

**BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF NEWARK, DELAWARE**

SHERRY HOFFMAN,	)	
	)	
Appellant,	)	
	)	
MICHAEL J GRIFFIN	)	
ANNE WILLING-SOLAN	)	
BARRY N. SOLAN	)	
JOHN N. MILBURY-STEEN	)	
SARAH L. MILBURY-STEEN	)	
NEWARK RESIDENTS AGAINST THE POWER PLANT	)	
DELAWARE AUDUBON SOCIETY	)	
Appellants,	)	
	)	
v.	)	C.A. No. 14-BA-3
	)	
CITY OF NEWARK, DELAWARE ,	)	
and THE DATA CENTERS, LLC,	)	
	)	
Appellees.	)	

**STIPULATION CONCERNING TRANSCRIPT
OF CERTAIN TESTIMONY AT PUBLIC HEARING OF MARCH 19, 2014**

The parties hereby stipulate to the following changes to the Transcript of the Public Hearing held March 19, 2014 in these appeals:

Testimony of Carr Everbach

p. 77, line 19 (and throughout to p. 83)
Change “Eberbach” to “Everbach”

p.77, line 23
Change “State you name” to “state his name”

p. 78, line 14
Change: “Swatmore” to Swarthmore”

p. 78, line 22
Change “Hills-Carnes” to “Hillis-Carnes”

p. 78, line 23
Change “service” to “Survey”

p.79, line 3

Change “measure” to “measurements”

p. 79, line 20

Change “standard measure” to “standards measured”

p. 80, line 21

Change “who did seismic surveys, or Phyllis Carnes” to “who did seismic surveys or Hillis-Carnes”

p. 81, line 8

Change “measurable” to “measurement”

p. 81, lines 9-10

Change “and five of those measured at the (inaudible)” to “and for five of them I was able to do measurements at the same locations”

p. 81, line 16

Change “six of the sites the” to “six of the sites tested by”

p. 81, line 22

Change “selected” to “selecting”

p. 82, line 6

Change “expressed in the” to “expressed in your”

p. 82, line 10

Change “(inaudible)” to “ambient background noise”

Testimony of Afton Clarke-Sather

p. 84, line 10

Change “(inaudible)” to “Clarke-Sather”

p. 84, line 13

insert at beginning of witness’ statement “Afton Clarke-Sather. That’s spelled”

p. 84, line 24 – p. 91, line 2

in lieu of listing line by line changes, the following should be the testimony from Mr. Clarke-Sather:

BY MR. KRISTL:

Q: Thank you. Mr. Clarke-Sather, where are you currently employed?

A: I'm Assistant Professor of Geography at the University of Delaware.

Q: And you prepared the affidavit that's Appellants' Exhibit 20 describing property value effects of the TDC power plant?

A: That is correct.

Q: Have you had an opportunity to review the response to your affidavit contained in TDC's March 14 filing?

A: I have.

Q: I want to focus on some of the criticisms that TDC and Mr. Voith, the affiant, have raised. The first is that the Lucas Davis article, the methodology that you used, excluded cogeneration facilities. What does the Davis article say about cogeneration facilities?

A Cogeneration facilities were excluded in the Davis article because they tend to be associated with other industrial uses that have an equal or greater disamenity. An example of this would be the cogeneration facility at the Delaware City Refinery. Chemical plants, oil refineries, steel mills these tend to be the places where you would see them. And the way the data was structured that he used, he used the EGrid data, it was logical to exclude them.

BY MR. KRISTL:

Q: If a power plant is located with something that isn't one of those industrial-type operations, can the power plant still adversely affect property values?

A: If a power plant is co-located in something that would have no disamenity you would expect it to still reduce property values, yes.

Q: Another TDC criticism is reference to things like fly ash, uranium and thorium and truck traffic all related to coal. How many plants in the Davis study were natural gas-fired facilities like the TDC proposal?

A: The study consisted of 92 percent gas fired facilities similar to TDC's and the median size was 384 Megawatts, which is on the same order as TDC's.

Q: Now, another thing that TDC referenced was positive effects like increased tax revenues that might come from having the power plant. Did the Davis study take the positive impact from power plants into account when calculating these property value effects?

A: Because the Davis study was based on empirical evidence from 92 power plants that opened, every one of those power plants has employees; every one of these power plants pay taxes. So those effects, those positive effects, are baked into the analysis. They were mitigating effects, and Davis actually looked for evidence of what are called spillover effects with those, where you would expect an uptick in property values as you move farther away. He didn't find that evidence, but it was something he was very acutely aware of.

Q: One of the other things that was raised by TDC was that the plants in the Davis study were in rural locations. Does the Davis study apply only to rural power plants?

A: While most power plants were sited in more rural areas, it included quite a spread, he said that some were in relatively urbanized areas as well. Population density was one of the variables that was controlled for in the study, so that factor has been controlled for statistically. As were local market effects through the fixed effects model at the county level.

Q: Now in the course of your preparation of your affidavit, did you actually consult with Professor Davis?

A: Yes. I had a phone conversation with him.

Q: Based on your communications with Professor Davis, do you believe he thinks that his study applies to the TDC power plant?

A: I was left with the distinct impression that he does believe it applies to the power plant.

Q: Do the materials in TDC's filing affect the opinions that you expressed in your affidavit?

A: No, they do not change my opinions at all.

MR. KRISTL: Nothing further.

MR. PARADEE: Thank you. Do either the City or TDC have any questions of this witness?

BY MR. FORSTEN:

Q: Mr. Clarke-Sather, thank you for being here tonight. Just so we are clear, you are a professor of geography?

A: Yes.

Q: So you are not an appraiser?

A: No.

Q: And you are not an economics professor?

A: I do work with economic elements.

Q: But you are not an economics professor?

A: I am not a professor of economics, no, but this was a spatial analysis problem..[inaudible].

Q: You're not a valuation expert?

A: I am an evaluation expert of certain things.

Q: Valuation, not evaluation...valuation.

A: Valuation...I do not specialize in home valuation, no.

Q: And for your affidavit, did you do any study of the residential housing market in the Newark area?

A: The data that I used were based on the census data from the American community survey from 2012 that is widely viewed as a sufficiently, most oftenly, used data source.

Q: I am not asking you about the source. I'm just asking -- I mean, how did you get for example the three houses? Did you look at houses before Chrysler closed, after Chrysler closed...

A: The three houses were the homes of the appellants, that's how those houses were [interrupted]

Q: So, as I read your affidavit then, you picked three houses, and you said they are so far from the site, and therefore based on this model they'll go down X?

A: Yes.

Q: So it was a mechanical application of the paper to 3 houses based on their Zillow value?

A: It was, one portion was that, one was the (inaudible).

Q: And are you familiar at all with the site plan for the Data Center facility ?

A: Insofar as I evaluated it for locating the centroid to make geographical abstractions from yes I am--

(The reporter is motioning to Mr. Paradee that she cannot hear this exchange.)

MR. PARADEE: Mr. Forsten, I'm sorry. If I could just interrupt briefly, the court reporter is having trouble picking up some of this. If both of you could be a little more careful while speaking directly and loudly into the microphone.

BY MR. FORSTEN:

Q: Did you review the site plan for the facility?

A: Yes, I did.

Q: And what did that site plan show?

A: It showed three emission sources, the smokestacks associated with a set of reciprocating engines, there were smokestacks associated with turbines, and there were smokestacks associated with the cooling towers.

Q: I'm going to show you what was attached as Exhibit 18 to our document and that documents some of the -- I have forgotten. I think the court reporter has marked as Exhibit 1. Have you seen this aerial photograph before?

A: It does look familiar, yes.

Q: And so, based on this aerial photograph, do you believe that any of the residents will be able to see the cogeneration facility?

A: Without performing a sight line analysis, which can be very easily done in a geographic information system, I cannot, no.

Q: So you don't know?

A: Not something I've considered.

MR. FORSTEN: I have no further questions.

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SO STIPULATED this 10th day of April, 2014.

/s/ Kenneth T. Kristl

Kenneth T. Kristl, Esq. (DE Bar #5200)
Widener Environmental and Natural Resources Law Clinic
4601 Concord Pike
Wilmington, DE 19803
(302) 477-2053
ktkristl@widener.edu

Attorney for Michael Griffin, Anne Willing-Sloan, Barry Sloan, John Milbury-Steen, Sarah Milbury-Steen, Newark Residents Against The Power Plant, and Delaware Audubon Society

/s/ Sherry Hoffman

Sherry Hoffman, Esq.
111 Dallas Avenue
Newark, DE 19711
302-368-7397
Appellant

/s/ Max B. Walton

Max B. Walton, Esq.
Christina M. Thompson, Esq.
Connolly Gallagher LLP
267 East Main Street
Newark, DE 19711
302-888-6297
Attorneys for Appellee the City of Newark

/s/ Michael A. DeNote

Richard A. Forsten, Esq.
Michael A. DeNote, Esq.
Saul Ewing LLP
222 Delaware Avenue, Suite 1200
Wilmington, DE 19801
302-421-6833
Attorneys for Appellee The Data Center LLC