

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

LIONEL TREPANIER, WES WAGER, )  
3 MAUREEN MINNICK, LORENZ JOSEPH, )  
MAXWORKS GARDEN COOPERATIVE, )  
4 and AVI PANDYA, )

)  
5 Complainants, )

)  
6 vs. ) No. PCB 97-050

)  
7 SPEEDWAY WRECKING COMPANY, and )  
THE BOARD OF TRUSTEES OF THE )  
8 UNIVERSITY OF ILLINOIS, )

)  
9 Respondents. )VOLUME IV

10

11 the following is the proceedings of a hearing

12 held in the above-entitled matter, taken

13 stenographically by MICHELE J. LOSURDO, CSR, a

14 notary public within and for the County of DuPage

15 and State of Illinois, before JOHN KNITTLE, Hearing

16 Officer, at 100 West Randolph Street, Room 11-512,

17 Chicago, Illinois, on the 11th day of May, 1999,

18 A.D., commencing at 9:30 a.m.

19

20

21

22

23

24

1 PRESENT:

2 HEARING TAKEN BEFORE:  
3 ILLINOIS POLLUTION CONTROL BOARD  
4 100 West Randolph Street  
5 Suite 11-512  
6 Chicago, Illinois 60601  
7 (312) 814-3473  
8 BY: MR. JOHN C. KNITTLE

9 MR. LIONEL TREPANIER  
10 MR. JOSEPH LORENZ  
11 MR. WES WAGER

12 Appeared Pro se;

13 ARNSTEIN & LEHR  
14 120 South Riverside Plaza  
15 Suite 1200  
16 Chicago, Illinois 60606  
17 (312) 876-6928  
18 BY: MR. NORMAN P. JEDDELOH

19 Appeared on behalf of the Respondent,  
20 The Board of Trustees of the  
21 University of Illinois;

22 ADDUCCI, DORF, LEHNER, MITCHELL &  
23 BLANKENSHIP, P.C.  
24 150 North Michigan Avenue  
Suite 2130  
Chicago, Illinois 60601  
(312) 781-2200  
BY: MR. MARSHALL L. BLANKENSHIP

Appeared on behalf of the Respondent,  
Speedway Wrecking Company.

20

21

22

23

24

1	I N D E X	
2	THE WITNESS: LIONEL TREPANIER	
3		PAGE
	Direct Examination	
4	by Mr. Trepanier.....	790
	by Mr. Joseph.....	820
5	Cross-Examination	
6	by Mr. Blankenship.....	824
	by Mr. Jeddeloh.....	873
7	Redirect Examination	
8	by Mr. Trepanier.....	879
	by Mr. Joseph.....	881
9	THE WITNESS: WES WAGER	
10	Direct Examination	
11	by Mr. Trepanier.....	918
	by Mr. Joseph.....	937
12	Cross-Examination	
13	by Mr. Blankenship.....	944
14	THE WITNESS: JAMES HENDERSON	
15	Direct Examination	
	by Mr. Jeddeloh.....	959
16	Cross-Examination	
17	by Mr. Trepanier.....	982
	by Mr. Wager.....	1011
18	by Mr. Joseph.....	1012
19	Redirect Examination	
	by Mr. Jeddeloh.....	1028
20	Recross Examination	
21	by Mr. Trepanier.....	1034
22		
23		
24		

1	EXHIBITS	
2	PAGE	
3	Complainant's Exhibit Number 4.....	793
	Complainant's Exhibit Number 5.....	794
4	Complainant's Exhibit Number 6.....	796
	Complainant's Exhibit Number 7.....	913
5	Complainant's Exhibit Number 8.....	914
	Complainant's Exhibit Number 9.....	915
6		
7	University Exhibit Number 1.....	978
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 HEARING OFFICER KNITTLE: My name is John  
2 Knittle. I'm a hearing officer with the Illinois  
3 Pollution Control Board. I have been appointed to  
4 handle Case Number PCB 97-50, which is Lionel  
5 Trepanier, Wes Wager, Maureen Minnick, Lorenz  
6 Joseph, Maxworks Garden Cooperative and Avi Pandya  
7 versus Speedway Wrecking Company and the Board of  
8 Trustees of the University of Illinois.

9 This is the fourth day of hearing.  
10 Today's date is May 11th, 1999 and we are  
11 proceeding with the complainant's case in chief,  
12 but before we get to that, we are going to address  
13 some outstanding motions.

14 The first thing I want to address is a  
15 motion recently filed by complainant Lionel  
16 Trepanier. First is a motion to file instanter  
17 the -- looks like a motion to continue and a motion  
18 to reconsider a review. I'm going to grant the  
19 motion to file instanter. Both of the motions are  
20 accepted.

21 Moving on to the motion to continue. We  
22 also have a response to that motion to continue and  
23 then a reply to the response. The motion to  
24 continue is denied. This hearing will go forward.

1 Motion to reconsider or review the April 7th, 1999  
2 order eliminating the video evidence, I'm a little  
3 unclear as to what this is exactly, but I'm going  
4 to take this as a motion for me to reconsider my  
5 order, and I'm going to deny that. Mr. Trepanier  
6 you can make your motions to the board if you want  
7 to.

8 So that takes care of this and this which  
9 leads us to a subpoena duces tecum and a motion to  
10 quash filed by the Illinois Environmental  
11 Protection Agency. Mr. Trepanier you've received  
12 the motion to quash now. Do you want to make a  
13 response to that since I will note for the record  
14 that that was not sent to you by fax. You were  
15 served, but you probably didn't get your copy yet.  
16 I'm going to give you a chance to orally respond to  
17 the motion to quash now.

18 MR. TREPANIER: Well, one of the issues I  
19 want to respond to is that I think the EPA's claim  
20 that this request is overburdensome is untimely and  
21 it's contradicted by their own earlier response to  
22 my previous subpoena which they found not  
23 overburdensome. In fact, on the earlier subpoena,  
24 they were able to reply and at that time they

1 produced the documents but not the witness that I  
2 needed to authenticate the documents.

3 I think, in part, the subpoena asks for  
4 information directly on this case specifying  
5 1261 South Halsted that this is information that I  
6 rightly would have to pursue my constitutional  
7 right to a healthful environment, and I think the  
8 EPA is errant in not being here in assisting me and  
9 providing public records so that the record of the  
10 case might be made well for the board.

11 There's apparently -- it appears that  
12 there's a typographical error on the face of the  
13 subpoena whereat it states -- it appears to state  
14 Tuesday May 10th, 1999 and it's, in fact, I believe  
15 May 11th today not may 10th. And if that's caused  
16 a problem for the EPA that they will not have  
17 Mr. Halford here, although he was served seven days  
18 ago to the day today, then I would ask that the  
19 Hearing Officer allow us, if necessary, to serve  
20 Mr. Halford again with a subpoena that he might  
21 bring the records for 1261 South Halsted that EPA  
22 has regarding asbestos removal and demolition.

23 HEARING OFFICER KNITTLE: A couple  
24 things, Mr. Trepanier, do you know that apparently

1 the EPA hasn't been in contact with you at all.  
2 They're planning on -- in fact, they did overnight  
3 all these documents to their EPA office in this  
4 building, and they are planning on delivering them  
5 to you in the hearing today, but they are not  
6 planning, so I understand through my conversations  
7 with Dennis Brown, the agency attorney, on  
8 producing Dale Halford.

9 MR. TREPANIER: And I really feel that  
10 Mr. Halford is going to be of a benefit because he  
11 can let us know whether or not -- I think can he  
12 give us determinative word whether or not an  
13 asbestos removal notification was filed by the  
14 university or any contractor they had for  
15 1261 South Halsted.

16 HEARING OFFICER KNITTLE: Mr. Trepanier,  
17 I also note not only does the subpoena duces tecum  
18 have the wrong date on it, it's not been notarized  
19 by a notary public. Is that true? At least my  
20 copy isn't.

21 MR. TREPANIER: Mine also.

22 HEARING OFFICER KNITTLE: Why didn't you  
23 get this notarized?

24 MR. TREPANIER: I didn't understand that



1 that was required for the subpoena.

2 HEARING OFFICER KNITTLE: And I also  
3 talked to the EPA and they state that even though  
4 you sent this by mail on May 3rd to Dale Halford,  
5 he didn't receive it at the IEPA until, I think,  
6 May 4th which is --

7 MR. TREPANIER: Which is seven days to  
8 the day today.

9 HEARING OFFICER KNITTLE: Actually,  
10 Dennis Brown has indicated to me that he didn't  
11 receive it enough to give you seven days, so he  
12 must have received it on May 5th.

13 MR. TREPANIER: It is stamped State of  
14 Illinois May 4th on it.

15 HEARING OFFICER KNITTLE: Maybe Dennis  
16 Brown is -- but the thing is, Mr. Trepanier, I  
17 am -- and this ties in, of course, to  
18 Mr. Jeddelloh's motion. He's got a motion also  
19 entitled the fifth motion to compel, that related  
20 to the old subpoena duces tecum.

21 MR. JEDDELOH: Last time around,  
22 Mr. Knittle.

23 HEARING OFFICER KNITTLE: Thank you. But  
24 I'm assuming you want to -- I have not ruled on

1 that motion. Do you want to make another motion in  
2 light of the newest subpoena duces tecum?

3 MR. JEDDELOH: Yes, Mr. Knittle, and I  
4 think it's astounding that there's been a whole  
5 series of transactions in this case that directly  
6 relate to a claim of conduct on the part of the  
7 university to which the university is a complete  
8 stranger -- actually the fifth day of hearing.

9 We have received no notices of any  
10 subpoenas. We have not been provided the documents  
11 that were produced the first time and I'm sure if  
12 time would take its course, we wouldn't receive the  
13 documents the second time. We haven't been copied  
14 any motions to quash. We haven't gotten any notice  
15 of that, and I'm astounded that Mr. Trepanier takes  
16 the position which he apparently does that he  
17 doesn't have to involve parties in his discovery  
18 process. So I think that the whole process is  
19 defective, highly prejudicial to the university and  
20 we are entitled to see the documents that he's  
21 producing. That's fundamental in litigation and  
22 he's not producing them.

23 HEARING OFFICER KNITTLE: Mr. Blankenship.

24 MR. BLANKENSHIP: We join that objection,

1 but let me also add, as I understand it, the point  
2 of all these documents is to somehow show there is  
3 or is not a notice of asbestos removal and I submit  
4 that's not relevant to why we're here.

5         There's no claim in this case regarding a  
6 failure to comply with asbestos notice regulations.  
7 The question is did the dust that came from this  
8 building constitute air pollution and if part of  
9 their case is that there is asbestos in the dust,  
10 then they should have sampled the dust and found  
11 the asbestos, but we're getting extremely fair  
12 afield to argue that this dust was -- contained  
13 harmful asbestos and was inhaled by the  
14 complainants based on the fact that there may or  
15 may not have been a proper notice of the asbestos  
16 removal.

17         I believe the university is going to call  
18 the actual contractor who is going to testify as to  
19 whether asbestos was or was not removed, and  
20 whether there's a notice especially with respect to  
21 all these other properties, seems to be extremely  
22 irrelevant, a waste of time.

23         MR. JEDDELOH: I join in that. Of  
24 course, I still think that I'm entitled to see the

1 documents that he's producing pursuant to  
2 discovery.

3 HEARING OFFICER KNITTLE: Yes,  
4 Mr. Trepanier?

5 MR. TREPANIER: A couple of pieces I want  
6 to respond with, first, what Mr. Blankenship  
7 illustrates regarding whether or not if an asbestos  
8 removal notice was filed was it a legal notice, and  
9 the board has picked up this issue to some degree  
10 during the motion for summary judgment in their  
11 ruling of October 15th. And there on page 5 of  
12 their ruling the board does talk about this issue  
13 and left this issue alive in their ruling  
14 specifically dealing with it and specifically not  
15 ruling it out and commenting on the records that  
16 were adduced during the summary judgment.

17 But I really most strongly want to  
18 address the words from the attorney Mr. Jeddelloh  
19 because I feel that Mr. Jeddelloh has litigated in a  
20 way, although he's a very strong advocate for his  
21 client, I really believe that he stepped overbound  
22 when he filed this fifth motion to compel.

23 As was included on the attorney's motion  
24 and his attachment was a letter that he dated April

1 1st, 1999 reputed to have been sent to me by  
2 overnight mail. Although I do have a copy of that  
3 letter from him, it is, in fact, dated April 5th  
4 sent by overnight mail. I have both the letter and  
5 the envelope here, so I don't know how the attorney  
6 Jeddelloh -- how he created the letter dated  
7 April 1st, '99 sent overnight to me and the letter  
8 that he purports that was sent on April 2nd, the  
9 first I saw it was inside of his motion.

10         And, in fact, the fifth motion to compel  
11 itself, although it states on its face that it was  
12 mailed April 9th, in fact, the envelope shows that  
13 it wasn't mailed until April 12th, so I think that  
14 the attorney has been overly zealous and, in fact,  
15 stepped overbounds when he created this fifth  
16 motion to compel.

17         As to the merits of his claim, the prior  
18 documents that the attorney had sought were in the  
19 room on the last day of hearing and the attorney  
20 himself chose not to look at the documents. He  
21 then made demands of me, apparently, that I  
22 photocopy these and provide them to him, never  
23 offering the opportunity that he might just want to  
24 look at the documents, but rather just making

1 unreasonable demands of me and then putting them in  
2 envelopes that don't even match the date of the  
3 letters inside of the envelope, so I think that the  
4 university's fifth motion to compel should be  
5 denied.

6 HEARING OFFICER KNITTLE: I'm going to  
7 make a ruling unless you have something you really  
8 need here, Mr. Jeddelloh?

9 MR. JEDDELOH: Let me just say one thing,  
10 first of all, I find it very astounding that  
11 Mr. Trepanier is making a big deal about dates on  
12 documents when he doesn't even produce a subpoena  
13 with the right date on. I object most vigorously  
14 to his claim, therefore, that I'm overreaching by  
15 doing this.

16 I do thank him for his compliment that I  
17 vigorously represent the interest of my client, but  
18 he ignores the fact that we had a telephone  
19 conversation about this, and during the course of  
20 that conversation, he never once said, well, I can  
21 make these documents available to you. I can't get  
22 them copied. If he had said I'll bring them down,  
23 I'll let you make copies, I would have been more  
24 than happy with that solution, but he never

1 proposed that, so I think that the motion is well  
2 founded and should be granted.

3 I also will mention that there's  
4 absolutely nothing that I can find on a copy of the  
5 Pollution Control Board's final order that keeps  
6 the issue alive, close quote, which was never alive  
7 in the first place as to whether or not the  
8 university provided -- or it's contractors provided  
9 proper notice in accordance with the Environmental  
10 Protection Act.

11 As I read this document, it relates to  
12 two issues, a 9A claim and a 21B claim arising out  
13 of any purported dust that emanated from the  
14 destruction of 1261 and that's it. So I think he's  
15 mistaken on that point as well.

16 HEARING OFFICER KNITTLE: Thank you,  
17 Mr. Jeddelloh. I'm going to grant the motion to  
18 quash and deny your fifth motion to compel.  
19 Mr. Trepanier, Mr. Jeddelloh, if, in fact, these  
20 documents are available today, like the EPA has  
21 informed me that they will, you can try to submit  
22 them into evidence as certified public records.

23 If they meet the evidentiary standards  
24 being that they are in the board's regulations and

1 they're relevant to the case, I'll accept them and  
2 you can renew any arguments at the time, of course,  
3 but I think that addresses both of the outstanding  
4 motions.

5 MR. JEDDELOH: Could I ask for a basis  
6 for denying the university's motion to compel?

7 HEARING OFFICER KNITTLE: You could  
8 definitely ask for a basis. I don't think -- this  
9 is not a court of law. This is an administrative  
10 body. We are inclined to allow evidence in that  
11 would not generally be allowed into a circuit  
12 court.

13 If, in fact, it's relevant to the case  
14 and it meets our evidentiary standards under the  
15 regulations, I'm going to allow it and it will be  
16 for the board to decide the weight, and I realize  
17 you haven't been served with the subpoenas, but the  
18 motion to quash his subpoena was granted.

19 The subpoenas aren't really coming into  
20 play here other than the fact they existed a long  
21 time. Mr. Trepanier can have documents that he's  
22 going to try to admit at hearing, and at that point  
23 in time, I'm going to address the situation.

24 MR. JEDDELOH: I would just point out,



1 Mr. Knittle, that Mr. Trepanier, as all  
2 complainants and as all parties really have a duty  
3 to seasonably supplement their discovery requests  
4 and as I pointed out in my motion, these documents  
5 certainly would be responsive to those discovery  
6 requests.

7 HEARING OFFICER KNITTLE: Understood,  
8 Mr. Jeddelloh, and I do know that these documents  
9 were here at the last hearing, and I do know there  
10 was talk about both of the attorneys for  
11 respondents looking at them over the break. I  
12 don't know why that didn't happen. I don't know if  
13 you didn't want to or Mr. Trepanier did want to let  
14 you look at them.

15 All I know is that they were there for  
16 your perusal, and the new documents they were  
17 talking about didn't arrive here until today, so I  
18 do think that you had an opportunity to look at  
19 those. Whether that was taken or not is something  
20 that I don't have any way of knowing right now, and  
21 I've got a story from Mr. Trepanier. I've got your  
22 explanation and I think that I'm going to allow --  
23 in fact, I know I'm going to allow the documents to  
24 come in which is why I'm denying your fifth motion

1 to compel.

2 MR. JEDDELOH: Well, I would just also  
3 point out, just for the sake of the record,  
4 certainly the documents were available, but during  
5 the course of trial is hardly an appropriate moment  
6 to be inspecting documents. I did look at them for  
7 about five minutes as I indicated in my motion, but  
8 that doesn't give the opportunity to analyze them  
9 and figure out what they are and how they properly  
10 relate to the case.

11 HEARING OFFICER KNITTLE: That's duly  
12 noted for the record. Now, let's proceed.  
13 Mr. Trepanier, it is still your case in chief. You  
14 can call who you want to call.

15 MR. JOSEPH: I would just like to add one  
16 thing, that that was, in fact, after the trial and  
17 there was plenty of time. He had plenty of time to  
18 look at it.

19 HEARING OFFICER KNITTLE: Mr. Joseph, I  
20 appreciate your input.

21 MR. JOSEPH: He claimed it was in the  
22 middle of trial.

23 HEARING OFFICER KNITTLE: Right, and I'm  
24 sorry. I should have given you an opportunity to

1 respond during the argument and my apologies, but  
2 this matter is closed.

3 MR. TREPANIER: Just as a bit of  
4 housekeeping, I noticed, when we opened the case,  
5 you mentioned Dan Miller's name and he was removed  
6 as a party.

7 HEARING OFFICER KNITTLE: My apologies.  
8 I was looking at an old caption.

9 MR. TREPANIER: Is it possible that I  
10 could have those documents and enter them and try  
11 to enter them with my testimony, the EPA documents?

12 HEARING OFFICER KNITTLE: I don't have  
13 the documents. I'm relating to you what I was  
14 informed by the EPA attorney that they were going  
15 to be overnighted to the EPA office here and  
16 delivered to you at this hearing.

17 It's not my position to make sure that  
18 you get documents or to obtain documents for you in  
19 any way. If you get the documents, you can try to  
20 admit them into evidence, and I'm sure we'll have  
21 some objections from the respondents, but until we  
22 get those documents, it's pretty much a mute point.

23 MR. TREPANIER: Do you understand it's up  
24 to me to take a walk to the EPA's office and ask

1 them for them?

2 HEARING OFFICER KNITTLE: Let's go off

3 the record for a second.

4 (Discussion off the record.)

5 HEARING OFFICER KNITTLE: Pursuant to an

6 off the record discussion, Mr. Trepanier is going

7 to start with his testimony and we will address the

8 issue of the records if and when they appear.

9 MR. TREPANIER: Thank you. And today, as

10 the first witness, I'm going to call myself.

11 HEARING OFFICER KNITTLE: Could you swear

12 Mr. Trepanier in, please?

13 (Witness duly sworn.)

14 MR. JEDDELOH: Mr. Knittle, could we have

15 a ground rule here because, obviously, he's only

16 entitled to speak about subject matter which is

17 relevant and in a fashion that generally comports

18 with the rules of evidence and if he begins a

19 narrative of long duration, I'd like to know what

20 the best way is that we're going to have to

21 preserve our objections to what he's talking about

22 and get rulings on those objections.

23 HEARING OFFICER KNITTLE: Generally, when

24 we have a citizen complainant, we do cut them some

1 leeway if they're calling themselves. It is a  
2 difficult situation.

3 MR. JEDDELOH: I understand.

4 HEARING OFFICER KNITTLE: And that's  
5 understandable. I would advise you just to object  
6 whenever you think there's a problem, and then  
7 we'll let Mr. Trepanier step into his own attorney  
8 shoes and respond to the objection. And then we'll  
9 move forward from there. If I sustain the  
10 objection, he'll have to stop whatever narrative  
11 testimony or testimony that's objectionable.

12 MR. JEDDELOH: And I presume that if he  
13 does get into some improper testimony, that can be  
14 stricken as a result.

15 HEARING OFFICER KNITTLE: You can also  
16 make a motion to strike definitely.

17 Mr. Trepanier, you can proceed.

18 LIONEL TREPANIER,  
19 having been first duly sworn, was examined and  
20 testified as follows:

21 DIRECT EXAMINATION

22 MR. TREPANIER: Thank you. And good  
23 morning. My name is Lionel Trepanier. I am an  
24 activist, an environmental activist. I've been

1 working on green issues and specifically issues  
2 regarding Maxwell Street since about 1989 when I  
3 first approached the Maxworks Coop at 17 Maxwell.

4         Since 1989 I've had a number of  
5 opportunities to observe the activities of both of  
6 the respondents as that relates to the Maxwell  
7 Street neighborhood. And it was as a result of my  
8 observation of the activities of the respondents  
9 that on about September 6th, 1996 I began the  
10 filing of a pollution complaint that's brought us  
11 here today along with several of my associates from  
12 Maxworks Coop.

13         On September 9th, 1996, I was at and near  
14 1261 South Halsted, the subject property, and at  
15 that time I observed Speedway Wrecking dumping many  
16 wheel barrels of dust and demolition debris into  
17 the air from 1261 South Halsted, and from the roof  
18 as I was observing.

19         And as I watched the activity it was  
20 readily apparent to me that there was no controls  
21 being taken to control the dust that was being  
22 dumped from the building. Specifically, I looked  
23 for and could not find any water being sprayed,  
24 specifically no hose was about or entering the

1 building on that date, September 9th, '96. There  
2 was no chutes or tubings that carry the dust or the  
3 demolition debris to the ground. It was being  
4 dumped from the top of the building and it was  
5 falling into an alley which is on the east side of  
6 1261 Halsted.

7 I saw a videotape machine recording the  
8 events that day, and I've watched that evidence  
9 video as it's been shown here in the hearing room.  
10 And I see that what that video shows very clearly  
11 the many times that this complaint of activity  
12 occurred, specifically, the dumping of the dust and  
13 debris into the air.

14 There was some wind that day on September  
15 9th. I recall the wind was coming from the  
16 northeast, roughly, and I was watching the  
17 demolition dusts flying in the air and leaving the  
18 demolition site traveling westbound on 13th Street  
19 and out onto and across Halsted Street.

20 Halsted Street at that time and still is  
21 a very busy business district. It's heavily  
22 trafficked with shoppers and also persons eating  
23 food. In fact, there is a couple of outdoor  
24 eateries within just a couple hundred feet of the

1 demolition. I think it was about 150 feet from the  
2 demolition site to where people were standing  
3 outside with food in the open air. And it's just  
4 in the way that, on September 9th, the wind was  
5 carrying the demolition dusts.

6 Also, on that day in '96, I had an  
7 opportunity to observe the street that's 13th  
8 Street when the demolition activities had ceased  
9 for that day. And when I did observe this street,  
10 I took that occasion to take some samples of the  
11 dust that I had seen falling from the demolition.  
12 And what I did with those samples is I put them  
13 into a food grade plastic bags or better known as a  
14 Ziploc bag, Ziploc storage bag.

15 And I took two samples there at  
16 1261 South Halsted and I labeled those samples  
17 number 1 and number 2. Sample number 1 I would  
18 like to label as an exhibit. I'd like to label  
19 this Complainant's Exhibit Number 4. Exhibit  
20 Number 4 is a Ziploc bag that's sealed shut as it  
21 has been since the material was placed into the bag  
22 by myself on that day. It's labeled 9 dash 9 dash  
23 96 with a one in the right-hand corner, and it has  
24 some letters along the bottom of the label which



1 says south, southeast corner 1261 South Halsted.

2           So the label south, southeast corner of  
3 1261 Halsted is to designate the location that the  
4 sample came from, and this sample came from in the  
5 street about approximately a dozen feet from the  
6 curb and 13th Street at an east/west location being  
7 the -- the east/west location being the east side,  
8 the east end of 1261 South Halsted.

9           The material that was -- that I put into  
10 the sample bag, I took off of -- it was laying on  
11 the street about approximately -- I think I recall  
12 it was a centimeter in depth and I took material  
13 from the top of the -- of that centimeter not  
14 sweeping the street at this small location where I  
15 took the dust, but getting a sample of it.

16           I'm also aware that on the 9th of  
17 September there was a very heavy rain and the  
18 material that I didn't remove from the street was  
19 carried away by the rain to a large degree. As  
20 upon a later inspection of the street, it was  
21 pretty clean and the other dust wasn't there.  
22 That's my Exhibit Number 4.

23           I'd like to -- I have a second sample  
24 that I'd like to label as Exhibit 5 and Exhibit 5,

1 similarly to Exhibit 4, is a food grade plastic  
2 container or a Ziploc bag, and it, likewise, has a  
3 label seals -- that holds the bag wrapped up  
4 tightly. This bag, as the other ones, are  
5 themselves the bag is self-sealed and the sticker  
6 kind of gives it its shape. The label on Exhibit 5  
7 is such as it reads 9 dash 9 dash 96 which is also  
8 the date that I collected it. It has a two in the  
9 upper right-hand column and the words on the bottom  
10 s dash sw corner 1261 Halsted. And I wrote that on  
11 this label to signify -- to assist myself in  
12 recalling where this sample was taken from. And it  
13 does signify that it was the south, southwest  
14 corner of 1261 South Halsted which was also  
15 approximately a dozen feet, I believe, some  
16 distance.

17       As my recollection on the amount of feet  
18 from the curb isn't really clear, I'm not sure  
19 right now if it was between 3 and 12 feet from the  
20 curb and that would be the -- on 13th street. And  
21 the curb I'm referring to would be the curb on the  
22 north side of 13th Street and this particular  
23 sample, which is Exhibit 5, would have been taken  
24 near the front of the building so that would have

1 been near Halsted on 13th Street. And I collected  
2 the sample. I put it in the bag and sealed it up  
3 and that's the way it's remained since that time.  
4 And it's Exhibit 5.

5 And I also would like to submit an  
6 Exhibit Number 6 which, like the previous two, is a  
7 Ziploc bag where in I placed material off of the  
8 street. Exhibit Number 6 is labeled 9 dash 9 dash  
9 96 with a three in the right-hand corner and the  
10 words on the label says from one B-L-K north 13  
11 O'Brien end side middle of west building about  
12 seven feet from building. And this Exhibit  
13 Number 6 which I collected on the same day and  
14 approximately the same time from a block north of  
15 the demolition site. And that's Exhibit 6.

16 Now, Exhibits 4, 5, and 6 were held by me  
17 nearly always at my residence on the south side  
18 except on an occasion at the request of the  
19 respondents I brought them with -- I brought them  
20 over to their offices and I know that those that  
21 share the household with me on the south side I  
22 asked of each one if they had, at any time, made  
23 any changes or handled these samples and they  
24 hadn't.

1 MR. JEDDELOH: I'm going to object and  
2 ask that the, and they hadn't, part been stricken.  
3 It's obvious that he's providing hearsay testimony.

4 MR. BLANKENSHIP: I'll join the  
5 objection.

6 HEARING OFFICER KNITTLE: I'm going to  
7 overrule. It's fine, Mr. Trepanier. You can  
8 continue laying your foundation.

9 MR. TREPANIER: Now, I was -- strike the  
10 I was. I believe the samples which are Exhibits 4  
11 and 5 are actual pieces of the demolished property  
12 at 1261 South Halsted. I myself observed the  
13 material falling from the building and blowing in  
14 the wind and although I did observe the dust from  
15 the demolition going beyond 13th Street, I did  
16 collect these samples on 13th Street so that the  
17 board might have this material in an actual  
18 physical object evidencing the open dumping and the  
19 results of the emissions of dust. At this time I  
20 would like to move the Exhibits 4, 5 and 6 into  
21 evidence.

22 HEARING OFFICER KNITTLE: Let's do them  
23 one at a time. Well, can you make your arguments  
24 on the first two and then the last one since

1 they're different or do you want to do all three?

2 I'm asking the respondents, do you have any

3 preference?

4 MR. BLANKENSHIP: We can do them all

5 together.

6 HEARING OFFICER KNITTLE: Any objections?

7 MR. BLANKENSHIP: Yeah. I guess I would

8 object. I don't think there's sufficient

9 foundation that the samples, Exhibits 3 and 4 -- 4

10 and 5, excuse me, came from 1261. I think

11 Exhibit 6 which to me looks the same as 4 and 5

12 came from a block away and was intended to be a

13 sample of the ambient dust not from the building

14 and I think this raises a real question as to

15 whether this is ambient dust or not. So I don't

16 think an adequate foundation has been laid for that

17 and I don't think there's any relevance to it

18 without any testimony as to what the contents of

19 this dust is.

20 MR. JEDDELOH: Let me join in that and

21 just also point out that the witness has not

22 testified nor apparently could he testify as to any

23 antecedent condition of the precise locations where

24 the dust was taken so, therefore, would not be in a

1 position to testify at this point anyway that the  
2 dust is actually only relating to that which  
3 emanated from 1261.

4 HEARING OFFICER KNITTLE: Mr. Trepanier?

5 No response?

6 MR. TREPANIER: I guess I'll just respond  
7 to say I saw the dust fall there on the street and  
8 then I went over and got it up. It was very  
9 obvious to me being an observer of that day that  
10 this material had fallen from the building.

11 HEARING OFFICER KNITTLE: Mr. Trepanier,  
12 I'm going to deny these exhibits. You have laid  
13 the appropriate foundation if, in fact, they were  
14 at all relevant, but I can't see how they're  
15 relevant. We don't know what they are and we have  
16 your testimony that you saw dust falling onto that  
17 street, so I don't know that this helps us or the  
18 board make any decision at all. I don't think this  
19 is at all helpful to the board, so that's why I am  
20 going to deny them, although, I will take those  
21 into -- make them part of the record with me, but  
22 I'm going to deny their admission.

23 MR. TREPANIER: And if I might ask, did  
24 you consider that when the board allowed the

1 section 21 claim to go forward, that that claim  
2 relates directly to them dumping stuff on to the  
3 street, and here we've got actual samples of what  
4 they dumped on to the street which was later washed  
5 away by the rains.

6 HEARING OFFICER KNITTLE: Mr. Trepanier,  
7 I'm not so sure that that's what we have. We have  
8 your testimony that you saw dust falling and that  
9 then you picked up dust from the street. We don't  
10 have any analysis, any scientific analysis, linking  
11 this to the site at 1261 Halsted.

12 What I'm saying is this doesn't help us  
13 anymore than you're saying you saw stuff fall on  
14 the street. So I'm going to deny these -- the  
15 admission of these; however, as with all my hearing  
16 officer decisions, you can apply that to the board  
17 and these will be in the record as denied exhibits.  
18 If the board thinks I made a bad decision, they can  
19 then accept them and I don't know what they'd do  
20 with them, but they can be in evidence then if they  
21 overrule my decision.

22 MR. TREPANIER: Thank you. As I was  
23 observing on the 9th of September '96 --

24 HEARING OFFICER KNITTLE: I'm sorry.

1 Mr. Trepanier, I hate to interrupt. I just wanted  
2 to make clear for the record that I think you laid  
3 the appropriate foundation, and I don't think these  
4 are relevant, and I don't think they meet the  
5 evidentiary standards as laid out in the board's  
6 regulations for appropriate evidence. A little  
7 summary there. Please continue.

8 MR. TREPANIER: And as I observed and as  
9 I saw was shown in the evidence video that when the  
10 wheel barrels were dumped as we see -- that I saw  
11 that the material didn't fall to the ground, but a  
12 great portion of the matter dumped from the fourth  
13 floor would move sideways in the air. It would  
14 travel out on to Halsted Street and these clouds of  
15 dust were very heavy at times and totally  
16 unnecessary given that available containment  
17 interior stairwells or chutes to carry demolition  
18 material separate from the air were not being used.

19 I have observed demolitions around the  
20 region and I have noted the use of chutes to carry  
21 demolition dust and debris to the ground.

22 MR. BLANKENSHIP: I'll object to that and  
23 ask that it be stricken unless he gives us some  
24 foundation as to where and the circumstances that



1 he's observed these other demolitions and exactly  
2 what he's seen there.

3 HEARING OFFICER KNITTLE: Overruled, but  
4 the board will take definite note of the weight to  
5 be given to Mr. Trepanier's testimony with regard  
6 to those objections. Proceed, Mr. Trepanier.

7 MR. TREPANIER: Yes, sir. I had another  
8 occasion to observe the demolition activities. I  
9 think that when I did another observation that I  
10 recall I did with a Merlin McFarland and we walked  
11 together to take a look at what was happening at  
12 the demolition site.

13 And this was -- it was approximately two  
14 weeks into the demolition, so that would have --  
15 and this is an approximate date about the 23rd of  
16 September, but that's not a date certain, but I do  
17 recall pretty well that it was about two weeks  
18 after my earlier observation and at that time, the  
19 building, to a large degree, had been knocked down.

20 And at the site I saw a large pile of  
21 debris that was heaped up on the site and it was  
22 dry. I didn't see any workers on the site  
23 because -- and this was in the late afternoon,  
24 approximately 4 p.m. or so. And on that date it

1 was also a windy day and the wind was coming more  
2 from the west than from the north on that instance.  
3 And I had the opportunity and I took the  
4 opportunity to walk on Halsted Street, and at that  
5 time I observed and felt physically on my body dust  
6 flying off of this pile of debris when I was on the  
7 public way, that is, Halsted Street.

8 I could observe, as I was standing on  
9 Halsted south of 1261, on the east side of the  
10 street, I could observe the dust blowing out on to  
11 Halsted Street and when I stepped slightly more  
12 forward north on Halsted as if I was going to walk  
13 north on Halsted Street from Maxwell, the dust  
14 began to bite into my eyes and this pained me to a  
15 degree, but more importantly, in fact, it made that  
16 space of Halsted Street near 13th unusable to a  
17 pedestrian such as myself.

18 What I observed was that it was -- it  
19 really wasn't safe to walk there because it would  
20 be necessary to be shielding the eyes to such a  
21 degree from the flying dusts, so when I was making  
22 that observation and I was feeling myself being hit  
23 by the dust leaving the site, I then retreated  
24 south and there I had some cover from a building,

1 and then from there continued to observe for some  
2 time the dusts blowing from the demolition site,  
3 which is on the east side of Halsted, watching  
4 those dusts blow all the way across Halsted and  
5 then south on Halsted.

6         On both of these days and every -- on  
7 both of those days when I was at the site and  
8 others besides, I've had opportunity to observe a  
9 community garden which is within a couple hundred  
10 feet of the demolition site. And this community  
11 garden is out in the open air, and I've observed  
12 adults and children using that garden and eating  
13 food from that location.

14         I would want the board to know that I had  
15 never received any notice from the university that  
16 they were going to undertake a demolition in the  
17 neighborhood though I do receive mail at  
18 716 Maxwell and I'm registered to vote at  
19 716 Maxwell and, besides, on numerous occasions  
20 have made myself known to the university when they  
21 were having an event, where they might -- the  
22 community might be discussing what they want to do  
23 with the area or the university might be making a  
24 presentation, but despite the openness and the

1 regularity that I was present on Maxwell Street, I  
2 never, on one occasion, did the university give me  
3 any information regarding their intents to demolish  
4 a building in the neighborhood. And the fact that  
5 that didn't occur for 1261 Halsted was not at all  
6 usual as in the dozens of buildings --

7 MR. JEDDELOH: I'm going to object and  
8 ask that the testimony be stricken if he's going to  
9 get into demolitions other than 1261. I believe  
10 that's beyond the scope as this case is reduced by  
11 the motion on decision in the summary judgment.

12 HEARING OFFICER KNITTLE: Sustained.  
13 Mr. Trepanier, you have to keep it to 1261 Halsted.

14 MR. JEDDELOH: Could I ask that the  
15 comments relating to other demolitions be stricken  
16 from the record.

17 HEARING OFFICER KNITTLE: Sure. That's  
18 granted. Any comments that were not relating to  
19 1261 Halsted and that particular instance will be  
20 stricken.

21 MR. TREPANIER: A question I have is are  
22 you saying I can't give some factual background  
23 regarding the lack of notice that would establish  
24 that this was not a slip -- that it wasn't a fact

1 that a notice just blew off of a pole. In fact, it  
2 was the university's policy not to notify the  
3 neighbors when they did demolition.

4 MR. JEDDELOH: I would like the record to  
5 reflect that that last statement was argumentation  
6 and not evidence, otherwise, it should be stricken  
7 as well.

8 HEARING OFFICER KNITTLE: The record can  
9 reflect that. Mr. Trepanier is acting an attorney  
10 here. Mr. Trepanier, I don't see how that's  
11 relevant to what we're doing here. Maybe you could  
12 explain it to me, but it seems as we're here on a  
13 9A and a 12B violation and whether there's notice  
14 or not notice isn't even involved in with what  
15 we're trying to address, these alleged violations  
16 in the complaint.

17 MR. TREPANIER: I would say that the  
18 reason that they are relevant is the necessity of  
19 the board to make those section 33C determinations  
20 about the reasonableness of the activity, the  
21 priority of the location, so whether or not the  
22 alleged polluter talked to their neighbors before  
23 they did the emission is going to relate on to the  
24 reasonableness of the emission, you know, that the

1 neighbors might have some opportunity to protect  
2 themselves and to prepare.

3 MR. JEDDELOH: Well, the university still  
4 objects to getting into other demolitions besides  
5 1261. That's what we're here for. That's what  
6 we're prepared for. We're not prepared for  
7 anything else. He's got the evidence in the record  
8 that he personally claims that he never received a  
9 notice. We didn't object to that. I think that  
10 should end it.

11 MR. BLANKENSHIP: That's what I was going  
12 to say. He's testified that he didn't receive  
13 notice. His testimony concerns what happens to him  
14 and I think that's in the case.

15 HEARING OFFICER KNITTLE: I understand  
16 now, Mr. Trepanier, what you were trying to get  
17 across, and I agree that you can get into notice  
18 for the particular reason you mentioned on  
19 1261 Halsted, but I'm going to ask that you don't  
20 get into it on any of the other sites that the  
21 university and Speedway were involved with.

22 MR. TREPANIER: So you're saying that I  
23 shouldn't attempt to establish that that was -- it  
24 was the university policy not to give notice.

1 HEARING OFFICER KNITTLE: Yes, I'm going  
2 to say that. I don't want to get into, right here,  
3 other sites and whether there was notice provided  
4 at the other sites.

5 MR. TREPANIER: I have -- I'm testifying  
6 again. I have attempted to keep myself abreast of  
7 the university's activities in my neighborhood for  
8 cause of the reasons that -- such as 1261 South  
9 Halsted these activities have consisted of  
10 demolition, and as I watched that, I am aware of  
11 that even at this date --

12 MR. JEDDELOH: Well, I'm going to object  
13 again, Mr. Knittle. If we're going to get into  
14 other activities besides 1261 at this point, I  
15 don't see any reason for this. I think it would be  
16 directly contrary to the ruling you just made.

17 MR. TREPANIER: It's premature --

18 HEARING OFFICER KNITTLE: What are you  
19 about to say, Mr. Trepanier?

20 MR. TREPANIER: I'm about to say at this  
21 point the university doesn't have approval for the  
22 activity that they want to replace the building at  
23 1261 with.

24 MR. JEDDELOH: I'd like that statement to

1 be considered argumentation.

2 MR. BLANKENSHIP: And hearsay.

3 HEARING OFFICER KNITTLE: Either way I'm

4 not going to allow you to get into that line of

5 testimony. I don't see how it's relevant to the

6 cause before us, Mr. Trepanier, so I'm going to

7 sustain the objection.

8 MR. TREPANIER: If I might, I'd say it's

9 very relevant to those section 33C determinations

10 because if in this instance the university

11 demolished this building without a plan on putting

12 something there to replace it with, that pollution

13 is much more unreasonable than a demolition that

14 may result in some emissions when they've got a

15 greater purpose to -- that they're working for. If

16 this active is just wanton reckless activity, the

17 pollution resulting from that is more unreasonable

18 than something resulting from an activity that

19 clearly has a public purpose.

20 MR. BLANKENSHIP: My objection would be

21 Mr. Trepanier is in no position to offer personal

22 observation or testimony as to what the

23 university's plans are. He's not the right witness

24 for this issue.



1 MR. TREPANIER: That's not what I was  
2 contending to testify to.

3 MR. BLANKENSHIP: I think that is what  
4 you've testified to. You're contending the  
5 university had no plan or had -- you have no idea.  
6 You can't testify to that. That's not something in  
7 your knowledge.

8 MR. TREPANIER: I, in fact, can testify  
9 that the university has requested from the city  
10 counsel approval of a tiff district and it has not  
11 been granted.

12 MR. JEDDELOH: Mr. Knittle, that's well,  
13 well beyond the scope of this case and, again, that  
14 wouldn't be relevant to anything in this  
15 proceeding.

16 HEARING OFFICER KNITTLE: Yeah, I'm going  
17 to sustain the objection and, once again,  
18 Mr. Trepanier, I understand what you're trying to  
19 do, but I don't necessarily -- first of all, I'm  
20 not sure of your determination of the 33C factors  
21 and how they apply to this particular case;  
22 however, it is not within -- it's not for you to  
23 testify to what the university is or is not  
24 planning to do because you don't probably know what

1 the university is planning to do with this site.

2 MR. TREPANIER: I know they made the  
3 request for that tiff district in order to pay for  
4 a building at this site and it has not been  
5 approved.

6 MR. JEDDELOH: Mr. Chairman?

7 HEARING OFFICER KNITTLE: Yeah. Go  
8 ahead.

9 MR. JEDDELOH: Could I ask that this all  
10 be regarded as argumentation and not evidence.

11 HEARING OFFICER KNITTLE: This is all  
12 regarded as argument.

13 MR. JEDDELOH: I would also further say  
14 that the current regulatory status of some  
15 administrative plan is just not relevant and,  
16 furthermore, it would seem to me that if the  
17 university is making some efforts in the city  
18 counsel to obtain approval for doing some things,  
19 that would be directly contrary to Mr. Trepanier's  
20 own case and should not -- it's not just relevant.

21 HEARING OFFICER KNITTLE: Mr. Blankenship,  
22 anything else?

23 MR. BLANKENSHIP: Nothing else.

24 HEARING OFFICER KNITTLE: Yeah,

1 Mr. Trepanier, I'm going to ask you to move on.

2 I'm sustaining the objection.

3 MR. TREPANIER: My objection to your  
4 sustaining that did relate to number 2 under  
5 section 33C the social and economic value of the  
6 pollution source.

7 HEARING OFFICER KNITTLE: I'm familiar  
8 with the 33C factors, but I do appreciate you  
9 pointing that out for the record.

10 MR. TREPANIER: I, myself, did suffer eye  
11 irritation and coughing because of my exposure to  
12 the university's and Speedway's demolition at  
13 1261 South Halsted.

14 MR. JEDDELOH: I'm going to object. I  
15 think that he's just provided testimony as to a  
16 medical condition that only a physician could speak  
17 to. I think that they haven't qualified any  
18 medical experts and I don't think a proper  
19 foundation has been laid for his causal  
20 relationship between the claimed exposure to dust  
21 and any medical condition he suffered at all.

22 MR. BLANKENSHIP: I want to make sure if  
23 he's talking about the same incident we've already  
24 gone over, that that's clear and that this isn't

1 something else. I think he's referring to his  
2 second visit to the site, but I'm not sure, so I  
3 guess it's a foundation.

4 HEARING OFFICER KNITTLE: Right. I'm  
5 going to sustain the objection on the foundation  
6 grounds. You can testify -- I'm going to overrule  
7 the objection as to whether or not you can testify  
8 to your own eye irritation and coughing. I think  
9 you can, but I am sustaining the objection because  
10 we don't know what you're talking about. There's  
11 no causal relation between any dust from the site  
12 being resulted to, but if you lay the appropriate  
13 foundation, Mr. Trepanier, I'm going to allow that  
14 in.

15 MR. TREPANIER: Then by way of  
16 foundation, the -- I was -- as I testified earlier,  
17 approximately September 23rd or thereabouts, I was  
18 on the -- I was near the demolition site, 1261  
19 South Halsted and when I was near the site and on  
20 Halsted Street, dust from the -- blowing off the  
21 demolition site which wasn't active at the time,  
22 the demolition site wasn't active, but the dust  
23 blowing off from there did irritate my eyes and  
24 caused me some difficulty in breathing in that it

1 would make me cough.

2 MR. JEDDELOH: I know you're going to  
3 overrule my objection, but I'll just make it for  
4 the record. I do object to him providing medical  
5 testimony.

6 HEARING OFFICER KNITTLE: Okay.  
7 Overruled and noted for the record.

8 MR. TREPANIER: If I could just have a  
9 moment, I'm just trying to review in my mind if I  
10 brought out the points that I was looking to  
11 testify to today.

12 HEARING OFFICER KNITTLE: Would you like  
13 to go off the record?

14 MR. BLANKENSHIP: Should we take that  
15 five minutes so he can call and see if his  
16 documents are here?

17 HEARING OFFICER KNITTLE: Yeah. Let's  
18 take ten minutes. That will give him enough time  
19 because I think he also wants to review any further  
20 testimony, so let's take a ten minute break and get  
21 back here at five to 11:00 and then, Mr. Trepanier,  
22 can you resume.

23 (Recess taken.)

24 HEARING OFFICER KNITTLE: We're back on

1 the record. I've informed Mr. Trepanier that the  
2 records were sent here at 7:30 and, of course,  
3 there's no one here at 7:30, so UPS took them back.  
4 They will be redelivered by 12 o'clock.

5 I also informed Mr. Trepanier and I'm  
6 informing the respondents as well that I'm going to  
7 allow Mr. Trepanier if he's done testifying to  
8 recall himself for the limited purpose of offering  
9 those records into evidence if and when we get to  
10 that point. So, Mr. Trepanier, with that being  
11 said, you can proceed with your testimony.

12 MR. TREPANIER: Thank you. I'd like to  
13 now refer to Complainant's Exhibit Number 1 which  
14 was created and used on our last day of hearing and  
15 I held onto that and unchanged since then. This is  
16 Exhibit Number 1.

17 HEARING OFFICER KNITTLE: Will you show  
18 that to the respondents and to myself. As I recall  
19 this was never offered into evidence, correct?

20 MR. TREPANIER: Yeah. It hasn't been. I  
21 think that was an oversight and I'm looking to  
22 correct that now.

23 HEARING OFFICER KNITTLE: Do you want to  
24 pass that down, please?

1 MR. TREPANIER: Now, I'm looking at  
2 Exhibit Number 1 and I see there on the exhibit the  
3 space marked time lapse camera with an X and that  
4 is the place that I recall that on September 9th  
5 the video evidence was created from.

6 I'm also -- I also on this exhibit I'm  
7 seeing a box labeled demolished 1261 building with  
8 I think it's a diagram of a wheel barrel there with  
9 the word dump and that is, in fact, where I  
10 observed wheel barrels dumping when it was falling  
11 on to 13th Street and on to Halsted Street.

12 On this map, in the upper right-hand  
13 corner, there's where, on this exhibit, Maxwell and  
14 Halsted Street would meet. I am myself going to  
15 place a little diagram that I'm going to label hot  
16 dog and I'm putting that at the site where the hot  
17 dog stands are located. Maybe that's more properly  
18 known as the Maxwell Polish sausage, but I'm going  
19 to label it hot dog for simplicity. I would say  
20 that having observed that building, 1261 Halsted,  
21 it looked good and strong.

22 MR. JEDDELOH: Well, I'm going to object  
23 and ask that that be stricken. He hasn't qualified  
24 himself as an expert to assess the integrity of

1 physical structures.

2 HEARING OFFICER KNITTLE: Overruled;  
3 however, Mr. Trepanier, the board will take note of  
4 any weight to be given to your testimony as to  
5 whether or not the building was strong  
6 structurally.

7 MR. TREPANIER: And I was aware that  
8 within a couple of years of its demolition it was  
9 being used for housing and for shops on -- there  
10 was housing on the upper floors and a shop on the  
11 first floor. And with that, I'm going to close my  
12 testimony.

13 HEARING OFFICER KNITTLE: Thank you,  
14 Mr. Trepanier. Do we have any cross-exam and how  
15 do we want to handle this.

16 MR. BLANKENSHIP: We have and I guess  
17 I'll --

18 MR. JEDDELOH: Mr. Blankenship is going  
19 to take the lead.

20 HEARING OFFICER KNITTLE: Mr. Blankenship,  
21 you can proceed.

22 CROSS-EXAMINATION

23 BY MR. BLANKENSHIP:

24 Q. Good morning, Mr. Trepanier?



1 A. Hello, Marshall.

2 Q. Pollution aside, you have a concern that  
3 the university is changing Maxwell Street area for  
4 the worst, don't you?

5 A. They're very obviously attempting to  
6 eliminate it.

7 Q. Sir, answer my question, please.  
8 Pollution aside, you have a concern that the  
9 university is changing the area for the worst,  
10 correct?

11 A. And when you're referring to area --

12 Q. The Maxwell Street area?

13 A. That's correct.

14 Q. And you believe the university's  
15 demolitions have been calculated to destroy a vital  
16 neighborhood, correct?

17 A. Yes.

18 Q. And you disagree with the university's  
19 destruction of what you view as a vital  
20 neighborhood, correct?

21 A. Yes.

22 Q. And you've been involved in protest  
23 against the university, haven't you?

24 A. Could you be more specific in your

1 question?

2 Q. Well, you've been involved in at least  
3 one protest against the university, haven't you?

4 A. Well, in fact, there's been a lot of what  
5 may be called rallies in the neighborhood and it  
6 may be that part of rallying to support the  
7 neighborhood also involves identifying, you know,  
8 who's doing all these demolitions there.

9 Q. We're you involved in those rallies?

10 MR. JOSEPH: I object to the question.  
11 It's irrelevant to the nature of the case.

12 MR. BLANKENSHIP: It goes to his bias and  
13 political agenda.

14 HEARING OFFICER KNITTLE: Overruled.

15 Let's go off the record for a second

16 (Discussion had off the record.)

17 HEARING OFFICER KNITTLE: Due to an  
18 oversight by the Hearing Officer, Mr. Joseph was  
19 never given the opportunity to do a direct exam of  
20 Mr. Trepanier. I apologize. That was my mistake  
21 and I also apologize to Marshall Blankenship for  
22 letting him start his cross before all the direct  
23 examination was finished. My apologies and we're  
24 going to allow Mr. Joseph to ask his questions.

1           And, Mr. Blankenship, you can start your  
2 cross again wherever you want, at the beginning or  
3 where you were at, however you want to do it when  
4 we get there.

5           MR. BLANKENSHIP: Thank you.

6                   DIRECT EXAMINATION

7 BY MR. JOSEPH:

8           Q. Mr. Trepanier were you aware that the  
9 university would not renew the lease of the  
10 occupants of 1261?

11           MR. JEDDELOH: Objection, that's totally  
12 irrelevant.

13           MR. BLANKENSHIP: And lack of foundation.

14           HEARING OFFICER KNITTLE: Sustained.

15 BY MR. JOSEPH:

16           Q. You said that there were persons living  
17 in the 1261 building?

18           A. Yes.

19           Q. Do you know why they were not living  
20 there or why they -- do you know why they did not  
21 continue living there?

22           MR. JEDDELOH: Same question,

23 Mr. Knittle, I object.

24           MR. BLANKENSHIP: This can only be

1 hearsay, so I will object as well.

2 HEARING OFFICER KNITTLE: Overruled, you  
3 can answer if you know, Mr. Trepanier.

4 THE WITNESS: Well, I understand that the  
5 university purchased the building and forced the  
6 occupants out.

7 MR. JEDDELOH: Objection and ask that  
8 that answer be stricken. It lacks foundation.  
9 It's not relevant and it's argumentation.

10 HEARING OFFICER KNITTLE: I'm overruling.  
11 Go ahead, Mr. Joseph.

12 BY MR. JOSEPH:

13 Q. And do you know approximately when  
14 persons moved out?

15 MR. JEDDELOH: May I have a continuing  
16 objection to all this entire line so that we don't  
17 have to keep going through it.

18 HEARING OFFICER KNITTLE: On what ground?

19 MR. JEDDELOH: Well, I don't believe and  
20 I don't think the university believes that any of  
21 this is relevant, and I think that it's obvious  
22 that you're going to let them ask the questions and  
23 get answers, and so rather than me doing it every  
24 time, I'd like to just have a continuing objection,

1 so I preserve my objection.

2 HEARING OFFICER KNITTLE: Yes, can you

3 have a continuing objection on that ground. Go

4 ahead, Mr. Trepanier.

5 BY MR. JOSEPH:

6 Q. Do you think the demolition was

7 necessary?

8 A. No.

9 Q. Do you feel that if the demolition was

10 not necessary that any demolition is excessive?

11 MR. JEDDELOH: Objection.

12 MR. BLANKENSHIP: Objection. He's not an

13 expert on demolitions and I don't think there's

14 adequate foundation for him making this testimony.

15 HEARING OFFICER KNITTLE: I'll sustain.

16 I don't understand the question anyway, Mr. Joseph.

17 BY MR. JOSEPH:

18 Q. If the building was not standing, would

19 there have been this alleged pollution?

20 MR. JEDDELOH: Objection, I don't think

21 that the question can possibly elicit any facts

22 that are either relevant or appropriate. If there

23 was no building, we wouldn't be here today,

24 obviously.

1 MR. JOSEPH: So then you'll stipulate to  
2 the fact that there was pollution.

3 MR. BLANKENSHIP: Objection.

4 HEARING OFFICER KNITTLE: I don't think  
5 he's going to do that. Are you going to do that,  
6 Mr. Jeddeloh?

7 MR. JEDDELOH: I better say no.

8 MR. JOSEPH: So you're going to deny  
9 there was --

10 HEARING OFFICER KNITTLE: Hold on,  
11 Mr. Joseph. You're here doing direct examination  
12 of Mr. Trepanier, so I sustain the objection. You  
13 can ask another question if you have one. Do you  
14 have anything else, Mr. Joseph?

15 MR. JOSEPH: No, I'm sorry.

16 HEARING OFFICER KNITTLE: Thank you very  
17 much. Mr. Trepanier, you're now subject, once  
18 again, to cross-examination from Mr. Blankenship.

19 MR. BLANKENSHIP: I think I'll just start  
20 again.

21 HEARING OFFICER KNITTLE: Start from the  
22 beginning as you wish.

23 CROSS-EXAMINATION

24 BY MR. BLANKENSHIP:

1 Q. Good morning, Mr. Trepanier.

2 A. Hello, Marshall.

3 Q. Pollution aside, you have a concern that  
4 the university is changing the Maxwell Street area  
5 for the worse, don't you?

6 MR. TREPANIER: I'm going to object. It  
7 goes beyond the scope of my direct testimony.

8 HEARING OFFICER KNITTLE: Overruled.  
9 Answer, please, Mr. Trepanier.

10 THE WITNESS: Yeah, I'm concerned with  
11 the demolitions.

12 BY MR. BLANKENSHIP:

13 Q. You have a concern that the university is  
14 changing the Maxwell Street area for the worse,  
15 don't you?

16 A. Yeah, they're flattening it.

17 Q. And you believe that the university's  
18 demolitions have been calculated to destroy a vital  
19 neighborhood, correct?

20 A. Yes.

21 Q. And you disagree with the university's  
22 destruction of what you view as a vital  
23 neighborhood, correct?

24 A. Yes.

1 Q. And you've been involved in protests  
2 against the university, correct?

3 MR. JOSEPH: I object. It's irrelevant.

4 HEARING OFFICER KNITTLE: Overruled.  
5 Mr. Trepanier, if you can answer, please do.

6 THE WITNESS: I don't recall a particular  
7 protest aimed at the university. Most of what  
8 might have included -- maybe they were rallies at  
9 the corner of Maxwell and Halsted that included  
10 signs and named Mr. Brosky and said things like  
11 preserve our heritage, Mr. Brosky. I think he  
12 directs some departments of the university, so the  
13 university is definitely -- was known to me as the  
14 party that was -- I felt the university was in  
15 greatest part pushing the activities that were and  
16 still continue to threaten the Maxwell Street  
17 neighborhood.

18 BY MR. BLANKENSHIP:

19 Q. Is that a yes, you have been involved in  
20 protests again the university?

21 A. Not in the sense that I know that word.

22 Q. Did you give this answer to this question  
23 at your deposition, sir? It's on page 279.

24 Question, have you been involved, aside from this



1 particular action, in any protests against the  
2 university. Answer, any protests, yes, recently we  
3 were. I attended an event that was sponsored by  
4 the Maxwell coalition I think it's called.

5 Did you give that testimony?

6 A. That may be what I was just describing at  
7 the corner of the Maxwell and Halsted with a sign  
8 addressed to Mr. Brosky. I believed that what I  
9 just described in my first answer and, in fact, the  
10 answer you're reading are the same.

11 Q. And at your deposition at least you  
12 considered that event to be a protest against the  
13 university, correct?

14 A. Well, maybe -- I was responding to your  
15 question. I would really need to see the  
16 transcript of the deposition to understand the  
17 context of your use of the word protest at the  
18 time.

19 Q. Once, sir, you were arrested for  
20 interfering with a Streets and Sanitation clean up  
21 of the Maxwell Street area, correct?

22 A. Could you repeat that question?

23 Q. Once you were arrested for interfering  
24 with a Streets and Sanitation clean up of the

1 Maxwell Street area; is that correct?

2 A. Now, when you use the word once, is that  
3 referring to the number of events or just --

4 Q. Well, on at least one occasion, you were  
5 arrested by the Chicago Police for interfering with  
6 the streets and sanitation clean up of the Maxwell  
7 Street area; is that correct?

8 A. That's correct.

9 Q. More than once?

10 A. Well, I think like -- when you asked me  
11 this in the deposition, what Streets and San was  
12 doing is so much known to me, but I was arrested  
13 there in the neighborhood on a couple of occasions  
14 when I believe streets and san was doing some  
15 activities in the area.

16 Q. How many times have you been arrested in  
17 the Maxwell Street area?

18 MR. TREPANIER: I would object to this  
19 question. It's relevancy isn't established.

20 HEARING OFFICER KNITTLE: I'm going to  
21 overrule. He can ask this type of question on  
22 cross-examination.

23 THE WITNESS: I can recall three  
24 occasions.

1 BY MR. BLANKENSHIP:

2 Q. Was the first one this Streets and  
3 Sanitations time? What was the first one?

4 A. I don't, in my mind right now, have a  
5 chronology of the three.

6 Q. What was one of them?

7 A. The one you referred to.

8 Q. What was another?

9 A. Another, in an instance the city was  
10 seeking to demolish 716 Maxwell through  
11 conservation court, and when they were exercising a  
12 clean up order that they had for 716, the city went  
13 around to Liberty Street and began to bulldoze our  
14 wood recycling operation and I was arrested there.

15 Q. And the third time?

16 A. And the third time would have been the  
17 first Sunday that the market was closed, myself and  
18 many dozens, maybe 100 other individuals were  
19 protesting or marching on Halsted Street from the  
20 viaduct going north on Halsted, and we were stopped  
21 by the police and a number of us, including myself,  
22 were arrested.

23 Q. Would you consider that march a protest?

24 A. Yeah. I would say that that march was a

1 protest. If you're asking me, now does that mean  
2 that I contradicted my earlier answer, I would tell  
3 you no because what we were marching on that day  
4 was the closing of the market.

5 Q. I understand. That wasn't my question.  
6 In that instance you were protesting the activity  
7 of the city in the Maxwell Street area?

8 A. Right. We were protesting the closing of  
9 the Maxwell Street area.

10 Q. Aside from the university and the city,  
11 have you been involved in any other protests  
12 relating to the Maxwell Street area?

13 A. Those are the only real bad actors in  
14 this realm that I know of, so I don't imagine that  
15 myself -- I mean.

16 Q. Just yes or no, is that it?

17 A. I may have been at a march where somebody  
18 had a sign that had someone's name on it other than  
19 the city or the university, but myself, I haven't  
20 identified another direct actor who's moving these  
21 events.

22 Q. And when you filed your complaint in this  
23 matter, your concern was to stop the university  
24 from demolishing more buildings in the

1 neighborhood, right?

2 A. In part.

3 Q. And you saw air pollution as a hook to  
4 get into this forum to get someone to stop the  
5 demolitions that were going on on the Maxwell  
6 Street area, correct?

7 A. Well, it was very clear that something  
8 needed to be done with this wanton of air  
9 pollution. And I believe that the board has that  
10 ability, so that's why I've approached the board  
11 with this.

12 Q. Right. And you use that air pollution  
13 violation as you saw it as a hook to get into this  
14 court to stop the demolitions, right?

15 A. When we filed the pollution complaint, we  
16 very directly asked the board to order the  
17 university to waste no more buildings.

18 Q. To stop the demolitions?

19 A. Yes, to order them to stop.

20 Q. And at the time you filed your complaint  
21 with the Pollution Control Board you had not  
22 actually observed any pollution at 1261 Halsted,  
23 correct?

24 A. That's correct, I believe.

1 Q. You're not presently employed, are you,  
2 sir?

3 A. I'm self-employed.

4 Q. What are you self-employed as?

5 A. I do some wood recycling. I recently  
6 judged an election. It's a living.

7 Q. You've never had a full-time job that's  
8 lasted more than approximately one year, right?

9 A. No, that's not correct.

10 Q. Well, in the last five years, have you  
11 had a job that's lasted more one year?

12 A. No.

13 Q. You've completed one year of education at  
14 the College of DuPage, correct?

15 A. That's correct.

16 Q. And that was the standard freshman  
17 curriculum?

18 A. Yeah, approximately. I have an interest  
19 in computers so I was gearing in that direction.

20 Q. And in the course of your education, you  
21 did not take any advance courses in health science,  
22 correct?

23 A. That's correct.

24 Q. No chemistry, correct?

1 A. That's right.

2 Q. No biology beyond basic biology, correct?

3 A. Yes.

4 Q. You're not an environmental engineer,

5 correct?

6 A. I'm not licensed.

7 Q. And you've not received any formal

8 training as an environmental engineer, correct?

9 A. Well, no. In fact, formal training, I

10 think, you're referring to a degree program.

11 Q. Yes.

12 A. No.

13 Q. You've never worked in the demolition

14 industry, correct?

15 A. That's correct.

16 Q. Would you consider yourself a

17 professional activist, sir?

18 A. Well, I would say that I'm not a

19 professional activist in particularly and

20 especially in the sense of that word professional,

21 where a professional is paid.

22 Q. Do your activists activities take up

23 75 percent of your working day?

24 A. No.

1 Q. 50 percent?

2 A. Well, I'm a member of the greens, and one  
3 thing we've got going for us is that we adopt a  
4 lifestyle, so you're asking a question that, for  
5 myself, is not a very sensible question because my  
6 activities are towards my goals. And my goals --  
7 you know, I really do feel like our society needs  
8 to go through some shifts and changes particularly  
9 in areas of waste and pollution, so in a lot of  
10 regards, as long as I'm not asleep at the wheel, I  
11 am trying to get my activities towards those ends.

12 Q. You were not living in the Maxwell Street  
13 area at the time of the demolitions of 1261  
14 Halsted, right?

15 A. That's correct.

16 Q. You were living in Blue Island?

17 A. That's correct.

18 Q. And that's, what, 15 miles away?

19 A. I was at 126th Street south and two  
20 blocks west of Western Avenue, so I could go  
21 through the math on that.

22 Q. That's okay. And you moved from the  
23 Maxwell Street area in 1995, the year before the  
24 demolitions?



1       A. I believe that that's correct, but my  
2 memory isn't serving me really well right now on  
3 that for that day.

4       Q. But at any rate, you weren't living in  
5 the Maxwell Street area at the time of the  
6 demolition at 1261?

7       A. I wasn't living there in the sense of the  
8 word of having a sleeping -- a regularly used  
9 sleeping quarter.

10      Q. And if I understand your testimony,  
11 you're upset because the university did not send  
12 notice of the demolition to a resident of Blue  
13 Island, am I correct there? Is that your  
14 testimony?

15      A. That the reason that the university  
16 should have notified me --

17      Q. Are you upset that the university didn't  
18 send notice of the demolition of 1261 Halsted to a  
19 resident of Blue Island?

20      A. That's not the issue that I'm raising.

21      Q. Right. That's my question. I'd like you  
22 to answer it.

23      A. I did just answer it.

24      Q. Is that a yes or no answer?

1 A. I said that's not the issue that I'm  
2 raising.

3 Q. I know. I'm asking you the question and  
4 I'd like you to answer. Are you upset that the  
5 university did not send notice of the demolition of  
6 1261 Halsted to a resident of Blue Island?

7 A. You're asking me an absurdity. There's  
8 22,000 residents in Blue Island.

9 Q. So you're not upset that the residents of  
10 Blue Island were not notified of this demolition,  
11 right?

12 A. That's right.

13 Q. Thank you. The demolition of 1261  
14 actually didn't start on the day Speedway started  
15 making preparations for the demolition, right?

16 HEARING OFFICER KNITTLE: Mr. Trepanier?

17 THE WITNESS: I object to his question.  
18 It goes beyond the scope of my testimony. I didn't  
19 testify at all to when they started their  
20 demolition.

21 HEARING OFFICER KNITTLE: Mr. Blankenship,  
22 can you repeat your question --

23 MR. BLANKENSHIP: Sure.

24 HEARING OFFICER KNITTLE: -- because I

1 don't recall.

2 MR. BLANKENSHIP: Well, I'm trying to  
3 address the newest issue, so let me go at it a  
4 different way.

5 Q. Before the demolition began, Speedway  
6 erected a canopy on the street, right?

7 A. I don't know that.

8 Q. You don't know that. Okay. Did you see  
9 a canopy on the street at some time?

10 A. Yes, I did.

11 Q. Did you see a sign that says Speedway  
12 Wrecking?

13 A. On their vehicles only.

14 Q. Could you tell from those observations  
15 that a demolition was going on?

16 A. The first that I saw that the demolition  
17 going on was -- the first I saw of the demolition  
18 going on was the dumping of the wheel barrels off  
19 of the building.

20 Q. Would the sight of a canopy and Speedway  
21 Wrecking trucks indicate to you, putting aside  
22 actually seeing demolition activity, that a  
23 demolition was about to commence?

24 A. I didn't see any trucks, any Speedway

1 trucks on the 9th of September.

2 Q. No, I'm not asking about the 9th of  
3 September. I'm just asking generally, sir, if  
4 you're walking down the street and see a structure  
5 put around a building and trucks that say Speedway  
6 Demolition, would you understand that a demolition  
7 was going on?

8 MR. TREPANIER: It's a hypothetical  
9 question and it's not about what I testified to. I  
10 object.

11 HEARING OFFICER KNITTLE: Mr. Trepanier,  
12 I'm going to instruct you to answer the question,  
13 please.

14 THE WITNESS: Well, I understand that  
15 Speedway Wrecking business is demolishing  
16 buildings.

17 HEARING OFFICER KNITTLE: Mr. Blankenship,  
18 do you want me to direct him to answer the  
19 question?

20 MR. BLANKENSHIP: Please.

21 HEARING OFFICER KNITTLE: There's a  
22 question been put to you, Mr. Trepanier. You're  
23 under oath and you have to answer the question if I  
24 instruct you to answer the question, which I am

1 doing.

2 THE WITNESS: Could it be repeated?

3 HEARING OFFICER KNITTLE: Could you

4 repeat it?

5 BY MR. BLANKENSHIP:

6 Q. Yeah. If you're walking down the street

7 and you see a structured -- a canopy erected around

8 the building and trucks that say Speedway Wrecking

9 on them, would you understand that a demolition was

10 about to occur or was occurring?

11 A. I wouldn't assume that.

12 Q. No. What would you think that would

13 suggest was occurring at that property?

14 A. There might be a couple trucks stopped at

15 a stoplight. They might be rehabing the building.

16 As I understand, canopies are -- their greatest use

17 is during rehabs of buildings, not during

18 demolitions.

19 Q. 1261 is located on the northeast corner

20 of Halsted and 13th Street, right?

21 A. That's correct.

22 Q. And the west face of 1216 is on Halsted

23 Street?

24 A. That's correct.

1 Q. And that property is about 25 feet wide?

2 A. You're talking north to south?

3 Q. Yes.

4 A. I would say it's approximately that.

5 Q. And there's an alley directly east of the  
6 building?

7 A. Yes.

8 Q. And directly east of that alley is a  
9 fenced lot; is that right?

10 A. That's correct.

11 Q. And that's a storage lot, there are  
12 various items that are recycled by the recycling  
13 center?

14 A. It's a working lot. That's where wood  
15 recycling occurs, so people are working in that  
16 lot. They may be putting items in there to store.  
17 They may be looking at the items there to see if  
18 there's something that they can use on a project of  
19 theirs.

20 Q. The greatest amount of that lot is used  
21 for storage, correct?

22 A. It's a lot of storage in there. There's  
23 probably as least as much walkway space as there is  
24 storage space.

1 Q. Did you give this answer to this question  
2 at your deposition? Page 222, question, is that  
3 lot basically a storage lot for these various items  
4 being recycled. Answer, yes. It's a storage lot  
5 and to some extent it's used for production. There  
6 are a couple fellows there, Avi and Mike Musik, and  
7 others who will work there on occasion who do the  
8 wood recycling, but the greatest amount of the lot  
9 is used for storage.

10 Did you give that answer to that question  
11 at your deposition?

12 A. It sounds right. Am I within my rights  
13 to look at that deposition and see the context  
14 here? Because when you're saying the use of that  
15 lot, I think, that what we're referring to is the  
16 activity in the lot rather than space. I mean the  
17 activity in the lot mostly, sure, is storage.

18 Q. The activity in the lot is mostly  
19 storage, right? Okay. Thank you. You never were  
20 inside the building at 1261 Halsted, right?

21 A. I may have been in there when it was open  
22 as a shop, but I don't have a specific recollection  
23 right now. And I would say that my recollection is  
24 that I hadn't been upstairs.

1 Q. So you don't know if it was structurally  
2 sound or not at the time of the demolition?

3 A. Well, from what I saw, it looked like a  
4 good strong building.

5 Q. But you didn't see the inside of the  
6 building, right?

7 A. Well, I've seen it on videotape.

8 Q. You personally have not observed the  
9 inside of that building, right, just prior to the  
10 demolition?

11 A. And you are recognizing I'm saying that  
12 other than seeing it on the videotape, I didn't see  
13 the interior.

14 Q. That's what I want to you tell me because  
15 the videotape doesn't count. You personally did  
16 not observe the inside of the building, right?

17 A. That's correct.

18 Q. You didn't knock on the timbers or  
19 anything to see if it was structurally sound, I  
20 assume, right?

21 A. I didn't knock on any timbers.

22 Q. You don't know if 1261 was in compliance  
23 with the zoning code at the time of the demolition,  
24 do you?



1 A. That's correct.

2 Q. Now, sir, putting aside dust from the  
3 demolition at 1261, there's dust in the  
4 neighborhood, right, ambient dust?

5 A. Yes.

6 Q. And, in fact, you took a sample of dust  
7 from a block north of 1261 Halsted, right?

8 A. Yes.

9 Q. You swept that dust off the street,  
10 right?

11 A. As each were -- each were taken  
12 similarly. My recollection is that in that block  
13 north, the dust was so much -- there was so much  
14 less dust on the street a block north that I had to  
15 take the dust from a larger area in order to get  
16 the same size of a sample.

17 Q. But the sample you took from a block  
18 north, that was Complaint's Exhibit 6, right?

19 A. That's correct.

20 Q. And when you took that, you were trying  
21 to collect ambient dust, not dust from the  
22 demolition, correct?

23 A. That's correct.

24 Q. And you assumed that no dust from

1 1261 Halsted was at the location of where you took  
2 sample -- that is, Complaint's Exhibit 6, right?

3 A. Right because the wind had carried the  
4 dust -- as I watched, it was carrying the dust west  
5 and south, and that was north.

6 Q. And if you went to the intersection of  
7 Halsted and 13th Street today, you could sweep up a  
8 sample of dust off the street, couldn't you?

9 A. I don't know.

10 Q. You didn't observe the demolition at 1261  
11 in its entirety?

12 A. That's correct.

13 Q. Your observation, in fact, was very  
14 limited, wasn't it?

15 A. Relative to the number of days of the  
16 demolition.

17 Q. Two occasions you observed the  
18 demolition?

19 A. Well, there's two that I've been able to  
20 testify to because my memory serves me for those.  
21 I believe that there were other days that I saw  
22 activity, but I'm not able to specificize my  
23 recollection for those.

24 Q. You recall September 9th, right?

1 A. Yes.

2 Q. And I think you testified at your  
3 deposition to September 15th, but today you said, I  
4 think, September 25th. Is that same incident we're  
5 talking about?

6 A. Yeah, the second one when I was with  
7 Merlin McFarland.

8 Q. And are you confident now that that was  
9 on September 23rd I think was the date?

10 A. I'm not. I'm not real confident on the  
11 date of that second observation. My first  
12 observation, when I made a note right on the  
13 exhibits, what's now the exhibit, that's really  
14 helped me to remember what day that occurred on.  
15 The second I didn't make a note, but the fact that  
16 I did it with another person has helped me to  
17 recall that.

18 Q. And during the demolition, you observed a  
19 protective apron around the sides of the building,  
20 right?

21 A. No. What I observed was shown -- as is  
22 shown in SW number 17 that it covered the front of  
23 the building and just 20 feet of the south side.

24 Q. It went down Halsted and then --

1 A. And just barely around the corner.

2 Q. Okay. Thank you. Twenty feet down  
3 13th Street, you say?

4 A. Yeah, according to the diagram.

5 Q. Well, does that comport with your memory?

6 A. My recollection is that it was up in the  
7 corner. The canopy was at the corner of Maxwell  
8 and -- 13th and Halsted.

9 Q. Now, sir, you've walked by a softball  
10 field on a windy day and had dust blown in your  
11 eye, haven't you?

12 A. I may have. I used to play ball, so it's  
13 almost seems assured.

14 Q. Well, let me ask you if you testified  
15 this way under oath at your deposition. Question,  
16 have you ever walked on a softball field on a windy  
17 day and had dust blown in your eyes. Answer, yes.

18 Did you give that answer to that  
19 question?

20 A. Well, I think you tried to attack my  
21 credibility with a different question. On today  
22 you asked me if I walked by a field and that  
23 question was walking on a field.

24 Q. Okay. Have you walked on a softball

1 field on a windy day and had dust blown in your  
2 eye?

3 A. Yeah, I mean, it was probably a hard ball  
4 field rather than softball.

5 Q. And you consider that dust to be air  
6 pollution, don't you, sir?

7 A. I don't consider it to be air pollution.

8 Q. Well, did you give this answer to this  
9 question? Question, do you consider that air  
10 pollution. Answer, yes, I do. Yes.

11 Did you give that answer to that  
12 question?

13 A. I don't know. I'd have to look at what  
14 you have.

15 Q. Well, take a look, sir. 211 we're at 7.

16 MR. TREPANIER: My question for the  
17 Hearing Officer, am I within my rights to point out  
18 the adjacent information in the transcript that I  
19 think reflects on that answer?

20 HEARING OFFICER KNITTLE: I ask -- do you  
21 have a problem with that?

22 MR. BLANKENSHIP: Well, it's four  
23 sentences. Do you walk by a softball field and  
24 have dust blown in your eye? Yes. Do you consider

1 that air pollution? Yes. There's no context to  
2 it, so I'm not sure what he's getting at. It's  
3 pretty straight forward.

4 MR. TREPANIER: What I'm getting at is  
5 I'd like to bring into the record the following  
6 question, do you think that should be controlled  
7 and that reflects on what we were talking about at  
8 the time as what's air pollution.

9 HEARING OFFICER KNITTLE: Answer his  
10 question first and when you do your redirect, you  
11 can get into that if you want.

12 MR. TREPANIER: Will I be able to have  
13 access to the transcript at that time?

14 HEARING OFFICER KNITTLE: Mr. Blankenship?

15 MR. BLANKENSHIP: You had access to the  
16 transcript before.

17 MR. TREPANIER: I object. In fact, I  
18 haven't had access to this transcript before.

19 HEARING OFFICER KNITTLE: Mr. Trepanier,  
20 that's your deposition testimony, though, correct?

21 MR. TREPANIER: Where is it? I mean,  
22 Mr. Blankenship has a copy, but how am I to go over  
23 it?

24 MR. BLANKENSHIP: I would submit to the

1 Hearing Officer an affidavit from the court  
2 reporter that says Mr. Trepanier had the  
3 opportunity to come and look at it. He was sent  
4 this letter. He chose not to do it. Under the  
5 rules, he's waived his right.

6 HEARING OFFICER KNITTLE: Mr. Trepanier,  
7 that's a valid transcript and it looks like you had  
8 the opportunity to take a look at it or order it  
9 from the court reporter if you so wanted to.

10 MR. TREPANIER: That's a right to order  
11 it, but it's a right only technically. I mean, I  
12 can't afford to order these transcripts. That's  
13 not even the transcript in its entirety. They went  
14 on for six hours when they took my deposition.

15 HEARING OFFICER KNITTLE: That's the  
16 transcript in its entirety?

17 MR. BLANKENSHIP: Yes.

18 HEARING OFFICER KNITTLE: Mr. Trepanier,  
19 I don't know what your asking me to do here. Do  
20 you have a request that you're making or are you --

21 MR. TREPANIER: Well, I'm requesting that  
22 the respondents not be allowed to use the  
23 transcript of a deposition that I don't have access  
24 to.

1 HEARING OFFICER KNITTLE: That I'm going  
2 to deny because you have the opportunity to have  
3 that. Actually, you had access to it. You chose  
4 not to opt to take that access to this deposition  
5 transcript.

6 MR. TREPANIER: I tried to exercise  
7 what's there. I tried to exercise what's --

8 HEARING OFFICER KNITTLE: What do you  
9 mean? I don't understand.

10 MR. TREPANIER: The response from Talamo  
11 court reporters. They sent me a letter and they  
12 said, you know, come on in within this time frame,  
13 and I went on in there and in the time I had, I got  
14 in through a few pages of it. I just don't think  
15 this is a fair situation that they're getting to  
16 use these transcript when they're not putting them  
17 into the public record.

18 HEARING OFFICER KNITTLE: Yeah, Mr.  
19 Trepanier I can't agree with you. I've got an  
20 affidavit here from Valerie M. Shuck, Certified  
21 Shorthand Reporter and notary public certifying  
22 that you did, in fact -- that the transcript was  
23 made available for reading and signing as per the  
24 attached letter that Lionel P. Trepanier has failed



1 to read and sign his deposition within the time  
2 period allowed under the rules. And this is a  
3 valid deposition that's been stamped by a notary  
4 public.

5 You've had the access to this transcript  
6 of your deposition and you, for whatever reason,  
7 didn't take advantage of that. So I'm going to  
8 deny any motion your making in regards to the  
9 respondents using your deposition transcript.

10 MR. TREPANIER: But I would point out to  
11 you to note the date on that sworn affidavit.  
12 That's a recently created document.

13 HEARING OFFICER KNITTLE: March 29th,  
14 1999.

15 MR. BLANKENSHIP: We asked for that  
16 document after Mr. Trepanier made a big issue at  
17 the last hearing that he wasn't given the  
18 opportunity to review the transcript.

19 HEARING OFFICER KNITTLE: Regardless,  
20 Mr. Trepanier, it's a valid affidavit and it's from  
21 about two months ago, a month and a half maybe.  
22 Either way, the time of the affidavit, it doesn't  
23 matter. It's a valid affidavit and Valerie M.  
24 Shuck has so attested and I'm going to allow him to

1 use your deposition transcript. That's why they  
2 take the depositions.

3 MR. TREPANIER: I noted the Supreme Court  
4 Rule that says if a deposition is going to be  
5 taken, that any party can ask that to be put into  
6 the record. Now, that I've done.

7 MR. BLANKENSHIP: I don't think that's  
8 what the rule says.

9 MR. JEDDELOH: It says --

10 MR. BLANKENSHIP: We're not seeking to  
11 admit the transcript.

12 MR. JEDDELOH: Right. I believe the rule  
13 says that any party may move to admit the  
14 transcript into a proceeding; however, you know,  
15 we're not using that.

16 MR. BLANKENSHIP: We're just using it for  
17 impeachment.

18 MR. JEDDELOH: He could do it, too, if he  
19 wanted to get a copy of it.

20 HEARING OFFICER KNITTLE: Mr. Trepanier,  
21 I don't see the issue here. This is a simple  
22 question and it should be a simple answer. You had  
23 an opportunity to take a look at the deposition  
24 transcript. Do you recall the question?

1 BY MR. BLANKENSHIP:

2 Q. Yes. The question was did you give this  
3 testimony under oath -- these answers to these  
4 questions? Question, have you ever walked on a  
5 softball field on a windy day and had dust blown in  
6 your eyes? Answer, yes. Question, do you consider  
7 that air pollution? Answer, yes, I do. Yes.

8 Did you give those answers to those  
9 questions at your deposition?

10 A. Yeah, I gave that answer --

11 Q. Thank you.

12 A. -- in the sense that I was, as the  
13 deposition goes on and explains, that that sense of  
14 the word air pollution meant not air pollution as  
15 the board uses the word air pollution, but rather  
16 as I went on and explained, that was air pollution  
17 in a theory and that in a certain circumstance,  
18 even dust from a ball field may need to be  
19 controlled if that dust were blowing into a day  
20 care center playground.

21 Q. Sometimes dust collects in your  
22 apartment, sir, and you don't know where it's from,  
23 right?

24 A. Well, that would be a theoretical

1 question as I don't live in an apartment.

2 Q. Well, sometimes -- you would agree with  
3 me that sometimes it just collects and you don't  
4 know where it's from, right?

5 A. Yes.

6 Q. And when you lived in Blue Island, you  
7 lived an apartment, right?

8 A. That's correct.

9 Q. And dust collected in your apartment and  
10 you had to dust once in a while, didn't you?

11 A. That's correct.

12 Q. And considered that dust to be air  
13 pollution, too, didn't you?

14 A. Well, the dust itself, when I'm wiping it  
15 up, it obviously couldn't be air pollution because  
16 it's -- at the point where I can wipe it up, it's  
17 no longer in the air.

18 Q. Did you give this answer to this question  
19 at your deposition? Question, do you consider the  
20 dust that collects naturally in your apartment to  
21 be air pollution? Answer, I do, yes.

22 Did you give that answer to that  
23 question, sir?

24 A. Could I take a look at that? Now, which

1 one were you referring to?

2 Q. Do you consider the dust that collects  
3 naturally in your apartment to be air pollution?

4 Answer, I do, yes.

5 A. And that answer says, I do, yes. I  
6 consider that it's something to be avoided. In  
7 that instance there is something else that we are  
8 looking at. It's dust mites, so I'm, you know, I'm  
9 concerned about the reaction that I have -- would  
10 have to dust mites in a big build up there.

11 Q. So you consider that dust in your  
12 apartment to be air pollution, right?

13 A. I answered that question here today, you  
14 know, by saying that if the dust could be wiped up,  
15 it's obvious it's not air pollution because it's no  
16 longer in the air, but I do think that a lot of air  
17 pollution -- the results of the air pollution we  
18 see that as dust.

19 Q. You first observed pollution at 1261 on  
20 September 9th, right?

21 A. That's correct.

22 Q. And you were positioned in the storage  
23 lot east of the alley, east of the building?

24 A. At some point.

1 Q. And the building was basically in an  
2 undemolished state at that time?

3 A. That's correct.

4 Q. Demolition had just started, right?

5 A. That's the first that I saw of it. I  
6 don't know what date Speedway began their  
7 operation.

8 Q. Well, it was early in the demolition,  
9 wasn't it?

10 A. Yes.

11 Q. And the pollution you saw was when the  
12 spoils of the demolition were being dropped to the  
13 ground and some dust didn't fall directly to the  
14 ground but blew sideways, right?

15 A. I wasn't sure what was being dumped. I  
16 thought maybe it was some type of ashes.

17 Q. But whatever it is, it's when it was  
18 being dropped to the ground and you saw some of  
19 that blow sideways. That's what you're contending  
20 is the air pollution, right?

21 A. On some of the loads near to none of the  
22 material dropped right down, but near all of the  
23 material moved sideways.

24 Q. You observed the demolition for about one

1 hour on September 9th, right?

2 A. That's what I recall.

3 Q. And the dust was only intermittent during  
4 that time period?

5 A. Only when they are dumping the wheel  
6 barrel.

7 Q. So it was intermittent, it wasn't a  
8 constant emission of dust from 1261 during the hour  
9 that you observed it, was it?

10 A. That's correct.

11 Q. The spoils were being dumped off the back  
12 of the building, right?

13 A. That's correct.

14 Q. They weren't being dumped onto Halsted  
15 Street, were they?

16 A. No. As I testified, they were landing on  
17 Halsted Street.

18 Q. They weren't being dumped onto Halsted  
19 Street, were they, sir? That was the other side of  
20 the building, wasn't it?

21 A. But because the stuff wasn't wet and  
22 because it was windy, some of that stuff was being  
23 dumped -- the first time it contacted the ground  
24 was Halsted Street.

1 MR. BLANKENSHIP: I object and move to  
2 strike. That wasn't responsive.

3 HEARING OFFICER KNITTLE: Mr. Trepanier,  
4 you have to answer the question that's put to on  
5 cross-examination.

6 THE WITNESS: Yeah.

7 BY MR. BLANKENSHIP:

8 Q. When the Speedway employee took the wheel  
9 barrel to the end of the building, he was taking it  
10 to the east side, not to the Halsted Street side,  
11 right?

12 A. The wheel barrel, correct.

13 Q. Yes. And when he pushed the wheel barrel  
14 over, it was over the east side of the building,  
15 not the Halsted Street side, wasn't it?

16 A. You're still talking about the wheel  
17 barrel?

18 Q. Yes.

19 A. Because the wheel barrel stayed on the  
20 roof.

21 Q. The contents of the wheel barrel, sir,  
22 you know what I'm saying.

23 A. The contents of the wheel barrel went  
24 onto Halsted Street, onto 13th Street, into the



1 alley and beyond.

2 Q. You observed all that from the lot that  
3 you were standing in?

4 A. I observed that during the hour that I  
5 was observing the demolition.

6 Q. And you were positioned in that lot,  
7 right?

8 A. At a time.

9 Q. Did you give this answer to this question  
10 at your deposition, and where were you when the  
11 video -- where was the video positioned, the  
12 camera? Answer, the video was in the lot so the  
13 video was east of the building and east of the rear  
14 of the building and I was approximately in the same  
15 place. I was around that area.

16 Did you give that answer to that  
17 question?

18 A. Yes, I did.

19 Q. The bulk of spoils that were being  
20 dropped off the top of 1261 were landing in the  
21 alley to the east of the building, weren't they,  
22 sir?

23 A. No, I disagree with that.

24 Q. Well, the large items were, weren't they?

1       A. The large items, right. In that sense of  
2 the use of the word bulk, I'd say, you know, the  
3 bulky items would drop, whereas the small items  
4 went with the wind.

5       Q. You didn't take any dust samples from the  
6 air, did you, sir?

7       A. No. The dust sample I got was from on  
8 the ground.

9       Q. And you did not sustain any adverse  
10 health effects on September 9th when you were  
11 watching the debris being dump, did you, sir?

12      A. No. I stayed away from the dust and  
13 suffered no adverse effects.

14      Q. That was pretty easy to do, to stay away  
15 from the dust, wasn't it?

16      A. Well, it was easy in the sense that I had  
17 no business on Halsted Street that day, so it was  
18 easy for me personally, but not -- you know, for  
19 other persons, I'm not answering for them.

20      Q. I appreciate that. I only want you to  
21 answer for yourself. The second day you observed  
22 pollution was on approximately September 23rd,  
23 right?

24      A. Yeah, approximately.

1 Q. And on that day you were first positioned  
2 on 13th Street southeast of the demolition site,  
3 right?

4 A. I was at that location. I think that may  
5 be where maybe Merlin and I met at that spot or  
6 something that we started to kind of, you know,  
7 going to go through an observation of what's going  
8 on.

9 Q. And the wind was blowing from the  
10 northeast at that time towards Halsted?

11 A. Yeah, maybe -- from the northeast, that's  
12 right.

13 Q. About 15 miles an hour?

14 A. Yeah.

15 Q. And at that time when you first were  
16 there, you were up wind, right?

17 A. Yes.

18 Q. So no dust was blowing on you at that  
19 time?

20 A. Right.

21 Q. And you saw dust blowing in a westerly  
22 direction towards Halsted; is that right?

23 A. That's correct.

24 Q. And that dust that you saw was not as

1 dense as the dust you had observed on

2 September 15th, correct?

3 A. Now, the September 15th, that's the same

4 event that I talked to as September 23rd. I've

5 used both of those -- I've apparently used both of

6 those dates saying approximately.

7 Q. I'm sorry. Let me ask the question, the

8 dust you saw on September 23rd was not as dense as

9 the dust you saw on September 9th coming off the

10 wheel barrels, correct?

11 A. Correct.

12 Q. It was less dense than what was reflected

13 on the video, right?

14 A. Yeah, it was -- earlier we used the word

15 opacity, so the opacity coming off the wheel

16 barrels would have been -- now, I don't know how to

17 use that word. Was the opacity less or more, but

18 off the wheel barrels it was denser and off of the

19 spoil pile, although the particles may have been

20 larger --

21 Q. It wasn't as dense. There wasn't as much

22 dust on September 23rd as you saw on

23 September 15th, right?

24 A. Well, it would be -- the less dense is

1 easy for me to say, yeah, it was less dense, but on  
2 the 23rd or the 15th, on the second observation I  
3 made, it was a constant stream, but it would kind  
4 of flare up when the wind got higher and let off.

5 Q. So after you first observed this dust on  
6 the 23rd, you walked down to Maxwell Street and  
7 then over to Halsted and then you walked back north  
8 on Halsted toward 13th, right?

9 A. That's correct.

10 Q. And when you reached the corner of  
11 Halsted and 13th, you were in the line with the  
12 wind, right?

13 A. That's right.

14 Q. And your purpose in going to that  
15 position at Halsted was in anticipation of sometime  
16 being called to testify in this case, right?

17 A. That's true. We had already -- we had  
18 filed our pollution complaint. We tried to get it  
19 before they started the demolition and now the  
20 demolition was ongoing, so at that point, our  
21 complaint was pending.

22 Q. So at the point when you're standing on  
23 the corner, then you chose to move into the dust,  
24 right?

1 A. I did.

2 Q. And that was to better your position here  
3 in this lawsuit, right?

4 A. Well, I mean, if you -- I don't really  
5 personally take it as my position, but I did want  
6 to be able to provide to the board meaningful  
7 testimony, the best that I could do.

8 Q. And you were just on Halsted Street  
9 momentarily, right?

10 A. Yeah, for a short period. I recall being  
11 with Merlin and I know he crossed the street. He  
12 crossed over Halsted. I would say I was in the  
13 stream only momentarily and then backed up.

14 Q. You walked past the building, got hit with  
15 some dust and ducked back?

16 A. Ducked back.

17 Q. And then you walked up the west side of  
18 Halsted Street, right?

19 A. At this point I'm not recalling that I  
20 walked north on the west side of the Halsted  
21 Street.

22 Q. I think you testified that you felt that  
23 the dust that was blowing on the 23rd made the  
24 street impassible, right?

1 A. Did you say you think I testified to  
2 that?

3 Q. Did you testify to that?

4 A. I'm not recalling that, but I would  
5 testify to that. Certainly, you know, for a  
6 pedestrian to pass without being, say, molested by  
7 this barrage of the dust. In that way, it wasn't  
8 passable without suffering for a pedestrian.

9 Q. This is 25 feet we're talking about,  
10 right, a distance of 25 feet?

11 A. Well, the 25 feet would be about the  
12 width of the building, but it was right adjacent to  
13 13th Street, so the dust was pretty much coming  
14 through that canal at about a 25 foot or 20 foot  
15 roadway and then the 25 foot lot.

16 Q. But you didn't take any sample of the  
17 dust on the 23rd, right?

18 A. That's correct.

19 Q. And you testified that you got some dust  
20 in your eye, correct?

21 A. That's right.

22 Q. And the scratchy eye that you got was  
23 just the common condition that you get when you get  
24 dust in your eye, right?

1 A. Right. It was the common condition.

2 Q. The common dust and nothing more severe  
3 than that, common dust in your eye and nothing more  
4 severe than that, right?

5 A. Referring to the condition -- the  
6 condition was -- and that's the condition when you  
7 would get, say, from a ball field when you're  
8 getting a larger particle, so at this point, that's  
9 a scratchy kind of eye.

10 You know, that's -- so if I say it's  
11 common dust, I mean it's a little bit uncommon in  
12 that normally in our own households we're not  
13 getting a gritty -- a level of grittiness here, but  
14 I think it would be correct to say that it was a  
15 common dust in your eye if we were referring to,  
16 say, the dust in your eye at the ball field.

17 Q. Okay. Thank you. And you don't recall  
18 whether you even had to rinse your eye out after  
19 you got dust in it, right?

20 A. That's right. I don't have a  
21 recollection.

22 Q. And you didn't use any Visine or any  
23 other type of medication, right?

24 A. No, I did not.



1 Q. In fact, you didn't even have a thought  
2 about going to see someone or getting something for  
3 your eye?

4 A. Well, I don't know whether or not I had a  
5 thought about it, but I didn't act on the thought  
6 if it had occurred.

7 Q. Well, did you give this answer to this  
8 question, did you have a thought of going to see  
9 anyone or get anything for you eyes? Answer, no,  
10 it passed.

11 Did you give that answer to that  
12 question?

13 A. I recall that.

14 Q. The discomfort was momentary and it  
15 passed quickly as dust does when it gets in your  
16 eye, right?

17 A. It was momentary.

18 Q. And you're not aware of any permanent  
19 damage you suffered as a result of air pollution at  
20 1261 Halsted, right?

21 A. Well, from myself, I can tell you that,  
22 for a medical condition, I don't know of one that  
23 resulted from that. I do though, myself, I feel  
24 damaged when air pollution occurs and until it gets

1 addressed, I feel that my injury is continuing.

2 Q. Did you give this answer to this question  
3 at your deposition, question, have you suffered any  
4 permanent damage as a result of the air pollution  
5 at 1261 Halsted? Answer, none known?

6 A. Yes, I did.

7 Q. And the air pollution didn't damage any  
8 property of yours, right?

9 A. That's correct.

10 Q. You never had your samples of the dust  
11 tested, right?

12 A. That's correct.

13 Q. You don't know the chemical composition  
14 of what is in the samples you took, right?

15 A. Yes.

16 Q. Yes you don't know?

17 A. That's right.

18 Q. You didn't take any samples of dust from  
19 1261 Halsted at the garden, did you?

20 A. No, I didn't.

21 Q. In fact, you don't know if any dust from  
22 the demolition actually reached the garden as  
23 opposed to just ambient dust, right?

24 A. In fact, when I -- the recollections I

1 can occur, I can -- the occurrences I can recall is  
2 the wind was going the other direction.

3 Q. So -- and if any dust got on the  
4 vegetables, you could just wash that dust off,  
5 right?

6 A. I don't know.

7 Q. There was no incineration performed at  
8 this site, was there, sir?

9 A. I don't know.

10 Q. You didn't see any, right?

11 A. That's correct.

12 Q. I notice you were testifying from some  
13 handwritten notes. Could I see those?

14 MR. TREPANIER: What do you think?

15 MR. JOSEPH: I object. How is that  
16 relevant?

17 MR. BLANKENSHIP: We have a right if he's  
18 testifying from notes.

19 HEARING OFFICER KNITTLE: You're not  
20 supposed to testify from notes at all,  
21 Mr. Trepanier. You're only supposed to testify  
22 from your memory, but because you were your own  
23 attorney and because there was no objection, I  
24 allowed it to go on.

1           MR. TREPANIER: Well, I would just  
2 clarify that what I testified to was from my memory  
3 and now, I do have a couple of notes in front of  
4 me. These are necessary because of the position  
5 that I'm in without counsel in order to overcome my  
6 own nervousness and still testify to the matters  
7 that concerned me. I needed some kind of a note so  
8 I could keep on track and come back, say, after an  
9 objection to something I've said and then get back  
10 on -- get it back on to the point I have.

11           MR. BLANKENSHIP: That's fine. I'd still  
12 like to see the notes and I think I'm entitled to.

13           MR. TREPANIER: And if the Hearing  
14 Officer agrees with you, I'll move them across the  
15 table.

16           HEARING OFFICER KNITTLE: For what  
17 purpose, Mr. Blankenship?

18           MR. BLANKENSHIP: I think we're entitled  
19 to see whatever he has used to guide his testimony  
20 here if he's relied on it and he was sitting there  
21 looking at it during his testimony. I think that  
22 indicates that it may or may not be from his  
23 personal knowledge. I don't know. That's what I'd  
24 like to explore by looking at his notes.

1 HEARING OFFICER KNITTLE: Okay. Yeah.  
2 I'm going to ask you to give him the notes and I'm  
3 also going to take a brief recess and we'll take a  
4 look at those. Let's go off.

5 MR. JEDDELOH: Mr. Knittle, I also -- I'm  
6 sitting no more than five feet from him. He also  
7 was referring to a printed document which appears  
8 to me to be -- although I can't read very well, it  
9 appears to me to be his response to the  
10 respondents' motion for summary judgment. I think  
11 that ought be turned over as well if he was looking  
12 it.

13 HEARING OFFICER KNITTLE: Were you  
14 looking at that, Mr. Trepanier, when you were  
15 testifying.

16 MR. TREPANIER: I was looking at the  
17 affidavit I submitted earlier.

18 HEARING OFFICER KNITTLE: Yeah, I'd ask  
19 you to give that to him as well so they can take a  
20 look at it. Let's go off the record while you two  
21 take a look at that and I'm going to go get the  
22 records which I think are here.

23 (Recess taken.)

24 HEARING OFFICER KNITTLE: Back on the

1 record after the respondents have reviewed the  
2 documents Mr. Trepanier was using to testify not  
3 from but using as an aid to himself as to what he  
4 stated earlier. Do you have any continuing  
5 questions?

6 MR. BLANKENSHIP: No further questions.

7 HEARING OFFICER KNITTLE: Mr. Jeddelloh,  
8 do you have some cross-examination?

9 MR. JEDDELOH: Just a couple questions  
10 not to be repetitive --

11 MR. TREPANIER: If I can get a  
12 clarification?

13 HEARING OFFICER KNITTLE: Yeah.

14 MR. TREPANIER: As I continue, even while  
15 I'm asking questions, I continue to take notes to  
16 redirect. I mean, these are for myself, right?  
17 From this point out, is my papers going to be  
18 private to me or is there another time when they  
19 can say I want to look at your notes?

20 HEARING OFFICER KNITTLE: Well, it's kind  
21 of a sticky situation because, Mr. Trepanier, your  
22 notes that you are using while you're acting as  
23 your own representative are private; however,  
24 you're also looking at those notes and testifying

1 at the same time and it's hard for both the  
2 respondents and the board to be sure that you're  
3 not testifying from those which you are not  
4 supposed to do.

5 You're supposed to testify to matters  
6 within your own realm of knowledge. That's why we  
7 have different attorneys ask permission before they  
8 give the witness anything because we don't want  
9 them testifying from anything except their own  
10 memories.

11 So I guess my answer to your question is  
12 if they ask to see your notes again while you're a  
13 witness, I'm going let them do that. When you are  
14 no longer a witness and no longer testifying, those  
15 are all your own.

16 MR. TREPANIER: Thank you.

17 HEARING OFFICER KNITTLE: Mr. Joseph, did  
18 you want to say something before we get to  
19 Mr. Jeddelloh's cross-examination?

20 MR. JOSEPH: Well, I did see him here  
21 scribbling notes and maybe he should have that on a  
22 separate page or something.

23 HEARING OFFICER KNITTLE: Well, it's  
24 going to be hard for him to turn it over after

1 he -- there's no way we can ensure that he's not  
2 looking at those while he's testifying.

3 MR. JOSEPH: Right, right.

4 HEARING OFFICER KNITTLE: That's what  
5 we're trying to safeguard against and there's no  
6 way we can do that, but in order to try to balance  
7 it out, we're going to let them take a look at it  
8 to make sure that there's nothing on there that he  
9 can be testifying to and using to aid his  
10 testimony. Okay?

11 MR. JOSEPH: Okay.

12 HEARING OFFICER KNITTLE: This will only  
13 go on so long as you're a witness, Mr. Trepanier.

14 MR. TREPANIER: Okay.

15 HEARING OFFICER KNITTLE: Mr. Jeddelloh,  
16 do you have cross-examination?

17 CROSS-EXAMINATION

18 BY MR. JEDDELOH:

19 Q. Just a couple questions. With respect to  
20 the condition of 1261, Mr. Trepanier, you have no  
21 knowledge as of September 199 -- strike that.

22 You have no knowledge as to the time of  
23 the demolition what it would have taken to bring  
24 the building to usable a condition, do you?



1       A. I can't -- I don't know that it wasn't in  
2 usable condition.

3       Q. You don't know either way?

4       A. That's correct. It looked good. It  
5 looked good and strong.

6       Q. But you don't have any knowledge about  
7 whether there were any structural defects or any  
8 other defects in the building which required  
9 correction, do you?

10      A. I don't.

11      Q. And you have no evidence that the  
12 university intended to pollute in pulling down this  
13 building, do you?

14      A. Well, I'm pretty much limited in this  
15 form on what evidence I can introduce and I think  
16 through -- if I were allowed to establish a pattern  
17 and a policy, I think I could do that.

18      Q. Can you answer my question, sir?

19      A. No admissible evidence. Maybe with a  
20 stipulation we could put that in.

21      Q. Well, let me read from the transcript of  
22 your deposition --

23           MR. TREPANIER: I'm just going to object  
24 to him reading from the deposition. It's not a

1 proper use. He said he wasn't going to use it to  
2 just introduce the deposition, now he suddenly  
3 wants to read it.

4 HEARING OFFICER KNITTLE: You can use the  
5 deposition transcript to impeach Mr. Trepanier if  
6 that's what you're intending to do.

7 MR. JEDDELOH: And that's what I'm  
8 planning to do. I'm going to ask you to --

9 MR. TREPANIER: What are you impeaching?

10 MR. JEDDELOH: Mr. Knittle, I would like  
11 to have the opportunity to read in this question  
12 and this answer and ask him whether or not he gave  
13 that testimony.

14 MR. TREPANIER: I think he should make  
15 clear what he's impeaching before he impeaches it.

16 HEARING OFFICER KNITTLE: He can ask you  
17 if you've made a prior statement if he thinks it's  
18 conflicting testimony. If it proves not to be  
19 conflicting testimony, there's steps we will take.

20 BY MR. JEDDELOH:

21 Q. I'm going to read this section of the  
22 transcript and this is page 291. Question, are you  
23 aware of any evidence that would indicate that the  
24 university intended to pollute the environment when

1 it ordered demolition of these buildings? Answer,  
2 I don't know how you are relating that to the  
3 sentence. The sentence does have the word pollute  
4 it in.

5 Question, can you answer the question,  
6 sir? Answer, I'm asking you why you directed my  
7 attention to that sentence. What does that have to  
8 do with the question you just asked me?

9 Question, can you answer my question or  
10 not? Do you want it read back again? Do you  
11 remember what it is? Answer, that would be  
12 helpful. The question was read back and then you,  
13 the witness, said none known.

14 Did you give that testimony at your  
15 deposition, sir? Do you want to look at it?

16 A. Yeah. I think from what you just read,  
17 you didn't actually read the question though.

18 Q. Did you give that testimony at your  
19 deposition or not?

20 A. I'm looking at this now. Did you offer  
21 it for me to look at?

22 HEARING OFFICER KNITTLE: Mr. Trepanier,  
23 what's going on?

24 MR. TREPANIER: I'm trying to figure out

1 what question it was that the deposition --

2 HEARING OFFICER KNITTLE: There's a  
3 question outstanding. Mr. Jeddelloh, why don't  
4 you -- I don't want Mr. Trepanier paging through  
5 this deposition transcript.

6 MR. JEDDELOH: Well, all I'm trying to  
7 find out is whether or not he gave the testimony  
8 that's indicated on 291 and 292 in response to a  
9 question that I asked him about whether or not he  
10 had any evidence that the university intended to  
11 pollute. I think that's a yes or not answer.

12 HEARING OFFICER KNITTLE: Mr. Trepanier,  
13 after looking did you answer that question in your  
14 deposition? Mr. Trepanier?

15 MR. TREPANIER: I'm looking at it. I'm  
16 trying to understand the question that he asked and  
17 the question that I answered.

18 HEARING OFFICER KNITTLE: Isn't that the  
19 question, Mr. Jeddelloh, that you just stated?

20 MR. JEDDELOH: It is.

21 HEARING OFFICER KNITTLE: What's to  
22 understand, Mr. Trepanier? Mr. Trepanier?  
23 Mr. Trepanier, I'm losing my patience here.

24 MR. TREPANIER: What I'm finding is that

1 the question before it says would you like to look  
2 at the last sentence in paragraph 6, Mr. Trepanier?  
3 Do you see that? Yes. And then when I answered  
4 the word yes, he says are you aware of any evidence  
5 that would indicate that the university intended to  
6 pollute the environment when it ordered the  
7 demolition of these buildings.

8 HEARING OFFICER KNITTLE: Yeah, that's  
9 the question I think we're concerned with.

10 MR. TREPANIER: And the answer here says  
11 none known.

12 MR. JEDDELOH: Very good.

13 HEARING OFFICER KNITTLE: That's what I'm  
14 trying to deal with. Thank you.

15 BY MR. JEDDELOH:

16 Q. On those occasions when you were not  
17 there, Mr. Trepanier, do you have any evidence that  
18 would indicate that the building was not wetted as  
19 demolition occurred?

20 A. Well, we've given the board a video that  
21 they -- I don't know if they're within their rights  
22 to see it, but if they happen to go pass the tape  
23 of the footage on the 9th, they'll see footage from  
24 the 11th and then footage from the 15th and on each

1 of those instances, it shows demolition activity  
2 occurring without watering.

3 MR. BLANKENSHIP: Objection, move to  
4 strike. It's hearsay and he's simply recounting --

5 MR. TREPANIER: He asked me the question  
6 and he opened the door. He said do I have any  
7 evidence other than the days I was there.

8 HEARING OFFICER KNITTLE: I'm going to  
9 sustain your objection. The only evidence that you  
10 have concerning that videotape is the evidence that  
11 we've admitted into evidence and that's  
12 September 9th, 1999, the time lapse photography.

13 BY MR. JEDDELOH:

14 Q. Do you know whether or not there was ever  
15 any effort made to wet down the building, sir?

16 A. I don't know if an effort was ever made.

17 MR. JEDDELOH: That's all I have.

18 HEARING OFFICER KNITTLE: Mr. Trepanier,  
19 do you have any redirect of yourself, sir?

20 REDIRECT EXAMINATION

21 MR. TREPANIER: Yeah. I'm going to  
22 redirect on an issue that arose on the  
23 cross-examination and that was regarding my  
24 expectation that the university would have given a

1 notice regarding the demolition of this property  
2 and specifically a notice that would have come to  
3 my attention.

4         And I wanted just to make clear, though  
5 as it came out in the testimony already, that  
6 wasn't my -- that wasn't the location where I was  
7 sleeping. That is a location that I worked at  
8 there at times regularly and it's an instance one  
9 of the buildings, specifically 717, for which I  
10 have besides attending numerous court proceedings  
11 being defended as regards to the condition of the  
12 property there and have an order of possession for  
13 that property 717.

14         I think very clearly that a duty to let  
15 the neighbors know of the activity would go to  
16 neighbors beyond those that would happen to be  
17 sleeping on occasion next to this active, but  
18 including people who might just work next door,  
19 so -- and I just wanted to make the record clear  
20 that, from myself, I am one person who is in that  
21 neighborhood since 1989 and quite regularly and  
22 have so many ties that any type of a notice, a  
23 reasonable notice, regarding that a demolition was  
24 going to occur would have come to my attention.

1 MR. JEDDELOH: I move to strike his  
2 answer insofar as he makes reference to a duty to  
3 let neighbors know. He's -- that's providing a  
4 legal conclusion. I think it's beyond any  
5 foundation or any propriety on his part.

6 HEARING OFFICER KNITTLE: I'm going to  
7 overrule on that. I'm not sure he was speaking of  
8 a legal duty, so that will stand. Anything else,  
9 Mr. Trepanier?

10 MR. TREPANIER: No, that's all.

11 HEARING OFFICER KNITTLE: Mr. Joseph, do  
12 you have any redirect?

13 REDIRECT EXAMINATION

14 BY MR. JOSEPH:

15 Q. Yes, I do. Right on that point, did you  
16 feel you had a moral obligation?

17 MR. JEDDELOH: Objection as to relevancy.

18 MR. BLANKENSHIP: Objection.

19 HEARING OFFICER KNITTLE: I'll sustain.

20 You have to at least explain moral obligation for  
21 what or what are you talking about, Mr. Joseph?

22 BY MR. JOSEPH:

23 Q. In regards to the neighbors in --

24 MR. BLANKENSHIP: Objection relevance.



1 BY MR. JOSEPH:

2 Q. -- to enlighten them into the dangers or  
3 safety issues?

4 A. Well, I think --

5 MR. BLANKENSHIP: I have an objection as  
6 to relevance of this line of questioning.

7 HEARING OFFICER KNITTLE: Overruled.  
8 Answer, Mr. Trepanier.

9 THE WITNESS: Yes, I think that there  
10 was, as I said, the word duty and I think what  
11 you're saying is you're asking me was there a moral  
12 imperative to let the neighbors know and that's --  
13 I think that's what I was referring to when I said  
14 there was a duty to do it. Its just something that  
15 fairness would dictate.

16 BY MR. JOSEPH:

17 Q. Do you feel that in six hours of drilling  
18 on one, maybe two days that in some say you were  
19 confused?

20 MR. BLANKENSHIP: Objection, I don't  
21 understand the question.

22 MR. JOSEPH: I'm talking in regards to  
23 the deposition that they were cross-examining him  
24 on.

1 THE WITNESS: My deposition?

2 MR. JOSEPH: Yes.

3 MR. JEDDELOH: I'm sorry. There's an  
4 objection pending and let me join that by saying  
5 that that's excessively leading and the witness  
6 himself has never indicated that he had any form of  
7 confusion about anything that's said.

8 MR. BLANKENSHIP: And asking him about  
9 the whole deposition is wholly improper.

10 HEARING OFFICER KNITTLE: If you can  
11 perhaps, Mr. Trepanier -- excuse me, Mr. Joseph,  
12 limit your question or make it clearer, I'm going  
13 to sustain those two objections. You can rephrase  
14 though.

15 BY MR. JOSEPH:

16 Q. Do you feel that your answers are being  
17 distorted?

18 MR. JEDDELOH: Objection. That's --  
19 first of all, that is excessively leading. He is  
20 suggesting an answer whereas I think latitude is  
21 appropriate. In this kind of context, it is highly  
22 inappropriate to ask that kind of question.

23 MR. BLANKENSHIP: And there's no  
24 specificity. I mean, what answers? What's he

1 talking about?

2 HEARING OFFICER KNITTLE: I'm sustaining  
3 it on specificity here, Mr. Joseph. Do you have  
4 any questions that you think we're going to allow  
5 here?

6 BY MR. JOSEPH:

7 Q. I think. I hope so. Let's see. Do you  
8 feel that the deposition gave an honest portrayal  
9 by the way they're asking --

10 MR. JEDDELOH: Same objection.

11 MR. BLANKENSHIP: Same objection. If  
12 he's got a specific question in mind, he should ask  
13 about that, but asking vague questions about an  
14 entire deposition is improper.

15 I pointed to some very specific examples  
16 to impeach his testimony. If he wants to talk  
17 about one of those, perhaps that would be okay, but  
18 just asking if he felt the deposition was fair is  
19 crazy.

20 HEARING OFFICER KNITTLE: Sustained.

21 BY MR. JOSEPH:

22 Q. Let's move on to something else here.  
23 Have you been active in environmental research?

24 A. Yes.

1 Q. Approximately how much?

2 A. Thousand of hours.

3 Q. Were you involved in extensive research  
4 with various incinerators?

5 MR. BLANKENSHIP: I'm going to object,  
6 (A) on relevance and (B) if this is leading towards  
7 qualifying Mr. Trepanier as an expert, he was not  
8 disclosed as an expert and he can't give expert  
9 testimony in this case as a result of that and I'm  
10 not sure, otherwise, where this is all going.

11 MR. JOSEPH: Right, but I think I have a  
12 right to try to bring out the fact of his integrity  
13 and his specialization and his -- the value even  
14 though he's not a degreed person that he has done  
15 some extensive research and has an understanding.

16 HEARING OFFICER KNITTLE: I'm going to  
17 overrule the objection. Mr. Joseph, I'll let you  
18 ask some questions along that line and,  
19 Mr. Blankenship, you'll be able to object if, in  
20 fact, he makes any attempts.

21 BY MR. JOSEPH:

22 Q. Have you been involved in other air  
23 pollution research?

24 A. Yes.

1 Q. Could you get into some detail on that?

2 A. Well, I researched extensively the  
3 incinerator and the testing of the incinerator at  
4 Robbins. I've worked quite extensively to document  
5 emissions from the Clark Oil refinery on the south  
6 side of Chicago.

7 Q. Although you were not degreed, was your  
8 work accepted by the populous, the local  
9 government, the Pollution Control Board?

10 MR. BLANKENSHIP: Objection --

11 MR. JEDDELOH: Form.

12 MR. BLANKENSHIP: -- relevance, form and  
13 now it sounds like he is trying to qualify him as  
14 some kind of expert at least through a back door  
15 here.

16 MR. JEDDELOH: Well, he's also asking the  
17 witness to speculate as to what others might have  
18 done.

19 HEARING OFFICER KNITTLE: I'll sustain on  
20 the speculation. Mr. Joseph, can you ask again,  
21 please?

22 BY MR. JOSEPH:

23 Q. Was your --

24 HEARING OFFICER KNITTLE: Excuse me. I

1 don't mean you have to ask that question again, but  
2 if you have another question, you can ask it.

3 BY MR. JOSEPH:

4 Q. Right. No, I want to get into that a  
5 little more. Was your research used in these  
6 cases?

7 MR. JEDDELOH: Same objection, vague and  
8 imprecise.

9 MR. BLANKENSHIP: Irrelevant.

10 MR. JOSEPH: I'm being specific and then  
11 you object and now I'm trying to let him answer a  
12 little more general question and you're objecting  
13 again, so what --

14 HEARING OFFICER KNITTLE: Mr. Blankenship,  
15 do you have something?

16 MR. BLANKENSHIP: No. It's the same  
17 objection.

18 HEARING OFFICER KNITTLE: I thought I saw  
19 you shaking your head.

20 MR. BLANKENSHIP: Sorry.

21 HEARING OFFICER KNITTLE: I'm going to  
22 sustain the objection. Go ahead, Mr. Joseph.

23 BY MR. JOSEPH:

24 Q. Was some of your research useful in these

1 cases?

2 MR. BLANKENSHIP: Objection, relevance

3 again.

4 HEARING OFFICER KNITTLE: Explain to me,

5 Mr. Joseph, what you're trying to show here.

6 MR. JOSEPH: Well, I'm trying to

7 establish that Mr. Trepanier has done some

8 extensive research and although he is not a degreed

9 individual, that his -- as a layman, his work had

10 been used extensively in some very important cases

11 regarding air pollution.

12 MR. JEDDELOH: He testified as to some

13 things he saw on the 9th and the 15th or the 23rd

14 of September. No expert qualification is required

15 for that.

16 MR. BLANKENSHIP: I think we're getting

17 beyond the scope of cross here, too.

18 HEARING OFFICER KNITTLE: Well, we did

19 get into whether or not he was a degreed person or

20 whether or not he had any degrees in environmental

21 science, so I would allow that to stand, but he

22 cannot testify as to whether or not other people --

23 how they view his research, Mr. Joseph.

24 MR. JOSEPH: I meant was it used in the

1 case, these other cases.

2 HEARING OFFICER KNITTLE: Used how? You  
3 have to be more specific.

4 BY MR. JOSEPH:

5 Q. Okay. Was it used specifically in the  
6 court cases with the Blue Island refinery and the  
7 Robbins incinerator?

8 MR. BLANKENSHIP: Same objections.

9 HEARING OFFICER KNITTLE: Overruled.  
10 Mr. Trepanier, answer if you can, please.

11 THE WITNESS: Well, I had an occasion to  
12 gather samples from the Clark refinery where they  
13 had dumped asbestos in a field and I gave those  
14 samples to the attorney who's -- Mr. Leck who's  
15 suing on behalf of children that were injured by  
16 the refinery and I believe that those were used.

17 I believe also that the Illinois Attorney  
18 General acted on information that we assisted them  
19 in gathering when the Attorney General attempted to  
20 close the Clark refinery because of hazardous  
21 condition with storage of hydrogen fluoride.

22 MR. JEDDELOH: I'm going to move to  
23 strike what he believes. There's no foundation  
24 laid for that testimony and he's clearly just



1 speculating about what others might have done or  
2 not done with what he produced.

3 HEARING OFFICER KNITTLE: I'm going to  
4 overrule, although, of course, the board --  
5 Mr. Trepanier, the board is aware that you cannot  
6 testify to how heavily they relied or whether they  
7 relied at all on your testimony and -- but I'm  
8 going to allow your beliefs that it was part of the  
9 case to stand.

10 Anything else, Mr. Joseph?

11 BY MR. JOSEPH:

12 Q. Yes. Did you specialize in extensive  
13 research in regards to air pollution on these  
14 projects?

15 A. Well, I did give what I felt is a very  
16 strong critique of the test burns at the Robbins  
17 incinerator when those had -- those have each year.  
18 The first two years the test burns were conducted  
19 right after Christmas and were conducted with  
20 Christmas trees. And although my view didn't  
21 prevail that that was not a fair test of the  
22 incinerator, it -- I believe it was a very good  
23 analysis and -- analysis of somebody that was  
24 frustrating the pollution controls.

1 Q. And you did a lot of other research on  
2 this project?

3 MR. BLANKENSHIP: Objection.

4 HEARING OFFICER KNITTLE: Sustained.

5 That was sustained, Mr. Joseph. Do you have  
6 anything else?

7 BY MR. JOSEPH:

8 Q. Yes. Do you feel that your real beliefs  
9 of the pollution was somewhat distorted in the way  
10 the questions were treated here?

11 MR. BLANKENSHIP: Objection.

12 HEARING OFFICER KNITTLE: I'm going to  
13 sustain that, Mr. Joseph. The board's going to be  
14 able to decide for themselves whether they think  
15 the questions that the respondents were asking were  
16 inappropriate.

17 BY MR. JOSEPH:

18 Q. Mr. Trepanier, if you were to review the  
19 entire film including the parts submitted but not  
20 admitted, would this refresh your memory on the  
21 integrity of the building?

22 MR. BLANKENSHIP: Objection.

23 MR. JEDDELOH: Objection. We've already  
24 gone through what is admissible evidence and now

1 they're trying to back door this evidence through  
2 that question.

3 MR. BLANKENSHIP: And this is improper  
4 refreshing of recollection. He hasn't testified  
5 that his memory needs to be refreshed.

6 MR. JOSEPH: Well, he did testify about  
7 the video earlier and that it would refresh his  
8 memory.

9 MR. JEDDELOH: And that was objectionable  
10 testimony.

11 MR. BLANKENSHIP: And I don't believe he  
12 testified to that. He testified hasn't been in the  
13 building.

14 MR. JOSEPH: Yes, but he did say that  
15 the video did show --

16 HEARING OFFICER KNITTLE: Yeah, I'm going  
17 to sustain -- hold on, Mr. Joseph. I'm going to  
18 sustain this objection. Okay? I'm going sustain  
19 it because I've already ruled that that evidence is  
20 not admissible and I'm not going to allow you to  
21 show it to Mr. Trepanier to refresh his  
22 recollection or refresh his memory. I don't think  
23 it's appropriate.

24 MR. JOSEPH: Well, I guess I object to

1 your objection because I think it was --

2 HEARING OFFICER KNITTLE: I'll tell  
3 you -- hold on. I'll tell you what you can do.

4 MR. JOSEPH: All right.

5 HEARING OFFICER KNITTLE: You can duly  
6 note for the record how you feel and I'll let you  
7 state that right now.

8 MR. JOSEPH: Duly note for the record  
9 that I believe that there is other extensive  
10 footage in the video beyond what could be  
11 considered prejudicial and I think that the board  
12 would understand and it would see -- would  
13 reinforce additional pollution, additional pushing  
14 off with the large amounts of parts of the  
15 building. The video would show the peeling paint.  
16 It would show the asbestos sign in the building  
17 and --

18 HEARING OFFICER KNITTLE: Mr. Joseph, is  
19 this relating to the structure of the building at  
20 all? That's what I'm concerned with here. That's  
21 what I'm allowing you to make your offer of proof  
22 on.

23 MR. JOSEPH: Well, I guess -- because my  
24 next question was going to be to review -- if you

1 were to review the tape, would it reflect on the --  
2 some of the items that could have caused pollution  
3 such as peeling paint which would likely have  
4 been --

5 HEARING OFFICER KNITTLE: That I'm not  
6 going to allow. All I'm allowing is you to tell us  
7 why you think the video, if shown to Mr. Trepanier,  
8 would help him figure out whether or not the  
9 structure of the building was flawed in some way.

10 MR. JOSEPH: Okay.

11 HEARING OFFICER KNITTLE: And you think  
12 that the showing of the videotape to Mr. Trepanier  
13 would help him?

14 MR. JOSEPH: Yes. I think it would held  
15 show the --

16 HEARING OFFICER KNITTLE: How?

17 MR. JOSEPH: -- integrity of the building,  
18 the thickness, the structure, the --

19 HEARING OFFICER KNITTLE: That's your  
20 offer of proof that I'm going to accept and if the  
21 board wants to reverse my ruling on that, they'll  
22 have that information.

23 MR. JOSEPH: Likewise, like I said, I was  
24 going to move on to ask him about refreshing his

1 memory onto the parts of the existing building and  
2 it is actual evidence that did show the peeling  
3 paint and the asbestos sign.

4 HEARING OFFICER KNITTLE: That part is  
5 not the part I'm going to allow at this point. You  
6 were making an offer of proof strictly on  
7 Mr. Trepanier's testimony regarding the structure  
8 of the building. That was accepted.

9 MR. JOSEPH: So how can I get this other  
10 in? I want to --

11 HEARING OFFICER KNITTLE: I cannot tell  
12 you what to do, Mr. Joseph, and I've already ruled  
13 that that other part of the video shouldn't be  
14 allowed in, so I'm not the person to be asking  
15 here.

16 MR. JOSEPH: No. Okay. I guess I want  
17 to somehow bring up the fact if he were to  
18 review it --

19 MR. BLANKENSHIP: Objection. This has  
20 been ruled on. What are we doing here?

21 HEARING OFFICER KNITTLE: Yeah. I don't  
22 understand and I think there's even an offer of  
23 proof and a motion for reconsideration concerning  
24 this part of the videotape. I advise you, as I

1 advised Mr. Trepanier earlier before you came, that  
2 if you don't agree with my ruling on the videotape  
3 to make a motion to the board seeking to overturn  
4 that ruling.

5 And there's been sufficient argument on  
6 what the videotape contains and what it will do for  
7 the complainants' case, so I don't think we have to  
8 go into that anymore right now. If you have  
9 something else, I'd be happy to hear it though.

10 MR. JOSEPH: Would the university then --  
11 it would be easy if they would just stipulate that  
12 there was peeling paint, likely lead paint and  
13 asbestos sign. Will they stipulate --

14 HEARING OFFICER KNITTLE: Will you guys  
15 stipulate to that?

16 MR. BLANKENSHIP: No, sir.

17 MR. JEDDELOH: No.

18 HEARING OFFICER KNITTLE: Okay. No.  
19 They're not going to do that, Mr. Joseph. I'm  
20 going to ask you to move on.

21 MR. JOSEPH: Why wouldn't you? It was  
22 quite obvious.

23 HEARING OFFICER KNITTLE: Mr. Joseph?  
24 Mr. Joseph, let's move on. If you have questions

1 for Mr. Trepanier on redirect we can go, otherwise,  
2 that's it.

3 BY MR. JOSEPH:

4 Q. Mr. Trepanier, if someone was walking  
5 southbound toward the canopy and there was no truck  
6 or a truck was parked on the side street, do you  
7 think that they would be aware that there was a  
8 demolition or would they be protected from a cloud  
9 of smoke blowing around the side of the building?

10 MR. JEDDELOH: Objection as to the  
11 compound nature of that question and also it  
12 invites this witness to speculate as to what other  
13 people may think. He was asked before about what  
14 he would think.

15 HEARING OFFICER KNITTLE: I'll sustain  
16 that. That's a sustained objection, Mr. Joseph.  
17 Do you have any other questions?

18 BY MR. JOSEPH:

19 Q. Well, I have to rearrange that then. If  
20 you were walking southbound and toward the canopy  
21 and the wind was blowing west, wouldn't you be  
22 walking directly into the cloud of whatever was  
23 being pushed off the building?

24 MR. BLANKENSHIP: Objection. That's



1 speculation and that's beyond the scope of the  
2 direct -- or the cross.

3 MR. JEDDELOH: I think it may be also a  
4 hypothetical question which would not be  
5 appropriate for an occurrence witness.

6 HEARING OFFICER KNITTLE: I'm going to  
7 sustain the objection on a variety of grounds what  
8 I'm not going to get into right now. Mr. Joseph,  
9 anything else?

10 BY MR. JOSEPH:

11 Q. Now, prior to the demolition, was there  
12 not a woman student and her child living in this  
13 building?

14 MR. JEDDELOH: Objection.

15 MR. BLANKENSHIP: Objection, beyond the  
16 scope of cross.

17 MR. JEDDELOH: And I'll add relevancy.

18 MR. JOSEPH: Well, it's relevant because  
19 of the -- the building was --

20 HEARING OFFICER KNITTLE: Mr. Joseph, you  
21 don't have to get into the relevancy. I agree that  
22 it would be relevant, but I think it is beyond the  
23 scope. That wasn't addressed at all in the  
24 cross-examination. You can only ask questions that

1 the respondents cross-examined Mr. Trepanier about  
2 on redirect.

3 MR. JOSEPH: Well, there was some  
4 discussion about the integrity of the building and  
5 its usefulness.

6 HEARING OFFICER KNITTLE: Yeah. I don't  
7 think that --

8 MR. JOSEPH: And this is just showing  
9 that there was a person.

10 HEARING OFFICER KNITTLE: I'm going to  
11 overrule -- or sustain the objection. Excuse me.

12 MR. JOSEPH: I can't remember the  
13 specific question, but they were talking about the  
14 building's usefulness. I have no further  
15 questions.

16 HEARING OFFICER KNITTLE: Is there  
17 anything from the respondents?

18 MR. BLANKENSHIP: No.

19 MR. JEDDELOH: None.

20 MR. TREPANIER: Can I move the exhibit  
21 into evidence? I handled that earlier and maybe  
22 this is still at a time.

23 HEARING OFFICER KNITTLE: You've never  
24 offered that into evidence. Is there an objection

1 to that?

2 MR. BLANKENSHIP: I would object just  
3 because I'm not sure the drawing is -- in gross it  
4 may be accurate, but I don't think the distances  
5 are accurate that are reflected there. This is a  
6 hand sketch and I'm not sure what it's being  
7 offered to show, but I don't think it's an accurate  
8 depiction at least in the details.

9 HEARING OFFICER KNITTLE: Mr. Jeddelloh?

10 MR. JEDDELOH: I'll join in that  
11 objection.

12 HEARING OFFICER KNITTLE: Well, I'm going  
13 to accept it into evidence and any discrepancies  
14 with the scale will go to the weight of the  
15 exhibit.

16 Mr. Trepanier, you should try to offer  
17 these when you're actually still doing your --

18 MR. JOSEPH: I want to support that, too,  
19 and say that even though it's not in scale that it  
20 was used during my testimony extensively and it  
21 would be very helpful.

22 HEARING OFFICER KNITTLE: I understand  
23 and I've accepted it.

24 MR. JOSEPH: Thank you.

1 HEARING OFFICER KNITTLE: We have the box  
2 of evidence here from the EPA that is responsive to  
3 Mr. Trepanier's subpoena duces tecum. I want to do  
4 that after lunch. I think you want to take a look  
5 at that and see what's there, so let's take a break  
6 for lunch. We'll go off the record then.

7 (A lunch break was taken, after which the  
8 following proceedings were had:)

9 HEARING OFFICER KNITTLE: We're back on  
10 the record after a nice little lunch break and we  
11 are about to address the situation that we talked  
12 about earlier. We're allowing Mr. Trepanier to  
13 recall himself for the limited purposes of offering  
14 documentary evidence that was submitted to him as a  
15 result of a subpoena by the IEPA.

16 Mr. Trepanier, you can state your piece  
17 here.

18 MR. TREPANIER: Thank you.

19 MR. JEDDELOH: Could I have a  
20 clarification as to whether he's testifying now or  
21 arguing, serving as his own lawyer.

22 HEARING OFFICER KNITTLE: I don't know  
23 what he's going to be doing. Mr. Trepanier, what  
24 are you going to be doing?

1 MR. TREPANIER: I think I'll start with  
2 an argument or discussion.

3 HEARING OFFICER KNITTLE: Sounds good.

4 MR. TREPANIER: And that is that as much  
5 as I appreciate IEPA responding with these  
6 documents, I haven't found the response to be  
7 useful, whether that's, in part, my responsibility.

8 So, now, what I would like to proceed  
9 with is take from this packet -- and I note there's  
10 hundreds of documents here today and our last time  
11 around, on the previous subpoena, we did get a  
12 smaller packet. And what I'd like to do is come  
13 from the subpoena number 1 and pull out from there  
14 the records that IEPA has for 1261 South Halsted  
15 and I put that one on top.

16 I also am interested to -- what I'm going  
17 to want to do is move into evidence three  
18 additional documents from that pack and those are  
19 right up on top here, so maybe I can --

20 HEARING OFFICER KNITTLE: So of all these  
21 documents scattered across our table here, and for  
22 the benefit of the record, it is a pretty  
23 voluminous amount, you're only offering into  
24 evidence four documents.

1 MR. TREPANIER: It's five documents.

2 HEARING OFFICER KNITTLE: Five documents.

3 Why don't we show those to the respondents. This  
4 would be Complainant's -- do you want to do a joint  
5 Number 7?

6 MR. BLANKENSHIP: I don't think you  
7 should.

8 HEARING OFFICER KNITTLE: Are they all  
9 separate.

10 MR. BLANKENSHIP: They're all kind of  
11 separated.

12 HEARING OFFICER KNITTLE: Let's do them  
13 one by one then when we get to it. Mr. Jeddelloh,  
14 when you're finished with your review after  
15 Mr. Blankenship's finished with his, maybe you can  
16 pass them down to me.

17 MR. BLANKENSHIP: I'm sorry.

18 MR. JEDDELOH: Could I keep them for a  
19 minute because I'm going to have to make some  
20 arguments about this?

21 HEARING OFFICER KNITTLE: I'd like to  
22 give them back to you after I take a look because,  
23 otherwise, your arguments aren't going to mean much  
24 to me.

1 MR. JEDDELOH: Let me just mention then  
2 that the first thing that's happened here is I've  
3 got three documents for 1121 North LaSalle Street  
4 which is owned by the city of Chicago and I'm  
5 wondering why this is in the packet even in the  
6 first place. That's why I want to hold onto these.  
7 Maybe Mr. Trepanier has just made a mistake.

8 HEARING OFFICER KNITTLE: Do those relate  
9 to 1261?

10 MR. TREPANIER: These I'm going to relate  
11 to the record keeping of the EPA and to Speedway's  
12 activities that when Speedway does a demolition  
13 where they don't remove asbestos, they include with  
14 their notification -- they include a notice that  
15 asbestos was removed by the party who did it. So  
16 when Speedway doesn't remove the asbestos  
17 themselves, they include to IEPA who did remove the  
18 asbestos, but on 1261 we'll see no such of  
19 notification was made.

20 MR. JEDDELOH: Well, that's --

21 HEARING OFFICER KNITTLE: I'm going to  
22 want to see those.

23 MR. JEDDELOH: You're what? I'm sorry.

24 HEARING OFFICER KNITTLE: I'm going to

1 want to see them.

2 MR. BLANKENSHIP: He wants to look at  
3 these things.

4 HEARING OFFICER KNITTLE: Yeah, I want to  
5 see them before I make a decision.

6 MR. JEDDELOH: Do you want to look at  
7 them next and let me respond after that or how  
8 would you --

9 HEARING OFFICER KNITTLE: I want to look  
10 at them now. There's a lot of argument going on  
11 and I have no idea what we're talking about. And  
12 Mr. Trepanier -- let's take a break. That's not  
13 you?

14 THE COURT REPORTER: No.

15 HEARING OFFICER KNITTLE: All right. So  
16 far as I can tell, none of those apply to  
17 1261 Halsted, right, Mr. Trepanier?

18 MR. TREPANIER: One of them says 1261 on  
19 its face.

20 HEARING OFFICER KNITTLE: Actually, I  
21 have nothing that says 1261 on its face. I have  
22 the five documents we talked about and none of  
23 them --

24 MR. JEDDELOH: I'm sure that that was



1 passed to you, Mr. Knittle, because I looked at it  
2 and I put it in the packet that was passed to you.

3 MR. TREPANIER: It's a single page.

4 MR. BLANKENSHIP: I didn't see it either.

5 MR. JEDDELOH: Wait. Wait. Let me see  
6 these again. You're missing it. Here it is.

7 MR. BLANKENSHIP: It's the university's  
8 address, but it's the address of --

9 HEARING OFFICER KNITTLE: I'm sorry. My  
10 mistake.

11 MR. BLANKENSHIP: If I can respond to  
12 Mr. Trepanier?

13 HEARING OFFICER KNITTLE: Whoever wants  
14 to respond can respond now.

15 MR. JEDDELOH: Let me just further the  
16 argument. First of all, Mr. Knittle, I would argue  
17 that this is not relevant and the reason that it's  
18 not relevant more than anything else is that this  
19 case is a 9A and 21B violation.

20 I checked in the complainant complaint.  
21 The university has never been put on notice in the  
22 complaint as to a claim by the complainants here  
23 that they intended to broaden this litigation into  
24 something having to do with whether or not the

1 university or Speedway has complied with the  
2 Environmental Protection Act notice requirements  
3 nor would they have standing to do that in my  
4 belief.

5         And I believe, therefore, that any of  
6 these documents, whether it be relating to 1261 or  
7 any other location, is not relevant then to  
8 selectively pick documents from a humongous large  
9 number of documents and try to introduce those  
10 additional documents to prove whether or not  
11 compliance has occurred or not occurred at a  
12 university property is simply not relevant. The  
13 document can speak for itself and to introduce  
14 other documents that purport to show whether or not  
15 there's been compliance is inappropriate.

16         And, finally, I would say that these  
17 documents were never turned over to the university  
18 in discovery and they certainly had a duty to  
19 supplement their prior discovery requests, if they  
20 didn't have a duty to provide us copies of whatever  
21 they received in response to their subpoena, which  
22 I believe they did too. So I think for more  
23 reasons -- for many reasons, these documents should  
24 not be allowed.

1           MR. BLANKENSHIP: I would join in all  
2 those objections, but let me specifically address  
3 what Mr. Trepanier has articulated as his reason.  
4 I submit that there's no foundation for this theory  
5 that in each instance Speedway attached the notice  
6 of a demolition contractor.

7           I don't believe that is the case and I'm  
8 certainly not willing to take his inference of  
9 that. It could easily -- just as easily had been  
10 stapled to this by the IEPA when they received  
11 Speedway's notice of the intent to demolition.

12           He should have asked an appropriate  
13 witness about it, perhaps someone from Speedway  
14 when he had them on the stand, and now this is far  
15 too late in the game to be exploring this. And  
16 it's certainly improper to introduce these records  
17 for a point going beyond whether the records were  
18 received for a point as to Speedway's practice  
19 without some testimony from somebody as to how  
20 these documents came to be stapled together. So I  
21 think it's totally irrelevant with respect to  
22 either properties, but I think the whole theory he  
23 wants to submit them is an improper theory.

24           MR. JEDDELOH: And let me just add that

1 there's no foundation that these records are  
2 complete. Merely because they're records that have  
3 been forwarded by the EPA doesn't mean that  
4 they're all records that were ever generated  
5 concerning any of these properties.

6 HEARING OFFICER KNITTLE: Mr. Trepanier?

7 MR. TREPANIER: Well, I think that it is  
8 clear that these are the records because that's  
9 what was asked for, that's what was delivered by  
10 the IEPA. And I think that this is a proper area  
11 for the board to be considering of whether or not  
12 notification of asbestos removal was given to the  
13 EPA because that's required for a proper  
14 demolition.

15 As we've seen in the affirmative defenses  
16 put forward by the respondent university that their  
17 claim that they have complied with all of the laws  
18 and this is a similar defense that Speedway brought  
19 that mere compliance with the laws insulates them  
20 from this action.

21 And if the asbestos removal proceeded, as  
22 these records seem to indicate with no notification  
23 to the IEPA, then the environmental laws were  
24 compromised and people were put at risk because

1 there was not checks and balances on asbestos  
2 removal that the federal, state and the city of  
3 Chicago have seen fit to put on.

4 MR. BLANKENSHIP: That's not what this  
5 case is about whether the asbestos was removed  
6 properly. And I submit if he wants to asks  
7 questions about asbestos, he ought to be asking the  
8 asbestos contractor. And if he wants to try to  
9 impeach him or do whatever he wants to do regarding  
10 the notice, that would be the appropriate time, but  
11 to simply come in here and produce some records and  
12 don't even now how they came to be put together or  
13 where they come from and to make this argument is  
14 so extenuated from where -- from the issues of this  
15 case, which are whether there was dust and whether  
16 that dust substantially interfered with anyone's  
17 life. This is not an asbestos case.

18 HEARING OFFICER KNITTLE: Mr. Trepanier,  
19 which documents are you submitting into evidence?

20 MR. TREPANIER: I'm submitting the  
21 notification of demolition and renovation.

22 HEARING OFFICER KNITTLE: Do you have  
23 those marked. Let's mark those and do those --

24 MR. TREPANIER: Do you have any of those

1 little tabs?

2 HEARING OFFICER KNITTLE: I don't not  
3 have any little tabs. Do you have some?

4 THE COURT REPORTER: Yes.

5 HEARING OFFICER KNITTLE: The court  
6 reporter is kindly volunteering some tabs.

7 MR. JEDDELOH: We don't know whether  
8 there have been records lost. We don't know  
9 whether they've been misplaced and by having  
10 Mr. Trepanier introduce these documents, we're  
11 deprived of our right to cross-examine on  
12 foundational questions.

13 HEARING OFFICER KNITTLE: I will note --

14 MR. JEDDELOH: Next, if I may say,  
15 Mr. Trepanier has misstated the university's  
16 affirmative defense. The university, while it  
17 believes it has complied with all applicable rules  
18 relating to the dust emanating from 1261, did not  
19 raise an affirmative defense that it has complied  
20 with all applicable rules and laws relating to this  
21 demolition and so that's a misstatement and I want  
22 to clarify that for the record.

23 HEARING OFFICER KNITTLE: And let me --  
24 just so we don't have any further argument on this

1 point, I am going to admit -- the foundation for  
2 these have been laid. They're certified public  
3 records. They're supported by an affidavit and  
4 you're not required to be able to cross-examine  
5 when we're dealing with a certified public record  
6 of a municipality or a state agency.

7         That is fine. I'm not saying I'm going  
8 to admit these, but just so you know, I don't want  
9 to hear argument on whether or not the foundational  
10 requirements have been made because I'm telling you  
11 right now my ruling is that they have been because  
12 they're certified public records; however, I do  
13 think there's arguments to be made regarding the  
14 relevancy and whether they're at all related to  
15 this case and that's why I want to go through each  
16 one that Mr. Trepanier is offering. And I'll give  
17 you an opportunity, at that point, to make any  
18 objections and we'll do a ruling on each one on, I  
19 guess, an exhibit-by-exhibit basis.

20         MR. JEDDELOH: If I could just say I  
21 don't object to the fact that they're certified  
22 public records. I object to there being a  
23 foundation laid for the purpose that Mr. Trepanier  
24 wishes to admit these documents which is to prove

1 that there never was any other documents. He can't  
2 establish that simply because these are the  
3 documents the state currently has.

4 HEARING OFFICER KNITTLE: Understood.

5 Let's get him some exhibit labels. Mr. Trepanier,  
6 I want you to mark each one of those and I think  
7 we're on Number 7.

8 MR. TREPANIER: Number 7, I'm marking the  
9 notification of demolition and renovation for a  
10 facility described at 1261 South Halsted.

11 HEARING OFFICER KNITTLE: Do you want to  
12 mark that and give them to the respondents, please.

13 MR. TREPANIER: Exhibit Number 7.

14 HEARING OFFICER KNITTLE: Objections to  
15 this document?

16 MR. JEDDELOH: Same objection,  
17 Mr. Knittle.

18 HEARING OFFICER KNITTLE: Mr. Blankenship?

19 MR. BLANKENSHIP: I don't have an  
20 objection to this. In fact, I'm going to submit  
21 this one myself.

22 HEARING OFFICER KNITTLE: I'm going to  
23 admit this one which is, in fact, a facility at  
24 1261 South Halsted notice of demolition and



1 renovation. That's admitted. What's next,

2 Mr. Trepanier?

3 MR. TREPANIER: I'm marking as  
4 Exhibit 8 -- Mr. Joseph has just handed to me --  
5 this came from today's stack of documents. This is  
6 a notification of demolition and renovation for the  
7 University of Illinois Chicago entire campus, a  
8 postmark date of 1/2/96 and I'm marking that as  
9 Exhibit Number 8.

10 MR. JEDDELOH: Same objection and I  
11 might -- same objection.

12 MR. BLANKENSHIP: I object to relevance.

13 MR. TREPANIER: This is now a certified  
14 copy of what the university turned over during  
15 discovery as their notice of asbestos removal for  
16 1261 South Halsted.

17 MR. JEDDELOH: Well, I object to the  
18 characterization of the document. The document may  
19 speak for itself. The mere fact that we turned it  
20 over, Mr. Knittle, during discovery does not mean  
21 that we think it's relevant and again, we're  
22 getting into something that the university would  
23 object in a fundamental way that our rights are  
24 being denied because we have never received notice

1 of the complainants' claim, Mr. Trepanier's claim.

2 And the trial of this proceeding is hardly the

3 moment to raise this issue and particularly

4 offensive as it -- considering the fact that he's

5 doing it based upon documents that he hasn't agreed

6 to share with the university.

7 HEARING OFFICER KNITTLE: Mr. Trepanier,

8 is the property 1261 Halsted referenced anywhere on

9 here?

10 MR. TREPANIER: No, it's not.

11 HEARING OFFICER KNITTLE: I'm going to

12 deny this.

13 MR. TREPANIER: Exhibit Number 9 is that

14 now?

15 HEARING OFFICER KNITTLE: Yes.

16 MR. TREPANIER: And Exhibit Number 9 is a

17 notification of demolition and renovation for the

18 property 949-59 West 54th Place with postmark date

19 10/4/94, Exhibit 9.

20 MR. BLANKENSHIP: I'll object on both

21 relevance grounds and there's an attachment here

22 and without foundation as to who attached this

23 second notice, I think there's a real question as

24 to what this document purports to be.

1 MR. TREPANIER: You might notice,  
2 Marshall, on the front of the first page it says  
3 see attached notification, so Beverly signed that  
4 from Speedway.

5 MR. BLANKENSHIP: I don't know that.

6 MR. TREPANIER: Well, her signature is on  
7 there.

8 MR. BLANKENSHIP: That's nice. I don't  
9 know that.

10 MR. JEDDELOH: He's using this document  
11 to attempt to establish a legal requirement and I  
12 don't think that that flows.

13 HEARING OFFICER KNITTLE: Yeah. I'm  
14 going to deny this. There's no mention of the  
15 facility in question, is there, Mr. Trepanier?

16 MR. TREPANIER: No, there's not. And  
17 that's all the exhibits that I'm going use from  
18 this stack.

19 HEARING OFFICER KNITTLE: We have three  
20 exhibits then out of stack of exhibits that the  
21 IEPA sent to Mr. Trepanier, 7, 8 and 9. The first  
22 was a notice of demolition and renovation for  
23 1261 South Halsted. The number 8 and number 9 did  
24 not reference 1261 South Halsted and I am denying

1 both of those. Okay.

2 MR. TREPANIER: Thank you.

3 HEARING OFFICER KNITTLE: Thank you very

4 much, Mr. Trepanier. You can step down as witness.

5 You are now acting solely as your own

6 representative. Do you need a second before you

7 call your next witness?

8 MR. TREPANIER: If I might.

9 HEARING OFFICER KNITTLE: Let's just

10 clear off the table and go off the record for about

11 a minute or two.

12 (Short interruption.)

13 HEARING OFFICER KNITTLE: We're back on

14 the record. Mr. Trepanier, do you have a witness

15 you want to call?

16 MR. TREPANIER: Yes, I do. I'd like to

17 call Mr. Wager.

18 HEARING OFFICER KNITTLE: Can you swear

19 in Mr. Wager, please?

20 WES WAGER,

21 having been first duly sworn, was examined and

22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. TREPANIER:

1 Q. Thank you for coming in today, Wes. Did  
2 you see the demolition at 1261 South Halsted?

3 A. Yes, I did.

4 Q. And when did that occur?

5 A. It was September 10th of '96.

6 Q. And what did you observe on that day?

7 A. They were throwing debris out of the  
8 fourth floor window and it was -- some of it fell  
9 to the ground, but most it formed sort of a cloud  
10 of dust and there was no water, nothing being done  
11 to contain it.

12 HEARING OFFICER KNITTLE: Can you speak  
13 up, Mr. Wager, or you can move here? It's up to  
14 you.

15 BY MR. TREPANIER:

16 Q. When you say the material would go into  
17 the air, what was happening with that going into  
18 the air and what next?

19 A. Well, it was pretty much of a windy day  
20 and dust blew eastward and some of it blew on  
21 yourself.

22 Q. You say it blew onto yourself?

23 A. Yes, and on the plants around and so on.

24 Q. And did that affect you in some way when

1 this dust -- when this dust cloud blew onto you?

2 MR. JEDDELOH: Again, Mr. Knittle, I  
3 know you're going to overrule this, but I'm going  
4 to object to him providing medical testimony about  
5 any physical effects of any dust on himself.

6 MR. BLANKENSHIP: Can I also object and  
7 ask for a little more foundation as to where this  
8 occurred, where he was and the time of day, some  
9 little more circumstances regarding this incident.

10 HEARING OFFICER KNITTLE: Yes, you're  
11 correct, Mr. Jeddeloh. Your objection is  
12 overruled.

13 Mr. Blankenship, I'll sustain that.  
14 Lionel, I'm not going to allow you -- excuse me.  
15 Mr. Trepanier, I'm not going to not allow you to  
16 ask these questions, but if you could, just flush  
17 it out a little bit.

18 BY MR. TREPANIER:

19 Q. Mr. Wager, you said that on  
20 September 10th you saw demolition activities at  
21 1261 South Halsted, right?

22 A. Right.

23 Q. And where were you when you saw that  
24 activity?

1 A. About 30, 40 feet east of the 1261  
2 building.

3 Q. And about what time of day was that?

4 A. Early afternoon.

5 Q. Now, you were saying that a cloud of  
6 material came onto you?

7 A. Yes.

8 Q. And what, if anything, did you notice  
9 when this cloud came onto you?

10 A. It pretty much covered and stained my  
11 clothing. It got in my nose. I started coughing  
12 and it was pretty uncomfortable to say the least.  
13 It also drifted over to the garden area where  
14 people are growing plants for food.

15 Q. Did you see anybody taking measures to  
16 stop those dust clouds or control them?

17 A. Not really.

18 Q. What did you -- what did you observe the  
19 Speedway employees to be doing?

20 A. Just taking these barrels and dumping  
21 them out of the fourth floor window. There was  
22 various materials, debris and dust.

23 Q. Did the dust have a color?

24 A. Blackish.

1 Q. You had -- did you have an opportunity to  
2 view the interior of 1261?

3 A. On various occasions over the year.

4 Q. In your experience was anyone living in  
5 that building?

6 MR. JEDDELOH: Same objection and also as  
7 to foundation as to when.

8 HEARING OFFICER KNITTLE: What's the  
9 first objection, Mr. Jeddelloh?

10 MR. JEDDELOH: It would be what we went  
11 through before about the relevancy of whether  
12 people have ever lived in that property.

13 HEARING OFFICER KNITTLE: Overruled. Go  
14 ahead, Mr. Trepanier.

15 MR. JEDDELOH: Could we at least have a  
16 time when he's talking about?

17 HEARING OFFICER KNITTLE: Mr. Trepanier,  
18 if you can make this more specific, please do.

19 BY MR. TREPANIER:

20 Q. You testified that you were aware that  
21 someone had lived inside that property?

22 A. Oh, yes.

23 Q. When did you arrive on Maxwell Street?

24 A. About 1988.



1 Q. And were you aware of someone living on  
2 the property at that time?

3 A. Oh, yes.

4 Q. And when was -- when did you become aware  
5 that somebody was no longer living in the property?

6 A. I'm not sure. Maybe a year or so before  
7 the -- maybe 1995.

8 Q. And how many people had lived there?

9 A. Well, there's -- there was this woman  
10 with her child and I think her boyfriend lived  
11 there.

12 Q. And you said you had an opportunity to  
13 see inside that building?

14 A. Yes.

15 Q. Can you describe the condition of the  
16 property?

17 MR. JEDDELOH: Could we have a time frame  
18 on this?

19 HEARING OFFICER KNITTLE: Mr. Trepanier,  
20 if you can give them a time frame, please try to.

21 BY MR. TREPANIER:

22 Q. In your -- at or near the end of the time  
23 period, let's say -- when was the most recent --  
24 approximately when was the most recent -- your

1 visit to the property?

2 A. Perhaps two or three weeks before the  
3 demolition.

4 Q. And could you -- and when you went in,  
5 did you go all the way up to the top of the  
6 building?

7 A. Yes. At that point the building was  
8 somewhat open and there was birds flying in and out  
9 and rodents and so on.

10 Q. So there was birds flying in and out when  
11 you were there?

12 A. Yes.

13 Q. And was there any material on the floor?

14 A. Bird manure, dust, peeling paint, so on.

15 Q. Now, was there peeling paint only on the  
16 fourth floor?

17 A. No, there was throughout the building.

18 Q. And now, are you familiar with the use of  
19 lead in paint?

20 MR. JEDDELOH: I'm going to object. This  
21 person has not been qualified as an expert and  
22 there's no -- I know where he's going with this.  
23 There's no foundation about what paint was peeling  
24 off and when it was ever put on, what it might be

1 from.

2 HEARING OFFICER KNITTLE: I understand.

3 I think your objection is a bit premature. You can

4 answer that question. It's overruled.

5 BY MR. TREPANIER:

6 Q. Are you familiar with the use of lead in

7 paint?

8 A. Yes.

9 Q. When, if you know, was that discontinued?

10 MR. JEDDELOH: Same objection. Tis

11 person has not been qualified as an expert on the

12 use of lead paint.

13 HEARING OFFICER KNITTLE: I'm going to

14 overrule. If he knows the answer to that question,

15 he can answer that, whether he's an expert or not,

16 Mr. Jeddelloh.

17 MR. JEDDELOH: But there's no foundation,

18 Mr. Knittle, laid for this person's knowledge about

19 how he might know the answer to that question.

20 HEARING OFFICER KNITTLE: Well, if he

21 knows the answer to that question, I'm going to let

22 him answer that question.

23 THE WITNESS: I believe at least up until

24 1950 almost all the buildings used lead paint.

1 BY MR. TREPANIER:

2 Q. Are you able to estimate the age of the  
3 paint that you saw peeling in that building?

4 MR. JEDDELOH: Objection, he has not been  
5 qualified as an expert and certainly, for a  
6 question like that, a foundation of knowledge and  
7 expertise should be laid. And I would say that his  
8 testimony that until the 1950s all buildings used  
9 lead paint, there's no foundation for that either.

10 MR. BLANKENSHIP: I'll join the  
11 objection.

12 HEARING OFFICER KNITTLE: There is not  
13 and, Mr. Jeddeloh, you can definitely examine this  
14 particular issue when you cross-examine this  
15 witness and I'd advise you to do so. As to this  
16 particular question, Mr. Trepanier, what was it  
17 again? Do you want to repeat it for me?

18 MR. TREPANIER: I was asking if he could  
19 estimate the age of that paint that was peeling.

20 MR. JEDDELOH: Same objection.

21 HEARING OFFICER KNITTLE: I'm well aware  
22 of that, Mr. Jeddeloh. Overruled.

23 THE WITNESS: It was fairly old paint.  
24 It obviously hadn't been painted for quite a while.

1 How old, it would be difficult to say.

2 MR. JEDDELOH: Again, I know that you  
3 differ with me on this, Mr. Knittle, but I feel I  
4 have to make the objections for the record. I  
5 think he's clearly speculating. He has no  
6 knowledge base for this whatsoever.

7 HEARING OFFICER KNITTLE: I'm noting your  
8 objection. The question has already been asked and  
9 answered.

10 MR. JEDDELOH: I ask to move that it be  
11 stricken from the record.

12 HEARING OFFICER KNITTLE: I'm denying  
13 that.

14 THE WITNESS: We were talking about  
15 buildings that go back to 1890 or so.

16 MR. BLANKENSHIP: I'm going to object.  
17 There's no question pending.

18 HEARING OFFICER KNITTLE: Yeah.  
19 Mr. Wager, wait, if can you, until Mr. Trepanier  
20 asks you a question before you start testifying.

21 BY MR. TREPANIER:

22 Q. Now, you visited that building two or  
23 three weeks before the demolition started. Did you  
24 have other occasions to be inside the building?

1       A. Semi-occasionally over the years and  
2 particularly more often as we became concerned  
3 about this -- the demolition, having seen the bad  
4 results of previous demolitions.

5           MR. JEDDELOH: I'm going to move that the  
6 part relating to having seen the effects of  
7 previous demolitions be stricken from the record.  
8 It's beyond the scope. It's irrelevant.

9           HEARING OFFICER KNITTLE: Mr. Trepanier?

10          MR. TREPANIER: You want me -- I could  
11 respond to the objection?

12          HEARING OFFICER KNITTLE: This is your  
13 witness.

14          MR. TREPANIER: I think that the  
15 objections are coming excessively. I think that  
16 could, in fact, make it more difficult for me to  
17 elicit information from the witnesses. I don't  
18 think that this material is objectionable on the  
19 grounds that counsel stated.

20          MR. BLANKENSHIP: I would join in the  
21 objection and also it's not responsive to the  
22 question.

23          HEARING OFFICER KNITTLE: I will -- I'm  
24 going to overrule the objection; however,

1 Mr. Wager, you can only answer the question that's  
2 been put to you so --

3 THE WITNESS: Well, I thought it related  
4 to the question.

5 HEARING OFFICER KNITTLE: Understood.  
6 I'm just cautioning you. Answer the questions as  
7 they're put to you. At a later point in time, you  
8 can call yourself as your own witness and if you  
9 want to ask yourself certain questions or testify  
10 to something, you'll be able to so long as it meets  
11 the evidentiary requirements.

12 BY MR. TREPANIER:

13 Q. How did the -- was the interior of the  
14 building appear sound to you?

15 MR. JEDDELOH: I'm sorry. Can I have  
16 that question again?

17 BY MR. TREPANIER:

18 Q. Did the interior of the building appear  
19 sound to you in your opinion?

20 MR. JEDDELOH: Same objection relating to  
21 the person's expertise and testifying as to the,  
22 quote, soundness, close quote, of a building.

23 HEARING OFFICER KNITTLE: Understood.  
24 I'm overruling of course. His testimony will be

1 weighted by the board accordingly. Proceed.

2 THE WITNESS: Yes.

3 BY MR. TREPANIER:

4 Q. Now, when you came to Maxwell Street in  
5 1988, have you maintained -- have you remained  
6 there since that time?

7 A. Yes.

8 Q. And has the -- did the university ever  
9 give you a notice -- did the university or Speedway  
10 Wrecking ever give you notice that they were going  
11 to be demolishing a building in your area?

12 A. No, they didn't and especially this is  
13 also sensitive in terms of the gardens there. I  
14 would have appreciated that.

15 Q. How do you believe that the demolition  
16 impacted the garden?

17 A. The --

18 MR. JEDDELOH: I'm going to -- I'm sorry  
19 may I please interpose an objection. I'm going to  
20 object to his beliefs and it sounds now like he is  
21 going to try to give expert testimony as to how  
22 dust might affect food products.

23 HEARING OFFICER KNITTLE: Mr. Blankenship?

24 MR. BLANKENSHIP: I'll join the



1 objection. If he wants to testify to what he  
2 observed, that's one thing, but his belief, I  
3 think, is another. It's not relevant. It's not  
4 appropriate.

5 HEARING OFFICER KNITTLE: I'm going to  
6 overrule. You can answer, Mr. Wager.

7 BY MR. TREPANIER:

8 Q. How do you believe that dust would affect  
9 that garden?

10 A. The dust drifted on the plants and these  
11 are plants for human consumption. And I doubt  
12 there's any expert who would suggest that you want  
13 lead paint in your breakfast.

14 MR. JEDDELOH: Well, I'm going to object  
15 to that last phrase. It's not responsive and he's  
16 clearly now trying to say that there was dust in  
17 the lead paint which he has no basis for and he's  
18 not an expert in this subject and it's totally  
19 lacking in foundation.

20 MR. BLANKENSHIP: I'm also going to  
21 object. If he's going to testify that there's dust  
22 on the garden, I would like some foundation as to  
23 when he observed this dust getting to the garden  
24 because I think that's contrary to Mr. Trepanier's

1 testimony.

2 MR. TREPANIER: I think the witness  
3 testified on September 10th he saw that the wind  
4 was blowing east and he observed the dust enter the  
5 garden.

6 HEARING OFFICER KNITTLE: I'm going to  
7 sustain the objection in part at least as to the  
8 lead paint in the dust which is what I think you  
9 meant to say. You reversed it.

10 Mr. Wager, you don't know that there was  
11 any lead paint in the dust, at least you haven't  
12 testified to that to this point, so just answer the  
13 questions that Mr. Trepanier asks and try not to  
14 ad-lib.

15 BY MR. TREPANIER:

16 Q. Was there lead paint in the dust that you  
17 saw leaving the building at 1261?

18 MR. JEDDELOH: Objection as to foundation  
19 and this clearly would call upon this witness to  
20 serve as an expert. No expert has been disclosed  
21 nor has the dust sample that they proposed as being  
22 relevant dust has it ever been tested by someone  
23 competent to make that assumption.

24 MR. BLANKENSHIP: I'll join the

1 objection.

2 HEARING OFFICER KNITTLE: I'll sustain  
3 that objection. You can't answer that.

4 THE WITNESS: He was asking about the  
5 foundation --

6 MR. JEDDELOH: There's no question  
7 pending. I'd like to ask that this witness not  
8 make statements when no question is pending.

9 THE WITNESS: Over --

10 MR. JEDDELOH: May I ask that --

11 HEARING OFFICER KNITTLE: Hold on. Hold  
12 on. This is getting a little out of hand here,  
13 Mr. Jeddeloh. And Mr. Trepanier, I want you to try  
14 to keep this civil.

15 Mr. Wager you're on the stand and you're  
16 not allowed to just speak out on your own right  
17 now. As I said, you'll have the opportunity to  
18 call yourself as a witness and then you'll be able  
19 to say more of what you want, but as for now,  
20 you're Mr. Trepanier's witness. Respond to  
21 questions when he asks them, please.

22 BY MR. TREPANIER:

23 Q. Do you own a building on Maxwell Street?

24 A. Yeah.

1 Q. How close is your building to the  
2 demolishing at 1261?

3 A. Maybe 150, 200 feet at the most.

4 Q. 150, 200 feet. And what was your first  
5 indication that the building at 1261 was or would  
6 be demolished?

7 A. I don't know. Maybe through the  
8 grapevine. There was no notification.

9 Q. Have you seen -- you say that it was a  
10 food supply at the garden. Who uses that garden?

11 A. There's about 20 or 30 persons who have  
12 lots within the garden where they -- it's a  
13 community garden. And they're the ones that use  
14 it, plus passerbys often will maybe pick a tomato  
15 off a vine or something.

16 Q. Is there any posting there at that garden  
17 to encourage people or tell people to wash that  
18 food before they eat it?

19 A. No.

20 Q. Did you have an opportunity to see the  
21 demolition activity on any day other than  
22 September 10th that you can recall?

23 A. Most of the days when it was happening I  
24 was in and out and saw some of it. I don't

1 remember the exact days.

2 Q. Now, on the -- on September 10th, did you  
3 see any use of water at the sight?

4 A. No.

5 MR. JEDDELOH: Objection asked and  
6 answered.

7 MR. BLANKENSHIP: And leading.

8 HEARING OFFICER KNITTLE: I don't recall  
9 if this has been asked to this witness. I'm going  
10 to overrule it. Go ahead and ask the question.

11 BY MR. TREPANIER:

12 Q. On September 10th, did you see any use of  
13 water on that site?

14 A. No, I didn't.

15 Q. If water was being used there, would you  
16 have observed it?

17 MR. BLANKENSHIP: Objection.

18 MR. JEDDELOH: Well --

19 HEARING OFFICER KNITTLE: What's your  
20 objection, Mr. Blankenship?

21 MR. BLANKENSHIP: Speculation and  
22 foundation. We even haven't heard where his  
23 vantage point was for his observation let alone  
24 something that would indicate that he was aware of

1 everything going on at all points on this site that  
2 would allow him to form this conclusion that there  
3 was not water going on.

4 HEARING OFFICER KNITTLE: Sustained.

5 Mr. Trepanier, you can ask some questions leading  
6 up to that question if you would like.

7 BY MR. TREPANIER:

8 Q. Thank you. You testified that you saw  
9 the building from about 30 to 40 feet, I believe,  
10 on the east side of the building?

11 A. Yes.

12 Q. Did you have any views of the building on  
13 that day, September 10th?

14 A. Yes.

15 Q. And what was your vantage point for the  
16 other views?

17 A. From my house, from the garden and from  
18 Halsted Street.

19 Q. So you were on all sides of this  
20 building?

21 A. Yeah.

22 Q. And on any side of the building was there  
23 a hose entering the building?

24 A. No, not that I saw.

1 Q. And on the other occasions that you had  
2 to view 1261 while the demolition was ongoing, did  
3 you see -- where would those have been from?

4 A. Likewise, from driving by on Halsted,  
5 from walking over to see what was happening.

6 Q. Did you know if -- do you know if  
7 watering is an industry standard for a demolition?

8 MR. BLANKENSHIP: Objection lack of  
9 foundation.

10 HEARING OFFICER KNITTLE: Sustain.

11 BY MR. TREPANIER:

12 Q. Have you had an opportunity to see a  
13 demolition other than 1261?

14 A. Yes.

15 Q. More than one other?

16 A. Yes.

17 Q. And at these other demolitions that you  
18 saw, was water being used?

19 MR. BLANKENSHIP: Objection.

20 MR. JEDDELOH: Objection, relevancy.

21 HEARING OFFICER KNITTLE: No, overruled.

22 THE WITNESS: Sometimes yes, sometimes  
23 no.

24 BY MR. TREPANIER:

1 Q. And did you see any water being used at  
2 1261?

3 A. No.

4 MR. JEDDELOH: Objection, asked and  
5 answered.

6 HEARING OFFICER KNITTLE: Sustained.

7 MR. TREPANIER: I was going beyond the  
8 10th. This was a more open of a question.

9 MR. BLANKENSHIP: Well, I'll object to  
10 him asking an open ended question about a six-week  
11 period when we've had this witness placed at the  
12 site, at most, a handful of times during that  
13 six-week period. To a question like that and then,  
14 further, there was never watering is absurd.

15 HEARING OFFICER KNITTLE: Mr. Trepanier,  
16 I'll let you ask this witness if he saw water at  
17 any other point in time. Go ahead.

18 THE WITNESS: No, I didn't.

19 BY MR. TREPANIER:

20 Q. So the question that -- I'll just ask it  
21 for the record here. On the other occasions when  
22 you saw the demolition at 1261 Halsted, was water  
23 being used?

24 A. No, not at that time.



1 MR. TREPANIER: I don't have any further  
2 questions.

3 HEARING OFFICER KNITTLE: Mr. Joseph, do  
4 you have questions for this witness?

5 DIRECT EXAMINATION

6 BY MR. JOSEPH:

7 Q. Mr. Wager, what kind of birds were in the  
8 building?

9 A. There were pigeons also sparrows and  
10 occasionally starlings.

11 Q. Do you know of any dangers with the  
12 dropping from pigeons?

13 A. Yes.

14 MR. JEDDELOH: Objection. I ask that  
15 that response be stricken. This person has not  
16 been qualified for this purpose.

17 HEARING OFFICER KNITTLE: I'll sustain.  
18 Mr. Joseph, you could ask questions trying to  
19 qualify this witness as someone who might know of  
20 this type of situation.

21 BY MR. JOSEPH:

22 Q. Mr. Wager, what do you do with your spare  
23 time? Let me rephrase that. You spend a lot of  
24 time on a publication?

1 A. Yes.

2 Q. And what is that publication?

3 A. Chicago Greens Calendar, a calendar of  
4 environmental events and issues.

5 Q. So you spend a good deal of your time  
6 working on environmental issues?

7 A. Yeah.

8 MR. BLANKENSHIP: Objection, vague  
9 question.

10 HEARING OFFICER KNITTLE: Overruled. Go  
11 ahead, Mr. Joseph.

12 BY MR. JOSEPH:

13 Q. And so you're concerned with safety  
14 issues?

15 A. Yes.

16 Q. And that includes gardening?

17 A. Yeah.

18 Q. And safety of animals?

19 A. Yes.

20 MR. BLANKENSHIP: Can I object to all the  
21 leading questions. This is his witness here.

22 HEARING OFFICER KNITTLE: Yes, you can.

23 Mr. Joseph, you can't ask leading questions. We  
24 went over this at the last go around.

1           MR. BLANKENSHIP: I'm going to interpose  
2 another objection if he's trying to qualify him as  
3 an expert. We've asked him for two years to  
4 identify any experts, and it would be grossly  
5 unfair if now -- even Mr. Wager by some stretch of  
6 the imagination is qualified as an expert, that  
7 would be totally unfair to now allow him to have  
8 expert testimony when we have not been given the  
9 opportunity to know what that is and prepare our  
10 own rebuttal expert. So I object to this whole  
11 line of questioning if that's the intent and I  
12 think it is.

13           HEARING OFFICER KNITTLE: Is that the  
14 intent, Mr. Joseph?

15           MR. JOSEPH: Pardon me?

16           HEARING OFFICER KNITTLE: Is that the  
17 intent? What are a attempting to --

18           MR. JOSEPH: I'm trying to establish that  
19 he's done some research and is aware of some of the  
20 hazards of some of the things he brought up  
21 earlier.

22           MR. JEDDELOH: Then that's exactly what  
23 they're trying to do with this witness is make him  
24 an expert on bird droppings.

1           MR. JOSEPH: No, I just -- he already  
2 established there were bird droppings in the  
3 building, correct? And he's establishing that he's  
4 done research. He's an environmentalist and that  
5 was in the building.

6           MR. BLANKENSHIP: If that's, in fact,  
7 what he's trying to do now, he is trying to  
8 establish him as an expert. We have not gone out  
9 and got a contrary expert, as we could have, had we  
10 been given notice of that and he should not be  
11 allowed to testify.

12          MR. JOSEPH: Okay. Will you stipulate to  
13 the fact that there were bird droppings in the  
14 building? I think we went over this --

15          MR. BLANKENSHIP: No, we won't stipulate.  
16 He's testified to that fact.

17          HEARING OFFICER KNITTLE: Yeah, he's  
18 testified to that particular issue already,  
19 Mr. Joseph. If you're trying to qualify Mr. Wager  
20 as an expert, he would have had to have been  
21 disclosed during the discovery process so they  
22 could have gotten an expert to talk about bird  
23 droppings as well and that wasn't done, so it's not  
24 fair to the respondents to now qualify him as an

1 expert because they couldn't have a corresponding  
2 expert to know that he's telling the truth.

3 MR. JOSEPH: Okay.

4 HEARING OFFICER KNITTLE: And I've  
5 simplified this a bit, but I'm --

6 MR. JOSEPH: So you'll stipulate that the  
7 building was demolished with the bird droppings and  
8 the lead paint.

9 MR. JEDDELOH: We're not going to  
10 stipulate as to anything.

11 HEARING OFFICER KNITTLE: I don't think  
12 they're going to stipulate to anything, but I  
13 think -- let's move on to a different --  
14 Mr. Joseph, all your direct examination is lined up  
15 with requests for stipulations I've noticed.

16 MR. JOSEPH: Well, I'm trying to simply  
17 it so we don't have to waste a lot of the board's  
18 time and just --

19 HEARING OFFICER KNITTLE: Well, I  
20 understand, but there's rules in place to ensure  
21 that this is a fair and impartial hearing, and we  
22 want to keep it that way.

23 MR. JOSEPH: This great university and  
24 this big --

1 MR. JEDDELOH: I'm going ask that these  
2 arguments and this pejorative commentary be  
3 directed not to occur.

4 HEARING OFFICER KNITTLE: Yes. We want  
5 to keep things as civil as we can, Mr. Joseph, so  
6 if you have another line of questioning not  
7 regarding Mr. Wager's expertise in bird droppings,  
8 I would advise you to ask those.

9 MR. JOSEPH: I have no further questions.

10 HEARING OFFICER KNITTLE: Mr. Wager,  
11 would you like to do any testifying on your own  
12 before you are subject to cross-examination?

13 MR. WAGER: Could I decide that after  
14 being cross-examined?

15 HEARING OFFICER KNITTLE: No. You have  
16 to do it now or not do it now. You've already  
17 given a sufficient amount of testimony -- a fair  
18 amount of testimony with Mr. Trepanier and  
19 Mr. Joseph, but you do have the opportunity, as a  
20 complainant in this case, to call yourself as a  
21 witness. It's up to you.

22 MR. WAGER: I guess I'll pass.

23 HEARING OFFICER KNITTLE: Okay. Thank  
24 you, sir. Cross-examination?

1 MR. BLANKENSHIP: Yes, please.

2 MR. JEDDELOH: Mr. Blankenship.

3 CROSS-EXAMINATION

4 BY MR. BLANKENSHIP:

5 Q. Mr. Wager, how old are you?

6 A. Old enough.

7 Q. How old is that?

8 HEARING OFFICER KNITTLE: Mr. Wager, let  
9 me remind you that you're under oath.

10 MR. WAGER: I don't see how this is  
11 relevant.

12 HEARING OFFICER KNITTLE: These are  
13 background questions on the cross-examination.  
14 He's allowed -- I'm going to allow these types of  
15 questions to get some information about you and  
16 your credibility here in this case. If you don't  
17 want to answer these questions, we'll address that  
18 in a second, but I'm directing you to answer these  
19 questions.

20 Do I understand you're not going to  
21 answer that question?

22 MR. WAGER: I'm not clear why it would be  
23 relevant.

24 HEARING OFFICER KNITTLE: It's

1 appropriate because I've now directed you to answer  
2 this question. If you don't answer this question,  
3 I do a credibility statement at the end of the  
4 hearing, I'm going to alert that board that I do  
5 not think your testimony is credible because you  
6 wouldn't subject yourself to cross-examination.

7 I'll also be inclined to grant a motion  
8 to strike the whole of your testimony if you don't  
9 answer questions on cross-examination.

10 Mr. Blankenship, you can ask your  
11 question again and see what happens.

12 BY MR. BLANKENSHIP:

13 Q. How old are you?

14 MR. WAGER: I still don't see the  
15 relevance.

16 MR. TREPANIER: Could we maybe break for  
17 a moment or two?

18 MR. JEDDELOH: I'm going to object to a  
19 break while -- so Mr. Trepanier can discuss this  
20 with Mr. Wager.

21 HEARING OFFICER KNITTLE: Mr. Wager, you  
22 have to answer these questions and you're not -- if  
23 you're not going to answer this one question about  
24 how old you are doesn't give me a lot of faith that



1 you're going to answer any of the other questions  
2 truthfully or that your testimony has been  
3 truthful.

4 Are you going to answer this question,  
5 yes or no? I'll allow you to make any argument you  
6 want after you state yes or no whether you're going  
7 to answer this question. And I do not want you  
8 looking at Mr. Trepanier for guidance here. You're  
9 a witness here and you've taken an oath to tell the  
10 truth, so are you going to answer this question or  
11 not?

12 THE WITNESS: I think the question is  
13 absurd.

14 HEARING OFFICER KNITTLE: Okay. You're  
15 not going to answer this question. Here's what I'm  
16 going to do. I am going to strike, on my own  
17 motion, all of your previous testimony elicited on  
18 direct examination. You can step down. Thank you.

19 MR. BLANKENSHIP: Thank you.

20 HEARING OFFICER KNITTLE: Now, if you  
21 want to make an argument about that, feel free to  
22 say something now, but it has been stricken.

23 Hearing none, I am going to move on.

24 Mr. Trepanier, your next witness, please.

1 MR. WAGER: I do object. I don't see how  
2 this one question relates to the whole issue.

3 HEARING OFFICER KNITTLE: Understood and  
4 that's on the record for the board to take a listen  
5 to.

6 MR. WAGER: So on the basis of that, you  
7 would not allow him to ask any other questions?

8 HEARING OFFICER KNITTLE: He doesn't have  
9 to ask any questions because it's like your whole  
10 first part of your testimony didn't happen. It  
11 didn't occur. I'm going to direct the board not to  
12 look at it and that's how it's going to be and  
13 Mr. Trepanier, if you have another statement --  
14 another witness, you can call them now.

15 You know, Mr. Wager, I hope you don't  
16 think I'm being unduly harsh here, but one of the  
17 fundamental -- and I'm going to get eloquent or at  
18 least attempt to, but one of the fundamental  
19 parameters of our judicial system is that each side  
20 gets to ask questions of a witness so we don't just  
21 get one side asking the questions.

22 If you don't put yourself forward and  
23 answer questions truthfully on cross-examination,  
24 your testimony that you gave on direct examination

1 we have know way of knowing whether that's true or  
2 not. It's just not valid testimony. That's why  
3 this is being done and so that's why the fact that  
4 you wouldn't answer one question on  
5 cross-examination impacts the rest of your  
6 testimony.

7 Mr. Trepanier, do you have anything else?

8 MR. TREPANIER: Yeah, I think that -- I  
9 think maybe apology -- that I need to give an  
10 apology because I didn't make it clear to the  
11 witness that I called about what was going to  
12 happen when we get to the cross-examination, that  
13 the other side would start to ask background.

14 When I talked to the witness ahead of  
15 time, I let him know, well, when they ask you  
16 questions on cross-examination, they're going to --  
17 their questions will be limited to what you  
18 testified to on direct, so I think that some of  
19 this is because --

20 MR. BLANKENSHIP: He sat here for three  
21 days of hearing.

22 HEARING OFFICER KNITTLE: And I  
23 understand, and he was present for the three days  
24 of hearing. And I did give him, I think, three

1 times to answer that question, and I explained it  
2 to him after each time.

3 He's had his chance to answer the  
4 question, and, frankly, it's just how it's going to  
5 have to be at this point, Mr. Trepanier, and I'll  
6 accept your apologies, but I don't think they're  
7 warranted. So if you have another witness, I'd be  
8 happy for you to call him or her for that matter.

9 MR. TREPANIER: If I could take a look  
10 outside here?

11 HEARING OFFICER KNITTLE: Yeah. Take a  
12 look outside. Let's go off the record for a  
13 second.

14 (Short interruption.)

15 HEARING OFFICER KNITTLE: We're back on  
16 the record. It is a quarter to 3:00, 2:45 p.m. on  
17 May 11th, and we are waiting for the last two  
18 witnesses of the complainant, Mr. Trepanier. You  
19 and Mr. Wager informed me that these two witnesses  
20 will be here in approximately 20 minutes; is that  
21 correct?

22 MR. TREPANIER: That's what we believe.

23 MR. WAGER: That's a guess assuming they  
24 will be able to find a cab right away which is not

1 always the case.

2 HEARING OFFICER KNITTLE: I'm inclined to  
3 wait the 20 minutes, but I know that there are some  
4 motions.

5 MR. BLANKENSHIP: I'll just voice my  
6 objection. They've known about this particular  
7 hearing date for six weeks. They said the people  
8 were going to be here the 11 o'clock. They  
9 weren't. They didn't have any witnesses that were  
10 out of their control. These are Mr. Trepanier's  
11 party who hasn't even deemed to show up here for  
12 four days of this hearing. Mr. McFarland I assume  
13 they're in touch with as well.

14 This is ridiculous. And, once again, the  
15 respondents have to pay their attorneys to sit here  
16 and wait while the complainants try to get  
17 themselves together. It's totally ridiculous that  
18 we're in this position sitting here waiting.

19 We've gotten our people, at their  
20 request, here on time, and, once again, I think we  
21 should not wait unless they want to pay my fees for  
22 sitting here doing nothing for the next half hour  
23 because it will be at least a half hour before  
24 they're ready to go. I guarantee it.

1 HEARING OFFICER KNITTLE: Yes,  
2 Mr. Jeddeloh?

3 MR. JEDDELOH: I would echo that  
4 sentiment. I think that that's particularly  
5 poignant since I think we would have, at least, a  
6 fighting chance of finishing the case off today if  
7 we are to start right now. Now, if we wait another  
8 15 to 20 minutes, it's going to get rather heroic  
9 to do that.

10 HEARING OFFICER KNITTLE: Mr. Trepanier?

11 MR. TREPANIER: My understanding that --  
12 well, first, I would offer that these will be  
13 important witnesses for the complainants, that  
14 apparently something has arisen that's kept these  
15 persons from being here earlier when we had  
16 believed they would.

17 I am -- unlike the respondents, I am  
18 doubtful that even if we did rest our case at this  
19 moment, that the hearing could be concluded today  
20 because my understanding is that after the  
21 respondents put on their case in chief, we may have  
22 a rebuttal witness to bring and then closing  
23 arguments.

24 So I don't know under what theory they

1 believe that the case could be concluded today, and  
2 I would ask that the Hearing Officer do consider  
3 well our request to hold the hearing open here a  
4 short period to see if these witnesses will arrive.

5 MR. BLANKENSHIP: I guess how long are we  
6 going to hold it open and at what point does it  
7 become ridiculous and we say enough they had their  
8 time?

9 HEARING OFFICER KNITTLE: And I am going  
10 to hold it open until 3:15 which was a half an from  
11 when we first started doing -- talking about this,  
12 Mr. Trepanier. I've got 2:48. I understand, and I  
13 understand what you guys are talking about and I  
14 understand you feel like the complainants should  
15 have their case ready to go.

16 Mr. Trepanier, I should tell you, you  
17 should have your case ready to go, but in light of  
18 the fact that we've come this far and also in light  
19 of the fact that I want you to have a full  
20 opportunity to put on your case before the board,  
21 I'm going to give you another, I guess, now  
22 26 minutes for them to show up. If they don't show  
23 up, you're going to have to rest your case in  
24 chief.

1 MR. JEDDELOH: So it will be 3:15 p.m.  
2 that they'd have to rest if they don't have more  
3 witnesses?

4 HEARING OFFICER KNITTLE: Right.

5 MR. TREPANIER: Might I suggest that we  
6 would consider, if it's agreeable, that we adjourn  
7 for the day and begin tomorrow morning. Let's take  
8 a half hour for the complainants to put on their  
9 two witnesses.

10 HEARING OFFICER KNITTLE: No. I'm going  
11 to -- I'm not even going to let you guys get into  
12 this, but I'm going to deny that request. This was  
13 the day -- it says in my hearing officer order that  
14 that is a day for you to finish your case in chief  
15 and I want to get this going and I want to make  
16 sure we get done tomorrow. And I think the only  
17 way I can make sure we get done tomorrow is to make  
18 sure that you get your case in chief done today.  
19 So let's go off the record until 3:15 or hopefully  
20 earlier.

21 (Short interruption.)

22 HEARING OFFICER KNITTLE: We are back on  
23 the record. It is 3:19, according to my watch,  
24 p.m. Mr. Trepanier, do we have any more witnesses



1 at this point in time?

2 MR. TREPANIER: Well, we still have  
3 our -- those two outstanding witnesses. I believe  
4 that Mr. Wager just had an opportunity to speak  
5 with one of those witnesses.

6 HEARING OFFICER KNITTLE: And?

7 MR. WAGER: He said he was on his way and  
8 would be here within 30 minutes.

9 HEARING OFFICER KNITTLE: And when did  
10 you talk to him, just right now?

11 MR. WAGER: About a minute ago.

12 HEARING OFFICER KNITTLE: I gave you guys  
13 until 3:15 to get your witnesses on and I'm not  
14 going to allow your case in chief to go on any  
15 further. So Mr. Trepanier, Mr. Wager, Mr. Joseph,  
16 you are resting your case in chief. I am not going  
17 to allow these other witness to go on. Okay?

18 MR. TREPANIER: It would necessarily be  
19 over my objection because --

20 HEARING OFFICER KNITTLE: Yeah. If you  
21 want to make an objection, feel free.

22 MR. TREPANIER: I would object to closing  
23 the hearing now before 4 p.m. on this day and  
24 that's because I really think that the board and

1 the people, all of us, you know, deserve an  
2 opportunity to see this case get as well developed  
3 as we're going to be able to do it.

4 And given the constraints that we have --  
5 and I think that the constraint of closing this  
6 matter today before 5 p.m. is unnecessarily  
7 artificial constraint. I understand others may  
8 feel differently and have reasons for the position  
9 they take, but I would urge that we do have an  
10 opportunity for the complainants to use the entire  
11 day today, if they needed it, to complete their  
12 case.

13 And we do understand that -- we do  
14 understand that the Hearing Officer and the other  
15 parties are showing some patience with us in that  
16 we've had a delay. We're suffering a delay here in  
17 getting in our final witness, so the objection that  
18 I was just stating was --

19 HEARING OFFICER KNITTLE: Yeah, what's  
20 your objection, Mr. Trepanier?

21 MR. TREPANIER: The objection is to your  
22 ruling to force the complainants to close their  
23 case.

24 HEARING OFFICER KNITTLE: I understand

1 that. Mr. Wager, do you have something to say?

2 MR. WAGER: I thought I heard you say  
3 previously there might be a possibility the other  
4 side could present some of their case and then the  
5 witnesses could come back.

6 HEARING OFFICER KNITTLE: Mr. Joseph, do  
7 you have anything to say about this before I turn  
8 it over to the respondents real quick?

9 MR. JOSEPH: I would just agree and say  
10 that Merlin is -- people are having a hard time  
11 making it in the neighborhood with all the pressure  
12 from the different places and that if there's some  
13 way we could arrange to get Merlin in. He's on the  
14 way over here. If they can proceed with --

15 HEARING OFFICER KNITTLE: Okay.

16 MR. WAGER: Did I hear you incorrectly  
17 before?

18 HEARING OFFICER KNITTLE: No. I'm going  
19 to ask them right now if they're willing to do  
20 that. Do the respondents want to start their case  
21 before the complainants have finished their case in  
22 chief?

23 MR. BLANKENSHIP: No. We feel the  
24 complainants should rest now. It's now \$150 later

1 of my client's money and we're still sitting here  
2 twiddling our thumbs. They've had weeks and weeks  
3 to get ready for this. This is their own fault now  
4 and now we're told two minutes ago that 20 minutes  
5 is now turned to, yet, another half hour. We'll  
6 hear that again in another half hour. If they  
7 rest, we're ready to proceed, and we think we can  
8 get most of our case done today.

9 HEARING OFFICER KNITTLE: Mr. Jeddelloh?

10 MR. JEDDELOH: I would agree.

11 HEARING OFFICER KNITTLE: I agree as  
12 well. I am directing you to close your case in  
13 chief. You have no further witnesses. These are  
14 witnesses that you said would be here at 11 a.m. I  
15 will note for the record that one of the witness,  
16 Avi Pandya, is a complainant in the case and hasn't  
17 been here yet for the fourth day. This is now the  
18 fourth day of this hearing.

19 Mr. Trepanier, I'm aware of your  
20 concerns. You want a full record before the board  
21 and so do I, and that's why we've allowed this to  
22 go now three and a half -- actually, three and two  
23 thirds of the day for you to make your case in  
24 chief. This was originally scheduled to be a

1 three-day hearing with you getting two days. I've  
2 already extended that a day and a half.

3 I will also note for the record that  
4 Mr. Wager showed up here at 12:00 and we got  
5 Mr. Joseph showing up about 10 o'clock in the  
6 mid-morning. The only one who's been here on a  
7 consistent basis, Mr. Trepanier, is you and I don't  
8 think we've ever had anyone from Maxworks Garden  
9 Cooperative show up, but I do think we've given you  
10 ample opportunity to make your case and that is why  
11 I am closing the case in chief.

12 So that being said, it's the respondents'  
13 case.

14 MR. JEDDELOH: Mr. Chairman -- I'm sorry.  
15 I'll do that until I die. Mr. Knittle, I'd like to  
16 have the opportunity to call Mr. Henderson, the  
17 reason being that this has surprised us, of course,  
18 this development and he has a doctor's appointment,  
19 and I would like to get -- hopefully get his  
20 testimony on the record. It should be very brief,  
21 of course, subject to any cross-examination.

22 HEARING OFFICER KNITTLE: It's up to you  
23 two how you want to organize it.

24 MR. BLANKENSHIP: That's fine.

1 MR. JEDDELOH: Well, I would suggest he  
2 goes over and sits right next to the court  
3 reporter.

4 HEARING OFFICER KNITTLE: Mr. Jeddelloh,  
5 you can call your witness.

6 MR. JEDDELOH: All right. I call  
7 Mr. James Henderson.

8 HEARING OFFICER KNITTLE: Could you  
9 please swear the witness?

10 JAMES E. HENDERSON,  
11 having been first duly sworn, was examined and  
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. JEDDELOH:

15 Q. Mr. Henderson, would you state your name  
16 and spell it for the record once again?

17 A. James E. Henderson, J-a-m-e-s, E.,  
18 H-e-n-d-e-r-s-o-n.

19 Q. And are you an employee of the University  
20 of Illinois?

21 A. Yes, I am.

22 Q. And how long have you been an employee of  
23 the university?

24 A. As of this year, June the 1st, 34 years.

1 Q. And what is your current position with  
2 the university?

3 A. Associate director of physical plant.

4 Q. And what position did you hold with the  
5 university in 1996, in particular, in September of  
6 that year?

7 A. Superintendent of building maintenance.

8 Q. As superintendent of building  
9 maintenance, what were your duties very briefly?

10 A. My duties overall was to maintain the  
11 physical conditions of the University of Illinois  
12 at Chicago and related duties as assigned.

13 Q. Are you familiar with a project which has  
14 been euphemistically called the south campus  
15 project?

16 A. Yes, I am.

17 Q. Did you have any involvement with that  
18 project at all in 1996?

19 A. Yes, I did.

20 Q. And what was your involvement in 1996?

21 A. To see about some of the buildings that  
22 we had acquired to -- for demolition.

23 Q. And would that also include 1261 Halsted?

24 A. Yes.

1 Q. And what responsibilities, in particular,  
2 did you have with respect to 1261 Halsted?

3 A. To secure the contractors to see about  
4 preparing the building for demolition.

5 Q. You testified previously that you were  
6 involved in the south campus project. What has  
7 been your involvement with that project in any  
8 other way besides the ways you've just testified?

9 A. Basically, something similar to those  
10 things, but, basically, after we bought the  
11 property, demolished some of the property, is to  
12 maintain the green space that we install.

13 Q. Mr. Henderson, do you know what the south  
14 campus project -- well, strike that.

15 What is the way that you have come to  
16 know what the south campus project is?

17 A. Through meetings and university  
18 involvement of selecting consultants to an  
19 elaborate overall perspective on how they intend  
20 for it to look when they complete it.

21 Q. And what does the south campus project  
22 have to do -- what is the intended purpose for the  
23 south campus project?

24 A. It's a two-fold project.



1 MR. TREPANIER: I have an objection.

2 HEARING OFFICER KNITTLE: Yes.

3 MR. TREPANIER: He hasn't established  
4 Mr. Henderson's ability to speak for the south  
5 campus project. We've had other witnesses already  
6 in on this case. In fact, Mr. Henderson's  
7 supervisor who himself said that he didn't know  
8 what the south campus project was, but now you're  
9 attempting to use the underling of the supervisor  
10 to say what the south campus project was.

11 HEARING OFFICER KNITTLE: Mr. Jeddelloh?

12 MR. JEDDELOH: He's testified he's been  
13 at numerous meetings where this has been discussed.  
14 He has a role and function in the project. I don't  
15 think this is rocket science.

16 HEARING OFFICER KNITTLE: I'm going to  
17 overrule your objection. He's testified he should  
18 be aware of it based on his testimony. You can  
19 answer the question.

20 BY MR. JEDDELOH:

21 Q. Do you remember the question,  
22 Mr. Henderson?

23 A. Yes. It's an elaborate plan where the  
24 university -- public and private joint venture per

1 se at some point where it's going to be a  
2 dormitories, business, housing, private housing, an  
3 elaborate gateway to the south campus which  
4 consists of an elaborate Halsted and Roosevelt  
5 fountain, proposed fountain, and possible  
6 performance art theater and possible college of  
7 business in that area.

8 Q. Now, when you say in that area, can you  
9 tell Mr. Knittle roughly what area you're talking  
10 about?

11 A. The boundaries?

12 Q. Right.

13 A. From Halsted and Roosevelt to 14th Place.

14 Q. Would that -- go ahead.

15 A. And then from the expressway to 14th  
16 Place on the eastbound. On the westbound it would  
17 be Morgan Street.

18 Q. And would that include the area which  
19 we've describe at 1261 Halsted?

20 A. That would also include that area.

21 Q. Is 1261 Halsted within the south campus  
22 project?

23 A. Yes, it is.

24 Q. Is there any present plan immediately for

1 the use of the exact space which is 1261 Halsted?

2 MR. TREPANIER: Objection. Is there any  
3 plan for the use of this space? It could be  
4 referring to any plan from any person.

5 MR. JEDDELOH: The answer can be yes or  
6 no, then I will inquire further.

7 HEARING OFFICER KNITTLE: Overruled.

8 BY MR. JEDDELOH:

9 Q. You can answer.

10 A. Will you repeat the question, please?

11 Q. Are you aware of whether there's any plan  
12 immediately for the use of the space designated at  
13 1261 Halsted?

14 A. No, no immediate plan.

15 Q. Would it fall within the more general  
16 plan that you've describe previously?

17 A. Yes, it will be.

18 Q. Now, you mentioned that there was going  
19 to be housing in the south campus project?

20 A. Yes.

21 Q. What types of housing?

22 A. Student housing and public housing.

23 Q. Public housing?

24 A. Yes.

1 Q. Any other type that you know of?

2 MR. TREPANIER: I'm going to object to  
3 relevancy. He's already stated that there is no  
4 immediate plan for the use of this space and now  
5 he's asking him about a project that may or may  
6 impact at 1261 Halsted.

7 There's not a foundation for  
8 establishing -- for testimony regarding public  
9 housing in this area. In fact, it's a -- in fact,  
10 contrives -- the truth of the matter is that there  
11 has not been no discussion of public housing in  
12 this area.

13 MR. JEDDELOH: I'm going to object to him  
14 providing testimony through argumentation. I think  
15 the question is reasonable and fair. He  
16 testified --

17 MR. WAGER: What is --

18 MR. JEDDELOH: May I please make my  
19 statements, Mr. Wager?

20 MR. WAGER: I just wondered what was  
21 meant by public housing. It's kind of vague.

22 HEARING OFFICER KNITTLE: I'll let you  
23 ask your question in one second, Mr. Wager. Go  
24 ahead, Mr. Jeddelloh.

1 MR. JEDDELOH: I lost my train of  
2 thought. The question was -- I forgot the question  
3 myself at this point. Could we have the question  
4 read back, please?

5 MR. JOSEPH: Now, you know how it feels.

6 MR. WAGER: Must not have been important.

7 HEARING OFFICER KNITTLE: Just a word of  
8 caution, I'm not going to want -- this applies to  
9 either side, but I just heard Mr. Wager and  
10 Mr. Joseph make comments that are not directed  
11 towards me and are not directed toward anybody and  
12 have the potential to disrupt these proceedings.

13 I don't want comments like that to be  
14 going on and if they keep going on, I'm going to  
15 ask you to leave the proceedings. Okay? I don't  
16 want to do that, but I don't want sarcastic asides  
17 made during Mr. Henderson's testimony or the  
18 testimony of any witness.

19 Can you read the question back?

20 (Record read as requested.)

21 HEARING OFFICER KNITTLE: I'm going to  
22 overrule the objection. I think there was  
23 sufficient foundation that Mr. Henderson was  
24 involved with the planning of the south campus

1 project and this is what we're talking about, I  
2 presume.

3 MR. JEDDELOH: Right.

4 HEARING OFFICER KNITTLE: Objection  
5 overruled and, Mr. Wager, did you have an  
6 additional objection you wanted to make?

7 MR. WAGER: Well, I am not sure how this  
8 all relates, but he said public housing and I'm not  
9 sure what that means. I don't know whether that  
10 means public housing as we think of it in the city  
11 of Chicago or what I had understood was going to be  
12 there a fancy development.

13 HEARING OFFICER KNITTLE: You can ask  
14 this question to Mr. Henderson on cross-examination  
15 if you want. As long the witness understands the  
16 question, I'm going to allow it to stand.

17 BY MR. JEDDELOH:

18 Q. Do you remember the question  
19 Mr. Henderson?

20 A. Yeah.

21 Q. The question is you mentioned public  
22 housing and student dormitory type housing. Is  
23 there any other housing plan as far as you know?

24 A. Public housing is not referring to a

1 public housing complex as you would think about on  
2 State Street or anything like that. This public  
3 housing is town houses, condos, that's public  
4 housing, and dormitories.

5 Q. And what types of businesses are planned?

6 A. A spectrum of business from shops and  
7 cafes, those kind of things.

8 Q. And you also mentioned that there would  
9 be facilities of the University of Illinois --

10 A. Yes.

11 Q. -- within this development?

12 A. Yes.

13 Q. You mentioned the college of business  
14 potentially?

15 A. There's been some talk over the college  
16 of business in that area.

17 Q. And what other types of university  
18 facilities, if you know, are planned for that area?

19 A. They've talked about a --

20 MR. TREPANIER: Objection, he's eliciting  
21 hearsay.

22 MR. JEDDELOH: He's talking generally  
23 about the plans that he's aware of.

24 MR. TREPANIER: I heard Mr. Henderson

1 just start his sentence with they're talking about.

2 HEARING OFFICER KNITTLE: I'm going to  
3 overrule. I think he is talking about what he  
4 learned while he was at these meetings and that is  
5 within his realm of knowledge.

6 MR. TREPANIER: For which we don't have a  
7 foundation for when those meetings occurred.

8 HEARING OFFICER KNITTLE: I'm overruling  
9 the objection.

10 BY MR. JEDDELOH:

11 Q. You can answer it.

12 A. It has been our whole spectrum of  
13 businesses from copying type business, copying  
14 shops, dry goods stores and small restaurants.

15 Q. During these meetings that you were  
16 attending, was there any mention made of historic  
17 preservations?

18 A. Yes, it has been. They were thinking  
19 about some of the facades of some buildings could  
20 be left and build around some buildings, maybe  
21 consider staying as they are, and there's all kind  
22 of discussion is currently going on and seeing what  
23 is the best approach to take.

24 Q. Do you know if any buildings have



1 specifically been earmarked for historic  
2 preservation?

3 A. Not to be very specific, no. It's been  
4 talked about, several.

5 Q. And do you know if the university has  
6 exposed these plans to public discussion?

7 A. I don't know at this time.

8 Q. Were you familiar with the area that  
9 you've described previously before the south campus  
10 project was conceived?

11 A. Yes, I do.

12 Q. And how are you familiar with the  
13 neighborhood before the plan was conceived?

14 A. I worked at the university a total of  
15 almost 34 years, since 1965, plus I've been going  
16 through the neighborhood and shopping there and  
17 various things over the years.

18 Q. And what was that area, the old  
19 neighborhood, like before the university began it's  
20 efforts to convert it to the south campus project?

21 MR. TREPANIER: Objection, relevancy.

22 HEARING OFFICER KNITTLE: Overruled.

23 THE WITNESS: Rundown, in need of repair,  
24 just old, rundown, in need of repair and some of

1 the buildings were crumbling, falling down.

2 BY MR. JEDDELOH:

3 Q. Did you inspect 1261 Halsted before it  
4 was demolished?

5 A. Yes, I did.

6 Q. And what did you observe about its state  
7 of repair?

8 A. It needs a lot of repair done to it and  
9 some of it was, from the university point of view,  
10 it would be unrepairable.

11 Q. And did you determine its state of  
12 building code compliance?

13 A. Yes.

14 MR. TREPANIER: Objection, they haven't  
15 established that this man has any ability --  
16 there's been no foundation that this person knows  
17 the city code or would be able to determine if the  
18 building was in code.

19 MR. JEDDELOH: The answer is whether he  
20 made a determination. I can lay -- I can ask that  
21 question and then delve further into his knowledge  
22 base.

23 HEARING OFFICER KNITTLE: I'm going to  
24 overrule the objection. I'm also going to state,

1 Mr. Trepanier, that I did give the complainants a  
2 lot of leeway over these last three and a half days  
3 and I'm going to be giving the same amount of  
4 leeway to the respondents when they're asking  
5 questions of their witness.

6 BY MR. JEDDELOH:

7 Q. Do you remember the question,  
8 Mr. Henderson?

9 A. I think I do. After we purchased the  
10 building, the city department of building had given  
11 us citations to bring the building into compliance,  
12 so there was a lot of building code violations on  
13 that particular property.

14 Q. Do you remember the general type of those  
15 building code violations?

16 A. Windows were all busted out. The  
17 windows -- there was no heat in the building, the  
18 water was -- there was running water in the  
19 building, just general building code violations  
20 that, from the university point of view, it was  
21 unrepairable, a cost factor was involved and it was  
22 determined to demolish the building.

23 Q. Was any determination made as to the cost  
24 of repair to the building once the university

1 purchased it?

2 MR. TREPANIER: Objection, he should be  
3 asking a question that is within the knowledge of  
4 Mr. Henderson rather than was a determination made.  
5 We don't -- we have a right to cross-examine the  
6 person who made to determination and not just have  
7 Mr. Henderson's testimony that some unnamed person  
8 made a determination about something.

9 MR. JEDDELOH: I merely asked him whether  
10 a determination was made. It's a simple question.  
11 If he doesn't know, he can answer I don't know. If  
12 he does know, then I can ask him further what knows  
13 and how he knows it.

14 HEARING OFFICER KNITTLE: Overruled.

15 BY MR. JEDDELOH:

16 Q. You can answer it.

17 A. I don't know at what point a  
18 determination was made.

19 Q. Do you know if a determination as to the  
20 repairability and the cost factors in doing so was  
21 made at any point?

22 A. Yes, it was made at some point.

23 Q. And do you know who made that?

24 A. Somebody -- I don't know it by name, but

1 somebody in the purchasing department more or less  
2 who purchased the building and made an assessment  
3 on the value of the property and purchase --

4 MR. TREPANIER: Objection as to him  
5 testifying what an unnamed person had did.

6 MR. JEDDELOH: I'm going to ask that  
7 Mr. Trepanier try not to interrupt the witness  
8 during the course of his response.

9 HEARING OFFICER KNITTLE: I'm going to  
10 overrule your objection, but you can still -- he  
11 can make objections during the testimony, you know,  
12 if he thinks that there's something objectionable  
13 going on. Mr. Trepanier does have the right to  
14 object. I can't recall what the question was that  
15 we were talking about.

16 BY MR. JEDDELOH:

17 Q. We'll leave it. When you inspected the  
18 building before it was demolished, did you note any  
19 asbestos?

20 A. I don't know if I know it was asbestos,  
21 but we --

22 MR. JEDDELOH: Hold one. I note that  
23 someone has just entered the room. If this is a  
24 witness or a potential witness, I would ask that he

1 be excluded.

2 HEARING OFFICER KNITTLE: Can you  
3 identify yourself, sir?

4 MR. McFARLAND: Yeah. Roland Edward  
5 McFarland is my name, 716 West Maxwell Street.

6 HEARING OFFICER KNITTLE: Mr. Trepanier,  
7 are you planning on calling this witness in your  
8 rebuttal testimony?

9 MR. TREPANIER: I might have a word with  
10 the witness -- potential witness.

11 HEARING OFFICER KNITTLE: Is he leaving,  
12 Mr. Trepanier?

13 MR. TREPANIER: Yes, he is.

14 HEARING OFFICER KNITTLE: Mr. Jeddelloh,  
15 you can proceed.

16 MR. JEDDELOH: I'm not sure. Was there a  
17 question pending?

18 (Record read as requested.)

19 MR. TREPANIER: I have an objection if I  
20 can interpose that?

21 HEARING OFFICER KNITTLE: Sure.

22 MR. TREPANIER: That question assumed a  
23 fact in evidence that Mr. Henderson did, in fact,  
24 inspect this building.

1 HEARING OFFICER KNITTLE: Your witnesses

2 is holding up his finger at me, Mr. Jeddelloh. Your

3 attorney has to speak for you, Mr. Henderson.

4 BY MR. JEDDELOH:

5 Q. Did you have a further response to my

6 question?

7 A. No. I have one question that was not

8 asked of me. I don't want to be videotaped.

9 MR. JEDDELOH: Oh, my gosh. I forgot

10 about that.

11 HEARING OFFICER KNITTLE: We're going to

12 have to turn the videotape off then.

13 MR. WAGER: Isn't this a public meeting?

14 HEARING OFFICER KNITTLE: We've gone over

15 this, Mr. Wager. This is a public meeting, but if

16 the witnesses don't want to be videotaped, they do

17 not have to be videotaped.

18 What's your objection then,

19 Mr. Trepanier?

20 MR. TREPANIER: My objection was that the

21 question assumed a fact not in evidence.

22 HEARING OFFICER KNITTLE: What was that?

23 MR. TREPANIER: That Mr. Henderson had

24 inspected this property.

1 HEARING OFFICER KNITTLE: He had already  
2 stated that he inspected the property.

3 MR. JEDDELOH: I'll be glad to ask the  
4 question again.

5 HEARING OFFICER KNITTLE: I recall that  
6 question being asked and answered.

7 BY MR. JEDDELOH:

8 Q. Did you notice any asbestos present when  
9 you inspected the property?

10 A. No.

11 Q. And did you notice -- did you go to all  
12 four floors of the building?

13 A. Yes, I did.

14 Q. And did you look out of the windows on  
15 the top floor?

16 A. Yes, I did.

17 Q. Did you notice any animal feces of any  
18 type or sort whatsoever?

19 A. With a building that old, there probably  
20 was some present, but I wasn't looking specifically  
21 for animal feces.

22 Q. And did you make any effort to assure  
23 that there was -- that all asbestos was removed  
24 from the property?



1 A. We had a contractor to assess the  
2 property.

3 Q. And what contractor was that?

4 A. EHC.

5 MR. JEDDELOH: I'm going to show you now  
6 a document that I've previously marked as  
7 University Exhibit Number 1 and provide a copy to  
8 the complainants, a copy to co-counsel.  
9 Mr. Knittle, do you want a copy at this point?

10 HEARING OFFICER KNITTLE: If you have  
11 one.

12 MR. JEDDELOH: Yes, I do.

13 Q. I'm going to ask you to look through  
14 these documents and ask if you recognize these  
15 documents here?

16 A. Yes, I do.

17 Q. What are these documents?

18 A. This is the documents from EHC, the  
19 contractor we hired to look at the property and  
20 determine if there was any asbestos on the premises  
21 and to remove if they found any asbestos or traces  
22 of asbestos.

23 Q. Are these documents held in the  
24 university's file, sir?

1 A. Yes, there are.

2 Q. Were they in your files?

3 A. Yes.

4 Q. Were they held by the university in the  
5 ordinary course of business, in other words, that  
6 they were there as part of the business purpose of  
7 the university?

8 A. Yes.

9 Q. And these documents are the documents  
10 that you relied upon in determining that the  
11 demolition could go forward?

12 A. Yes.

13 MR. JEDDELOH: I'd like to ask the  
14 admission of University Exhibit Number 1.

15 MR. TREPANIER: I object that this is a  
16 hearsay document, that it's not actually an -- it's  
17 not a business record and that there's no way for  
18 us to get to the actuality of what this document  
19 purports. This document purports to say that  
20 asbestos was removed, but they have no witness here  
21 to say that and this document shouldn't be allowed  
22 to be used in that manner. It's hearsay to that  
23 point.

24 HEARING OFFICER KNITTLE: Any other

1 objections from the complainants? Hearing none, do  
2 you have a response?

3 MR. JEDDELOH: Well, I think he's  
4 testified it is a business record. He relied upon  
5 it as part of the demolition activities here, and I  
6 think it's a reasonable business record which  
7 has -- which should be admitted.

8 HEARING OFFICER KNITTLE: I'm going to  
9 overrule your objection, Mr. Trepanier. As you  
10 know, the evidentiary standards for the Pollution  
11 Control Board are less than that in a circuit court  
12 and I do think he has laid the appropriate  
13 foundation regardless. This is admitted.

14 BY MR. JEDDELOH:

15 Q. Mr. Henderson, would you have gone  
16 forward with this demolition absent a certification  
17 that all of the asbestos was removed from the  
18 building?

19 A. No, no, we wouldn't have went forward.

20 Q. And it was your decision to decide when  
21 the demolition would actually begin, isn't that  
22 true?

23 A. Yes.

24 Q. Has the university received any citations

1 from any state, federal or municipal bodies  
2 relating to environmental concerns relating to the  
3 destruction of 1261 Halstead except the one that  
4 brings us together today?

5 A. This is the only one.

6 Q. Do you know whether Speedway got it's  
7 license from the city of Chicago with respect to  
8 this demolition?

9 A. Yes, they did.

10 Q. And what is the basis for that knowledge?

11 A. I signed off on documentation for them to  
12 proceed in order to get a demolition permit.

13 MR. TREPANIER: I'm going raise an  
14 objection that Mr. Henderson initially testified  
15 that Speedway had a license, but now, on the  
16 follow-up question, he's saying that he believes  
17 they had a license because he signed off on a  
18 document that would allow them to get a license,  
19 but he hasn't established any knowledge that  
20 Speedway actually had a license.

21 HEARING OFFICER KNITTLE: I think he  
22 testified that he did know that they had a license;  
23 is that correct?

24 MR. TREPANIER: But then his basis --

1 HEARING OFFICER KNITTLE: Hold on,  
2 Mr. Trepanier. Is that correct? Did you testify  
3 that they had a license?

4 THE WITNESS: Yes. They had to have a  
5 building permit -- a demolition permit to --

6 HEARING OFFICER KNITTLE: I'm going to  
7 overrule then, Mr. Trepanier. He may have reversed  
8 it, but I think he testified that he did know that  
9 they had a license.

10 MR. JEDDELOH: I think that may be it,  
11 Mr. Knittle. Let me just look through my notes.  
12 That's all I have.

13 HEARING OFFICER KNITTLE: Do you have  
14 cross-examination, Mr. Trepanier?

15 MR. TREPANIER: Yes, I do.

16 CROSS-EXAMINATION

17 BY MR. TREPANIER:

18 Q. Good afternoon, Mr. Henderson.

19 A. Good afternoon.

20 Q. Now, you testified that I believe that  
21 some of the buildings to you looked to be in poor  
22 condition?

23 MR. JEDDELOH: Well, I'm going to object.  
24 I'm not sure it's clear whether he's asking this

1 witness to recount his previous testimony which  
2 doesn't seem to be useful or to testify as to what  
3 he actually observed in the area before the project  
4 began, so I think it's an objectionable question.

5 HEARING OFFICER KNITTLE: I'm going to  
6 overrule. You can answer that, Mr. Henderson.

7 THE WITNESS: Repeat the question,  
8 please.

9 BY MR. TREPANIER:

10 Q. Did you testify that when you were  
11 looking at the south campus area that -- I'm going  
12 to ask a new question.

13 When you earlier testified that some of  
14 the buildings looked to you to be rundown, what  
15 buildings were you referring to?

16 A. Every building down there in the south  
17 campus needs repair.

18 Q. So it's your testimony that there is not  
19 one building there that's not rundown?

20 A. That's true.

21 Q. Now, is -- at this time, do you have  
22 employment related to south campus expansion?

23 A. Meaning what?

24 Q. What are your duties at this time?

1       A. I'm an associate director of physical  
2 plant, so my duties vary. I'm in charge of -- I  
3 have four or five direct reports to me who maintain  
4 the university properties.

5       Q. So if a day comes when the south campus  
6 expansion were built, would that expand your  
7 responsibilities?

8       A. It may or may not.

9       Q. Why do you say that?

10      A. That might not be a part of my duties,  
11 assigned duties. Someone else might be in charge  
12 of that assignment.

13      Q. Now, are you in charge of the -- are you  
14 in charge of the physical plant then on all of the  
15 campus at UIC?

16      A. Yes, I am.

17      Q. So the entire campus you're in charge of  
18 the physical plant?

19      A. I'm in charge of the physical plant. The  
20 day-to-day operations is one of my  
21 responsibilities.

22      Q. Now, is it your testimony that you  
23 believe that if the south campus expansion were to  
24 come, that might not fall under your

1 responsibilities?

2 MR. JEDDELOH: Objection, asked and  
3 answered.

4 MR. BLANKENSHIP: Objection as to  
5 speculation.

6 MR. JEDDELOH: It's speculation. He's  
7 asked and answered it.

8 HEARING OFFICER KNITTLE: I'm going to  
9 sustain on asked and answered. He's already  
10 answered that very question, Mr. Trepanier.

11 BY MR. TREPANIER:

12 Q. How is that you would believe that the  
13 south campus doesn't come under your responsibility  
14 area? Is there something different about the south  
15 campus area?

16 MR. JEDDELOH: I'm going to object on  
17 relevancy and beyond the scope. What  
18 Mr. Henderson's further job duties may or may not  
19 be has no bearing at all on the historic testimony  
20 he's given.

21 HEARING OFFICER KNITTLE: I'm going to  
22 overrule the objection. We've gotten into his job  
23 duties and what he does for the university, so I'll  
24 allow that question to stand.



1 THE WITNESS: Well, I don't know. I  
2 might retire before the south campus ever becomes a  
3 viable situation. I have 38 years all tolled in  
4 the system, so I might decide to retire. So I  
5 can't speculate on what my duties may or may not be  
6 when the south campus gets buildings, new  
7 properties. I don't know.

8 BY MR. TREPANIER:

9 Q. All that activity in the south campus for  
10 physical plant is your responsibility, isn't it?

11 A. No, it's not.

12 MR. JEDDELOH: Objection, asked and  
13 answered. We've been through this.

14 BY MR. TREPANIER:

15 Q. What part of the physical --

16 HEARING OFFICER KNITTLE: I think that's  
17 a new question. Overruled. And you answered the  
18 question no, it is not. Go ahead, Mr. Trepanier.

19 BY MR. TREPANIER:

20 Q. If that south campus project opened up  
21 today, your responsibilities would be larger,  
22 wouldn't they?

23 MR. JEDDELOH: Same objection, we have  
24 been through this three times.

1 HEARING OFFICER KNITTLE: Yeah, that one  
2 is asked and answered, Mr. Trepanier. That's the  
3 same one you've been asking, and I'm going so  
4 sustain that objection again.

5 BY MR. TREPANIER:

6 Q. Do you feel an affinity with the  
7 university in accomplishing the south campus  
8 expansion?

9 MR. JEDDELOH: I'm going to object to  
10 that because I don't understand it, and I think  
11 it's completely irrelevant.

12 HEARING OFFICER KNITTLE: If you can  
13 answer that question, please do, Mr. Henderson.

14 THE WITNESS: Explain what you mean by  
15 that.

16 BY MR. TREPANIER:

17 Q. Do you think -- do you think the  
18 university should get that expansion built?

19 A. I don't know.

20 Q. What's the question in your mind?

21 A. It's just like do I think the university  
22 should build a new building anywhere, I don't know.  
23 That's something that the powers that be or my  
24 employer make decisions not with my input in those

1 kind of decisions.

2 Q. And your employer does want to build  
3 buildings here in the south campus area, don't  
4 they?

5 A. Yes.

6 Q. And they need the existing structures out  
7 of the way first, don't they?

8 A. In order to build a new building and  
9 occupy spaces, you have to do something with the  
10 occupied space.

11 MR. TREPANIER: Could I have the question  
12 read back?

13 (Record read as requested.)

14 HEARING OFFICER KNITTLE: That was it.

15 BY MR. TREPANIER:

16 Q. And can you respond to that with a yes or  
17 a no?

18 HEARING OFFICER KNITTLE: Please answer  
19 the question if you can, Mr. Henderson.

20 THE WITNESS: Yes.

21 BY MR. TREPANIER:

22 Q. And that's the reason that you believe  
23 every building is rundown in the neighborhood,  
24 isn't it?

1 MR. JEDDELOH: I'm going to object to  
2 that. I think that's argumentation.

3 MR. TREPANIER: It's cross-examination.

4 HEARING OFFICER KNITTLE: I'll overrule.  
5 Mr. Henderson, you can answer that.

6 THE WITNESS: No, I don't think that  
7 exists in my opinion. I think, in my opinion, it's  
8 a fact they exist. Everyone can see that the  
9 buildings are in need of repair.

10 BY MR. TREPANIER:

11 Q. And what -- do you have any -- do you  
12 have formalized training in building codes?

13 A. Meaning what?

14 Q. It's a yes or no question.

15 A. I don't understand what you mean  
16 formalized training in building codes. The city  
17 building code is this big. You pick it up, it  
18 gives you a citation and you follow what they  
19 recommend, so I don't understand what you mean  
20 formalized -- there's no university to go to get  
21 training in building codes.

22 MR. TREPANIER: I would ask that that be  
23 stricken as nonresponsive. In fact, that's  
24 incorrect. There are training centers in building

1 codes.

2 HEARING OFFICER KNITTLE: I'm going to

3 overrule -- I'm going deny your motion. I think he

4 is -- I think he's trying to answer, Mr. Trepanier.

5 I don't know that he is trying to add extra

6 information. It doesn't seem to me as if he

7 understands what formalized training means. If you

8 can rephrase the question.

9 BY MR. TREPANIER:

10 Q. Have you had any schooling in building

11 codes?

12 A. Yes.

13 Q. And what was that?

14 A. I took a course up at Chicago Technical

15 College.

16 Q. And what was the name of that course?

17 A. Blueprint reading codes.

18 Q. And what code did you study?

19 A. Electrical code, general construction

20 codes, general building codes.

21 Q. And how much instruction did you receive

22 with that?

23 A. I don't remember. It's been a few years

24 ago. I don't remember.

1 Q. Can you approximate?

2 A. Several hours. I don't remember. It was  
3 a complete course, and it was very -- component  
4 parts to the course. I don't recall.

5 Q. And did all several hours occur on the  
6 same day?

7 A. No.

8 Q. Over how many days did it occur?

9 A. It was over months.

10 Q. Now, when you say that every building in  
11 the area is rundown, did you make individual  
12 determinations for each building?

13 A. No. Every property we own, the  
14 university owns, I have visited the sites,  
15 electrical code violations, various code violations  
16 does exist in the building.

17 Q. Is that saying that you did not visit the  
18 buildings that are not owned by the university?

19 A. I pass by all them outside knowing that  
20 some buildings has windows that are broken, that's  
21 boarded up improper. Those are building code  
22 violations.

23 Q. And when you made your determination that  
24 every building was rundown, did you make any notes

1 of that?

2 A. No. That was not from a university job  
3 function. That's just for a general private  
4 citizen observation of the property that was in  
5 question that's in the area.

6 Q. So did you see any buildings in the  
7 neighborhood that doesn't have its windows broke  
8 up?

9 A. I can't recall right now to specify one  
10 particular building over another.

11 Q. Take, for instance, the shops on Halsted  
12 Street that continue to service their customers, do  
13 all of those shops have their windows broken out?

14 A. Some of them have windows cracked and  
15 broken, yes.

16 Q. But my question was a yes or no question?

17 MR. JEDDELOH: Mr. Knittle, I think he's  
18 trying to answer that question as best he can.

19 HEARING OFFICER KNITTLE: You have to  
20 answer though, and he asked you if all the shops on  
21 that street had their windows broken out and that  
22 is a yes or no question.

23 MR. JEDDELOH: He did say yes.

24 HEARING OFFICER KNITTLE: No, he didn't.

1 THE WITNESS: Repeat the question.

2 BY MR. TREPANIER:

3 Q. I think the hearing officer just did.

4 A. I didn't hear it.

5 HEARING OFFICER KNITTLE: Mr. Trepanier,

6 do you know the question?

7 BY MR. TREPANIER:

8 Q. Take, for instance, the shops on Halsted

9 Street that are still serving customers, do all

10 those buildings have their windows broken out?

11 A. No.

12 Q. And those buildings that don't have their

13 windows broken out and they're still serving

14 customers, how many do they number?

15 A. I don't have no idea.

16 Q. Approximately?

17 A. I don't have no idea.

18 Q. Then for that unknown number of buildings

19 that you believe are rundown and in violation of

20 code but their windows aren't broken out, what's

21 the problem with those buildings?

22 A. I wouldn't know of all the problems that

23 exist.

24 Q. Isn't it a fact that you're just claiming



1 that all of the buildings were in code violation

2 when, in fact, you don't know that?

3 A. For a fact, no, I don't know that.

4 Q. Why is it that you had testified that all

5 the buildings were in code violation when you don't

6 know that?

7 A. All the buildings in Maxwell Street have

8 some kind of code violation. You can ride by and

9 see them. Now, when you asked me do they have

10 windows broken, do all of them have windows broken

11 out, some of them has windows broken out. Some of

12 them don't have windows. Some of them are boarded

13 up which is in violation of the city code. It's

14 various.

15 The streets in front of some of the

16 buildings need to be repaired. That's a city code

17 violation. I mean it's various city code

18 violations exist with the property in the Maxwell

19 Street area.

20 Q. You did tell us that all of the buildings

21 were in violation, didn't you?

22 A. All the buildings in the Maxwell Street

23 area have some kind of city code violation.

24 Q. But you don't actually know that, do you?

1 MR. JEDDELOH: Objection, we've been  
2 through this two or three times, Mr. Knittle.

3 HEARING OFFICER KNITTLE: He's testified  
4 to that, Mr. Trepanier.

5 BY MR. TREPANIER:

6 Q. You testified that you secured the  
7 contractor for the demolition. What requirements  
8 were -- I'm going to take that question back and  
9 move on to another area.

10 You mentioned that what you did -- what  
11 you're doing was demolishing and maintaining green  
12 space. Is that your testimony that that's what you  
13 did at 1261 South Halsted?

14 A. 1261 South Halsted we demolished the  
15 building, put up security fence around the  
16 building. That is not green space then. Some  
17 other areas is green space.

18 Q. And is that -- is there green space at an  
19 area where you selected a contractor to demolish a  
20 building?

21 A. Repeat the question.

22 Q. Where you've selected contractors to  
23 demolish buildings in the Maxwell area, is there  
24 green space at any of them?

1 A. Yes, it is.

2 Q. And where is that?

3 A. From on Newberry to 14th Street east -- I  
4 mean west of Newberry to Morgan Street.

5 Q. Now, that's behind the university fence,  
6 isn't it?

7 A. Yes, it is.

8 Q. And that's a ball field for the students  
9 at the university; is that right?

10 A. Tennis courts, ball field, yes, it is.

11 Q. And that's not accessible to somebody  
12 walking on the street, is it?

13 A. No.

14 Q. You say that a part of your  
15 responsibilities has been to secure contractors for  
16 demolitions in the neighborhood. How many  
17 contractors have you dealt with?

18 A. Several.

19 Q. And who are they?

20 MR. JEDDELOH: I'm going to object. This  
21 is beyond the scope.

22 HEARING OFFICER KNITTLE: I don't think  
23 it's beyond the scope. Overruled. Go ahead,  
24 Mr. Trepanier.

1 BY MR. TREPANIER:

2 Q. I've ask the question and ask  
3 Mr. Henderson to identify the several -- who are  
4 these several contractors you've dealt with  
5 regarding demolition?

6 A. What type of contractors are you talking  
7 about?

8 Q. Demolition contractors.

9 A. Speedway Wrecking, Hannagan, DNP.

10 Q. Any others?

11 A. Right offhand that's it.

12 Q. And how many buildings between these  
13 three contractors did you work on for the  
14 demolitions?

15 MR. BLANKENSHIP: I'm going to object to  
16 relevance now. We're getting far afield.

17 HEARING OFFICER KNITTLE: Sustained.

18 MR. TREPANIER: He's testified that he's  
19 secured contractors for a number of demolitions in  
20 the neighborhood.

21 HEARING OFFICER KNITTLE: Yes.

22 MR. TREPANIER: So now I'm asking how  
23 many.

24 HEARING OFFICER KNITTLE: Why is that

1 relevant though, Mr. Trepanier?

2 MR. TREPANIER: Well, one of the  
3 relevancies would -- it's relevant to the job of  
4 supervising the contractor that they are doing the  
5 task that they've been hired for.

6 HEARING OFFICER KNITTLE: I don't think  
7 so. I'm going to sustain the objection. I don't  
8 see how this line of questioning is relevant.

9 BY MR. TREPANIER:

10 Q. When you ordered the demolition at  
11 1261 Halsted, the university didn't have a use for  
12 that land, did they?

13 A. I don't know.

14 Q. You had a fence erected around that land,  
15 didn't you?

16 MR. JEDDELOH: Objection, we've been  
17 through this before, Mr. Chairman -- Mr. Knittle.

18 MR. TREPANIER: Only on direct.

19 MR. JEDDELOH: He just testified two  
20 minutes ago about the fence that he put up in  
21 response to one of Mr. Trepanier's questions.

22 HEARING OFFICER KNITTLE: I don't think  
23 so. Overruled. You can ask him about the fence.

24 BY MR. TREPANIER:

1 Q. You did order a fence installed, didn't  
2 you?

3 A. Yes, we did.

4 Q. And you have -- did you do anything  
5 beyond ordering a fence there?

6 A. No, we just maintained the property, keep  
7 it clean, maintain the property.

8 Q. So the university even to this -- even to  
9 today they haven't done anything with that property  
10 other than fence it, have they?

11 A. As far as putting anything on the  
12 property? What do you mean done anything with it?

13 Q. Has the university done something with  
14 that property since '96 when the demolition was  
15 completed?

16 A. We just maintained it. That's all.

17 Q. Now, you mentioned regarding plans for  
18 the area that there's all kind of discussion. Has  
19 all kinds of discussion been about preserving the  
20 remaining buildings?

21 A. There has been some talk about preserving  
22 some of the buildings that's there.

23 Q. And has there been a range of -- in the  
24 number of buildings that are being talked about?

1 A. It's been all kind of publications in  
2 school newspapers and city comments. It's range  
3 from 1 to 20. I don't know.

4 Q. How many buildings are remaining?

5 A. I don't know.

6 Q. How is it that you don't know how many  
7 buildings are remaining if you made the  
8 determination that they're not to code?

9 MR. JEDDELOH: I'm going to object.  
10 We've been through this before and this is  
11 argumentation.

12 HEARING OFFICER KNITTLE: I'll sustain  
13 that, Mr. Trepanier.

14 BY MR. TREPANIER:

15 Q. Have you been into the -- at the time  
16 when -- I'll let that go right now. Have you had  
17 any training, Mr. Henderson, in recognizing  
18 asbestos?

19 A. Yes.

20 Q. And what training was that?

21 A. A university program.

22 Q. And which university is that?

23 A. University of Illinois at Chicago.

24 Q. When did that -- what was that course?

1 A. That was several years ago. It was a  
2 training course that maintenance personnel go  
3 through to determine visual sight of possible  
4 asbestos piping covering.

5 Q. And then when you were in 1261, where did  
6 you look for asbestos?

7 A. Just a general observation as I went  
8 through and determined that it was an old building  
9 and there was pipe covering, so we determined to  
10 get a contractor to come in and make an assessment.  
11 If they found any asbestos, they would remove it.

12 Q. I'm not real clear now. If -- did you  
13 see asbestos in that building?

14 A. We saw pipe covering. I'm not -- I  
15 wasn't there to determine and analyze was it  
16 asbestos in the building. That's why we hired a  
17 contractor to do that, make that determination.

18 Q. And did you look in the building after  
19 you hired the contractor?

20 A. Yes.

21 Q. And were the pipe coverings there?

22 A. After the -- I saw the pipe covering when  
23 I was in the building earlier, that's why we hired  
24 a contractor to come in and make an assessment to



1 determine if there was asbestos in the building in  
2 the pipe covering and to remove it because the plan  
3 was to demolish the building.

4 Q. How much pipe covering in linear feet did  
5 you observe?

6 A. I didn't measure it. That's why we hired  
7 a contractor to do that, to make a determination.

8 Q. How many did you see?

9 A. Several feet.

10 Q. On did you have an opportunity to visit  
11 there again?

12 A. After, to inspect what the contractor  
13 said he did, to inspect the pipe covering and see  
14 was it removed and to validate that it was gone.

15 Q. Now, since you had observed several feet  
16 of pipe covering, did you make any other effort to  
17 determine how much asbestos is in the building?

18 A. Yes, we hired the contractor to do that.

19 Q. How could you determine whether or not  
20 the contractor did their work if you didn't know  
21 where the asbestos was?

22 A. Because I came back after it was done and  
23 what I saw was removed and the contractor validated  
24 that they did so much work. That's it.

1 Q. You didn't know how much asbestos was in  
2 the building, did you?

3 MR. JEDDELOH: Objection, asked and  
4 answered. We've been through this now,  
5 Mr. Knittle.

6 HEARING OFFICER KNITTLE: Sustained.

7 BY MR. TREPANIER:

8 Q. I have a question regarding the exhibit.  
9 This would be University Exhibit Number 1. Do you  
10 have that, Mr. Henderson?

11 A. Yes, I do.

12 Q. Now, where is this certification that  
13 asbestos was removed from the building?

14 A. I don't see anything that specifically  
15 says that, but surely the contractor tomorrow Frank  
16 Ganarino could --

17 Q. I think you've answered my question and I  
18 believe you've answered my question that there is  
19 not a certification here, is there?

20 MR. JEDDELOH: He said he didn't see a  
21 certification.

22 THE WITNESS: I said I didn't see one.

23 BY MR. TREPANIER:

24 Q. There's not one here, is there?

1 MR. JEDDELOH: Objection, asked and  
2 answered.

3 HEARING OFFICER KNITTLE: You stated that  
4 you went through the document and didn't find one  
5 is that correct, Mr. Henderson?

6 THE WITNESS: Yeah, I don't see a  
7 certification saying that specifically linear feet  
8 of said material was removed. I don't see that.

9 BY MR. TREPANIER:

10 Q. Does that surprise you?

11 A. No. It might have been misfiled. I  
12 don't know. Surprise me, I don't know what the  
13 answer that you're looking for.

14 Q. Well, are you surprised that there's no  
15 certification that all the asbestos was removed?

16 MR. JEDDELOH: I'm going to object. That  
17 question lacks foundation. He testified he didn't  
18 see a certification in this file. That's all he  
19 testified to. There's no foundation laid that  
20 there was no -- that not all asbestos was removed.

21 HEARING OFFICER KNITTLE: Yeah, I'll  
22 sustain that. I think you can probably rephrase,  
23 Mr. Trepanier.

24 BY MR. TREPANIER:

1 Q. Would you believe that a lack of  
2 certification in this document would indicate that  
3 it's been misfiled?

4 A. I have no idea.

5 Q. So you don't know if a certification is  
6 part of an EHC closeout document or not, do you?

7 A. I don't know. It could be misfiled or  
8 misplaced or omission. In this particular case, I  
9 don't know.

10 Q. It could also mean that they didn't  
11 remove all the asbestos, couldn't it?

12 MR. JEDDELOH: I'm going to object. I  
13 think you're asking the witness -- I think that  
14 he's asking this witness to speculate.

15 HEARING OFFICER KNITTLE: Overruled.

16 THE WITNESS: You know the question all  
17 is always an ambiguous question, so I don't know.  
18 I don't know what all means in this particular  
19 case.

20 BY MR. TREPANIER:

21 Q. It's true -- but it does mean that you  
22 don't know if all the asbestos was removed, do you?

23 A. No, I don't know if all was removed. I  
24 don't think no one can determine how much was there

1 in the first place.

2 Q. And now referring to the fifth page of  
3 your Exhibit Number 1, what is that document?

4 A. Which one are you talking about?

5 Q. This is page number 5.

6 A. Notification of demolition and  
7 renovation.

8 Q. What's the purpose of that document?

9 A. That is a document notifying the Illinois  
10 Environment Protection Agency that this proposed  
11 property by EHC is possibly going to be renovated,  
12 so the contractor sends this in to EPA notifying  
13 them that they were going to do some asbestos work  
14 in the building.

15 Q. And why is that included in the closeout  
16 document for 1261 South Halsted?

17 A. Well, I think your best answer -- get that  
18 answered from Frank Ganarino. This is the way they  
19 prepared their closeout documents. I don't know  
20 all the regulatory requirements that is required by  
21 the contractor to do. They put this in a closeout  
22 document.

23 Q. So you don't know if this is required by  
24 the EPA or not?

1       A. I don't know all the -- I don't know all  
2 the agencies requirements. I don't claim to be a  
3 knowledgeable person on all the requirements of  
4 every agency.

5       Q. So in a case of a demolition, you're  
6 testifying you don't know if the university is  
7 under any obligation to notify the EPA of doing an  
8 asbestos removal; is that correct?

9       A. The university themselves, the university  
10 does not notify. The contractor does the  
11 notification.

12      Q. And did that notification occur in this  
13 case?

14      A. Here it is. This document right here  
15 signifies that they notified the agency.

16      Q. This document describes under section 5  
17 of that page we were looking, page 5, facility  
18 description that says University of Illinois entire  
19 campus see addendum?

20      A. Well, there is a clause or a courtesy if  
21 he does not remove a certain amount of asbestos, he  
22 does not have to report it to the EPA, but the  
23 contractors that give them a courtesy note and then  
24 under this here with the university, we have --

1 this contractor does various small jobs so they  
2 always include a notice to the agency whenever  
3 they're doing something regardless how small or how  
4 large it is. This probably falls under that  
5 umbrella.

6 Q. When giving that notification to the  
7 agency is it a requirement to notify the agency of  
8 the location of the asbestos being removed?

9 MR. BLANKENSHIP: I'm going to object.

10 MR. JEDDELOH: I'm going to object  
11 because I think it's calling for this witness to  
12 provide a legal conclusion. It's beyond the scope  
13 and it's not relevant.

14 MR. BLANKENSHIP: Yes. This is beyond  
15 the scope. He was asked foundational questions as  
16 to whether this is a business record, and I think  
17 it's very unfair to now profess that this witness  
18 has inmate knowledge of what these documents are.  
19 It goes way beyond the scope of the examination and  
20 if he wants to ask the asbestos contractor about  
21 it, I suggest he do that, but this witness  
22 obviously doesn't have personal knowledge of these  
23 records. He testified as to business foundation of  
24 them.

1           MR. TREPANIER: I think that if the  
2 witness doesn't have personal knowledge of these  
3 records, then he's not the witness to put this in  
4 as a business record. If this witness doesn't know  
5 what these -- what the lines are and the words on  
6 these pages represent, then that's not a fair  
7 witness to bring that in as a business record.

8           HEARING OFFICER KNITTLE: That is not  
9 entirely true, Mr. Trepanier. He can testify that  
10 the University of Illinois keeps such records and  
11 keeps them in their files and does it in the daily  
12 course of business without knowing exactly what's  
13 in each of these files, so to that extent I  
14 disagree with you. I'm going to sustain the  
15 objection.

16 BY MR. TREPANIER:

17         Q. In the matter of the asbestos removal at  
18 1261 South Halsted, the IEPA was never notified of  
19 asbestos removal, were they?

20         MR. JEDDELOH: Objection, lack to  
21 foundation.

22         HEARING OFFICER KNITTLE: Overruled. If  
23 you can answer that, Mr. Henderson.

24         THE WITNESS: I don't know.



1 BY MR. TREPANIER:

2 Q. And in your job of hiring contractors, do  
3 you make yourself aware of the requirements to  
4 notify the EPA?

5 MR. JEDDELOH: Objection, beyond the  
6 scope, foundation and relevant. Again, we're  
7 getting into this notice issue and that has not  
8 been an issue that has been raised as a contention  
9 of the complainants. It's not a section 9 or 21  
10 violation even if there was such a thing.

11 HEARING OFFICER KNITTLE: Sustained.  
12 Anything else, Mr. Trepanier?

13 MR. TREPANIER: One moment I was just  
14 reviewing my notes.

15 Q. When you had an opportunity to be inside  
16 1261 prior to the demolition, did you notice  
17 peeling paint?

18 A. I probably did.

19 MR. TREPANIER: No more questions. Thank  
20 you.

21 HEARING OFFICER KNITTLE: Mr. Wager, do  
22 you have any cross-examination for this witness?

23 CROSS-EXAMINATION

24 BY MR. WAGER:

1 Q. What is your age?

2 A. 57.

3 Q. What is your favorite brand of cola?

4 A. Pepsi.

5 Q. How many buildings that were residential  
6 has the university destroyed in that area?

7 A. I have no idea.

8 MR. BLANKENSHIP: Objection, relevance.

9 BY MR. WAGER:

10 Q. Have you observed dust in other  
11 buildings -- how many building demolitions have you  
12 observed in the area?

13 MR. JEDDELOH: I'm going to object and on  
14 the basis of relevancy. Again, we're getting into  
15 other building demolitions in the area.

16 HEARING OFFICER KNITTLE: I'll allow this  
17 one question, but you're going to have to ask some  
18 relevant questions soon, Mr. Wager.

19 THE WITNESS: Several.

20 BY MR. WAGER:

21 Q. How does this building compare in amount  
22 of dust compared to other demolitions you observed?

23 MR. JEDDELOH: Objection, relevancy.

24 MR. BLANKENSHIP: Objection.

1 HEARING OFFICER KNITTLE: Sustained.

2 BY MR. WAGER:

3 Q. How many going businesses -- buildings  
4 with going businesses has the university destroyed  
5 in that area?

6 MR. BLANKENSHIP: Objection, relevance.

7 MR. JEDDELOH: Same objection.

8 HEARING OFFICER KNITTLE: Yeah, I don't  
9 see how this is relevant, Mr. Wager, to this case.  
10 We're talking about 1261 South Halsted. That's why  
11 they're objecting, and that's why I'm sustaining  
12 this objection. Anything else, Mr. Wager?

13 MR. WAGER: No.

14 HEARING OFFICER KNITTLE: Thank you, sir.  
15 Mr. Joseph?

16 CROSS-EXAMINATION

17 BY MR. JOSEPH:

18 Q. Yes. How many buildings did the  
19 university demolish?

20 MR. JEDDELOH: Objection. We just went  
21 through this.

22 MR. BLANKENSHIP: Objection.

23 HEARING OFFICER KNITTLE: We just found  
24 that to be irrelevant.

1 BY MR. JOSEPH:

2 Q. How many did you observe?

3 A. Several.

4 MR. JEDDELOH: Same objection.

5 BY MR. JOSEPH:

6 Q. You don't remember how many?

7 HEARING OFFICER KNITTLE: It was asked

8 and answered, Mr. Joseph.

9 MR. JOSEPH: Okay. I didn't think he

10 answered.

11 HEARING OFFICER KNITTLE: He already said

12 several.

13 BY MR. JOSEPH:

14 Q. All right. Is that the university -- is

15 that acceptable as university policy to push the

16 paint out the window with a bobcat?

17 MR. JEDDELOH: Objection, foundation,

18 beyond the scope, relevant.

19 MR. JOSEPH: Excuse me. He had said that

20 there was probably paint. He just acknowledged

21 that there was probably paint.

22 HEARING OFFICER KNITTLE: I'll allow the

23 question. Go ahead, Mr. Henderson.

24 THE WITNESS: Will you repeat the

1 question?

2 BY MR. JOSEPH:

3 Q. Is that acceptable or policy of the  
4 university to allow a contractor to push the paint  
5 out the window with the rest of the demolition  
6 debris?

7 A. I first don't understand the question  
8 when you say allow the contractor to push paint,  
9 meaning what?

10 Q. Okay. Are you aware on this building  
11 they used a bobcat to clear the floors in the  
12 demolition process?

13 MR. JEDDELOH: Objection, we did -- I  
14 specifically did not ask this witness about any  
15 demolition techniques on direct examination. I did  
16 that on purpose and so he's beyond the scope.

17 HEARING OFFICER KNITTLE: Sustained.

18 BY MR. JOSEPH:

19 Q. But you did acknowledge that there was  
20 paint, peeling paint?

21 MR. JEDDELOH: Objection, asked and  
22 answered.

23 MR. BLANKENSHIP: It misstates his  
24 testimony.

1 HEARING OFFICER KNITTLE: Sustained.

2 BY MR. JOSEPH:

3 Q. So is that acceptable to not remove the  
4 paint?

5 MR. BLANKENSHIP: Objection, beyond the  
6 scope.

7 HEARING OFFICER KNITTLE: I'm going to  
8 sustain that, Mr. Joseph. Looking back at my  
9 notes, I do note that we never talked about any of  
10 the demolition activities that went on at this  
11 site, so that is beyond the scope.

12 BY MR. JOSEPH:

13 Q. Why did you order the demolition?

14 A. Why did I order the demolition because I  
15 was instructed by my supervisor that we were -- we  
16 had purchased the building and the building was  
17 scheduled to be demolished.

18 Q. So they purchased it just to demolish it?

19 A. I have no idea, but when I got it -- when  
20 it gets down to my level, the decision was made  
21 to -- for me to acquire and take bids for a  
22 demolition.

23 Q. And who was your supervisor then?

24 MR. BLANKENSHIP: Objection. We went all

1 through this when he was called by Mr. Trepanier.

2 Mr. Henderson has a doctor's appointment to get to.

3 I can't believe we're --

4 HEARING OFFICER KNITTLE: Yeah. I'll

5 sustain that. We've asked and answered that one

6 already, Mr. Joseph.

7 BY MR. JOSEPH:

8 Q. Who was better off with the security

9 fence?

10 MR. JEDDELOH: Objection, that's

11 incomprehensible. I don't understand what he's

12 asking.

13 HEARING OFFICER KNITTLE: If you could

14 rephrase, Mr. Joseph. I'll sustain.

15 BY MR. JOSEPH:

16 Q. Why did they put up a security fence?

17 A. For liability.

18 Q. If the building was still standing, would

19 anybody be better off?

20 MR. JEDDELOH: I'm going to object to

21 that. That's asking him to speculate.

22 HEARING OFFICER KNITTLE: Yeah, he's

23 already stated he doesn't know. I would have

24 sustained it, but proceed Mr. Joseph.

1 Mr. Wager, I know you're raising your  
2 hand, but you've already had an opportunity to --

3 MR. WAGER: I might have another  
4 question.

5 HEARING OFFICER KNITTLE: No, sir. Your  
6 time to cross-examine this witness is over.

7 Mr. Joseph, anything else?

8 BY MR. JOSEPH:

9 Q. Do you think this building was well  
10 built?

11 A. I don't know.

12 Q. Do you know the value of a four-story  
13 building, brick building?

14 A. It all depends on what neighborhood it's  
15 in, what kind of construction it is. A whole lot  
16 of factors go into the value of property.

17 Q. How do you feel about the destruction of  
18 Maxwell Street?

19 MR. BLANKENSHIP: Objection, relevance  
20 how this witness feels about it.

21 HEARING OFFICER KNITTLE: Yeah, I'll  
22 sustain. I don't see how that's relevant to the  
23 issue.

24 MR. TREPANIER: They inquired into my



1 feelings about Maxwell Street, why not --

2 HEARING OFFICER KNITTLE: Mr. Trepanier,  
3 this is Mr. Joseph's cross-examination. You're no  
4 longer able to participate at this point in time.

5 MR. WAGER: Arbitrary.

6 HEARING OFFICER KNITTLE: What was that,  
7 Mr. Wager?

8 MR. WAGER: It seems like a very  
9 arbitrary ruling.

10 HEARING OFFICER KNITTLE: I've warned you  
11 once before that I don't want comments especially  
12 during testimony. You've had a chance to  
13 cross-examine this witness. He cannot --  
14 Mr. Trepanier cannot talk anymore because he is no  
15 longer cross-examining this witness. This is  
16 Mr. Joseph's time to cross-examine the witness.

17 Mr. Joseph, do you have anything else?

18 BY MR. JOSEPH:

19 Q. Do you ever wonder why UIC doesn't repair  
20 buildings?

21 MR. JEDDELOH: I'm going to object to  
22 that, foundation, relevancy. It's a global  
23 question. It calls for a narrative.

24 HEARING OFFICER KNITTLE: I'm going to

1 sustain it on the relevancy factor.

2 BY MR. JOSEPH:

3 Q. Does UIC ever repair buildings?

4 MR. BLANKENSHIP: Objection.

5 MR. JEDDELOH: Objection, relevancy.

6 HEARING OFFICER KNITTLE: It's not a

7 relevant question, Mr. Joseph. Sustained.

8 BY MR. JOSEPH:

9 Q. Who are the powers that be?

10 MR. BLANKENSHIP: Objection, this is

11 silly.

12 MR. JEDDELOH: Objection.

13 HEARING OFFICER KNITTLE: Yeah, I don't

14 understand that question.

15 MR. JOSEPH: He raised that issue earlier

16 that the decisions are based on powers that be as

17 to the -- what was going on here from the very

18 beginning of his discussion, his words, so I was

19 wondering who he meant.

20 HEARING OFFICER KNITTLE: Okay. I'm

21 going overrule if -- I'm assuming he was talking

22 about his superiors, but, Mr. Henderson, can you

23 answer that question for us, please?

24 THE WITNESS: It's several people who

1 make decisions in a university -- institution like  
2 that, the board of trustees, the chancellor, the  
3 supervisor. There's several people who make  
4 decisions based on the succession of supervisor  
5 who's in charge.

6 BY MR. JOSEPH:

7 Q. And who did in this case?

8 MR. BLANKENSHIP: Objection, who did  
9 what? What decision is he talking about?

10 BY MR. JOSEPH:

11 Q. To demolish this building?

12 MR. JEDDELOH: I would also object to the  
13 relevancy of this. I can't imagine why we're  
14 engaging in this form of harassment at a quarter  
15 until 5:00 except perhaps they want to get  
16 Mr. Merlin back in, but I think this is just well  
17 beyond the scope of any direct examination or  
18 relevancy.

19 HEARING OFFICER KNITTLE: Yeah, I'm going  
20 sustain that objection. Mr. Wager, I notice you  
21 muttering there again. I do not want to hear any  
22 other commentary from you, and I'm serious about  
23 the fact that I will toss you out of here if I have  
24 to. I don't want my decisions being questioned or

1 being labeled as arbitrary at least during the  
2 cross-examination.

3 If you have a motion to make, you're  
4 welcome to make that to me or you're welcome to  
5 make that the board about my decisions, but I don't  
6 want to hear anything else. Is that understood?  
7 I'm going to need some sort of affirmation from you  
8 here, Mr. Wager.

9 MR. WAGER: It's not totally clear.

10 HEARING OFFICER KNITTLE: It's not  
11 totally clear. I do not want you making comments  
12 during cross-examination when it is not your  
13 cross-examination. Is that totally clear?

14 MR. WAGER: I think so.

15 HEARING OFFICER KNITTLE: I advise you to  
16 tread lightly here, Mr. Wager, because I'm close to  
17 tossing you out here. Are you going to refrain  
18 from making comments during cross-examination of  
19 this witness and all other witnesses throughout the  
20 rest of this hearing when it's not your turn to  
21 cross-examine the witness?

22 MR. WAGER: At what point was -- what are  
23 you saying? I'm not sure.

24 HEARING OFFICER KNITTLE: I'm saying I

1 don't want you to be making comments at any point  
2 when it's not your turn to cross-examine the  
3 witness or it's not your appropriate turn  
4 procedurally to be making motions or objections.

5 MR. WAGER: How I will know when it's my  
6 turn? I can make a motion for what?

7 HEARING OFFICER KNITTLE: When you're  
8 cross-examining, you had your opportunity to  
9 cross-examine, then you can speak, but aside from  
10 that, you cannot -- you can always make a motion to  
11 me, but that's a lot different than an aside  
12 comment to Mr. Trepanier that my latest decision  
13 was arbitrary. Do you understand the difference?

14 MR. WAGER: So could there be a motion  
15 made for more cross-examination since --

16 HEARING OFFICER KNITTLE: You can make  
17 that motion. I'll take that as a motion for more  
18 cross-examination. I'm going to deny that because  
19 you've already had your chance.

20 If they do a redirect, you can do  
21 additional cross-examination on whatever they  
22 redirect, but as for now, that's where we're  
23 standing. So I caution you, once again, to keep  
24 your comments to yourself and, Mr. Joseph, why

1 don't you continue.

2 BY MR. JOSEPH:

3 Q. You said there were general building code  
4 violations on 1261. Do you know what they are or  
5 were?

6 MR. BLANKENSHIP: Objection, we went  
7 through this with Mr. Trepanier for ten minutes.

8 HEARING OFFICER KNITTLE: Sustained,  
9 Mr. Joseph. We've gone over there.

10 MR. JOSEPH: But he didn't say anything  
11 other than windows. I was wondering what  
12 specifically. I mean a couple broken windows, I  
13 don't think we got into detail.

14 MR. JEDDELOH: The record will say what  
15 it says, but we've gone through it.

16 HEARING OFFICER KNITTLE: Yes, I think we  
17 have gone through this. I have notes on this,  
18 Mr. Joseph.

19 BY MR. JOSEPH:

20 Q. Did you see any asbestos being removed  
21 from this building?

22 A. I saw the contractor working in there.

23 Q. You did. What did you see him doing?

24 A. Moving pipe covering from pipes.

1 Q. And could you explain how he did that or  
2 what you saw?

3 A. The procedure that he used or what?

4 Q. Right.

5 A. He used a wetting procedure.

6 Q. Right.

7 A. That's what he did, sprayed the pipes  
8 with a solution, and I don't recall if he used a  
9 glove bag method or did he put a protective  
10 covering around it or what. I don't recall how he  
11 did it, but I think he used a glove bag method, I  
12 think. I don't remember.

13 Q. And do you know what the solution was  
14 that he used?

15 A. No, I don't. There's various different  
16 kind of trade names they use, but I don't know.  
17 Sometimes they can use water to keep it from being  
18 flyable or sometimes they use a special agent to  
19 put on it. I don't know what. The contractor can  
20 best describe what the process he used.

21 Q. And how long did it take?

22 A. I don't know. I wasn't there for the  
23 whole procedure.

24 Q. Do you remember what he was wearing?

1 A. No. Protective clothing.

2 Q. Like what kind of protective clothing?

3 MR. JEDDELOH: I'm going to object,

4 Mr. Knittle. This is --

5 HEARING OFFICER KNITTLE: I will sustain.

6 I don't see any relevance here, Mr. Joseph.

7 MR. JOSEPH: I think it's fair to ask if

8 he remembers. He said he saw it and --

9 HEARING OFFICER KNITTLE: It's fair to

10 ask if it were relevant, but this isn't relevant to

11 the complaint that we have before us here. So

12 that's why I'm sustaining the objection, and that's

13 why I'm asking to you move on to a different

14 question.

15 MR. JOSEPH: But I mean it's relevant,

16 isn't it, because if we're going to cross-examine

17 the other guy to see if he's wearing the same

18 thing. He said he saw him. I mean if he remembers

19 what he was wearing, it's relevant.

20 HEARING OFFICER KNITTLE: I don't see any

21 relevance here, Mr. Joseph. I don't see how it's

22 relevant what the asbestos worker who removed the

23 asbestos from this place -- which is not actually

24 an issue at this case. I don't see how that's



1 relevant. Your call, Mr. Joseph. You're up again.

2 BY MR. JOSEPH:

3 Q. As the assistant director to physical  
4 plant, you said you have several people working  
5 under you?

6 A. Yes.

7 Q. And what do they do?

8 MR. JEDDELOH: Objection, well beyond the  
9 scope, irrelevant.

10 MR. BLANKENSHIP: We went through this on  
11 his direct with Mr. Trepanier as well.

12 HEARING OFFICER KNITTLE: Yeah, I don't  
13 see how it's relevant, but we have gone over this  
14 before, Mr. Joseph, a number of times.

15 BY MR. JOSEPH:

16 Q. Do you have any idea what it would have  
17 cost to rehab this building versus demolition?

18 A. No.

19 Q. As the director, does that ever cross  
20 your mind that maybe it would be cheaper to rehab a  
21 building?

22 MR. JEDDELOH: Objection, he testified he  
23 wouldn't know how much it would cost, therefore, he  
24 can't answer that question.

1 MR. JOSEPH: I am asking him --

2 MR. JEDDELOH: It's beyond the scope, and  
3 it's not relevant.

4 HEARING OFFICER KNITTLE: Sustained on  
5 relevancy.

6 MR. JOSEPH: Well, I think it is relevant  
7 because if the demolition was not really necessary  
8 and they spent \$80,000 or whatever to demolish it  
9 and they could have rehabed it for 30,000, then  
10 they could have not only saved money, but there  
11 would have been less pollution. There wouldn't  
12 have been trucks driving around on Maxwell Street.

13 HEARING OFFICER KNITTLE: I'm still going  
14 to stand by my decision. I don't think it's  
15 relevant, Mr. Joseph.

16 BY MR. JOSEPH:

17 Q. Do you think an unnecessary demolition is  
18 excessive demolition?

19 MR. JEDDELOH: Objection, beyond the  
20 scope, relevancy, foundation, calls for the witness  
21 to speculate.

22 HEARING OFFICER KNITTLE: Yeah, I got to  
23 agree. I don't think that's a valid question for  
24 cross-examination, Mr. Joseph. Sustained.

1 BY MR. JOSEPH:

2 Q. Well, I hope I made you think a little  
3 bit. I wasn't expecting to have to cross-examine  
4 you to today.

5 HEARING OFFICER KNITTLE: Is that it,  
6 Mr. Joseph?

7 MR. JOSEPH: Yeah, that's it.

8 HEARING OFFICER KNITTLE: Thank you very  
9 much. Is there any redirect?

10 REDIRECT EXAMINATION

11 BY MR. JEDDELOH:

12 Q. Just a couple. Mr. Henderson, if you  
13 could make reference to University Exhibit Number 1  
14 that's in front you. Did you receive this document  
15 prior to the time that you authorized the  
16 demolition to proceed on 1261 Halsted?

17 A. Yes.

18 Q. And at this time did you take it to be  
19 EHC's certification that asbestos has been removed  
20 as per the university's purchase order?

21 A. Yes.

22 Q. Now, I'd like you to look at the very  
23 first page of this multipage exhibit. Do you see  
24 the word closeout document at the beginning?

1 A. Yes.

2 Q. Did you take that to be evidence of a  
3 fact that it was EHC's certification --

4 MR. TREPANIER: Objection, this is a very  
5 leading question. He's giving the answer right in  
6 the question.

7 MR. JEDDELOH: I'm asking him whether. I  
8 have to point out what I'm referring to.

9 HEARING OFFICER KNITTLE: I'm going to  
10 overrule this objection. Go ahead, Mr. Jeddelloh.

11 BY MR. JEDDELOH:

12 Q. Did you take the words closeout document  
13 to be some evidence of the fact that this was EHC's  
14 certification that they completed the asbestos  
15 removal?

16 A. Yes.

17 Q. Now, looking at the next page. What is  
18 this document, sir, so I'm not accused of leading?

19 A. This document is a purchase order.

20 Q. Purchase order?

21 A. It is a purchase order.

22 Q. I'm sorry. We're not referring to the  
23 same document then. I'm referring to this document  
24 right here.

1 A. Okay. This is the --

2 HEARING OFFICER KNITTLE: Can we state  
3 for the record which document you're referring to?

4 MR. JEDDELOH: It's an EHC document  
5 that's marked Invoice 5291.

6 HEARING OFFICER KNITTLE: Thank you.

7 THE WITNESS: This is the invoice where  
8 they submitted this for payment.

9 BY MR. JEDDELOH:

10 Q. And it says removal of exposed asbestos  
11 containing thermal insulation. Did you place any  
12 meaning on those words when you received the  
13 document prior to the demolition?

14 A. This is saying that all the asbestos  
15 covering was removed that they found in the  
16 building.

17 Q. Now, I'd like you to look at the very  
18 next document which is a UIC purchase order. Do  
19 you see that, sir?

20 A. Yes.

21 Q. Who, if you know, caused this purchase  
22 order to be issued by the university?

23 A. Joe Sikes is the contact person who  
24 initiated the paperwork and Guy Belmonte is the

1 buyer who director has signed the order.

2 Q. I notice that your name is up at the top  
3 where it says ship to physical plant J. Henderson?

4 A. Right.

5 Q. Did you have any involvement in the  
6 issuance of this purchase order?

7 A. I issued the necessary paperwork to start  
8 the process for this to be processed.

9 Q. Who authored the words that are under the  
10 description, was that you?

11 A. Meaning where?

12 Q. Where it says furnish all necessary  
13 labor, blah, blah, blah?

14 A. This was a copy from the original  
15 purchase order.

16 Q. Was it your intention that this purchase  
17 order would be for the purpose of causing EHC to  
18 remove all of asbestos in the building?

19 A. Yes.

20 MR. TREPANIER: Objection, that's a  
21 leading question. The answer should be stricken.

22 HEARING OFFICER KNITTLE: Overruled.

23 BY MR. JEDDELOH:

24 Q. Now, I'd like you to go forward in the

1 document to a document that is entitled daily  
2 report. Do you see that?

3 A. Yes.

4 Q. When you received this document -- when  
5 you received this group exhibit, did you review  
6 this document?

7 A. Yes, I looked at it.

8 Q. Do you know what the purpose of this  
9 document is, sir?

10 A. This is a daily worksheet saying that  
11 activity took place on this particular day.

12 Q. And do you know what activity it was  
13 describing?

14 A. Yes, the removal of asbestos found in the  
15 building.

16 Q. Now, I'd like to jump two pages or maybe  
17 three pages forward to a document that says waste  
18 shipment record. Do you see that?

19 A. Yes.

20 Q. Did you look at this at the time you  
21 received this document prior to the demolition?

22 A. Yes, I looked at it.

23 Q. And what did you take this document to  
24 mean at the time?

1 A. That this is the paperwork saying they  
2 shipped -- this is waste record showing what they  
3 shipped to the dump.

4 Q. Would this be part of your determination  
5 that, in fact, this was a certification that  
6 asbestos had been removed?

7 A. Yes, that what's it's saying they removed  
8 it and shipped it out.

9 Q. A couple questions of by way of  
10 clarification. Is 1261 -- is the 1261 Halsted site  
11 part of the overall plan for the south campus  
12 redevelopment?

13 A. Yes, it is.

14 Q. And you mentioned in cross-examination  
15 that -- something about tennis courts and ball  
16 fields. Is that also part of the south campus  
17 project?

18 A. Overall, yes, it is.

19 Q. Has any of your testimony that you've  
20 given today here been for the purpose of or in the  
21 hopes that you would get a more important job with  
22 the university?

23 A. No, it's not.

24 Q. Has any of the testimony that you've



1 given here today been in the hopes of ingratiating  
2 yourself with the university?

3 A. No, it's not.

4 MR. JEDDELOH: That's all I have.

5 HEARING OFFICER KNITTLE: Mr. Trepanier,  
6 do you have recross?

7 RECCROSS EXAMINATION

8 BY MR. TREPANIER:

9 Q. Yeah. Regarding what we referred to the  
10 waste shipment record. What does -- in fact, what  
11 does that record document?

12 A. It's paperwork that's necessary to verify  
13 that they shipped contaminated material.

14 Q. Does that waste shipment record indicate  
15 where the contaminated material came from?

16 MR. JEDDELOH: I'm going to object. The  
17 document can speak for itself.

18 HEARING OFFICER KNITTLE: Overruled.

19 THE WITNESS: No, it doesn't specify that  
20 particular area, but I'm quite sure the contract  
21 can speak for itself. This is generated for a  
22 small amount of material. It's collected and  
23 stored and then they ship a sizeable amount to a  
24 landfill or whatever. That is common practice.

1 BY MR. TREPANIER:

2 Q. And on this waste shipment record on what  
3 would be an unnumbered line 7 which says the words  
4 project number and there's two sets of numbers next  
5 to that, that project number doesn't match the  
6 project number on page 2 of this closeout document,  
7 does it?

8 MR. JEDDELOH: Objection, the documents  
9 can speak for themselves.

10 HEARING OFFICER KNITTLE: I'm going to  
11 overrule. I'm going to let him go through this.

12 THE WITNESS: This might be a -- I know  
13 what you're getting at, but best the document speak  
14 for itself and the contractor can tell you how  
15 these -- a grouping of small jobs is handled by him  
16 or his company when they're sending material to the  
17 landfill.

18 MR. JEDDELOH: Also, I think that there's  
19 lacking in foundation because the project numbers  
20 do match and so, therefore, I think the question is  
21 unfair.

22 MR. TREPANIER: On the second page of  
23 this document --

24 HEARING OFFICER KNITTLE: It does -- hold

1 on. It does look like they match, Mr. Trepanier.

2 MR. TREPANIER: I see the project number  
3 as job number 29.119-699.

4 HEARING OFFICER KNITTLE: And when you  
5 started, I looked at same thing, but if you look up  
6 under the date it says our job number and that  
7 matches. I just don't want you to get too far  
8 without realizing that.

9 MR. TREPANIER: Thank you.

10 MR. JEDDELOH: I think everything  
11 matches, the PO number, the job numbers, the  
12 project numbers.

13 BY MR. TREPANIER:

14 Q. On the waste shipment record, there's no  
15 indication of how much waste came from the job at  
16 1261 Halsted, is there?

17 MR. JEDDELOH: Objection, the document  
18 can speak for itself.

19 HEARING OFFICER KNITTLE: I'm going to  
20 overrule and let Mr. Trepanier ask the same  
21 questions I was letting you ask of Mr. Henderson.

22 Mr. Henderson, there's a question out to  
23 you.

24 THE WITNESS: Will you repeat the

1 question again?

2 BY MR. TREPANIER:

3 Q. On the waste shipment record, there's no  
4 indication of the amount of asbestos that was  
5 shipped from that job at 1261 South Halsted, is  
6 there?

7 A. Well, I think -- I don't know, but if you  
8 look down at the record number 8 and the project  
9 number above the project number and it says 42  
10 bags. Now, I don't know that's 42 bags from that  
11 job or a collection of 42 that was sent out for the  
12 waste shipment record. You would have to ask the  
13 contractor.

14 Q. On the asbestos -- the notification of  
15 demolition and renovation that's on that document,  
16 the second page I think under that section which is  
17 section 12, XII, it identifies a waste transporter.  
18 Now, that waste transporter is not the same person  
19 named on the waste shipment record, is it?

20 MR. BLANKENSHIP: This is beyond the  
21 scope of the redirect.

22 HEARING OFFICER KNITTLE: First of all,  
23 what document are we talking about here?

24 MR. TREPANIER: I'm looking at both the

1 waste shipment record and, therefore, the section  
2 number 3.

3 HEARING OFFICER KNITTLE: Okay.

4 MR. TREPANIER: And I'm asking him that  
5 that name for the waste disposal site does not  
6 match the waste disposal site on the asbestos --  
7 notification of demolition and renovation.

8 MR. JEDDELOH: I will join with  
9 Mr. Blankenship's objection. It's beyond the scope  
10 of redirect.

11 MR. TREPANIER: He's relying on this  
12 document. In fact, he's elicited testimony from  
13 Mr. Henderson that Mr. Henderson could rely on this  
14 waste shipment record to indicate that the waste  
15 from this asbestos job was actually shipped out  
16 properly, but the asbestos removal said they were  
17 going to send it to Community Landfill, whereas,  
18 this waste shipment record says it would be heading  
19 to County Environmental of Livingston.

20 MR. BLANKENSHIP: Object to the relevance  
21 of the question in that if there's a technical --  
22 an incorrect shipping place, so what. That's not a  
23 violation of the issue in this case at all. I  
24 don't get where this is all going.

1 HEARING OFFICER KNITTLE: Yeah, this is  
2 dangerously close to being beyond the scope,  
3 Mr. Trepanier, but I don't understand how it's  
4 relevant. I never understand how a lot of this  
5 asbestos stuff is relevant. I let a lot of it go  
6 in because I am trying to give you a lot of leeway  
7 as a citizen complainant, but this is starting to  
8 get to be kind of a stretch, I think.

9 MR. TREPANIER: Well, I was tying it in  
10 with the reliance -- on redirect the reliance that  
11 the respondents were putting on this very record,  
12 the waste shipment record, that this record  
13 indicates that was a proper --

14 HEARING OFFICER KNITTLE: Right, but  
15 they're relying on this because you were addressing  
16 this on cross-examination, but I still don't see  
17 how it's entirely relevant. I will allow you to  
18 ask this question about line number 13 on the waste  
19 shipment record not matching up with line  
20 number 12, but that's.

21 MR. TREPANIER: It's line 3 on the waste  
22 shipment record versus line 13 on the notification  
23 of demolition renovation.

24 Q. Do you understand which lines I'm

1 directing your attention to, Mr. Henderson?

2 A. No, I don't.

3 Q. We're looking at --

4 A. Which one do you have?

5 Q. On the notification, it would be line 13.

6 A. Okay. Waste disposal site.

7 Q. What does that say there as the waste

8 disposal site?

9 A. Community Landfill.

10 Q. And then on the waste shipment record we

11 were just referring to on line 3, what does --

12 what's included on that line?

13 MR. JEDDELOH: Objection, the document

14 can speak for itself.

15 HEARING OFFICER KNITTLE: Overruled. And

16 I think you're talking about the wrong line,

17 Mr. Trepanier, aren't you? Don't you mean line 13?

18 That's what you said initially.

19 MR. TREPANIER: Yeah, I do see that

20 line 13 says County Environmental and line 3 itself

21 just has the same information.

22 HEARING OFFICER KNITTLE: That's fine.

23 MR. BLANKENSHIP: Is there a question?

24 HEARING OFFICER KNITTLE: The question

1 is, Mr. Trepanier?

2 BY MR. TREPANIER:

3 Q. The question is why are those two names  
4 different?

5 A. I don't know. You have to ask the  
6 contractor tomorrow.

7 Q. And when you say that the ball fields are  
8 sort of in the south -- did you say that the ball  
9 fields were sort of in the south campus?

10 A. I didn't say sort for. I said the ball  
11 fields are in the south campus project. I didn't  
12 say sort of.

13 Q. So those are a solid part of the project?

14 MR. JEDDELOH: Objection, asked and  
15 answered.

16 HEARING OFFICER KNITTLE: Yes, he just  
17 said that, Mr. Trepanier. Sustained.

18 MR. TREPANIER: No more questions.

19 HEARING OFFICER KNITTLE: Mr. Wager, do  
20 you have any questions on redirect.

21 MR. WAGER: No.

22 HEARING OFFICER KNITTLE: Mr. Wager,  
23 thank you. Mr. Joseph?

24 MR. JOSEPH: No.



1 HEARING OFFICER KNITTLE: Thank you, sir.

2 Mr. Henderson, I think can you step down unless

3 you --

4 MR. JEDDELOH: No, I have no more

5 questions. Sorry about that.

6 HEARING OFFICER KNITTLE: It is

7 5 o'clock. Let us have a discussion off the record

8 for one minute.

9 (Discussion off the record.)

10 HEARING OFFICER KNITTLE: We've had an

11 off the record discussion. We're going to wind

12 things up for the day here. Speedway indicates

13 they have one witness planned and that's Mr. Kolko

14 and University of Illinois indicates they have no

15 witnesses, but they may call one additional

16 witness. They're still weighing that option.

17 Mr. Trepanier indicates that he has at

18 least one rebuttal witness and possibly two, so

19 since we're not going to finish this up today,

20 we're going to start tomorrow at 9:30 in this same

21 room and I think that's it.

22 MR. BLANKENSHIP: If I can make a

23 request. He should have his rebuttal witnesses

24 here. I hope we don't have to wait around

1 tomorrow.

2 HEARING OFFICER KNITTLE: Mr. Trepanier,  
3 that is true. Once they finish their case in  
4 chief, it's your time for rebuttal witnesses and  
5 I'm going to want to do that right away.

6 MR. BLANKENSHIP: We're telling you now  
7 we're going to be very short.

8 HEARING OFFICER KNITTLE: You might want  
9 to get any rebuttal witnesses you have for 10:30,  
10 and if there's no one here certainly by 11:00, I'm  
11 going to end the -- your rebuttal witnesses  
12 section, if, in fact, you're ready to go at 10:30.  
13 That being said, I guess I'll see everyone here  
14 tomorrow.

15 (End of proceeding.)

16

17

18

19

20

21

22

23

24

1 STATE OF ILLINOIS )  
 ) SS:  
2 COUNTY OF DUPAGE )

3 I, Michele J. Losurdo, Certified  
4 Shorthand Reporter of the State of Illinois, do  
5 hereby certify that I reported in shorthand the  
6 proceedings had at the taking of said hearing, and  
7 that the foregoing is a true, complete, and  
8 accurate transcript of the proceedings at said  
9 hearing as appears from my stenographic notes so  
10 taken and transcribed under my personal direction  
11 and signed this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

12  
13  
14

MICHELE J. LOSURDO, CSR  
Notary Public, DuPage County, Illinois  
Illinois License No. 084-004285

15  
16

17 SUBSCRIBED AND SWORN TO  
18 before me this \_\_\_\_\_ day  
19 of \_\_\_\_\_, A.D., 1999.

20

\_\_\_\_\_  
Notary Public

21  
22  
23  
24

