

HISTORIC PRESERVATION BOARD
CITY COMMISSION CHAMBERS
405 BILTMORE WAY
CORAL GABLES, FLORIDA

December 20, 2012
Thursday
4:00 p.m.

B E F O R E:

- DEBORAH J. TACKETT, Chairperson
- CARMEN GUERRERO
- DOLLY MACINTYRE
- JUDY FRUITT
- VENNY TORRE
- PEGGY ROLANDO
- ALEJANDRO SILVA
- DOROTHY THOMSON
- KENDALL TURNER

ALSO PRESENT:

- DONA M. SPAIN, Historic Preservation Officer
- KARA N. KAUTZ, Assistant Preservation Officer
- BRIDGETTE THORNTON RICHARD, Deputy City Attorney

EXCERPT OF PROCEEDINGS
CASE FILE COA (SP) 2012-018
2 Casuarina Concourse

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CHAIRPERSON TACKETT: Okay.

MS. SPAIN: Could I ask if we could go to the 2
Casuarina Concourse case now?

CHAIRPERSON TACKETT: Yes. Is the applicant
ready?

MS. SPAIN: Yes.

CHAIRPERSON TACKETT: Are you here and ready?

MS. SPAIN: And I'd like to turn it over to the
Deputy City Attorney --

CHAIRPERSON TACKETT: Yes.

MS. SPAIN: -- to say a few words in advancement
and then the applicant has asked to go before me, if
that's okay.

CHAIRPERSON TACKETT: That is fine, if no one on
the Board has any issues with it, we're fine with it.

MS. RICHARD: I just have to come down since I
don't have a microphone at the clerk's desk.

This case involves an applicant's request
for a Special Certificate of Appropriateness for
demolition based upon a claim of undue economic
hardship. The property in question located at 2
Casuarina Concourse was designated historic
based upon architectural historical features as
well as a finding of exceptional importance on

1 February 16, 2012. Therefore, in accordance
2 with Section 3-1107 of the City of Coral Gables
3 Zoning Code, this matter is before the Historic
4 Preservation Board for a determination as to
5 whether the Special Certificate of
6 Appropriateness for demolition should be
7 granted. Sections 3-1106B and 3-1107 of the
8 City Zoning Code set forth the guidelines which
9 the Board shall consider in making its -- its
10 determination. In addition to those guidelines,
11 Section 3-1107D outlines a criteria that the
12 Board shall consider in evaluating an
13 application for a Special Certificate of
14 Appropriateness. Please note that one of the
15 criteria listed in Section 3-1107D is whether
16 the applicant has demonstrated that retention of
17 the building structure, improvement or site
18 would create an unreasonable or undue economic
19 hardship as described in Section 3-1115. The
20 term "undue economic hardship" is defined in
21 Article 8 of the City of Coral Gables Zoning
22 Code as an exceptional financial burden that
23 would amount to the taking of property without
24 just compensation or failure to achieve a
25 feasible economic return in the case of income

1 producing properties. This definition through
2 its use and reliance upon the Constitutional
3 terms "taking" and "just compensation"
4 necessarily implicates Constitutional taking's
5 jurisprudence. As a result, to assist the board
6 in understanding -- in its understanding of the
7 legal issues related to evaluating undue
8 economic hardship, the City Attorney's Office
9 drafted a memorandum explaining the law
10 surrounding undue economic hardship. This
11 memorandum was provided to the Board as well as
12 to the counsel for the applicant. And again,
13 I'd like to stress, the decision as to whether
14 to issue a Special Certificate of
15 Appropriateness for demolition of this property
16 is for the Historic Preservation Board to make.
17 And the City Attorney's Office takes no position
18 as to the merits of the issuance of a Special
19 Certificate of Appropriateness in this case.

20 Based upon our research, the City
21 Attorney's Office has determined that when
22 evaluating whether a historic designation causes
23 an undue economic hardship, such that a
24 Certificate of Appropriateness for demolition
25 should be issued, the claimed economic hardship

1 should be evaluated under the standard the U.S.
2 Supreme Court outlined in Penn Central
3 Transportation Corporation versus City of New
4 York, 438 U.S. 104. That standard requires that
5 the adjudicating body evaluate, and this is a
6 quote, "the economic impact of the regulation
7 and the" -- I'm sorry. I'll start over. "The
8 economic impact of the regulation on the
9 claimant and particularly the extent to which
10 the regulation has interfered with distinct
11 investment aspect expectations as well as the
12 character of the governmental action; for
13 instance, whether it amounts to a physical
14 invasion or instead merely affects property
15 interest through some public program adjusting
16 the benefits and burdens of economic life to
17 promote the common good."

18 Should the Board have any questions
19 regarding legal issues, I am here on behalf of
20 the City Attorney's Office to resolve them.

21 CHAIRPERSON TACKETT: Thank you very much.

22 And the applicant. Good afternoon.

23 MR. SMITH: Good afternoon, Ma'am Chairman --
24 woman and members of the Historic Preservation Board.
25 My name is Allen J. Smith of the law firm of Hall,

1 Lamb and Hall, here on behalf of the property owner,
2 Cascar, Cascar, LLC, which is a Florida Limited
3 Liability Company. The estate of B. Carlin, who
4 was -- Carlin was one of the original owners of this
5 property, is the beneficiary of Cascar, and
6 particularly the B. Carlin Foundation, which supports
7 the arts, medical community and youth of Miami-Dade
8 County. I say that because it's important to know
9 that this is not an individual or couple who owns
10 this property who is looking for the remuneration for
11 their own interest, which they would be entitled to,
12 but this is a charitable foundation, the entire
13 purpose of which and all of which its assets are
14 distributed based upon the foundation and for the
15 purposes which I've just enumerated.

16 The property owner is here today in which
17 it seeks on its claim for undue economic
18 hardship. It was also asked by the city
19 attorney to file based upon his interpretation
20 of the ordinance a Special Certificate of
21 Appropriateness, which we've also done.

22 By way of background, on October 19, 2001,
23 the historic preservation officer determined
24 that the residence met the minimum eligibility
25 requirements for designation as a local historic

1 landmark. On September 7, 2012, the historic
2 preservation officer issued a report in support
3 of that designation. Property owner filed a
4 response in which it argued that it did not
5 believe that the property should be declared a
6 historic landmark. At the hearing before this
7 Board on February 16, 2012, the court -- the
8 Board gave us ample time. It heard from the
9 historic preservation officer. It considered
10 its report. It received our detailed and
11 comprehensive response. It heard testimony from
12 our architect, Rafael Portuondo. And thereafter
13 voted in favor of designating this property
14 historic. The property owner then appealed this
15 Board's finding in order to the City Commission,
16 which approved it.

17 We are here today as stated because we
18 believe that we can clearly and convincingly
19 show that this designation has caused an undue
20 economic hardship upon the property owner. This
21 is a very different case than I think most of
22 the cases that you have in front of you relating
23 to historic designation because of the
24 uniqueness of the property, the size of the
25 property, nearly two acres, and the location of

1 the property, which is at the very point of
2 Casuarina Concourse with -- surrounded by water
3 on two sides, very large expanse of the Coral
4 Gables waterway, as well as views of Biscayne
5 Bay.

6 It's important to provide you all with the
7 sales history of this property as you make your
8 determination. The property went on the market
9 after the passing of B. Carlin and her then
10 husband, Don Carlin, on January 1 --
11 approximately January 1, 2010. And during that
12 time it was shown very aggressively by the
13 realtor broker, who's here today to testify on
14 your -- on our behalf, Jean Nicastrri, Coldwell
15 Banker, who has great expertise and specializes
16 in properties in Gables Estates as well as very
17 high-end homes. She was selected by the
18 property owner based upon her experience and
19 reputation in Gables Estates, you know, as well
20 as in other areas of Dade County, and in the
21 fact that a subspecialty of hers is
22 international sales. And she has enormous
23 contacts based upon her involvement in various
24 organizations in South America as well as
25 Europe. She received initially numerous

1 inquiries and visits to the residence. In our
2 package which we've provided you, she also
3 received four contracts that were signed by the
4 property owner and six written offers, none of
5 which closed for the reasons which I'm about to
6 tell you. Some of the offers were not accepted
7 because the price was below that which the
8 property owner believed was the proper value for
9 the property and was not acceptable to the
10 property owner. The other offers and the
11 written contracts didn't close based upon the
12 fact that upon doing their due diligence
13 investigation, as well as doing their
14 inspections of the property, they determined
15 that they would -- would not be able to demolish
16 the property and build a home, you know, which
17 they believed that they wanted on that -- on
18 that property. The house was built in 1966. As
19 Ms. Nicastrri will testify in detail, even
20 though, you know, it's been declared historic
21 and the property owner acknowledges that there
22 are certain aspects of the home which are unique
23 and special, particularly in the living room and
24 dining room area, it's not a home that fits the
25 modern family. She will testify as to the

1 criteria that a modern family looks for and why
2 this home is not acceptable.

3 The fact that it's been on the market for
4 three years should let you all know, and I know
5 many of you have ample real estate experience
6 that are involved in the real estate business,
7 that, you know, the market has -- has spoken.
8 And -- and the house has been aggressively
9 listed and shown. It's been recommended that it
10 be put in -- in different types of historic
11 magazines. It was determined that that would
12 not be, because of the price of the home -- that
13 the prices of most of those homes on -- in those
14 magazines are less than a million dollars, and
15 this one is probably in excess of \$10 million.
16 But other than that, between the brochures, the
17 advertisements and the open houses, it could not
18 have been shown, listed and marketed, you know,
19 any better, you know, by anyone.

20 So as a result of the fact that now three
21 years later we are -- we are now with a property
22 that is unsellable at a price, as evidence will
23 show, is its true and fair market value. And we
24 are now saddled with the -- and it is this
25 historic designation which prevents those owners

1 that were interested in purchasing the property
2 to do that which they want with it. So we
3 believe that we can show and we will show that
4 this designation has created an undue economic
5 hardship.

6 We will have testifying before you today
7 Robert Gallaher, who has provided an extensive
8 appraisal which -- a copy of which is in our
9 package. And he was asked to do first -- he was
10 asked to do two things. One, he was asked to
11 determine what the value of the property would
12 be as -- if it could be demolished and was a
13 vacant lot and could be sold, or what its value
14 would be if we were required to maintain the
15 residence. Because of the fact that the
16 principal reason that the property was declared
17 historic was because of its architect, Alfred
18 Browning Parker, we argued this at the last
19 hearing, that had it been just about any other
20 architect other than Alfred Browning Parker, who
21 we all acknowledge is, you know, one of the
22 great architects in the history of Florida, you
23 know, we probably wouldn't have, you know, have
24 been here. So in order to address the Board's
25 concern and its positive prejudice toward Alfred

1 Browning Parker, we asked Mr. Gallaher to do
2 something very difficult, which he was able to
3 accomplish, which was determine whether or not
4 the fact that a home was designed by Alfred
5 Browning Parker increases or enhances the value
6 of that property and that residence. And he has
7 concluded that it does not. And he will explain
8 that to you in detail with his PowerPoint
9 presentation, as well as the fact of his
10 ultimate determination which he believes that
11 the value of the property, with the residence
12 intact if we are unsuccessful with the city, is
13 between three and a half and \$5 million, and if
14 we were allowed to demolish the property, the
15 residence, the value would be somewhere between
16 10 and \$12 million.

17 It's important to note that the property
18 owner, again the ultimate beneficiary is the
19 foundation, has no intention nor does it choose
20 to demolish the property. It wants to sell the
21 property. But it would want the Certificate of
22 Appropriateness -- a Special Certificate of
23 Appropriateness to be available to any property
24 owner who were to purchase the property.

25 The clerk stated a legal standard that

1 they, the city, believes applies in regard to
2 our claim for undue economic hardship and what
3 the criteria are that you all need to decide.
4 And we respectfully disagree. And we're gonna,
5 at that, you know, after the city makes its
6 presentation, have a short rebuttal as to what
7 we believe the proper standard is which confirms
8 the undue economic hardship the property owner
9 has incurred. Specifically, and the city
10 attorney has mentioned this in its memorandum,
11 that we believe the controlling legislation is
12 the Bert J. Harris, Jr. Act, which I discussed
13 with you or was discussed at our last hearing.
14 The Bert J. Harris Act, which is encompassed in
15 Florida Statute 70.001, creates a cause of
16 action for land owners who suffer inordinate
17 burdens on the use of their land as a result of
18 government action, but cannot state a claim for
19 regulatory taking. You heard the word "taking."
20 And we're all familiar in eminent domain with
21 condemnation, where you take a portion of the
22 property or all of the property and, therefore,
23 just compensation. And because of the cases
24 which were -- which were cited in the city's
25 response, those cases all have to do with the

1 taking and the standards for the taking. And we
2 respectfully believe that those do not apply
3 because of the Bert J. Harris Act, which was
4 specifically created in Florida, is -- has the
5 strongest of the -- its Bert J. Harris Act is
6 the strongest of the nontaking regulatory
7 legislation of any state in the -- in the
8 nation, that it does not have to rise to the --
9 to the point of a taking. And we believe and
10 the -- and the evidence will be put on today
11 that shows that the -- that we have satisfied
12 the requirements of the Bert J. Harris, Jr. Act,
13 that the designation affects the property
14 owner's existing use of the residence; the
15 designation creates an inordinate burden on the
16 property owner; and that the designation
17 deprives the property owner from having its
18 expectations and rights realized as it restricts
19 and limits the use of the residence, it's
20 permanent, and it affects the entire property.

21 And the procedure going forward if we are
22 unsuccessful before this Board is the appeal
23 before the City Commission. And if that appeal
24 isn't successful, then the Bert J. Harris
25 procedures go into effect in which we file our

1 claim with the city and -- and allege the
2 allegations as to the amounts that we believe,
3 and Mr. Gallaher will testify to, you know,
4 somewhere close to \$8 million, of which we would
5 be entitled to recover our interest, as well as
6 attorney's fees and the right to a jury trial.

7 That's all for my opening. I'd like to
8 call Mr. Gallaher and have him present his
9 appraisal.

10 MR. GALLAHER: Good afternoon.

11 MR. SMITH: Briefly, Mr. Gallaher --

12 MR. GALLAHER: Allen, before you start.

13 MR. SMITH: Okay.

14 MR. GALLAHER: May we have permission to use
15 your equipment here to do a PowerPoint?

16 CHAIRPERSON TACKETT: That's a question for
17 staff.

18 MS. KAUTZ: I'm sorry. What?

19 CHAIRPERSON TACKETT: Can they use the city's
20 equipment?

21 MS. KAUTZ: Yes.

22 CHAIRPERSON TACKETT: Sure.

23 MR. GALLAHER: Thank you very much.

24 MS. KAUTZ: Absolutely. Do you need help?
25

1 THEREUPON:

2 ROBERT E. GALLAHER,

3 having been duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. SMITH:

6 Q Mr. Gallaher, first of all, you were sworn in.

7 Could you please state your full name and address?

8 A It's Robert E. Gallaher. My home address is

9 16655 Southwest 87th Place, Palmetto Bay.

10 Q And could you describe your professional

11 background and experience to the Board, please?

12 A Sure. I have a degree in real estate from the
13 University of Florida. Between business administration, I

14 have a major in real estate from the University of

15 Florida. After graduation, went through professional

16 classes leading to professional designation as an

17 appraiser. I started appraising in Dade County in 1972.

18 So I've been at this 40 years now. And eventually was

19 awarded the MAI designation, which is the highest

20 professional designation for appraisers. And over the

21 years we've appraised all sorts of property in South

22 Florida and other locations, for a variety of reasons,

23 some of which are residential. Although most of our work

24 is in the commercial market.

25 Q And do you have any specialized experience in

1 the real estate field?

2 A Yes. For seven years I was a real estate broker
3 by profession sort of part time. And many of you will
4 remember Anna Mae Esslinger and Dody Wooten and Arlene
5 Maxwell, who owned the original Esslinger-Wooten-Maxwell
6 firm. Some partners of mine and I purchased the firm from
7 the ladies back in the early 1980s. And enjoyed working
8 with them over the years. They retired. And I managed
9 the Pinecrest office when we decided we were gonna first
10 branch out and move from that San Ignacio office down
11 there in the south part of the city. And so I spent seven
12 years as a broker managing the office for the company.

13 And then I had to decide whether I wanted to go
14 off and be a full-time broker or go off and be an
15 appraiser. And I preferred the objectiveness of real
16 estate valuation to the emotional subjectiveness of real
17 estate brokerage, especially residential brokerage. So I
18 chose the former path and severed my relationship with Ron
19 and Al and the guys.

20 Q And have you been qualified as an expert in
21 courts in the State of Florida?

22 A I have.

23 Q Okay. And have you also been an instructor in
24 real estate appraisal in various colleges and performed
25 numerous seminars?

1 A Yes, I have.

2 Q Okay. And -- and you were retained by the
3 property owner, is that correct, in order to assist it in
4 its claim for undue economic hardship and Special
5 Certificate of Appropriateness which we're here on today?

6 A Also correct.

7 Q And have you -- have you prepared an appraisal
8 at the property owner's request relating to those two
9 claims?

10 A I have, and I understand a copy of our report is
11 in your package.

12 Q And did you bring with you today your entire
13 file, including all of your notes and materials in which
14 you relied on in preparing that appraisal?

15 A Yes, I did.

16 Q Do you have that here with you?

17 A I do.

18 Q May I have it, please?

19 MR. SMITH: With the Board's permission, I'd
20 like to file this with the clerk of the court.

21 CHAIRPERSON TACKETT: Thank you.

22 BY MR. SMITH:

23 Q Mr. Gallaher, if you will show the board your
24 appraisal?

25 A Sure.

1 Q Okay.

2 A We prepared this -- this PowerPoint presentation
3 to summarize what's in the report. We realize it's a lot
4 of words and it gets to be some dry reading, so we have
5 highlighting what we found here.

6 These are facts that you all already know when
7 the house was built. And the central issue in our charge
8 was the value that may or may not be added by the fact
9 that it was -- it was designed by Mr. Parker. We all know
10 it's located just off Biscayne Bay in the Gables Estate.
11 It has four bedrooms, six baths. And you have the
12 dimensions, the 11,000 square foot home on almost two
13 acres of land. These are all things that you know, if you
14 read through those quickly.

15 What we did is we went out and looked for all
16 the Parker properties we could find. We felt that there
17 was quite a body of work that he had here in South
18 Florida. We'd be able to look at those sales -- excuse
19 me, look at those properties to determine some market
20 parameters and some -- some trends. Most of the
21 properties were built in Coconut Grove which -- and in
22 Coral Gables, as you know, including in Gables Estates.
23 Some of them were built out here in the southwest suburbs,
24 where I was born and raised. And some of them were
25 further out, and over -- one up here on Miami Beach. So

1 they're -- they're pretty much all over the county. We
2 also found examples up north in Palm Beach County,
3 although the examples in Palm Beach County had been
4 demolished. So they were -- somebody earlier decided that
5 that was okay up there.

6 We found some very beautiful examples of his
7 work. This is the Woodsong home on Seminole Street.

8 THE REPORTER: Excuse me. I can't hear you.

9 MR. GALLAHER: ABC. Is this better? Is it
10 better from over here?

11 THE REPORTER: Yes.

12 MR. GALLAHER: I'll be over here. It's all
13 right with me. You have the hard part. You've got
14 to take all this down.

15 A The Woodsong home on Seminole is -- is one of
16 the beautiful examples of his work. And in driving
17 around, we really got an appreciation for the design and
18 the -- and the blending of these houses into their lots
19 and their individual environments. There's an example of
20 one that actually sold for 1.5 million back in 2009.

21 I'd be remiss if I didn't introduce my lovely
22 assistant. This is one of my colleagues, Sandy Gallaher,
23 who's actually my daughter-in-law.

24 And there's another house just around the corner
25 from our subject in -- in Gables Estates at 140 Arvida

1 Parkway. That was his residence. It won other awards
2 like some of his houses did. And this last sale was in
3 1984 for a million 750. And this was an example of a
4 house that was built with -- with large open window
5 expanses that faced Biscayne Bay.

6 So we were successful in finding 39 homes in
7 South Florida that he had designed. And four have been
8 demolished, as I said. They were all located in Palm
9 Beach County.

10 And here's just a list of them. And they are
11 shown here in order of the last time they sold and their
12 respective sale price. Not much you need to retain from
13 this other than to see that there are a lot of them and
14 they have sold over time, going back year by year. I
15 think the last two on the end, we never found sales of
16 those. But one is this subject property, which was
17 designed and it was owned by the designing owner until
18 their estates took title. And then the one on Bonita
19 Avenue.

20 We narrowed the sales from 2008 to 2012. The
21 trend in the market has been well publicized. The values
22 went up very quickly in 2004, '05, '06, rolled over in
23 '07, and began to drop in '08. And we saw a decline. So
24 what we wanted to do was concentrate the time period
25 either before or after that change in the market so that

1 would not be impacted. That would not be part of the --
2 of the trend. So we concentrated our efforts either
3 before or after and made sure we used data that was
4 contemporary to the sale. These are the sales that
5 occurred since 2008. You see a variety of price ranges
6 and a variety of prices per square foot. Now, in this
7 case these prices per square foot, and the footnote's at
8 the bottom there, are the value per square foot of each
9 building after we took off an allowance for land. We
10 wanted to compare like for like, location to location. So
11 what we -- what we did is we looked for land sales in the
12 area that the house sales occurred so we could estimate
13 how much of the value of that property was in the land.
14 And then we dropped out the land value to get a house
15 value, and divided that by the respective area of the
16 house to get that last column of data, the price per
17 square foot.

18 The relative value of the remaining house varies
19 greatly depending on a number of factors. The two most
20 important of which are did Mr. Parker himself live in the
21 home and did it win any particular awards. Because not
22 only are the award winning houses of -- of better design,
23 but when people buy them they, well, I'm buying this house
24 and one of the things I know is this is an award winning
25 house; it's an award winning design. And that has an

1 attraction in itself.

2 To find the relative value of the Parker homes,
3 we researched for sales of homes in the same neighborhood
4 as the Parker home to see how the relative values are. Is
5 the Parker house more valuable or less valuable in its
6 respective neighborhood. And we found the following
7 examples. 3741 Crawford Avenue, the upper left green
8 square there, sold in 2009 for less than a vacant lot sold
9 in the same neighborhood. 4141 Bonita, the top right,
10 2012 sale, is in the lowest quartile of all the sales in
11 2010, '11 and '12. We take all the sales prices per
12 square foot, after we take out the land, and put them in
13 quartiles, 25 percent, 25 percent, 25 percent, et cetera.
14 Then 4141 is in the lowest group. And this other example
15 in the blue, 7930 Southwest 120 Street, is a vacant lot
16 nearby, sold for about 8 percent less than this Parker
17 home. Again, indicating these houses didn't add a lot of
18 value.

19 Two more examples. Bonita Avenue is in this
20 lowest quartile. 6774 Southwest 53rd Street, which is an
21 unincorporated county, was the lowest price in the market
22 in that time period.

23 On the other hand, and this is what we expected
24 to find, Parker houses are sometimes one of the highest if
25 not the highest priced house in the neighborhood.

1 And these are all just examples of -- these
2 homes are either the highest price or they're in the
3 highest quartile in their respective neighborhood.

4 Therefore, we believe that Alfred Browning --
5 Alfred Browning Parker designed homes can have the greater
6 value than others in their same neighborhood. But that
7 greater value is not automatic and it's not in every case.

8 So we took all the Alfred Browning Parker houses
9 we could find, and we took their gross prices and divided
10 them by their house areas, and we averaged them all up.
11 We got an average overall of all the Parker houses that
12 have sold of \$316 a square foot. That's all the Parker
13 houses since the recession. \$316 per square foot of house
14 area, including the site in these cases. If you apply
15 that to our land area, you get a three and a half million
16 dollar value.

17 Now, the calculation ignores the home's land
18 value. When I put that slide up, I realize there are two
19 giant elephants in the room. One is this site is in
20 Gables Estates. My gosh, it's on this beautiful
21 waterfront lot. The other big elephant, which is not
22 quite so obvious, is the fact that this is an 11,000
23 square foot house, whereas most of the Parker houses were
24 relatively small. The houses that we found are somewhere
25 between 1,072 and 2,654 square feet. They're less than a

1 quarter of the size of the subject house we're talking
2 about here.

3 Now, everybody is pretty aware - I think our
4 next slides talk about pricing per unit based on size -
5 large houses don't -- all other things being equal, don't
6 sell for as much per square foot as little houses. Show
7 us our -- our Corn Flakes example. Go to buy Corn Flakes
8 at the store. You buy a big box, you pay less per ounce.
9 You go to buy houses in the market, you buy a big house,
10 you pay less per square foot. Same principle.

11 The only other indicator that we have of the
12 value of the house was the actual offer from someone who,
13 it's reported to us, was willing to keep the house and try
14 to renovate it and live in it. So that was our other
15 indicator as an actual market discussion where an offer
16 was made to pay \$5 million for this house.

17 So our conclusion is somewhere between three and
18 a half and \$5 million is the likely value of this
19 property, sitting where it is in its condition and its
20 design.

21 And one of the problem -- one of the things we
22 have to overcome is this -- one of the elephants, here
23 we're on Gables Estates. How do we allow for that. Well,
24 the challenge of the house, and I'm sure you all have seen
25 plenty of pictures taken from inside the house looking

1 out, is it doesn't take advantage of its site. It doesn't
2 look out at the water at all adequately, as you would
3 expect a house at that location to do. Its design
4 generally is not what the market wants today in a luxury
5 home. If you're gonna spend three and a half to
6 \$5 million, you kind of want a garage. You probably want
7 a nice bathroom with a big bathtub. You want a beautiful
8 modern kitchen. There are things that you want if you're
9 gonna spend that kind of money. You can't make the master
10 suite in this house look out on the bay because the
11 bathroom appliances, the fixtures and the closets occupy
12 all those walls that would have been windows. So there
13 are just issues about this house that don't take advantage
14 of its site. So that's one reason to say, well, yeah,
15 it's got that location, but it really isn't taking
16 advantage of the location in terms of the way the house is
17 laid out in design.

18 So then the next question is what's it worth if
19 we can take it down, if we can tear the house down. So we
20 went out and looked for the sales of the house -- of
21 property in Gables Estates. We talked to professionals in
22 the market, realtors who handled Gables Estates property.
23 And we -- these are the sales we were able to find. You
24 can see here that prices per square foot -- in this case,
25 the prices per square feet are per square foot of land.

1 Now, some of these had houses that were valuable and
2 contributed to the value of their respective lots; some of
3 them did not. The older houses in the luxury
4 neighborhoods in Dade County, particularly Coral Gables,
5 if they don't add any historic value, really don't
6 contribute to the value of the property. If you're gonna
7 buy a lot in Coral Gables and -- and want to have the joy
8 of living in a lovely home in Coral Gables, you're
9 probably gonna build a new house, especially in Gables
10 Estates. There's such a limited supply of waterfront
11 lots, particularly the size they are in Gables Estates,
12 that the owner -- the buyer of the property in this price
13 range is highly likely to remove the house. So any home
14 that was built more than about 15 years ago has a high
15 probability of being demolished.

16 So we considered all the sales in Gables Estates
17 that show on this map. Again, this is over the last
18 couple years, not going back to before the recession. And
19 we chose these as being most representative of sales in
20 the current market of sites. Now, four of these
21 properties actually had houses on them. But either
22 because the listing said here's an opportunity to demolish
23 and build your dream home or because they actually tore it
24 down, in one case the lot is actually vacant, we -- we
25 interpreted them all as being indications of land value.

1 Now, in some case these houses still stand today. You've
2 got a house sale in July 2011, sale in October 2011.
3 Those houses are probably there today. Those -- those
4 owners chose not to tear them down. That doesn't mean
5 that another buyer may have chosen to tear them down. So
6 we consider all of those to be land value indicators. And
7 you saw the range of prices. And we just took the range
8 that you saw, scraped off the top and the bottom, and said
9 okay, let's say we're somewhere between 115 and \$130 a
10 square foot. We just did the math. That's what this
11 slide is showing.

12 And we talked to the realtors. What's the
13 market doing these days. Are we coming out of the
14 recession. Supply and demand issues. How are things
15 going. And we're generally getting this strong feeling
16 that things are really beginning to pick up. That as
17 opposed to the gloom and doom of the last four years in
18 the real estate business, particularly in places like
19 Coral Gables, the values are really beginning to pick up.
20 So as of our date when we did this analysis and reached
21 this conclusion, which was May of -- May 31st of 2012,
22 which was the day we were given the tour of the house, we
23 concluded that a lot in Gables Estates, this lot in Gables
24 Estates, this size, this corner, this close to the bay, is
25 worth somewhere in the range of 10 to \$12 million. So,

1 therefore, as a house it appears to us the market data
2 indicates a value range of three and a half to \$5 million.
3 As land value it's somewhere between 10 and \$12 million.

4 And that's our conclusion.

5 CHAIRPERSON TACKETT: Thank you.

6 Is there anyone else from your team
7 presenting? Is that it?

8 MR. SMITH: No. We have -- First of all, I'm
9 probably gonna bring Mr. Gallaher back in rebuttal to
10 Mr. Waronker, who is the city's appraisal expert.
11 But I'm gonna excuse him at this time.

12 And now I'm gonna bring up Ms. Nicastri,
13 who is the real estate agent broker for this
14 property.

15 MS. NICASTRI: And I know some of you. Hi.

16 MR. SMITH: One second.

17 THEREUPON:

18 HELEN JEANNE NICASTRI,
19 having been duly sworn, testified as follows:

20 EXAMINATION

21 BY MR. SMITH:

22 Q First of all, I want to remind you that you were
23 sworn in and you're under oath.

24 And if you could please give the board a
25 background of your work and experience.

1 A So I'm Helen Jeanne Nicastri. And I'm with
2 Coldwell Banker Previews.

3 MR. SMITH: It's N-i-c-a-s-t-r-i.

4 A And I've been --

5 Q I'm sorry.

6 A Okay.

7 MR. SMITH: It's J-e-a-n-n-e.

8 A And I've been in the business for a long time,
9 those of you who know me. Probably over 30 years. And I
10 am a specialist in luxury waterfront homes, in particular
11 in Gables Estates. I'm a resident of Coral Gables as
12 well. I specialize in Coral Gables homes in Cocoplum,
13 Gables by the Sea, all the beautiful waterfront areas and
14 non-waterfront areas of Coral Gables, as well as Miami
15 Beach, as well as downtown, Brickell, et cetera. Fifty
16 percent of my business is with foreigners. So I am all
17 over, but I only sell them the best locations. And
18 usually for me the best is waterfront.

19 I just found out today actually that I am in the
20 top 500 worldwide for the NRT family of real estate
21 companies, which includes Coldwell Bankers, Sotheby's,
22 ERA. And actually I don't even know all the companies
23 that they own, but they own about six companies. And I
24 was just told today that I'm in the top 500. I'm the
25 number one top producer for Coldwell Banker, single agent,

1 for 2012. And I'm also the chairman of the Master Brokers
2 Forum, which is an organization that I founded in 1993.
3 So this organization are the top producing resident
4 realtors, residential realtors, in Miami-Dade County, in
5 Broward County and in Palm Beach County. And I am the
6 overall chairman. And we have a chairman for each county.
7 I'm sure if you saw the list of the -- our membership, you
8 would be very impressed. It's approximately 250 members
9 in each county.

10 And let's see, what else can I tell you.

11 Q I think that was impressive and sufficient.

12 Please tell the Board your history with this
13 property. When were you first retained and were you the
14 first agent and only agent on this property?

15 A I am the first agent. I'm the only agent on the
16 property. I listed the property in January of 2010.
17 Immediately had an offer from Dr. Tano. And Dr. Tano
18 tried for at least one year to buy this property, perhaps
19 over a year. He subsequently bought Pat Riley's house.
20 And he will be making, you know, big improvements to Pat
21 Riley's house.

22 He had to give up on buying this property
23 because he was unable to, after doing inspections and
24 everything, accept the property in its current condition,
25 and accept the fact that he had heard rumors that it was

1 going to be designated historic. It wasn't at the time.
2 But I don't know whether he came downtown, spoke with
3 anybody or investigated. But he finally submitted his
4 final contract, which was subject to demolition permit.

5 Q Do you remember the price of that contract?

6 A Well, originally we were in the 10 million
7 range. And I think he dropped it to 8.5.

8 MR. SMITH: Okay. Just so the Board is aware,
9 I'll be talking to her about various contracts and
10 written offers, all of which are attached to our
11 package which was submitted to the Board.

12 BY MR. SMITH:

13 Q At my request, did you go through your file and
14 your memory and look at your documents and prepare notes
15 in preparation for your testimony here today?

16 A Yes, I did.

17 Q Okay. And you have those with you?

18 A I have those notes with me.

19 Q So if need be, you know, please feel free to
20 refer to those. Could you please advise the Board as to
21 the present condition of the property, and if that was the
22 condition of the property January 1, 2010, when you became
23 the listing agent?

24 A Well, you know, I might interject here --

25 Q Sure.

1 A -- that I know B. Landon Carlin for many years.
2 I was a guest in the house for many years. I do know the
3 house in its glory days. And now I see the house as it
4 sits. B. came to me and said there is so much repair work
5 that is needed in this house, it is unfathomable for me to
6 repair this house. I need to build another house. I need
7 to move to another house. And I sold her another piece of
8 property. And she designed a new house. Unfortunately,
9 she became ill with cancer, because the house has
10 asbestos. And she was ill with lung cancer, which we
11 researched and we found out that asbestos is a leading
12 cause of lung cancer. And she subsequently died and never
13 got to build her new house.

14 But if you walk around the house, as perhaps
15 some of you who have or who know it or have visited it,
16 the foundation is cracking. You can see the iron work
17 underneath it. Even to walk --

18 CHAIRPERSON TACKETT: Can I interrupt?

19 MS. NICASTRI: Yes.

20 CHAIRPERSON TACKETT: Do we have any structural
21 reports or engineering reports or anything available
22 right now to us? It wasn't in our package. So I
23 don't think that we should take this testimony if we
24 don't have -- You're not an engineer, are you?

25 MS. NICASTRI: I'm not an engineer.

1 MR. SMITH: Okay. I'm gonna --

2 CHAIRPERSON TACKETT: So let's just move on to
3 the --

4 BY MR. SMITH:

5 Q The additional things that you can -- if you
6 refer to your notes. For instance, does the roof need --

7 A Okay. So the roof, the estimate, we do have an
8 estimate to repair the roof, and it's over \$500,000. We
9 do not have an estimate to repair the foundation. The
10 electrical system, the plumbing system, the marble
11 flooring, the chattahoochee. The pipes that are under the
12 house are bursting and they have to be repaired. And when
13 they are repaired, the flooring is not repaired. The pool
14 has been leaking since the beginning. The whole
15 foundation of the pool is cracked. And the asbestos needs
16 to be removed.

17 Q Is the house in its present condition current
18 with South Florida and appropriate building codes?

19 A No, it is not.

20 Q Okay. And in your opinion, can the house be
21 renovated and remodeled in a manner consistent with the
22 historic designation and yet still be, again in your
23 opinion, a house that would be sellable at the price that
24 you -- that you believe the house is worth?

25 A Well, I think the house has some distribution,

1 floor plan defects. It is made out of brick, which is a
2 very northern material. It's not something that we even
3 have in our marketplace, generally speaking. The areas
4 that are -- provide access to the amazing views are
5 blockaded. They are all either blockaded by a mechanical
6 room, by a guest room. They are blockaded by solid walls
7 where there should -- should be windows. There are
8 aspects to the house that -- in just the master bedroom
9 that even if one could demolish the bathroom and the
10 closets that line the -- let's say that line the walls,
11 and you took all the closets out and the bathroom, and
12 then you added the master bedroom into that, you would
13 still have not even the size of the closet that is for the
14 woman in the house next door.

15 So we have some size issues. We have some floor
16 plan issues. And we would have a lot of issues in
17 bringing the house up to the current code. Also making it
18 safe for children.

19 CHAIRPERSON TACKETT: Can I ask a question?

20 MR. SMITH: Sure.

21 CHAIRPERSON TACKETT: Have you consulted any
22 sort of architects or engineers, preservation
23 architects, to see if there could be additions done
24 to the house, or have you explored any of that?

25 MS. NICASTRI: Well, we spoke with Rafael

1 Portuondo. He came and visited the house. And he
2 rendered an opinion of the house.

3 MR. SMITH: And his opinion was no, that that
4 couldn't --

5 CHAIRPERSON TACKETT: He thought there was no
6 possible way. I don't -- I don't remember that.

7 MR. SILVA: Well, from what I remember of that
8 report, it was -- it was more kind of towards of an
9 analysis of the existing house. I'm not sure --

10 MR. SMITH: Sure.

11 MR. SILVA: Did you specifically commission him
12 to do a feasibility study --

13 MR. SMITH: Not --

14 MR. SILVA: -- on an addition?

15 MR. SMITH: Not for the purposes of our
16 presentation to the Board.

17 CHAIRPERSON TACKETT: Okay. So what the tes --
18 the testimony is the existing shell of the house as
19 it is now --

20 MS. NICASTRI: It has serious --

21 CHAIRPERSON TACKETT: You can continue.

22 MS. NICASTRI: It has serious problems both to
23 comply and be a safe house, as you are -- and safe, I
24 mean safety of the people living in it. If you had a
25 child, when you go upstairs to the master bedroom,

1 you have ledges with no handrailings.

2 CHAIRPERSON TACKETT: Right. That's how the
3 house is now, with --

4 MS. NICASTRI: That's how it is, right.

5 CHAIRPERSON TACKETT: -- no modifications.

6 MS. NICASTRI: Exactly.

7 CHAIRPERSON TACKETT: No work done.

8 MS. NICASTRI: You have all the balconies off of
9 the bedrooms have no ledges. There's no railings.
10 And if you start adding railings, you're taking away
11 from the architecture. And it's not --

12 CHAIRPERSON TACKETT: All right.

13 MS. NICASTRI: -- architecture.

14 CHAIRPERSON TACKETT: Just finish. You can go
15 ahead and finish your presentation.

16 BY MR. SMITH:

17 Q Is there a garage?

18 A There's no garage.

19 Q Okay. Is there sufficient staff room for -- for
20 staff?

21 A Well, not for today's -- what we consider staff
22 room today. I would say it's more of a storage room,
23 which they used to use as a staff room.

24 Q Is it your opinion this house is not a home
25 that's desirable for a modern family?

1 A Well, I found difficulty, because I find it's a
2 difficult house for a family. It's very difficult the way
3 the floor plan is and the distribution. And it would take
4 such an enormous amount of money just to repair the house,
5 not to renovate the house or not to restore the house.
6 Just repair, just make it function again, takes enormous
7 amount of money. It's not what customers coming to Gables
8 Estates are looking for. So it's really hard to convince
9 them that they should take 12 and a half million dollars
10 and they should buy what you all know of as a handyman
11 special, and then they should restore it to the design
12 that is antiquated and, you know, doesn't work for today's
13 living. It's not a greenhouse. It's not a techno -- not
14 a technological house.

15 Q The property owner has provided the Board, as I
16 stated at least twice now, four written contracts as well
17 as six written offers that were presented to you. Did you
18 submit all of those to the property owner?

19 A Yes.

20 Q Okay. Did any of those written contracts or
21 offers close?

22 A None.

23 Q Okay. And to speed this up, some have not
24 closed because the price was not sufficient for the -- for
25 the property owner. Did not believe that the price was

1 adequate?

2 A Well, some of them the price was not adequate
3 and some of them we could not comply with the terms.

4 Q Okay. And part of those terms was the fact
5 that -- that they did not want the house as it existed,
6 but wanted it basically as a buildable lot.

7 A Yes.

8 Q Is that correct?

9 Okay. And did you, based upon your experience
10 and expertise which you've provided the Board in the
11 beginning your testimony, have an opinion as to what the
12 value of this property is without the residence on the
13 property, as a vacant lot?

14 A Minimally in excess of \$10 million. I'm asking
15 \$12.5 million for the property. So somewhere in excess of
16 10, between excess of 10 to 12 and a half million as a
17 vacant lot.

18 MR. SMITH: Thank you, Ms. Nicastri.

19 Thank you. And I'm gonna now turn it over
20 to Ms. Spain. And I reserve the right to
21 rebuttal on her testimony.

22 CHAIRPERSON TACKETT: Staff?

23 MS. SPAIN: Okay. Before I make a presentation,
24 I'd like to ask Mr. Lee Waronker -- Am I pronouncing
25 that properly? You have in your packet a review of

1 the appraisal report. And I asked him to come here.
2 And I'd like him to speak to the appraisal report.

3 MR. WARONKER: Good evening. Lee Waronker,
4 W-a-r-o-n-k-e-r, real estate appraiser. Brief --
5 brief resume. I graduated Florida State University,
6 majored in real estate. Master's degree from Florida
7 International University in real estate. Appraising
8 in Miami-Dade County since 1977. I've taught
9 appraisal class in 20 or 30 different states, in two
10 different countries, with the Appraisal Institute.

11 Ms. Spain had asked me to look at
12 Mr. Gallaher's appraisal report and look at it
13 to see whether or not it was a document that
14 could be relied upon. I offered a document, I
15 believe -- I understand you have in front of
16 you, as to why, in my opinion, it could not be
17 relied upon. Rather than go through the whole
18 document, to keep it to close context, one of
19 the main questions that me as a realtor was
20 asking was, and I believe the gentleman asked
21 the same question, there was no documentation as
22 to what could be done with the house. Nobody
23 was interviewed to see whether or not you had to
24 keep the whole house, demolish half the house, a
25 third of the house, most of the house. Without

1 that information and the cost to do that, you
2 can't come to a rational conclusion of value.
3 The appraisal report is chock full a lot of
4 great data about the architect and uses an
5 average price per square foot and comes to the
6 conclusion of value based on the average price
7 per spare foot. I can remind you about the
8 statistician who drowned in the river where the
9 average depth was two inches, because it was an
10 average. Averages are not that great.

11 The appraiser goes on to talk about the
12 higher -- the larger the house, the less the
13 price per square foot. In most cases that's
14 true. However, if -- we do a lot of work in
15 Gables Estates, Star Island. And you'll find
16 that those houses are selling for a thousand to
17 \$2,000 a square foot, North Bay Road. So that
18 was kind of out of context.

19 I reviewed five of the land sales as I
20 drove by them. All five have homes on them.
21 Two are scheduled for demolition. Three homes
22 are being remodeled or renovated to some degree.
23 So those are not land sales. Obviously, the
24 person who bought them renovated them. And in
25 three of those cases will be using the house.

1 One is already using the house. So there's some
2 value that they put into the land. So there's
3 no way to tell what the land value is based upon
4 those sales. As you'll note in my report, two
5 of those sales were the highest prices per
6 square foot of the sales quoted to be land
7 sales. So that to me misled the reader as to
8 what the real value of the land would be.

9 There was no other attempt to look at
10 houses in Gables Estate nor to come up with a
11 value. And so to me the land value was
12 overstated by using homes. One case, and I'm
13 not clear on it, was a house that was reportedly
14 in the report selling for six million one fifty.
15 Public records in an e-mail has it at five
16 million one fifty. There was nothing in the
17 report to explain why there was a difference of
18 a million dollars in value, which is, per square
19 foot, raises it up about another 10 or \$20 a
20 square foot. So it was an overstated land
21 value, unless there's a reason for it. And
22 nothing was stated in the appraisal report.

23 So the question was put to me: Is this
24 something that you can rely upon? By looking at
25 the fact that the land value appears to be

1 overstated by some misquoting of land sales when
2 they're actually approved sales, by not
3 interviewing anybody in the City of Coral Gables
4 as to what you can do with the house, and no
5 data as to what it would cost to remodel, it
6 becomes apparent to the reader that you cannot
7 rely upon that. If the appraisal said here's
8 the value of the property and you can tear it
9 down and it's gonna cost you so much to remodel,
10 and when all that's done it's worth this, then
11 you can take out the cost to remodel and figure
12 out if there's a loss in value. At this point
13 in time, with the data in the appraisal report,
14 you cannot do that.

15 Any questions?

16 MS. SPAIN: Thank you. Kara, if you could
17 just -- I just want to go through the -- the slides
18 and the images of the home very briefly, to remind
19 you about what the house looks like. This is the
20 siding of the house. That's Mr. Parker's rendering.

21 The entry drive.

22 MS. KAUTZ: These are from the 1970s when it was
23 lived in. This is 2006.

24 MS. SPAIN: When you get to the aerial view, if
25 we have one, you can stop.

1 Stop. Okay. I just want to point this --
2 this photograph out, because this is a
3 photograph I believe from the living room out
4 towards what would be the open bay if that
5 section of the house is removed. And I can't
6 remember what's in that section. I think it may
7 be the -- the guest bedroom and --

8 MS. KAUTZ: Bath.

9 MS. SPAIN: And I would very much have liked or
10 would like to speak to an architect about the
11 possibility of taking that portion down, of the
12 house, because I believe it may still retain the
13 historic significance of the home. And then you
14 would have a view to the -- to the bay. And also
15 could do an addition in there. And I haven't -- have
16 not had the opportunity to speak to a potential buyer
17 about that.

18 Go ahead. We obviously got carried away
19 when we were inside the house. That's again --
20 go back. That's a view from the master bedroom
21 looking out towards the bay. So if you could
22 imagine on the ground floor, if that small
23 little pavilion piece was removed, you would
24 have a view to the bay, assuming your neighbors
25 wouldn't block it with vegetation.

1 CHAIRPERSON TACKETT: Dona, just a question. I
2 know you said you haven't spoken with any owners or
3 with any potential buyers of the property. Have you
4 spoken with the listing real estate agent or any
5 other real estate agents? Have they come to you to
6 question what could be done with the house?

7 MS. SPAIN: I don't believe so. We had -- we --
8 we were there with the listing agent, but there's --
9 there has not been a serious discussion --

10 CHAIRPERSON TACKETT: Okay.

11 MS. SPAIN: -- about doing addition to the
12 house, that I'm aware of.

13 CHAIRPERSON TACKETT: About partial demolition.

14 MS. SPAIN: About partial demolition.

15 CHAIRPERSON TACKETT: Okay.

16 MS. SPAIN: Not that I'm aware of.

17 So I would just ask -- Is Bridgette here?
18 She just stepped out. Okay. I'll ask her when
19 she comes back.

20 So I'd just like to refer very briefly to
21 the zoning code. There are -- when you're
22 talking about a Certificate of Appropriateness
23 for demolition, you are required to consider the
24 criteria that's in the zoning code. And so if
25 you refer to our Staff Report, we went through

1 those conditions. And the first one is, "The
2 degree to which the building, structure,
3 improvement or site contributes to the historic
4 and/or architectural significance of the
5 historic site or district." And we believe that
6 it does. It was designated for its historical,
7 cultural significance, architectural
8 significance, and is of exceptional importance.
9 And all of those are based on the structure.
10 There are some designations that are not based
11 on the structure. But in this case, it's the
12 architecture of the structure. It's the way the
13 structure relates to the environment. It's the
14 people that lived there. But we believe that
15 it's -- it's -- contributes to a great degree
16 to -- to the site. And if you remember, Barbara
17 Mattick, who was a Deputy State Historic
18 Preservation Officer for the Florida Department
19 of State, Division of Historical Resources, she
20 wrote a letter saying that although this
21 building is less than 50 years of old -- less
22 than 50 years old, it is her office's opinion
23 that the building meets the criteria for
24 exceptional significance and could be listed in
25 the National Register. So it's not just locally

1 significance. It has national significance.
2 And so we believe in this criteria, the loss of
3 this building would significantly and negatively
4 impact the historic integrity of the site.
5 That's criteria number one.

6 No. 2, "Whether the building, structure,
7 improvement or site is one of the last remaining
8 examples of its kind in the neighborhood,
9 country or region." And this is not the last
10 remaining example of -- of that type of
11 architecture in the reason -- region. It is a
12 one-of-a-kind statement of architecture. And so
13 that in that case it is unique. And within the
14 Gables Estates neighborhood there were a total
15 of four Parker designed homes. One was
16 demolished in 1994. And 16 homes were permitted
17 in Coral Gables. We have three on our local
18 Historic Registry. One is at 915 Bayamo, which
19 was constructed in 1954. The other one is 6801
20 Granada Boulevard, which was constructed in
21 1951. So this is the only one that we have on
22 the Registry that was done in the -- later in
23 the 1960s.

24 The third criteria is, "Whether the loss of
25 the building, structure, improvement or site

1 would adversely affect the historic and/or
2 architectural integrity of the historic site or
3 district." And we believe that it would be
4 extremely detrimental to demolish this home.
5 The historic designation again is based on the
6 building being there. It is -- has multiple
7 areas of significance. It's one-of-a-kind
8 residence. It is an example of the tropical
9 modern school. And again, it's based on the
10 structure. And again, I want to point out that
11 they could add a garage. They can -- they can
12 do a large addition to the property. That I
13 don't believe has been contemplated.

14 No. 4, "Whether the retention of the
15 building, structure, improvement or site would
16 promote the general welfare of the city by
17 providing an opportunity for study of local
18 history, architecture and design or by
19 developing an understanding of the importance
20 and value of the particular culture or
21 heritage." And I really believe that every time
22 we designate a structure in this city, it adds
23 to the understanding of the history of the City
24 of Coral Gables. It's extremely important that
25 the historically designated homes remain. And

1 although this is a single-family home, I think
2 that the structure does provide an opportunity
3 to study architecture and design. I mention in
4 the report that this ordinance is one of the
5 strongest certainly in the state. And it has
6 been revised, revised and revised again to
7 strengthen it. And it's a testament to -- to
8 the City Commission, to the elected officials,
9 that they have through the years strengthened
10 the Historic Preservation Ordinance. And that's
11 why Coral Gables is known for historic
12 preservation.

13 No. 5, "Whether architectural plans have
14 been presented to the Board for the reuse of the
15 property if the proposed demolition were to be
16 carried out, and" -- Can you hear me over that?

17 THE REPORTER: Yes.

18 MS. SPAIN: "And the appropriateness of said
19 plans to the character of the historic site or
20 district, if applicable; and demonstration as well as
21 the posting of a bond requirement that there are
22 sufficient funds in place to carry out such plans."
23 Mr. Smith in -- in his application said that while
24 there are no present plans for the demolition of the
25 structure, they are seeking their certificate to aid

1 in the sale. And I have not seen architectural plans
2 for a house.

3 "Whether the building, structure,
4 improvement or site poses an imminent threat to
5 the public health or safety." That's criteria
6 No. 6. We believe it does not. No. 7.
7 Although I will say, if you look at those
8 slides, it has fallen to somewhat disrepair.
9 There are some of the steps, the surface are
10 fallen. And so we are monitoring it with Code
11 Enforcement, because that may be an issue.

12 "Whether the applicant has demonstrated
13 that the retention of the building, structure,
14 improvement or site would create an unreasonable
15 or undue economic hardship." We found the
16 original permit, No. 19048B, which was issued on
17 May 2nd, 1966, and it listed that the cost of
18 the construction was \$329,000. That doesn't
19 include the cost of the land, but that's the
20 cost of the construction. That's No. 1, they're
21 talking about the economic hardship. No. 2 was
22 the assessed value, and I would just refer you
23 to the applicant's submittal. The real estate
24 taxes are also in his submittal. There is no
25 debt service on the property. The appraisals

1 are in his submittal. Any listing of the
2 property for sale or rent are in the applicant's
3 submittal. I will say, although I'm not no real
4 estate expert, I did not see, other than one
5 letter in there saying that it was contingent on
6 the demolition. The other --

7 MS. KAUTZ: The contracts.

8 MS. SPAIN: Contracts. I couldn't find that.
9 In fact -- and again, you all are -- are more up on
10 these things. But these contracts talk about
11 together with the existing improvements, and are all
12 in as-is condition. Together with all existing
13 improvements and attached items, including fixtures,
14 built-in furnishing, major appliances. And so these
15 are as-is, typical for historic residences contracts.
16 And I'm not sure that -- I just couldn't find
17 anywhere what they were contingent on it being
18 demolished.

19 And so we believe that the -- the claim of
20 undue economic hardship has not been
21 substantiated. There is a definition of
22 economic hardship in the zoning code, which is
23 "an exceptional financial burden that would
24 amount to the taking of property without just
25 compensation, or failure to achieve a feasible

1 economic return in the case of income producing
2 properties." And typically in claims of undue
3 economic hardship, the burden of proof rests
4 entirely on the applicant. And we believe,
5 staff believes that the applicant has not proved
6 an economic hardship.

7 What's been consistently legally upheld is
8 that there is no undue economic hardship or
9 taking of the property if they can realize a
10 reasonable return on the investment. And so the
11 testimony here, I believe, was that they were
12 offered \$5 million, which was not market value.
13 So they built it for 300 and some thousand and
14 are now, even in the least amount, being able to
15 get 5 million.

16 And I would also like to point out that
17 there is an ad valorem tax relief in place. So
18 if they were to restore the property and do an
19 addition to the property, the -- the appraisal
20 of the addition plus the restoration cost could
21 be, if they applied for it, frozen for ten
22 years. And so the property taxes would be zero
23 on that portion. And that is an economic
24 benefit for keeping the designation on the
25 property.

1 And also, while I'm thinking about it, they
2 are not asking for the removal of the
3 designation. They're asking to demolish a
4 historic structure.

5 And -- and finally, Kara, if you could hand
6 out the motion.

7 And also, Bridgette, I'd like to ask the
8 deputy city attorney, a lot of the arguments
9 that they gave were -- weren't in their packet,
10 and so I guess are hearsay. And is -- is
11 that --

12 MS. KAUTZ: Misleading.

13 MS. SPAIN: Is that applicable?

14 MS. RICHARD: Well, generally, before a
15 quasi-judicial board the Rules of Evidence are relax,
16 somewhat more permissive. So hearsay could be
17 admissible, but it needs to be supported by other
18 evidence. So maybe some other documentary evidence
19 that would support a claim of hearsay. That's just
20 an example.

21 MS. SPAIN: Okay. Thanks.

22 MS. RICHARD: But by itself it's a problem.

23 MS. SPAIN: So do you want to talk about highest
24 and best use?

25 MS. KAUTZ: I actually wanted to go back to what

1 Dona had said about the two things that have been
2 consistently upheld under the economic hardship.
3 One, of course, the realizing a reasonable return on
4 your investment. And the second is addressing a
5 viable use of the property and whether a viable use
6 remains. And in this case, yes, there is a viable
7 use for the property. It remains viable as a
8 single-family home. The owners can continue to use
9 the property as had -- was intended all along and
10 what it was built for if the demolition request is
11 denied.

12 Again, also, the property, there has been
13 no substantial proof submitted besides what was
14 stated that there are costly renovations that
15 need to be made to this property. So it is
16 currently habitable and can remain in use as a
17 resident -- as a residence. And additionally,
18 the house could be rented in the meantime as
19 well to continue its viable use.

20 So I did want to make that point.

21 MS. SPAIN: So I think Kara passed out the -- a
22 revised motion. After speaking with the city
23 attorney, we revised the motion that we're
24 recommending. And Historic Resources Department
25 Staff recommends the following. For economic

1 hardship. And there should be two motions. "A
2 Motion to adopt staff's finding and report, and to
3 find that the applicant has not demonstrated that the
4 denial of Special Certificate of Appropriateness for
5 demolition of the property would cause an exceptional
6 financial burden such that it would amount to a
7 taking of property without just compensation under
8 the standard outlined by the U.S. Supreme Court in
9 Penn Central Transportation Corporation versus New
10 York City."

11 And the second motion, concerning the
12 demolition or Special Certificate of
13 Appropriateness. "A Motion to find that the
14 applicant has not met the required criteria
15 outlined in Section 3-1107(D) of the Coral
16 Gables Zoning Code for the issuance of a Special
17 Certificate of Appropriateness for demolition."

18 And we're happy to answer any questions you
19 might have.

20 CHAIRPERSON TACKETT: Does the Board have any
21 questions for staff?

22 Is there anyone else in the public that
23 wishes to speak on this item?

24 Counselor, do you have --

25 MR. SMITH: Just request permission for --

1 CHAIRPERSON TACKETT: Couple minutes.

2 MR. SMITH: A couple minutes. In fact, I can
3 speed it up.

4 In regard to Mr. Waronker's testimony, we
5 prepared an analysis. We just got his report
6 yesterday. So we would like to, instead of
7 calling him and cross-examining him and bringing
8 back Mr. Gallaher, we'd like to file, just so
9 it's part of the record, our analysis of his
10 review of the --

11 CHAIRPERSON TACKETT: But did the Board -- does
12 the Board have that in our packages?

13 MR. SMITH: No.

14 CHAIRPERSON TACKETT: No.

15 MS. SPAIN: Not that. We have -- we have his
16 report.

17 CHAIRPERSON TACKETT: Right. So is that
18 appropriate to put in the record, if the Board hasn't
19 reviewed?

20 MS. RICHARD: Well, it's -- it's up to you,
21 Ma'am Chair, whether you would like to accept that.

22 CHAIRPERSON TACKETT: I don't want to accept it
23 without -- without looking at it so we can discuss
24 it. I don't want something in the record that the --
25 the Board has -- doesn't have the ability to discuss.

1 MR. SMITH: Understand, we just got -- based
2 upon -- and it was no fault of historical staff, but
3 we were -- this was done on an expedited basis and
4 certain things they didn't even get to us until
5 today.

6 CHAIRPERSON TACKETT: I mean, do you have copies
7 for the Board so that we can --

8 MR. SMITH: No.

9 CHAIRPERSON TACKETT: -- have that?

10 MR. SMITH: But I can make copies and provide
11 them to the Board. If we can have those made.

12 CHAIRPERSON TACKETT: I mean that's --

13 MR. SMITH: Is that possible, just to have eight
14 copies made? Just -- the purpose is -- is just so
15 that I can put it in the record so it's part of this
16 record.

17 CHAIRPERSON TACKETT: Well, would you read it --

18 MS. ROLANDO: Perhaps --

19 CHAIRPERSON TACKETT: -- into the record?

20 MS. ROLANDO: Perhaps what we could do is have
21 the copies made, and take a 10, 15-minute break so
22 that we can read what's being tendered.

23 CHAIRPERSON TACKETT: Well, I think we're
24 running short on time. We're gonna lose two members.

25 MS. ROLANDO: Oh, okay. Got it.

1 CHAIRPERSON TACKETT: Shortly. So would you
2 like to read it into the record?

3 MS. RICHARD: Excuse me, Ma'am Chair. We can --
4 I can have our legal fellow make copies to present to
5 all of you, if you would like, or --

6 CHAIRPERSON TACKETT: Let's -- let's just have
7 the attorney read it into the record and we can put
8 it in the record.

9 MR. SMITH: Let me -- let me read --

10 CHAIRPERSON TACKETT: Or you could summarize it
11 for us.

12 MR. SMITH: Well, I'll read it into the record.
13 We found Mr. Waronker had 13 objections. The first
14 was that the -- the letter of transmittal by
15 Mr. Gallaher did not state that he spoke to the city
16 regarding the significance of the architect. We
17 believe that that's irrelevant as to Mr. Gallaher's
18 findings. It's undisputed that the overruling reason
19 the house was declared historic was that it was
20 designed by Alfred Browning Parker.

21 The second was that there was no discussion
22 or analysis relating to whether the house -- I'm
23 sorry. That Mr. Gallaher was instructed to
24 provide an analysis as to whether the fact the
25 residence was designed by Alfred Browning Parker

1 adds a premium to its value, assuming that the
2 residence could not be demolished. Mr. Waronker
3 said this is an improper criteria for analysis.
4 He believes that it should have been if there
5 was a loss if the residence was demolished. And
6 he is critical that there is no analysis as to
7 the cost of renovation of the residence or any
8 part thereof. We believe that that objection is
9 not relevant. That Mr. Gallaher was instructed
10 to value the property if the residence was
11 demolished and if the value could not be. He
12 was further instructed to base that whether or
13 not Alfred Browning Parker added value to the
14 residence, to determine if that belief was true.
15 He was not asked to determine issues relating to
16 partial demolition or renovation, as these
17 options are not in the interest of the property
18 owner, nor have they been of interest of the
19 prospective buyers.

20 The appraisal states various listing prices
21 for the property during different periods of
22 time. Mr. Waronker's objection was that it does
23 not mention the fact that the current listing
24 price is twelve ninety-five. We believe that's
25 not relevant as to Mr. Gallaher's analysis,

1 because at the end of the day he came out with a
2 valuation of 10 to \$12 million, which is
3 certainly within the range of the listing price.

4 The present listing for the property by
5 Ms. Nicastrri states an opportunity to restore
6 and renovate the 11,183 foot -- square foot
7 home. He objects that the appraisal does not
8 mention restoration or renovation. We believe
9 that's not a valid objection. The listing is
10 being advertised as we best as it could in a
11 creative manner because the house presently
12 can't be demolished. The listing --
13 Mr. Gallaher was not asked to determine issues
14 relating to the renovation, as to his -- as this
15 option is not in the interest of the property
16 owner, nor has it been in the interest of
17 potential buyers.

18 Mr. Gallaher -- Mr. Waronker talks about
19 highest and best use and that there's no
20 discussion about renovation and partial
21 demolition. And again repeating, Mr. Gallaher
22 was not asked to determine issues relating to
23 partial demolition or renovation, as these
24 options are not in the interest of the property
25 owner, nor have they been in the interest of

1 potential buyers.

2 Then in regard to the five comparable
3 properties, Mr. Waronker talks about the fact
4 that only one is a vacant property. And though
5 Mr. Gallaher treats them as vacant properties,
6 Mr. Gallaher explained that based upon the age
7 of the comparables where there are residents,
8 that it's proper not to attribute value to
9 the -- to the residence.

10 Mr. Waronker claims that the price listed
11 by Mr. Gallaher for 2 Leucadendra Drive is
12 5,150,00, not 6,150,000. Mr. Gallaher obtained
13 that information based upon talking to the
14 realtor. This price changes the price per
15 square foot used by Mr. Gallaher from \$119.10 to
16 \$99.73 per square foot. That has no impact on
17 Mr. Gallaher's ultimate analysis relating to
18 these properties, as evidenced by his testimony
19 that he took out the low and the highs and used
20 the range from 115 to 130. This would now
21 become the low property and, therefore, it would
22 have been thrown out.

23 The purchase price of 225 Leucadendra Drive
24 Mr. Waronker says intends to put 1 million to
25 \$2 million improvements into the property. He

1 said these improvements would affect the land
2 to -- to building ratio. First of all, you
3 mentioned hearsay. This is double hearsay, what
4 a property owner told a real estate agent, which
5 real estate agent told Mr. Waronker. So if
6 there's any hearsay issues, you know, that
7 certainly is concern -- is a -- is a criticism.
8 The other is the possible improvements do not
9 affect Mr. Gallaher's analysis which were based
10 upon land values, and the improvements would be
11 subsequent to after the sale that Mr. Gallaher
12 considered.

13 Just briefly, four more. The comparable at
14 488 Arvida Parkway sold for \$5,830,000.
15 Mr. Gallaher information was that it was six
16 million. This changes the price per square foot
17 from 144.99 to \$140.90 per square foot. Again,
18 that has no affect on Mr. Gallaher's appraisal,
19 because this would then be the high end, and
20 that was not used within the range that
21 Mr. Gallaher used in his analysis.

22 As to Mr. Waronker claims that improvements
23 were done after the purchase that Mr. Gallaher
24 did not consider in regarding -- in regard to
25 480 Arvida Parkway. Remodeling was not a factor

1 in the purchase price and could not -- should
2 not have been considered by Mr. Gallaher.

3 Next, Mr. Waronker brings up 585 Arvida
4 Parkway which sold for 5,860,000.
5 Mr. Waronker's objection is that this large
6 house of 10,166 square feet was in need of
7 renovation and was not demolished. We believe
8 that's irrelevant based upon the fact that
9 Mr. Gallaher used the sales price and applied
10 that to -- to his methodology.

11 The analysis, the Alfred Browning Parker
12 homes used by Mr. Gallaher, Mr. Waronker
13 objects. He claims that there was no discussion
14 as to whether the Alfred Browning Parker homes
15 are comparable to the residence in question.
16 Again, Mr. Gallaher was asked to determine
17 whether, in fact, the house designed by Alfred
18 Browning Parker adds value to a house, not in
19 comparison to this specific house. He was not
20 asked to compare the residence with the Alfred
21 Browning Parker homes used in his analysis.

22 And finally, the analysis of lot sizes of
23 the comparables in Gables Estates,
24 Mr. Waronker's objection, he claims that the
25 fact that there was no adjustment was made for

1 the size of the lots of the comparables in
2 Gables Estates does not exercise -- quote,
3 exercise rational judgment. Mr. Gallaher
4 explained in his testimony in going through his
5 appraisal this issue. In addition,
6 Mr. Gallaher's methodology was using a range
7 based upon price per square foot and not relying
8 on the highs and low prices, which is sound and
9 appropriate. The fact that there's not an
10 adjustment for size does not compromise the
11 appraisal.

12 Thank you for your patience.

13 Just two other short things. One is
14 Ms. Spain mentioned that the only -- she only
15 found one contract in which there was a specific
16 demolition clause; the rest were as-is. There
17 was only one in which it was specifically
18 provided that it was contingent upon demolition.
19 But the phrase "as-is" means, and as
20 Ms. Nicastrì could testify, if necessary, that
21 they were during that period of time, and each
22 of those contracts provides, if the Board would
23 look at them, for a period of inspection. It
24 was during that inspection period where they
25 determined among other things the fact that they

1 would not be able to demolish this property, in
2 addition to finding out the extent of the
3 improvements that were required in order to
4 properly repair the house and bring it into good
5 order.

6 Finally, I want to go back and state,
7 because the discussion continues to be, well,
8 you know, there possibly are ways to renovate
9 and remodel this house in order to make it
10 sellable at a -- at a reasonable and appropriate
11 price. No one has said at fair market value.
12 It's important that I, you know, remind the
13 Board, which is where I started, that this is
14 not a family. This is not a couple. This is an
15 estate. And the beneficiary of this estate is a
16 foundation. And to -- it is unrealistic and
17 it's unfair to expect that a foundation, a
18 charitable foundation, is going to expend
19 millions of dollars in order to bring this house
20 up to whatever -- both code and -- and
21 historic -- historic consistency with what this
22 Board would require in order for it to sell its
23 property at a price that probably isn't fair
24 market value.

25 The Historic Preservation Staff did not

1 speak regarding the possibility of demolition of
2 the guest house and the possibility of additions
3 to the house. It was -- it was not discussed.
4 It's not something that the -- that the estate
5 or the property owner specifically would be able
6 to comply with.

7 And finally, the house is not rentable.
8 The amounts of money that I'm talking about and
9 that you've heard about, millions of dollars,
10 would have to be invested, taking money away
11 from the foundation in order to put it in a --
12 in a rentable position.

13 So we think that based upon the testimony
14 of Mr. Gallaher and Ms. Nicastrri clearly shows
15 that the economic hardship suffered by the
16 property owner is somewhere between five and
17 eight and a half million dollars, and that is a
18 significant amount. And that based upon, you
19 know, both the City of Coral Gables and the
20 requirements of the Bert J. Harris Act, we
21 believe that we have met our burden.

22 CHAIRPERSON TACKETT: Thank you.

23 MR. SMITH: Thank you. And I appreciate your
24 patience.

25 CHAIRPERSON TACKETT: Anyone else in the public

1 that wishes to speak on this item? If not, we'll
2 close the public hearing and open it up to Board
3 discussion.

4 MS. SPAIN: I'd just like to point out that I --
5 I passed out just now a letter from Martha Kohen, who
6 is a professor at the University of Florida, School
7 of Architecture. I'd like to read it into the
8 record, since you are just receiving it.

9 MS. ROLANDO: Dona, there's no date on it. Do
10 you know the date, approximate date?

11 MS. SPAIN: She e-mailed this to us.

12 MS. KAUTZ: It was received yesterday.

13 MS. SPAIN: Yesterday.

14 "Reference: A letter to defend the Landon
15 house by Alfred B. Parker from demolition. Dear
16 Sir/Ma'am, I would like to emphatically ask you
17 to protect this house in 2 Casuarina Concourse.
18 It is a very significant example of the mature
19 work of Mr. Parker, where he was able to
20 synthesize in a simple form the complexity of a
21 sophisticated program, and he has done so in an
22 extremely beautiful way. Here at the University
23 of Florida, we keep Mr. Parker's lifetime work,
24 and our students are continuously learning from
25 this master of Florida modern architecture. We

1 have published his memoirs. He has been honored
2 yearly in his lifetime, as we consider him the
3 most outstanding alumnus from our School of
4 Architecture. The house was published recently
5 in a wonderful monographic book authored by
6 Randolph Henning, *The Architecture of Alfred*
7 *Browning Parker, Miami's Maverick Architect,*
8 *University Press of Florida, 2011.* His
9 buildings were made to last and stand the test
10 of time with integrity. The quality of the
11 design and the materials is extraordinary. I
12 sincerely hope that you will protect the house
13 from the current threats and keep us in your
14 mailing list for news. My best regard, Martha
15 Kohen, Professor."

16 And I'd also like to point out that we did
17 not ask Mr. Waronker to do an appraisal. We
18 asked him to review the appraisal that the
19 applicant provided.

20 Do you have anything to add, Kara?

21 MS. KAUTZ: Yes. Actually, just two items. In
22 doing research in preparing the report, we didn't
23 include it in the report, but there is case law that
24 supports the fact that even if a charitable
25 organization does own a historic designated property,

1 and realizing a higher price for its property, it's
2 not relevant to whether or not it's -- the ownership
3 isn't relevant, basically.

4 And the other thing I wanted to bring up is
5 that what was consistently brought up within the
6 appraisal and by Mr. Smith was the loss of the
7 highest and best use of the property. And that
8 it's -- it's -- quoting, "Based on the results
9 of the valuation analysis below, the value of
10 the property as a usable site is significantly
11 greater than as an existing residence.
12 Therefore, the highest and best use of the
13 property, outside the limitations of the Coral
14 Gables historic preservation regulations" --

15 THE REPORTER: I'm sorry.

16 MS. KAUTZ: Sorry. Sorry. That's okay.

17 "Based on the results of the valuation
18 analysis below, the value of the property as a
19 usable site is significantly greater than as an
20 existing residence. Therefore, the highest and
21 best use of the property is to raze the existing
22 building and improve the property with a new
23 single-family home."

24 THE REPORTER: I'm sorry.

25 MS. KAUTZ: Sorry. Try again. "Therefore, the

1 highest and best use of the property is to raze the
2 existing building and improve the property with a new
3 single-family home."

4 Again, we did find historic preservation
5 case law again strongly taking the stance that
6 the property owner is not entitled to the
7 highest and best use of the property. How much
8 income could be derived if a historic property
9 is demolished is not germane to the issue of
10 economic hardship. And in the report we quoted
11 a case -- case, Kalorama Heights versus District
12 of Columbia, where they quoted that if there is
13 no -- sorry. I'll make it slow. "If there is a
14 reasonable alternative economic use for the
15 property after the imposition of the restriction
16 on that property, there is no taking, and hence
17 no unreasonable economic hardship to the owners,
18 no matter how diminished the property may be in
19 cash value and no matter if 'higher' or 'more
20 beneficial' uses of the property have been
21 proscribed."

22 CHAIRPERSON TACKETT: Thank you.

23 Mr. Torre?

24 MR. TORRE: I'd like to speak to two matters.

25 One is a historical matter and then the second would

1 be to the economic factor that we're talking about.
2 I think the two will come together towards the end.
3 The first part that I -- comes to my mind is the
4 issues that were brought up by Mr. Gallaher about the
5 value of that house as it relates to the fact that
6 Mr. Parker was the architect. And the first thing
7 that comes to mind is Vincent van Gogh sold only one
8 painting during his lifetime. And I would love to
9 have one of his sketches right now no how bad -- no
10 matter how bad that sketch would be.

11 The second thing that comes to my mind is
12 how I walked on Lincoln Road maybe 10 years ago
13 and saw the beginning of what I thought, Jesus,
14 if I could only own something on Lincoln Road.
15 And -- and I saw an article yesterday that said
16 that two buildings had sold for \$130 million on
17 Lincoln Road.

18 And the third thing that comes to mind is
19 the issue of the '50s architecture and '60s
20 architecture coming to being now. And how I
21 wish I had could have bought the Vagabond Hotel
22 10 years ago and how much that could be worth
23 maybe 10, 15 years from now.

24 So it relates to how much is a house
25 from -- from this gentleman gonna be worth in

1 the future. That's a big question right there.

2 How that ties to the -- to the economic

3 situation is, I look at it from the -- from the

4 economic factor and from the business factor.

5 And I look at it from the part that I know best.

6 And, you know, this house could be possibly

7 rented for maybe \$15,000. I'm gonna speak first

8 and then you can rebut that.

9 MS. TURNER: How much?

10 MR. TORRE: I can rent a house anywhere in north

11 Gables and it's gonna be 4, \$5,000. I can go to any

12 neighborhood, \$5,000. And I know of executive homes

13 that rent for 20, 30, \$40,000. So I maybe can make a

14 reasonable number of \$15,000. Call it whatever.

15 That's \$180,000 a year. If you use your number of

16 \$4 million, that's a three and a half point return.

17 Three and a half return is a decent return. Now, I'm

18 not doing anything except renting a house. Maybe

19 it's not the best house in the world. But just from

20 a location standpoint, I think I can rent that house.

21 Just because I'm in that location, I can take

22 somebody from somebody else and probably move them

23 there, no matter if that house is not the most

24 perfect house. If you took that house and razed it

25 and put another house on it, you're gonna have to

1 spend maybe \$10 million. Ten, ten for the land, ten
2 for construction. \$20 million to get three and a
3 half return, I have to rent the house for \$720,000.
4 That doesn't -- that doesn't relate -- it will never
5 happen. So the fact that the house stays as
6 business -- as a business move is not that crazy. If
7 you were to put somebody and say you want to make
8 three and a half, you know, we're getting one point
9 on CD's. There's a return on that house, no matter
10 how small, that is reasonable. And that, from the
11 economic hardship situation, I think if you box a
12 little bit the issue whether you have to sell the
13 house to make the house be reasonably, economically,
14 you know, a return. So if you just rent that house,
15 maybe you'd hit the Lotto and that house ten years
16 from now is worth 20 or \$30 million, well, the whole
17 thing kind of comes together for me. So I think just
18 the fact that you can rent that house and probably
19 make do kind of throws that whole thing out for me on
20 the economic hardship. But to me that's just, you
21 know, it's right there. That's it in a nutshell.

22 CHAIRPERSON TACKETT: Okay.

23 MR. SILVA: I have something.

24 CHAIRPERSON TACKETT: Dolly. Dolly was --

25 MR. SILVA: You sure?

1 I have a couple concerns relating, and they
2 kind of break down into appraisal issues and
3 issues of the offers. Really comments, I guess.
4 Are you sure -- First of all, I appreciate the
5 work that you all did and the appraisal and
6 presenting to us today. I know the attorneys
7 did the right thing in preserving the maximum
8 value on the property for a charitable
9 foundation. I do understand that. But I do
10 share a lot of Mr. Waronker's concerns about the
11 land valuation, specifically about the way that
12 the building value was calculated using sales in
13 like the worst economic time period available,
14 and the land value was not calculated in the
15 same way, I think. I question why the appraisal
16 was capped at \$5 million when your calculations
17 came out to about three and a half million
18 dollars. And it seems like the only reason the
19 appraisal was -- was capped at five was because
20 they had an offer in hand for five. To me, an
21 offer in hand at five means maybe there's a
22 little bit more top end there. But mostly I'm
23 concerned that there were kind of only two
24 options valuated. One was a complete demolition
25 and the other was leaving the house as-is. I

1 think there's a middle ground there that would
2 add value to the property and would allow it to
3 be valuated at a higher price, and that would be
4 an addition. Remember, this Board has the
5 capacity to grant variances if -- if it's in
6 line with a historic property. I think there's
7 a lot that could be done with that property.
8 And I wish that -- that some of the funds that
9 had been diverted to -- to -- to that
10 architecture report where we talked about the
11 negatives of the property, maybe some funds
12 could have been expended to do a feasibility
13 study as to what could be built there. And that
14 would go a long way towards eliminating buyer
15 uncertainty. A lot of times people are afraid
16 to put in an offer if you're telling them no
17 demolition. They interpret that maybe in their
18 own minds that nothing else can be done, where
19 there is a middle ground. And I don't think
20 that middle ground was captured in the
21 appraisal.

22 And my other issues were with the offers
23 themselves. As Dona said, there was only one
24 offer that was expressly contingent -- to my
25 eyes again, that was expressly contingent on

1 demolition. And I have no idea why the other
2 ones fell through. There was nothing in our
3 package that stated why the other offers fell
4 through. There was no home inspection reports.
5 For all I know, the buyer could have failed to
6 secure financing. I have no idea. But I do
7 have that concern about the offers that were
8 presented today.

9 Thanks. Those are my comments.

10 CHAIRPERSON TACKETT: Dolly?

11 MS. MACINTYRE: Addressing the appraisal, I
12 think that Mr. Gallaher did certainly an exceptional
13 job of research. It's wonderful for the increase in
14 our knowledge of Parker work. But I think it also
15 shows us that each of his buildings is rather
16 individual. And to try to make generalizations about
17 square foot value and so forth may be a little futile
18 in this particular case.

19 I'd also like to say that I'm not convinced
20 this property has been aggressively marketed to
21 the right audience. Now, you all said that you
22 didn't advertise in the Preservation magazine
23 because other houses were so much less. That's
24 really not true, if you look at it. I look at
25 that magazine every month and I look at every

1 single ad. And I know that the values range
2 from multi million dollars to, if you're lucky,
3 \$100,000 log cabin in pieces. I also know that
4 the readership of that magazine is a very
5 wealthy, well-educated, historically minded
6 readership that's been, to my knowledge, totally
7 missed. I've never seen an article in the paper
8 about this wonderful house, not even in that --
9 that Saturday home section. So I -- I question
10 whether the sales process, the marketing process
11 rather has really been properly targeted. I
12 know there's somebody out there for whom that is
13 the house. I'd like to think it would be Ellen
14 Degeneres, if we could get hold of her.

15 The other thing I would say is I'm
16 disappointed that the house has been allowed to
17 sit there empty for three years. It's almost
18 demolition by neglect. You could have gotten a
19 house sitter if you couldn't rent it. There are
20 people who would have loved to live there and
21 just take care of it for you. But that didn't
22 seem to happen either.

23 And I'm not convinced that there's an
24 economic hardship. As I read the Grand Central
25 case and all the stuff, all the documentation we

1 were given, I don't see that there's an economic
2 hardship here.

3 CHAIRPERSON TACKETT: Dorothy?

4 MS. THOMSON: Yeah. Okay. Well, here I go
5 again. Probably the only one that's gonna have an
6 opposite view. Okay.

7 All right. As I stated previously, I
8 probably will be the only one on the Board,
9 although I really haven't heard from one or two
10 others here, to take an opposite view. I did at
11 the last meeting, I guess, when we had the Miami
12 Herald building up for discussion. I was the
13 only one that voted against it then. So with
14 that in mind --

15 MS. TURNER: I abstained.

16 MS. THOMSON: And Garlin, yeah, you were --

17 MS. TURNER: Kendall.

18 MS. THOMSON: -- on the edge. But nevertheless,
19 the vote was taken. And I'll probably be the same
20 one today. And let me tell you the reason, that I've
21 listened to both sides. I have reread the transcript
22 from the February 2012 meeting that we had here. And
23 at that time I voted for, but I was very much on the
24 edge, as Garlin was, the last Miami Herald issue
25 item. But at that time I was listening very intently

1 to some of the experts on historic preservation. And
2 ultimately I did vote for this historic designation
3 on this particular property.

4 To begin with, I have a little concern
5 about the -- it's not really a concern, but it's
6 an interest to me that I guess the beneficiary
7 of this estate is the charitable organization.
8 Well, as you know, I believe -- and I'm not the
9 lawyer and Peggy's the lawyer here. But I think
10 that charitable organizations that are
11 beneficiaries of estates are not gonna move into
12 the house or use it for their own purpose
13 generally. Probably very, very rarely. The
14 main purpose of this having been set up this way
15 by the owners of the property in their wills and
16 so forth is so that the -- the charitable
17 organizations can benefit from the results of
18 the sale of the property. Therefore, in that
19 respect, I think that if -- and I can't also
20 talk about the methods in which this was put up
21 for sale or how it's been marketed because I'm
22 not in the real estate division of professions
23 either. However, I would think that the
24 charitable organization might have a say as to
25 what kind of price, maybe not, I'm not sure,

1 whether they have a say in what -- what type of
2 sale price is -- is agreed upon. I don't know
3 about that. But nevertheless, I'm sure, I'm
4 absolutely sure that they are looking for the
5 highest value for their charitable organization.
6 Can we ask which charitable organization it is
7 or is that not privy?

8 MR. SMITH: It is the B. Carlin Foundation,
9 which is a charitable organization.

10 MS. THOMSON: The Carlin Foundation, yeah.

11 MR. SMITH: All of its funds go to local youth.

12 MS. THOMSON: Multiple purposes. All right.

13 And B. and Kirk Landon are people that I've
14 known for many years, and Mr. Carlin as well. I
15 know these people, have known them. And I know
16 that they've had a prominent spot in the
17 community.

18 However, looking at the property itself,
19 number one, it's not 50 years old. It's like 46
20 years old, when the permit was taken out, at any
21 rate, in 1966. So we're not looking at the
22 normal 50-year criteria for historic
23 preservation. It seems then that we are looking
24 at the -- the fact that this was, number one,
25 the architect on this property was Alfred

1 Browning Parker. And that number two or maybe
2 visa-versa, I don't know, that the Carlin --
3 that the Landons and then Carlin were the people
4 who were historically significant in this
5 community. You can't deny that. But
6 nevertheless, the property itself is not 50
7 years old. And as far as the -- the architect
8 himself is concerned, very noted, well-known,
9 and will be probably forever remembered. I
10 don't know as long as van Gogh, as you had
11 mentioned, Mr. Venny Torre, but nevertheless, he
12 will -- he is well-known and especially in this
13 area of the world.

14 I also know, although not being in real
15 estate, that high-end -- higher-end properties
16 have been moving very rapidly in our area. I
17 think that everyone will agree to that. And
18 that real estate values are picking up.
19 Therefore, I would think that this house, no
20 matter what the drawbacks may be in the -- in
21 the eyes of the beholder, is -- nevertheless
22 would not deter very rapid -- a very rapid sale
23 and a high-end sale, which apparently has not
24 occurred and it's been up for -- on the market
25 since last February, January.

1 MS. NICASTRI: Two and a half years, almost
2 three.

3 MS. THOMSON: Two and a half years. That's a
4 long time for the property to sit there. And -- and
5 I don't know again whether you could have more
6 profitably advertised the property or not. That's
7 speculation right now. I don't know what your
8 methods have been. But officially you are a
9 professional in the field and have been for many
10 years. So I have to think that you've made a very,
11 very diligent and very strong effort to do this,
12 because it's a nice commission, too, I would assume.

13 Frankly, in my opinion, and I have stated
14 that, we talked about that in the discussion
15 period of February 2012, that this is a house
16 that is very attractive. And it had been
17 apparently very -- very much desired by the --
18 the owners of the property and had this house
19 designed to fit their needs, which is very, very
20 custom made. Very custom made, this particular
21 house. And the -- and this may not be something
22 that would appeal to someone in historic
23 preservation, except for the fact that Alfred
24 Browning Parker was the architect. Now,
25 Mr. Parker was an architect that built houses.

1 And I don't know if he ever turned down houses
2 because he didn't like them or not. But
3 nevertheless, he was engaged and commissioned
4 to -- to build this house. Whether he liked it
5 or not, I don't know. Is there anything in
6 writing that we've ever uncovered that he said
7 this is one of my masterpieces or --

8 MS. SPAIN: Yes, it was in his publications.
9 He -- I believe he -- he published this house.

10 MS. THOMSON: It was in publication. But I
11 don't know --

12 MS. SPAIN: That he did. I believe.

13 MS. THOMSON: It's been said here that major
14 repairs are needed and so forth. I agree, I don't
15 think it's really too relevant to this except for the
16 economic part -- part of our discussion. But -- and
17 we don't have any substantial evidence that would
18 sustain what you have said here today. And it would
19 probably be good if you had had that, too. Asbestos
20 problem especially, because that's a very, very, very
21 serious problem in some homes that were built in that
22 era.

23 Over in Miami Beach, and our chairman is
24 very well-versed in Miami Beach properties and
25 historic preservation and so forth over there,

1 and they have all that -- the proud South Beach
2 area. And very frankly, when that South Beach
3 area had not been so designated and built up, it
4 was -- it looked pretty dismal. And had it not
5 been for so many buildings, so many hotels
6 there, which they made it a district and made it
7 the wonderful South Beach that's known world
8 over, I don't know if they would have -- would
9 have survived. I still have doubt that they
10 have. But the effort was made. There were a
11 number of buildings.

12 This building is one of a kind. It doesn't
13 have a lot of buildings. It probably is the
14 only one -- it is the only one of its kind in
15 that whole section of the Gables Estates. And
16 so, therefore, it stands on its own. And to me,
17 it's the standing on its own is problematical.

18 I think that Alfred Browning Parker may not
19 have even liked this building. I can't say
20 that -- I can't say that for sure. But all I'm
21 saying is that it's not like his other buildings
22 where his mentor was Frank Lloyd Wright. And
23 Frank Lloyd Wright was an architect that
24 believed in bringing in the outside into the
25 home. This takes the outside and shoves it out.

1 I don't think this is a --

2 MS. KAUTZ: There is testimony in the
3 designation --

4 MS. THOMSON: Excuse me?

5 MS. KAUTZ: There's testimony at time of
6 designation, which is -- this is not the designation
7 of it. This is -- this already has been decided that
8 the property is designated and it was important to
9 the Board to save. There is testimony within the
10 designation report and that transcript that talks
11 about that he was incredibly proud of his house and
12 that it was one of his better works.

13 MS. THOMSON: Well, like I say, it's in the eye
14 of the beholder. And frankly, I don't -- I don't
15 feel this house is -- is worthy of its --

16 MS. SPAIN: I just need to point out --

17 MS. THOMSON: -- of its survival.

18 MS. SPAIN: -- that the criteria that you're
19 required to look at is not the designation criteria.
20 That's already been decided by this Board. And that
21 was appealed to the City Commission. And the City
22 Commission upheld the Board's decision.

23 MS. THOMSON: I know that. I know --

24 MS. SPAIN: The criteria that you need to look
25 at is the criteria that's in the zoning code for

1 demolition.

2 MS. THOMSON: Well, I think some of the points
3 that I made here substantiate.

4 MS. SPAIN: I think it's certainly fine for you.
5 I just needed to remind the Board that it's not about
6 the designation that we're here. It's about whether
7 or not that criteria has been satisfied for
8 demolition.

9 MS. THOMSON: That's all I have to say in
10 essence.

11 CHAIRPERSON TACKETT: Thank you.

12 MS. THOMSON: And you know where I stand.

13 CHAIRPERSON TACKETT: Peggy?

14 MS. ROLANDO: I suggest we call the question.

15 CHAIRPERSON TACKETT: Kendall, do you have any
16 further comments?

17 Okay. Do we have a motion? We have two
18 motions to make for this case. So let's go with
19 the economic hardship motion, if someone --

20 MS. TURNER: I'll make the motion. On the
21 economic hardship, the motion to adopt staff's
22 findings and report, and to find that the applicant
23 has not demonstrated that the denial of a Special
24 Certificate of Appropriateness for demolition of the
25 property would cause an exceptional financial burden

1 such that it would amount to a taking of property
2 without just compensation under the standard outlined
3 by the U.S. Supreme Court in Penn Central
4 Transportation Corporation versus New York City.

5 CHAIRPERSON TACKETT: Okay. We have a motion.
6 Do we have a second?

7 MS. ROLANDO: Second.

8 CHAIRPERSON TACKETT: Motion and a second. Roll
9 call.

10 THE SECRETARY: Mr. Silva?

11 MR. SILVA: Yes.

12 THE SECRETARY: Ms. Rolando?

13 MS. ROLANDO: Yes.

14 THE SECRETARY: Mayor Thomson?

15 MS. THOMSON: No.

16 THE SECRETARY: Ms. Turner?

17 MS. TURNER: Yes.

18 THE SECRETARY: Ms. MacIntyre?

19 MS. MACINTYRE: Yes.

20 THE SECRETARY: Ms. Pruitt?

21 CHAIRPERSON TACKETT: Absent.

22 MS. TURNER: She's left.

23 THE SECRETARY: Ms. Guerrero?

24 CHAIRPERSON TACKETT: Absent.

25 THE SECRETARY: Mr. Torre?

1 MR. TORRE: Yes.

2 THE SECRETARY: Ms. Tackett?

3 CHAIRPERSON TACKETT: Yes.

4 MS. TURNER: Okay. You want me to go ahead with
5 the next motion?

6 CHAIRPERSON TACKETT: We have a next -- we have
7 another motion?

8 MS. TURNER: The next motion is on demolition,
9 Special Certificate of Appropriateness. A motion to
10 find that the applicant has not met the required
11 criteria outlined in Section 3-1107(D), as in doggie,
12 of the Coral Gables Zoning Code for issuance of a
13 Special Certificate of Appropriateness for
14 demolition.

15 CHAIRPERSON TACKETT: Do we have a second?

16 MS. ROLANDO: Second.

17 CHAIRPERSON TACKETT: We have a motion and a
18 second. Roll call.

19 THE SECRETARY: Ms. MacIntyre?

20 MS. MACINTYRE: Yes.

21 THE SECRETARY: Ms. Turner?

22 MS. TURNER: Yes.

23 THE SECRETARY: Mr. Torre?

24 MR. TORRE: Yes.

25 THE SECRETARY: Mr. Silva?

1 MR. SILVA: Yes.

2 THE SECRETARY: Ms. Rolando?

3 MS. ROLANDO: Yes.

4 THE SECRETARY: Mayor Thomson?

5 MS. THOMSON: No.

6 THE SECRETARY: Ms. Tackett?

7 CHAIRPERSON TACKETT: Yes.

8 MS. SPAIN: Thank you.

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CERTIFICATE

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STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

I, LILLIAN GADOMSKI, Registered Professional
Reporter and Notary Public, certify that I was authorized
to and did stenographically report the foregoing
proceedings, and that the transcript is a true and
complete record of my stenographic notes.

Dated this 8th day of January, 2013.

LILLIAN GADOMSKI, RPR
Notary Public - State of Florida