

1 MR. WINTER: Yes.
 2 A. No, it's not.
 3 Q. So how did the discussions with the
 4 tenant, TLE at Montville/The Learning Experience, how
 5 did they come about?
 6 A. TLE at Montville, or The Learning
 7 Experience, if you want to call it that, it's actually
 8 The Learning Experience. I guess, they set up an LLC
 9 for the sake of the lease, came about through Scott
 10 Serafin in Montville, who had a friend who was looking
 11 for a place to put a daycare center. Daycare centers
 12 look for single-occupant buildings. They look for
 13 10,000 square feet, is what I was told at the time. I
 14 just happened to be sitting on a 10,000 square-foot,
 15 single-user building right there, and he had them
 16 contact myself.
 17 Q. So after Rosellini-2 through 4, is it
 18 fair to say that you didn't enter into a lease with
 19 Kiddie Academy International?
 20 A. No, not at all.
 21 Q. Okay. Now, when did the negotiations
 22 start with The Learning Experience?
 23 A. June of '03.
 24 Q. June of '03. Now, in Rosellini-3, it
 25 appears that Kiddie Academy International made an

1 offer on September 11th, 2002. Is that accurate?
 2 A. I believe that's the date.
 3 Q. Okay. Was this offer rejected?
 4 A. Yes, I did.
 5 Q. Okay. And were there any further
 6 negotiations with Kiddie Academy after that?
 7 A. No.
 8 Q. And when, after September 11th, 2002, did
 9 you start negotiations with The Learning Experience?
 10 A. You just asked me that. I said June of
 11 '03.
 12 Q. Okay.
 13 A. I think I did, didn't I?
 14 MR. HANLON: You did.
 15 Q. You may have. Sometimes I may repeat
 16 myself --
 17 A. No problem.
 18 Q. -- but it's nothing personal.
 19 Did you engage with any -- engage in
 20 negotiations with any other daycare providers from
 21 September 2002 through 2003?
 22 A. No.
 23 Q. Okay. So the only daycare centers that
 24 you negotiated with were Kiddie Academy and The
 25 Learning Experience?

1 A. Yes.
 2 Q. All right. And who was the broker for
 3 Learning Experience?
 4 A. I don't even remember, to tell you the
 5 truth. It's on the lease, I believe.
 6 Q. Do you have any of the documents
 7 reflecting the negotiations with The Learning
 8 Experience?
 9 A. No. The lease was the -- the main part
 10 of it.
 11 Q. Were all the negotiations with The
 12 Learning Experience lease done orally?
 13 A. Uh-huh.
 14 Q. Okay.
 15 A. Yes.
 16 Q. Did you have counsel representing you
 17 during the negotiations with The Learning Experience?
 18 A. Yes.
 19 Q. Who was the counsel?
 20 A. Seth Davenport.
 21 Q. Did Seth Davenport represent you with
 22 respect to the negotiations with Kiddie Academy
 23 International?
 24 A. No.
 25 Q. When did you engage Seth Davenport?

1 A. Strictly to review the contract.
 2 Q. I'm sorry. When did you engage Mr.
 3 Davenport?
 4 MR. PODERA: Objection to form. Are you
 5 asking it as it relates specifically to this lease or
 6 in general?
 7 Q. Okay. Prior to the lease in Rosellini-1,
 8 had you ever engaged Seth Davenport before?
 9 A. Yes.
 10 Q. When?
 11 A. Seth did the closing on my building,
 12 Olympia Properties, and he had begun the estate work
 13 on my mom's estate in March/April '02.
 14 Q. Did Davenport conduct the negotiations
 15 with Learning Experience himself?
 16 A. No.
 17 Q. So you were still controlling the terms;
 18 correct?
 19 A. Absolutely. It was all me.
 20 Q. And after you had the terms, did you then
 21 engage Mr. Davenport for legal services?
 22 A. Yes.
 23 Q. And do you know when that occurred?
 24 A. That was in June, right before this was
 25 drawn up.

1 Q. Okay. Other than engaging Mr. Davenport
 2 for legal services, do you have any personal
 3 relationship with Mr. Davenport?
 4 MR. PODERA: Objection to form.
 5 A. Such as?
 6 Q. Do you have a familial relationship with
 7 Mr. Davenport?
 8 A. No.
 9 Q. Do you have a social relationship with
 10 Mr. Davenport?
 11 A. No. Occasionally. I mean, you know, I
 12 was mayor. You see people around town.
 13 Q. Okay. And he lives in town; correct?
 14 A. Yes.
 15 Q. And you obviously live in town?
 16 A. Yes.
 17 Q. How often do you see Mr. Davenport?
 18 MR. PODERA: Objection. You're asking
 19 that as in relation to now? Then? When? What's the
 20 time period we're talking about?
 21 Q. During the time period of 2002, how often
 22 did you see Mr. Davenport on a personal basis?
 23 MR. PODERA: Objection. I don't believe
 24 that he said he saw him on a personal basis.
 25 Q. How often did you see Mr. Davenport in

1 the years -- in the year 2002?
 2 A. He was representing the litigation
 3 between my family over my parents' estate. I was the
 4 trustee and executor. He was representing me.
 5 Q. And at that time, it was just
 6 professional; correct?
 7 A. Yes.
 8 Q. And in year 2003, how often did you see
 9 Mr. Davenport?
 10 MR. PODERA: Objection to form.
 11 A. Once a month maybe.
 12 Q. Okay. And was -- were all the times that
 13 you met Mr. Davenport in 2003, were they related to
 14 the lease with Learning Experience?
 15 A. Learning Experience, or my parents'
 16 estate litigation.
 17 Q. So --
 18 A. Or the closing on Olympia Properties.
 19 There was a couple of things.
 20 Q. Okay. So during the year 2003, your
 21 meetings with Mr. Davenport, they were strictly
 22 professional?
 23 A. Yeah.
 24 Q. Okay. In year 2004, did you have any
 25 meetings with Seth Davenport?

1 A. I'm not positive which year he became
 2 township magistrate, okay, but at that point,
 3 immediately all my business went elsewhere.
 4 Q. Okay.
 5 A. Because I was an elected official, I
 6 couldn't stay with him.
 7 Q. And you don't know exactly when he was
 8 appointed?
 9 A. He was just reappointed this year, and
 10 it's three-year terms, I believe. So he was appointed
 11 January 1st, '06. It would have been January 1st,
 12 '04, I believe.
 13 Q. And did you have any role in appointing
 14 Mr. Davenport as municipal court judge?
 15 A. Yes.
 16 MR. PODERA: Objection. Objection to
 17 form.
 18 Q. What role did you play in that?
 19 A. I was a township committee member, and I
 20 was one out of five votes.
 21 Q. How big is the daycare center that
 22 Learning Experience is going to build at 323
 23 Changebridge Road?
 24 A. 10,000 square feet.
 25 Q. And do you know what the permitted uses

1 are in the zone encompassing 323 Changebridge Road?
 2 A. Yes.
 3 Q. What are they?
 4 A. It's an I-2 zone. It's industrial. It's
 5 daycare. There's a list of them. Daycare is a
 6 permissible use in that zone.
 7 Q. Okay. Do you have any other documents
 8 that you brought here today with respect to the
 9 subpoenas that were served upon you?
 10 A. The only thing else I have is an August
 11 of '04 proposal from Boswell Engineering on the site,
 12 if you're interested in that.
 13 Q. I'll just take a quick look at that.
 14 A. And I have the lease between Olympia
 15 Properties and Unicorn Manufacturing that's filed with
 16 the court clerk as well -- or the county clerk.
 17 Q. I'll take a look at that too, but you can
 18 give it to your counsel first.
 19 A. He hasn't seen it. So, I mean, that's
 20 your call. You guys fight. You asked if I had an
 21 operating agreement for Olympia in the subpoena.
 22 There is no operating agreement. It's me.
 23 MR. WINTER: All right. Why don't we
 24 mark this.
 25 (Rosellini-6, Proposal of 8/16/04 from

8 (Pages 26 to 29)

1 Boswell Engineering, marked for identification.)
 2 Q. I'll show you a document that's been
 3 marked Rosellini-6. Do you know what Rosellini-6 is?
 4 A. It's a proposal from Boswell Engineering
 5 to Small Towne/Olympia for their engineering services
 6 for a planning board application.
 7 Q. I note that it's addressed to or to the
 8 attention of Seth Davenport. Do you know why?
 9 A. Went through his office, and actually it
 10 was forwarded to me.
 11 Q. In August 2004, was Seth Davenport
 12 representing you?
 13 MR. PODERA: Objection to form. Him
 14 personally or the company?
 15 Q. Was he representing Small Towne, LLC?
 16 A. No.
 17 Q. Was he representing you personally in
 18 August 2004?
 19 A. No.
 20 Q. Was Boswell Engineering your engineer?
 21 A. Yes. That's who I retained.
 22 Q. Okay. And why were they retained?
 23 A. For the site plan application.
 24 Q. And did they eventually file a site plan
 25 application?

1 A. Yes.
 2 Q. When did they file the site plan
 3 application?
 4 A. I believe in '05.
 5 Q. Was it in early-'05 or late-'05?
 6 A. I don't remember. I would say probably
 7 mid.
 8 MR. WINTER: If you would mark that?
 9 (Rosellini-7, Notice of Lease of 10/9/02,
 10 marked for identification.)
 11 Q. I'm just curious on the vote to appoint
 12 Seth Davenport as municipal judge. What was the vote/
 13 count, if you recall?
 14 A. 5/0.
 15 Q. Did you recuse yourself from that vote?
 16 A. No.
 17 Q. I show you a document, Rosellini-7. Do
 18 you know what Rosellini-7 is?
 19 A. Rosellini-7 is a document which is a
 20 lease between Olympia Properties/323 Changebridge Road
 21 and Unicorn Manufacturing/323 Changebridge Road.
 22 Q. And when was that document prepared?
 23 A. 9th of October, 2002.
 24 Q. And --
 25 A. The purpose of the document?

1 Q. Yes.
 2 A. Unicorn Manufacturing was the tenant in
 3 the Olympia Properties building, and this was for --
 4 filed with the court clerk -- the county clerk on
 5 behalf of and with the mortgage being filed.
 6 Q. Okay. What happened to the lease between
 7 Olympia Properties and the -- I don't remember who the
 8 entity was on Rosellini-7. I can't see.
 9 MR. PODERA: TLE?
 10 Q. No.
 11 A. This one?
 12 Q. Yes.
 13 A. Seven is Unicorn and Olympia.
 14 Q. What happened with respect to that lease?
 15 A. It's still in effect.
 16 Q. It is?
 17 A. Yes.
 18 Q. Okay. When will the daycare center in
 19 Rosellini-1 be built?
 20 A. It's still waiting for a DEP permit from
 21 the State of New Jersey, which could still be denied.
 22 Q. Is that the only outstanding approval?
 23 A. Yes, that I'm aware of.
 24 Q. Is there anyone that's representing you
 25 presently on The Learning Experience application?

1 A. The application was filed by Ron Shaljian
 2 out of Jersey City.
 3 MR. PODERA: Objection. This is the
 4 application before the planning board in Montville?
 5 MR. WINTER: Yes.
 6 A. Yes.
 7 Q. And is he still representing you with
 8 respect to the third-party agency approvals?
 9 A. No.
 10 Q. Are you being represented at all by
 11 anyone with respect to the third-party agency
 12 approvals?
 13 A. Boswell Engineering's doing it.
 14 Q. Okay.
 15 (Rosellini-8, Letter of 6/7/04 from
 16 Henshaw to Bozonelis, with attachments, marked for
 17 identification.)
 18 Q. I'm going to show you a document that's
 19 been marked Rosellini-8.
 20 (Witness reviews document.)
 21 A. Okay.
 22 Q. Have you seen Rosellini-8 before?
 23 A. No.
 24 Q. Did you serve on the planning board when
 25 Delaware Hudson made an application for an amended

1 site plan in 2002?
 2 A. 2002, they had two -- did they have one
 3 amendment, two amendments on this application?
 4 Q. I'm going to represent to you that there
 5 was an amended site plan where the grade of the
 6 property was going to be increased by two and a half
 7 feet. Does that refresh your recollection?
 8 A. Yes.
 9 Q. What is your recollection as to the
 10 amendment in that site plan?
 11 A. The application came in for the increased
 12 height of the building on the amendment, and at that
 13 time, prior to that, the building had a, if my
 14 recollection is right, had a crawlspace, I guess you
 15 would call it, whatever, and the applicant was going
 16 to install now a full basement, had hit rock, and
 17 wanted to go up three feet in height. I guess the
 18 crux of the matter is, and I think it's in all the
 19 minutes, from all the professionals, is that the
 20 original hearing on the original application were with
 21 the public there, representing the height of the
 22 building, the impact on the properties and everything,
 23 that this was a, you know, a detriment, and that I
 24 believe the applicant was asked at the hearing if he
 25 would raise his buffer and shrubbery three feet to

1 compensate for the three-foot height of the building,
 2 and said no. The planning board professionals
 3 basically advised the planning board that it was an
 4 impact, and the planning board denied it.
 5 Q. And what happened after the planning
 6 board denied the application?
 7 A. Mr. Soussa took it to -- on appeal to
 8 court.
 9 Q. Okay. And what happened in court?
 10 A. The judge felt it was a de minimis
 11 exception. It wasn't included in the contract of sale
 12 between the purchase of the property and the height of
 13 the building, it wasn't all connected, and the judge
 14 agreed with the applicant's request to raise the
 15 height three feet without changing the shrubbery.
 16 Q. Did the judge find that the board's
 17 action was arbitrary and capricious?
 18 A. I don't know his wording.
 19 Q. Okay. Did he reverse the board's denial
 20 of the site plan?
 21 A. On the three-foot, or the
 22 two-and-a-half-foot height difference, yes.
 23 Q. Now, after the judge made his finding of
 24 reversing the board's action, did you have any
 25 knowledge as to the settlement of a form of judgement?

10 (Pages 34 to 37)

1 A. No.
 2 Q. Okay. When were you notified that the
 3 amended site plan was -- strike that.
 4 When were you notified that the planning
 5 board's denial of the amended site plan was put on the
 6 record by Judge Bozonelis?
 7 MR. PODERA: Objection to form. Are you
 8 asking him when the trial was?
 9 MR. WINTER: No, I'm asking when he found
 10 out about Judge Bozonelis's decision.
 11 A. Usually we'd find out within a couple of
 12 days. They call.
 13 Q. Who calls?
 14 A. Town administrator normally would, or the
 15 planning board's secretary, advise the members.
 16 Q. When the -- when an application gets --
 17 or strike that.
 18 When a board's determination gets
 19 appealed to court --
 20 A. Which is common.
 21 Q. Yes, it is common. When that happens,
 22 who in the planning board is kept updated as to the
 23 status of the case?
 24 A. The entire planning board.
 25 Q. Okay. Is the planning board notified at

1 regular meetings?
 2 A. Yes.
 3 Q. Okay. Now, with respect to Judge
 4 Bozonelis's decision in this matter, was the board
 5 notified at a regular board meeting of Judge
 6 Bozonelis's decision?
 7 A. Usually the planning board attorney, at
 8 the following meeting, would notify or would inform
 9 the entire board and does inform the entire board of
 10 their decisions.
 11 Q. Okay. Why does he do that?
 12 A. It's his job.
 13 Q. Now, if there are any further proceedings
 14 with respect to the -- after the court makes a
 15 decision, is the board kept apprised of those
 16 developments?
 17 A. I don't understand the question.
 18 MR. PODERA: Neither do I. Objection to
 19 form.
 20 Q. Let's assume, in an instance like this,
 21 that there was a decision made against the planning
 22 board, and there were proceedings regarding the form
 23 of the order. Would the planning board be informed as
 24 to the progress of those proceedings?
 25 MR. PODERA: Objection to form.