

1 COMMONWEALTH OF PENNSYLVANIA

2 GAMING CONTROL BOARD

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4 IN RE: CONGREGATION RODEPH SHALOM, THE
5 MATHEMATICS, CIVICS and SCIENCE CHARTER SCHOOL AND
6 FRIENDS SELECT SCHOOL - PETITION TO INTERVENE IN
7 TOWER ENTERTAINMENT'S CATEGORY 2 PROCEEDINGS

8 * * * * *

9 PUBLIC HEARING

10 BEFORE: WILLIAM H. RYAN, JR., Chairman
11 Gregory C. Fajt; Anthony C. Moscato;
12 Annemarie Kaiser; Keith R. McCall; John
13 J. McNally; David W. Woods; Members
14 Jennifer Langan, representing Robert M.
15 McCord, State Treasurer, Robert P.
16 Coyne, representing Daniel P. Meuser,
17 Secretary of Revenue, Jorge Augusto,
18 Representing George Greig, Secretary
19 Of Agriculture

20 HEARING: Wednesday, January 8, 2014

21 LOCATION: Pennsylvania Gaming Control Board
22 Strawberry Square Complex, 2nd Floor
23 Harrisburg, PA 17101

24 Reporter: Lacey C. Gray

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1 WITNESSES: Veronica Joyner, Paul Snitzer, Colleen
2 Puckett

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I N D E X

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PRESENTATION

By Attorney Spector

6 - 26

WITNESS: Veronica Joyner

EXAMINATION

By Attorney Spector

27 - 32

WITNESS: Paul Snitzer

EXAMINATION

By Attorney Spector

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WITNESS: Colleen Puckett

EXAMINATION

By Attorney Spector

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DISCUSSION AMONG PARTIES

42 - 53

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NONE OFFERED

P R O C E E D I N G S

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CHAIRMAN:

:31:44

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Okay. I would ask representatives from

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Congregation Rodeph Shalom, The Mathematics, Civics

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and Science Charter School and Friends Select School

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as well as Tower Entertainment to come forward to

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address the Petition to Intervene in Tower

:32:00

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Entertainment's Category 2 proceedings.

:32:00

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ATTORNEY SPECTOR:

:34:23

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Good morning. My name is Larry

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Spector. I'm a sole practitioner in Philadelphia and

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I represent the Petitioners this morning. With me

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are individuals, who will speak to the panel a little

:34:36

15

bit later, are representatives of each of the

:34:39

16

Petitioners that proceeding from my right, Paul

:34:44

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Snitzer who is from Congregation Rodeph Shalom,

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Colleen Puckett who is from Friends Select School,

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and Veronica Joyner who is from the Math, Civics and

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Science Charter School. I'd like to just give you

:35:00

21

sort of an outline of what I would like to do this

:35:02

22

morning, which is ---.

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23

CHAIRMAN:

:35:04

24

Mr. Spector, just to make sure

:35:05

25

everybody understands or knows who you are and it's

:35:12 1 on the record. I'm glad you got a microphone because
:35:15 2 I think you need it. Can you state your name for the
:35:17 3 record again and spell your last name?

:35:17 4 ATTORNEY SPECTOR:

:35:18 5 It's Larry Spector, S-P-E-C-T-O-R.

:35:18 6 CHAIRMAN:

:35:18 7 Thank you, sir.

:35:18 8 ATTORNEY SPECTOR:

:35:26 9 I'd like to just outline a little bit
:35:28 10 how I would like to make this presentation. I'd like
:35:30 11 to start by presenting to the Board what I consider
:35:36 12 some common ground, if you will, some facts that are
:35:39 13 common to the situation of all three Petitioners.
:35:43 14 And then after I do that I will get more specific as
:35:47 15 to each of the three of them and tie in their
:35:51 16 particular situations to the big picture. And after
:35:55 17 that I will have a few questions for each of them and
:35:59 18 that will be the conclusion of the presentation.

:36:03 19 Before I get to the outline I just want
:36:06 20 to make sure that we're all on the same page here.
:36:10 21 To my knowledge, I may be wrong, I'm not familiar
:36:13 22 with whether there has ever been a Petition to
:36:18 23 Intervene in a licensure proceeding by someone who's
:36:22 24 not already competing for the license or a casino
:36:27 25 related entity. We are not community organizations,

:36:32 1 we're not neighborhood organizations. We are
:36:34 2 individual entities.

:36:38 3 We're not for profit, obviously, but I
:36:41 4 think we're essentially businesses here that have an
:36:43 5 interest in what happens in the area. So, we're
:36:47 6 going to be trying to prove that under the
:36:54 7 regulations that we have interests which are direct,
:36:58 8 immediate and substantial, and that our interest is
:37:02 9 not otherwise adequately represented, will not
:37:06 10 adequately be represented at the suitability hearing.

:37:11 11 To be direct, we have to show that
:37:13 12 we're going to be harmed. To be immediate we have to
:37:15 13 show that the harm is not speculative or remote, and
:37:18 14 to be substantial we have to show that we have an
:37:22 15 interest which goes beyond that of just the average
:37:24 16 citizen in a licensure situation. And what we're
:37:32 17 going to be talking about are the things that courts,
:37:36 18 I think, have recognized in satisfying those criteria
:37:41 19 in the history of questions of standing on a Petition
:37:46 20 to Intervene. We're going to be talking about
:37:48 21 traffic problems, parking problems and security
:37:51 22 problems.

:37:51 23 And you have our petition. We have
:37:54 24 cited in there one case in particular. I think it's
:37:57 25 the Gismondi (phonetic) case where the Court,

:37:59 1 talking about those very problems, said that these
:38:02 2 considerations are of immediate and actual
:38:05 3 consequence to those who reside in the area
:38:08 4 surrounding the proposed licensed premises. And more
:38:13 5 recently everybody, as I'm sure, heard about the
:38:16 6 Supreme Court --- Pennsylvania Supreme Court's
:38:20 7 Decision in Robinson versus Commonwealth of
:38:22 8 Pennsylvania on the question of fracking.

:38:24 9 And there the Court did address the
:38:27 10 standing of a community association and said that
:38:31 11 where the activities of fracking are going to be an
:38:34 12 intrusion in the area covered by those residents. If
:38:39 13 it's going to have an impact on their lives, then
:38:42 14 they have standing. That was a highly contested
:38:46 15 issue. I think the Pennsylvania Supreme Court has
:38:49 16 given us some further guidance that we're supposed to
:38:52 17 lean in that direction where, of course, the
:38:57 18 appropriate criteria are met.

:39:04 19 We're going to be going over some
:39:06 20 problems and I don't intend to get into what would be
:39:09 21 the substance of an opposition to the Tower
:39:14 22 Application if we were granted the right to
:39:16 23 intervene, but I just want to say broadly that the
:39:19 24 problems that we're talking about here, I think are
:39:21 25 the same problems that the Board has to keep very

:39:26 1 well in mind. That I think are going to cost the
:39:28 2 state money in one way or another because they relate
:39:31 3 to the viability of the Tower Application at that
:39:34 4 site. So, I offer them really for that background as
:39:38 5 well.

:39:41 6 The first thing I want to do, I have a
:39:44 7 few exhibits that I'll be posting on the screen. I'd
:39:47 8 like to start with an exhibit, which gives you an
:40:01 9 overview of the --- forgive me, that's the wrong one.
:40:29 10 Well, let's start with this. This is simply a Google
:40:32 11 map of the area. I'm going to zoom in on it a little
:40:39 12 bit, if we can, and direct you to the site of this
:40:44 13 project, which is at --- the actual address, of
:40:53 14 course, is 400 North Broad Street. And where I have
:40:57 15 the cursor, that's that address.

:40:59 16 It's essentially at the intersection of
:41:02 17 Broad and Callowhill. And the idea is that the
:41:06 18 project will be built going three blocks west on
:41:13 19 Callowhill between Broad Street and extending up from
:41:18 20 15th, and further to 16th and further to 17th. Now,
:41:23 21 in terms of the general location I have an exhibit,
:41:31 22 which I still intend to bring up, but part of the
:41:36 23 Board's application process is to ask an Applicant
:41:43 24 how many --- to point out the schools, and churches
:41:45 25 and so forth that are within a 1,500 foot radius of

:41:51 1 the proposed site.

:41:53 2 Now, these three Petitioners are each
:42:01 3 easily within that 1,500 foot radius. The charter
:42:05 4 school --- actually, if you'll just indulge me for
:42:13 5 one second. I'm going to try to get the right
:42:16 6 exhibit up. Here we go. This is an overview of the
:42:32 7 general site and the circle marks the 1,500 foot
:42:36 8 radius. The key shows you each of the organizations
:42:44 9 or schools, churches and so forth that are within
:42:47 10 that 1,500 foot radius. As you can see, if you go to
:42:52 11 what is marked number 16, which is right here
:43:05 12 (indicating), you will see the Friends Select School
:43:07 13 is down here.

:43:09 14 If you go to number two you will see
:43:13 15 the Math Science and Charter School is right here,
:43:18 16 and if you go to number nine you will see that
:43:28 17 Congregation Rodeph Shalom, the synagogue is right
:43:28 18 there. I think it's important for the Board to know
:43:32 19 that when the Applicant was asked to list the schools
:43:38 20 and so forth that were within that radius, we didn't
:43:41 21 get anything approaching the 30 institutions that are
:43:46 22 listed here. We got instead --- in the Petitioner's
:43:59 23 appendix 28, we got a list of about eight
:44:04 24 institutions. Omitted from the list was the Math ---
:44:10 25 the charter school, which is right across the street.

:44:14 1 Pretty hard to miss. Omitted was community college
:44:18 2 and Benjamin Franklin and a number of places.

:44:23 3 Now, let's go back to the Google and
:44:34 4 see --- what I'd like to talk about is the flow of
:44:37 5 traffic and the general comings and goings from the
:44:42 6 casino as they will bear upon the locations where
:44:46 7 these Petitioners are. First they can come by public
:44:56 8 transit. If they come by public transit the main
:44:59 9 access of public transit is North Broad Street, and
:45:03 10 on North Broad Street you see --- actually, it's even
:45:07 11 marked here. You see a subway stop at --- or a bus
:45:11 12 stop. I know for a fact that the subway --- the bus
:45:15 13 stops are, of course, on each block. And the subway
:45:19 14 stops are at Broad and Spring Garden, which is up
:45:30 15 here (indicating). And there's another one at Broad
:45:32 16 and Race, which is down here. There's the Race Vine
:45:42 17 station.

:45:45 18 I have to point out, the facts of life
:45:46 19 in Philadelphia are that if we go immediately north
:45:49 20 of this area you come to North Philadelphia, which is
:45:52 21 the highest crime rate in the city. And it provides
:45:57 22 easy access from anybody hopping on the subway from
:46:01 23 there or other remote areas of Philadelphia to get on
:46:05 24 the subway and come down here. So, you can come by
:46:17 25 subway or you can come by bus, and you can also, of

:46:19 1 course, come by car.

:46:20 2 And if you come by car we have what we
:46:22 3 describe as --- what we think is a serious traffic
:46:25 4 problem that, as I'll show later, really impacts on
:46:29 5 the day-to-day lives of these Petitioners. You could
:46:37 6 come going westbound on the Vine Street --- the Vine
:46:40 7 Street expressway, according to the application, will
:46:43 8 carry 60 percent of the vehicular traffic. So, this
:46:46 9 is the major artery to the site. You can come to the
:46:49 10 site traveling westbound. This would be from New
:46:52 11 Jersey coming over the Ben Franklin Bridge and so
:46:54 12 forth. And you would come along Route 676 from here
:46:58 13 and then you'd get to an off ramp, which is right
:47:01 14 here.

:47:01 15 And that off ramp takes you up and then
:47:04 16 curves around, and around and around, and it then
:47:07 17 sends you south on North 15th Street. But it's going
:47:13 18 south. It's going away from the site. So, once you
:47:17 19 get off that way you have to find a way to get back
:47:21 20 up here (indicating). Similarly if you are coming
:47:25 21 and you are going --- you're proceeding eastbound
:47:28 22 from the western suburbs or even Harrisburg, if you
:47:31 23 will, you are coming along the Vine Street Expressway
:47:35 24 and this is the off ramp that you have to take.

:47:38 25 This off ramp will --- comes up here

:47:43 1 and it feeds into North 15th Street. Actually, at
:47:49 2 this point --- yes, it's still North 15th Street, but
:47:52 3 it feeds in right here. And, again, this is south of
:47:55 4 where the site is. So, everyone who comes off of
:47:59 5 here (indicating) and everyone who comes from the
:48:03 6 other direction down 15th Street has to figure out
:48:07 7 how they're going to get back up north to Callowhill
:48:12 8 Street. And that leads me to the next exhibit. Here
:48:54 9 we are. I apologize. But in any event I can trace
:48:57 10 it one more time. Oh, here we go.

:49:06 11 All right. This is a diagram of the
:49:10 12 immediate problem, getting off and coming down 15th
:49:13 13 Street on Vine Street. If you look here --- just to
:49:16 14 get situated, this is Broad and Vine. And here's the
:49:20 15 ramp, for example, that people have come off from the
:49:23 16 west and they're heading east, and they get to 15th
:49:27 17 Street and they've got to go north to get to the
:49:31 18 site. So, they're going to make a right turn and
:49:33 19 they're going to go south on 15th Street and
:49:38 20 eventually they want to get up here (indicating).
:49:42 21 So, as you can see, this route is going to take them
:49:46 22 until they get to the main street that can take them
:49:49 23 west and up to 16th Street, and then north up to the
:49:52 24 site. They're going to go through, as I counted it,
:49:57 25 I think it's either 10 or 14 intersections, 14

:50:00 1 lights.

:50:01 2 And they're going to be --- there's
:50:03 3 going to be traffic there, and the ---.

:50:03 4 MR. FAJT:

:50:06 5 Why wouldn't they make a left on 15th
:50:12 6 Street? Is that a one way street?

:50:12 7 ATTORNEY SPECTOR:

:50:13 8 15th is one way. 15th just goes from
:50:15 9 north to south.

:50:15 10 MR. FAJT:

:50:17 11 Okay.

:50:17 12 ATTORNEY SPECTOR:

:50:21 13 So we know from the Tower Application
:50:23 14 that --- and everybody in Philadelphia knows. And if
:50:26 15 you've ever driven downtown Philadelphia --- and I
:50:29 16 urge you at some point, obviously, to be in
:50:32 17 Philadelphia and see that intersection. It's a
:50:37 18 disaster. It's simply a disaster because anybody
:50:40 19 trying to --- it's coming off into town. It's a
:50:42 20 major expressway artery in Center City and it's the
:50:45 21 major one leaving. And, of course, we talk about a
:50:47 22 casino, we talk about people both arriving and
:50:50 23 leaving.

:50:52 24 Now, I want to bring up the next
:50:55 25 exhibit, which is from the traffic study that was

:51:00 1 submitted --- here we go again. The traffic study
:51:05 2 that was submitted by the Petitioner. I just clipped
:51:13 3 that out to show the sections that relate to the
:51:15 4 intersection of 15th and Vine. And I don't want to
:51:19 5 dwell on this because, again, this is just --- this
:51:21 6 is something that goes more to the merits of the
:51:22 7 application, ---

:51:23 8 CHAIRMAN:

:51:23 9 We appreciate that.

:51:23 10 ATTORNEY SPECTOR:

:51:24 11 --- but I do have to just point out
:51:26 12 ---. And you'll see in yellow that if you flip
:51:28 13 through the pages that by their own study these are
:51:32 14 dysfunctional intersections. And they're
:51:35 15 dysfunctional as projected with this casino site at
:51:41 16 that location. I want to leave it at that for now,
:51:44 17 but I do want to say that one of the things that our
:51:48 18 petition points out is that the Tower traffic study
:51:56 19 tries to minimize the gravity of these intersection
:52:02 20 problem by what we say really amounts to low balling
:52:07 21 volume, additional volume of traffic that will be
:52:10 22 generated by the casino and how people will get
:52:13 23 there.

:52:14 24 They've got it as if more than ---
:52:18 25 50 percent of the people will get there by bus or

:52:21 1 subway, and only 37 percent will get there by car,
:52:24 2 which is inconsistent with any casino I've ever seen.
:52:29 3 People drive up, there's a big parking area and they
:52:32 4 go in. And I can't imagine too many people in
:52:36 5 weather like this standing outside waiting for the
:52:39 6 bus, or the subway or --- he's got even eight percent
:52:44 7 of the people walking or riding a bicycle. I don't
:52:47 8 think that's happening.

:52:53 9 When they do get there, of course, they
:52:56 10 need to park and the proposal has a serious parking
:53:02 11 problem that will impact my clients. The application
:53:09 12 says that the Provence needs --- I think it's parking
:53:17 13 for 3,360 cars. An earlier application said they had
:53:22 14 onsite capacity or they would for 1,700. The latest
:53:26 15 one that was just published last week or so says
:53:29 16 they're going to build another garage that's going to
:53:31 17 give them capacity of 2,400.

:53:34 18 But in any event, that leaves a
:53:36 19 thousand cars going through the streets in the area
:53:39 20 looking for off street parking. I guess it also
:53:44 21 assumes that people going to this casino would be
:53:49 22 willing to come into town, deal with the parking
:53:52 23 problem, pay for parking and walk from the lot to the
:53:55 24 casino as opposed to the convenience that is typical
:53:58 25 of casinos that are sited in other types of areas.

:54:02 1 But I want to now go to an exhibit that
:54:06 2 shows --- this is the Applicant's own map of parking
:54:13 3 facilities that it claims would be available. So,
:54:22 4 just to point out --- forgive me. I have to call it
:54:28 5 as I see it, how sloppy this is as a realistic
:54:31 6 estimate of the available parking. Down here they
:54:34 7 say they're going to lease a parking lot that will
:54:37 8 provide 270 spaces. I can represent to you that the
:54:42 9 Mormon church is building a temple right here at 17
:54:46 10 --- in the 1700 block of Vine, owns this land and
:54:50 11 intends to build a 30 story apartment building on it.

:54:54 12 They own the land and I don't think
:54:56 13 they're going to be leasing it for casino parking
:54:58 14 next to a temple. Another lot is a lot that you see
:55:08 15 on the west side of Broad Street right up here
:55:12 16 (indicating). They say they'll be able to park 180
:55:16 17 cars there. I represent to you that that lot is the
:55:21 18 lot that is used for the valet parking of all the new
:55:25 19 restaurants that are on North Broad Street. There's
:55:28 20 a catering hall called V, there's a --- there's
:55:30 21 several beautiful restaurants. They all have valet
:55:34 22 parking and that's where they park their cars, and
:55:36 23 that's at night, the same time of the peak traffic of
:55:39 24 the casino.

:55:42 25 They say that there are two lots right

:55:44 1 here that will each accommodate 35 cars. That's
:55:49 2 curious because that building right here is the
:55:53 3 School District of Philadelphia headquarters
:55:55 4 building. Now, I think that there would be some
:56:00 5 embarrassment to this Board if it somehow acquiesced
:56:06 6 in parking cars to the casino next to the Education
:56:09 7 Board headquarters. I don't think that's right and I
:56:13 8 think those spaces are really used for that facility
:56:15 9 anyway.

:56:17 10 And last, there's another lot here,
:56:24 11 which where they say they could park 110 cars. Mrs.
:56:32 12 Joyner from the charter school will testify about
:56:34 13 that lot and I'm going to leave that open until she
:56:37 14 does. And lastly, of course, this whole scenario
:56:41 15 assumes that nobody else is using these lots in the
:56:46 16 evening during the peak casino hours on a Friday
:56:49 17 night and Saturday night, which of course are the
:56:52 18 main nights when people come to town to go to
:56:55 19 restaurants, plays and so forth.

:56:58 20 Now, I want to show how this scenario,
:57:02 21 this flow of traffic, if you will, these people
:57:06 22 coming up from the subways avoiding the stops impacts
:57:10 23 on these three Petitioners. Let's talk first about
:57:14 24 the charter school. If we continue to use the map
:57:22 25 that's on the board now you've got a thousand

:57:26 1 students in that school going from grades 1 through
:57:30 2 12. It's right across the street from the casino,
:57:35 3 from 400 --- here's the Inquirer building where the
:57:41 4 hotel will be. Here (indicating) is the charter
:57:43 5 school. So, the charter school sends 11 buses full
:57:51 6 of kids every morning and night to get them back and
:57:54 7 forth to school. And it's right along Broad Street
:57:58 8 where a lot of the traffic at the casino would flow.

:58:04 9 It's right there where you have the bus
:58:08 10 stops that people would be getting on and off of to
:58:11 11 go to the casino. It's within a block or two of each
:58:14 12 of the subway stops that everybody would be using to
:58:19 13 come and go from the casino. And it's, as you can
:58:24 14 see, right in the middle of where the Applicant
:58:27 15 proposes people are going to be parking, getting out
:58:31 16 of their cars, coming back to their cars with money
:58:33 17 in their pocket and parking essentially right near
:58:37 18 the school.

:58:45 19 The point is, I hope it's obvious, that
:58:49 20 this is a school where the activity, of course, takes
:58:52 21 place during normal school hours, but as we said in
:58:55 22 our petition, and Mrs. Joyner can elaborate, it's a
:58:58 23 school. They've got a basketball team. They've got
:59:01 24 after-school activities. The basketball games take
:59:04 25 place on Friday night, the peak hour of the casino.

:59:07 1 If it's a home game people are coming into the
:59:10 2 building six o'clock, they're leaving at 8:30. If
:59:13 3 it's an away game they're coming back from the game
:59:15 4 and the bus comes back to the school at 9:00 or 10:00
:59:19 5 from wherever it's been. And, again, it meets up ---
:59:21 6 the point is that it then intermingles.

:59:24 7 The population of this school becomes
:59:27 8 somehow mixed in with the flow of traffic both
:59:32 9 vehicular and pedestrian coming from the parking lots
:59:35 10 that are associated with the casino. Let's talk
:59:46 11 about the synagogue, Rodeph Shalom. I'm going to go
:59:51 12 back to the Google map for that because it's just
:59:57 13 above the border of the parking lot map, but --- all
:00:19 14 right. So, here is Broad and Callowhill and here is
:00:31 15 --- Rodeph Shalom is right here (indicating). It's
:00:32 16 right here.

:00:36 17 It's the congregation with --- as we
:00:38 18 say in our petition, it's got 2,300 people in it.
:00:43 19 It's been there for over a century, more than almost
:00:47 20 two centuries I think in one way or another. It's
:00:50 21 made of very important longstanding commitment to
:00:53 22 stay in North Philadelphia. And as recited in our
:01:04 23 petition, over the past few years it's put
:01:05 24 \$10 million into a renovation of the existing
:01:08 25 building. And it's just gotten approval and has

:01:12 1 broken ground actually, Mr. Snitzer can talk about
:01:15 2 it, for a \$15 million expansion on that site.

:01:20 3 So, Rodeph Shalom is essentially one
:01:25 4 block from the subway stop at Broad and Spring
:01:32 5 Garden. It's one of the two main stops to feed the
:01:37 6 site. It's situated directly catty-corner from a
:01:47 7 parking lot, which the Applicant says would be used
:01:51 8 for off street parking right at the corner of Broad
:01:54 9 and Spring Garden. That's the same one that I
:01:57 10 referred to that's used for the valet parking.

:02:01 11 Now, I'm sure, as you may know, the
:02:08 12 heartbeat and the life of a synagogue is the Friday
:02:11 13 night sabbath, Friday night Shabbat service. This
:02:16 14 takes place at Rodeph Shalom at six o'clock p.m. on
:02:20 15 Friday night. It's been going on for years, and
:02:23 16 years and years. The synagogue, as I said, with a
:02:27 17 population of 2,300 people on Friday night at that
:02:30 18 hour it typically gets --- as sworn to in our
:02:34 19 petition, it gets between 200 and 400 people on a
:02:38 20 Friday night and there are occasions when it gets up
:02:41 21 to a thousand people when they have an important
:02:43 22 speaker or some other event. It's not just a
:02:48 23 religious institution. It's just as much a culture
:02:52 24 or neighborhood place, and they --- you know, they
:02:53 25 have things for the community at large that go beyond

:02:55 1 just the religious service.

:02:57 2 So, these are people who are trying to
:02:59 3 get to a service at six o'clock on a Friday night,
:03:02 4 how are they getting there? They're getting there
:03:04 5 --- they come from all over the Philadelphia area.
:03:07 6 They're coming in on the Vine Street expressway.
:03:10 7 They're the ones who are immediately affected trying
:03:14 8 to get to something that's very important to them,
:03:17 9 and fighting through the intersection of 15th and
:03:20 10 Vine and will be --- they're trying to get there at
:03:24 11 rush hour as it is. With additional casino traffic
:03:28 12 from --- as they get there and then additional casino
:03:33 13 traffic a couple hours later as they leave there.

:03:37 14 They're directly impacted by this
:03:39 15 bottle neck, which the Applicant admits is there.
:03:46 16 There's also as part of Rodeph Shalom what we refer
:03:53 17 to as the Berger or early learning center. A few
:03:56 18 years ago they bought additional property and they
:03:59 19 put up a preschool where you have about 55 preschool
:04:03 20 kids who get picked up and dropped off every day off
:04:10 21 Broad Street. The point is that, just like with the
:04:14 22 charter school, putting the synagogue in the mix of
:04:19 23 the people that come and go from a casino, it's bad
:04:25 24 news.

:04:28 25 People come and go from a casino with

:04:31 1 money in their pocket. These people are very worried
:04:35 2 that traffic's going to come down from Philadelphia,
:04:40 3 hang around, see people coming and going from these
:04:43 4 parking lots. Just hang around the scene at the
:04:47 5 Tower --- or Broad and Callowhill. They'll see this
:04:48 6 as a rich target area and it's getting very easy to
:04:54 7 mistake a casino patron for somebody going into the
:04:58 8 synagogue. It's just a bad scene.

:05:02 9 Finally, you have Friends Select.
:05:08 10 Friends Select is located at 17th and Vine --- excuse
:05:13 11 me, 17th and the Parkway. Let me make sure we get it
:05:17 12 right here. This is Friends Select right here
:05:32 13 (indicating). The front of it actually sort of faces
:05:35 14 the Parkway at an angle and then it backs --- the
:05:38 15 building backs to Race Street, and it pretty much
:05:43 16 occupies this L-shaped area along Race and along
:05:48 17 16th.

:05:48 18 So, I showed you earlier how any car
:05:55 19 that is coming to the synagogue --- excuse me, to the
:05:59 20 site, or any of them anyway, ends up coming north on
:06:04 21 16th Street to get to the site. That takes it
:06:11 22 directly past Friends Select. And there's a little
:06:14 23 parking lot here, which has an entering driveway on
:06:18 24 16th and an exiting driveway on Race Street. Every
:06:22 25 car, every bus that comes to this site is going to go

:06:27 1 right past the parking lot of that school, right past
:06:30 2 the area where the school bus picks kids up there.

:06:41 3 Also the school of course is located, a
:06:42 4 lot of the kids at the school naturally if they're
:06:44 5 older, they take the bus or the subway from opposing
:06:47 6 neighborhoods. And they're going to be sharing the
:06:49 7 subway stops and the bus stops. The school has
:06:54 8 basketball games and other events on Friday nights.
:06:57 9 Peak hour of casino patronage, people coming and
:07:01 10 going from the school, people coming and going to get
:07:04 11 to the casino.

:07:08 12 That sort of finishes what I think
:07:10 13 amounts to a showing of an interest, which is direct,
:07:15 14 immediate and substantial. In fact, I can't imagine
:07:19 15 that anyone could have an interest that's more
:07:23 16 direct, immediate and substantial. In proximity to a
:07:27 17 site and the impact of a site on the comings and
:07:32 18 goings of people in their normal daily routines for
:07:39 19 their school or their place of worship can
:07:42 20 conceivably give rise to standing, this has to be the
:07:46 21 case. And make no mistake it does give rise to any
:07:46 22 standing, the Pennsylvania Supreme Court has just
:07:49 23 told us so.

:07:50 24 And the last criteria, of course, is
:07:54 25 will they --- are they already adequately

:07:59 1 represented? Now, yes, they've had the opportunity
:08:04 2 to make some comments. When did they make their
:08:08 3 comments? When were public hearings? Public
:08:11 4 hearings were back in April. When was the traffic
:08:15 5 study that is so critical to our problem with this
:08:23 6 site publicized? Months later. Who else is from a
:08:33 7 house of worship and knows the comings and goings, or
:08:37 8 from a school and knows the comings and goings and
:08:40 9 has the interest in the safety and welfare of kids,
:08:44 10 who's representing them?

:08:47 11 Who knows when they come and go for
:08:49 12 their basketball games? Who knows what the bus
:08:51 13 schedules are? Who knows what subway stops they use?
:08:56 14 These people do. And I submit that their interest
:09:00 15 respectfully cannot possibly be adequately
:09:04 16 represented at a suitability hearing unless they are
:09:09 17 to present them. Now, with that I'd just like to tie
:09:11 18 everything together. I have a few questions that I'd
:09:14 19 like to ask first to --- of Mrs. Joyner. She needs
:09:18 20 to be sworn.

:09:19 21 CHAIRMAN:

:09:20 22 Mrs. Joyner, could you stand, please?
:09:24 23 State your name, if you will, ma'am, and spell your
:09:26 24 last name.

:09:26 25 MRS. JOYNER:

:09:27 1 Veronica Joyner, J-O-Y-N-E-R.

:09:27 2 CHAIRMAN:

:09:38 3 Can the witness be sworn, please?

:09:38 4 -----

:09:38 5 VERONICA JOYNER, HAVING FIRST BEEN DULY SWORN,

:09:38 6 TESTIFIED AS FOLLOWS:

:09:39 7 -----

:09:39 8 CHAIRMAN:

:09:39 9 You may sit down, ma'am. Thank you.

:09:42 10 EXAMINATION

:09:42 11 BY ATTORNEY SPECTOR:

:09:42 12 Q. Mrs. Joyner, would you just simply tell the

:09:44 13 Board who you are and your relationship to the

:09:48 14 charter school?

:09:48 15 A. I am a teacher by profession. I'm the founder

:09:52 16 of the Mathematics, Civics and Science Charter School

:09:56 17 in Philadelphia and I'm the Chief Administrative

:10:00 18 Officer there. I've worked very, very hard to

:10:03 19 establish this school and the stellar reputation that

:10:07 20 this school has. I work 12 to 14 hours a day, having

:10:11 21 14 years of perfect attendance and I did touch down

:10:15 22 today at 6:00 a.m.

:10:15 23 Q. What time do you leave the school every night?

:10:17 24 A. About 9:00, 9:30.

:10:19 25 Q. And that includes Friday night as well?

:10:21 1 A. Yes.

:10:21 2 Q. Our petition talks about some improvements that

:10:26 3 you're making to the school that are in process.

:10:30 4 Could you explain to the Board what investment is

:10:33 5 currently being made in the school and what the plans

:10:37 6 involve?

:10:38 7 A. Yes. We're expanding the school to include a

:10:41 8 gym, renovations inside of the building to expand our

:10:44 9 lunch room for the children and additional classrooms

:10:47 10 for additional students to enroll. We have a waiting

:10:51 11 list.

:10:51 12 Q. And what is the amount of money that is going to

:10:55 13 be spent on this expansion?

:10:57 14 A. Between \$12 and \$14 million.

:11:02 15 Q. Okay. I left open earlier a question about a

:11:05 16 parking lot and I'd like to go back to the parking

:11:09 17 map for a moment. I'm going to put this cursor where

:11:21 18 I think your school is and you can tell me if I'm

:11:24 19 right or wrong. Just so you can get oriented. Of

:11:27 20 course, this is the intersection of Broad and

:11:30 21 Callowhill.

:11:30 22 CHAIRMAN:

:11:30 23 Counsel, I think we need the --- okay.

:11:30 24 ATTORNEY SPECTOR:

:11:40 25 I'm sorry. We're talking about a

:11:41 1 parking lot, so this is the map I'm using for that
:11:44 2 purpose.

:11:44 3 CHAIRMAN:

:11:44 4 Okay. I think we're all with you now.

:11:44 5 BY ATTORNEY SPECTOR:

:11:50 6 Q. Okay. This is the intersection of Broad and
:11:52 7 Callowhill. Am I right that --- and this is the
:11:53 8 school district building, which is right next door to
:11:55 9 the Inquirer building. Am I right that you're
:11:58 10 directly across the street from the school district
:12:00 11 building?

:12:00 12 A. Yes. I could probably have a conversation, it's
:12:03 13 so close with you.

:12:04 14 Q. Now, the Applicant says that there's a parking
:12:08 15 lot here where you can park 110 cars. Would you
:12:14 16 comment on that, please?

:12:15 17 A. That parking lot is owned by Parents United for
:12:22 18 Better Schools, which is a non-profit organization I
:12:23 19 had and we purchased that a year ago in June.

:12:26 20 Q. And do you intend to use it as a parking lot?

:12:28 21 A. Use one part of it as a parking lot and the
:12:31 22 other for the new building expansion.

:12:33 23 Q. And the part that is being used as a parking
:12:36 24 lot, is that going to be public lot that would be
:12:39 25 available to casino patrons?

:12:41 1 A. No, it won't be.

:12:42 2 Q. Now, could you explain to the Board how a casino
:12:47 3 at that site would impact on your school in terms of
:12:50 4 the harm that it would actually do?

:12:52 5 A. Well, in my opinion it would add to a traffic
:12:55 6 problem that's already there. I've been there
:12:58 7 14 years and I see a lot of traffic jams right in
:13:01 8 front of our door. It would add to the population
:13:05 9 density, which is already there. At Broad and Spring
:13:09 10 Garden, there used to be the State Building at Broad
:13:11 11 and Spring Garden. I don't know how familiar you are
:13:14 12 with Philadelphia. There are about 500 or more
:13:18 13 families in that building. The State no longer has
:13:20 14 that.

:13:20 15 It was renovated, I believe, by the same
:13:23 16 developer for families. And so that's going to
:13:26 17 bring in 500 more traffic, and my concern is that
:13:31 18 the children at our school, they walk in that area.
:13:38 19 I could not just think of a child being hit by a car
:13:42 20 trying to cross a street, trying to get to a bus
:13:45 21 stop and walking by a casino with their bookbags.

:13:51 22 Just in my opinion it's not a fit. I mean, it
:13:55 23 could go somewhere else. It shouldn't be there
:13:57 24 where there are schools. The School District of
:14:00 25 Philadelphia's headquarters is directly in front of

:14:03 1 me.

:14:04 2 Q. Now, I want to --- in the petition there's a
:14:12 3 statement that you wouldn't have even situated the
:14:15 4 school there if you knew that a casino was going to
:14:19 5 be there.

:14:19 6 A. I certainly would have not.

:14:21 7 Q. Have you done anything more recently to support
:14:25 8 the notion that if people know that a casino is going
:14:30 9 to be so close to that school that they're not going
:14:34 10 to want to come to that school?

:14:35 11 A. Yeah. I questioned parents just one day. There
:14:39 12 were probably about a hundred parent surveys there
:14:43 13 and they all said that they didn't feel that a casino
:14:48 14 should be there where the school is and the children
:14:50 15 are being educated. And I think one parent said it
:14:54 16 didn't matter, his child was getting such a good
:14:56 17 education that he wouldn't care.

:14:56 18 ATTORNEY SPECTOR:

:14:59 19 Members of the Board, I simply want to
:15:02 20 point out that I have here electronically --- I think
:15:06 21 if must be about 80 or 90 of these survey responses
:15:11 22 that she's just referred to. I have a hard copy of
:15:15 23 most of them and, obviously, it just makes the point.
:15:18 24 I don't have to go over every one by any means.

:15:23 25 CHAIRMAN:

:15:23 1 We agree.

:15:23 2 BY ATTORNEY SPECTOR:

:15:24 3 Q. Is there anything else that you would add in
:15:26 4 terms of --- that you'd like the Board to know how
:15:31 5 this casino will have a direct, immediate and a
:15:35 6 substantial impact on your school?

:15:39 7 A. Well, with a thousand students, as you mentioned
:15:43 8 earlier, there is already school buses and there is
:15:45 9 students there. The traffic problem, the impact, you
:15:48 10 know, on the school itself being so close to a
:15:52 11 casino. And I would also appeal to this Board to
:15:58 12 look at some law or restrictions in terms of children
:16:01 13 and schools around the casinos. I believe Texas may
:16:06 14 have one, but consider that because children should
:16:09 15 not be subjected to the safety issues and the
:16:14 16 population density and traffic that would come as a
:16:17 17 result of a casino.

:16:18 18 ATTORNEY SPECTOR:

:16:19 19 Thank you. I'm going to ask a few
:16:20 20 questions of Mr. Snitzer and he should be sworn.

:16:23 21 CHAIRMAN:

:16:23 22 Mr. Snitzer, stand up, please, sir, if
:16:25 23 you will. State your name and spell your last name.

:16:25 24 MR. SNITZER:

:16:27 25 Paul Snitzer, S-N-I-T-Z-E-R.

:16:36 1 -----

:16:36 2 PAUL SNITZER, HAVING FIRST BEEN DULY SWORN,

:16:36 3 TESTIFIED AS FOLLOWS:

:16:36 4 -----

:16:38 5 EXAMINATION

:16:38 6 BY ATTORNEY SPECTOR:

:16:39 7 Q. Now, Mr. Snitzer, tell the Board your

:16:41 8 relationship with the synagogue.

:16:42 9 A. I'm a member of the synagogue's board.

:16:44 10 Q. Okay. You're familiar with the petition that

:16:49 11 has been filed on its behalf; correct?

:16:50 12 A. Correct.

:16:51 13 Q. The petition refers to how --- the synagogue has

:16:57 14 been there for so many years. Could you just

:16:59 15 elaborate on that and give us a little history that

:17:03 16 highlights the commitment that the synagogue has had

:17:06 17 to that location?

:17:07 18 A. The synagogue has been in --- at its current

:17:10 19 location since approximately 1870. Unlike every

:17:16 20 other reform synagogue that used to be in the Central

:17:20 21 Philadelphia area, Rodeph Shalom was committed to the

:17:25 22 City of Philadelphia. Did not leave to the suburbs,

:17:28 23 maintained its site there since 1870 and, in fact,

:17:32 24 used to have a site in the suburbs, which in the

:17:40 25 2000s had decided it would close or sale so that it

:17:44 1 could fully devote its resources to the site at Broad
:17:49 2 and Grant.

:17:50 3 Q. That is you consolidated a suburban campus to
:17:52 4 the Center City site?

:17:53 5 A. We sold the suburban site.

:17:55 6 Q. Okay. Go on.

:17:56 7 A. And just recently we've undergone, as you've
:18:01 8 said, an expansion plan and a modernization plan
:18:06 9 because the building is so old. We're investing
:18:09 10 many, many millions of dollars to modernize the
:18:12 11 building and equipment for the next hundred years at
:18:15 12 its current site.

:18:17 13 Q. Could you explain whether you think --- or
:18:22 14 whether the synagogue would be harmed in terms of its
:18:25 15 ability to attract new members, or keep its current
:18:28 16 membership or any other way if a casino was situated
:18:32 17 as proposed?

:18:33 18 A. Well, just for the reasons that have been
:18:35 19 summarized. If people aren't able to get to the
:18:40 20 casino --- get to the synagogue or leave the
:18:43 21 synagogue because of increased traffic delays. And
:18:47 22 our members come --- our congregants come from all
:18:51 23 over. They're not just in the Center City area.
:18:53 24 They're east, and west and north. They use all of
:18:59 25 the area streets. Obviously, that could have an

:19:02 1 impact as could the fact that the synagogue, given
:19:06 2 its commitment to the area, is hoping for continued
:19:12 3 organic, residential growth in the neighborhood that
:19:15 4 would also support its membership.

:19:17 5 Q. Would there be any security or safety concerns
:19:20 6 to people in your congregation from the operation of
:19:22 7 the synagogue in your mind?

:19:24 8 A. Yes, just the concerns that you have summarized.

:19:27 9 Q. Is there anything else that you would like to
:19:32 10 point out to the Board regarding the impact of the
:19:36 11 synagogue --- casino, excuse me?

:19:36 12 A. Just that in addition to the Friday night
:19:40 13 services that the congregation also often makes its
:19:44 14 facilities available to the community at large, which
:19:48 15 also can draw large numbers of people. Earlier in
:19:54 16 2013 we had Mark Bittman, who is a writer for the New
:19:59 17 York Times, come in and make a presentation and that
:20:01 18 filled the sanctuary.

:20:04 19 Q. When you say it filled it, how many people is
:20:06 20 that?

:20:06 21 A. Approximately, somewhere between a 1,000 and
:20:09 22 2,000 people. More recently we had Philadelphia
:20:15 23 Inquirer writer Trudy Rubin come and speak. So, in
:20:20 24 addition to the religious activities we also often
:20:24 25 have community activities, which require people to be

:20:30 1 able to arrive and depart from the synagogue in a
:20:34 2 reasonable way.

:20:34 3 ATTORNEY SPECTOR:

:20:35 4 Thank you. Next I would ask finally
:20:38 5 some questions of Colleen Puckett who should be
:20:43 6 sworn.

:20:43 7 CHAIRMAN:

:20:43 8 Ma'am, if you will, just state your
:20:45 9 name for the record, spell your last name.

:20:45 10 MS. PUCKETT:

:20:46 11 Sure. It's Colleen Puckett,
:20:49 12 P-U-C-K-E-T-T.

:20:57 13 -----

:20:57 14 COLLEEN PUCKETT, HAVING FIRST BEEN DULY SWORN,
:20:57 15 TESTIFIED AS FOLLOWS:

:20:57 16 -----

:20:59 17 EXAMINATION

:20:59 18 BY ATTORNEY SPECTOR:

:21:01 19 Q. Ms. Puckett, would you tell the Board your
:21:02 20 association with Friends Select School?

:21:04 21 A. I've worked at Friends Select School since 2003
:21:08 22 and I am the director of marketing and communications
:21:10 23 at the school.

:21:11 24 Q. I'd just simply like to ask you based on your
:21:18 25 knowledge of how the school operates, how it tries to

:21:22 1 get students, how it tries to keep students, how
:21:25 2 would the situation of a casino where it's proposed
:21:32 3 impact the vitality and the successful operation of
:21:38 4 Friends Select?

:21:38 5 A. Well, first I hope you'll indulge me. Mr.
:21:42 6 Carano spent some time giving you the family history
:21:44 7 of his business and I would just like to give you a
:21:46 8 little bit of perspective on Friends Select School.
:21:49 9 We trace our roots back to 1689 to the first Quaker
:21:53 10 school in the country. We are an independent school
:21:56 11 serving pre-K through 12. We serve 556 families at
:22:00 12 the school. We're located at the heart of the Museum
:22:04 13 District at the corner of 17th and the Parkway. And
:22:05 14 just like Rodeph Shalom, we, too, have had a strong
:22:11 15 commitment to Philadelphia since our founding.

:22:13 16 We've existed in our current form since 1833 and
:22:16 17 we've been at the corner where we are now at our
:22:19 18 location since 1885. Now, back in the late '60s,
:22:22 19 our board of trustees --- a lot of the other Quaker
:22:25 20 schools were fleeing the city at that point. And I
:22:29 21 know most of you look like you've been around in the
:22:31 22 1960s, but you remember what cities were like in the
:22:34 23 1960s.

:22:35 24 And the board had a decision to do the same or
:22:38 25 stay. We recommitted to the city at that time and

:22:42 1 built our current school structure there in 1968.
:22:47 2 Sixty-two (62) percent of our families live in
:22:51 3 Center City and that is a very deliberate strategy
:22:53 4 of ours. When I was hired in 2003 we had 480
:22:57 5 students at the school and my main charge at that
:23:00 6 point was to boost enrollment. And we've talked a
:23:05 7 little bit earlier today about the competitive
:23:07 8 business environment here.

:23:09 9 The reason that Friends Select is sitting here
:23:11 10 today is that we feel that a casino at this site
:23:14 11 would be a direct business competitive --- extreme
:23:18 12 competitive disadvantage to us. Philadelphia is
:23:21 13 lucky in the sense that it has lots of educational
:23:24 14 choices for families. Our sustainability and
:23:27 15 viability depends on the sustainability and
:23:30 16 viability and vibrancy of Center City itself.

:23:33 17 Twelve (12) percent of our students live in
:23:36 18 Fairmount and Spring Garden neighborhoods, which are
:23:38 19 right adjacent to where the proposed site is. So,
:23:44 20 our concerns are mirrored of those of Ms. Joyner and
:23:48 21 Paul Snitzer in that traffic right now. We talked
:23:52 22 about the intersection and the traffic there. Three
:23:54 23 of the five worst intersections in the City of
:23:58 24 Philadelphia are located right around our school.
:24:00 25 Three of those are around City Hall, if any of you

:24:04 1 have been caught trying to get around City Hall, and
:24:06 2 the other is 15th and Broad.

:24:08 3 So, we already experience --- it's pretty much a
:24:12 4 congestion nightmare every morning for drop off and
:24:15 5 pick up already around our school because it's one
:24:19 6 way streets all around, and there's only one
:24:21 7 entrance into the parking lot. And it's actually
:24:24 8 off Race Street.

:24:24 9 BY ATTORNEY SPECTOR:

:24:25 10 Q. Right. I touched on that. In the petition
:24:28 11 there's a reference to giving high school students
:24:32 12 leave. Could you elaborate on that and how that
:24:37 13 might be affected by having the casino where it's
:24:40 14 proposed?

:24:40 15 A. Well, first we do take full advantage of the
:24:44 16 city from pre-K through 12 and that's --- we have
:24:48 17 partnerships with the Academy of Natural Sciences, et
:24:50 18 cetera, et cetera. So, our kids in a supervised
:24:53 19 fashion do take full advantage of the city and are
:24:56 20 out and about, you know, just about every day. In
:24:58 21 addition to that, our upper school, 9th through 12th
:25:01 22 grade students have the ability to petition every
:25:03 23 year school administration for building leave
:25:07 24 privileges, which means that their lunch period, from
:25:10 25 1:00 to 1:40, they can leave the building. If they

:25:12 1 have a free period, or a study hall or something like
:25:15 2 that they can leave the building.

:25:16 3 So, we're talking about this flow of people,
:25:21 4 flow of traffic, et cetera, around the casino and
:25:23 5 it's not just the casino patrons that our kids are
:25:27 6 going to be bumping up against, but it's the people
:25:29 7 who prey on the casino patrons. And so, sooner or
:25:33 8 later there is going to be something and if any of
:25:35 9 you --- there's sort of a truism in the marketing
:25:38 10 world that one negative incident --- you know,
:25:41 11 reputation management, it will take ten years to
:25:44 12 overcome that.

:25:45 13 We have worked so hard over the last ten years
:25:47 14 to illustrate and demonstrate that Center City is a
:25:51 15 fabulous place to raise your kids. The demographics
:25:54 16 in Center City have been just going up, and up and
:25:57 17 up. We have waiting lists for our lower school.
:26:00 18 So, we're talking about parents who have a lot of
:26:03 19 educational choices. They have excellent charter
:26:05 20 schools that they could go to, excellent public
:26:09 21 magnet schools that they could choose to send their
:26:11 22 kids to, but we're a tuition-based school.

:26:14 23 So, our tuition start around \$18,000 in pre-K up
:26:18 24 to close to \$30,000 in the upper school. Roughly a
:26:20 25 third of our families are in some form of financial

:26:24 1 aide, which means that the remainder are paying, are
:26:26 2 choosing to pay, make an investment in their
:26:29 3 children's education. Now, there's plenty of other
:26:31 4 independent schools out there, all offer excellent,
:26:35 5 excellent education. So, given their choice, given
:26:38 6 their choice we are fearful this is going to have a
:26:40 7 direct competitive disadvantage to us.

:26:43 8 Because if they have a choice between sending
:26:45 9 their child to an excellent Quaker school that's not
:26:48 10 next to a casino or a school that is within three
:26:52 11 blocks of a casino, part of the value proposition
:26:55 12 that we give to our parents is that they will be
:26:58 13 educated in a safe --- you know, emotionally safe,
:27:00 14 physically safe, secure area and that they are also
:27:03 15 going to be able to take advantage of all of the
:27:06 16 wonderful things that are built into our program of
:27:09 17 the city. So, okay, here you have this choice.

:27:10 18 The reason we are here at this table today is
:27:12 19 that we want to have the right to have standing to
:27:15 20 appeal if, in fact, this casino license is awarded
:27:18 21 to this site. Because we feel it's going to put us
:27:23 22 at a permanent competitive disadvantage.

:27:26 23 Q. Just finally, what are your thoughts with
:27:29 24 respect to whether the general scene of a casino
:27:34 25 could be an attraction to students that is an

:27:37 1 attraction that you don't want them to have?

:27:39 2 A. Well, you know, there's research out there that
:27:43 3 the two populations that are more susceptible to
:27:47 4 gambling addiction or the lure of gambling are senior
:27:50 5 citizens and teenagers. You know, teenagers, their
:27:54 6 brains are not fully developed yet. And also in our
:27:57 7 culture they've been weaned on gaming. Not gambling,
:28:01 8 but they've been weaned on gaming at this point. You
:28:04 9 know, games online, et cetera, et cetera. So,
:28:06 10 they're already like primed and predisposed, and this
:28:10 11 could be, you know, a very attractive nuisance for
:28:14 12 our upper school kids.

:28:15 13 ATTORNEY SPECTOR:

:28:16 14 Thank you. That concludes our
:28:17 15 presentation and, obviously, if the Board has
:28:20 16 questions or Counsel for Tower.

:28:22 17 CHAIRMAN:

:28:22 18 Thank you, Mr. Spector. Mr. Fabius,
:28:25 19 you, I take it, are here on behalf of Tower; is that
:28:28 20 correct, sir?

:28:28 21 ATTORNEY FABIUS:

:28:29 22 Yes, sir, that's correct. Michael
:28:31 23 Fabius from the law firm Ballard Spahr. Last name is
:28:33 24 spelled F-A-B-I-U-S. Would you like me to proceed
:28:37 25 or allow them to proceed?

:28:37 1 CHAIRMAN:

:28:38 2 Well, I guess first thing I would ask,
:28:39 3 do you have any questions of any of the Petitioner's
:28:45 4 witnesses?

:28:45 5 ATTORNEY FABIOUS:

:28:47 6 I do not have any questions. I would
:28:49 7 only object to the admission of exhibits for which I
:28:51 8 wasn't given notice of.

:28:51 9 ATTORNEY SPECTOR:

:28:54 10 For what?

:28:54 11 ATTORNEY FABIOUS:

:28:55 12 For which I wasn't given notice, that
:28:58 13 weren't part of the petition.

:28:59 14 CHAIRMAN:

:28:59 15 Which exhibits?

:28:59 16 ATTORNEY FABIOUS:

:29:01 17 I believe the survey. And I would note
:29:02 18 that the exhibits that were taken from the traffic
:29:05 19 study were from prior additions of the traffic study
:29:10 20 that have gone through multiple renovations with the
:29:13 21 review of Orth-Rodgers.

:29:13 22 ATTORNEY SPECTOR:

:29:14 23 I would just respond that nothing in
:29:17 24 terms of the statistical --- nothing changed in
:29:21 25 between the traffic study that these were taken from

:29:24 1 and the traffic study that was published most
:29:27 2 recently. There's absolutely no change in the
:29:29 3 numbers.

:29:29 4 CHAIRMAN:

:29:30 5 Mr. Fabius, for the purpose of this
:29:33 6 hearing I don't think there's any problem.

:29:33 7 ATTORNEY FABIUS:

:29:33 8 Okay.

:29:33 9 CHAIRMAN:

:29:34 10 So, I'm going to overrule your
:29:36 11 objection.

:29:36 12 ATTORNEY FABIUS:

:29:36 13 Okay.

:29:36 14 CHAIRMAN:

:29:36 15 They will be admitted. Do you have a
:29:38 16 presentation?

:29:39 17 ATTORNEY FABIUS:

:29:39 18 I would have just a brief legal
:29:41 19 argument. I have no witnesses to present.

:29:41 20 CHAIRMAN:

:29:44 21 Okay. Go ahead, sir.

:29:44 22 ATTORNEY FABIUS:

:29:45 23 Like the Board, Towers is committed to
:29:47 24 public input. Towers' principal Bart Blatstein has
:29:52 25 had over 50 individual meetings with 18 community

:29:55 1 stakeholders. Notably Tower agreed to add a second
:29:59 2 parking garage with 716 self park spots. That was
:30:03 3 not reflected on the exhibit that was presented, but
:30:06 4 it is a --- on a piece of parcel owned by Bart
:30:10 5 Blatstein through another entity that if the license
:30:12 6 was awarded to Tower, it would be moved to Tower for
:30:14 7 the purposes of 716 parking spots. And that was in
:30:17 8 response to community feedback that the community
:30:21 9 wanted more off street parking.

:30:24 10 Petitioners are three institutional
:30:27 11 members of the general public that, as you heard from
:30:29 12 them, feel that the casino is not a fit for their
:30:33 13 neighborhood because of perceived crime and traffic.
:30:38 14 Their concerns are appropriate public input and Tower
:30:41 15 has no objection for a nunc pro tunc belated
:30:46 16 condition to the public written comment record.

:30:49 17 Tower objects to intervention status,
:30:51 18 specifically, not the submission of public input
:30:53 19 because their interest doesn't arise to a substantial
:30:56 20 threat and immediate interest that's required for
:30:58 21 intervention, and the rights that come with
:31:01 22 intervention. A substantial interest requires a
:31:05 23 showing that the interest surpasses the common
:31:08 24 interest of all citizens in the enforcement of law.

:31:11 25 I haven't heard from them any

:31:12 1 allegations that Tower is ineligible or the award of
:31:15 2 a license to Tower would be a violation of law.
:31:19 3 Furthermore, the testimony that we've heard, the
:31:21 4 nature of it, the concerns of it, are the same
:31:26 5 concerns --- some of the same concerns that are heard
:31:27 6 through the Board's public input process, and I think
:31:29 7 more appropriately directed to that public written
:31:32 8 testimony and the public hearing process that the
:31:35 9 Board has by statute.

:31:40 10 I would note that, you know, this is
:31:41 11 not the first community --- individual to have sought
:31:45 12 a Petition to Intervene in a license application.
:31:48 13 The Board's quite familiar with Mr. Schneller
:31:52 14 (phonetic) who has made a common practice of it.
:31:55 15 While I certainly credit Mr. Spector being much more
:32:00 16 articulate than Mr. Schneller, I do not want to
:32:01 17 disparage the practice of law. The interests are the
:32:03 18 same. Mr. Schneller alleged interest related to
:32:06 19 traffic, crime, fit in the neighborhood, morality and
:32:09 20 anti-gaming, and this Board has time and time again
:32:12 21 decided that such interest, while appropriate for the
:32:14 22 public forum and public input process, are not
:32:17 23 appropriate for a substantial threat and immediate
:32:19 24 interest. And with that I will take any questions.

:32:22 25 CHAIRMAN:

:32:23 1 Thank you, Mr. Fabius. Any questions
:32:26 2 or comments from the Office of Enforcement Counsel
:32:26 3 (OEC)?

:32:26 4 ATTORNEY ROLAND:

:32:30 5 Good afternoon, Mr. Chairman. Michael
:32:32 6 Roland, R-O-L-A-N-D, with the OEC. We have no
:32:36 7 questions for either party. We actually have no
:32:38 8 witnesses of our own. We have no presentation, but
:32:41 9 we, too, would like an opportunity just to make a
:32:43 10 statement of our position based upon the testimony
:32:46 11 that's before you today if that's permissible.

:32:48 12 CHAIRMAN:

:32:48 13 Go ahead, sir.

:32:48 14 ATTORNEY ROLAND:

:32:50 15 Thank you. Obviously, we're looking at
:32:51 16 the test that the Board has in its regulations that
:32:54 17 falls under 493 A12C and 441 A7Z, and that's the
:33:00 18 intervention test. It's really a standing test.
:33:04 19 Steven, nowhere in there is the term standing used.
:33:06 20 When you look at the actual test it's almost a carbon
:33:10 21 copy of the standing test that the Commonwealth uses
:33:13 22 in its proceedings and even is used at a federal
:33:16 23 level. Same requirements are there. So, clearly
:33:19 24 standing is the issue.

:33:20 25 Again, as everyone's put in front of

:33:22 1 you, the interest has to be substantial, direct and
:33:25 2 immediate. The OEC is of the petition that --- or is
:33:29 3 of the position that the Petitioners have not really
:33:31 4 suffered a harm yet and there's no actual harm, so it
:33:36 5 can't yet be substantial. They can't yet be direct.
:33:40 6 It certainly is not immediate if it hasn't occurred.
:33:43 7 More importantly we feel that through their
:33:45 8 presentation they haven't really predicted that all
:33:48 9 of those things are going to occur in the future.

:33:50 10 It seems it's more of an uneasy feeling
:33:52 11 about it being present in their backyard than there
:33:55 12 is going to be an actual damage or harm that may
:33:58 13 incur. What we think is even more important is the
:34:01 14 second element where an interest is not adequately
:34:06 15 represented already during the course of the
:34:08 16 proceeding.

:34:09 17 Okay. The issues that Petitioner
:34:11 18 raises here are traffic, parking and security or
:34:15 19 public safety. In every one of the licenses that has
:34:18 20 been granted by this Board, those three issues have
:34:22 21 been looked at extensively before the license was
:34:25 22 issued. For all the applications that are currently
:34:29 23 pending for this existing license, the review and the
:34:33 24 background process regarding those three issues are
:34:37 25 in full swing.

:34:38 1 For example, just to look at traffic.
:34:41 2 Orth-Rodgers in combination with PennDOT is doing an
:34:44 3 independent traffic study for the Board. That has
:34:47 4 happened in the past. It's been successful and,
:34:49 5 again, it's taking place. So, these are issues that
:34:52 6 are not new, they're not novel. The OEC doesn't
:34:57 7 believe it really justifies additional review. The
:34:59 8 last element, of course, being the person that has to
:35:02 9 be bound by the action of the Board.

:35:03 10 Now, with all that being said,
:35:06 11 Enforcement Counsel still believes that the three
:35:09 12 elements for --- or three requirements for standing
:35:13 13 have not been satisfied and therefore full intervenor
:35:16 14 status is not really necessary. It's to express
:35:22 15 specific concerns that have been raised today or
:35:25 16 specific issues that have been raised today by the
:35:27 17 Petitioner. The public hearing opportunities you've
:35:29 18 heard mention probably would have been a very good
:35:32 19 vehicle in April and May. Certainly the written
:35:35 20 comment period, which was extended all the way out to
:35:37 21 December 31st of 2013, would have been an appropriate
:35:41 22 vehicle.

:35:41 23 And Enforcement Counsel would have no
:35:43 24 objection --- I mean, looking at the petition that
:35:45 25 was filed, it was filed December the 13th. That

:35:48 1 certainly is before the cut off period on December
:35:51 2 31st. Many of the exhibits that were presented today
:35:53 3 are actually part of that original petition. We
:35:57 4 would have no objection if that was accepted as a
:35:59 5 written comment just so the Board would have
:36:01 6 something from these Petitioners to consider.

:36:03 7 Another alternative --- again,
:36:04 8 discretion for standing and intervention is
:36:07 9 completely within the Board's discretion, the Board's
:36:10 10 sole discretion as put forth in 441 A7Z. Possibly
:36:14 11 another alternative is if intervention is granted,
:36:17 12 it's limited intervention and it's limited to traffic
:36:21 13 and parking issues only. With that being said, we'll
:36:26 14 have --- we'll take any questions if the Board has
:36:27 15 any for us as well.

:36:27 16 ATTORNEY SPECTOR:

:36:31 17 At some point I'd like to respond to
:36:33 18 that, if I may.

:36:33 19 CHAIRMAN:

:36:34 20 Tell you what, Mr. Spector, why don't
:36:36 21 you respond now? Briefly we would hope; right?

:36:36 22 ATTORNEY SPECTOR:

:36:43 23 Absolutely. Respectfully I have to
:36:45 24 raise a very fundamental objection to the fact that
:36:49 25 the OEC takes an adversarial position to a petition on

:36:55 1 --- a Petition to Intervene. As I read the Gaming
:37:00 2 Control Board Act, the OEC does not have the power to
:37:06 3 do that. You are here in an adjudicatory capacity
:37:11 4 and the OEC under the statute is supposed to stay
:37:16 5 away from getting involved in your adjudication.
:37:23 6 It's there for regulation, monitoring, to see whether
:37:26 7 things are being enforced.

:37:27 8 And, quite frankly, it's kind of
:37:30 9 disturbing that what is after all an agency of this
:37:37 10 Board would take the position before the Board that
:37:42 11 we don't have the right to intervene or take a
:37:46 12 position opposing anything that a Petitioner does.
:37:50 13 And I have a serious problem as to whether what
:37:54 14 Counsel just said, it has the power or the right to
:37:57 15 say. Having said that, not yet. We haven't suffered
:38:07 16 harm yet. Well, what's the whole idea here? Haven't
:38:12 17 even made a decision. Of course. The point of us
:38:15 18 being here, the point of --- what's the whole point
:38:18 19 of public comment? What's the whole point of
:38:20 20 anything in this whole pre-license award process if
:38:24 21 somebody can say well, what are you doing here? We
:38:27 22 haven't done anything yet. That just doesn't fly.

:38:31 23 The notion that we --- that there was
:38:35 24 adequate representation ---. And I pointed out that
:38:39 25 for practical purposes the ability to comment orally,

:38:45 1 publicly was before much of the information came to
:38:47 2 light, before it was published. And the notion that
:38:51 3 somehow the --- I respect this Board and, obviously,
:38:55 4 it's going to look into and be concerned about issues
:38:58 5 that we have raised. But to say that therefore the
:39:03 6 Board somehow adequately represents our interests,
:39:07 7 that renders intervention and nullity. What's it
:39:12 8 there for?

:39:14 9 Number one, it's there for as this
:39:17 10 Board well knows from the Society Hill Civic
:39:21 11 Association versus Gaming Board case back in 2006,
:39:24 12 the Pennsylvania Supreme Court ruled that the Society
:39:29 13 Hill Civic Association could not appeal the licensure
:39:31 14 to Fox Woods and Sugarhouse because it had not
:39:34 15 intervened. We only have a right to appeal if we
:39:39 16 have intervened. And finally, yes, the Board has
:39:44 17 discretion, but let's be careful here.

:39:51 18 If the Board comes to the conclusion
:39:53 19 that we meet the criteria, it can't then say, well,
:39:57 20 we don't care if it meets the criteria, we have the
:39:59 21 discretion to reject, deny the petition anyway.
:40:03 22 That's not your discretion. And so I urge the Board
:40:07 23 to call it as you see it. I think we're entitled to
:40:11 24 full intervention and we think that we've met the
:40:17 25 standards. And if we haven't then I don't know who

:40:20 1 could possibly do it. Thank you.

:40:20 2 CHAIRMAN:

:40:22 3 Thank you, sir. Questions? Board?

:40:26 4 Ex-Officio members? All right. Thank you very much.

:40:26 5 Oh, I'm sorry.

:40:26 6 MS. LANGAN:

:40:32 7 The Treasurer is supportive of the

:40:34 8 petition of the Intervenors in this matter.

:40:36 9 CHAIRMAN:

:40:36 10 I'm sorry. Say that again.

:40:36 11 MS. LANGAN:

:40:36 12 The Treasurer is supportive of the

:40:36 13 petition of the community groups intervening in this

:40:45 14 matter.

:40:45 15 CHAIRMAN:

:40:46 16 Okay. This matter is now closed. We

:40:47 17 will take it up after our Executive Session or at

:40:52 18 Executive Session. I want to thank all of you ladies

:40:55 19 and gentlemen for participating and we'll move on.

:40:59 20 Thank you.

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HEARING CONCLUDED

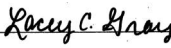
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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chairman Ryan was reported by me on 1/8/2014 and I Lacey C. Gray read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.



Court Reporter