you're suggesting is
7 you'll do it after you receive your approval, but
8 you're not letting anybody see what kind of safety
9 or operational guidelines are going to be in place
10 before they vote on whether it satisfies all the
11 special use factors?

12 A No comment. I stand by the record.

13 Q In the testimony by your attorneys at the
14 prior hearings, they testified that they would
15 comply with accreditation in the future. The
16 current condition says you will use best efforts.

17 Would you agree to a sundown provision on
18 your conditional use that should you not achieve
19 those additional levels of accreditation that the
20 conditional use would expire?

21 A In and of itself accreditation -- again, I
22 believe that to be unenforceable to my understanding,
23 and I believe that to be -- that that's not something
24 that anyone can do because that's an accreditation

1 and not licensure. So, again, there's many
2 accreditations, there's many different things --

3 THE WITNESS: To the Board, to address the
4 Board, that's something to go above and beyond to
5 try to do your best to reach certain levels to help
6 to kind of take something and reach a higher level
7 of care and be awarded for it. So to promise such a
8 thing would be paradoxical because that's not possible.
9 They could change; they could go out of business.

10 Accreditation could -- they change over time.

11 Again, those go above and beyond the State
12 licensure, and we really just wanted to be treated
13 equally and fairly as any other business. So we
14 just wanted to, again, reassure the community that
15 we're going to strive for greatness here, and that
16 was the point of bringing up accreditation, to make
17 sure that we have the highest level of care.

18 Q You don't have it in front of you, but I'll
19 read it to you. It's page 25 of the transcript,
20 Day 1, your attorney is testifying.

21 "The facility would be licensed by Department
22 of Alcohol and Substance Abuse of the Illinois
23 Department of Human Services and will be accredited
24 by the Joint Commission of Accreditation of Health

1 Care Organizations."

2 So are you suggesting your attorneys were
3 making an improper statement when they made that?

4 A I refer you to the record.

5 Q Thank you.

6 Do you believe that a person can waive their
7 right to contest enforceability?

8 A I refer you to the record and have no comment.

9 Q So if Maxxam Partners, LLC, wanted to agree
10 with the County that it wouldn't ever contest
11 enforceability of any of these conditions, would you
12 be willing to do that?

13 MR. KOLB: Objection; calls for a legal
14 conclusion.

15 VICE CHAIRWOMAN MICHALSEN: Overruled. You
16 can answer it.

17 A I have no comment and refer you to the record.

18 MR. CARRARA: I believe that's all I have at
19 this point, Madam Chair. Thank you.

20 VICE CHAIRWOMAN MICHALSEN: Mr. Kolb, your
21 redirect.

22 MR. KOLB: I'll be very brief.

23 EXAMINATION BY COUNSEL FOR THE PETITIONER
24 BY MR. KOLB:

1 Q Steven, there's a lot of frustration from
2 Mr. Falk in his commentary about who will be the
3 operator. Let's just to be clear, Maxxam Partners,
4 LLC, is a Delaware LLC; correct?

5 A Yes.

6 Q You and Adam are the only managers and the
7 only members; correct?

8 A Yes.

9 Q And Elliott Messing does not have a
10 membership interest, a management interest, an
11 economic interest, an ownership interest, a
12 partnership interest, or even an affiliation or
13 advisory role whatsoever with respect to this
14 facility; correct?

15 A Correct.

16 Q As far as operations, who is going to wear
17 the white jacket in the facility? Who do we all --
18 who is going to be the go-to person, that is
19 something governed by State law; is it not?

20 A Yes.

21 Q You're well aware, as I know you are, of the
22 requirements that are sufficiently and detailedly
23 set forth in Section 2060 of the Illinois
24 Administrative Code; correct?

1 A Correct.

2 Q Isn't it correct that you have, without
3 revealing any of the identities of anyone, been
4 engaged ad nauseam efforts to find the best and
5 brightest people to be at this facility, have you not?

6 A Yes.

7 Q And you devoted a considerable amount of
8 time to that task over the course of the last year
9 while we've been waiting for this petition to
10 resurface; correct?

11 A Yes.

12 Q In fact, that's been mostly what you've been
13 doing for the last year, has it not?

14 A Yes.

15 Q You submitted a certificate of good standing
16 with respect to Maxxam Partners, LLC, associated
17 with your application?

18 A Yes.

19 Q And you stand by the application that was
20 filed; correct?

21 A Yes.

22 Q Your attorneys didn't file it without your
23 authorization, did they?

24 A No, they did not.

1 Q Is there anyone else involved in Maxxam as a
2 manager or member right now that you haven't revealed
3 to this Board?

4 A No.

5 Q Is it safe to say until your medical director
6 is hired and all your key staff members that you are
7 the face of this project?

8 A Until -- until when?

9 Q Until your key staff is in place?

10 A Yes.

11 Q But you'll remain as a condition, a proposed
12 condition always to manage this entity; correct?

13 A Yes. I will always be a manager of this
14 entity.

15 Q Have you ever faced testimony from six lawyers
16 before who are directly opposed to you in a zoning
17 application?

18 MR. KINNALLY: I object to that.

19 VICE CHAIRWOMAN MICHALSEN: Objection.

20 Q I would want you to explain why it is -- and
21 I think it's important -- that you're a bit reserved,
22 having spent hundreds of thousands of dollars and --

23 MR. SHEPRO: Objection.

24 Q -- two years of your life --

1 VICE CHAIRWOMAN MICHALSEN: Objection. This
2 is beyond the scope of the redirect. Do you have
3 any other redirect questions for your client?

4 MR. KOLB: I don't. I just want to make
5 sure that Mr. Marco is respected and understood from
6 the Board.

7 VICE CHAIRWOMAN MICHALSEN: You are welcome
8 to argue that as his attorney at the appropriate
9 time. This is not that time.

10 MR. KOLB: Thank you.

11 VICE CHAIRWOMAN MICHALSEN: I do have a
12 clarification question from your redirect.

13 Mr. Carrara asked you if you authorized your
14 attorneys to sign this petition. You said "no
15 comment." Your attorney asked you, "Did we, your
16 attorneys, submit this petition without your
17 authorization" and you answered no. Is it your
18 testimony then that you authorized your attorneys to
19 file this petition?

20 THE WITNESS: Yes, I did. I authorized them
21 to -- yes, I did.

22 VICE CHAIRWOMAN MICHALSEN: Thank you. It
23 would have been easier if you had answered
24 Mr. Carrara's question when he asked it.

1 I will take -- if Mr. Carrara --

2 MR. CARRARA: I just have one.

3 VICE CHAIRWOMAN MICHALSEN: -- rebuttal.

4 MR. CARRARA: Yes.

5 EXAMINATION BY COUNSEL FOR OBJECTOR ANDRZEJEWSKI

6 BY MR. CARRARA:

7 Q Based on the reference to the 2060 and all
8 the detailed analysis that's going to have to be
9 done, specifically -- I'll get you the cite just so
10 you know it. It's under the category of medical
11 director who has to be present. It then goes to
12 subparagraph D.

13 It states, "All organizations shall have first
14 aid kits, and when such services are not directly
15 provided, a written agreement with a licensed hospital
16 or medical center for the provisions of physical
17 examinations, laboratory tests, and emergency medical
18 services, and if applicable for high-risk prenatal
19 care and transportation during emergencies."

20 Do you have a written agreement with a
21 hospital to handle these functions?

22 A No comment.

23 Q Do you have a written agreement with the fire
24 protection district to handle these transportation

1 services?

2 A No comment.

3 MR. CARRARA: That's all I have.

4 VICE CHAIRWOMAN MICHALSEN: Thank you.

5 It is now 9:40. I will ask Mr. Kinnally for
6 his thoughts.

7 MR. KINNALLY: I just have one question. I
8 promised not to introduce any exhibits, but this is
9 one that is not in the applicant's book that was
10 given to me by this lawyer which I'll give you a
11 copy of and I've marked as County Exhibit I.

12 (Exhibit I marked for identification.)

13 MR. KINNALLY: Can I approach the witness,
14 Madam Chairman?

15 VICE CHAIRWOMAN MICHALSEN: You may.

16 MR. KINNALLY: And I just have a couple of
17 questions, and I know that Ms. Quetsch wants to take
18 a break and rest her fingers.

19 EXAMINATION BY COUNSEL FOR THE COUNTY
20 BY MR. KINNALLY:

21 Q This is the exhibit that you told me about
22 an hour and a half ago that was the amendment to
23 your application on November 4th, 2015; correct?

24 A Yes.

1 Q And isn't it true, Mr. Marco, that you told
2 me that -- told the Board that Mr. Messing was no
3 longer involved in this project? Wasn't that your
4 testimony?

5 A Correct. He is no longer involved in this
6 project.

7 Q Okay. Well, let me read you this sentence,
8 second paragraph. "While Mr. Messing has been and
9 remains a trusted adviser and operational consultant
10 to Maxxam on this and other projects, he is not
11 actually an owner." That was a true statement when
12 you submitted this; right?

13 A Correct.

14 Q And it was submitted by your lawyers; right?

15 A Correct.

16 Q And it was submitted as an amendment to the
17 application?

18 A Correct.

19 MR. KINNALLY: Thank you. That's all I
20 have. I move that exhibit.

21 VICE CHAIRWOMAN MICHALSEN: Do I have a
22 motion to accept County Exhibit 1 into evidence.

23 MR. KINNALLY: County I, like in "idiot,"
24 like me.

1 VICE CHAIRWOMAN MICHALSEN: Do I have a
2 second?

3 MEMBER MELGIN: Second.

4 MR. KOLB: I'd like to object not only to
5 the last comment and ask that it be stricken from
6 the record, but also with respect to the
7 introduction of any evidence regarding Messing,
8 which is irrelevant to this case.

9 VICE CHAIRWOMAN MICHALSEN: I'm going to
10 overrule your objection in that he has testified at
11 length about that individual.

12 MR. KOLB: Thank you.

13 VICE CHAIRWOMAN MICHALSEN: Thank you.

14 May I get a vote on accepting County Exhibit I
15 into evidence by the Board? All in favor say aye.

16 (Ayes heard.)

17 VICE CHAIRWOMAN MICHALSEN: All opposed, the
18 same sign.

19 (No response.)

20 VICE CHAIRWOMAN MICHALSEN: Hearing no
21 objection, the exhibit is entered into evidence.
22 Thank you.

23 (Exhibit I admitted into evidence and
24 retained by the Board.)

1 MR. CARRARA: Did our objector exhibits get
2 entered into evidence?

3 VICE CHAIRWOMAN MICHALSEN: Neither of you
4 made motions to move them into evidence.

5 MR. SHEPRO: I did not offer mine at this time.

6 VICE CHAIRWOMAN MICHALSEN: I don't remember --
7 I don't recall hearing a motion.

8 MR. KOLB: You did not.

9 MR. CARRARA: I guess I would ask that it be
10 entered into evidence.

11 MR. KOLB: No objection.

12 VICE CHAIRWOMAN MICHALSEN: That's Exhibit E
13 that is a building layout?

14 MR. CARRARA: It is, correct. Thank you.

15 VICE CHAIRWOMAN MICHALSEN: Do I have a
16 motion to accept Exhibit E from Attorney Carrara
17 into evidence?

18 MEMBER ARIS: I move that we accept the
19 exhibit into evidence.

20 VICE CHAIRWOMAN MICHALSEN: Member Aris. Do
21 we have a second?

22 MEMBER FALK: I'll second.

23 VICE CHAIRWOMAN MICHALSEN: We have a second
24 from Member Falk. All in favor say aye.

1 (Ayes heard.)

2 VICE CHAIRWOMAN MICHALSEN: All opposed, the
3 same sign.

4 (No response.)

5 VICE CHAIRWOMAN MICHALSEN: Hearing no
6 objection, the motion carries.

7 (Exhibit E admitted into evidence and
8 retained by the Board.)

9 I think this cleans up the housekeeping
10 from this portion of the proceeding. We will
11 take a short break. It's now 9:45. If we could
12 come back in 10 minutes at five until 10:00,
13 stretch your legs and we'll -- at that time we'll
14 let you know our plan for the rest of the evening
15 in terms of timing.

16 Thank you very much.

17 (Recess taken, 9:45 p.m. to 9:58 p.m.)

18 VICE CHAIRWOMAN MICHALSEN: If everybody
19 could take their seats, I apologize we're a little
20 bit past 9:55 in convening.

21 Okay. I think everybody has mostly found
22 their seats. I did want to provide an update to the
23 public after conferring with my fellow Board members.

24 We are going to continue this meeting until

1 the questioning is complete of Mr. Marco. We know
2 he's come a long way to be here tonight, and we want
3 to wrap up the testimony tonight. So we will be
4 staying here probably pretty late. We don't have a
5 hard time, but we will stay until his testimony is
6 complete so that we will finish that task tonight,
7 and we will come up for a date for the next hearing
8 at which Mr. Shepro would so kindly offer his
9 two witnesses who came last time and came this time
10 will not be called, and I do apologize on behalf of
11 the Board, and we appreciate their flexibility in
12 being bumped on the agenda.

13 MR. SHEPRO: Thank you.

14 VICE CHAIRWOMAN MICHALSEN: So with that I
15 believe I have one housekeeping matter, and that is
16 for me to rule on Mr. Kolb's objection to Mr. Carrara's
17 question identifying the personnel that Mr. Marco
18 has hired or wants to hire for the facility.

19 My ruling on that is that is sustained, and
20 he does not have to answer that question again.

21 MR. CARRARA: Thank you. I wasn't asking
22 for individual names, just if he endeavored to do
23 it. Thank you.

24 VICE CHAIRWOMAN MICHALSEN: At this time I'm

1 going to ask my colleagues if they have any questions
2 of Mr. Marco at this time.

3 Member Lake.

4 MEMBER LAKE: Yes. Hi, Mr. Marco.

5 I have a couple of things regarding the
6 nine conditions. One of them is when you take on
7 responsibility or you agree to take on responsibility
8 in No. 9, I am -- my opinion is it would be cleanest
9 if you allowed the emergency services to bill Maxxam,
10 and then you would then recoup from your clients as
11 appropriate.

12 THE WITNESS: I would agree to that.

13 MEMBER LAKE: Thank you.

14 I have a concern regarding No. 1. I do
15 appreciate the thought and gesture of how that, you
16 know, came about and whatnot. My concern is that,
17 you know, although Narcan is considered to be a very
18 effective drug in its use, the quantity of 1,000 doses
19 per year for 10 years throws up the question of
20 whether or not they'll actually use 1,000 doses,
21 shelf life, how clean would it be to actually be
22 able to transfer from, you know, one health care --
23 I'll refer to your facility as a health care place;
24 forgive me if it's not spot on -- how one health care

1 provider would be able to purchase that and then
2 transfer it on to a second health care provider, and
3 perhaps in some time potential of obsolescence.

4 So I'm wondering if there's a better way to
5 carry out this gesture if it's actually found
6 appropriate.

7 THE WITNESS: I appreciate the question.

8 To take it a piece at a time, the first one
9 you said about 1,000 a year, how I came up with this
10 condition is, again, from all the information from
11 the County.

12 So I believe it was Sheriff Kramer went to
13 buy reserves was my interpretation and understanding
14 from the statistics and usage that Kane County was
15 actually at a burn rate of 1,000 Narcan a year. So
16 kind of when they allocated two years' of funds to
17 buy supplies, those Narcan created 1,000 per year in
18 need. So I kind of wanted to fill that gap to
19 hopefully preserve the reserve funds of the police
20 department for other uses.

21 And then as far as shelf life, I don't want
22 to mistake, but just to speak informally, I believe
23 it's two years potentially. I'm not 100 percent sure,
24 but the intention would be to provide it every year.

1 As far as obsolescence, all we're willing to
2 do is dedicate that we will give it as long as -- if
3 it's wanted. If someone doesn't want it, we're glad
4 to not donate it. This was something just to fill
5 the gap and to try to curb the issue here, which is
6 an epidemic and a growing heroin overdose rate here
7 in the county.

8 MEMBER LAKE: Thank you.

9 VICE CHAIRWOMAN MICHALSEN: Any other members
10 with questions?

11 MEMBER FALK: Would you like to share your
12 expertise in the facility as far as it relates to
13 what you're trying to accomplish within the facility
14 and your expertise in that marketplace? I'm unclear
15 as to what you do and how you do it.

16 THE WITNESS: Definitely. My background is
17 in real estate development and other types of projects
18 which to maximize value, identify an asset of some
19 sort. My passion is real estate, was initially, and
20 my passion, generations of the past my family has been
21 in hospitality, and hotels, and luxury hospitality,
22 the ultra-luxury segment.

23 So in my experience where I found there's a
24 huge opportunity in this industry in my opinion --

1 again, some of this is just to speak informally just
2 to the Board directly. This is an amazing opportunity
3 because, again, as we've heard in the record, every
4 one of every socioeconomic class deserves to have
5 great treatment. So there's a real opportunity in
6 the market to understand hospitality, because this
7 is a residential facility, at the same time to
8 provide the highest level quality of care that's
9 compartmentalized by Part 2060.

10 So there's a licensure that protects the
11 medical quality of care there, and my expertise is
12 not just building the best teams that exist and
13 knowing what issues may be created, finding the best
14 individuals that can work together as a team to
15 really maximize an operation on a project, but I
16 understand both the training, the property aspects
17 to recognize where a facility won't need to have new
18 structures, find an issue -- find an opportunity and
19 see that there's a gap in the market that really --
20 that full continuum of care I spoke to earlier is
21 bringing together not just the full continuum of
22 care of medicine, but, also, there's a lot of these
23 activities and a lot of people who have these diseases
24 when they're being rehabilitated -- it may be

1 equestrian therapy, art therapy, music therapy.
2 They may need to connect to something outside of
3 just the direct medical care, whether medication,
4 therapy, or otherwise.

5 So that aspect of running something that has
6 similarities to something residential, that needs to
7 be hospitable, the background of really understanding
8 how to run an efficient operation, to stay profitable
9 and effective, and be able to continue to expand that
10 quality of care, and be able to take on new, different,
11 maybe innovative ways of connecting these people with
12 these diseases to new passions that will fill what
13 ends up being missing either personally, mentally,
14 internally.

15 So it's a mix. I have a great expertise in
16 the physical side, the development side, and, again,
17 I know I'm capable, and everyone around me says I'm
18 the best at building teams. And I know what I don't
19 know, and I know how to find the people that do and
20 manage them accordingly.

21 I could get more into anything. I just wanted
22 to be as concise as I can be.

23 MEMBER FALK: I appreciate that.

24 VICE CHAIRWOMAN MICHALSEN: Any other

1 questions? Otherwise, I've got a couple.

2 MEMBER ARIS: Go right ahead.

3 VICE CHAIRWOMAN MICHALSEN: Mr. Marco, what
4 do you for a living?

5 THE WITNESS: This. What I do for a living
6 right now and for the past three years is going
7 passive on everything else and focusing on this
8 100 percent of my time.

9 VICE CHAIRWOMAN MICHALSEN: What are you
10 going passive on, or what have you been going
11 passive on to pursue this petition?

12 THE WITNESS: In the past I've been -- are you
13 looking for specific -- real estate development,
14 ultra luxury real estate development, as well as
15 commercial real estate investment.

16 VICE CHAIRWOMAN MICHALSEN: Okay. How does
17 luxury development and commercial development give
18 you expertise in running a substance rehabilitation
19 center?

20 THE WITNESS: So running and the ownership
21 as I -- to go a bit further on what I was trying to
22 say to Mr. Falk is there's two components here.

23 Running a center and that language that you're
24 using is all within the licensure process, and I

1 would say, again, speaking to myself, I am the best
2 out there at finding the best people to do a job.

3 VICE CHAIRWOMAN MICHALSEN: What makes you
4 the best out there at finding the best people?

5 THE WITNESS: Just my life experience, my
6 ability to be make things successful, my ability to
7 identify -- tell me how you'd like me to go. My
8 whole life of --

9 VICE CHAIRWOMAN MICHALSEN: Well, as opposed
10 to your life experience and the things you've made
11 successful, could you give me like a bird's-eye view
12 of your résumé, your history, private successful
13 ventures that you have that will lend credibility to
14 your assertion that you have the ability to find the
15 best people to run this facility?

16 THE WITNESS: Unfortunately, certain projects
17 of mine and certain ownerships interests is something
18 that is not public. And, unfortunately, specific
19 projects to which I am an owner, partner, I can't
20 reveal specific projects.

21 And I'm glad to explain or express any of
22 those abilities, any of the execution, but specific
23 ownership interests, I cannot reveal that at
24 this time.

1 VICE CHAIRWOMAN MICHALSEN: Is there
2 anything from your work experience that you are at
3 liberty to share with this Board?

4 THE WITNESS: I am able to share just an
5 incredible team experts and amazing record that was
6 created over multiple years. And in my experience --
7 again, to not speak to specific projects, one of the
8 most impressive comprehensive records in zoning
9 petitions that I've ever seen.

10 So I speak to my experience as leading and
11 creating this incredible record that's in front of
12 you and the team that's been built and the record
13 that you've read. So I actually stand over these
14 multiple years as that being an amazing résumé for
15 me of what's in front of you. Because, again, I am
16 the managing member here, and I have hired every
17 single one of these experts, individuals. None of
18 that has been outsourced; I manage all of this.

19 So, actually, I'm most proud of this
20 project here.

21 VICE CHAIRWOMAN MICHALSEN: What did you do
22 before Maxxam Partners to begin this venture with
23 this facility?

24 THE WITNESS: A real estate -- investor in

1 real estate and a developer of real estate.

2 VICE CHAIRWOMAN MICHALSEN: And you can't
3 tell us any of the projects that you worked on
4 because of confidentiality agreements with your
5 clients; is that correct?

6 THE WITNESS: Worked on, ownership. Do you
7 want me to name a few that I've worked on in the past?

8 VICE CHAIRWOMAN MICHALSEN: I would love to
9 have any actual name other than, "I have great
10 expertise."

11 THE WITNESS: Sure. As far as ownership
12 interest, I cannot comment on my ownership interests
13 in specific projects. I've worked on the Ritz-Carlton
14 residences in Miami Beach. I've worked on Aqua Resort
15 in Nicaragua that recently signed -- signed two years
16 ago or a year-and-a-half with Six Senses, which is a
17 five-star brand based out of Thailand, the first of
18 its kind in this hemisphere, utilization of the
19 brand in Europe. The Telegraph and many different
20 outfits have named this the number one hotel brand
21 in the world. The hotel was named by USA Today as
22 one of the top 23 ocean views in the world, as well,
23 proud of that.

24 I also worked on -- I also worked on the

1 Ritz-Carlton residences Singer Island, parts of it. I
2 also worked on a wonderful project in Ft. Lauderdale,
3 Pompano Beach, 1380 South Ocean that's going under
4 development approvals right now. I am no longer
5 working on that project, but these are projects that
6 I had worked on. That's going to be a branded
7 two luxury towers at about 450,000 square feet.

8 The Ritz-Carlton residences Miami Beach will
9 sell at about a half a billion dollars. The size of
10 the Six Senses project in its completion is over
11 \$100 million. The 1380 South Ocean will have a
12 sellout of well over \$250 million dollars.

13 Those are some of the projects that I've
14 worked on. Again, I can't comment on any of my
15 ownership interest, and my continuation in those
16 projects no longer exists because I focus 100 percent
17 of my time on this project now.

18 VICE CHAIRWOMAN MICHALSEN: Have you run a
19 facility like this or owned a facility like this?

20 THE WITNESS: I've never been an owner of a
21 licensed alcoholism and substance abuse treatment
22 facility.

23 VICE CHAIRWOMAN MICHALSEN: Thank you.

24 Switching gears, we have -- in reading the

1 record, obviously, one expert says one thing, and
2 the other expert says another thing. You were cited
3 in the record by several of your witnesses as saying
4 there would be, I believe 5 to 10 ambulance calls
5 per year expected from this facility.

6 Can you tell me how you arrived at that number
7 since we have a range of on the lower end 5 to 10 and
8 at the higher end up to 300? And I would appreciate
9 hearing how you got your numbers since I've heard
10 how other people got their numbers.

11 THE WITNESS: Definitely. I appreciate that
12 question.

13 How I got that number was from a document
14 that is a part of the record. I can't tell you what
15 exhibit, but it was -- I believe he's still the
16 sheriff of Campton Hills, Daniel Hoffman. That
17 number -- he did an amazing -- he did an amazing
18 study that was ordered by the Village of Campton Hills
19 and no one else, not by any other applicants of this
20 property, or owners of this property, or opposition.

21 It was from a similar unbiased board like yourself
22 requested at the time, again, over four years ago or
23 whatever it is. We have the date in the exhibit.
24 He went out of his way to take luxury, high-level

1 facilities that he named that he felt were comparable,
2 we felt were comparable, and he went out of his way
3 to make calls to the appropriate police departments
4 to filter that.

5 How he outlined -- I can't repeat every word,
6 but if you refer to that exhibit, we felt that that
7 could provide the most substance here because
8 similar -- where it came from in the past was in
9 response to an unbiased board like yourselves
10 responding to different numbers. We felt here is
11 something to rely on that was from a sheriff's
12 department in a local community who did independent
13 research.

14 And, yes, when I called him and I asked that
15 he redo that report or put it on a new paper, he
16 said he can't do anything, but the public record
17 stands as the public record. So I actually did go
18 out of my way to see if he would update that or
19 stand by it, and for whatever reason -- I know he
20 had some things going, an election and things were
21 happening. So I just -- we stand by that.

22 VICE CHAIRWOMAN MICHALSEN: Thank you.

23 How many employees do you believe will be at
24 this facility if it were to open in order to run it

1 to the standard that you want to run it?

2 THE WITNESS: Could I give you a range as
3 opposed to a specific number?

4 VICE CHAIRWOMAN MICHALSEN: Sure.

5 THE WITNESS: 120 to 180 perhaps. I'm more
6 particular -- I would like to give you a range as
7 opposed to as of right now what I think.

8 VICE CHAIRWOMAN MICHALSEN: Sure.

9 THE WITNESS: Because I --

10 VICE CHAIRWOMAN MICHALSEN: That's fine.

11 That answered my question. Thank you.

12 Can you tell the Board what drugs you'll be
13 storing on property, how they'll be stored, and how
14 they'll be safeguarded?

15 THE WITNESS: I'm unable to answer that because
16 of how clearly it is articulated in Part 2060, and
17 it would just be inappropriate to me to speak with --
18 I have to comply with licensure. So licensure makes
19 it very, very clear in detail how medications are
20 distributed, what medications you're allowed to
21 distribute. So that is outside of my control and is
22 something I cannot make a decision upon in the
23 future or now.

24 VICE CHAIRWOMAN MICHALSEN: Switching gears

1 again, are you familiar with Kane County personally?

2 THE WITNESS: Personally, over the past few
3 years I've spent some very nice time here.

4 VICE CHAIRWOMAN MICHALSEN: Did you know
5 about Kane County before you wanted to locate your
6 facility here?

7 THE WITNESS: Yes, I did.

8 VICE CHAIRWOMAN MICHALSEN: How did you know
9 about Kane County?

10 THE WITNESS: That's a wonderful question
11 and I appreciate it greatly.

12 My great-grandparents actually had a lake
13 house about 5 miles away from the facility, and my
14 great-uncle that's still alive, lives in California,
15 actually has some great stories about the Hotel Baker
16 and what things were like back in the 1920s. So I
17 was actually -- it was in Fox River Heights, I
18 believe, they had a cabin back in the day. So I was
19 very familiar with St. Charles and how lovely
20 it was.

21 VICE CHAIRWOMAN MICHALSEN: Thank you.

22 Do any other Board members have any other
23 questions?

24 Mr. Melgin.

1 MEMBER MELGIN: I have one question. Being
2 a real estate developer, did you consider any other
3 uses for this property before you determined it
4 would make a substance abuse center?

5 THE WITNESS: I did not. I saw -- I did not
6 consider, no.

7 MEMBER FALK: How did you tie the conclusion --
8 VICE CHAIRWOMAN MICHALSEN: Could you turn
9 your mic on?

10 MEMBER FALK: I'm sorry.

11 How did you tie -- you know, when you saw this
12 facility, you put the real estate and the substance
13 center together. How did you make that --

14 THE WITNESS: There's thousands of
15 components to answer that, Mr. Falk, and I would
16 love to be able to break that down to you. There's
17 just a slew. There's not one specific reason.

18 Like one, for instance, that is not a
19 majority of it, but just small little coincidences
20 and analysis, for instance, Mike Toolis, chairman of
21 VOA Architecture in downtown Chicago, he is actually
22 a good friend of mine prior to the deal, prior to
23 anything on this application or anything like that,
24 and he actually was one of the original architects

1 for the Glenwood School for Boys when it first was
2 built.

3 That's just one-half of a percent of different
4 conversations and analyses that took place where I
5 said, "Hey, Mike, do you think this would be good
6 for that type of operation? It would be great,
7 Steven."

8 So many conversations, much analysis,
9 understanding the failure of the past project, when
10 I looked at the new package once I received the
11 package when it was back on the market after the
12 failure of Campton Hills, and looking at the
13 property, looking how beautiful it was, and to me I
14 saw incredible amounts of value. And then looking
15 into the past, once I understood that asset and then
16 looked deeper into something that definitely had a
17 complex history, I analyzed that fundamentally there
18 is no better use for this product, and I saw, again,
19 an ever rising need in Chicago to serve this epidemic.

20 So I saw a property that because it was
21 vacant was able to be purchased at a price that is
22 high on the market value for these types of
23 facilities, but paying that similar market value I'm
24 able to provide this incredible product that can

1 never be replicated. The replacement value is
2 incredibly high, and it's a very unique property.
3 So it's tapping into value that could never be had
4 if this scenario didn't exist, and I found it to be
5 an incredible opportunity and definitely through
6 incredible in-depth analysis to highest and best use.

7 MEMBER FALK: So in your research did you
8 make any connection to that former group, whatever
9 that name was and your group? Was there any
10 discussions amongst the two of you?

11 THE WITNESS: Definitely. My first
12 conversation when I identified the property, when I
13 said, what an amazing asset, and I spoke to the
14 realtor at the time -- I think it's CBRE. I haven't
15 spoken to her in a long time, and it's terrible I
16 don't remember her name, but I can give it to you --
17 Cece Conway actually is her name and Larry Serota --
18 I've got them both. Those are the two realtors on
19 the project.

20 When I first spoke to her, the first thing
21 she said is, "I want to tell you about this project,
22 the issues it's had on the Zoning Board level." So
23 it was definitely something to disclose and I think
24 was her responsibility. Once I heard, I started

1 looking more in depth into it and found out no
2 other use to ever capture such value that could
3 exist here.

4 MEMBER FALK: There was no relationship
5 between your group and that group at all?

6 THE WITNESS: No. Zero relationship. I
7 have no relationship with Kiva. I don't know any of
8 the members, no relation, no business dealings. None
9 of the owners of the Kiva group are friends of mine.

10 I have never had a meeting with anyone from
11 the Kiva group I think is good for you to know.
12 There's no owners of Kiva that I've ever met with,
13 never even had a phone call with any of the members
14 of the Kiva group. And that was done intentionally.
15 I didn't want to have any connection to them.

16 VICE CHAIRWOMAN MICHALSEN: Member Aris.

17 MEMBER ARIS: I have a question about your
18 background. And I realize that you can't divulge,
19 you know, the type of project or your ownership or
20 anything, but have you ever entered into a project
21 where using your project management expertise and
22 everything else that all of a sudden it was probably
23 a little more complex than you had originally
24 calculated? And if that was the case, can you walk

1 me through your process for how to deal with issues,
2 to build relationships, to -- you know, you said you
3 like to make things a success. So tell me your
4 process, your measurables, your deliverables, what
5 you did in a specific circumstance that ended up
6 being not anything like you thought it was going in.

7 THE WITNESS: A great question and I'll do my
8 best to answer it and give you an example that comes
9 to mind just the way that you asked that question.

10 What comes to mind is I have a partner of mine
11 who owned a percentage of a hotel in Nicaragua, had
12 a whole story behind it; there's a whole narrative
13 behind the story. And as we were beginning to do
14 business together, he said, "Would you like to purchase
15 this moor with me, would you like to work on this
16 moor with me?"

17 So what I did is beyond anything I could
18 comment as far as ownership, but management, I took
19 on responsibility as far as being the CFO of the
20 entity. I was on the board of the HOA; I was on the
21 board of directors of the hotel. I went -- it went
22 completely different, so I'll tell you what happened.

23 There were other minority shareholders;
24 there were founders that had no background or

1 experience there. I dealt with them directly to
2 purchase their interests on behalf of a partnership
3 group, and then as CFO what I did is I broke down --
4 it was losing a lot of money at the time as a
5 purchase. So it was a distressed asset.

6 And, again, recognizing value that wasn't
7 yet captured or created, I took over control as the
8 CFO of all dollars being released from the accounts.
9 What I did is, even though most of my time was spent
10 based out of Miami, I would have meetings with all
11 of the heads, and I would release every payroll, and
12 I would break down every single line item in detail
13 as I could get. And where I felt there was money
14 spilling out or I felt there wasn't revenue being
15 maximized, I would make certain adjustments.

16 Further, I would go into complex home
17 ownership agreements, partnership agreements,
18 guidance of how the hotel was operated, management
19 agreements, analyze them and make adjustments in
20 order to make sure that they were managed more
21 effectively, more productively, and efficiently use
22 staff in a better manner. Also, to understand the
23 site plan of such a hotel and how certain improvements
24 or adjustments could be made to the operations or to

1 certain buildings to maximize value.

2 So that's, for instance, taking a discussion
3 and saying the spa is in one villa, maybe we move it
4 somewhere else and sell that villa or dispose of it
5 to create value. Perhaps a restaurant is located on
6 a beach front property where we can move it somewhere
7 else and open up that value to build something else
8 in order to dispose of that to take the entire asset
9 and create more profit for us or more civility, as
10 well as going into doing all of those things with
11 the intent of building loan packages to go to local
12 banks, as well as the intent of knowing that the
13 stabilization was necessary to bring on a luxury
14 brand, and how could we bring it to a stable enough
15 place where we knew that the business model as it
16 sat could not continue. We couldn't make that a
17 grand success, but perhaps we could stabilize it
18 enough where we can identify, and connect with, and
19 negotiate with the appropriate brand, identify the
20 appropriate brand, what's going to maximize this
21 asset, get them interested enough.

22 Because that's a partnership in one way.

23 Even though you're hiring them as a manager, you
24 have to understand that they don't -- five star and

1 luxury brands don't just get onto any asset that
2 will pay then. So they really have to understand
3 that this operation is stable enough for them to
4 risk their reputation.

5 So really all of this was very different
6 working in a foreign country and an emerging market.
7 Nothing went the way we thought it would go with
8 banks and loans. We actually weren't able to get
9 the leverage we thought at all just because of how
10 hard it is to do business in foreign countries even
11 though we saw a brand opportunity. We had a
12 construction company within that component. We
13 needed to spin that off because that wasn't adding
14 any value and separating that from --

15 I could get into more stories, but that's
16 kind of overall taking something -- I do have
17 experience taking something that's distressed and
18 analyzing all the procedures, processes, staffing,
19 line items, costs, accounting, going in there and
20 making sure that I make it more efficient and leave
21 it better than when I started.

22 MEMBER ARIS: Okay. So let's stay in sort
23 of the discussion about past experiences but take it
24 out of the realm of being a CFO or a project manager

1 or going to what I call the other skills that
2 executives need to have. Have you ever had a
3 property that you either had surrounding property
4 owners or neighbors that were not very happy with
5 whatever the new direction of the property was
6 going, or that you had special interest groups that,
7 you know, weren't happy because the property would
8 destroy the existing surroundings?

9 And if you've had those experiences, what
10 have you specifically done as an executive leader on
11 what I call the nonfinancial, nonbusiness side to
12 collaborate, to move things forward, to become a
13 good partner to the community?

14 Can you give me an example of that, where
15 you did that? Not balancing the books or adding
16 more value or building your brand; I'm talking about
17 the nuts and bolts of executive leadership.

18 THE WITNESS: So the nuts and bolts of
19 executive leadership I very strongly stand by. I
20 must have not done a good job with that story. Many
21 of those aspects are executive leadership in my
22 personal life. And to go a step further to answer
23 your direct question, I just wanted to qualify
24 everything that I said.

1 MEMBER ARIS: That's a good business example.
2 But this isn't a business as such; this is more than
3 a business. So what I want to understand is, how do
4 you relate to people, and how do you get your
5 organization to relate to people, and how do you
6 integrate yourself into the community, and when did
7 you have a hard experience in doing that, and what
8 did you experience, and what did you learn by it?

9 THE WITNESS: I don't -- I really want to do
10 my best to give you everything you want and need. I
11 don't feel comfortable -- it's difficult for me to
12 go -- I'm doing my best to share with you as much as
13 I can to get into specific examples because of the
14 nature and scale of these deals and the institutional
15 grade of these deals would be inappropriate of me,
16 and I wouldn't want to step on any legal -- I don't
17 want to take certain responsibilities. It puts me
18 in a very strange position, so I, unfortunately,
19 cannot answer that.

20 MEMBER ARIS: Sure. Great.

21 VICE CHAIRWOMAN MICHALSEN: Do you have any
22 other questions, Member Aris?

23 MEMBER ARIS: No. That's fine.

24 VICE CHAIRWOMAN MICHALSEN: Any other

1 members with questions?

2 (No response.)

3 VICE CHAIRWOMAN MICHALSEN: I have at least

4 one follow-up depending on your answer.

5 Your team presented Derrick Waldren at the
6 December 15th, 2015, hearing as your expert for the
7 security that the property will have or the facility
8 will have. His testimony was interesting to read,
9 but in the end, because he did not have a contract
10 with your business, it was not as useful as it could
11 have been.

12 So my question is, what are your security
13 plans for the building? Are you planning on signing
14 this contract with Mr. Waldren and Alarm Detection
15 Systems? Are you going to keep the plan that he
16 outlined in his testimony? Now that it's been more
17 than a year since his testimony has a security plan
18 been updated?

19 But I'd like to hear directly from you. So
20 thank you.

21 THE WITNESS: I appreciate the question.

22 Derrick Waldren -- I actually haven't spoken to him
23 so recently. We had incredibly detailed proposals
24 from him, and definitely we're looking to sign with

1 him. But, again, signing and making considerations
2 here is very, very difficult without approvals and
3 puts us in a very uncomfortable situation, which is
4 why we can't sign with any of these people because
5 it puts a burden on my entity.

6 But at the same time I've given you an
7 example -- and something that I got excited about or
8 felt good about that I'll just go out of my way to
9 say even if you're not asking for it is related to
10 that virtual fence. I don't know if you remember that.

11 VICE CHAIRWOMAN MICHALSEN: I do.

12 THE WITNESS: So I'm more than happy to
13 agree to that that I will create that virtual fence.
14 And, for instance, there's been updates. So there's
15 different embedded analytics in these cameras,
16 things have changed, but the virtual fence as laid
17 out, the thermal fencing, I'm more than glad to
18 agree to that because I think it's wonderful, and is
19 a win-win, and isn't a burden aesthetically, and
20 does nothing but protect people from coming into my
21 property more so than anyone leaving my property.

22 It just helps everybody, and I see it as a
23 win-win, so I'm more than glad to bear the burden of
24 that cost of what could arguably be the most

1 expensive security virtual fencing system. I'm more
2 than happy to agree to that technology.

3 VICE CHAIRWOMAN MICHALSEN: Certainly. And
4 without regard to what they are and if you have a
5 different company that you sign with, do you intend
6 to have physical security staff on premises 24 hours
7 at this facility?

8 THE WITNESS: Yes.

9 VICE CHAIRWOMAN MICHALSEN: And how many?

10 THE WITNESS: I couldn't -- I couldn't answer
11 that. I could just answer that we'll be in full
12 compliance -- we'll be in full compliance with the
13 licensure as far as security. We will have 24-hour
14 physical security, and I can tell you that I will
15 personally agree on behalf of Maxxam to provide that
16 virtual fencing system that is monitored 24 hours,
17 seven days a week not just from the property but
18 also from a third-party area similar to what was
19 outlined by ADS.

20 VICE CHAIRWOMAN MICHALSEN: Thank you.

21 Do any other Board members have any other
22 questions at this time?

23 (No response.)

24 VICE CHAIRWOMAN MICHALSEN: I think that

1 exhausts my list of questions for the moment.

2 Although, hearing what others ask may -- I'm
3 sorry -- Member Falk.

4 MEMBER FALK: One of the questions that was
5 brought up the other night was the drugs that are
6 taken out at this facility, the studies that have
7 been done as it relates to when they exit the body,
8 what it does to the aquifers.

9 THE WITNESS: Oh, I would love to address
10 that question. Great question.

11 I have a great letter; Andrew can deliver it
12 at some point. We had an amazing testimony,
13 actually, or it was a letter -- it was from Sheaffer
14 & Roland. What's his name? It's Mike Sheaffer.
15 Who's the head of Sheaffer & Roland? Mr. Sheaffer?

16 Mr. Sheaffer can tell you -- and they were very
17 excited and disappointed by the public's comments.
18 I again am speaking on behalf of him informally, but
19 I know he'll formally back it up. I think he said
20 it's eight times cleaner than Kane County's water
21 and is one of the most advanced -- sorry -- I'm not
22 going to say one of the most advanced, but he can
23 tell you that it is cleaner than Kane County's water
24 unequivocally in that system, and that there's no

1 pharmaceutical remnants or anything like that, and
2 he was very proud of that system and that fact.

3 MEMBER FALK: Thank you.

4 VICE CHAIRWOMAN MICHALSEN: Any other
5 questions from Board members?

6 (No response.)

7 VICE CHAIRWOMAN MICHALSEN: At this time we
8 will invite members from units of local government.

9 I would ask if there are two people from the
10 same unit of local government if you could perhaps
11 choose one spokesperson for your unit of government
12 if at all possible.

13 Oh, and I apologize, Mr. Kolb will get
14 redirect.

15 MR. KOLB: So these units of local government
16 can cross-examine the witness? Is that what we're
17 doing?

18 VICE CHAIRWOMAN MICHALSEN: Yes.

19 I apologize, though, I did skip your
20 redirect if you have any redirect for your witness.

21 MR. KOLB: Not at all.

22 VICE CHAIRWOMAN MICHALSEN: Thank you.

23 Do we have any members of units of local
24 government?

1 Mr. Blecker.

2 MR. BLECKER: Harry Blecker, president,

3 Village of Campton Hills.

4 EXAMINATION BY VILLAGE OF CAMPTON HILLS PRESIDENT

5 BY MR. BLECKER:

6 Q I'm not an attorney, so this question may be
7 a little bit worded not properly maybe.

8 In Item No. 9, Condition No. 9, Maxxam
9 Partners, LLC, or its successors, you mentioned --
10 or you testified that you would be -- you, Mr. Marco,
11 would be the owner and operator of this facility
12 forever. You would not resign; is that correct?

13 A No comment.

14 Q What happens when you retire? You're a
15 young man now. What happens if you retire?

16 A No comment. I refer you to the record.

17 Q There is no record.

18 MR. KOLB: I'm going to object to asked and
19 answered. Mr. Marco testified he would remain as a
20 manager of Maxxam Partners, LLC.

21 Q Okay. Let's take it one step further. What
22 happens when Mr. Marco passes on?

23 A I'm not sure.

24 Q So it goes to whatever successor, whoever

1 that may be?

2 A I'm sorry. I was just saying I wasn't sure
3 what happens after I die. I wasn't answering
4 related to the business. I want to put that on the
5 record; I was really just answering -- because I
6 wasn't sure. I was not answering related to the
7 business entity. I was just answering as to after
8 my death or potential death.

9 Q What happens to the business entity after
10 you pass on?

11 A I have no comment.

12 Q So after you pass on, retire, whatever, we
13 don't -- we have no secure answer for that. Okay.

14 A Is that a question?

15 Q No. Just a comment. Sorry.

16 A Okay.

17 Q You brought up Kiva and a report by -- and
18 let me correct you. He is not sheriff; he is police
19 chief of Campton Hills.

20 A My apologies.

21 Q You brought up a report several years ago from
22 Chief Hoffman. That report was on Kiva; correct?
23 That report that he produced was for the Kiva hearings?

24 A I have no comment. I refer you to that

1 exhibit in our record.

2 Q In fact, it was for the Kiva hearings.

3 Do you intend to do acute detox at your
4 facility?

5 A I have no comment. I refer you to the record.

6 Q The Kiva facility, were they proposing to do
7 acute detox?

8 A I have no comment. I refer you to the record.

9 Q Well, for the record, they did not.

10 VICE CHAIRWOMAN MICHALSEN: Mr. Blecker, if
11 you're going to be testifying, I will swear you in.

12 MR. SHEPRO: Could I make a suggestion? In
13 the interest of time, if Mr. Blecker would submit
14 his questions to the Board, Mr. Marco appears to
15 answer their questions instead of saying "no
16 comment." Then we could move this along faster.

17 VICE CHAIRWOMAN MICHALSEN: I will swear you
18 in, sir.

19 (Witness sworn.)

20 VICE CHAIRWOMAN MICHALSEN: And, please, I
21 do ask that you try to limit your testimony and
22 stick to questioning the witness.

23 Mr. VanKerkhoff.

24 MR. VANKERKHOFF: I just want to note for

1 the Board's reference that in your binder of
2 exhibits this is Exhibit J6, Campton Hills Police
3 Department. If you want to refer to it, it's like
4 in the last fifth of the binder.

5 THE WITNESS: Would I be able to grab a
6 bottle of water?

7 VICE CHAIRWOMAN MICHALSEN: Sure.

8 Is that in the petition documents or in the
9 exhibits?

10 MR. VANKERKHOFF: Exhibits. J6.

11 MR. BLECKER: Thank you, Mr. VanKerkhoff.

12 I can testify to the fact that Kiva in those
13 hearings was not -- and I repeat was not going to do
14 intensive detox at that facility. So the report
15 that Chief Hoffman put out has no bearing on this
16 facility whatsoever because that report was based on
17 facilities that were not going to do intensive
18 detoxification.

19 THE WITNESS: That is incorrect.

20 MR. BLECKER: No, that's what that report is.

21 THE WITNESS: That's --

22 MR. KINNALLY: I object to this. The report
23 speaks for itself. Chief Hoffman did that report,
24 it's in evidence, and he's not here to testify about

1 what it meant.

2 VICE CHAIRWOMAN MICHALSEN: Your objection
3 is sustained. If you can move on to any questions
4 that you have.

5 BY MR. BLECKER:

6 Q Let me ask this question again. Have you
7 ever talked to Sheriff Kramer?

8 A No comment.

9 Q Are you familiar with a letter from Sheriff
10 Kramer to Mr. VanKerkhoff dated January 27, 2016?

11 A No comment.

12 Q Do you think that Mr. -- that Sheriff Kramer
13 was mistaken when he said, "I believe this facility
14 will require between 100 and 300 combined responses
15 for police and EMS"?

16 A No comment. I refer you to the record.

17 MR. KOLB: Objection to hearsay. Move to
18 strike.

19 MR. SHEPRO: What?

20 MR. KINNALLY: Well, it's already in the
21 record, Madam Chairman.

22 VICE CHAIRWOMAN MICHALSEN: Yes. If we
23 could just move on. I'm overruling. I think those
24 records -- the exhibit speaks for itself. It's

1 already in.

2 Q Do you know how far the nearest hospital is
3 from your proposed facility timewise, not necessarily
4 mileagewise?

5 A No comment.

6 Q Do you know the conditions of the roads that
7 an ambulance will have to go to to reach the nearest
8 hospital?

9 A No comment.

10 Q Do you know how many facilities of this type
11 are located on hospital grounds and/or campuses?

12 A No comment.

13 MR. BLECKER: Well, seeing as you're not
14 going to answer any of my questions, maybe I should
15 have listened to Attorney Shepro. That's all I have
16 to say tonight.

17 VICE CHAIRWOMAN MICHALSEN: Thank you,
18 Mr. Blecker.

19 Do we have any other representatives from
20 units of local government? And if you could
21 identify yourself for the record.

22 MR. MILLER: Sure. Joe Miller, Campton
23 Township trustee. I recognize everybody has been
24 very thorough; everybody's been here very late. I

1 just really actually have one or two.

2 EXAMINATION BY CAMPTON TOWNSHIP TRUSTEE

3 BY MR. MILLER:

4 Q First of all, thank you very much. You gave
5 a lot more information. You have a very ghost-like
6 appearance online. So trying to find out who you
7 are -- I really do appreciate that you kind of gave
8 some background.

9 Just for the point of view clarification,
10 you mentioned one CFO-type position. So just has
11 most of your work been as CFO, or CFO and CEO, or
12 just are you able to --

13 A I apologize that I cannot -- I am not going
14 to comment further on specific roles, tasks,
15 ownership, responsibilities. I was doing my best to
16 kind of give examples to the Board of experience
17 bases and the -- sorry -- at the end board member --

18 MEMBER ARIS: Aris.

19 A -- Aris was asking kind of to give an
20 example of how I would break down similar execution.
21 So to get into any sort of specific roles, tasks,
22 again, I made no claims of any ownership, I would
23 like to be on the record. I'm just going to stand
24 by that.

1 Q I'm not asking you for ownership or company
2 names.

3 A Related to anything I would stand by what I
4 said before. I have no comment further on what
5 you're asking.

6 Q Okay. So, basically, when you say you worked
7 on, we actually have no understanding of the capacity
8 of "working on," what that means?

9 A I have no comment beyond the breakdown of an
10 execution similar to the scenario the board member
11 asked.

12 Q Okay. Just giving you an opportunity to
13 clarify something.

14 A Thank you.

15 Q You said also that you were looking for
16 basically everyone from every -- I'm paraphrasing --
17 everyone from every socioeconomic class was what you
18 were talking about, you saw the need. Does this
19 facility propose to serve every socioeconomic class?

20 A I have no comment.

21 Q Okay. Giving you an opportunity to clarify,
22 you were talking about between 120 and 120 employees.
23 I'm not expecting you to have to remember all the
24 documents previously.

1 VICE CHAIRWOMAN MICHALSEN: I apologize.

2 Mr. Miller, you said 120 to 120.

3 MR. MILLER: I'm sorry. 120 to 180 employees.

4 VICE CHAIRWOMAN MICHALSEN: I just want the
5 record to be clear. Thank you.

6 Q I just would like to give you an opportunity,
7 it doesn't have to be now, to go back through the
8 record just so we can take a look at the traffic
9 studies just to make sure those numbers aligned, as
10 well as if you then care to revise it, adjust it
11 later on. It doesn't have to be done right now.

12 A I would love to clarify to the Board kind
13 of, again, where there may be some disconnect.

14 Unless I misunderstood the Chairwoman's
15 question, you asked me in order to operate such a
16 facility. Relating to traffic studies and people
17 coming in and out and operating a facility whether
18 they're on location were two different questions.

19 So if you refer to a staffing plan that
20 gives you an example of what the State requires from
21 a medical side. And as far as if you look at the
22 traffic study that is appropriate and we stand by as
23 far as the traffic I may have misunderstood unless
24 you would like me to reanswer.

1 The question was how many people, Steven, or
2 Maxxam, will it take to operate such a facility,
3 which I thought was more about the economic impact,
4 how many people are we going to be hiring, how many
5 does it take to make this work. But we do not
6 change any of our representations related to the
7 record, our traffic studies, our claims, our
8 staffing plans, or projections that we've given.

9 I just want to make sure that's clarified to
10 the Board prior to moving on.

11 VICE CHAIRWOMAN MICHALSEN: Okay. If I may.

12 MR. MILLER: Please.

13 VICE CHAIRWOMAN MICHALSEN: The estimates
14 provided I believe in the record by your team were
15 80 to 100 employees total, and your estimate tonight
16 is 120 to 180. Which things may have changed --
17 right? -- it's been a year. Maybe your business
18 model has been updated.

19 How many -- the question I meant to ask, and
20 I appreciate Mr. Miller asking this because it
21 brought to light that I didn't ask the question I
22 actually meant to ask, which is how many employees
23 do you anticipate having on-site on a daily basis?
24 And feel free to break it down Monday through Friday

1 and on the weekends if that's a way that you're
2 going to break it town. Because I was asking to try
3 to get your estimate of how many cars we're going to
4 have going in and out.

5 THE WITNESS: Wonderful. I'm so glad we
6 came to this so you can understand my answer.

7 So that answer I gave you before was kind of
8 all-encompassing. It did not have to do with just
9 on-site.

10 So the projections that were analyzed and
11 understood by KLOA that did the traffic study have
12 not changed. So every number as far as employees,
13 traffic, all of that that has been in the record and
14 discussed has not changed at all. I was just talking
15 about there's ancillary people, people -- all different
16 ways of marketing, there's lots of different people
17 that I was giving you a number off my head of how
18 many people are we going to be paying to really make
19 this work, but I change nothing as far as our
20 representations in the record.

21 MR. KINNALLY: Madam Chairman, for the
22 Board's edification -- I don't mean to interrupt
23 Mr. Miller -- the traffic study that was submitted
24 is Exhibit 15 in the packet, and there are staffing

1 numbers that are indicated there of approximately
2 70 employees.

3 VICE CHAIRWOMAN MICHALSEN: Thank you.

4 MR. KINNALLY: That's on page 5 of the
5 report for -- just for your reference.

6 VICE CHAIRWOMAN MICHALSEN: Thank you very
7 much, Mr. Kinnally. I appreciate that.

8 Mr. Miller, did you have any other questions?

9 MR. MILLER: Yes, please.

10 BY MR. MILLER:

11 Q So as you conceptualized this business and
12 you wanted to develop you say the best in class, how
13 did you -- certainly that term is a relative term.
14 How did you -- what was the preparation that you
15 did? Did you look at other facilities; did you look
16 at other facilities?

17 A No comment.

18 Q Wow, don't even know where to go from there.

19 Previously you said from a septic system you
20 spoke with some -- I don't remember the name of the
21 group, and you were talking about the septic system,
22 and you said the water was pristine. Could you clarify
23 what that actually means? Which water? The water
24 from the affluent discharge or the drinking water?

1 MR. KOLB: For the record, he's referring to
2 the Sheaffer & Roland wastewater system evaluation,
3 which is Tab 14.

4 MR. MILLER: Thank you, Mr. Kolb.

5 A Exactly. If you refer yourself to the
6 record, what I was referring to was the water and
7 wastewater system, and what I was referring to was a
8 comment that was made during the public hearings.

9 Which, again, we stand on the record.

10 As far as the question of Member Falk related
11 to pharmaceutical remnants being in any of the
12 wastewater systems, what I was responding to is that
13 Mr. Sheaffer who designed and continues to maintain
14 the facility for the past 20 years. I was
15 informally -- and I do testify the truth, and it
16 could be followed up with him -- my conversation,
17 whether on record or not, that he's more than happy
18 to stand by -- I'm pretty sure there was a letter
19 created. I don't know if we gave it or shared. If
20 not, a letter could be created or anyone could speak
21 to him. And he was very proud to say how much
22 cleaner the water is than the Kane County system.

23 MR. SHEPRO: Can I object to this as rank
24 hearsay?

1 THE WITNESS: I don't mind it being hearsay.

2 I was just trying to share -- trying to answer his
3 question.

4 BY MR. MILLER:

5 Q Perhaps I'm talking the words out of
6 Mr. Falk's thought process, but my concern is not so
7 much the current state of the septic system and the
8 water is now. My concern is that when one basically
9 puts in around 50 metric ton of affluent that may
10 just by its pure nature have some medications in
11 there, what will happen to the septic system. Which
12 as far as I know, when I looked at the record --
13 Mr. VanKerkhoff possibly can attest -- there was an
14 outstanding question regarding EPA and what would
15 happen in some disposition ruling about that water.
16 I've never seen an answer to that, sir.

17 A There is an answer to that, and we submitted
18 an answer to that in response to Mr. VanKerkhoff's
19 inquiry.

20 Again, because I don't design wastewater
21 systems, Mr. Sheaffer would be the best to give you
22 the details. But just to informally let you know,
23 the way you're describing it is not actually how it
24 works, and how the system works, and how fluids and

1 pharmaceuticals works.

2 I just want to let you know that you're kind
3 of -- I'm not going to say anything more, but
4 Mr. Sheaffer and Sheaffer & Roland could explain
5 that better than I, and I have not personal comment.
6 But I can tell you the water is clean, and it is not
7 a danger to anyone in the community or anyone on
8 campus.

9 MEMBER FALK: Mr. Miller, you were going
10 exactly where I was going with, when it exits the
11 human body into wherever, what does it do to the
12 aquifers that are only 30 feet under the ground? I
13 don't know that.

14 THE WITNESS: If it's not -- if it's not
15 satisfied in the record as it sits, I would be
16 willing and would like to let the Board know I'm
17 more than glad to have Mr. Sheaffer draw up a letter
18 that explains in detail the processes. I'm pretty
19 sure I already did that, but if I did not, we'll go
20 back internally and I'm glad to have it created to
21 the specific issues that anyone on the Board has.
22 Because Mr. Sheaffer is very proud of that system
23 and could explain to you if there's a million people
24 how that system would make sure that that water

1 doesn't get into anywhere else and doesn't endanger
2 anyone on campus.

3 VICE CHAIRWOMAN MICHALSEN: I'm going to
4 stop you right there. I believe Member Melgin has
5 some comments that may be helpful here.

6 MEMBER MELGIN: So a permit would be required
7 from the Illinois Environmental Protection Agency to
8 discharge water from a waste treatment system. So
9 they would have to abide by the permit that IEPA
10 would issue.

11 THE WITNESS: I apologize for not
12 remembering that.

13 VICE CHAIRWOMAN MICHALSEN: Mr. VanKerkhoff.

14 MR. VANKERKHOFF: Just to interject, there
15 were some follow-up requests on whether or not the
16 system was operable and concerns that Water Resources
17 had about sedimentation into the pond. I recall
18 those being addressed. I don't recall at this hour
19 whether or not there was included in that an answer
20 to the pharmaceutical question. I'd recommend that
21 would be a good follow-up stipulation from Sheaffer
22 & Roland if he's attesting that they will adhere
23 to that.

24 I think the concern was whether or not the

1 licensing that the State has does even addresses
2 this type of facility that might have a lot of
3 pharmaceuticals into it, so the State -- whether or
4 not the requirement actually covers this concern.

5 So that's what we'll work to get at.

6 THE WITNESS: If you don't mind, I would
7 like to address one thing of what he just said
8 really quickly.

9 VICE CHAIRWOMAN MICHALSEN: Sure.

10 THE WITNESS: It's just related to the
11 water. I did compensate when there were questions
12 that weren't required of me to answer right away as
13 far as water questions and things that come from
14 Mark during the process, I paid Sheaffer & Roland to
15 make sure they answered all the questions that came
16 from the zoning department. So I quickly made sure
17 that I paid them so we got the right turnaround and
18 had them answer every question that came from Mark
19 related to the water. I want to make sure you
20 know that.

21 VICE CHAIRWOMAN MICHALSEN: Sure. And I
22 believe we will take you up on your kind offer to
23 provide additional follow-up to that question.

24 THE WITNESS: No problem.

1 VICE CHAIRWOMAN MICHALSEN: Thank you.

2 MR. MILLER: Okay. Other than that, just a
3 question for the Board. The last meeting you kind
4 of charged local government bodies to come up with
5 sort of concepts of what we would like to see
6 included in terms and conditions.

7 On one hand we don't want to really
8 necessary -- we're at a rock and a hard place. We
9 are actually formally on record as saying we oppose
10 this petition, so submitting a bunch of qualifications,
11 we don't want that to be mistaken as somehow we are
12 condoning and saying, "If you do this, then."
13 However, that being said, we still also want to be
14 productive in the process.

15 So as a matter of that process, would you
16 recommend -- would it be possible -- should we just
17 exchange those, send them to Mr. VanKerkhoff and he
18 can distribute those? What would you consider the
19 best methodology?

20 VICE CHAIRWOMAN MICHALSEN: We would -- if
21 you could send them to Mr. VanKerkhoff, that would
22 be great. I would like to hold -- when we opened
23 the meeting we thought it was going to be without
24 Mr. Marco, as his counsel told us on Tuesday that he

1 would not be here. So things shifted and we're very
2 glad to have Mr. Marco here. Thank you for staying
3 in the hot seat that long. But it does shift the
4 focus of tonight's meeting back off of those
5 conditions in terms of accepting suggestions.

6 We do want to hear from the public, and that
7 includes units of local government, you know, any
8 thoughts they have about conditions that would be
9 helpful.

10 I understand the catch-22 because by definition
11 if you're recommending conditions, you're approving
12 the underlying special use. I would make it -- I
13 would be happy to make it part of the record that
14 you can make suggestions on conditions without in
15 any way invalidating or unsupporting your initial
16 opposition to this project.

17 MR. MILLER: Thank you. Very much
18 appreciated.

19 MR. KOLB: So stipulated.

20 MR. MILLER: And I give this to -- and then
21 he can take care of it.

22 VICE CHAIRWOMAN MICHALSEN: Okay. So you
23 have that here tonight?

24 MR. MILLER: Of course. We come prepared.

1 Like Mr. Marco, a lot of us do a lot of traveling,
2 and I can't be guaranteed of being here at the next
3 meeting.

4 So that would be all my questions. Thank
5 you very much.

6 VICE CHAIRWOMAN MICHALSEN: Thank you.

7 Mr. Kolb did you have any redirect?

8 MR. KOLB: None.

9 VICE CHAIRWOMAN MICHALSEN: Thank you.

10 Any other representatives from units of
11 local government?

12 MR. CARTEE: Good evening. James Cartee.

13 I'm a trustee for Plato Township. I have a question.

14 EXAMINATION BY PLATO TOWNSHIP TRUSTEE

15 BY MR. CARTEE:

16 Q You've painted a really bright picture of
17 your facility and that's admirable that you want to
18 do that. Why wouldn't you pursue the correct zoning
19 of the property? If you wanted to have that high-
20 end facility, why wouldn't you want to have it
21 sitting on a property that's zoned correctly for that?

22 A I don't understand the question.

23 Q Why are you going for the special use permit
24 as opposed to zoning -- making the proper zoning

1 changes?

2 A No comment.

3 Q I only have one other question that a lot of
4 people have asked me to ask you is if you do have
5 plans in the future of flipping the property since
6 you're trying to fast track it.

7 A No comment.

8 MR. CARTEE: Thank you. That's all I have.

9 VICE CHAIRWOMAN MICHALSEN: Thank you.

10 Do we have any other representatives of
11 units of local government?

12 (No response.)

13 VICE CHAIRWOMAN MICHALSEN: At this time
14 I'll open it up. Are there any members of the
15 public who have any questions at this time? I know
16 Mr. Marco's answered -- had a lot of questions
17 directed at him and answered a lot of them. So I
18 wanted to make sure that the people who have made it
19 to 11:00 get a chance to come up.

20 MR. PALACIOS: My name is Elias Palacios. I
21 live at 40W812 Long Shadow Lane, St. Charles or
22 Campton Hills. That's my address.

23 VICE CHAIRWOMAN MICHALSEN: Thank you.

24 ///

1 EXAMINATION BY AUDIENCE MEMBER

2 BY MR. PALACIOS:

3 Q I would like to first of all thank you for
4 coming. And, also I was listening to your wonderful
5 presentation regarding your business venture and
6 then how good you are getting together people,
7 teams, et cetera.

8 What I was wondering is if -- that's number
9 two and number three I would like to go over with
10 you -- no, I'm sorry, No. 3 and No. 4, change the
11 numbers.

12 My understanding of No. 3 is that you will
13 not have like -- no outpatient treatment for methadone
14 patients or any programs. My understanding is that
15 you will dispense in your facility methadone is my
16 understanding when I read this No. 3. Is that correct?

17 A I stand by the record as created.

18 Q Yes or no?

19 A I have no comment for you, and I stand by
20 the record as created.

21 Q Okay. No. 4. No. 4 my understanding is that
22 you've got a business venture, meaning it's only
23 private pay it says here. In the rules for 2060 of
24 the State of Illinois, normally they ask for a

1 percentage, pro bono beds or something like this.

2 In this case you are very good in doing
3 deals and getting a good business venture, but you
4 didn't explain to us how good you are in the
5 business model for substance and alcohol facility,
6 meaning the treatment, the effectiveness of the
7 treatment for the people. And this is my
8 understanding.

9 A Is there a question?

10 Q No. That is my understanding. Is that true
11 or am I wrong understanding?

12 A I have no comment for you, and I refer you
13 to the record.

14 MR. PALACIOS: All right. I would like to
15 make a comment. It seems you don't answer those
16 questions. Normally if you come here to talk to us --

17 VICE CHAIRWOMAN MICHALSEN: I apologize.
18 We're only taking questions at this time.

19 THE WITNESS: Okay. Just finish in a
20 second, one comment.

21 My comment is because the doubts remain.
22 Things you don't know can hurt you. Therefore, as a
23 resident, I still don't know how this facility will
24 operate.

1 Thank you.

2 VICE CHAIRWOMAN MICHALSEN: Thank you.

3 Would anyone else from the public like to

4 approach? We have a woman coming from the back, and

5 then we'll get to you, sir.

6 MS. WALTER: My name is Doris Walter. I

7 live at 6N743 Brierwood Drive, St. Charles, Illinois.

8 VICE CHAIRWOMAN MICHALSEN: I apologize. I

9 should have sworn in those other witnesses. I'll

10 ask to swear you in right now.

11 (Witness sworn.)

12 VICE CHAIRWOMAN MICHALSEN: Thank you.

13 EXAMINATION BY AUDIENCE MEMBER

14 BY MS. WALTER:

15 Q First question I have for you is, this thing
16 goes in and you file bankruptcy because you can't
17 get what you wanted out of it. Then who is paying
18 the bills?

19 A I have no comment for you.

20 Q That's insulting, just so you know.

21 A I in no way mean to be insulting. I mean to
22 respect you and this process as much as possible.

23 On your specific question I have no comment.

24 Q The question is, why are we here? Tuesday

1 it was brought up that Kane County Board had to wait
2 a full year before you came back. So why is this
3 being allowed right now?

4 VICE CHAIRWOMAN MICHALSEN: I don't believe
5 that's an appropriate question for the witness, but
6 I'd be happy to try to field that for the Board.

7 This -- the rule that was brought up at the
8 last meeting referred back to petitions that were
9 refiled. No petition has been refiled in this matter.
10 The Kane County Board rescinded their decision and
11 remanded it back to the Zoning Board to complete the
12 task of completing the record.

13 So it looks like it would be in that section,
14 but because it was not, in fact, a repetition, it
15 was a recision on behalf of the County Board, that
16 is why we're here. And Mr. Kinnally can correct me
17 if I've misstated any of the applicable --

18 MR. KINNALLY: I think you put it very
19 appropriately. They made a legislative action, and
20 it came back here to the Board to do more fact
21 finding.

22 BY MS. WALTER:

23 Q Question for you, sir. You said the
24 Delaware LLC is not a legal license in Illinois.

1 Why are you pursuing the land and everything before
2 you've even gotten the license?

3 A I'm not sure what you're speaking about
4 at all.

5 Q Well, you stated that Delaware LLC, you
6 weren't legalized in Illinois?

7 A Again, I'm not sure exactly what testimony
8 you're referring to or what words, but whatever
9 question you're asking, I have no comment.

10 Q So you have not filed in Illinois?

11 A I'm not sure what you're referring to.

12 VICE CHAIRWOMAN MICHALSEN: I believe
13 Mr. Carrara questioned the formation of Maxxam Partners
14 in Delaware had not, in fact, sought the ability from
15 the State of Illinois to do business in Illinois. I
16 think what Ms. -- I apologize, I don't remember your
17 last name -- is asking you is, why are you pursuing
18 a land contract in which your company is not
19 apparently licensed to do business?

20 THE WITNESS: I stand by our formation, the
21 structure of our entity, the structure of contract,
22 all of our contracts. I stand by the structure of
23 our application. I stand by the record as it
24 stands, and I stand by everything as it sits as it

1 is right now, and I will not speak to Mr. Carrara's
2 comment or any of these assertions related to our
3 business. I have no comments here for that.

4 Q It just seems like you're going backwards on
5 everything.

6 A Is that a question?

7 Q No, that's a comment back to you because I
8 do answer questions.

9 The original thing that you put in you were
10 going to have meth addicts in there. Now you say
11 you're not going to have the meth addicts in there?

12 MR. KOLB: Objection. Assumes facts not in
13 evidence.

14 VICE CHAIRWOMAN MICHALSEN: What part of the
15 record are you referring to?

16 MS. WALTER: The original part in the
17 facility was going to be a meth facility.

18 MR. KOLB: Same objection.

19 VICE CHAIRWOMAN MICHALSEN: I apologize. I
20 would ask for assistance in where that would be in
21 the record. I'm not aware. It's been a large
22 record, so if I missed it or don't recall it --

23 MS. WALTER: I was at every meeting, and it
24 was discussed that they would have meth.

1 Q This time you're saying you're not having
2 meth. My question is, how easy is it for you to add
3 that later? Let's say you approve all this, they
4 decide a year down the line they want to add the
5 meth rehab part of it. How hard is that for you to
6 get that in there after that?

7 A Again, the terminology you're using I
8 couldn't fully understand. So, again, I stand by
9 the record and I stand by our condition list, and I
10 stand by our operations as we've asserted.

11 Again, the licensure process ensures the
12 safety of the operation internally and externally.
13 So, again, I stand by that, and I stand by the
14 licensure, and that's the answer I have for you.

15 MS. WALTER: I also have questions about the
16 aquifer with all the meds and everything, the drugs
17 that will go in and everything. I'm just right down
18 the street from there. And the aquifer, it will be
19 there. I'm only 50 deep for mine, so this scares
20 me. So this committee needs to know that this
21 scares the residents there.

22 VICE CHAIRWOMAN MICHALSEN: We can understand
23 your concerns. We haven't gotten to the public
24 comment session since we did change the format of

1 tonight's meeting to be making good use of Mr. Marco's
2 availability. We certainly understand those concerns,
3 and you will able to make that comment during the
4 public -- and I just remind you, I believe with
5 Mr. Miller's questioning he said he would provide a
6 written report addressing the questions about the
7 medications that would be flowing into the system
8 and how that would be treated.

9 MR. KOLB: Specifically you're looking for a
10 report that says the system can handle the
11 anticipated output; is that what you're asking?

12 VICE CHAIRWOMAN MICHALSEN: No.

13 MR. KOLB: Is that what you'd like?

14 MS. WALTER: No, that's not right.

15 VICE CHAIRWOMAN MICHALSEN: Then if somebody
16 could correct me on what -- I do know Mr. Marco made
17 a promise. If I mischaracterized it, I apologize.

18 MR. KOLB: That's what I was trying to get
19 to.

20 VICE CHAIRWOMAN MICHALSEN: You were going
21 to get a letter from Mr. Sheaffer.

22 THE WITNESS: Any question, detail that you
23 could possibly come up with related to pharmaceuticals
24 making its way to the water and endangering both the

1 campus or outside of the facility, I will make
2 Mr. Sheaffer and his company available to provide
3 any sort of deliverable or testimony that you feel
4 is necessary to make the community, this lovely
5 woman, and the Board feel comfortable and safe.
6 Because we are very confident, and we know that this
7 is of no danger whatsoever. And I appreciate the
8 concern and understand Mr. Falk's concern and
9 everyone else's concern and want to make sure that
10 everyone has that information so that they feel that
11 there's zero percent chance that there's a risk
12 related to the water and pharmaceuticals.

13 MR. KINNALLY: Madam Chairman, maybe we can
14 cut this short. Our staff will address this through
15 Mr. VanKerkhoff as to what is required from his
16 standpoint in terms of -- he's pretty good at that.
17 So he can do that. And he'll also answer Ms. Melgin's
18 statement with respect to whether or not there's any
19 permitting that will be issued, and we'll generate
20 that in conjunction with Mr. Anderson from water
21 resources, and Mr. VanKerkhoff, and we'll get that
22 to Mr. Kolb.

23 THE WITNESS: This board member was completely
24 correct. There's EPA; there's regular monitoring;

1 there's maintenance. It's a very intense process.

2 MEMBER MELGIN: Well, I think the question
3 is, there's a wastewater treatment on-site, where
4 does that discharge to, what are the permitting
5 requirements for that discharge, where does it go?

6 That's the question.

7 MR. KINNALLY: And whether the increased load
8 with respect to 120 patients is going to have any
9 effect long term, and we will get that information.

10 MEMBER MELGIN: And I guess that will be
11 similar to a hospital discharge.

12 MR. KINNALLY: I understand. We'll get that
13 from Mr. Anderson, and he'll work with staff, and
14 we'll get that information to Mr. Kolb.

15 THE WITNESS: I must say very quickly that a
16 large majority of everything that was just brought
17 up is inside the record. We spent a lot of time and
18 money to have Mr. Sheaffer come up with a lot of
19 details, put out a lot of reports, a lot of
20 information, permit lists related to the EPA,
21 examples. We went in depth and took lot of cost and
22 time to make sure that everyone understood the
23 wastewater systems, the permitting, all of those
24 aspects, and the PE levels, which are the ability of

1 the wastewater system.

2 We brought testimony to make sure that you
3 understood that our system not only can take 120,
4 but it can take even more and that there's many
5 components that go up to 500 PE. I don't want to
6 get into the terminology, but the record reflects a
7 lot, and all that I was willing to do here is make
8 sure that the detailed aspects that may not be in
9 the record, that go above and beyond what this new
10 Board is interested in understanding related to
11 processing pharmaceuticals, but other things we'll
12 stand by the record. So I will only address -- I'm
13 willing to address anything related to pharmaceuticals
14 in this wastewater system and danger.

15 VICE CHAIRWOMAN MICHALSEN: Just for
16 clarification, was that your understanding,
17 Mr. Kinnally?

18 MR. KINNALLY: Yes, ma'am.

19 VICE CHAIRWOMAN MICHALSEN: Thank you for
20 bringing it up so we could clarify.

21 MR. SHEPRO: Madam Chairman --

22 MS. WALTER: What are you going to do about
23 the traffic on Silver Glen.

24 VICE CHAIRWOMAN MICHALSEN: Excuse me.

1 MR. SHEPRO: Madam Chairman, I can't help
2 but observe that I think our court reporter is about
3 at the end of her limits, and I'm only listening and
4 I'm close to that, as well. I appreciate your efforts
5 in attempting to give everybody an opportunity.

6 VICE CHAIRWOMAN MICHALSEN: If I could have
7 you hold your question for a minute and have a show
8 of hands of how many more people had hoped to come
9 up and ask questions of Mr. Marco.

10 (Show of hands.)

11 VICE CHAIRWOMAN MICHALSEN: I'm going to ask
12 that this member of the public finish her questions,
13 and then we'll take a very short recess. We need to
14 determine a date for the next hearing, and we can
15 let you know at the end of that recess what that
16 date will be.

17 If you could be precise and finish your
18 questions as soon as possible.

19 BY MS. WALTER:

20 Q The traffic on Silver Glen will increase.
21 You're going to have -- what did you say? --
22 120, 150 employees; you're going to have laundry
23 service; you're going to have everything going in
24 and out of that road which is already a bad road.

1 Ambulances are going to have a hard time going up
2 and down it getting around people. So are you going
3 to do anything to the road structure to be able to
4 handle all this new highway?

5 A All of this is addressed in the record. In
6 the comprehensive record we've addressed this
7 multiple times. I refer you to the record.

8 Q One of my concerns is ambulances at all
9 times of night and day which would be additional.

10 Did you know in the state of Illinois that a patient
11 can leave at any time?

12 A No comment.

13 Q Well, they can. They can leave at any time
14 day or night and they can also -- and I know you
15 said that you had a limo available. They can also
16 decline the limo ride.

17 VICE CHAIRWOMAN MICHALSEN: If could you
18 please limit -- we're not taking public comment
19 testimony at this time.

20 MS. WALTER: I'm asking a question. I'm
21 getting to it.

22 VICE CHAIRWOMAN MICHALSEN: Okay.

23 MS. WALTER: Now you've got me
24 sidetracked here.

1 Q Okay. So a patient can decline a ride. So
2 how do you look out for your safety with a patient
3 who is half rehabbed and going crazy out in the
4 streets?

5 A No comment.

6 Q Why didn't you locate this near a hospital?

7 A No comment.

8 Q We have a problem on Brierwood with people
9 already passing through because we go from Silver Glen
10 to Burlington, and people go through it all the time.
11 Is there anything that you can do to promise us to
12 work something out to where people will not come
13 through our street like a through street?

14 A No comment.

15 Q I've been there over 31 years in my house,
16 and I raised my family there. Now my grandkids are
17 living with them, I'm raising them, and that would
18 just add more traffic through my street.

19 Okay. I have a question on the housing
20 because I have been over to the facility a long time
21 ago. You said you were going to -- well, first of
22 all, the housing was set up with bunk beds, and
23 you're having people pay approximately -- and I'm
24 just throwing a figure out -- \$1,000 a day. How

1 many people do you think are going to be in a room?

2 A No comment.

3 Q How do you feel you can get 120 beds in that
4 facility without building? Are you planning on
5 building?

6 A I refer you to the record. No comment. All
7 of that is covered in the record. No comment -- no
8 further comment.

9 MS. WALTER: I don't know how you guys can
10 vote on this with no comment. You know, we have
11 fought this battle twice already. Now this is the
12 third time -- second time for their facility. But
13 it's a terrible thing to do to my community. I just
14 hope you guys really think about this.

15 Thank you.

16 VICE CHAIRWOMAN MICHALSEN: Thank you for
17 your questions.

18 At this time we will take a very brief recess.
19 it is 11:15 now. We'll reconvene at 11:25 with the
20 date for the next public hearing.

21 (Recess taken, 11:15 p.m. to 11:25 p.m.)

22 VICE CHAIRWOMAN MICHALSEN: Thank you all
23 very much for making it this long into the hearing,
24 and we do appreciate everyone's patience with this

1 longer evening. We hope not to repeat this late of
2 a public hearing again.

3 I will invite the -- I believe the three or
4 four people that raised their hands earlier to come
5 one at a time. We would ask that in the interest of
6 us getting home maybe before midnight that you not
7 repeat any questions that have already been asked
8 and that you not make comments. There will be a
9 time for public comment at the end of the hearing.
10 And if you can keep it to three minutes or less so
11 that we can wrap things up tonight.

12 I will also while everyone is still here
13 let you know our next meeting will be -- we have
14 two meetings scheduled. If we are lucky, we can
15 cancel that second one. January 24th, 2016, in this
16 room, and January 26th, 2016.

17 MR. KINNALLY: 2017.

18 VICE CHAIRWOMAN MICHALSEN: Yes. 7:00 p.m.
19 on both nights.

20 So the next one will be January 24th at
21 7:00 p.m. in this room at this location. So if
22 that's all the information you wanted to hear before
23 heading out, you've got that before you left.

24 And now the gentleman would like to approach

1 and state your name, please, for the record.

2 MR. KOLB: If he could also identify his
3 client for the record, as well.

4 MR. RICHARDS: I have no clients here. I'm
5 just representing myself. My name is Van Richards.
6 I live at 39W965 Cutwood Lane in Campton Hills down
7 the road from the facility that we're talking about.
8 I practiced law in Kane County for 55 years, retired
9 at the end of 2015. So I've got time on my hands.

10 If I may proceed.

11 VICE CHAIRWOMAN MICHALSEN: You may.

12 EXAMINATION BY AUDIENCE MEMBER

13 BY MR. RICHARDS:

14 Q Mr. Marco, I appreciate your coming here.
15 This is I believe Hearing No. 13, and this is the
16 first time we've heard from somebody from petitioner.
17 So my question to you, do you believe it's important
18 to this Board to be able to, as they use the phrase
19 now, vet the petitioner here who is asking to put
20 this huge expensive facility in our midst? Do you
21 believe it's important that the Board be able to
22 completely vet and check the particulars and the
23 background of anybody -- of the petitioner?

24 A I have no comment.

1 Q You have no comment on that.

2 Do you believe it's important that you be
3 forthcoming to this Board so that they can know
4 everything they can find out about this Delaware
5 corporation, a piece of paper registered in Delaware
6 and apparently not registered in Illinois yet? Do
7 you think it's important that the Board be able to
8 find out all they can about that as it relates to
9 the petition and the items that they're being asked
10 to consider after having read over 1500 pages which
11 entailed nine meetings before the former Board who
12 heard cross-examination, argument, saw the witnesses,
13 judged their credibility, and now the Board -- do
14 you think it's important that you cooperate with
15 them in their search about the particulars of the
16 petitioners in this case in which they're asked to
17 grant a special use? Do you think that's important?

18 A Could you make that question more concise?

19 I lost it kind of in that -- and it seemed more like
20 a statement and do I agree with all of those words.

21 Q I'm going to try and do better.

22 A But tell me if this helps to answer it at
23 all. I'll do my best to -- let me see if this
24 satisfies you.

1 I feel incredibly, as well as my entire
2 team, incredibly, incredibly confident, again, both
3 of the structure, of everything that we've provided
4 within those 1500 pages, and everything that we've
5 given was to be as forthcoming as possible about
6 every single aspect we could come up with to make
7 sure that the community was comfortable, was assured
8 of our operation, and we went out of our way to make
9 sure that we showed everyone that we fulfilled all
10 of these standards for the special use and went above
11 and beyond to know that so we could get the special
12 use and open up and really affect this community
13 positively. I hope that helps you.

14 Q It certainly does. You feel you want to
15 cooperate with this Board in seeking out as many
16 facts as they can about this petition?

17 A I have no comment and I refer you to the
18 record.

19 VICE CHAIRWOMAN MICHALSEN: If you could
20 ask just one final question, as we are past the
21 three minutes.

22 Q If it is your attempt to cooperate in their
23 attempt to vet, why is it you always habitually have
24 answered "No comment"?

1 A Could you make that question more concise?

2 Q Sure. If you want to cooperate, why do you
3 answer "No comment" to every question?

4 A No comment.

5 MR. RICHARDS: Perfect. Thank you very much
6 for your time.

7 VICE CHAIRWOMAN MICHALSEN: Thank you, sir.

8 Would anyone else like to come forward?

9 MR. WAGNER: I'm just trying to verify if I
10 can get a "No comment" and go home for the night.

11 VICE CHAIRWOMAN MICHALSEN: I'm sorry. Sir,
12 if you could state your name for the record.

13 MR. WAGNER: My name is Bob Wagner. I live
14 at 39W570 Kevin Court in St. Charles. The back of
15 my house abuts Silver Glen Road. I'm a distant
16 neighbor maybe a mile or so away from the facility.

17 VICE CHAIRWOMAN MICHALSEN: Thank you.

18 EXAMINATION BY AUDIENCE MEMBER

19 BY MR. WAGNER:

20 Q So here's my question. It's not a real
21 complicated one. I think I saw somewhere that a
22 Billy Zane and a Dr. Holtsford -- do I have that
23 right? -- are part of your team. Am I right in my
24 thinking?

1 A Is that your question?

2 Q Yes.

3 A I refer you to the record.

4 MR. WAGNER: So that answers it I guess for
5 now. And you guys are going to take public comments
6 later on?

7 VICE CHAIRWOMAN MICHALSEN: We will. We had
8 to switch gears. We were originally told this
9 witness would not appear, so tonight we're focused
10 on making good use of the time available.

11 Would anyone else like to come forward and
12 ask questions?

13 MS. CARTEE: Cathy Cartee, 41W815 McDonald
14 Road. My property touches Glenwood School.

15 EXAMINATION BY AUDIENCE MEMBER

16 BY MS. CARTEE:

17 Q Mr. Marco, thank you for coming. How long --
18 maybe you will or won't answer this question -- but
19 how long are you under contract with Glenwood School?

20 MR. KOLB: Objection. That matter is
21 confidential.

22 MS. CARTEE: So in other words, it -- okay.
23 So that means that it can go on indefinitely evidently
24 if it's confidential.

1 I know that there are other entities that
2 have been interested in this property that would be
3 better choices, but, obviously, I can't get the
4 answer to tell those people what to do.

5 Thank you.

6 VICE CHAIRWOMAN MICHALSEN: Would anyone
7 else like to come forward.

8 MR. BARTON: My name is Jeff Barton. I live
9 at 41W585 Fox Bend Drive. I'm a neighbor. My back
10 yard is about a 1,000 feet from the entrance road to
11 this facility.

12 Thank you for coming here tonight.

13 VICE CHAIRWOMAN MICHALSEN: If you could for
14 sure speak into the microphone just so the court
15 reporter can hear you.

16 EXAMINATION BY AUDIENCE MEMBER

17 BY MR. BARTON:

18 Q I was wondering with your extensive property
19 buying experience if you would care to share with
20 us -- I know it's been talked about in the record
21 that this would result in increasing property values
22 around the surrounding areas. In your experience,
23 how do feel that this facility would increase the
24 property values?

1 A I refer you to the record where both the
2 concern and the qualification of such an assertion
3 was addressed, and again respect you and appreciate
4 you for coming being so close to the property and
5 again refer you to the record to get a very
6 thorough, comprehensive answer to that question.

7 Q Does Maxxam have any plans to offer any kind
8 of incentives to the neighbors that are surrounding
9 this facility that are going to be experiencing
10 higher than normal ambulances, fire trucks going by
11 that's going to be disturbing the peace of the
12 surrounding community?

13 A I'm not sure how to answer that given that
14 that implies many different assertions that I
15 understand no substance to and could refer you to
16 the record to see what you may interpret as value to
17 you in any aspect of this project or the testimony
18 that's been given today and prior to today.

19 Q Just a couple more quick questions.

20 This being a 120-bed facility I understand
21 it's going to be about a 15-day to 30-day turnaround
22 at minimum for the patients. So we're talking about
23 anywhere from 1400 to possibly 2800 people a year.
24 Would you say that that estimate sounds correct?

1 A That is not correct if you were to review
2 the record which I would refer you to respectfully
3 because it shares in there what our average length
4 of stay is, and it's different than what you just said.

5 Q You had an estimate on your staff that you
6 were going to hire. Do you have an estimate on how
7 many people you believe the facility will treat
8 per year?

9 A I again respectfully refer you to the record.

10 Q Do you feel the estimate that only five calls
11 per year will be a little low for that amount of
12 people?

13 A I do not since that assertion was made by
14 my team.

15 Q Just one last question.

16 Do you feel it's responsible to your patients
17 to have the nearest treatment facility 20 minutes
18 away in case of an emergency?

19 A Sorry. To understand you, the nearest what?
20 Treatment facility you said.

21 Q Do you feel it's responsible for your
22 patients, your clients to have the nearest treatment
23 facility 20 minutes away for an emergency situation?

24 A Treatment facility?

1 Q Emergency treatment facility, a hospital.

2 A I have no comment.

3 MR. BARTON: That's all the questions I
4 have. Thank you.

5 VICE CHAIRWOMAN MICHALSEN: Thank you.

6 Anyone else have any questions?

7 (No response.)

8 VICE CHAIRWOMAN MICHALSEN: Seeing no
9 movement, I will excuse this witness.

10 MR. CARRARA: Madam Chair, I have just
11 two redirects if I could. That's why I was holding.
12 I just have two quick questions if I can.

13 VICE CHAIRWOMAN MICHALSEN: Very quick,
14 Mr. Carrara.

15 MR. CARRARA: Thank you.

16 EXAMINATION BY COUNSEL FOR OBJECTOR ANDRZEJEWSKI
17 BY MR. CARRARA:

18 Q When you were referring to the Village of
19 Campton Hills exhibit that was the basis for your
20 5 to 10 calls for police and fire, did you determine
21 the size of those facilities?

22 A No comment.

23 Q So if those facilities had 16 beds as
24 compared to your 120 beds, do you think that would

1 be comparable?

2 A No comment.

3 Q If those facilities are 22 beds compared to
4 your 120-bed facility, do you think those would be
5 comparable from a life safety standpoint of the fire
6 calls and police cause?

7 A No comment.

8 MR. CARRARA: I have nothing further.

9 VICE CHAIRWOMAN MICHALSEN: Mr. Kolb, do you
10 have anything on redirect?

11 MR. KOLB: I do not.

12 VICE CHAIRWOMAN MICHALSEN: At this time the
13 Board wishes to thank Mr. Marco for complying with
14 the order to appear and staying so long to answer
15 all the questions, and you are excused as a witness.

16 THE WITNESS: Thank you very much for your
17 time and consideration, as well.

18 VICE CHAIRWOMAN MICHALSEN: Thank you.

19 At this time I would love to entertain a
20 motion to adjourn the meeting and continue it to
21 January 24th at 7:00 p.m. in this room.

22 MEMBER LAKE: I have a motion to adjourn.

23 VICE CHAIRWOMAN MICHALSEN: Do I have a second?

24 MEMBER ARIS: Second.

1 VICE CHAIRWOMAN MICHALSEN: Thank you. All
2 those in favor say aye.

3 (Ayes heard.)

4 VICE CHAIRWOMAN MICHALSEN: All those
5 opposed, same sign.

6 (No response.)

7 VICE CHAIRWOMAN MICHALSEN: Hearing no
8 objection, the motion carries. Thank you.

9 (Off the record at 11:39 p.m.)

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1 CERTIFICATE OF SHORTHAND REPORTER
2

3 I, Paula M. Quetsch, Certified Shorthand
4 Reporter No. 084-003733, CSR, RPR, and a Notary Public
5 in and for the County of Kane, State of Illinois, the
6 officer before whom the foregoing proceedings were
7 taken, do certify that the foregoing transcript is a
8 true and correct record of the proceedings, that
9 said proceedings were taken by me stenographically
10 and thereafter reduced to typewriting under my
11 supervision, and that I am neither counsel for,
12 related to, nor employed by any of the parties to
13 this case and have no interest, financial or
14 otherwise, in its outcome.

15

16 IN WITNESS WHEREOF, I have hereunto set my
17 hand and affixed my notarial seal this 23rd day of
18 January, 2017.

19

20 My commission expires: October 16, 2017

21

22 _____
23 Notary Public in and for the
24 State of Illinois