

Exhibit 1

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1 deposition topics listed there, and I'm going to ask 10:13:44
2 you whether you are prepared to testify on behalf of 10:13:48
3 the City as to certain topics. 10:13:52

4 MR. SCHWARTZ: Well, no. The witness has 10:13:53
5 never seen this document before, and we're producing 10:13:56
6 Miss Early to testify in regard to Topic 4 on 10:14:00
7 Exhibit 95, so you are not going to take her through 10:14:09
8 this document, because that's a conversation that you 10:14:13
9 need to have with me. 10:14:15

10 MS. BERMAN: With respect to -- we had an 10:14:17
11 e-mail exchange about this with respect to the other 10:14:21
12 deposition topics that we discussed in our e-mail 10:14:24
13 Deposition Topics 3 and Deposition Topics 6, which 10:14:31
14 are the practical effects of the zoning ordinance on 10:14:36
15 the properties subject to the zoning ordinance. 10:14:39
16 That's Topic 3. And Topic 6, the City's 10:14:41
17 communications with owners or occupants of properties 10:14:45
18 subject to the zoning ordinance regarding the zoning 10:14:48
19 ordinance. Will the City be producing another 10:14:50
20 witness to discuss those topics? 10:14:53

21 MR. SCHWARTZ: No. 10:14:56

22 MS. BERMAN: And what is the basis for 10:14:58
23 the City's objection? 10:15:00

24 MR. SCHWARTZ: We stated our basis in 10:15:01
25 that the basis of our objection in our letter to your 10:15:05

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1	previous notice where you had 16 topics with regard	10:15:09
2	to both of those. We're producing an appraiser,	10:15:13
3	Peter Overton, who you deposed on Monday about the	10:15:19
4	practical effects of the zoning ordinance on the	10:15:23
5	properties subject to the zoning ordinance, and	10:15:25
6	that's the only evidence that we have.	10:15:27
7	With respect to Topic Number 6, it's not	10:15:34
8	relevant, and there is no City person as I think I	10:15:40
9	sent you an e-mail yesterday explaining why we're not	10:15:45
10	producing someone on Topic 6, but I can summarize	10:15:48
11	what I told you yesterday, which is the evidence	10:15:51
12	isn't relevant, and there is no City person who has	10:15:56
13	this information anyway and you have equal access to	10:15:58
14	this information as does the City. The City has more	10:16:06
15	than 1600 employees hired in the City to go out and	10:16:13
16	survey each City employee who has had communications	10:16:19
17	with owners, occupants of properties. It's	10:16:22
18	overbroad. You know, the balance outweighs the lack	10:16:25
19	of relevance. We're just not producing anyone.	10:16:29
20	MS. BERMAN: I think we'll agree to	10:16:35
21	disagree for the moment. I do want to remind you,	10:16:37
22	though, we had a telephone conversation after you	10:16:41
23	sent your letter regarding Topic 3, during which I	10:16:43
24	explained that Topic 3 did not call for expert	10:16:47
25	testimony regarding economic impact or legal	10:16:51

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1	opinions, but, rather, the practical uses of	10:16:55
2	properties, whether there was an impact on the ground	10:16:59
3	on the way that properties were being used, and I	10:17:02
4	thought during that call that we had reached a	10:17:04
5	meeting of the minds, if you will, that that actually	10:17:07
6	subsumed the uses that were being made of the	10:17:10
7	properties. So.	10:17:15
8	MR. SCHWARTZ: No, I never agreed to	10:17:18
9	produce a witness to testify about uses of property	10:17:19
10	subject to the overlay. Again, we also object to	10:17:25
11	your definition of zoning ordinance. But, putting	10:17:28
12	aside that objection with regard to the overlay	10:17:31
13	ordinance, Miss Early is here to testify about the	10:17:36
14	Topic 4, and we don't -- we don't have any evidence	10:17:41
15	of the practical effects of the zoning ordinance on	10:17:50
16	the properties, other than the legal effects and	10:17:54
17	that's a question of law. So we're not producing	10:17:59
18	anyone.	10:18:04
19	MS. BERMAN: Okay. I think we should	10:18:04
20	stop taking up Miss Early's time with our discussion.	10:18:05
21	We can table that for the moment and move on to the	10:18:09
22	questions that I have for Miss Early.	10:18:13
23	BY MS. BERMAN:	10:18:13
24	Q. What is your current position with the	10:18:18
25	City?	10:18:20