

ONTARIO  
SUPERIOR COURT OF JUSTICE

GV/sp

B E T W E E N:

CLEMENT CHU, NAHOM ABADI and IDA FABRIGA-CHU

Plaintiffs

- and -

PARWELL INVESTMENTS INC., BLEEMAN HOLDINGS LIMITED,  
650 PARLIAMENT RESIDENCES LIMITED, 650 PARLIAMENT (LHB)  
INVESTMENTS LIMITED, ELECTRICAL SAFETY AUTHORITY,  
GREATWISE DEVELOPMENTS CORPORATION  
and 77 HOWARD (LHB) INVESTMENTS LIMITED

Defendants

PROCEEDING COMMENCE UNDER THE CLASS PROCEEDINGS ACT, 1992

Court File No. CV-18-00605178-00CP

A N D B E T W E E N:

YULIA TOMASH

Plaintiff

- and -

650 PARLIAMENT RESIDENCES LIMITED a.k.a. 650 PARLIAMENT  
RESIDENCES INC., 650 PARLIAMENT (LHB) INVESTMENTS LIMITED,  
PARWELL INVESTMENTS INC., BLEEMAN HOLDINGS LTD., and  
WELLESLEY/PARLIAMENT SQUARE LIMITED

Defendants

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PROCEEDING COMMENCED UNDER THE CLASS PROCEEDINGS ACT, 1992

This is the Cross-Examination of NATHAN NORMOYLE on his Affidavits sworn the 4th day of February, 2019 and the 21st day of May, 2019, held at the Offices of VICTORY VERBATIM REPORTING SERVICES, Suite 900, 222 Bay Street, Ernst & Young Tower, Toronto-Dominion Centre, Toronto, Ontario, on the 11th day of June, 2019.

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A P P E A R A N C E S:

TED CHARNEY } --- for the Plaintiffs  
NICOLE MARCUS} in Court File No.  
TINA YANG } CV-18-00604410-00CP

BRUCE THOMAS } --- for the Defendants,  
KATHLEEN BURKIMSHER} 650 Parliament (LHB)  
DAVID YOUNG } Investments Limited  
and Parwell  
Investments Inc.

DAVID H. ELMAN --- for the Defendant,  
Electrical Safety  
Authority

ALSO PRESENT:  
Elaine Gault  
Rebecca Gondos  
Peter Gondos  
Mark Slapinski  
Tristan Avakian

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1 --- upon convening at 2:00 p.m.

2 --- upon commencing at 2:08 p.m.

3

4 NATHAN NORMOYLE, affirmed

5 CROSS-EXAMINATION BY MR. CHARNEY:

6

7 MR. THOMAS: Mr. Charney, I wanted to  
8 ask you if you have any objection to my  
9 putting Notice of Examination on the  
10 record. I have been informed that this has  
11 been short notice to some people, that they  
12 are concerned that there may not have been  
13 adequate notice of the examination. So  
14 that means I would like at least to be  
15 shown that you served us, and we produced  
16 the witness voluntarily.

17 1. MR. CHARNEY: Of course.

18 MR. THOMAS: Thank you. If you don't  
19 mind, that would be an exhibit to this  
20 because I know that Mr. Katz has told me  
21 short notice, and therefore, I don't want  
22 that to be suggested that we have done  
23 something without his knowledge. We have  
24 done it as a result of the cooperation we  
25 have offered you.

1           2.           MR. CHARNEY:       Yes.  I think your...it  
2                           was as a result of me notifying you only  
3                           very recently...maybe it was over the  
4                           weekend, I can't recall...that we were  
5                           interested in examining Mr. Normoyle.

6           MR. THOMAS:       It was 8:06 on Sunday  
7                           morning.

8           3.           MR. CHARNEY:       I can't remember, but  
9                           okay, that's right.

10          MR. THOMAS:       So I just wanted to be sure  
11                           that this not dealt with some time ago, and  
12                           that all of a sudden we're telling people.

13          MR. YOUNG:       So for the record, we are  
14                           marking the Notice of Examination that Mr.  
15                           Charney's office provided as the first  
16                           exhibit.  The date on the notice is June  
17                           11th, 2019.

18          MR. THOMAS:       Well, we received it this  
19                           morning.  Mr. Charney and I are on the same  
20                           page.  It's just that I don't want anyone  
21                           to suggest that this was done some months  
22                           ago, arranged some weeks ago, and nobody  
23                           was told.  That's all.

24

25          ---   EXHIBIT NO. 1:   Notice of Examination, dated June

1 11, 2019

2

3 BY MR. CHARNEY:

4 4. Q. You are Mr. Normoyle?

5 A. I am, yes.

6 5. Q. And I understand, sir, that you have  
7 taken an oath to tell the truth today?

8 A. Yes.

9 6. Q. And I understand that you are the  
10 affiant in two affidavits, one dated February 4,  
11 2019 and a second one, May 21, 2019. Is that  
12 correct?

13 A. That is correct.

14 7. Q. And you are employed by Access  
15 Restoration Services?

16 A. That's correct.

17 8. Q. And you are a vice-president there?

18 A. I am.

19 9. Q. And how long have you been with that  
20 company?

21 A. Approximately six years.

22 10. Q. What is the business of Access  
23 Restoration?

24 A. Access Restoration is an insurance  
25 restoration contractor specializing in larger scale,

1 commercial, industrial, institutional, fire, flood  
2 and environmental claims.

3 11. Q. And typically who are the clients of  
4 Access Restoration?

5 A. That will vary. It could be  
6 insurance companies. It could be owners of  
7 property, property managers, facility managers.

8 12. Q. Okay, and what is your role with the  
9 company?

10 A. I'm the vice-president of national  
11 operations. I look after operations for the entire  
12 company across Canada.

13 13. Q. All right, and prior to joining  
14 Access, were you in the same industry?

15 A. I was, yes.

16 MR. THOMAS: Please forgive me, but you  
17 asked for a C.V., and I was able to get one  
18 for you. I should have given it to you  
19 earlier, but that's one I was given today.

20 14. MR. CHARNEY: All right. We'll mark it  
21 in a minute, Mr. Thomas.

22 MR. THOMAS: Certainly. I didn't want  
23 to interrupt.

24

25 BY MR. CHARNEY:

1 15. Q. Where were you before Access?

2 A. A company called Gloucester  
3 Construction.

4 16. Q. All right, and were you performing  
5 the same kind of function there?

6 A. Yes, I was.

7 17. Q. And is it the same kind of business?

8 A. It is.

9 18. Q. All right. So in total,  
10 approximately how many years have you been in the  
11 same industry?

12 A. Approximately 16 years.

13 19. Q. Okay, and in terms of projects that  
14 involved the remediation of losses involving the  
15 number of units that we have here, which I believe  
16 is in the range of 600 units, have you had  
17 experience with any former projects that are of the  
18 same scope?

19 A. I have, yes, likely five to seven  
20 projects of a similar size, scope and number of  
21 units.

22 20. Q. Okay, and in those projects, did it  
23 involve remediating apartment units?

24 A. It did, yes.

25 21. Q. And did it involve the tenants being



1 out of the units while the remediation took place?

2 A. In some cases, yes.

3 22. Q. All right. So you have experience  
4 in those situations?

5 A. Yes, sir.

6 23. Q. Thank you very much. Now, I  
7 understand that...excuse me, before we do, may we  
8 mark your resume as Exhibit 2? Is this a current  
9 resume?

10 A. It is.

11 24. MR. CHARNEY: Thank you very much.

12

13 --- EXHIBIT NO. 2: Resume of Mr. Normoyle

14

15 BY MR. CHARNEY:

16 25. Q. Now, I understand from your first  
17 affidavit that your company was first on-site around  
18 January 2nd, 2019. Is that correct?

19 A. That is correct.

20 26. Q. And who from your company was there  
21 on that day?

22 A. Myself, as well as six of our  
23 project manager and coordinator staff.

24 27. Q. And are they all employed by Access?

25 A. They are.

1 28. Q. Now, at some point after that, I  
2 understand that Access took photos and videos of the  
3 interior of the units. Is that correct?

4 A. That is correct.

5 29. Q. When was that undertaken?

6 A. Some time between January the 8th  
7 and January the 12th.

8 30. Q. And over what period of time did  
9 that take place?

10 A. Approximately four to five days.

11 31. Q. And why was that done?

12 A. That was done to document the  
13 condition of the site as we received it, or as we  
14 took it over on the 2nd of January.

15 32. Q. All right, and who participated in  
16 taking the photos and the videos?

17 A. It was our project management and  
18 coordination staff.

19 33. Q. Okay, and did they have any specific  
20 criteria they were told to use in terms of the  
21 videographing of the units?

22 A. There was a set resolution for the  
23 cameras and video recorders to be set, as well as to  
24 capture the entirety of each tenanted space. That  
25 was the extent of the instructions.

1 34. Q. All right. So were the  
2 videographers given specific criteria in terms of  
3 whether or not they were supposed to access drawers,  
4 closets and other interior spaces where contents  
5 would have been stored in the units, or were they  
6 taking just a video of what they could see without  
7 accessing any of the contents?

8 A. The instructions were a video of  
9 what was visible, so not to rummage through, but  
10 rather as the contents or as the unit sat.

11 35. Q. All right, and is it your  
12 understanding that all of the units were  
13 videographed?

14 A. Yes, sir.

15 36. Q. Because when we went into the link  
16 of affidavit, I understand from my associate, Nicole  
17 Marcus, that there were only select units that were  
18 accessible through that video.

19 If we send you our view of what was  
20 accessible, can efforts be made to make sure we get  
21 the entire set of the units, please?

22 MR. THOMAS: I'll undertake, yes.

23 37. MR. CHARNEY: Thank you very much.

24 MR. THOMAS: In other words, if you  
25 give us the list, we'll certainly do that.

U/T



1                   A.       I don't recall if it was for a  
2 motion, but I do recall that the recommendation was  
3 put forward, and I did swear to that.

4   43.               Q.       The recommendation that you swore to  
5 was to remove the contents?

6                   A.       That's correct.

7   44.               Q.       And that affidavit was sworn on  
8 February 4?

9                   A.       Correct.

10 45.                Q.       Okay. At the time that you swore  
11 that affidavit, was there a plan in place in terms  
12 of where the contents would be stored?

13                   A.       Yes, there was a proposal that we  
14 had put forward.

15 46.                Q.       Is that in your February 4th  
16 affidavit?

17                   A.       I believe it is, yes.

18 47.                Q.       Do you want to take a look, and  
19 direct me to what passages in the affidavit  
20 characterize the plan put in place in terms of the  
21 storage of the contents?

22                   A.       At the time, paragraph 5, we had  
23 indicated an area immediately adjacent to 650. I do  
24 not believe we had settled on a specific location,  
25 which was then further updated in the May 21st

1 affidavit to specify location.

2 48. Q. So just staying with what you're  
3 referring to, as I read it, and you'll let me know  
4 if I'm reading this incorrectly, I thought that was  
5 a place to park the contents until people could come  
6 and inspect them to decide what they wanted to do  
7 with them.

8 A. Correct.

9 49. Q. So what I'm asking you is whether  
10 there was a plan in place at that time to store them  
11 until the units could be reoccupied, and do you  
12 understand when I'm saying there is a difference  
13 between storing them for a period of time and  
14 placing them down somewhere so people could just  
15 take a look at them?

16 A. I'm going to say that my  
17 recommendation was that the contents had to be removed  
18 from the building, and beyond that, nothing further  
19 at that time.

20 50. Q. Right. So at that time there was no  
21 plan to store the contents in the underground  
22 garage?

23 A. Correct.

24 51. Q. Thank you. By the time you swore  
25 the February 4th affidavit, the first one, and I'm

1           sorry we have to deal with two affidavits, but  
2           that's what we have to deal with. At the time you  
3           swore the February 4th affidavit had the tenants'  
4           contents been packed up by that time?

5                     A.       It was in progress at the time.

6   52.           Q.       Do you mention that in the first  
7           affidavit, that the tenants' contents are being  
8           packed up?

9                     A.       No, sir, it's not mentioned in the  
10          February 4th affidavit.

11   53.           Q.       All right. Having said that, are  
12          you still reasonably certain in your previous answer  
13          that the packing had already gone into progress by  
14          the time you signed that affidavit?

15                    A.       Yes, I am.

16   54.           Q.       Thank you. Now, we understood that  
17          your first motion was in support of a motion to ask  
18          the court to address the contents and some other  
19          things. Do you know why that motion didn't proceed  
20          in February?

21                    MR. THOMAS:     I believe it had to be done  
22                    in open court, and we took the view that  
23                    there should be clarification as to class  
24                    counsel at that time, and we waited for the  
25                    class counsel carriage motion to be dealt

1 with, and then we found that because of the  
2 concern that they have affidavits in  
3 support, that we sought a second opinion as  
4 to whether it was necessary to move all the  
5 contents out of the apartments, and we then  
6 determined there was a company that could  
7 give an independent objective view as to  
8 the necessity of moving them out, and we  
9 then contacted a company called SPECS, and  
10 they came, and they did an analysis, and  
11 confirmed the views of ARS, that the  
12 contents should be removed and that report  
13 is attached to the May 21st affidavit of  
14 Mr. Normoyle.

15 So that took time, and there was  
16 another reason. His Honour was out of town  
17 during the month of March, as I recall, and  
18 by that time, it was...we wanted to wait  
19 until we could get the SPECS affidavit,  
20 which was...SPECS opinion which we did get  
21 and provided to you in the materials on May  
22 21st.

23  
24 BY MR. CHARNEY:

25 55. Q. Mr. Normoyle, do you have any



1 personal knowledge as to why the motion did not  
2 proceed in February?

3 A. Beyond what Mr. Thomas has just said  
4 here, no.

5 56. Q. Were you aware of everything that  
6 Mr. Thomas said or are you just adopting it?

7 A. No, I'm aware of what Mr. Thomas has  
8 said.

9 57. Q. So you were involved in the  
10 different steps that Mr. Thomas has just mentioned,  
11 that you were informed of them at the time?

12 A. Yes, sir.

13 58. Q. All right, thank you. While those  
14 steps were being taken, did Access continue to pack  
15 the contents?

16 A. Yes, sir.

17 59. Q. Now, I saw from the second affidavit  
18 that Access entered into a contract on February 11,  
19 2019?

20 A. We did.

21 60. Q. Can you tell me with whom the  
22 contract was made, please?

23 A. The contract was directly with the  
24 building ownership.

25 61. Q. Do you know technically who the

1 names were on the contract?

2 A. I believe there are three, 650  
3 Parliament Residences Inc., Parwell Investments and  
4 G&S Group, I believe are the three.

5 62. Q. What services did Access agree to  
6 perform under the contract?

7 A. The totality of the restoration and  
8 remediation of 650 Parliament as it relates to the  
9 fire damage event.

10 63. Q. Okay. Did the February 11 contract  
11 include packing and disposal and storage of the  
12 contents?

13 A. It did not. That was a separate  
14 contract.

15 64. Q. Later on?

16 A. Earlier.

17 65. Q. Earlier, okay. So the first  
18 contract isn't the February 11th one, there is an  
19 earlier one?

20 A. So the remediation and repair  
21 contract is February 11th.

22 66. Q. Yes.

23 A. We have an authorization agreement,  
24 I believe dated February the 5th, authorizing the  
25 costs associated with packing of the contents.

1           67.           Q.       All right.  So tell me about...first  
2                            about the authorization agreement.  Was that reduced  
3                            to writing?

4                            A.       Can you repeat?  Sorry.

5           68.           Q.       Is the authorization agreement in  
6                            writing?

7                            A.       It is.

8           69.           Q.       Who is it between?

9                            A.       The same three...the same group of  
10                           three corporations that would form the ownership.

11          70.           Q.       And what were the services that you  
12                            agreed to perform under that contract?

13                           A.       That contract or that authorization  
14                           agreement spoke to the content handling assessment,  
15                           packing and any further services as would be  
16                           directed.

17          71.           Q.       What do you mean by "contact  
18                           handling assessment"?

19                           A.       Content.

20          72.           Q.       Content, excuse me, content handling  
21                           assessment.

22                           A.       Content assessment would involve the  
23                           video work that was undertaken.  Content packing  
24                           would involve the physical packing of contents  
25                           within units.

1 73. Q. Right.

2 A. What may involve shifting of those  
3 contents as required to facilitate repairs or  
4 reconstruction.

5 74. Q. Right.

6 A. And any other services as may be  
7 directed or required.

8 75. Q. Are there any specifications in the  
9 agreement as to how the contents are to be packaged?

10 A. There are not.

11 76. Q. And you referred to it as an  
12 authorization agreement. Is that correct?

13 A. Correct.

14 77. Q. What does the reference to  
15 "authorization" mean?

16 A. It means it's an authorization to  
17 proceed on budgeted amounts, which is time and  
18 material and expense-based.

19 78. Q. Right.

20 A. Instead of a contract, which would  
21 be fixed price.

22 79. Q. Is there anything in that  
23 authorization agreement about securing permission or  
24 authorization for access to go into the units, and  
25 to be able to collect and pack the contents?

1 A. There is not.

2 MR. THOMAS: And there wouldn't need to  
3 be. I am putting that forward because I  
4 didn't want to interrupt the witness, but  
5 the law allows the owner to access  
6 apartments when there is damage to the  
7 building to do the repairs necessary. I'll  
8 provide you with the case law on that if  
9 you need it.

10 80. MR. CHARNEY: Thank you.

11 MR. THOMAS: It's in my factum.

12 81. MR. CHARNEY: Mr. Thomas, would you  
13 undertake to produce the authorization  
14 agreement?

15 MR. THOMAS: I will get a copy. I  
16 don't have it with me. U/T

17 82. MR. CHARNEY: Similarly, the contract of  
18 February 11, 2019?

19 MR. THOMAS: I'll provide it to you,  
20 yes. U/T

21 83. MR. CHARNEY: Thank you.

22

23 BY MR. CHARNEY:

24 84. Q. So I take it the packing commenced  
25 shortly after February 5 then?

1 A. Correct.

2 85. Q. So when the packing began, what was  
3 contemplated...I'm sorry, never mind.

4 Was the removal of the contents part of  
5 that authorization agreement or just packing?

6 A. The authorization agreement didn't  
7 speak to removal, no.

8 86. Q. And was there some kind of schedule  
9 in the authorization agreement for packing up the  
10 units?

11 A. No.

12 87. Q. Is there a schedule that exists for  
13 packing up the units?

14 A. No.

15 88. Q. And then I see in your affidavit of  
16 May 21, 2009 that you say that you have now  
17 completed the packing of the contents into boxes.  
18 Was that the case, that by May 21 that had been  
19 completed?

20 A. That's correct.

21 89. Q. Do you know when it was completed?

22 A. I believe late March.

23 90. Q. Is there anything in either of your  
24 affidavits about the packing of the contents, other  
25 than the statement that the packing has been

1 completed, and by that I mean is there any  
2 description as to how the contents were packed and  
3 what criteria was used in terms of how the contents  
4 were selected and packed into the boxes, anything  
5 about the process at all?

6 A. I don't believe so. No.

7 91. Q. Are there any photos or videos of  
8 the packing of the units that were taken?

9 A. There are photos of the units after  
10 they were packed, yes.

11 92. Q. Okay, are those the ones that were  
12 annexed to your affidavit...

13 A. Yes.

14 93. Q. ...the link?

15 A. Yes.

16 94. Q. And while we have looked at the  
17 photos and videos, and I may be mistaken, but I  
18 don't believe we see all these packed boxes in them.

19 A. I apologize. The link provided with  
20 the affidavit speaks to the photo and video that was  
21 taken prior.

22 95. Q. Right.

23 A. I believe we have since circulated  
24 an example of five units, unidentified unit numbers,  
25 of examples of the units packed.

1 MR. THOMAS: I think we have put that on  
2 the website. It may not have been supplied  
3 to you, but we'll get a copy of those five  
4 photos. Are they here?

5 THE DEPONENT: Yes.

6 MR. THOMAS: Okay, sorry. I didn't  
7 realize...these are the materials...

8 THE DEPONENT: Right, so here is a  
9 package.  
10

11 BY MR. CHARNEY:

12 96. Q. So Mr. Normoyle, did Access take  
13 photos of all of the units to depict the as-packed  
14 boxes or just a select number?

15 A. Just a select number.

16 97. Q. And are these the select number that  
17 were taken?

18 A. They are, yes.

19 98. Q. Was it Access employees who  
20 participated in the packing, or did you contract  
21 that out?

22 A. It's Access employees.

23 99. Q. Okay, and what qualifications do they  
24 have in order for them to be the packers here?

25 A. They would have a minimum of one-



1 year experience working in a restoration or  
2 remediation environment, as well as the necessary  
3 training and supervision to undertake a scope of  
4 work such as this.

5 100. Q. Did the packers receive any written  
6 instructions in terms of how to go about the  
7 process?

8 A. No written instructions. However,  
9 verbal instructions to all of the respective  
10 supervisors were provided.

11 101. Q. Was there some kind of plan in place  
12 in terms of how the building was going to be packed?

13 A. Yes, there was.

14 102. Q. Tell me about that, please.

15 A. The packing was to begin on the  
16 penthouse level and was being done on a floor by  
17 floor basis.

18 103. Q. Yes.

19 A. I believe we were accomplishing a  
20 floor in approximately four to six days...

21 104. Q. Yes.

22 A. ...per floor. There was four floors  
23 being done simultaneously.

24 105. Q. Yes.

25 A. And the four sets or four groups of

1 staff that were doing those respective floors would  
2 move down to another floor once their floor was  
3 completed and inspected.

4 106. Q. Thank you. Were the packers  
5 supervised during the work?

6 A. They are.

7 107. Q. By whom?

8 A. They are supervised by their direct  
9 supervisor, which would be a ratio of one qualified  
10 supervisor to five staff, and then subsequently by  
11 our project management and coordination team.

12 108. Q. So did the packers remove all of the  
13 tenants' contents from the drawers, cabinets,  
14 closets, et cetera, in order to pack them?

15 A. For the most part. What was  
16 required to be removed to be packed and  
17 appropriately handled to protect from damage was  
18 done.

19 109. Q. And did the packers pack everything  
20 in the unit or there were some items that were left  
21 unpacked?

22 A. Larger items were not packed per se,  
23 but rather wrapped in place. Where an item did not  
24 have to be moved, it was not moved.

25 110. Q. Okay. Can you tell me about how

1           they would go about packing the contents? So what  
2           I'm asking is, for example, do they wrap items  
3           individually? If so, which ones were wrapped  
4           individually? What kinds of containers were they  
5           packed into, or were they just put into the box as  
6           one receptacle, and that kind of thing?

7                        A.       There would be no one size fits all  
8           answer to that. It depends on the nature of the  
9           contents, small, large, breakable, non-breakable,  
10          porous, non-porous.

11                       Nonetheless, in general, smaller items  
12          would be individually boxed and packed in a box with  
13          the same due care that you would exercise packing  
14          your own home.

15    111.               Q.       Yes.

16                       A.       Breakable items are individually  
17          wrapped, and that could be a combination of a paper  
18          wrapping material or a bubble wrap or a combination  
19          thereof.

20    112.               Q.       Yes.

21                       A.       The box is filled appropriately,  
22          labelled and sealed. Larger items that don't fit in  
23          a box are handled in a few different ways. Larger  
24          items, such as bedroom furniture or heavier  
25          furniture, would be wrapped with a cellophane and

1 bubble wrap for protection.

2 113. Q. Yes.

3 A. And medium-sized items that don't  
4 fit in a box and aren't deemed as breakable were  
5 also...used clear bags which were labelled and  
6 sealed.

7 114. Q. So just to give you a little  
8 context, we're going to meet with the tenants this  
9 evening, and one of their concerns is they are  
10 concerned about how their contents were packed, and  
11 whether they will be able to withstand the move  
12 without any damage during the move and so on, as you  
13 can probably appreciate. You would appreciate that,  
14 I imagine?

15 A. I can, yes.

16 115. Q. So if you were going to give some  
17 assurances that their contents were appropriately  
18 packed, would you please tell me what those  
19 assurances are now so I can pass them on to the  
20 tenants?

21 A. The staff that undertake the  
22 packing, as well as their respective supervision, is  
23 the same staff and the same supervision that are  
24 used on all of our content handling projects, for  
25 which includes when you would make a personal

1 insurance claim for your home, of if this office  
2 building, for example, were to make an insurance  
3 claim, these are the same staff that would remove  
4 the contents and valuables from your home or from  
5 this building, following the same process.

6 116. Q. And so do you have a view as to  
7 whether the contents for these units have been  
8 packed sufficiently to withstand the proposed move  
9 of these contents from their units down into the  
10 underground garage without any damage during the  
11 transit?

12 A. I would say so, yes, with certainty.

13 117. Q. Thank you. Where are the contents  
14 as currently boxed located within the units?

15 A. In approximately 70 percent of the  
16 units they still occupy the majority of the floor  
17 space in the common spaces, bedroom, living room.

18 118. Q. Why is that?

19 A. Just sheer volume.

20 119. Q. Okay.

21 A. And in the balance or remainder of  
22 the units, where possible, they have all been moved  
23 into the living room.

24 120. Q. Okay. In terms of the way that they  
25 have been packed, are the boxes now sealed?

1 A. Yes.

2 121. Q. And what kind of boxes are we  
3 talking about? Are they cardboard boxes?

4 A. They are.

5 122. Q. Okay. So you can't see through  
6 them?

7 A. No.

8 123. Q. So if one of the tenants wanted to  
9 inspect the box to see everything that was in that  
10 box, they would have to open the box, and then they  
11 wouldn't be able to see everything just by looking  
12 in. They would have to take everything out to see  
13 what is in there, wouldn't they?

14 A. Correct.

15 124. Q. Okay. In some of the units where, I  
16 guess, the boxes are, as you said, taking up most of  
17 the space, how many boxes are we talking about  
18 approximately?

19 A. Some of the larger units could be  
20 two to three hundred boxes.

21 125. Q. Are you aware of any damage that  
22 took place during the packing process?

23 A. I am not.

24 126. Q. Is there some protocol amongst the  
25 packers that if something gets damaged while they

1 are packing, they make a record of it?

2 A. Yes, it would be reported to their  
3 supervisor, and in turn, to our office.

4 127. Q. Is that something you would be aware  
5 of today or is that something you would have to find  
6 out about?

7 A. I am not aware of any reports made  
8 during this process.

9 128. Q. In terms of clothing, is the  
10 clothing folded, or is it just put into the box in  
11 the condition you find it?

12 A. The majority of clothing is put into  
13 plastic or clear bags. Plastic is not the right  
14 word, but clear bags and sealed.

15 129. Q. Now, as part of the packing process,  
16 was an inventory taken of the contents in each and  
17 every one of the units?

18 A. No, it was not.

19 130. Q. Was there an inventory taken for any  
20 of the units?

21 A. No, it was not.

22 131. Q. Okay. Given your experience in the  
23 industry, are you aware of an industry practice when  
24 it comes to packing up units for movement of the  
25 contents where an inventory is typically taken?

1                   A.     I wouldn't say it is typical, but it  
2     is something that is done on occasion or depending  
3     on the circumstances, yes.

4     132.           Q.     Is there some reason why it wasn't  
5     done here?

6                   A.     Time and cost.

7     133.           Q.     Was this something that had been  
8     discussed with the owners, and ultimately was  
9     decided against?

10                  A.     I believe the totality of the budget  
11     was discussed. I can't recall or say specifically  
12     if there was a for or against from the owner's  
13     perspective.

14     134.           Q.     Am I understanding you to say that  
15     in the original budget there was a budget item for  
16     inventorying the contents?

17                  A.     There was a labour allowance to  
18     carry out the content handling, packing and  
19     manipulation as a whole, which we were encouraged to  
20     limit as much as possible while maintaining the  
21     appropriate path for work.

22     135.           Q.     But in your business, you would have  
23     recommended to the owners that they might want to  
24     consider the cost of inventorying the contents  
25     before they were packed?



1                   A.     It certainly would have been a  
2                   discussion.

3     136.           Q.     Were you part of that discussion?

4                   A.     Yes.

5     137.           Q.     And did you recommend it?

6                   A.     It was part of our original  
7                   discussion, yes.

8     138.           Q.     And did you budget for it?

9                   A.     We did.

10    139.           Q.     And the owners decided against it?

11                   A.     I can't say again that they decided  
12                   specifically against that one item. We were  
13                   encouraged to find ways to reduce the budget or keep  
14                   the budget minimal, and that's what we did.

15    140.           Q.     All right. Did Access notify the  
16                   tenants in advance of your intention to pack their  
17                   contents into boxes?

18                   A.     No, we did not.

19    141.           Q.     Are you aware of whether the  
20                   landlord notified the tenants in advance of the  
21                   intention to pack the contents into the boxes?

22                   A.     I'm not aware.

23    142.           Q.     Before starting the process of  
24                   packing the boxes, did Access have any  
25                   communications with the landlord regarding whether

1 the tenants should be notified?

2 A. No, we did not.

3 143. Q. So I take it from your answer the  
4 option of notifying the tenants was not discussed  
5 with the landlord?

6 A. No...or yes, correct, it was not  
7 discussed from our perspective.

8 144. Q. Did Access at the time consider  
9 whether it was appropriate to notify the tenants in  
10 advance?

11 A. No, we did not.

12 145. Q. Did Access consider whether it  
13 required the tenants' permission to enter the units  
14 in order to pack the contents into boxes?

15 A. That was considered, yes.

16 146. Q. Okay, tell me about that, please?

17 A. We received our instructions from  
18 the owners of the building, and to us, that's our  
19 client. Beyond that, what the owners chose to or  
20 chose not to do is beyond our scope.

21 147. Q. Okay. During the packing of...well,  
22 at any point since you started working for the  
23 landlord, does Access have liability insurance for  
24 damage caused during the packing or storing of the  
25 contents?



1                   A.       Sure. Our scope of work includes  
2                   the restoration or reconstruction of the kitchen and  
3                   bathroom complete in the majority of the units.  
4                   That includes and ties into work in the front  
5                   hallway, which is hallway and closets.

6                   In some cases, the painting requirement  
7                   spills into the living room and bedroom, and that's  
8                   a general overview of the in-suite work. Some units  
9                   vary in size and scope, but generally.

10       153.           Q.       Are you effectively being retained  
11                   to restore the units to the condition they were in  
12                   before the fire?

13                   A.       Yes.

14       154.           Q.       There is no significant  
15                   modifications to the units?

16                   A.       No.

17       155.           Q.       And the type of kitchen and bathroom  
18                   in terms of their dimensions and quality are more or  
19                   less going to be the same?

20                   A.       Yes, similar to what was existing.

21       156.           Q.       In terms of the painting, is it the  
22                   entire apartment?

23                   A.       It is.

24       157.           Q.       What about the floors, are they  
25                   staying the way they are?

1                   A.       There are some units that have  
2                   damage to the floors related to the events, and they  
3                   will be replaced or refurbished to a state similar  
4                   to what they were before.

5       158.           Q.       Okay, thank you. Has the work you  
6                   have...let me just call it "the work" and go forward  
7                   so we both know what we're talking about. Has the  
8                   work in the units begun?

9                   A.       It has.

10      159.           Q.       When did it begin?

11                   A.       The work in the vacant units I  
12                   should specify...

13      160.           Q.       Yes.

14                   A.       ...began in March.

15      161.           Q.       How many vacant units are there?

16                   A.       It's a variable number as there are  
17                   still move-outs, but 130 or so at this time.

18      162.           Q.       Right, so about 15 percent?

19                   A.       Twenty percent.

20      163.           Q.       Twenty percent, and then I believe  
21                   in your affidavit you said that 30 percent of the  
22                   units can be worked around with the contents staying  
23                   where they are?

24                   A.       Correct.

25      164.           Q.       So that's about 50 percent of the

1 building in total, then, isn't it?

2 A. That 30 percent may have included  
3 units which had not yet been moved out at that time.

4 165. Q. I love math, okay. So how many  
5 units of the building have you completed in terms of  
6 work?

7 A. Nothing, nothing is substantially  
8 complete. It is...whatever is started is still in  
9 progress.

10 166. Q. Okay. Is there other work in the  
11 building that you are contracted to do that has been  
12 going on at the same time as the in-unit work?

13 A. Yes, actually the larger part of our  
14 scope is common area and building systems,  
15 electrical, HVAC, mechanical, plumbing.

16 167. Q. Are you dedicating enough forces to  
17 the in-unit work to get as much of that done as you  
18 go?

19 A. The in-unit work has been  
20 deliberately slowed at this time pending the results  
21 of this motion to remove contents.

22 168. Q. And why is that?

23 A. As the contents, even in a state of  
24 being packed, still pose a major problem with  
25 getting this work done.

1 169. Q. I understand that, but I mean in  
2 terms of the vacant units and the ones where you can  
3 work around the boxes, is that being maximized in  
4 terms of efficiencies now, or is that being delayed  
5 as well?

6 A. No, with respect to the units that  
7 are vacant at this time, those forces are in place  
8 and the work is progressing as it should.

9 170. Q. And what about for the 30 percent  
10 where you can work around, are you just waiting on  
11 those to see what the order is?

12 A. We don't at this time want to  
13 risk...or at no time we have not wanted to risk any  
14 further damage to the contents, and pending this  
15 decision, I don't see that...I haven't seen the  
16 benefit nor would I recommend to my clients that we  
17 would proceed with work around those contents if  
18 it's likely that we will be able to move.

19 171. Q. Okay, and is there a plan in place  
20 in terms of the sequencing? So for example, if all  
21 the contents are moved out of the building, do you  
22 have a plan in terms of how the unit work is going  
23 to be done? Like, are you going to start at the top  
24 and work your way down or how is that going to work?

25 A. Yes, we do have this plan.

1 It's...to keep simple, there are two components. It  
2 is top down, you're correct, and there is also  
3 two...there are two areas of units. One is  
4 classified more severe damage, and one classified  
5 less severe. The areas of more severe have more  
6 base building systems work to do, electrical,  
7 mechanical, plumbing.

8 These are more of a focus than the less  
9 severe ones, where it's more cosmetic or aesthetic.

10 172. Q. What percentage of the units are the  
11 more severe?

12 A. I believe 60 or so percent of the  
13 units in the building.

14 173. Q. Okay. I guess jumping ahead, my  
15 question is based on the plan of remedial work in  
16 the units, is this the kind of situation where you  
17 may have a unit pretty much ready to have the boxes  
18 come back up before the next unit and so on, so that  
19 some people can get their contents back up earlier  
20 into the units than others, or is this going to be  
21 everyone has to wait until the building is  
22 completely repaired before anyone can get their  
23 contents back?

24 A. There are more than one  
25 consideration or more than one answer to that



1 question. The simple answer or the straight answer  
2 is yes, there will be one unit that is ready before  
3 another unit. There is not 560 units that are going  
4 to be ready on the same day.

5 174. Q. Right.

6 A. That being said, there are civil  
7 authorities that require inspection and to  
8 prevent...or to grant occupancy.

9 175. Q. I hate to interrupt you. I'm not  
10 talking about occupancy. I'm just talking about  
11 getting the contents back up.

12 A. It's relevant.

13 176. Q. Okay.

14 A. It's relevant because even though we  
15 have got a unit finished, if the building inspector  
16 or the necessary authorities or engineers have not  
17 had a chance to sign off on the work that has been  
18 completed, which forms a part of the eventual  
19 occupancy permit for which will be applied, to bring  
20 contents back in may obstruct whatever view or  
21 inspection that has to take place.

22 177. Q. I understand, thank you. Can you  
23 take a look at the SPECS report? It's attached to  
24 one of your affidavits. It might be an exhibit  
25 which you need to find and I will find if it's

1 easier for you.

2 A. Thank you.

3 178. Q. So do we agree you're looking at a  
4 report by a company called SPECS?

5 A. Yes.

6 179. Q. And then I believe there are five  
7 different quantities of content situations  
8 identified in that report. That's that table there.

9 A. There are, correct.

10 180. Q. Do you agree with that table?

11 A. More or less. Maybe not with every  
12 number in every category, but with the generality of  
13 it, yes.

14 181. Q. I believe SPECS agrees that the time  
15 and cost to work around the contents has increased,  
16 and you agree with that as well?

17 A. Yes.

18 182. Q. Although I think you would also  
19 agree that, if necessary, the work could be done  
20 while the contents remain in the unit. It would  
21 just take longer and cost more?

22 A. In approximately 70 percent of the  
23 units, the time and added cost and the work...to  
24 clarify, the work could not be done with the  
25 contents in the unit specific. What is meant by,

1 "It could be worked around," or if there is ever  
2 mention of, "It could be worked around," it means  
3 the contents of unit A would be moved into the  
4 hallway or into unit B to facilitate the repairs in  
5 unit A, and then the contents returned, and so on  
6 and so on.

7 183. Q. If I recall your affidavit, you said  
8 that it would extend the period of time to complete  
9 the work by three months?

10 A. That's approximately, yes, correct.

11 184. Q. And it would be more expensive?

12 A. Much more expensive.

13 185. Q. Now, SPECS did not support your  
14 estimate for the content work, did they?

15 A. They have. At the time of writing,  
16 they had requested quite a bit more supporting  
17 documentation to...and they speak to this on page 2  
18 of their report.

19 186. Q. So when they wrote the report, they  
20 thought your estimate of 3,594,000 and change was  
21 high, and they thought it should be around  
22 1,800,000, right, at the time?

23 A. I don't think they thought it was  
24 high. I think, just as they say here, or I know,  
25 just as they say here, that they had requested

1 further supporting documentation or explanation as  
2 to how we arrived at those budgetary figures.

3 187. Q. Okay. Well, do you agree with my  
4 characterization of the report? Forget the high  
5 part, that you were at 3,594,000, and they thought  
6 the number should be in the 1,808,000 range?

7 A. No, that was not the case. As they  
8 say here, they believe...or they recommend  
9 1,808,000, and have requested further documentation  
10 to substantiate the cost, which has since been  
11 provided, and which since we are now in agreement  
12 with the 3.594 million dollar.

13 188. Q. Okay, thank you for clarifying that.  
14 Did SPECS issue a further report?

15 A. I don't know if they have issued a  
16 report to this extent in writing, but there has been  
17 e-mail correspondence that confirms our general  
18 agreement with those budgetary figures.

19 189. MR. CHARNEY: Mr. Thomas, could you  
20 undertake to provide us with the additional  
21 documents that Access submitted to  
22 substantiate their costs, and any  
23 subsequent reports that have been generated  
24 by SPECS? They contemplated generating one  
25 in this one.

1 MR. THOMAS: Yes, I will. U/T

2 190. MR. CHARNEY: Thank you.

3

4 BY MR. CHARNEY:

5 191. Q. Do you recall the comment in that  
6 SPECS report, something about a budget was issued to  
7 SPECS for review by Access, but was later withdrawn?  
8 Did you read that in the report somewhere?

9 A. Just bear with me for a moment.

10 192. Q. Sure.

11 A. Yes, sir, I see that on page 3 here.

12 193. Q. Are you able to help me understand  
13 what that was about?

14 A. SPECS...I believe there was a  
15 misunderstanding as to the extent or as to what the  
16 budget had included, and when those discussions took  
17 place, we withdrew the original submission to add  
18 additional detail and documentation to it, and  
19 proceeded to resubmit.

20 The numbers didn't change. Details and  
21 explanation changed.

22 194. Q. So if I can use the term "budget"  
23 loosely, did you actually...does the number, the 3.8  
24 million dollar number, include just packing the  
25 contents or did it also include moving them out of

1 the units and this arrangement in the underground  
2 garage?

3 A. It did include the moving out of the  
4 units down to the parking garage as well as the  
5 associated setup of the parking garage, yes.

6 195. Q. So it's all in there?

7 A. It is.

8 196. Q. Okay. Now, in terms of...if we can  
9 turn now to relocating the contents to the  
10 underground parking garage, I think the evidence  
11 about the proposal to use the underground parking  
12 garage is all found in paragraphs 4 and 5 of your  
13 affidavit. Could you take a look at that, please,  
14 and let me know if I'm right?

15 A. Yes, that's correct.

16 197. Q. So in paragraph 4 you say that:  
17 "...The contents will be moved down to a  
18 prearranged 'locker' with secure  
19 fencing..."

20 Is that still the plan?

21 A. It is, yes.

22 198. Q. And it goes on to say:  
23 "...The fencing will be in the two levels  
24 of the parking in the garage below 650..."

25 Is that still the plan?

1 A. It is, yes.

2 199. Q. Both levels?

3 A. Yes.

4 200. Q. Okay. Then at 5 there is discussion  
5 about how there will be security personnel in  
6 attendance, and that the tenants will be advised if  
7 their contents have been moved, correct?

8 A. Correct.

9 201. Q. So leaving that aside for a moment,  
10 did Access initially consider moving the contents to  
11 an independent self-storage facility?

12 A. It was part of initial or original  
13 discussions. It was an option discussed or tabled,  
14 yes.

15 202. Q. Who tabled the option?

16 A. We did.

17 203. Q. Are you aware that our firm wrote to  
18 defence counsel and suggested that the contents be  
19 transported to independent self-storage facilities?

20 A. I'm not aware of your correspondence  
21 to that specifically.

22 204. Q. Thank you. The discussions that  
23 Access with the landlord where this issue was  
24 tabled, was that before the 3.8 million budget was  
25 agreed upon?

1 A. Yes.

2 205. Q. And was this originally a budget  
3 item?

4 A. It was not.

5 206. Q. Was the budget prepared after the  
6 parties had agreed on what the plan would be?

7 A. Yes.

8 207. Q. Was there any discussion about the  
9 costing for a self-storage facility in contrast to  
10 using the underground parking garage?

11 A. We didn't get to a discussion. We  
12 didn't get far enough to have a discussion regarding  
13 budget, and that discussion regarding an off-site  
14 facility ended with logistical challenges.

15 208. Q. What were the logistical challenges?

16 A. The amount of space, the sheer space  
17 required to store the volume of contents and the  
18 volume of units. Each unit would need an individual  
19 storage space.

20 209. Q. Yes.

21 A. We had calculated at the time a  
22 requirement of between 75 and 100 thousand square  
23 feet to store the contents of the building in total.

24 We are not aware, or following some  
25 research, we could not find suitable space within



1 suitable distance of 650 Parliament, and the  
2 discussion at the time was tenants accessing their  
3 contents, should it be required or for assessment  
4 purposes, having them close to 650 Parliament was  
5 important item number 1.

6 For example, we had tabled...we have a  
7 facility. We own a facility with the size  
8 capability to do this.

9 210. Q. Access does?

10 A. We do.

11 211. Q. Okay.

12 A. However, it's 47 kilometres from 650  
13 Parliament.

14 212. Q. Yes.

15 A. For people that take public transit  
16 or that work downtown or that rely on their items  
17 being close to 650, this was a logistical challenge  
18 that ended the discussion.

19 213. Q. Okay. Where is your facility?

20 A. It's Highway 27 and Highway 7.

21 214. Q. And tell me a little bit about why  
22 it would be able to accommodate everybody's  
23 contents. Is it the size, the square footage, the  
24 size of the facility?

25 A. We have used the facility for this

1 type of engagement before, where we have sectioned  
2 it off into individual lockers for the purposes of  
3 storing large volumes of contents.

4 215. Q. But it has enough square footage?

5 A. It does.

6 216. Q. And is it above ground?

7 A. It is.

8 217. Q. Was it designed as a storage  
9 facility?

10 A. No, it was not.

11 218. Q. So why do you say that it would be  
12 suitable as a storage facility?

13 A. This would be available...the  
14 availability of square footage.

15 219. Q. Yes.

16 A. As well as the ability to put  
17 makeshift subdivision in to divide one unit from  
18 another.

19 220. Q. Okay. In terms of the proposed  
20 underground parking garage, will there be separate  
21 dedicated lockers?

22 A. Yes, correct.

23 221. Q. Is the underground parking garage  
24 currently temperature controlled?

25 A. It is not currently temperature

1 controlled, but the temperature and humidity are  
2 both monitored on a daily basis, and it does not  
3 require temperature control as of today.

4 222. Q. Well, what does "as of today" mean?

5 A. Well, as of today's monitoring, the  
6 temperature and humidity conditions are no different  
7 than that in any other storage facility or inside  
8 the building for that matter.

9 223. Q. Well, are you familiar with the  
10 self-storage industry standards for contents  
11 storage?

12 A. I'm not familiar with a standard  
13 that I could reference, but from experience, I would  
14 say above 60 degrees and in the relative humidity,  
15 depending on the time of the year...we're measuring  
16 relative humidity today of 38 percent. This is less  
17 than you would expect in your home in the summer.

18 224. Q. Is there anyone at Access who  
19 specializes in understanding the appropriate  
20 standards for a self-storage control facility?

21 A. No.

22 225. Q. Did you consult with anyone who has  
23 that experience in the industry in the design and  
24 implementation of the conversion of the underground  
25 parking garage for a self-storage facility?

1                   A.       I should say specifically that we  
2                   have a vast number of years of experience in  
3                   handling people's personal belongings, and storage  
4                   of people's personal belongings.

5                   We're familiar with what temperature and  
6                   humidity conditions are appropriate.  Whether I...I  
7                   can't reference a standard, a written standard, but  
8                   I can say with many years of experience, and not  
9                   having claims of damage, we have got a best practice  
10                  that has worked for us for a long time.

11       226.           Q.       How many underground parking garages  
12                  have you converted into mass self-storage facilities  
13                  in your career, sir?

14                  A.       Two, plus this one.  This is  
15                  proposed number three.

16       227.           Q.       Okay.  Where were the other two?

17                  A.       200 Wellesley, just around the  
18                  corner from...

19       228.           Q.       For the same client?

20                  A.       No, it was Toronto Community Housing  
21                  in 2012 or '11, 2011 or 2012.

22       229.           Q.       And was it an underground parking  
23                  garage?

24                  A.       It was.

25       230.           Q.       The same setup?

1 A. The same setup.

2 231. Q. How did that go?

3 A. Very well.

4 232. Q. Okay, and what was the other one?

5 A. The other one was in Alberta for a  
6 hotel client.

7 233. Q. How much square footage did you need  
8 at the Wellesley location compared to this one?

9 A. I believe a very similar square  
10 footage, similar number of units, similar volume of  
11 contents.

12 234. Q. How old was the underground parking  
13 garage?

14 A. The age of the building which would  
15 be typical for the area, 50, 50 years or so.

16 235. Q. The same as this one?

17 A. The same as this one.

18 236. Q. Okay. Has Access been taking  
19 measurements of the humidity and associated climate  
20 control in the garage?

21 A. We have been.

22 237. Q. How frequently are you doing it?

23 A. Daily.

24 238. Q. And when did that start?

25 A. Two weeks ago.

1       239.           Q.       And do you expect that the  
2                    temperature and humidity over the last two weeks is  
3                    going to be representative of the situation for  
4                    whatever period of time the contents are going to be  
5                    there?

6                    A.       No, I do not.

7       240.           Q.       Then what equipment is in place to  
8                    regulate the humidity and the temperature?

9                    A.       When the humidity and temperature  
10                   require regulation, we have a 10,000 CFM or cubic  
11                   feet per minute desiccant dehumidifier which has  
12                   temperature control and humidity control capability,  
13                   which is a two-day installation to that space, which  
14                   will control temperature and humidity on both levels  
15                   of the parking garage.

16       241.           Q.       Have you tested it to determine  
17                    whether it will be able to do the job?

18                    A.       I know it will be able to do the  
19                    job.

20       242.           Q.       Is there any water seepage into the  
21                    underground parking garages?

22                    A.       One north wall has a minor water  
23                    intrusion problem, yes.

24       243.           Q.       What do you propose to do about  
25                    that?

1                   A.       We have since put in a protective  
2 measure whereas the water drains behind a false wall  
3 and directly into a floor drain so it does not pose  
4 a threat to the remainder of the space.

5   244.            Q.       Is there any moisture seepage from  
6 the floors or walls into the space?

7                   A.       Other than concrete's standard  
8 moisture content, no.

9   245.            Q.       Well, I'm not sure what "standard  
10 moisture content" means when you're talking about  
11 people's personal belongings as opposed to an  
12 underground parking garage that is used for a  
13 vehicle.

14                  A.       What I mean by "normal concrete",  
15 concrete has a different moisture content as a  
16 baseline than, say, wood or asphalt or any other  
17 building material might.

18   246.            Q.       Right.

19                  A.       So whatever the standard moisture  
20 content is in the concrete in that space. There is  
21 no water seeping up through the concrete, if that  
22 answers the question.

23   247.            Q.       No, but there is moisture coming  
24 through the concrete, isn't there?

25                  A.       There is, which is reflected in our

1 relative humidity monitoring of the space.

2 248. Q. Has anyone checked the  
3 underground...I'm sorry. First of all, is it the  
4 entire underground parking garage, both floors?

5 A. It is.

6 249. Q. And I guess there are no vehicles in  
7 there anymore, at the moment. It is not being used  
8 as an underground parking garage?

9 A. The P2 level, there has been no  
10 vehicles on the P2 level, and P1 is yet to be set up  
11 in this format, but will follow a similar format of  
12 P2.

13 250. Q. So can you assure the tenants that  
14 there will be no vehicles in either level while  
15 their contents are there?

16 A. That is correct. There will be no  
17 vehicles in the space.

18 251. Q. And will the space be used  
19 exclusively for the contents?

20 A. Yes.

21 252. Q. Both levels?

22 A. Both levels.

23 253. Q. Is there any privacy for the tenants  
24 in terms of them looking at their contents when they  
25 access them or is it going to be all open?



1                   A.       The individual storage unit has non-  
2 transparent walls. So you can't see from one unit  
3 into another unit. To the extent of security or  
4 privacy, that would be it.

5   254.            Q.       Because I saw in the...all right.  
6                   So can we agree that so far there has been some work  
7 done in one of the garages to set up these makeshift  
8 lockers?

9                   A.       Yes.

10   255.           Q.       And I saw some photos where  
11 basically it's just red metal crates that are acting  
12 as barriers between spaces?

13                   A.       No, it's, in fact, metal security  
14 fencing that is acting as barriers between the  
15 lockers.

16   256.           Q.       As far as I know, we have received  
17 through the online posting some six or seven photos,  
18 and that's about all we have received so far. Do we  
19 have those photos here today? I think we do on the  
20 computer. Can we take a look at them, would you,  
21 please?

22                   A.       Sure.

23   257.           Q.       I didn't bring them along, but do we  
24 have them on the computer?

25                   MR. YOUNG:       Do you want to go off the

1 record for a second? Do you want to go off  
2 to make sure...

3 258. MR. CHARNEY: If you have them there,  
4 then we can just keep going.

5 MR. YOUNG: I'm checking.

6 MR. THOMAS: I think this is part of an  
7 affidavit of Jessica Santucci, who I  
8 believe put these photos to you, Ted.

9 259. MR. CHARNEY: Thank you.

10

11 BY MR. CHARNEY:

12 260. Q. Okay, so can we just look at them  
13 one at a time?

14 A. Sure.

15 261. Q. So this is page...this is a  
16 photograph. The first photograph, it has a sign  
17 "Tucker Highrise" on it. What is the significance  
18 of Tucker in this equation?

19 A. Nothing.

20 262. Q. Okay. So then can you describe for  
21 us what we see in this photograph, please, sir, and  
22 what the purpose is of the work that has been done  
23 here?

24 A. So this is a shot down one of the  
25 corridors, showing...this would be approximately 40

1 individual lockers or storage units.

2 263. Q. Okay.

3 A. The orange...what is called orange  
4 poly on the floor is there to prevent moisture  
5 penetration, direct transfer from concrete to  
6 content, as well as to provide for a clean surface.

7 The garage has been cleaned, cleaned not  
8 only with brooms and dust pans, but also with  
9 pressure chemical to ensure that the space is clean  
10 and free of debris.

11 264. Q. So let me stop you there. Some of  
12 the tenants have expressed some concern that it  
13 looks like the concrete floors are moist, as if they  
14 are wet, as if there is a water problem in the  
15 units. Can you tell us why the concrete floors look  
16 wet in these photos?

17 A. Sure. This photo was taken within a  
18 day of the entire underground parking being power  
19 washed. So this is residual water from power  
20 washing.

21 265. Q. Okay, and is that different than the  
22 chemical process you just mentioned?

23 A. No, one and the same.

24 266. Q. Is there any concerns the tenant  
25 should have over the chemical that was used in the

1 washing process?

2 A. No, there is not.

3 267. Q. Why is that?

4 A. The MSDS or the material safety data  
5 sheet related to the chemical...it's in other words  
6 drinkable. It poses...there is no poison. There is  
7 no...it's an organic product.

8 268. Q. Okay, thank you. So I think I  
9 understand so far the fencing, and I understand why  
10 the floor looks a little moist. What else can you  
11 tell me about the work that has been done in this  
12 photo?

13 A. So if you will notice...it's a  
14 little dark, but the ceiling...the shadow here is a  
15 little tough to see, but the ceiling has been  
16 covered in its entirety with a white poly product.

17 269. Q. What was the reason for that?

18 A. Number one, for cleanliness, and  
19 number two, to avoid any miscellaneous dirt or  
20 debris from falling on to any contents.

21 270. Q. And this is the first floor of the  
22 garage?

23 A. This is the second floor of the  
24 garage.

25 271. Q. So is there any concern about

1 moisture seeping down from the first to the second  
2 floor?

3 A. No, we have no moisture problems  
4 whatsoever on the first floor.

5 272. Q. Okay, anything else in this photo  
6 that describes...or that you can see that is part of  
7 the work that has been done so far, or is that more  
8 or less it?

9 A. That explains it. Yes, thank you,  
10 Bruce. There is additional lighting here that has  
11 been installed as well to provide for a much  
12 brighter space, to allow for inspection and safety  
13 of the tenants during the proposed process.

14 273. Q. Okay, then returning to my privacy  
15 question, based on this picture, it looks like  
16 people's contents will be visible to anyone who  
17 happens to be in the garage. Am I wrong about that?

18  
19 A. Yes. So as the lockers are filled  
20 with an individual unit's contents...we have built  
21 this in a way that it is flexible in sizing...

22 274. Q. Yes.

23 A. ...as not one...not every unit is  
24 the same as far as volume of contents.

25 275. Q. Right.

1                   A.       This has been set up with a baseline  
2 measurement of eight-foot for the unit.

3   276.            Q.       Yes.

4                   A.       But we have built it in a way where  
5 they're flexible. So if there are more contents, we  
6 can expand that eight feet to 12 feet, or if there  
7 is less contents, we can expand that...or we can  
8 shrink that to four or six feet.

9                   Once those lockers are sized  
10 appropriately, once they are populated on an  
11 individual basis, then the walls will be wrapped,  
12 secured with that same orange poly material that you  
13 see on the floors.

14   277.            Q.       So people can go into their section  
15 and look at their contents individually?

16                   A.       Correct.

17   278.            Q.       And so bystanders won't see what is  
18 going on in those sections?

19                   A.       Correct.

20   279.            Q.       So people are concerned about their  
21 valuables. It's not like everyone who is in the  
22 garage will know what valuables are in their units?

23                   A.       Right.

24   280.            Q.       And then are the boxes going to be  
25 packed vertically and stored vertically in these

1 sections?

2 A. Yes.

3 281. Q. So if someone wants to get into  
4 their boxes and figure out what's in there, it's the  
5 process of taking each box, bringing it down to the  
6 ground, opening it up, taking everything out and  
7 looking at it?

8 A. Yes.

9 282. Q. And if you have got 200 boxes, that  
10 would take quite a bit of time to do, wouldn't it?

11 A. I would think so, yes.

12 283. Q. Can we take a look at the next  
13 photo, please? Is that a closeup of the last one?

14 A. It is.

15 284. Q. So the one thing I neglected to ask  
16 you about these photos is there appears to be some  
17 kind of sprinkler system, or is that just a piping  
18 of some kind?

19 A. No, you're correct. That is a  
20 sprinkler system.

21 285. Q. Does it work?

22 A. It does.

23 286. Q. Is it up to current code or is it up  
24 to the code at the time that the garage was built?

25 A. It is up to code as of the most

1 recent fire inspection, and I can't speak to what  
2 the date of that was, but it's within the last 12  
3 months.

4 287. Q. Is there a fire alarm system in  
5 these units as well?

6 A. There is.

7 288. Q. And is that functioning?

8 A. It is.

9 289. Q. Can we go to the next photo, please?

10 This will be...let's call it photo number 3. Is  
11 this just another closeup of the same?

12 A. This may be a different corridor,  
13 but it depicts the same thing.

14 290. Q. I also see on the wall there is some  
15 kind of plastic that is covering the...not the  
16 ceiling and the floor, but the walls themselves.  
17 Can you tell us the purpose of that, please?

18 A. That's for the same purpose as the  
19 covering the ceiling, so that we have no loose  
20 debris.

21 291. Q. It's not for moisture?

22 A. It's not for moisture, no.

23 292. Q. Okay. Can we take a look at the  
24 next photo, please? What is the significance of  
25 what we see in photo 4? I see a "Fire, do not



1 enter" sign, and it looks like some kind of  
2 surveillance camera.

3 A. So the purpose of this photo was to  
4 show the surveillance.

5 293. Q. Yes.

6 A. So there are 12 video cameras  
7 strategically positioned throughout the level P2,  
8 and the same will be for P1, which provides for an  
9 additional level of security.

10 294. Q. Were they recently installed or have  
11 they always been there?

12 A. They have been recently installed.

13 295. Q. And so how and where will they be  
14 monitored?

15 A. There is a 20-foot office trailer  
16 that has been put at the top of the main entrance to  
17 the underground parking, and there is a live feed to  
18 a monitor in that office, where it will be  
19 monitored.

20 296. Q. And whose staff will be monitoring  
21 it?

22 A. The security staff will be  
23 monitoring.

24 297. Q. So those aren't your employees?

25 A. They're subcontracted by us.

1       298.           Q.       Okay, thank you.  So you have an  
2                    agreement with them as to how they are going to go  
3                    about doing that?

4                    A.       We do.

5       299.           Q.       And so is the monitoring 24 hours?

6                    A.       It is.

7       300.           Q.       24/7?

8                    A.       It is, yes.

9       301.           Q.       Okay, and is there anyone also on  
10                   foot patrolling the garages, or is it just through  
11                   their station where they monitor by cameras?

12                   A.       There are two dedicated guards per  
13                   level of the underground parking, which are on foot  
14                   24 hours a day for coverage.

15       302.           Q.       Okay.  Is there anything else in  
16                   that photo that you want to bring to our attention?

17                   A.       No, that's it.

18       303.           Q.       The next photo, number 5.  Is this  
19                   more of the same?

20                   A.       This is a closeup of one specific  
21                   locker.

22       304.           Q.       Okay, and the next photo?  This one  
23                   seems very dark.  Maybe it's just the quality of the  
24                   person that is taking the photo.

25                   A.       I would think that that's the case.

1 305. Q. But it's more of the same?

2 A. It is.

3 306. Q. Those are the extent of the photos  
4 we have. Do you have any more photos, or has anyone  
5 else from your office taken any photos of what is  
6 going on in the garages?

7 A. We may have some photos for our own  
8 documentation, but for the purpose of presentation,  
9 these are the photos that were taken.

10 307. Q. So the way the garage space is  
11 depicted in these six photos, is that more or less  
12 the way it will be at the time that the contents are  
13 moved down there?

14 A. It is, yes.

15 308. Q. Have you considered the loading  
16 weight for all these contents?

17 A. No, we haven't, but on quick  
18 consideration, I don't see it as a problem. The  
19 parking garage would be constructed to withstand the  
20 weight of a vehicle within each of those respective  
21 parking stalls.

22 I can say with general certainty that the  
23 weight of the contents from a unit will not exceed  
24 the weight of a maximum vehicle that would fit in  
25 underground parking.

1 309. Q. The weight of the content from all  
2 of the units spread out across the floor, you think  
3 would be less than the vehicles that would  
4 ordinarily be parked there?

5 A. I would say the lockers as  
6 designed...and I'm not an engineer, but the lockers  
7 as designed are equal to or greater than the width  
8 of one parking spot.

9 310. Q. Yes.

10 A. So assuming every parking spot is  
11 full with a vehicle...

12 311. Q. Yes.

13 A. ...the weight of the contents within  
14 that same space will not exceed the weight of a  
15 vehicle. I can say that with certainty.

16 312. Q. I know I asked this previously, but  
17 I'm going to just ask it again to make sure I have  
18 it. Currently there are no climatic controls in the  
19 garages, such as air conditioning, heating or  
20 heating and ventilation, air conditioning system?

21 A. There is only makeup air at this  
22 time.

23 313. Q. Okay. Is there any plan to install  
24 air conditioning or temperature, heating or heating  
25 and ventilation, air conditioning system?

1                   A.     Air conditioning, no. The  
2                   temperature control, yes...or sorry, the humidity  
3                   control, yes. We have got those provisions as we  
4                   discussed.

5     314.           Q.     Those are the giant fans, aren't  
6                   they?

7                   A.     Well, it's a dehumidifier in  
8                   actuality.

9     315.           Q.     Right, okay.

10                  A.     A large trailer-mounted  
11                  dehumidifier.

12     316.           Q.     Right. Did you find any mould or  
13                  mildew in the garage when you started the refitting  
14                  process?

15                  A.     No, we did not.

16     317.           Q.     Did you look?

17                  A.     The parking garage in its entirety  
18                  is all concrete surfaces, which will not sustain  
19                  microbial growth. So no need for further  
20                  investigation.

21     318.           Q.     Okay. Now, I take it you would  
22                  agree, based on what you know about these  
23                  underground garages, that the use of the garages was  
24                  to store motor vehicles. That's the original use  
25                  for the garage.

1                   A.       Yes.

2       319.           Q.       Okay, and that there is a new  
3           proposed use being made, which is to convert these  
4           garages into a storage facility?

5                   A.       On a temporary basis, yes.

6       320.           Q.       Has Access or the landlord obtained  
7           a building permit?

8                   A.       To my knowledge, there would be no  
9           permitting required for the temporary use of the  
10          space, as we are not doing any structural or  
11          building systems modifications.

12       321.           Q.       Have you made any inquiries of the  
13          building department or an expert consultant of some  
14          kind to satisfy yourself about that?

15                   A.       We have had a building...a  
16          representative of the building department on-site,  
17          and we have discussed it, and to our opinion, as  
18          well, there is no building permit that exists that  
19          would speak to temporary fencing being installed for  
20          storage within a parking facility.

21       322.           Q.       Yes, I think what I'm suggesting is  
22          a little different, and it's that we're talking not  
23          so much about the construction as the change in  
24          usage. Do you have any experience with change in  
25          usage and whether or not...I'm just asking whether

1           you have any experience in change in usage and  
2           building permits, sir?

3           MR. THOMAS:       Well, he has already  
4           indicated he has done this on two other  
5           occasions, number one.  If you have a  
6           suggestion to him that he is not doing  
7           something appropriate, put it to him,  
8           please.  Put it to him, if you say there is  
9           something improper, but to just keep re-  
10          asking questions if he needs a building  
11          permit, he says he doesn't need one.

12        323.           MR. CHARNEY:       Okay.

13          MR. THOMAS:       He says there is a building  
14          inspection department from the City on  
15          site, and they haven't said anything about  
16          what he is doing, and he has consulted with  
17          them.

18        324.           MR. CHARNEY:       Okay, good, let's...

19          MR. THOMAS:       Have I not made myself  
20          clear?  Put it to him.  Put the witness to  
21          the proposition you're giving him.

22

23        BY MR. CHARNEY:

24        325.           Q.       Just...can you provide me with the  
25           identity of the person from the building department

1           that you met with?

2                   A.       I'll have to check with our staff.

3           I have no problem providing that. There is a number  
4           of individuals involved.

5   326.           Q.       Okay, and aside from those  
6           inquiries, has Access consulted with anyone about  
7           whether or not a building permit is required?

8                   A.       We have spoken to the engineers, the  
9           structural engineers, retained by the owner as well.  
10          They have expressed no concern.

11   327.           Q.       So that conversation was made with  
12          the structural engineer about whether a building  
13          permit is required here?

14                  A.       The overall proposal of what we are  
15          doing for temporary storage was...the discussion was  
16          had with the engineers, and they pose no concern.

17   328.           Q.       Okay, so I can tell you that, and we  
18          haven't got this into an affidavit yet, but we have  
19          made some inquiries of the building department,  
20          although nothing which is completely firm and  
21          concrete has come out of yet, and we have spoken  
22          with code consultants, and we have been informed  
23          that there is a significant degree of likelihood  
24          that because of the change in usage of the space,  
25          not the building, the change in usage, that there is



1 a reasonable likelihood that a building permit would  
2 have been required, and also there is a zoning issue  
3 as well, which has been brought to our attention.

4 I'm not going to hold out that we're  
5 absolutely certain about this because we have only  
6 started looking into it in the last 24 hours, but we  
7 have received some significant indications about it.

8 So I'll leave you with that. We're going  
9 to see what we can figure out over the next few  
10 days, and I encourage you to do the same.

11 We're not looking necessarily to make an  
12 obstacle of this, but obviously if that's what is  
13 required, then that's what is required. So we're  
14 trying to figure it out, and you have told me  
15 everything about what you have done to figure it  
16 out?

17 A. Yes.

18 329. Q. Okay.

19 A. Ultimately, if it's a requirement,  
20 it's a requirement. We'll obtain a permit.

21 330. Q. I understand that, but before we can  
22 recommend anything to the court, it would be good to  
23 know if there is a permit required. That's all, and  
24 I have heard what you have said about it, or if  
25 there is a zoning issue.

1                   Do you know if Access has notified any of  
2 the subrogated insurers of this proposal to move all  
3 the contents down to the basement?

4                   A.       Can you be more specific about which  
5 parties you're referring to?

6   331.            Q.       I'm sorry, I thought maybe you knew  
7 the terminology. So some of these tenants' units  
8 are insured, and their insurance companies have an  
9 interest in understanding what is happening with the  
10 contents.

11                  They may want to inventory. They may want  
12 them to be sure they're in the same condition when  
13 they are moved downstairs as they would have been in  
14 the unit, for obvious reasons.

15                  So I'm just asking if Access has notified  
16 any of those insurers of the plan to move the  
17 contents down into the garage.

18                  A.       There has been no one set of  
19 correspondence that has gone out to notify them as a  
20 whole. However, we are in contact, I would say  
21 almost daily, with one or more of those insurers  
22 that you're referring to. Some of them are aware.  
23 Some of them are not.

24   332.            Q.       Okay. What is the reason that you  
25 are in contact with them daily? What are the types

1 of circumstances that are coming up?

2 A. Whereas they would like to access a  
3 tenant's unit for the purposes of inspection or  
4 documentation.

5 333. Q. And have they been accessing the  
6 units for those purposes?

7 A. They have been, yes.

8 334. Q. Who do they coordinate that with,  
9 Access?

10 A. With our office.

11 335. Q. And do you know if they have been  
12 inventorying the contents, or are they just taking a  
13 look around?

14 A. To my knowledge, only very few units  
15 have been inventoried and packed out, using an  
16 industry term, by the insurers.

17 336. Q. Okay, and so is it fair to say that  
18 the adjusters are in the building on a regular  
19 basis?

20 A. I would say at least once or twice a  
21 week, yes.

22 337. Q. Okay, and for the most part, are  
23 they there just to look around the unit, or are  
24 these just the instances where they're packing them  
25 up and moving them out?

1                   A.       They're there to look at their  
2                   specific policyholder's unit in most cases.

3   338.           MR. CHARNEY:        Would you mind if we take  
4                   a five-minute break while I consult with my  
5                   colleagues?

6                   MR. THOMAS:        No, that's fine.

7   339.           MR. CHARNEY:        Thank you.

8

9   ---   upon recessing at 3:20 p.m.

10 ---   A BRIEF RECESS

11 ---   upon resuming at 3:37 p.m.

12

13 NATHAN NORMOYLE, resumed

14 CONTINUED CROSS-EXAMINATION BY MR. CHARNEY:

15

16   340.           Q.       Mr. Normoyle, before we took our  
17                   break, at some point you and your counsel produced  
18                   20 photographs of the five units where photos were  
19                   taken of the contents as box...I'm just showing you  
20                   this. Can you identify them as the 20 photographs,  
21                   and then we'll mark them as Exhibit 3?

22                   A.       Yes, these are them.

23   341.           Q.       Thank you very much. Could we ask  
24                   you, Mr. Thomas, to provide us with copies of the  
25                   three exhibits at your convenience?

1 MR. THOMAS: I will. U/T

2

3 --- EXHIBIT NO. 3: Twenty photographs of underground  
4 garage

5

6 CROSS-EXAMINATION BY MS. YANG:

7

8 342. Q. So just for the record, over the  
9 break we had the opportunity to speak with some of  
10 the tenants who are here today, and they expressed a  
11 number of concerns that they had based on their  
12 knowledge of the garage and existing problems that  
13 might be there, and they asked us to put it to you  
14 what provisions or precautions have been taken to  
15 deal with the specific issues.

16 So the first issue raised was apparently  
17 there is a history of leakage with some of the  
18 overhead pipes in the garage. We have heard that  
19 apparently sometimes these pipes will leak at the  
20 joint, and sometimes they have actually broken.

21 So have any provisions or precautions been  
22 taken to deal with that potential issue?

23 A. Yes, we have, and actually quite a  
24 bit in advance of this setup of the garage, part of  
25 our scope of work is the...to ensure that the

1 current mechanical systems and fire suppression  
2 systems are, number one, meet code, and number two,  
3 are in functioning order.

4 Actually, there was extensive maintenance  
5 completed throughout P1 and P2 levels, including the  
6 fire suppression system, standpipes, as well as the  
7 drain lines.

8 343. Q. Under which contract does the scope  
9 of that work fall?

10 A. That is under our master contract  
11 for repairs and remediation.

12 344. Q. Would that be the...

13 MR. CHARNEY: We have an undertaking for  
14 it.

15

16 BY MS. YANG:

17 345. Q. ...December one?

18 A. No, it's the February...

19 346. Q. February 11th, yes, okay. There was  
20 also concern about access to the garages. So two  
21 issues with that. First, residents of the other  
22 buildings, it's our understanding that there are  
23 ramps which the residents who park in the garages  
24 for the other buildings can access the two levels  
25 for 650. Is any sort of barrier going to be erected

1 or...

2 A. This has been done already, and was  
3 done in...some time in April. There is a solid  
4 barrier that separates the two spaces, so that  
5 access to the 650 proposed content storage area is  
6 100 percent separate from the access to the 280  
7 tenant parking space.

8 347. Q. So just for clarity, what entrances  
9 will there be, or what access points will there be  
10 to the storage facility in the garage?

11 A. There is only one means of entry,  
12 and that is through the main ramp to 650, and there  
13 are three means of egress for emergencies, for  
14 emergency sake. So there are three emergency exits  
15 which do not open from the outside, and there is one  
16 means of entry.

17 348. Q. And I assume this is the case, but  
18 just to get it on the record, so the one means of  
19 entry will be monitored. Apparently, historically  
20 there has been a problem with non-residents entering  
21 into the ramp just following along behind vehicles  
22 as they enter.

23 So just for clarity's sake, that will be  
24 monitored to make sure that doesn't happen?

25 A. There is full-time, 24-hour security

1 posted at the top of that ramp that controls access.

2 So access is controlled.

3 349. Q. So that's independent of the two  
4 full-security guards on each level?

5 A. Correct.

6 350. Q. And then another issue that was  
7 raised was...and I'm not quite clear on the  
8 mechanics of this, but apparently the water from the  
9 outdoor pool drains into the parking garage, and if  
10 there is a heavy rain, apparently there can be quite  
11 a significant downpour which ends up in the garage.  
12 Has anything been done about the pool?

13 A. So the outdoor pool is empty with no  
14 plans to refill in this season, and the concrete  
15 directly below the pool that experienced minor leaks  
16 in this season has been injected with epoxy resin to  
17 basically stop those leaks.

18 351. Q. And is the pool going to be covered?

19 A. The pool will not be covered, but it  
20 will also not be filled. So it won't contain a full  
21 volume of water.

22 352. Q. There was a concern raised with  
23 regard to the fencing, the security of it, because  
24 based on the pictures, the fences don't rise to the  
25 level of the ceiling. Is there any way to remedy



1           that?

2                       A.       I don't...in my personal opinion, I  
3       don't see it as a concern for a few reasons.  
4       Primarily, there is full-time security personnel  
5       patrolling the garage. Number two, access is  
6       controlled into the garage space, meaning that only  
7       those that are authorized to be in there are in  
8       there at any given time, and number three, the  
9       number of...if...as the proposal goes forward, and  
10      as the processes work out, there will never be  
11      hundreds of people in this space.

12                      This will be a controlled entry, and it  
13      will be a controlled access to an individual locker  
14      at any given time. So we do not have the risk, in  
15      my opinion, that someone jumping the fence, per se,  
16      is really a concern.

17    353.               Q.       How many people do you envision will  
18      be accessing the storage space at any given time?

19                      MR. THOMAS:       I don't believe that has  
20      been dealt with, and I was going to  
21      hopefully have that worked out with counsel  
22      and the court, so that we would have some  
23      kind of a control mechanism whereby tenants  
24      can get in, but it will be done under a  
25      supervised arrangement, so that we can't

1                   have everyone coming in and walking around  
2                   as if it's an open space.

3                   So I thought that would be something  
4                   we would deal with after we have an order  
5                   to remove the contents.

6

7 BY MS. YANG:

8 354.               Q.       And then a final logistical  
9                   question, will any assistance be provided to the  
10                  tenants in terms of the unboxing and reviewing  
11                  process, given the mechanics of packing the boxes  
12                  vertically and so on?

13                  A.       I think part of that answer goes  
14                  back to Mr. Thomas' point that this process has to  
15                  be worked out, but from our perspective, it is  
16                  possible and feasible to provide assistance, yes.

17 355.               Q.       Well, I guess what I'm just asking  
18                  is, you know, in the 3.8 million, for example, is  
19                  there any provisioning for a staff member to be on  
20                  standby to assist with boxes that are piled high for  
21                  tenants? You know, I'm five, two. I get it. It  
22                  doesn't seem practical.

23                  MR. THOMAS:       But again, that's all going  
24                  to be worked out with His Honour, with  
25                  negotiations, I'm sure with counsel, to

1                   make sure that we have a process in place  
2                   if there is an order allowing relocation of  
3                   the contents down in the garage.  If that  
4                   order is given then we would apply again  
5                   for the next phase, which would be access,  
6                   inspection, et cetera, with respect to the  
7                   contents in the garage.

8

9                   CONTINUED CROSS-EXAMINATION BY MR. CHARNEY:

10

11                   356.                   Q.           All right, just one wrap-up  
12                   question.  In your affidavit you mention near the  
13                   end of it...this is the more recent affidavit.  I  
14                   just want to make sure we are both on the same page  
15                   here.  Let's see if I can find it amongst all these  
16                   tabs again.  Paragraph 14, May 21st affidavit:

17                                   "...When we complete our remediation  
18                                   work...after the authorities have completed  
19                                   their work, I estimate that it will take  
20                                   over two months to repopulate 650 because  
21                                   of the logistics, moving tenants and their  
22                                   contents back into the building..."

23                   So I take it then that your contract for the  
24                   remediation includes moving the contents back into  
25                   the units?

1                   A.       I do not have that segmented in our  
2 authorization agreement, but I would anticipate or I  
3 would assume that that we will be contracted for  
4 that as well, yes.

5       357.           MR. CHARNEY:       Do we know, Mr. Thomas,  
6                   today whether your clients are stating  
7                   through this affidavit that, in fact, they  
8                   intend to move the contents back into the  
9                   units?

10                  MR. THOMAS:       I believe that's something  
11                   you can rely upon, because we would...there  
12                   may be tenants that want them to be moved  
13                   elsewhere, as you know. So I think we're  
14                   going to take direction from the tenants  
15                   after they have decided what they want to  
16                   do. Some of it may want to go right back  
17                   up, and it will have to follow the course  
18                   of the construction of the building.

19                               Some may be moved to another  
20                   apartment where they are now. So those are  
21                   things we have to work out, and certainly I  
22                   can work that out with you, with the  
23                   court's involvement.

24

25       BY MR. CHARNEY:

1           358.           Q.       Okay, one last question, Mr.  
2                           Normoyle. Assuming the plan goes as you expect, and  
3                           the court authorizes the contents to be moved to the  
4                           basement, when do you think the process of moving  
5                           them to the basement will begin?

6                           MR. THOMAS:        I put a draft, and I  
7                           haven't gotten it to you...

8           359.           MR. CHARNEY:        I'm just asking if he  
9                           knows.

10                          MR. THOMAS:        It would begin immediately  
11                          after the court orders it to be done, in  
12                          other words, immediately after, which is  
13                          what I...he has told us that, but I want  
14                          him to know that he can't do anything until  
15                          the court grants the order.

16

17           BY MR. CHARNEY:

18           360.           Q.       My question is once the order is  
19                           made, how soon after the order is made will Access  
20                           start to move the contents down to the basement?

21                           A.       Within 48 hours of that order.

22           361.           Q.       How long do you think it will take  
23                           to complete the process?

24                           A.       I would say between eight and 10  
25                           weeks.

1 362. Q. Then if everyone goes as planned,  
2 what is your best estimate today as to when the  
3 tenants will be back in the units, assuming the City  
4 approves the occupancy in the time period you expect  
5 it should take them to do that?

6 A. I can't make comment to that today.  
7 There is too many variables at play to speculate.

8 363. Q. You know, that's the first question  
9 I'm going to get tonight. So that is why I have  
10 asked.

11 MR. THOMAS: Here is the answer that has  
12 to be considered. First of all, once the  
13 building is completed, repairs done, I'm  
14 hoping that the City, with the assistance  
15 of Councillor Wong-Tam, will get the  
16 approvals quickly, so that the building can  
17 be reoccupied. Then you have to realize  
18 how many apartments can you start filling  
19 every week, every day.

20 364. MR. CHARNEY: Right.

21 MR. THOMAS: And I think if it takes  
22 that long to take them out, it will take an  
23 equal amount of time to get it back in.

24 So...

25

1 BY MR. CHARNEY:

2 365. Q. Is that right?

3 A. It is.

4 366. Q. So when do you expect to complete  
5 the remedial work? Let's ask you that question.

6 A. To the best of my knowledge, I can  
7 give you a range. I would hate to speculate on a  
8 specific date with so many variables.

9 367. Q. Does your contract have a deadline  
10 date?

11 A. It does, but it's subject to terms  
12 and conditions that we continue to meet these terms  
13 and conditions.

14 368. Q. Yes, of course.

15 A. For example, you know, we're in  
16 June, just discussing moving contents.

17 369. Q. So what is your best estimate if you  
18 get the order and you can start the remedial work  
19 and move along at the pace that you expect?

20 A. Our best guess at this...our best  
21 guess or educated guess at this time is October of  
22 2019.

23 370. MR. CHARNEY: Okay, thank you very much,  
24 Mr. Normoyle. That's all we have for you.  
25 Do any of the tenants have any questions

1                   for this witness? I think that you're free  
2                   to go, subject to any reply your counsel  
3                   may have.

4                   MR. THOMAS:       I just wanted to ask, there  
5                   were questions put by Rebecca and Peter  
6                   Gondos on Exhibit 3 to their document, and  
7                   it was concerned about issues, and I wanted  
8                   to...are they here? Do you have any  
9                   questions? After counsel has asked the  
10                  questions, I'm wondering if he has covered  
11                  them all for you.

12

13       ---     DISCUSSION OFF THE RECORD

14

15       CROSS-EXAMINATION BY MS. GONDOS:

16

17                  MR. THOMAS:       I would like to say that  
18                  Mrs. Rebecca Gondos would like to ask some  
19                  questions of the witness. She is a  
20                  resident, a tenant, of apartment 2225 at  
21                  650 Parliament Street.

22

23       BY MS. GONDOS:

24       371.               Q.     The lawyers have asked some of the  
25                        questions or posed some of the issues or concerns



1 that we, as tenants, have with regards to our  
2 belongings that have been packed up.

3 With regards to the fences not being tall  
4 enough, I still have a problem with that, because we  
5 are one of the units that will have two or three hundred  
6 of boxes, and it will take a very large area to  
7 store our things, and we are concerned that people  
8 will see, even if they are wrapped, if it goes above  
9 the height of the fence, if the boxes have to be  
10 stacked that high.

11 Can you guarantee you will make a large  
12 enough area so that nothing has to be above the  
13 fence area for our unit's items?

14 A. Yes, I can speak to the fact that  
15 contents will be stacked no higher than the  
16 underside of the...the top of the fence.

17 372. Q. I'm presuming that the lockers will  
18 be locked. They will have a padlock on each of the  
19 areas?

20 A. Yes, each one has its own unique  
21 lock, with a unique key for access to it.

22 373. Q. Okay, and who has access to that  
23 key?

24 A. It will be in the site office  
25 upstairs under 24-hour security for a key to be

1 signed out or signed in.

2 374. Q. Okay. We also are very familiar  
3 with these kind of fences, my husband and I, and we  
4 know that you can easily take the upside down U-  
5 shape metal pin out between the fences and open them  
6 up. Is there anything put in place to stop that  
7 from happening?

8 A. Both sides of the...the front of the  
9 makeshift locker, both sides are under lock and  
10 chain.

11 375. Q. Okay.

12 A. So they can't be lift...because this  
13 is meant for temporary fencing.

14 376. Q. Yes.

15 A. They can't simply be lifted out or  
16 disconnected.

17 377. Q. Okay. Again, you have dealt with  
18 the visibility. We appreciate that. We are still  
19 concerned with strangers getting down into the  
20 garage. If they follow down behind a car at night,  
21 they don't get seen by security guards. I'm also  
22 concerned that the security guards will not confront  
23 somebody that maybe has a weapon, a knife, a gun, a  
24 bat. It is that kind of neighbourhood,  
25 unfortunately, and we have been broken into.

1                   We have had things stolen. My husband's  
2                   been, you know, accosted by homeless people in the  
3                   garage when he is down there with his vehicle. So  
4                   we are concerned that security might not be enough,  
5                   just two guards on-site, with all of those two  
6                   floors of lockers and a...you said the unit outside  
7                   the entrance to the garage.

8                   Is there a possibility of increasing the  
9                   security walkabouts so that nobody can just come  
10                  down there and decide to rifle through stuff, stab  
11                  through the plastic, start looking at things?

12                  A.        I can speak to two points. The  
13                  first point is as mentioned in response to a  
14                  question previous. There is only one means of entry  
15                  into the underground space, which is that ramp.

16                  Where there is a full-time guard posted at  
17                  the top of the ramp in a vehicle that sits at the  
18                  ramp, not seeing someone...there is no vehicular  
19                  traffic in and out of the garage because of its  
20                  intended use.

21                  So without vehicles going up or down,  
22                  noticing of a person walking up or down, they will  
23                  be noticed.

24                  378.        Q.        Okay.

25                  A.        Number two, with regards to your

1 point of the guards not engaging somebody that is  
2 potentially armed or dangerous, I can say that we  
3 have dealt with this circumstance at least a half a  
4 dozen times in our last five months on site, and our  
5 security's training has proven very effective in all  
6 instances, whereas no one has been injured.

7 The police have been contacted in very  
8 short order, and that individual in question has  
9 been dealt with in the time that the police are able  
10 to deal with it.

11 379. Q. Okay.

12 A. So I can say with reassurance that  
13 our security personnel that we have contracted to  
14 are very competent and well-trained.

15 380. Q. How do 280 residents then get in to  
16 park, because that's the same ramp they use?

17 A. Separate ramp.

18 381. Q. They have a separate ramp now?

19 A. They have a separate ramp.

20 382. MS. GONDOS: Okay. I think  
21 that's...okay, I think you have addressed  
22 all of my concerns. Thank you.

23 MR. AVAKIAN: I have one quick question.

24 MR. THOMAS: This gentleman's name is

25 Mr. Avakian.

1 CROSS-EXAMINATION BY MR. AVAKIAN:

2

3 383. Q. So assuming that the...

4 MR. THOMAS: Which apartment are you in,  
5 sir?

6 384. MR. AVAKIAN: 2321.

7 MR. THOMAS: 2321. It should go on the  
8 record.

9

10 BY MR. AVAKIAN:

11 385. Q. Assuming that the proposal is  
12 approved on the 14th I believe it is?

13 MR. THOMAS: Yes.

14

15 BY MR. AVAKIAN:

16 386. Q. The Friday, it could be...the move  
17 could start within 48 hours. That could be Monday,  
18 theoretically start moving Monday?

19 A. It could, yes.

20 387. Q. Wow, okay, and you're going to start  
21 with the top floors first?

22 A. Yes.

23 388. Q. Okay. So if I wanted to have my  
24 stuff moved to a place of my own choosing, say a  
25 conventional storage facility, I would probably have

1 to request that now?

2 MR. THOMAS: I would think so, it would  
3 be a good idea, or by Friday. If you  
4 wanted to go somewhere other than the  
5 garage, I think it would be wise for you to  
6 let us know. Could you let the response  
7 centre know?

8 389. MR. AVAKIAN: Sure.

9 MR. THOMAS: Just let them know.  
10 They'll know..."Apartment so and so. We  
11 would like our stuff sent somewhere else."

12 390. MR. AVAKIAN: M'hm.

13 MR. THOMAS: Just let us know.

14 391. MR. AVAKIAN: Well, it's just that for  
15 due diligence I would like to...first, I  
16 would like to draft a letter of intent to  
17 reoccupy, and possibly have the  
18 discussions...I'm not going to need all the  
19 items. Some of them have long been  
20 replaced. So would it be possible to go  
21 through that, or it's just everything going  
22 to get moved?

23 MR. THOMAS: Well, can I ask you, are  
24 you near the top?

25 392. MR. AVAKIAN: Yes.

1 MR. THOMAS: So in other words, your  
2 stuff would be coming down early.

3 393. MR. AVAKIAN: Yes.

4 MR. THOMAS: And I read your material.  
5 I think you said you were going to be  
6 leaving for...you are going to be halfway  
7 around the world.

8 394. MR. AVAKIAN: Yes.

9 MR. THOMAS: Well, when would you be  
10 leaving to go there? Because if you could  
11 be there when your stuff is coming out, and  
12 maybe you could then arrange for you to  
13 have your stuff that you want sent  
14 somewhere else, and have the balance put in  
15 storage in the garage, if that could be  
16 done for you.

17 395. MR. AVAKIAN: That sounds complicated.

18 MR. THOMAS: Well, if you work with the  
19 response centre, we'll try and work  
20 something out for you.

21 396. MR. AVAKIAN: Okay. Thanks.

22 MR. THOMAS: I mean, it's complicated,  
23 but we'll try and do our best for you.

24 397. MR. AVAKIAN: Okay, thanks.

25 MR. THOMAS: Thank you. Anybody else?

1                   Are we satisfied? You have no further  
2                   questions as a result of these questions?

3                   MR. CHARNEY:       No further questions from  
4                   the plaintiffs.

5                   MR. THOMAS:       Okay, good.

6

7       ---       upon adjourning at 4:02 p.m.



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