

OHIO BOARD OF BUILDING APPEALS

AUDIO TRANSCRIPTION

Upper Arlington City Schools
Case No. 20-0051
Upper Arlington School Facilities
June 4, 2020

ARMSTRONG & OKEY, INC.
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1 CHAIRMAN: This is an Upper Arlington
2 matter. It was set for 9:00 o'clock. It's 9:46.
3 It's case number -- Upper Arlington School Facilities
4 Matter 20-0051, and it deals with the Windermere
5 Elementary School, and Upper Arlington's adjudication
6 number is noted on the docket.

7 If the Appellant representatives from
8 the elementary school are present, if you'd identify
9 yourselves, state your full name and spell your last
10 name and the capacity by which you're here
11 representing the school, that would be appreciated.
12 I'll do the same thing with the building official
13 from Upper Arlington, we'll have an oath
14 administered, and then we'll discuss whether we want
15 to proceed on an audio-only basis or whether it wants
16 to -- you want it to be rescheduled.

17 School representatives first, please.

18 MR. IMHOFF: Good morning. My name is
19 Paul Imhoff, I'm the superintendent of the Upper
20 Arlington Schools, last name I-m-h-o-f-f.

21 CHAIRMAN: Thank you, Mr. Imhoff.

22 Is there anybody else representing the
23 schools -- the school today?

24 MR. IMHOFF: Yes. We have our architect
25 with us and our attorney with us. They can introduce

1 themselves as well.

2 CHAIRMAN: Please. Thank you.

3 MR. DZURANIN: This is Steve Dzurandin
4 with Moody Nolan. We are the architect of record for
5 this project. My last name is spelled D-, as in
6 David, -z-, as in zebra, -u-r-a-n-i-n, and Moody
7 Nolan is two words.

8 CHAIRMAN: Correct. Thank you. And
9 counsel.

10 Mr. Imhoff, for -- do you know if -- if
11 counsel is present?

12 MR. IMHOFF: Yeah, he's here. Yeah, he
13 is here. Chris McClausky, are you there?

14 UNIDENTIFIED SPEAKER: Just so that
15 anybody who is dialed in on their phone, you might be
16 on mute. If you are on mute, you need to type in
17 star 6 to unmute yourself.

18 MR. McCLAUSKY: This is Chris McClausky
19 with Bricker & Eckler. Can you hear me?

20 CHAIRMAN: Yes. Thank you.

21 MR. IMHOFF: Yes. Okay. Great.

22 CHAIRMAN: And representing the Building
23 Department.

24 MR. EASTEP: Roger Eastep, Chief
25 Building Official, E-a-s-t-e-p.

1 CHAIRMAN: Okay.

2 MS. HUMMER: Jenean --

3 CHAIRMAN: And if we could (inaudible).

4 MS. HUMMER: I -- hello.

5 CHAIRMAN: Someone -- someone -- I'm
6 sorry.

7 MS. HUMMER: This is --

8 (Background noise, multiple speakers at
9 one time.)

10 MS. HUMMER: This is Jenean Hummer, the
11 City Attorney for Upper Arlington, representing the
12 City of Upper Arlington, Supreme Court No. 0030565.

13 CHAIRMAN: Thank you. Okay. If -- if
14 everyone but counsel would (inaudible) raise their
15 right hand, our court stenographer, Sam, will
16 administer an oath.

17 (Background noise.)

18 CHAIRMAN: Sam. Well, that's not good.
19 You show Sam on the screen?

20 MR. JAVOR: Can you hear me now?

21 CHAIRMAN: Yes.

22 (Background noise.)

23 MR. JAVOR: Can the person who
24 introduced themselves before Jenean restate their
25 name?

1 (Background noise.)

2 CHAIRMAN: Someone -- someone needs to
3 mute.

4 MR. JAVOR: Can -- can the person who
5 introduced themselves before Jenean restate their
6 name, because I didn't catch it?

7 MR. EASTEP: Yes. Roger Eastep,
8 E-a-s-t-e-p, Building Official, City of Upper
9 Arlington.

10 MR. JAVOR: All right. Thank you.
11 Do you swear or affirm to tell the
12 truth, the whole truth, and nothing but the truth?

13 UNIDENTIFIED SPEAKER: I do.

14 UNIDENTIFIED SPEAKER: I do.

15 MS. HUMMER: I do.

16 CHAIRMAN: Okay.

17 UNIDENTIFIED SPEAKER: I do.

18 CHAIRMAN: Great. So this would be for
19 Mr. McClausky and Ms. Hummer, we obviously are having
20 technical difficulties. Up to this point in time we
21 have -- we have been able to use MS Teams and -- and
22 do the hearings virtually, not always without some
23 glitch, but today we're unable to do that.

24 Does the -- does the school -- does the
25 school and the City of Upper Arlington wish to

1 proceed on an audio-only basis?

2 MR. McCLAUSKY: Yes.

3 MS. HUMMER: We have no objection.

4 CHAIRMAN: Okay. That works. Okay. So
5 we can hear from the -- the architect presumably, or
6 however Mr. McClausky wants to present the case.
7 I'll -- I'll just -- I don't think it's a basis for
8 my recusal, but I went to Windermere Elementary
9 School many, many years ago and all three of my
10 children did; so I'm familiar with the school. If
11 there's any objection to my hearing the case, let me
12 know now, but I -- from my own vantage point, I don't
13 think it's a -- a -- would be a conflict.

14 MR. McCLAUSKY: No, not from the
15 district's perspective.

16 CHAIRMAN: Okay. Very good.

17 Mr. McClausky, how do you wish to
18 proceed.

19 MR. McCLAUSKY: Yeah. I -- I just want
20 to reiterate and -- and these folks have introduced
21 themselves, but that we have Paul Imhoff, Dr. Paul
22 Imhoff, the superintendent of the school district,
23 and Steve Dzurandin with Moody Nolan, the architect of
24 record for the project.

25 Mr. Dzurandin will provide an overview of

1 the project and explain to the Board what is planned
2 for the project, and Dr. Imhoff will be discussing
3 issues related to the hardship here. And this is the
4 case that was referenced in your earlier case that we
5 were able to listen to with regard to the unisex
6 single-occupant toilet rooms.

7 And so I don't know if -- that we're
8 going to be able to see the exhibits up on the
9 screen, but certainly Steve Dzurandin can explain
10 the -- the situation a little bit for us. So, Steve,
11 I will turn it over to you.

12 MR. DZURANIN: Okay. Great.

13 UNIDENTIFIED SPEAKER: And just, you
14 know, anything that you've submitted, I should be
15 able to put up on the screen. So you would need to
16 direct me to which information you submitted to put
17 up on the screen.

18 MR. McCLAUSKY: Okay. We submitted a --
19 we submitted a position statement that has a number
20 of pictures in it, and then we also submitted some
21 exhibits, and the exhibits have pictures in them.
22 And I think the first thing that we'll want to take a
23 look at is just the building plan, and Mr. Dzurandin
24 can walk you through that.

25 CHAIRMAN: Very good.

1 UNIDENTIFIED SPEAKER: All right. Let
2 me see if I can't find these drawings here.

3 (Pause.)

4 All right. I do have the building floor
5 plan up now.

6 MR. DZURANIN: Okay. Very good.

7 So the -- Windermere Elementary School
8 for Upper Arlington Schools, it's a little over
9 almost 74,000 square -- it's approximate value of 19
10 million. And if you could zoom in on -- you see the
11 top of the sheet.

12 UNIDENTIFIED SPEAKER: Let me give it a
13 shot here.

14 MR. DZURANIN: We'll -- we'll show
15 enlargements in a moment. Okay. Zoom down just a
16 little bit. Perfect. Right there.

17 So the restroom facilities for student
18 use that we had designed -- rooms with -- are
19 available for use by either sex have provided
20 separate --

21 UNIDENTIFIED SPEAKER: You are -- your
22 audio is coming in and out and we can hear, like,
23 every other word.

24 UNIDENTIFIED SPEAKER: Maybe get closer.

25 MR. DZURANIN: I'll try to get closer.

1 Is this better? (Inaudible).

2 UNIDENTIFIED SPEAKER: We can hear you
3 clearly, it's just it seems to be cutting out; so I
4 just want to make sure we have an accurate record.

5 MR. DZURANIN: Okay. And I was -- I was
6 getting the same effect when others were speaking as
7 well. Just a moment, please.

8 MR. EASTEP: Mr. Chairman, Building
9 Official Roger Eastep. I think Steve kind of touched
10 on it, I'd just like to note this is new
11 construction, this is an entirely brand new school
12 from the ground up.

13 CHAIRMAN: Yeah. You can -- you can --
14 that question's I guess directed to me which is now
15 directed to the Appellant.

16 MR. DZURANIN: Okay. This is Steve
17 again. Is this audio connection better?

18 CHAIRMAN: Yes.

19 MR. DZURANIN: Okay.

20 UNIDENTIFIED SPEAKER: Steve
21 (inaudible). Is this new construction or --

22 MR. DZURANIN: It is new.

23 UNIDENTIFIED SPEAKER: Okay.

24 CHAIRMAN: Okay. You can continue.

25 MR. DZURANIN: Okay. So there are three

1 unisex restrooms available for student use. Each one
2 in each academic neighborhood -- neighborhood. It's
3 hard to see. You can see one to the right, to the
4 top --

5 UNIDENTIFIED SPEAKER: Steve --

6 MR. DZURANIN: -- and then to the left
7 of the central image that we're viewing. And we'll
8 go to enlarged plans to see that more clearly.

9 But each -- each restroom facility, each
10 stall for the water closets have solid
11 floor-to-ceiling walls, and each stall has a solid
12 full-framed lockable door. The facilities for
13 washroom are separate from that, and they are for
14 shared use as well.

15 If you could go to the enlarged floor
16 plan, we can see that in more detail. Can you rotate
17 counterclockwise or zoom in? Yeah. Maybe rotate
18 that counterclockwise.

19 UNIDENTIFIED SPEAKER: Does it need to
20 be rotated or can you describe it?

21 MR. DZURANIN: I guess if we -- if
22 everyone can see that, but this is the facility --
23 wash -- restroom facility that is available for
24 public use. So, again, I mentioned we have three for
25 student use and we have one for public use, which is

1 on the other side of the building. Again, same
2 design, the shared washroom facility with a shared
3 sink. Each toilet stall is a -- full-height walls
4 floor to ceiling and, again, as I mentioned a solid,
5 full-frame lockable door. There are no doors into
6 the washroom facility for -- for either both student
7 use or public use. And, again, that's just for
8 monitoring purposes for the health and safety of
9 primarily the students.

10 If you could go to the next sheet,
11 please.

12 CHAIRMAN: Okay.

13 MR. DZURANIN: Lower left. And, again,
14 this is typical of the design for the student
15 restroom facilities. Again, all of the same features
16 as I had previously mentioned, primarily that the
17 entry into the washroom itself does not have a door.
18 It is open so that staff can monitor the students
19 from a health perspective, making sure that they do
20 wash their hands, which is always a concern at the
21 elementary school level; and then also from a safety
22 perspective to make sure that if an incident does
23 arise, that they can intervene.

24 Next sheet, please. Zoom in to the top
25 right. Yes. So from a signage perspective, the --

1 the washroom, you can see the signage to the right
2 simply is just labeled "Washroom" with the typical
3 graphics of male, female, also ADA accessible, and
4 then each door in the toilet stalls will have the
5 sign to the left that simply just is indicated as
6 toilet, again, with the graphic -- standard graphic
7 of male and female.

8 Now, Chris, were the photographs a
9 separate document or were they included? Okay. Here
10 we go.

11 So this is a photo of what was the
12 existing condition at another elementary school in
13 Upper Arlington, which was Tremont Elementary. You
14 can see that they had a shared washroom common to the
15 toilet facilities with separate entries on either
16 side for access into the toilet stalls, but, again,
17 it was a shared handwashing station. That's existing
18 condition, I might add.

19 Next photo.

20 UNIDENTIFIED SPEAKER: I noticed
21 existing condition was -- was -- I assume that that
22 was fully permitted. Was there a variance required
23 for that project?

24 MR. DZURANIN: I don't know. I was not
25 involved in that project. Maybe Roger can speak to

1 that.

2 MR. EASTEP: I can speak to that. This
3 was done two years ago at another elementary school,
4 but this is actually separate boys and girls, the
5 boys are on the right, girls are on the left, and
6 shared washroom, all permitted. We believe it was in
7 compliance when reviewed and permitted, inspected and
8 signed off on it.

9 UNIDENTIFIED SPEAKER: So there are no
10 separate lavatories in -- in the boys' or girls'
11 rooms?

12 MR. EASTEP: These are typical school --
13 school restrooms with regular partitions. And, as I
14 said, to the right would be the boys and to the left
15 would be the girls if my memory serves me
16 correctly --

17 UNIDENTIFIED SPEAKER: Okay. So --
18 so -- so --

19 MR. EASTEP: -- but they are separate.

20 UNIDENTIFIED SPEAKER: -- so these --
21 these -- these washing stations are in addition to
22 what was required by Code, correct?

23 MR. DZURANIN: I think if I could jump
24 in, Roger.

25 MR. EASTEP: Yep.

1 MR. DZURANIN: There are no sinks in
2 those bathrooms on the right or the left. That is
3 the only place for washing hands. It's a joint
4 facility for washing hands.

5 MR. EASTEP: I agree.

6 UNIDENTIFIED SPEAKER: So -- so there
7 are no lavatories in those restrooms and they did not
8 need a variance for that, I -- I -- that's -- that
9 was my question.

10 MR. EASTEP: I -- I -- we did not have a
11 variance on this, and neither myself or the plan
12 examiner believed this was in violation at the time
13 of review and approval.

14 UNIDENTIFIED SPEAKER: Okay. Well, I --
15 I find that hard to believe, but we could -- we could
16 go on to your next picture, which I assume is a
17 picture of what you're proposing to do.

18 MR. DZURANIN: That is correct.

19 MR. McCLAUSKY: This is Chris McClausky,
20 I don't mean to interrupt here, Mr. Dzurainin. I will
21 tell you that, you know, we represent a number of
22 school districts all across the state, and for
23 elementary schools that is a very common application
24 to have that communal wash station.

25 Go ahead, Steve. Sorry.

1 MR. DZURANIN: Oh, that's okay. Thank
2 you for bringing that point.

3 So this is -- I don't know if anyone
4 else's video is cutting in and out, mine is, but I
5 can see it intermittently.

6 This is an actual photograph of the new
7 construction at Tremont Elementary School. You can
8 see the entry into the washroom facility with the
9 shared sinks to the left. To the right are the
10 individual toilet stalls, which we can see a little
11 bit better view in the next photo, please.

12 Yeah. So you can see on the right
13 solid, full-framed lockable doors, each individual
14 compartment contains a water closet. We also have
15 provided the -- the Code-required ADA stalls as well.

16 Next photo, please. Again, just another
17 view from inside the washroom. Toilet stalls are to
18 the left.

19 Next photo, please. Again, just another
20 view of the shared handwashing station.

21 Next photo, please. Again, another view
22 of the solid, full-framed lockable doors for each
23 individual toilet stall.

24 Next photo, please. Photo from inside
25 the toilet stall. This is the non-ADA compliant

1 stall. We'll show you a photo of -- in the next
2 photo, I believe, of the -- a little better view --
3 excuse me.

4 Next photo, please. Again, this is the
5 door hardware on each of the toilet stalls that has
6 the vacancy thumb turn so that any user would know
7 whether the stall is vacant or unoccupied.

8 Next photo, please. Again, here's a
9 photo of the ADA toilet stall. Again, these are from
10 Tremont Elementary School, but the same concept for
11 Windermere applies. And I believe that's our last
12 exhibit from an architectural perspective.

13 Any questions from the Board?

14 CHAIRMAN: Ms. Hummer, you'd have the
15 right to cross-examine or ask questions of the
16 witness if you care to.

17 UNIDENTIFIED SPEAKER: You are muted.
18 We cannot hear you. You are muted.

19 MS. HUMMER: I do not.

20 UNIDENTIFIED SPEAKER: Okay. Thank you.

21 CHAIRMAN: Okay. Thank you.

22 UNIDENTIFIED SPEAKER: This is --

23 CHAIRMAN: Any questions of the Board?

24 MR. SMITH: I have -- I have a question.

25 Brad Smith.

1 The doors for the toilet compartments
2 are locked, are they locked from the inside?

3 (Background noise.)

4 UNIDENTIFIED SPEAKER: I'm getting a lot
5 of background. There we go.

6 CHAIRMAN: Who was your question? Oh,
7 Brad was --

8 MR. SMITH: Yeah. The doors are locked
9 from the inside?

10 MR. DZURANIN: They are, correct, but
11 there is a feature that in an emergency that they
12 could be unlocked from the outside should an
13 emergency present itself.

14 MR. SMITH: That's what I was wondering.
15 I mean, this is an elementary school; is that
16 correct?

17 MR. DZURANIN: Correct.

18 MR. SMITH: So you have kids, let's see,
19 what, six years old on up or five years old? So you
20 have little kids going in here?

21 MR. DZURANIN: Correct.

22 MR. SMITH: So they can go in and lock
23 the door and I -- you know, I was just talking to
24 some teacher friends of mine about, you know, the
25 situation there saying with little kids that's the

1 last thing they want them to do is to be in a
2 compartment that's locked and you can't even tell
3 they're in there or who's in there, and -- and then
4 older kids could go in there locked and be unseen. I
5 mean, are those -- have those been discussed?

6 MR. DZURANIN: I would like maybe Paul
7 Imhoff to share his perspective from an operational,
8 because we have discussed this design extensively
9 throughout the process. Paul, if you may.

10 MR. IMHOFF: Yeah. Sure. Yeah. Sure.
11 We have discussed this. So we've been working on
12 this for -- for a number of years with our staff and
13 with our parents and with our kids.

14 And -- and so we did take all of that
15 into account, but obviously in a more traditional
16 setting kids can go into a stall and lock it, and
17 they can go into a group bathroom, and if they're of
18 a different sex than the -- than the teacher, the
19 teacher has no way to supervise them.

20 And in this application the teacher can
21 be there, see all the kids because -- especially for
22 the younger kids, as you would imagine, the teacher
23 takes the kids to the bathroom as a group and the
24 teacher stands there as they go in and out. And so
25 the teachers prefer this and believes this provides

1 them greater safety and security and supervision.

2 CHAIRMAN: Any other questions of
3 Mr. Imhoff at this point?

4 MR. SMITH: You know, I guess another
5 question was -- that came up was that teenage --
6 well, these are, let's see, six -- girls of this age,
7 you know, may want to have separate -- as I think we
8 discussed in a previous case -- grooming areas with
9 mirrors that they wouldn't want to be mixed with
10 boys. Is that (inaudible)?

11 MR. IMHOFF: And so -- so I will tell
12 you, yes, so this is the third school district where
13 I've served as an administrator where we've built
14 bathrooms, and we've never had separate grooming
15 stations in bathrooms. It's very uncommon in an
16 elementary school that's been built -- I've been
17 building schools over the last 15 years -- for there
18 to be separate grooming stations. It's always --
19 almost always a -- a communal sink with mirrors and,
20 again, that is for supervision and is greatly
21 preferred by staff and parents.

22 MS. HUMMER: May I have -- may I speak
23 as well?

24 CHAIRMAN: Please.

25 MS. HUMMER: From our evaluation of the

1 Building Code and as we have reviewed numerous
2 documents as it relates to proposed Building Code
3 changes, one of the focuses has been on merely making
4 sure the bathrooms are safe. The aspect of whether a
5 person can groom or not groom has not been viewed,
6 and the documents and legal authority as an aspect to
7 consider for purposes of whether or not the Building
8 Code requirements of safety have been met.

9 MR. BEEGAN: So this is Paul Beegan. My
10 question -- and this is probably for the architect,
11 but I'm sure everybody else is going to want to chime
12 in -- so the way it looks like you are setting up
13 your position for this particular thing is that you
14 are using the single-user toilet facility and bathing
15 room, since you're allowed to use those fixtures, to
16 count towards your plumbing fixture count and use
17 them as the total fixture count and completely
18 ignoring the other what would be normal bathrooms; is
19 that correct?

20 MR. DZURANIN: Well, I guess just as
21 a -- as a point for the record, I do object to your
22 terminology of "normal," but --

23 MR. BEEGAN: Well, I -- I --

24 MR. DZURANIN: Your position is that,
25 yes, we are utilizing the section in the Code that

1 provides for single-user facilities that are
2 available for use by either sex.

3 MR. BEEGAN: Okay. So Section 403.2 in
4 the Plumbing Code, and there's a corresponding code
5 section in, let's see, 29- -- let's see, 2902.2 that
6 requires separate facilities. And you are -- are not
7 complying with that section and instead using the
8 single-use toilet rooms as a -- as a substitution for
9 not needing to require separate facilities; is that
10 correct?

11 MR. DZURANIN: That is correct.

12 MR. BEEGAN: Okay.

13 UNIDENTIFIED SPEAKER: I -- I just want
14 to make sure that the rest of the Board members
15 understand that the Building Code does require
16 separate facilities, that includes not just the
17 toilets, but also lavatories, they're required to
18 have separate facilities; however, they are using the
19 allowable single-use toilet facility, which you --
20 you've seen family-assist type toilets and enlarging
21 that to provide all of the fixtures that are required
22 by Code.

23 CHAIRMAN: Okay.

24 MR. WELCH: Dr. Imhoff, how many -- This
25 is Chip Welch. How many students will be in this

1 building when it's fully functional?

2 MR. IMHOFF: So in this building
3 we'll -- we can have close to 450 to 500 kids.

4 MR. WELCH: So you're going to have 500
5 kids with nine bathrooms?

6 MR. IMHOFF: Well, that was just one
7 floor. It's a two-story building. So we've
8 organized this around learning neighborhoods, and
9 every neighborhood has a group of classrooms and then
10 its own set of bathrooms.

11 MR. WELCH: Okay.

12 MR. IMHOFF: If -- if I could, I would
13 like the -- the opportunity if I could speak a bit
14 about the hardship and a little bit more information
15 about our design process and why we are here today
16 and why we think this is good for students, whenever
17 that's appropriate --

18 CHAIRMAN: Absolutely.

19 MR. IMHOFF: -- I'd like the opportunity
20 to speak about that.

21 CHAIRMAN: That's appropriate now.

22 MR. IMHOFF: Okay. Thanks.

23 Well, I just wanted to mention, so this
24 has been a lengthy process, and we have gone through
25 with our community in planning for these buildings,

1 and our Board of Education has been building this.
2 And one of the areas of the strategic plan really
3 focuses on the well-being of our kids, and so we
4 think it's very important that we discuss toilet
5 rooms as a part of this. And we believe that these
6 single-user toilet rooms are going to alleviate the
7 very real issue of student anxiety that is caused by
8 the use of more traditional group bathrooms.

9 There was an article in the Northwestern
10 Law Review in 2018, and I quote, "People face gender
11 choices when using any public bathroom, but schools
12 have been flash points for this issue because a child
13 is likely to make their bathroom choice in front of
14 peers or authority figures who know the child's
15 assigned sex, and issues of children's sexuality and
16 gender identity are especially incendiary. We want
17 to eliminate this concern altogether by installing
18 single-use, gender-neutral bathrooms and at the same
19 time addressing other shortcomings created by
20 assigned sex bathrooms."

21 And so it is -- it is our contention
22 that gender-neutral bathrooms are best for all
23 students, and a number of other factors that are
24 important include student supervision, potty parity,
25 assisting students with disabilities, safety and

1 privacy, and then again the need to classify students
2 based upon gender. And I'll just add a couple of
3 more details about these things.

4 First of all, I'm a 30-year educator,
5 I've been a part of building projects now in my third
6 school district, and I will tell you that student
7 supervision is positively impacted because a single
8 teacher can more effectively supervise students using
9 our proposed design because all of the students are
10 in the same area, and they can keep an eye on all of
11 the students come and -- coming and going. This is a
12 safety issue. It's a supervision issue.

13 Potty -- a potty parity is also
14 important, because sometimes there is a line at the
15 bathroom when there are more kids of one sex than the
16 other waiting in line, and you think, well -- well,
17 that's no big deal, but that's lost time of
18 instruction. And so we want kids to be able to go to
19 the bathroom and not have to wait in line based upon
20 sex.

21 Our -- our students who -- who -- who
22 have a disability, this actually makes it much easier
23 for our staff who might be of a different sex to help
24 a -- a -- a disabled student or, quite frankly, any
25 student who needs a bit of help.

1 I'll tell you, safety and privacy are
2 greatly enhanced in our design, and it greatly
3 reduces the risk of bullying and harassment. And
4 these are very real issues in schools. Many, many
5 students are very nervous about the entire bathroom
6 experience, and making this a private experience more
7 like they have at home is good for every kid.

8 I've talked to many, many parents who
9 state the use of group bathrooms is one of the
10 biggest areas of stress and anxiety for kids in
11 school. It's one of the greatest opportunities for
12 bullying. We have a great opportunity to fix this
13 for kids and to relieve these issues for kids so we
14 can focus on teaching kids and allowing them to reach
15 their full potential.

16 And then finally, as I quoted in the Law
17 Review article, we don't need to classify students
18 based upon gender. We have a growing number of
19 students in all school districts who don't identify
20 as male or female, and the traditional bathroom
21 design causes a great deal of stress and anxiety for
22 these students. I will reference that article one
23 more time, and I quote, "Gender-neutral bathrooms are
24 a win-win solution. They accommodate gender
25 nonconforming students, eliminate unnecessary sex

1 stereotyping, and increase safety" -- again, safety,
2 safety, safety -- "increase safety for all users
3 while the option of more private individual stalls
4 ameliorates the lingering discomfort that current
5 bathroom designs have engrained in many users."

6 In our schools, our mission is to
7 challenge and support every student every step of the
8 way, every student. And as we plan for this new
9 building, we have an opportunity to support this
10 mission, and more importantly, support our kids as we
11 design bathrooms that alleviate many issues and are
12 more safe and allow us more fully to focus on meeting
13 the needs of each student.

14 We say in our schools every day all
15 means all, and we want to assure that we're meeting
16 the needs of every kid. And I really hope you will
17 support us in our mission by alleviating this
18 hardship as we seek to more fully support all of our
19 kids. Thank you.

20 CHAIRMAN: Thank you.

21 Ms. Hummer, you -- you have the right to
22 ask the superintendent some questions if you care to.

23 MS. HUMMER: Mr. Imhoff, isn't it
24 correct that you have actually received survey or
25 correspondences from parents that directly support

1 this design?

2 MR. IMHOFF: It is very, very true. Our
3 parents, again, are concerned about student anxiety
4 and student safety, and they see this as good for
5 kids, both from a safety point of view and from a
6 reducing anxiety point of view.

7 MS. HUMMER: And was it -- isn't it
8 correct that you also had knowledge and awareness
9 that during your building process, that the
10 forthcoming changes to the Building Code regarding
11 this design was actually going to happen and
12 basically an encouragement to --

13 MR. IMHOFF: Yes.

14 MS. HUMMER: -- make sure that you
15 complied with those upcoming changes in the Building
16 Code?

17 MR. IMHOFF: Yes. It's probably not a
18 shock to anyone in this meeting that our community is
19 very engaged and very well aware of what's coming
20 next. So in the design process, there was an
21 expectation that the new Code that was mentioned on
22 the earlier call would already be in place by now.

23 And so we were urged to plan for that, quite frankly,
24 because it's good for kids.

25 (Background noise.)

1 MS. HUMMER: I have nothing further.

2 CHAIRMAN: Thank you. Questions of
3 Dr. Imhoff from members of the Board?

4 MR. GIERING: Yes. This is Neil,
5 Mr. Chair, I do have a question.

6 Are both gender-neutral and assigned-
7 sex bathrooms available or going to be available in
8 this facility?

9 MR. IMHOFF: No. We're making all
10 bathrooms gender -- gender -- gender neutral, so all
11 bathrooms can be used by all kids.

12 MR. GIERING: Why wouldn't you provide
13 an option of having both?

14 MR. IMHOFF: Because it goes back to the
15 supervision issue, again, because a teacher can --
16 can bring kids into one area and supervise all of
17 them.

18 It's also the potty parity. We don't
19 want some kids waiting in line for bathrooms while
20 there are other bathrooms that are -- that are going
21 unused, it's just not efficient, and we want to spend
22 as much time teaching kids as opposed to waiting in
23 line for bathrooms.

24 MR. GIERING: So every time these
25 bathrooms are going to be in use, it's going to be

1 under the supervision of a teacher?

2 MR. IMHOFF: Well, there will be
3 times -- so any time it is a younger kid, a primary
4 age kid, we will always take them in groups or there
5 will be supervision. When it's more the intermediate
6 grade level, there are always staff in the area, but
7 a -- but a fifth grader could -- could come to this
8 area by themselves certainly.

9 MR. GIERING: Okay. Thank you.

10 MS. HUMMER: I have one question.

11 CHAIRMAN: Sure.

12 MS. HUMMER: Mr. -- Dr. Imhoff, with
13 regard to the design of these bathrooms, is it your
14 position that these bathrooms are more private than
15 the current multi-sex separate -- separate bathrooms
16 that you currently have at your older schools?

17 MR. IMHOFF: Yes.

18 MS. HUMMER: And could you please
19 elaborate on that?

20 MR. IMHOFF: Yes. There is -- there is
21 more privacy. So, again, in our older schools the
22 kids go into a group bathroom, we aren't able to see
23 them. There are partitions that are not floor to
24 ceiling, again, which causes much, much, much anxiety
25 in our schools. And so this is more private for our

1 kids, and we would contend, again, according to our
2 parents and our staff and according to my opinion as
3 a 30-year educator, these are safer.

4 MR. SMITH: Dr. Imhoff, this is Brad
5 Smith of the Board.

6 You mentioned that parents provided
7 support for this kind of arrangement for a restroom.
8 Were there parents that objected to it?

9 MR. IMHOFF: Oh, sure. We've had
10 some -- we have had some who -- who -- who have had
11 concerns. The concerns have not been based upon
12 safety. The concerns have been more a sense of
13 people -- well, quite frankly, there are people who
14 look at this as a values issue and they think it's
15 somehow wrong to be a gender non- -- non- --
16 nonconforming student, and so we have had that point
17 of view. But our Board of Education obviously
18 believes that we need to be here for every child
19 regardless of their gender, whether it be male,
20 female, or gender nonconforming.

21 MR. SMITH: Did you have -- survey the
22 parents? Were there surveys of them made?

23 MR. IMHOFF: So what we did as the
24 process -- so we had a design -- so we had an
25 engagement process and a design process. And the

1 design process itself went on for 18 months. We had
2 building teams made up of volunteers who were a part
3 of every building. We had full-scale community
4 meetings. We -- we literally had hundreds and
5 hundreds of people who were involved in the process
6 every step of the way, and so you can see all the
7 data from all of those. Most of that was qualitative
8 data, people who chose to be involved, but you can
9 see all of that on our website as well.

10 CHAIRMAN: Okay. Any other questions of
11 the school?

12 We can hear -- Ms. Hummer, we can hear
13 from Mr. Eastep then.

14 MR. EASTEP: Good morning, gentlemen.
15 Real quick, just to echo some of Dr. Imhoff's
16 sentiments, I've been in the construction industry
17 for over 40 years, a regulator for 31, and I've
18 reviewed over a billion dollars in construction in my
19 career, including many, many schools.

20 When I first saw this, I realized, in my
21 opinion and our plan examiner's opinion, that
22 pursuant to 2902 we could not approve it as a
23 building department; however, what I can tell you is
24 I can build buildings in my sleep. What I can't do
25 is profess to be an educator and tell people how to

1 run their school district. I have to rely on the
2 professionals that are educating the children in the
3 community.

4 So with that being said, I don't believe
5 myself as the building official or my plan examiner,
6 Mr. Scofield, could have approved it under the
7 current Code even though we have potential Code
8 changes forthcoming; however, we are not opposed to
9 it, but because we do not feel it is a safety issue
10 and we do not want to place ourself in the place of
11 an educator where I'm not educated to be an educator,
12 I'm educated to build safe buildings, I do not
13 believe this would be a safety issue for this
14 building and, therefore, the City is not opposed to
15 this variance.

16 CHAIRMAN: Mr. McClausky, I presume you
17 don't have any questions of Mr. Eastep, but if you
18 do, this would be the opportunity.

19 MR. McCLAUSKY: No. No. I don't have
20 any questions for Mr. Eastep.

21 CHAIRMAN: Okay.

22 MS. HUMMER: I -- I --

23 CHAIRMAN: (Inaudible) of the Board.

24 MS. HUMMER: I'd like --

25 CHAIRMAN: Go ahead. Yeah, go ahead.

1 MS. HUMMER: I'd like to ask a couple
2 questions.

3 Mr. Eastep, were you aware of the
4 forthcoming changes to the building Code that -- with
5 regard to this exact design?

6 MR. EASTEP: Not immediately. However,
7 it was brought to my attention during the plan review
8 process, but not initially. And as -- as everyone --
9 can I just finish, Ms. Hummer?

10 There are many, many Code changes
11 proposed. And as someone stated in the earlier
12 hearings, the State of Ohio's a little bit behind on
13 Code adoption. So to be honest with you, as many
14 things as we have and as many Codes as we have, I
15 don't pre-read the Codes because I don't have time.
16 So I'm not always up to date with what may happen
17 down the road unless it's brought to my attention per
18 a particular case such as this.

19 MS. HUMMER: So from -- since that time,
20 you are aware of the forthcoming changes, correct?

21 MR. EASTEP: Yes, correct.

22 MS. HUMMER: And based on those
23 forthcoming changes, you've been able to review
24 those, correct?

25 MR. EASTEP: Correct.

1 MS. HUMMER: And would this design
2 comply with those forthcoming changes?

3 MR. EASTEP: If the changes are approved
4 as written, pursuant to Moody Nolan's design, I
5 believe they would be in compliance.

6 MS. HUMMER: Even though those are not
7 in effect, Mr. Eastep, based on the current Code and
8 what you know with regard to your duties as the chief
9 building official, do you believe that there is
10 anything in this design that creates a risk of safety
11 to the occupants of this building?

12 MR. EASTEP: None whatsoever.

13 MS. HUMMER: And is it your position
14 that you would be in favor of this design but for the
15 particular section of the Building Code?

16 MR. EASTEP: That's correct.

17 MS. HUMMER: And are you in favor of the
18 variance request as set forth by the school district?

19 MR. EASTEP: That's correct.

20 CHAIRMAN: Okay. Questions of
21 Mr. Eastep from members of the Board?

22 MR. SMITH: Now, Mr. Eastep, this is
23 Brad Smith. You said safety is not a concern. I
24 mean, what are you going to have when a fifth grader
25 goes into one of these stalls by himself, locks the

1 door, lights up a cigarette, starts a fire? I mean,
2 what do you do with that -- in that case or does
3 something -- you know, he's not supposed to be doing
4 in there? That -- that would seem like a safety
5 issue.

6 MR. EASTEP: Mr. Smith, with all due
7 respect, I mean, when -- as you understand, the
8 Building Code is designed for the protection of the
9 health, safety and welfare of the masses. There
10 aren't any laws in place that can protect us any time
11 from negligence. And thus as Ms. -- as Dr. Imhoff
12 had stated, they will be supervised.

13 But the case that you just presented
14 could happen in any current configuration in any
15 current bathroom. Two -- two boys could be going to
16 the bathroom and literally beat the crap out of each
17 other because they're in there and the teacher's out
18 in the hall, the teacher doesn't know it. So, I
19 mean, there's going to be some times where a child is
20 not 100 percent being watched by teachers or by
21 administrators, and there's no way you can design a
22 building around every example and every case.

23 And I would just iterate the Trade
24 Towers, if you remember, when those exploded, people
25 criticized the design because they couldn't withstand

1 an airplane. Well, who would have designed a tower
2 to withstand an airplane. So we can't design
3 bathrooms around the fact that a kid might go in
4 there and smoke a cigarette. I -- I mean, that just
5 doesn't make sense to me, with all due respect.

6 MR. SMITH: Well, the difference is
7 there is an enclosed room that no one would know he's
8 in there (inaudible)?

9 MR. EASTEP: We do -- we do have
10 (inaudible) and full smoke detection in the building;
11 so if someone were to light up a cigarette we're
12 going to know that immediately.

13 MR. SMITH: Well, your example where two
14 kids go in there and they're beating up another kid,
15 it's a closed separate room locked, no one else would
16 know he's in there like a normal bathroom, a stall
17 you could keep the door open, people would know that
18 they're in there.

19 MR. EASTEP: Well, again, what I would
20 also reiterate is this is already in the
21 International Code and it's being done in other
22 places internationally and in the -- in North
23 America. So it -- again, I know we're ahead of the
24 Code here and that's why I'm not opposed to it. I
25 really don't believe it's a safety issue, and I -- I

1 appreciate your opinion, but I don't believe it's a
2 safety issue.

3 MS. HUMMER: Can I follow up with a
4 question based on Mr. Smith's question?

5 CHAIRMAN: Yes, you can. Sure.

6 MS. HUMMER: Mr. Eastep, the stall
7 design separate from the unisex issue, is that
8 permitted under the Code?

9 MR. EASTEP: Absolutely.

10 MS. HUMMER: So the question as raised
11 by Board Member Smith about the design of the stall
12 separate from the unisex issue, that is currently
13 permitted?

14 MR. EASTEP: Yes. Absolutely. You --
15 you could take this same bathroom and put boy, girl,
16 boy, girl on each of those stalls and we would be in
17 complains if the body counts were correct, if you had
18 the signage you still would have exactly the same
19 thing, you would have a private stall that a kid
20 could go in and lock and do whatever he or she wanted
21 to do. That's currently allowed in the Code as we
22 speak.

23 MS. HUMMER: And so the -- the question
24 of what is before the Board with regard to the unisex
25 and Board Member Smith's scenario, I guess I'd like

1 you to elaborate, does the fact that it's unisex
2 affect whether or not Board Member Smith's scenario
3 is the problem or is he speaking more toward the
4 design of the stall which is currently permitted?

5 MR. EASTEP: Well, I think he -- I
6 think -- I think Mr. Smith would have to answer part
7 of that, but my answer is regardless of whether
8 there's a boy or a girl in those stalls, they do
9 comply. The signage is what's before us today for
10 the adjudication, can they be gender neutral or do
11 they have to be marked boys or girls, that's what's
12 before us today, not is the stall safe or not because
13 it has a locked door and it goes floor to ceiling.

14 MS. HUMMER: Thank you.

15 CHAIRMAN: Okay. In -- in light of
16 Ms. Hummer's inquiry of Mr. Eastep, are there any
17 follow-up questions by members of the -- well, let
18 me -- Mr. McClausky, do you have any questions?

19 MR. McCLAUSKY: No. I -- I don't. You
20 know, I would like just to make a quick comment about
21 the -- about the Code issue, but I can wait until
22 there's a -- an appropriate time for this if the
23 Board members want to ask any additional questions.

24 CHAIRMAN: Any questions of Mr. Eastep,
25 gentlemen?

1 (No response.)

2 CHAIRMAN: Okay. Mr. McClausky.

3 MR. McCLAUSKY: Yeah. And so the issue
4 that -- you know that we're really pivoting on and
5 was just highlighted through the conversation a
6 moment ago is that's 2902.1.2, and that expressly
7 allows single-user toilet facilities and bathing
8 rooms to be identified by use -- for use by either
9 sex.

10 And so when we talk about 2902.1.2 and
11 its ability to be used by either sex, I mean, that's
12 already -- that's already in the Code. And the only
13 distinction here is whether or not there is a --
14 a la- -- a washing station inside the room. And --
15 and what we are saying is communal washing stations
16 are -- they have been in existence in this particular
17 district for many years and across the state for many
18 years.

19 And so the other -- the other issue is
20 that, you know, as we have been talking about, the --
21 there is ambiguity in the Code with regard to this
22 particular issue in 2902.2, as well as 2902.1.2, and
23 the intent as the International Code changes is to
24 clarify that. And so again without reiterating
25 everything that we've been discussing already, the

1 issue here is the International Code is clarifying
2 this issue for us, and we would just like to have a
3 variance to get out in front of this for this
4 particular situation for all of the safety reasons
5 that have been highlighted by Dr. Imhoff, as well as
6 touched on by Mr. Eastep.

7 CHAIRMAN: Thank you. Questions by
8 members of the Board of any of the parties and/or
9 counsel?

10 (No response.)

11 CHAIRMAN: All right. Hearing none,
12 Board member thoughts, sentiments?

13 MR. GIERING: Well, this -- this is
14 Neil, I'll go first.

15 I'm not in favor of the variance. If
16 they offered both in my opinion gender-neutral and
17 assigned-sex bathrooms, I would be more in favor of
18 (inaudible).

19 MR. WELCH: Mr. Chair, this is Chip.

20 I'm also not in favor of the variance.
21 Frankly, I've heard conflicting testimony with
22 respect to there are parents that support this
23 concept, there are parents that don't support this
24 concept. And ultimately, you know, based on the
25 Building Code or the Plumbing Code as it is -- as it

1 exists now, you're short by half of the number
2 required -- of required bathrooms as I understand
3 what Mr. Beegan explained and nobody contradicted his
4 statement. So I'm not in support of the variance.

5 MR. BEEGAN: Yeah, Mr. Chair, this is
6 Paul Beegan.

7 Clearly there is larger contextual
8 issues here, opinions from educators and parents
9 alike on this particular issue. My guess is that
10 these issues are larger than a -- a toilet room
11 issue, and actually may be better pursued through --
12 through the State legislature rather than through a
13 variance to the Building Code. These -- these are --
14 are bigger issues that are being thrown upon these
15 toilet facilities than I think is -- is -- is
16 probably warranted at this time. Obviously there is
17 some strong opinions and beliefs probably on both
18 sides of -- of this particular issue.

19 So at -- at this point in time the way
20 that it is being presented, although I do appreciate
21 all -- all of the -- the effort that the school
22 district has done, all the work that they've done to
23 look at providing a -- a better restroom design, I
24 think as presented right now it doesn't accommodate
25 all of the requirements.

1 I think there are ways to do the design
2 to accommodate the safety requirements that are being
3 requested for this and also provide privacy in a -- a
4 different manner than is being proposed. So at this
5 point in time, I think I would be inclined to not
6 support the variance.

7 CHAIRMAN: Brad.

8 MR. SMITH: Yeah. I -- again, I may be
9 the outlier, although I was asking a lot of questions
10 about, you know, safety and privacy and things, you
11 know, and, you know, I guess I issued my -- I
12 supported the previous case or variance for it.

13 You know, I really -- I do see the
14 administrators' and the teachers' point of view, and,
15 you know, there is many ways more privacy this way
16 having individual toilet facilities. So I would --
17 you know, I -- I could support the variance. So I
18 guess I'm the outlier, but I guess I could.

19 CHAIRMAN: Well, I think -- I think I
20 could, too, but we're a Board of five. I -- I give
21 the -- I give Ms. Hummer and Mr. McClausky an
22 opportunity to advance anything they want to on the
23 record at this point in time.

24 MR. McCLAUSKY: Do you want me to go
25 first?

1 MS. HUMMER: Go ahead, Chris.

2 MR. McCLAUSKY: Okay. And I do want
3 to -- I do -- since we are talking about a Code issue
4 here and we're talking about a variance, I -- I would
5 also like to just take a step back for purposes of
6 the making the record and say that we don't actually
7 feel that this is in violation of the Code. As we've
8 said, 2902.1.2 states that single-user toilet
9 facilities and bathing rooms shall be identified for
10 use by either sex; and so what we are saying is that
11 these particular bathroom stalls, they do qualify for
12 that.

13 Section 2901.1 states that toilet and
14 bathing rooms shall be constructed in accordance with
15 1210, and Section 1210.3.1 states that each water
16 closet utilized by a public -- by the public or
17 employees shall occupy a separate compartment with
18 walls or partitions and a door enclosing the fixtures
19 to ensure privacy.

20 Now, the term water closet is
21 identified -- or is defined as a compartment or a
22 room with a toilet, and that's just a -- a dictionary
23 definition. However, Exception 1 to Section 1210.3.1
24 provides that water closet compartments shall not be
25 required in a single-occupant toilet room with a

1 lockable door. So by that exception alone, the
2 Building Code acknowledges a single-occupant toilet
3 room is distinguishable from a typical water closet
4 compartment.

5 In addition, Section 2902.1, as I noted
6 above, states that it can be used by either sex and
7 it shall be identified as such. Although that
8 section uses the term toilet facility and not toilet
9 room, the result in this context is exactly the same.
10 The term toilet facility is defined in Section 202 as
11 a room or space that contains not less than one water
12 closet and one lavatory. The term lavatory is
13 defined as a vessel such as a basin for washing, and
14 that's also a dictionary definition.

15 But by including the word space in the
16 definition of a toilet facility, the Building Code
17 acknowledges that the lavatory does not need to be
18 physically inside the toilet room. The Building Code
19 only requires the lavatory to be within the quote,
20 unquote, space. Here the lavatories are within the
21 space and we've seen pictures and examples of how
22 that is intended to be the case now and how it has
23 been the case previously.

24 Moreover, the fact that it's -- and --
25 and it's communal does not defeat that single-user

1 toilet facility classification because this is, like
2 I said, this is common and customary application
3 across the State. And so that is the reason that the
4 Code -- the International Code is coming down to
5 clarify this issue because there is ambiguity with
6 regard to it, and we just want to -- what we are
7 saying is this qualifies as a single-user toilet
8 facility under 2902.1.2. I haven't heard anything
9 from anybody indicating otherwise, not from the City
10 or certainly from the architect of record.

11 And so, you know, for purposes of making
12 the record here in this appeal, we want to be very
13 clear that we think that this application does, in
14 fact, comply with that Code section.

15 MR. BEEGAN: Mr. Chair, if you'd allow
16 me to respond to that. This is Paul Beegan.

17 I think I disagree completely with --
18 with -- with that -- that line of reasoning that what
19 is being proposed does meet the intent of the
20 Building Code as written right now.

21 There are separate single-use rooms that
22 are permitted, that is true, and, yes, those
23 single-use rooms are allowed to be used as part of
24 the fixture count. But the Building Code does not go
25 on the gray spaces in between to try to get to a

1 point. In fact, the entirety of Table 2902.1, which
2 sets up the fixture count as required, has listed for
3 water closets and lavatories separate requirements
4 for male and female.

5 So the -- the table that sets up how
6 many -- how many lavatories are required is divided
7 based on gender classification between male and
8 female. So to say that the lavatories are -- are not
9 required to be part of that room I think is -- is --
10 is incorrect with the interpretation of the Code.

11 MR. McCLAUSKY: And -- and again, the
12 word is -- is space. It's not room, it's space. The
13 Code specifically uses the word space. And so what
14 we're saying is that the lavatory is within the
15 space. As you can see from the picture here, it's
16 certainly within that space. It doesn't mandate that
17 it actually be inside the room. And -- and that's
18 just for purposes of the record.

19 CHAIRMAN: Okay. Thank you.

20 Jenean, do you have something you want
21 to put on the record?

22 MS. HUMMER: We would just say on behalf
23 of the City that similar to the interpretation made
24 by Mr. McClausky, the City Attorney has reviewed it
25 as well and believes that -- that interpretation to

1 be a correct interpretation, but if the Board
2 disagrees with that interpretation, the Board does
3 have the ability --

4 CHAIRMAN: (Inaudible).

5 MS. HUMMER: The Board does have the
6 ability to grant this variance given in light of the
7 hardship as presented to the Board. You have the
8 chief building official, who's responsible for the
9 safety and integrity of the building, sharing with
10 the Board his opinion that this design is safe and
11 meets the ultimate goals of maintaining the health
12 and safety of the occupants.

13 Furthermore, the -- if you look at the
14 actual design, the only place where your concern
15 would be is when an individual walks in to the -- the
16 area, and then they enter a private area, in fact,
17 more private than what exists in almost every older
18 elementary school today. If -- so this is the design
19 that you will be seeing for the future.

20 UNIDENTIFIED SPEAKER: You cannot say
21 that, Ms. Hummer, because that Code section has not
22 been adopted.

23 MS. HUMMER: Understood. But what we
24 are hearing and what you are seeing is that that is
25 forthcoming, and it is within your authority to look

1 at that and listen to the hardship and grant the
2 variance.

3 CHAIRMAN: Okay. All right. I mean, I
4 think -- I think the record's been made. I think
5 Brad Smith and -- and -- and I have indicated our
6 inclination that we would support the variance, but
7 was any of the subsequent commentary by Mr. McClausky
8 or Ms. Hummer compelling enough to change any of the
9 other three members' view?

10 UNIDENTIFIED SPEAKER: No, Mr. Chair.

11 UNIDENTIFIED SPEAKER: It has not
12 changed mine, Mr. Chair.

13 UNIDENTIFIED SPEAKER: No, Mr. Chair.

14 CHAIRMAN: Okay. With that, is there a
15 motion?

16 UNIDENTIFIED SPEAKER: Yes, Mr. Chair.
17 For Board of Building Appeals Case No. 20-0051, the
18 Appellant is the Upper Arlington City Schools for the
19 premises Windermere Elementary School at 4101
20 Windermere Road, Upper Arlington, Ohio 43221; the
21 Appellee is Roger Eastep, Building Official for the
22 City of Upper Arlington Building Department, and
23 Adjudication Order No. 20-1220(1). I move to uphold
24 the adjudication order.

25 CHAIRMAN: All right. That motion's

1 been made. Is there a second?

2 MR. GIERING: This is Neil Giering. I
3 second that.

4 CHAIRMAN: Okay. The motion's been
5 made. It's also been seconded. All those in favor,
6 say "Aye."

7 (Board members indicated "Aye.")

8 CHAIRMAN: All those opposed say "Nay."

9 (Board members indicated "Nay.")

10 CHAIRMAN: All right. So the -- the
11 adjudication order's been upheld by a three to two
12 vote.

13 I do want to, one, apologize again for
14 the technical difficulties. I also want to commend
15 all of the parties and the counsel today for a -- a
16 good presentation, a healthy presentation, and some
17 tough issues, but the adjudication order remains
18 in -- in -- in effect.

19 We will adjourn on this matter now
20 unless there is anything else to come before the
21 Board on this case.

22 (No response.)

23 CHAIRMAN: Okay. All right. Let's --
24 let's take just a short recess, and then we will call
25 the industrial compliance cases. We'll stand in

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recess for a couple minutes.

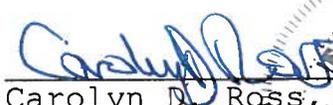
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CERTIFICATE

I, Carolyn D. Ross, Registered Professional Reporter and Notary Public in and for the State of Ohio, do hereby certify that I transcribed the aforementioned audio recorded proceedings and that the foregoing transcript is a full, true and correct transcript of my stenotype notes as so taken. I do further certify that I was called to do this in the capacity of a court reporter and am not otherwise interested in this proceeding.

In witness whereof, I have hereunto set my hand and seal of office at Columbus, Ohio on this 10th day of July, 2020.


Carolyn D. Ross,
Registered Professional
Reporter and Notary
Public in and for the
State of Ohio.

