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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - CENTRAL DIVISION  
THE HONORABLE DAVID O. CARTER, U.S. DISTRICT JUDGE

JEFFREY POWERS, et al,

Plaintiffs,

Case No. LACV22-8357

vs.

DENIS RICHARD MCDONOUGH,

Defendants.

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REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS  
TRIAL DAY 8  
Thursday, August 15, 2024  
8:00 a.m.  
LOS ANGELES, CALIFORNIA

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1                   **LOS ANGELES, CALIFORNIA; THURSDAY, AUGUST 15, 2024**

2                                   **8:00 A.M.**

3                                   **--oOo--**

4

5

6

                  THE COURT: Good morning, we're back on the record.

7

All counsel are present, the parties are present, the witness

8

has returned to the stand and this is continued

9

cross-examination.

10

                  MS. PITZ: Good morning, Your Honor, and for the

11

record, this is Taylor Pitz for the federal defendants.

12

                                  DIRECT EXAMINATION

13

                  (Federal defendants' Direct Examination)

14

BY MS. PITZ:

15

Q       Welcome back, Mr. Dennis, good morning.

16

                  Yesterday you testified you worked for the Department of

17

Housing and Urban Development or HUD; is that right?

18

A       That is correct.

19

                  THE COURT: Just a moment, counsel, I misstated.

20

Continue -- strike that. Direct or cross?

21

                  MS. PITZ: So I'm examining Mr. Dennis on direct.

22

                  THE COURT: On direct.

23

                  MS. PITZ: Thank you for the clarification.

24

BY MS. PITZ:

25

Q       Mr. Dennis, can you remind us, what is your current

1 position at HUD?

2 A I'm currently a senior program adviser to the Deputy  
3 Assistant Secretary For Public Housing and Voucher Programs.

4 Q And what are your responsibilities in that role?

5 A My main responsibilities are to advise the Deputy  
6 Assistant Secretary, her management team and staff, on all  
7 policy and programmatic aspects of the Public Housing and  
8 Housing Choice Voucher Programs.

9 Q And in that role you work with the HUD-VASH program; is  
10 that right?

11 A That is correct, the HUD-VASH program is part of the  
12 Housing Choice Voucher Program.

13 Q Is the HUD-VASH a subcomponent of the Housing Choice  
14 Voucher Program?

15 A Yes, it's what we call a special purpose program, special  
16 purpose vouchers.

17 Q And where is your location located?

18 A In HUD headquarters in Washington, DC.

19 Q How long have you held your current position?

20 A I have been in my current position since 2018.

21 Q Prior to that role were you previously employed at HUD?

22 A Yes, I was.

23 Q And in what capacity?

24 A Previous to my current position I was a senior advisor in  
25 the Office of Policy Programs and Legislative Initiatives.

1 Q And what were your responsibilities in that role?

2 A Similar to my current position, except we focused more  
3 broadly on a large variety of HUD programs, specifically  
4 related to legislative changes or proposals.

5 Q And did you also work the HUD-VASH program in that  
6 capacity?

7 A Much less so, but yes.

8 Q And how long you were in that role?

9 A Approximately four years.

10 Q Four years.

11 And prior to that position, you were employed in another  
12 position at HUD?

13 A Yes. I was the director of the Office of Housing Voucher  
14 programs.

15 Q And can you briefly describe your responsibilities in that  
16 role?

17 A My office was responsible for the administration of the  
18 Housing Choice Voucher program, including HUD-VASH, and I  
19 supervised five divisions of that office.

20 Q Have you held a number of other roles at HUD during your  
21 time there?

22 A Yes, I have.

23 Q In total how long have you worked for HUD?

24 A I have worked for HUD for 35 years.

25 Q And, in particular, why have you worked with the Housing



1 Choice Voucher program for so many years?

2 A I would say the reason is twofold.

3 I am particularly attracted to the Housing Choice  
4 Voucher program because it essentially is a partnership between  
5 the private sector and federal government, which I think is  
6 critical to a program sustainability over the long term. I'm  
7 also very drawn to the choice aspect of the program, where  
8 families have opportunities to move with continued assistance  
9 as opposed to traditional housing programs where they  
10 essentially have to make a choice between moving or losing  
11 their housing assistance.

12 Q Thank you.

13 And let's turn to HUD-VASH a little bit.

14 Can you please describe just at a high level what  
15 the HUD-VASH program does?

16 A Yes. The HUD-VASH program is a combination of HUD's  
17 Housing Choice rental assistance and the Department of Veterans  
18 Affairs, or VA's, case management and supportive services to  
19 assist veterans who are experiencing homelessness.

20 Q Is HUD-VASH a national program?

21 A Yes, it is.

22 Q Can you please describe the scope of the HUD-VASH national  
23 operations?

24 A Yes. We have allocated over 112,000 HUD-VASH vouchers,  
25 they are administered by approximately 700 public housing

1 agencies and we have public housing agencies operating the  
2 program in all 50 states and all U.S. territories.

3 Q And can you please describe the success of the HUD-VASH  
4 program nationally?

5 A Yes. So the HUD-VASH program, again, since its inception  
6 in 2008 has assisted over 200,000 veterans to find housing.  
7 It's currently assisting over 84,000 formerly homeless  
8 veterans, it's been a major contributor to the reduction of  
9 veterans' homelessness, by over 50 percent since 2010.

10 Q And can you please describe at a high level the different  
11 types of rental assistance that the HUD-VASH program offers?

12 A Yes. As is the case with the Housing Choice Voucher  
13 program, which HUD-VASH is a part of, there are two main types  
14 of rental subsidy. The first is what is called "tenant-based  
15 rental subsidy," that essentially means that the subsidy is  
16 attached to a particular family rather than a special unit or  
17 project. The family goes out, essentially rents a unit and  
18 should they choose to move, the subsidy follows them to the  
19 next unit that they rent.

20 Under the "project-based program," the public housing  
21 agency enters into a contract with an owner for a specific  
22 unit, rather than on a behalf of specific family, and then  
23 refers families to that unit. And should the family choose to  
24 move, the subsidy remains attached to that particular unit, and  
25 the public housing agency will refer another family to fill

1 that vacancy.

2 Q And does a veteran participating in the program typically  
3 contribute to the rental payment?

4 A Yes.

5 Q Under both forms of assistance?

6 A Yes, that is correct.

7 Q And typically what is that contribution?

8 A So in the project-based program that contribution is  
9 generally 30 percent of monthly adjusted income.

10 In the tenant-based program, the family generally  
11 contributes 30 percent of monthly adjusted income as well,  
12 although they can pay more depending on the unit that they  
13 choose.

14 Q And the remainder of the assistance that is provided that  
15 the tenant doesn't pay that's paid through the HUD-VASH  
16 program, what is that payment referred to as?

17 A That payment is referred to as Housing Assistance Payment  
18 or commonly referred to as HAP.

19 Q And is the HUD-VASH program a collaborative program  
20 involving multiple agencies?

21 A Yes, it is.

22 Q Do those different agencies have different roles in the  
23 program?

24 A Yes. Those agencies have different and distinct roles in  
25 the program.

1 Q What is HUD's role in administering the HUD-VASH program?

2 A So, HUD's role is to essentially develop the operating  
3 requirements for the program. And, again, HUD-VASH is part of  
4 Housing Choice Voucher program, so in general, it follows all  
5 of the requirements of the Housing Choice Voucher program. So  
6 the operating requirements lay out the changes or differences  
7 between what applies to HUD-VASH and what applies to the  
8 Housing Choice Voucher program as a whole.

9 The department is also responsible for allocating the  
10 vouchers to the public housing agencies, providing the funding  
11 for the Housing Assistance Payments, which the housing  
12 authority uses -- or the public housing agency uses to make the  
13 assistance payments.

14 We also provide the public housing agency with  
15 administrative fees, which are used by the public housing  
16 agency -- I should qualify, a "PHA" is a common shorthand  
17 version when we say public housing agency, so if I say PHA, I  
18 mean public housing agency.

19 So the administrative fees are provided by HUD to cover  
20 the administrative costs of running the program.

21 Our field offices provide monitoring and technical  
22 assistance to the public housing agencies and help to  
23 coordinate coordination between the various local stakeholders  
24 that are involved in the program.

25 Q And does HUD directly interface with veterans applying for

1 HUD-VASH assistance?

2 A No, HUD, it does not.

3 Q Who does?

4 A The public housing agency and the VA Medical Center.

5 Q And just so we're clear, what are PHAs?

6 A So PHAs, again, are public housing agencies, they are  
7 entities created under state law to run federal housing  
8 programs in a special area or jurisdiction.

9 Q And how would you characterize the role of the public  
10 housing agencies in the HUD-VASH program?

11 A So, the role of the public housing agency is really to  
12 administer the program on the ground so they would be  
13 responsible for applying for the vouchers from HUD, upon  
14 receiving those vouchers they receive referrals of veterans  
15 experiencing homelessness from the VA Medical Center.

16 They are then responsible for determining income  
17 eligibility of that family, issuing the voucher, executing the  
18 Housing Assistance Payment contract with the landlord, making  
19 monthly housing assistance payments to that landlord,  
20 inspecting the units, and on an annual basis recertifying the  
21 family's income and recalculating the rent if the income has  
22 changed.

23 Q So as you just testified, they are really responsible for  
24 administering the program on the ground level; is that right?

25 A That is correct, yes.

1 Q And do PHAs have some leeway in terms of how they  
2 administer the program?

3 A Yes. So the Housing Choice Voucher program in HUD-VASH is  
4 designed to provide local administrative discretion over a  
5 number of areas, which the public housing agency establishes  
6 through what's known as the PHA Administrative Plan.

7 Q And why does HUD rely on PHA to administer HUD-VASH?

8 A As is the case with the Housing Choice Voucher program,  
9 while we're a national program, rental markets vary  
10 dramatically across the country, the needs and priorities of  
11 local communities are different, so the public housing  
12 agencies, being on the ground within those local communities,  
13 are best positioned to make many of those decisions at the  
14 local level.

15 Q And do you know, what are the largest PHAs in the Los  
16 Angeles area?

17 A Yes, I do.

18 Q What are they?

19 A The Housing Authority of the City of Los Angeles, known as  
20 "HACLA" and the Los Angeles County Development Agency known as  
21 "LACDA."

22 Q And how would you characterize the role of VA in the  
23 HUD-VASH program?

24 A So the role of VA at the local level, the VA Medical  
25 Center level, is to make the initial determination of

1 eligibility for HUD-VASH based on the veteran status and the  
2 fact that the individual's experiencing homelessness.

3           They then refer that family to the public housing  
4 agency. They provide case management and supportive services  
5 initially to that family, while that family is being processed  
6 and issued a voucher, they provide housing search assistance to  
7 that family when the voucher is issued.

8           They provide case management in supportive services,  
9 including medical services, to the individual during the time  
10 that the individual is on the HUD-VASH program.

11 Q       And as we're going through this, I hear you referring to  
12 "families" within the context of the HUD-VASH program. Just to  
13 be clear, what are you referring to by "families"?

14 A       That would be participants. So typically in the HUD-VASH  
15 program many of our participants are single individuals, but  
16 families are eligible as well, so a veteran -- homeless veteran  
17 with a family is also eligible. In the Housing Choice Voucher  
18 program we commonly refer to participants as "families," so by  
19 families I really mean anyone who is participating or is  
20 eligible to participate or applying to participate in the  
21 HUD-VASH program.

22 Q       So we're talking about homeless veterans and potentially  
23 homeless veterans' families?

24 A       Yes.

25 Q       And does HUD play a role in referring veterans to the

1 public housing agencies?

2 A No. We do not.

3 Q Does HUD play a role in providing supportive services  
4 under the program?

5 A No. HUD does not.

6 Q Does HUD have a role in providing case management services  
7 under the program?

8 A No. It does not provide case management services under  
9 the program.

10 Q And does HUD issue vouchers directly to veterans  
11 participating in the program?

12 A No. We do not.

13 Q And unfortunately occasionally, veterans may fall out of  
14 the HUD-VASH program. Does HUD have any involvement in  
15 actually terminating any individual from the program?

16 A We do not. No.

17 Q And to take a step back and just kind of summarize the  
18 roles of the different programs involved in administering the  
19 program, can you please walk through the process by which a  
20 veteran would apply and be accepted into the HUD-VASH program?

21 A Yes. So a veteran who would be applying for the program  
22 typically would either go directly or be referred to the VA  
23 Medical Center or VA medical facility.

24 There they would be determined whether they were  
25 eligible for the program, the VA Medical Center would refer the



1 family to the public housing agency.

2 The public housing agency would brief the family on the  
3 program, on the housing aspects of the program. They would  
4 issue the family a voucher.

5 The family would then go out and commence their housing  
6 search. When they located a unit they wanted to rent, the  
7 public housing agency would determine whether that unit was  
8 eligible. The biggest component is going to be the unit  
9 inspection to make sure it's decent and safe and sanitary.

10 The public housing agency would execute the contract on  
11 behalf of the family, and would be recertifying the family's  
12 income on an annual basis. So when the family first comes to  
13 the public housing agency, right, the public housing agency  
14 determines whether the family's income eligible for the  
15 program, so that's an important step and I may have left it  
16 out.

17 Also, there is one other eligibility criteria besides  
18 income, which is that the applicant cannot be on -- essentially  
19 on a sex offender registration by the State as a lifetime sex  
20 offender.

21 Q And I'd like to pivot a little bit.

22 Let's talk about how the program is funded.

23 Can you please describe how the HUD-VASH program is  
24 funded nationally?

25 A Yes. So the program is funded on an annual appropriations

1 basis by Congress.

2 So in our annual Appropriations Act we often receive new  
3 HUD-VASH vouchers and the funding is provided for one year of  
4 assistance for those vouchers.

5 For vouchers that have already been allocated and have  
6 been part of the PHAs program, Congress provides this renewal  
7 funding for those vouchers, which is done as part of the  
8 Housing Choice Voucher program renewal fund as a whole, so it's  
9 not a separate appropriations, but the funding for those  
10 HUD-VASH vouchers are part of the renewable funding for the  
11 Housing Choice Voucher program as a whole.

12 Q And when Congress appropriates money for new vouchers, so  
13 the first category you were referring to, what is the process  
14 by which HUD allocates that funding to different PHA across the  
15 country?

16 A So the first thing that HUD will do, and this has been the  
17 case since 2017, is we issue what is known as a "notification  
18 for request for letters of interest," that allows or alerts  
19 PHAs to coordinate with their local VA Medical Center, and  
20 submit essentially an application for those vouchers.

21 We then look at the applications that we received and  
22 determine whether the PHA is eligible based on essentially the  
23 PHA's performance and administrative capacity.

24 If the public housing agency is determined eligible,  
25 they go into the pool of eligible agencies and then we

1 basically determine the amount of the funding that those PHAs  
2 will receive based on geographic need. So there is a formula  
3 that we use to do that which involves data regarding the number  
4 of individuals experiencing homelessness in a particular  
5 jurisdiction and housing inventory count, so it's essentially  
6 called a VA Gap Analysis. We determine relative need across  
7 the country and allocate the funding on the basis of that  
8 formula.

9 THE COURT: Could I ask one question? So here in  
10 Los Angeles specifically you would use -- I'm sorry, HACLA and  
11 LAHSA would be your public housing authority; is that correct?

12 THE WITNESS: There are more, so those are the two  
13 largest, yeah.

14 THE COURT: But do you also use VOA, PATH, in other  
15 words do they -- my understanding is that they also can act as  
16 a -- "screener" is a bad word, but in the same issue -- in  
17 other words, does everything initially flow through HACLA or  
18 LAHSA and then LAHSA is using, let's say VOA, to do our  
19 screening, you don't -- to look at the eligibility, let's say?

20 THE WITNESS: I understand, Your Honor, what you are  
21 getting at.

22 THE COURT: What I'm worried about is I'm trying to  
23 find out how many players there are in terms of eligibility for  
24 the HUD-VASH program, not Section 8 for a moment.

25 THE WITNESS: Understood.

1 THE COURT: VASH, HACLA, LAHSA?

2 THE WITNESS: So -- so, it starts with VA Medical  
3 Center, right, that is the first initial gate of entry for an  
4 applicant that wants HUD-VASH assistance.

5 THE COURT: After that there is a referral?

6 THE WITNESS: There is a referral.

7 THE COURT: It's the second stage I'm interested in.

8 THE WITNESS: Now, the second stage, which is the  
9 housing agency, that is done by the public housing agency,  
10 that's the only entity --

11 THE COURT: Just a moment. And specifically for  
12 this area, when I talk about public housing, that is HACLA and  
13 LAHSA?

14 THE WITNESS: What do you mean by LAHSA? Do you  
15 mean LACDA?

16 THE COURT: I mean LAHSA, my apologies. [Sic]

17 THE WITNESS: LACDA. I just want to make sure we're  
18 talking about the same agencies.

19 THE COURT: I mispronounced it.

20 THE WITNESS: No, that's fine. So, those are the  
21 two main ones.

22 THE COURT: Now under that LAHSA [sic], could they  
23 use PATH, for instance, or VOA as an eligibility determiner in  
24 terms of whether I have too high an income?

25 THE WITNESS: So, they -- again, they would --

1 they're responsible for the eligibility determination.

2 THE COURT: I know LAHSA is I know --

3 THE WITNESS: LACDA.

4 THE COURT: LACDA. And I know what HACLA is, I'm  
5 past that.

6 THE WITNESS: Yes.

7 THE COURT: I'm trying to get that next stage and  
8 find out what authority PATH or VOA has in determining  
9 eligibility?

10 THE WITNESS: They wouldn't have a role in the  
11 determining eligibility.

12 THE COURT: So they don't do any of the -- I'm going  
13 to say "screening" in terms of my eligibility income versus if  
14 I was receiving disability service, they are not looking at  
15 that?

16 THE WITNESS: The public housing agency is  
17 responsible for determining income eligibility, so. Now, some  
18 public housing agencies may contract that function out, but  
19 ultimately --

20 THE COURT: That's what I'm asking. Does LAHSA  
21 contract that out to PATH or VOA?

22 THE WITNESS: I'm not aware of them doing that.

23 THE COURT: Counsel, please. Thank you.

24 MS. PITZ: Thank you.

25 BY MS. PITZ:

1 Q Just so we're crystal clear for the record. HACLA and  
2 LACDA are the two primary Los Angeles PHAs; is that correct,  
3 Mr. Dennis?

4 A That is correct. But there are other agencies within Los  
5 Angeles County that administer the HUD-VASH program.

6 THE COURT: Help me, that's what I don't understand.  
7 Who else?

8 THE WITNESS: So there is a number of them, off the  
9 top of my head Inglewood has a program.

10 THE COURT: Who?

11 THE WITNESS: Inglewood Housing Authority, I believe  
12 Torrance has a program, Torrance Housing Agency.

13 THE COURT: Hope of the Valley, are they involved?

14 THE WITNESS: Possibly. I mean, I don't know, I'm  
15 not from Los Angeles, I don't know all of the public housing  
16 agencies that operate here, but we have at least nine if not  
17 more that are operating in Los Angeles.

18 THE COURT: So besides HACLA and LAHSA, I have got  
19 other agencies who can potentially screen my eligibility?

20 THE WITNESS: Yes.

21 THE COURT: In the Greater Los Angeles area.

22 THE WITNESS: Well, they have specific jurisdictions  
23 within the Los Angeles area.

24 THE COURT: But I've got other agencies who can  
25 screen?

1 THE WITNESS: You have other public housing agencies  
2 besides LACDA and HACLA.

3 THE COURT: Now, obviously one of those might be  
4 Pasadena, they've got their separate COC?

5 THE WITNESS: Potentially, yes, I don't know if  
6 they --

7 THE COURT: Long Beach?

8 THE WITNESS: Yes, Long Beach has a program.

9 THE COURT: Long Beach for sure.

10 Do you know -- you may not know, I'm looking to see if  
11 there is some independent provider other than the two public  
12 agencies that we have mentioned, LAHSA and HACLA, and Long  
13 Beach and maybe Pasadena, for like PATH or Hope of the Valley  
14 or -- I forget Stephanie's family something.

15 A I think I understand what you are getting at, right?

16 THE COURT: How broad is this?

17 THE WITNESS: So from a statutory perspective --

18 THE COURT: I'm not interested in statutory, I want  
19 to know about Los Angeles.

20 THE WITNESS: But from the program aspect, the  
21 public housing agency is ultimately responsible for screening.

22 THE COURT: I know they are responsible, I promise  
23 you, I get that. I'm trying to find out who is on the ground,  
24 who's got this authority besides HACLA and LAHSA?

25 THE WITNESS: That would be the other public housing

1 agencies.

2 THE COURT: And do we know who they are?

3 THE WITNESS: I can tell you some of them.

4 THE COURT: I will be right with you, counsel. This  
5 has always been confusing to me.

6 THE WITNESS: I think we have an exhibit which shows  
7 the number of public housing agencies.

8 THE COURT: Later on. I just want to look at it  
9 later on.

10 Counsel, please continue.

11 THE WITNESS: We can provide you a list of the  
12 public housing agencies in LA.

13 THE COURT: Okay.

14 BY MS. PITZ:

15 Q Mr. Dennis, in your capacity at HUD are you familiar with  
16 the agency -- or not -- excuse me. Are you familiar with the  
17 entity known as LAHSA?

18 A Not in any specificity that I could speak to them, no.

19 Q Do you know whether nonprofit organizations are permitted  
20 to administer the HUD-VASH program?

21 A They are not. No.

22 Q And, moving on, when Congress appropriates money for new  
23 vouchers, can we just recap what the process is by which HUD  
24 allocates the funding to those PHAs -- or actually, excuse me,  
25 I believe you've covered that.



1           What are the primary factors that HUD considers in terms  
2 of whether or not a PHA is eligible for additional housing  
3 vouchers?

4       A       So, we look at two things.

5           The first is we look at the PHA's HUD-VASH leasing rate.  
6 And to the extent that leasing rate is below 70 percent, they  
7 would be ineligible to apply in that particular year.

8           Then we also look and see if from are any unresolved,  
9 serious management findings due to Inspector General audits, a  
10 field office management review, or there are outstanding Fair  
11 Housing concerns at the agency.

12           THE COURT: So simply, if I absorb this, PHA by  
13 public housing authority, is ineligible if they are below  
14 70 percent?

15           THE WITNESS: There is --

16           THE COURT: Are there exceptions to that?

17           THE WITNESS: Yes.

18           THE COURT: Because this area might have been below  
19 70 percent.

20           THE WITNESS: Yes. There is an exception to that.

21           THE COURT: Generally speaking, below 70 percent --

22           THE WITNESS: Generally speaking below 70 percent,  
23 that is correct, sir, yes.

24           THE COURT: Counsel?

25       BY MS. PITZ:

1 Q And, Mr. Dennis, yesterday you testified there may be some  
2 exceptions to that 70 percent, can you speak a little bit to  
3 those?

4 A Yes. So the public housing notice that lays out the  
5 requirements for eligibility provides details on where there  
6 are exceptions and the exception has to do with where a public  
7 housing agency has planned or committed to do project-based  
8 vouchers, right?

9 So the project-based vouchers, because they have that  
10 commitment, aren't available for issuance to individual  
11 families -- I shouldn't say families -- veterans that would be  
12 going out to look for housing, so we take that into  
13 consideration.

14 And we would subtract those committed vouchers from  
15 their utilization rate to determine whether or not they meet  
16 that 70 percent threshold.

17 THE COURT: But whether it's VASH or what I'm going  
18 to call HUD-based or Section 8, this area for tenant-based has  
19 been way below 70 percent. I mean, for as long as I can  
20 remember, in fact -- I'm joking with you, but there's been mass  
21 panic over at the Mayor's office worried about an October date.

22 What is the exception -- if the only exception is  
23 project-based, you seem to have created another exception for  
24 tenant-based because you are still giving out tenant-based  
25 vouchers and we're down at the 50 percent level.

1 THE WITNESS: We're providing vouchers which can be  
2 used for either tenant-based or project-based.

3 THE COURT: Below 70 percent?

4 THE WITNESS: Well, the idea --

5 THE COURT: It's not just project-based that you are  
6 doing it, you are doing tenant-based also, aren't you?

7 THE WITNESS: We are looking at their overall  
8 utilization rate, which would include both project-based and  
9 tenant-based HUD-VASH --

10 THE COURT: -- 50 percent for tenant-based vouchers,  
11 is that good?

12 THE WITNESS: No, that is not good.

13 THE COURT: Is that where we're at about? A little  
14 bit above.

15 THE WITNESS: Depending on the agency.

16 THE COURT: So we have created an exception.

17 THE WITNESS: Based --

18 THE COURT: Below 70 percent you are in trouble?

19 THE WITNESS: Yes.

20 THE COURT: What's the exception?

21 THE WITNESS: The exception, again, is if the public  
22 housing agency has committed a number of unused vouchers to  
23 project-based vouchers.

24 THE COURT: Switching from tenant-based to  
25 project-based?

1 THE WITNESS: Right, they're going to use them for  
2 project-based, right, so those vouchers are not available for  
3 issuance, right? The public housing agency's already said I'm  
4 going to use these. Instead of issuing them to an individual  
5 family, I'm attaching them to a project, so they're not  
6 available, so we need to take that into consideration.

7 THE COURT: That has to be happening pretty quickly  
8 because each year the Mayor's office talks to LAHSA and they  
9 have been consistently tenant-based vouchers low. So this must  
10 be happening very rapidly towards the end of the year, because  
11 the Mayor of Los Angeles has consistently been after her  
12 bureaucracy staff to explain to her this low rate tenant-based,  
13 so this must be happening over a couple of month period of time  
14 as the council and Mayor worry about, you know, a low rate,  
15 maybe have to give up some of these tenant-based vouchers.

16 Is this happening towards the end of each cycle  
17 you are getting this switch --

18 THE WITNESS: Not --

19 THE COURT: -- tenant-based to project-based?

20 THE WITNESS: Not necessarily.

21 THE COURT: Well, not necessarily, is it or not? Do  
22 you know?

23 THE WITNESS: We see the commitments and we just  
24 look at the commitments so, again, it can --

25 THE COURT: Is it happening or not?

1 THE WITNESS: Not to my knowledge.

2 THE COURT: Counsel?

3 BY MS. PITZ:

4 Q Just so we're clear, we're talking about whether or not a  
5 public housing agency has allocated additional vouchers; isn't  
6 that correct?

7 A That is correct. We're not talking about taking vouchers  
8 away from the HUD-VASH program. It's eligibility for  
9 additional vouchers.

10 THE COURT: Counsel, just a moment.

11 (Pause in proceedings.)

12 THE COURT: From now on when I say LAHSA or LAHSA, I  
13 think I'm using that incorrectly, we're going to use the name  
14 of the authority.

15 THE WITNESS: Okay.

16 THE COURT: Fine. Thank you.

17 Counsel?

18 BY MS. PITZ:

19 Q Just to make sure we didn't miss that last point, when we  
20 are talking about this 70 percent threshold as we are  
21 presently, are you just referring to vouchers that -- the  
22 allocation of new vouchers?

23 A Yes. This has to do with the eligibility for additional  
24 vouchers, not in terms of taking away current vouchers, current  
25 HUD-VASH vouchers from an agency.

1 Q And why does HUD not allocate new vouchers to a PHA with a  
2 utilization below 70 percent as a general matter?

3 A As a general matter, the idea is that we want those  
4 agencies to focus on leasing the unused vouchers they already  
5 have before we would provide them with the additional  
6 administrative responsibility for more vouchers.

7 Q And how are existing vouchers funded?

8 A Existing vouchers are, again, funded through the Housing  
9 Choice Voucher program renewal appropriations which Congress  
10 provides us each year.

11 Q So that's a separate appropriations process?

12 A That is. There's no application process for that. We  
13 provide renewal funding to the public housing agencies based on  
14 a formula that is in the Appropriations Act.

15 Q To your knowledge, in recent years, has HUD ever rejected  
16 requests for additional vouchers from either of the two main  
17 Los Angeles PHAs when they have had a utilization rate of over  
18 70 percent?

19 A To the best of my knowledge, no, we have not.

20 Q To your recollection has HUD ever reduced total funding  
21 available to a Los Angeles PHA?

22 A In terms of the Housing Choice Voucher program, yes.

23 Q And what are you referring to?

24 A I'm referring to what is known as an "offset," which  
25 occurred actually very recently. The City -- the Housing

1 Authority of the City of Los Angeles received a notification  
2 from HUD that we were offsetting their renewal allocation in  
3 the neighborhood of \$38 million.

4 Q And why was HACLA's funding offset?

5 A So, the Housing Choice Voucher program as a whole is  
6 facing what we call a "funding shortfall," which means that we  
7 have many agencies across the country where the costs of rents  
8 have risen to the point that for them to continue to serve  
9 families who they are already assisting they're going to run  
10 out of the money before the end of the year, which puts those  
11 families at risk of termination.

12 And Congress has given us several tools on how to  
13 address funding shortfalls which happens occasionally over the  
14 years.

15 One is called an offset.

16 Q And why was HACLA's funding offset?

17 A So the way an offset works is basically we look at public  
18 housing agencies' reserves, that is funding that they are not  
19 using, it's not their annual renew funds, it's funds they've  
20 accumulated over the years, and to the extent that those funds  
21 are excess they are subjected to offset, which means rather  
22 than provide the PHA with the new renewal funding, we provide  
23 them with the funding to cover their costs from the HUD held  
24 reserves of the agency.

25 Q But offsets only come from excess reserves?

1 A That is correct. So the first thing that is done is the  
2 public housing agency, we look at their reserves, we calculate  
3 what the reasonable reserve level is, which for an agency the  
4 size of HACLA is typically 4 percent of their annual budget  
5 authority.

6 And then beyond that we also protect additional  
7 categories of funds.

8 Q And did HACLA have substantial excess reserves?

9 A Yes. HACLA, again, ended calendar year 2023 with  
10 \$113 million in reserves.

11 Q And is there any exemption or exception for the HUD-VASH  
12 program when HUD is conducting offsets?

13 A Yes. So, in addition to the reasonable reserve that we do  
14 not consider for offset, we also protect certain categories of  
15 funding for reserves and that would include the amount of  
16 funding necessary for the agency to fully lease all of its  
17 HUD-VASH vouchers.

18 So whatever we're offsetting we're leaving behind,  
19 again, a reasonable reserve, plus these protected categories,  
20 which would include the funding necessary for the agency to  
21 fully lease 100 percent of their authorized HUD-VASH vouchers.

22 Q So from HUD's perspective would you project that HACLA's  
23 offset would have any impact on its operation of the HUD-VASH  
24 program here in Los Angeles?

25 A The offset criteria is specifically designed not to have



1 any impact on HUD-VASH leasing at any agency across the  
2 country.

3 THE COURT: Is that one of those protected  
4 categories?

5 THE WITNESS: Yes, sir.

6 THE COURT: Thank you.

7 BY MS. PITZ:

8 Q And, in any event, is there an appeal process when HUD  
9 makes an offset decision?

10 A Yes. For offset there is an appeal process. Agencies  
11 have until August 30th to submit an appeal to HUD, where if  
12 they can demonstrate, again, that they won't have the funds to  
13 either meet their current HAP expenses --

14 (Reporter Clarification.)

15 THE WITNESS: Their current expenses, their HAP  
16 needs, Housing Assistance Payments, my apologies. Thank you  
17 for your patience.

18 Or if they would think that they wouldn't have  
19 the ability to fully lease their HUD-VASH vouchers, again, they  
20 can appeal to HUD and we will consider those appeals, and we  
21 can reduce their offset accordingly or eliminate it.

22 We also have provided in that notice that should the  
23 shortfalls not materialize to the extent that we are projecting  
24 that we can also reduce or cancel these offsets. Or if there  
25 are other resources available to HUD we may also reduce or

1 cancel these offsets.

2 BY MS. PITZ:

3 Q And was -- to your knowledge was any offset made as to  
4 LACDA, so the County public housing agency?

5 A No, there was no offset for LACDA.

6 Q I'd like to pivot a little bit and talk about income  
7 restrictions.

8 So earlier you mentioned that a veteran must be  
9 income-eligible for the HUD-VASH program.

10 What metric does HUD use for determining income  
11 eligibility?

12 A So, income eligibility is determined based on what is  
13 known as Area Median Income.

14 Q Is that commonly abbreviated as AMI?

15 A Yes, it is.

16 Q And how does HUD go about determining what the AMI is for  
17 a particular region?

18 A So on an annual basis, you know, HUD looks at essentially  
19 what is Census Bureau data and if you think of a number line of  
20 all of the incomes distributed across an area, the Area Median  
21 Income is the midpoint, like what income falls right in the  
22 middle of all of the incomes that we're looking at in that  
23 census data for that particular area.

24 Q And when we are talking about the Housing Choice Voucher  
25 program more broadly, what is generally the income limit for

1 that program?

2 A So, in general, the income limit for the Housing Choice  
3 Voucher program is the very low income limit, which is  
4 50 percent of Area Median Income.

5 Q And what is the income limitation for HUD-VASH assistance?

6 A So the income limit for HUD-VASH assistance, as of the new  
7 operating requirements, is 80 percent of Area Median Income or  
8 low income limits, the low income -- the low income limits.

9 Q Prior to the updated operating requirements did PHAs have  
10 flexibility to serve veterans above the 50 percent AMI?

11 A They did. So the statutory eligibility requirements on  
12 income for the Housing Choice Voucher program provide that in  
13 general families must be very low income but there are  
14 exceptions serve low-income families and one exception is  
15 basically based on eligibility criteria specified by the PHA,  
16 the public housing agency.

17 So many public housing that administer HUD-VASH had  
18 already used that authority under the statute for HUD-VASH  
19 families to ensure that the HUD-VASH eligibility standard was  
20 80 percent of Area Median Income.

21 Q Has HUD encouraged PHAs to use that flexibility  
22 previously?

23 A Yes. HUD has encouraged agencies to use that flexibility  
24 and as of the August 13th revised operating requirements, we  
25 now require them to use that 80 percent of area median

1 standard. So we've essentially waived where the public housing  
2 agency would need to establish that on their own and are now  
3 requiring that for any HUD-VASH applicant, the income  
4 eligibility standard is the 80 percent of Area Median Income or  
5 the low income limit.

6 Q So the 80 percent low income limit is mandatory now for  
7 the HUD-VASH program?

8 A Yes, it is.

9 MS. PITZ: Your Honor, may I approach? I'd like to  
10 mark the following exhibit as 1624.

11 And then, Noah, can you please just display the  
12 first page of the updated operating requirements.

13 BY MS. PITZ:

14 Q Mr. Dennis, do you recognize this document?

15 A Yes, I do.

16 Q And how are you familiar with this document?

17 A This document is the Federal Register publication of the  
18 revised HUD-VASH operating requirements as of August 13th,  
19 2024.

20 Q Is this the version published in the Federal Register of  
21 the update that plaintiffs' counsel I believe showed you  
22 yesterday?

23 A Yes, it is.

24 Q And what is your understanding of the purpose of this  
25 document?

1 A The purpose of this document is to revise the operating  
2 requirements for the HUD-VASH program to make a number of what  
3 HUD believes are improvements to the program in terms of the  
4 overall effectiveness of that program and to hopefully relieve  
5 some of the administrative burden associated with that program.

6 MS. PITZ: Your Honor, I would move 1624 be  
7 admitted.

8 THE COURT: Received.

9 (Exhibit 1624 received into evidence.)

10 BY MS. PITZ:

11 Q Mr. Dennis, I would like to turn to -- like you to turn to  
12 page 5 of this document.

13 And you will see on the screen some highlighted  
14 language.

15 Does the text highlighted on the screen illustrate the  
16 change you just testified to?

17 A Yes, it does.

18 Q Okay. And in these updated operating requirements, did  
19 HUD change how income is calculated for purposes of the  
20 HUD-VASH program?

21 A Yes, it did.

22 THE COURT: Just a moment, counsel, I need to find  
23 that in this.

24 MS. PITZ: Certainly. And it's also -- for  
25 reference, Your Honor, it's on the screen.

1 THE COURT: I know it's up on the screen, I'd like  
2 to underline it in my own notes so I can reread it tonight.

3 So we're on page 5, is it 65773 at the top?  
4 65773. In other words, the pages are numbered. Is that the  
5 page? In fact, I'm going to give you my copy back, would  
6 somebody just underline it for me. I've got five pages I'm  
7 trying to keep up with you on. Thank you.

8 MS. PITZ: Okay. Would you mind if I hand this to  
9 my counsel?

10 THE COURT: Just underlined so I can take it home  
11 and read it. Just wait for just a moment until I have it.  
12 Okay? There is no rush, but when I've got five pages it's hard  
13 for me other than looking at the screen and if I take it home  
14 tonight I can't take the screen home. Thank you very much, I  
15 appreciate that.

16 Thank you.

17 BY MS. PITZ:

18 Q Mr. Dennis, would you please read the highlighted text.

19 A Yes. "In addition, PHAs must serve all income-eligible  
20 veterans, including low-income veterans (up to 80 percent AMI)  
21 in HUD-VASH."

22 Q Thank you.

23 And I believe we had gone on to begin discussing  
24 HUD's change to how income is calculated for the HUD-VASH  
25 program. Would you be able to describe that change?

1 A Yes. So the HUD -- HUD essentially used our HUD-VASH  
2 waiver authority to waive --

3 (Reporter Clarification.)

4 THE WITNESS: Waive. Waiver. Waiver authority.  
5 Apologies.

6 A To waive the statutory requirement in order to allow us to  
7 exclude veteran disability benefits from income for purposes of  
8 making the income eligibility determination.

9 MS. PITZ: And, Noah, would you be willing to  
10 highlight the next portion I'm referring to.

11 BY MS. PITZ:

12 Q And, Mr. Dennis, would you be able to read what is  
13 highlighted on the screen?

14 A "As an alternative requirement, the PHA must determine the  
15 applicant's annual income for purposes of income eligibility by  
16 excluding all VA service-connected benefits received by the  
17 HUD-VASH applicant."

18 THE COURT: Can I get that yellow Marks-a-Lot back  
19 from you? Thanks a lot.

20 MS. PITZ: Your Honor, are you able to find that  
21 portion?

22 THE COURT: Yes, I am, thank you.

23 BY MS. PITZ:

24 Q Mr. Dennis, just to be clear, HUD has changed how annual  
25 income is calculated for purposes of eligibility for the

1 HUD-VASH program, is that what you understand this highlighted  
2 text to represent?

3 A That is correct, yes.

4 Q What authority did HUD use to make that change?

5 A So under our Appropriations Act for funding for the  
6 HUD-VASH program, we have basically the authority to waive  
7 statutory and regulatory requirements upon a finding by the  
8 Secretary that such waiver is necessary for the effective  
9 administration and delivery of the HUD-VASH program.

10 Q And what legal provision did HUD waive in making this  
11 change?

12 A HUD waived Section 3(b), as in baker, of the United States  
13 Housing Act of 1937.

14 THE COURT: Just a moment. Would you repeat that  
15 please?

16 THE WITNESS: 3(b).

17 THE COURT: 3(b), so it's in the paragraph above.

18 Do you have this document in front of you?

19 THE WITNESS: Yes.

20 THE COURT: Go to paragraph above, do you see the  
21 comma? Is it "HUD is waiving Section 3B of the USHA of 1937,"  
22 is that what you are referring to?

23 THE WITNESS: That's it, yes, sir.

24 THE COURT: Thank you.

25 BY MS. PITZ:



1 Q And what does that statute provide?

2 A That statute provides the definition of income for 1937  
3 Act programs, which would include the Housing Choice Voucher  
4 program and thereby HUD-VASH.

5 Q And so this change, as you understand it, waives the  
6 statutory definition for purposes of the HUD-VASH program and  
7 provides an alternative definition; is that correct?

8 A That is correct. Yes.

9 Q Did HUD consider any other alternatives as opposed to  
10 waiving the statute using HUD-VASH authority?

11 A Yes. HUD considered a couple of alternatives. We  
12 explored whether we had the authority to change the income  
13 definitions without using the statutory waiver authority and  
14 we're not able to do so.

15 Q And why wasn't HUD able to do so?

16 A Basically the Section 3(b), which defines income, provides  
17 that income is essentially from all sources, and then provides  
18 a number of exceptions and two of those exceptions have to do  
19 with specific veteran disability benefits, deferred benefits  
20 that the family may receive either from a lump sum or  
21 prospectively, and also basically assistance for aide and  
22 attendant care, and so those are called out specifically by  
23 Congress in the statute.

24 So while HUD has authority to exclude other forms of  
25 income, HUD's determination was that, you know, Congress had

1 clearly considered whether VA benefits in general should be  
2 excluded and had specifically chosen only to exclude those that  
3 were listed in Section 3(b).

4 THE COURT: Why does the IRS exclude  
5 service-connected disability and historically the VA did not?  
6 In other words, if I look at an IRS form for a disabled  
7 American vet they don't declare, but the VA took the opposite  
8 position.

9 THE WITNESS: Right, so the income definition for  
10 the Housing Choice Voucher program is Section 3(b) is not the  
11 IRS definition, it's not the tax code, right? It's basically  
12 looking at income through a different lens.

13 The IRS is looking at income for purposes of what is  
14 eligible for tax and to generate tax revenue.

15 The Section 3(b) is looking at income in terms of what  
16 are the resources that are available to a person or a family  
17 for living expenses including shelter being the main one,  
18 right?

19 So to the extent that someone is getting a general  
20 benefit that is replacing, you know, lost income due to a  
21 disability, the purpose of that benefit -- part of the purpose  
22 of it is to help with living costs.

23 So in that particular instance, income is viewed more  
24 broadly and not for the same purposes for taxes, right?

25 THE COURT: Thank you.

1 BY MS. PITZ:

2 Q And, Mr. Dennis, just so you're clear, this is HUD's view  
3 as to this authority as opposed to VA's view?

4 A Yes. I should qualify, I'm speaking on behalf of HUD,  
5 this is HUD's statute, not VA's.

6 Q Thank you.

7 Were there any other reasons that HUD considered or  
8 determined that it could not -- excuse me.

9 Were there any other reasons why HUD didn't amend the  
10 definition of income under Section 3(b) or amend its  
11 regulations?

12 A So, the other concern with excluding from policy  
13 standpoint, you know, not so much legal standpoint, has to do  
14 with the impact of excluding those disability benefits from  
15 income because that not only determines income eligibility, it  
16 determines how much rent a family pays.

17 So to exclude it entirely, right, would mean that the  
18 cost of the program would increase dramatically, because those  
19 families would essentially no longer be contributing anything  
20 for rent. And our estimates of what that would cost were for  
21 the HUD-VASH program in the neighborhood of \$190 million, which  
22 would have reduced the number of families we can potentially  
23 serve by about 25,000 veterans.

24 THE COURT: What are your present appropriations  
25 anyway?

1 THE WITNESS: For the Housing Choice Voucher program  
2 it's --

3 THE COURT: Somebody's setting these parameters.  
4 Within these parameters it reduces it, but any administration  
5 can increase this.

6 THE WITNESS: Administrations can increase but  
7 Congress can also reduce.

8 THE COURT: And the question eventually will become:  
9 Were these requests made?

10 THE WITNESS: We did not request additional  
11 funding --

12 THE COURT: No, I know you didn't. Do you know of  
13 any of these requests being made to increase?

14 THE WITNESS: To increase HUD-VASH funding?

15 THE COURT: Uh-huh.

16 THE WITNESS: The administration has not requested  
17 any increase in HUD-VASH funding, no.

18 BY MS. PITZ:

19 Q And, Mr. Dennis, I think your answer may have touched on  
20 it, but just to be clear, does this change in the HUD-VASH  
21 operating requirements apply only to purposes of determining  
22 eligibility for the program as opposed to rental contribution?

23 A Yes, exactly. So essentially what happens is the VA  
24 benefits are excluded for purposes of income eligibility. But  
25 then when we calculate monthly adjusted income, which

1 determines the amount of rent that is, you know, shared by a  
2 family, we would add in the veteran benefits to the income,  
3 then we would make the deductions. You know, for example, for  
4 health and medical expenses that the family may be experiencing  
5 and then we would come up with adjusted monthly income to  
6 calculate the rent.

7 Q And why was it important to HUD to make this change only  
8 as to eligibility and not a rental contribution?

9 A Again, we were concerned about the potential cost impact  
10 and the fact that it could reduce or would reduce the number of  
11 veterans that we could serve with the resources that we have.

12 MS. PITZ: I'm now going to show the witness what is  
13 Defense Exhibit 1182, which was already admitted yesterday as  
14 Exhibit 35A.

15 So this is HUD's letter to the House Committee on  
16 Veterans Affairs.

17 THE COURT: Give me just one moment, counsel, before  
18 your next question.

19 MS. PITZ: Of course.

20 THE COURT: Thank you very much. Thank you very  
21 much, sir.

22 Counsel, would you like to continue?

23 MS. PITZ: Thank you.

24 BY MS. PITZ:

25 Q Mr. Dennis, you went through portions of this letter with

1 plaintiffs' counsel yesterday, didn't you?

2 A Yes, I did.

3 Q I'm going to ask you to turn to page 4.

4 Can you please read and highlight some particular  
5 language in particular, and this is highlighted on the screen  
6 in front of you about midway down the page.

7 A Yes. The highlighted text reads: "Nevertheless, HUD is  
8 continuing to explore policy changes that could be adopted  
9 under the HUD-VASH waiver authority that would be helpful in  
10 expanding access for the small share of homeless veterans that  
11 are not income eligible for HUD-VASH vouchers."

12 Q What does this language mean to you?

13 A It means that we are going to continue to look at the  
14 HUD-VASH waiver authority that we had to see if there were  
15 potential solutions for the problem that we were dealing with  
16 the over income HUD-VASH applicants.

17 Q And, Mr. Dennis, would you please flip back to the front  
18 of the letter, so page 1.

19 What is the date of this letter?

20 A March 1st, 2024.

21 Q And would you mind turning back briefly to the day of the  
22 updated operating requirements?

23 A Yes.

24 Q It's displayed at the top of this.

25 Would you read what that date is?

1 A The date is Tuesday, August 13th, 2024.

2 Q To your knowledge, did it take some time for the  
3 alternative definition of income change to receive internal  
4 approval at HUD?

5 A Yes, it did.

6 Q Do you have any time estimate as to when that change  
7 cleared the HUD review process?

8 A The specific policy was approved by the acting secretary  
9 in late May. And I believe the notice itself which, again,  
10 encompassed a lot more than that particular change, I believe  
11 cleared the department clearance process sometime in mid-June,  
12 late June.

13 Q And, Mr. Dennis, just for reference, how often are the  
14 HUD-VASH operating requirements updated?

15 A It depends. This has been the most recent update. The  
16 last update that we did was in 2021.

17 Q Okay. Do you recall the update prior to that?

18 A Off the top of my head, I'm afraid I don't.

19 Q That is just fine.

20 So I would like to ask you some questions about how this  
21 change might impact project-based housing for homeless veterans  
22 in particular.

23 Earlier you testified that for project-based assistance,  
24 the public housing agency works with landlords or developers to  
25 subsidize those units that they are leasing directly; is that

1 accurate?

2 A Yes, it is.

3 Q Does HUD or does HUD-VASH impose any additional  
4 limitations on veterans seeking project-based housing as  
5 opposed to tenant-based housing?

6 A No. The income -- the income eligibility requirements are  
7 the same.

8 Q So the income restrictions imposed by the HUD-VASH program  
9 are the same across both types of rental assistance that it  
10 offers?

11 A Yes, that's correct.

12 Q And to your knowledge, will this change to the updated  
13 operating requirements affect the calculation of income for the  
14 Low-Income Housing Tax Credit program or housing developed  
15 through that program?

16 A I don't know.

17 Q Is HUD working with treasury to find a solution to that  
18 issue?

19 A Yes. HUD has been in conversations with the treasury  
20 department over this issue.

21 Q Do you have any update as to the status of those  
22 discussions?

23 A My understanding is the treasury department is working on,  
24 I believe, subregulatory guidance related to HUD-VASH policy.

25 Q Does HUD administer the Low Income Housing Tax Credit



1 program?

2 A No, we do not.

3 Q Who does?

4 A The treasury department.

5 Q And you addressed this a little bit yesterday, but did the  
6 updated HUD-VASH operating requirements mandate that state and  
7 local low-income housing funding programs exclude veterans'  
8 disability benefits from income?

9 A It did not, no.

10 Q And why not?

11 A We don't have any authority over state and local programs.

12 Q To your knowledge, does HUD intend to work with these  
13 programs to educate them regarding the effect of counting  
14 veterans disability benefits as income for purposes of  
15 income-based limitations?

16 A Yes. That is our intent, yes.

17 Q Do you have any sense of what those efforts may look like?

18 A I would assume it would include, you know, written  
19 guidance, outreach, again, to try to explain this particular  
20 issue and how HUD has chosen to address it and to encourage  
21 those State and local programs to either use existing  
22 flexibilities or seek changes to also make the necessary  
23 flexibilities to reach this population.

24 THE COURT: So I pronounced that incorrectly. It  
25 would be the Los Angeles County Development Authority then, as

1 well as the Housing Authority of the City of Los Angeles,  
2 HACLA; is that correct? Is that your starting point?

3 THE WITNESS: Those are the public housing agencies.

4 THE COURT: Those are the two public housing  
5 agencies.

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay. And then you have got some other  
8 agencies. We talked a little bit about Long Beach, et cetera.  
9 You make those same efforts.

10 THE WITNESS: Right. This would probably be more  
11 with the city governments and the State government that run,  
12 you know, these subsidy programs that the housing agencies may  
13 be involved in administering. But, typically, we're talking  
14 about working with the state and local governments that, you  
15 know, essentially have created those programs about this being  
16 a particular issue and problem.

17 BY MS. PITZ:

18 Q And, Mr. Dennis, why did HUD make this change to the  
19 calculation of income for HUD-VASH?

20 A HUD made this change, again, because we wanted to do what  
21 we could do to correct this problem. And what we control is  
22 the HUD-VASH project-based voucher rules. And so we thought it  
23 was important to do what was within our authority to do, and  
24 hopefully that would be an opening for other agencies that have  
25 similar issues to do the same.

1 Q I'd like to pivot a little bit and talk about some of the  
2 changes HUD has made with regards to the HUD-VASH program as it  
3 operates here in Los Angeles.

4 Earlier you mentioned that one of the things HUD  
5 considers in determining whether to allocate additional  
6 vouchers to a particular PHA is that PHA's administrative  
7 performance or utilization rate.

8 Can you just refresh us quickly what that means?

9 A Yes. That means, in terms of -- for PHA that is  
10 interested in applying for additional HUD vouchers, in order to  
11 be eligible accepting the exception that we discussed earlier,  
12 the PHA needs to have a HUD-VASH voucher utilization rate of  
13 70 percent.

14 Q And we spoke about this a little bit, but have Los Angeles  
15 PHAs had challenges with voucher utilization?

16 A Yes, they have.

17 Q And you may have touched on this, but do you have any  
18 knowledge of the voucher utilization of the major Los Angeles  
19 public housing agencies in recent years?

20 A Yes. Most recently our latest data shows, I believe,  
21 LACDA is at little over 57 percent utilization, and I believe  
22 HACLA is a little over 52 percent.

23 THE COURT: Just one moment, please. So Los Angeles  
24 County Development Authority is at what?

25 THE WITNESS: A little over 57 percent, at the last

1 monthly update we had.

2 THE COURT: Just a moment. And LACDA, the Housing  
3 Authority of the City of Los Angeles is at?

4 THE WITNESS: I believe they are between 52 and  
5 53 percent.

6 THE COURT: Thank you very much, sir.

7 BY MS. PITZ:

8 Q And what are some of the common reasons why a PHA might  
9 have a low utilization rate?

10 A Okay. So the common reasons, as I think we discussed  
11 yesterday, typically we look and we see a lack of affordable  
12 housing in a particular area. We also have challenges with the  
13 referral rate from the VA Medical Centers in cases. And we  
14 also have challenges with finding landlords willing to  
15 participate on the program.

16 Q Has HUD taken any steps geared toward ameliorating the  
17 first issue identified? So, the availability of housing units  
18 here in Los Angeles.

19 A Yes, we have.

20 Q Before we get into that, let's talk a little bit about  
21 payment standards.

22 To begin how does a PHA determine the amount of subsidy  
23 that will be paid for a particular voucher?

24 A So the maximum amount of subsidy that can be paid on a  
25 behalf of a particular family is known as the payment standard.

1 And that is based on HUD's published fair market rent for the  
2 area, based on bedroom size.

3 Q And we went through this a little bit yesterday, but  
4 typically for Housing Choice Voucher programs, public agencies  
5 are authorized to pay out what percentage of the fair market  
6 rent for a voucher?

7 A PHAs without HUD approval can establish payments standards  
8 anywhere from 90 and 110 percent of the FMR.

9 Q But beyond the standard calculation for FMR, does HUD ever  
10 authorize exception payment standards?

11 A Yes, we do.

12 Q And I believe we got into this yesterday a little bit, but  
13 has HUD authorized an exception payment standard for the  
14 HUD-VASH program, generally?

15 A Yes. For the HUD-VASH program generally, HUD established  
16 as exception payment standard where PHAs can go up to 100  
17 percent of the applicable FMR.

18 Q And we also touched on this yesterday, but has HUD  
19 authorized an exception payment standard for the Los Angeles  
20 area, in particular?

21 A Yes, it has.

22 Q And what was that exception payment standard?

23 A So, for nine agencies within the county, HUD authorized an  
24 exception payment standard for 2023 and 2024 of up to  
25 160 percent of the fair market rent.

1 MS. PITZ: And, Your Honor, if I may approach, I  
2 would like to hand the witness what is marked Exhibit 1184.

3 THE COURT: But you told me yesterday, I think, and  
4 please correct me, that this wasn't in effect yet. It didn't  
5 come into effect until 2025, is that correct?

6 THE WITNESS: What we're talking about today is in  
7 effect right now. We're going to get to what's coming.

8 THE COURT: My apologies. Thank you very much.

9 BY MS. PITZ:

10 Q And, Mr. Dennis, do you recognize this document?

11 A Yes, I do.

12 Q What is this document?

13 A This document is HUD's authorization of the exception  
14 payment standard for HUD-VASH for these nine public housing  
15 agencies within the County of Los Angeles.

16 THE COURT: Thank you very much. I have got it now.

17 BY MS. PITZ:

18 Q Mr. Dennis, would you mind reading the text that is  
19 highlighted on the screen in front of you that appears on the  
20 second page of this document?

21 A Yes. The highlighted text reads: The above listed LA  
22 County PHAs may set HUD-VASH payment standards at between  
23 111 percent to 160 percent of the fiscal year 2023 FMR. HUD  
24 will soon publish fiscal year 2024 FMRs. When these new 2024  
25 FMRs go into effect, the LA County PHAs covered by this waiver

1 update may set HUD-VASH payment standards at between  
2 111 percent to 160 percent of the 2024 FMRs without further  
3 approval from HUD.

4 Q Thank you. And how did you become familiar with this  
5 document?

6 A I believe I saw this document in draft when it was being  
7 prepared for signature.

8 Q And as part of the administration of the HUD-VASH program,  
9 does HUD regularly respond to waiver requests or requests for  
10 exception payment standards?

11 A Yes, we do.

12 MS. PITZ: Your Honor, I would move Exhibit 1184 be  
13 admitted.

14 THE COURT: Received.

15 (Exhibit 1184 received into evidence.)

16 BY MS. PITZ:

17 Q Moving along. In the most recent operating requirements  
18 update, has HUD made any other changes to the relevant  
19 exception payment standards?

20 A Yes. So, in the August updated operating requirements, we  
21 have added an additional flexibility for public housing  
22 agencies where they may grant exception payment standards up to  
23 140 percent of the FMR, if necessary, as a reasonable  
24 accommodation for a person with disabilities.

25 And an example of reasonable accommodation, right, would

1 have needing to live close to a medical facility.

2 Q And so that payment -- to be clear, that payment standard  
3 applies to the HUD-VASH program in totality; is that correct?

4 A That is correct, yes.

5 Q And just so this change is obvious to everyone --

6 MS. PITZ: Noah, would you please pull back up the  
7 updated operating requirements and turn to page 10.

8 BY MS. PITZ:

9 Q Mr. Dennis, would you mind reading the highlighted  
10 portion. Perhaps continue reading beyond the end of the  
11 highlighted portion until --

12 THE COURT: Are you looking at 1624, counsel? Are  
13 you looking at 1624 now? That exhibit?

14 MS. PITZ: Yes.

15 THE COURT: All right. We're back to 1624.

16 MS. PITZ: We're back to 1624.

17 THE COURT: And what page is this? 65773?

18 MS. PITZ: This is page 10, which is --

19 THE COURT: These pages aren't numbered.

20 MS. PITZ: 65778.

21 THE COURT: Just a moment. Now if you'd go down to  
22 the excerpt for just a moment so I can find it.

23 MS. PITZ: Are you able to go back to the excerpt?

24 Thank you so much.

25 BY MS. PITZ:



1 Q So, Mr. Dennis, could you start reading where it says,  
2 "HUD-VASH PHAs" --

3 THE COURT: I have to find it first.

4 MS. PITZ: Apologies.

5 THE COURT: Help me, what column is it in? We have  
6 got three columns.

7 MS. PITZ: It looks like it's on the third column.

8 THE COURT: And it would be under P or Q?

9 MS. PITZ: It looks like it's in the top third of  
10 the third column.

11 THE COURT: Just one moment. That's about halfway  
12 down, counsel, and I think I have it. Just a moment.

13 Counsel, I have located it. Thank you.

14 BY MS. PITZ:

15 Q Now, Mr. Dennis, would you mind reading the highlighted  
16 portion, beginning at "HUD-VASH PHAs"?

17 A Yes. The highlighted text reads: HUD-VASH PHAs may also  
18 establish an exception payment standard up to 140 percent of  
19 the published FMR or small area FMR based on which FMR the PHA  
20 is applying, only to be applied if required as a reasonable  
21 accommodation in accordance with 24CFR Part 8, for a family  
22 that includes a person with a disability.

23 Q Does this text reflect the change we were just discussing?

24 A Yes, it does.

25 Q And we got into this a little bit yesterday, but earlier

1 you mentioned fair market rents or FMRs.

2 Has HUD taken any other actions to ensure that veteran  
3 voucher holders can access housing in the most expensive  
4 regions within Los Angeles?

5 A Yes, we have.

6 Q And can you please describe those changes?

7 A So in, I believe it was October of 2023, HUD designated 41  
8 metropolitan areas to become mandatory small area FMR areas,  
9 meaning that rather than PHAs voluntarily choosing to use small  
10 area FMRs to establish payment standards, PHAs in those  
11 metropolitan areas must use small area FMRs in establishing  
12 payment standards for their program.

13 And that change goes into effect October 1st, 2024, and  
14 PHAs have until January 1st, 2025, to make those payment  
15 standard changes.

16 Q Thank you. And just to remind us, can you please explain  
17 what a small area FMR is?

18 A Yes. So, traditional fair market rents are established on  
19 the basis of metropolitan areas, metropolitan statistical  
20 areas, or non-metro counties.

21 Small area FMRs, by contrast, are established based on  
22 individual ZIP code areas. So within, for instance, a  
23 metropolitan area which can comprise one or even more than one  
24 metropolitan county, the smaller FMRs are published  
25 individually for those ZIP code areas.

1           And so the PHA, again, in establishing its payment  
2 standard -- whether it's the traditional between 90 and 110  
3 percent, or the -- in the case of HUD-VASH, up to  
4 120 percent -- they would be using the small area FMR for that  
5 particular ZIP code to establish the payment standard rather  
6 than the metropolitan area wide FMR.

7           Q     And just so we're all tracking, I believe you just  
8 testified that HUD has designated Los Angeles a mandatory small  
9 area FMR region now; is that accurate?

10          A     That is correct, yes.

11          Q     What is your understanding of how that designation affects  
12 veterans looking to lease a private rental unit?

13          A     So, the purpose of small FMRs is to expand housing  
14 opportunities for veterans, and also for families in the  
15 Housing Choice Voucher program, in areas that traditionally  
16 have been very difficult to rent in because the rents are much  
17 higher than if you look at the median rents across the whole  
18 metropolitan area. And, you know, particularly in an area like  
19 Los Angeles, you have a wide disparity in rents depending on  
20 different neighborhoods or areas of the metropolitan area.

21          Q     Would you say that augments the benefits of the  
22 tenant-based program to begin with?

23          A     I think, in general, HUD believes smaller area FMR are a  
24 much more appropriate measure to use for establishing payment  
25 standards for the Housing Choice Voucher program.

1 MS. PITZ: Your Honor, if I may approach. I would  
2 like to hand the witness what is marked Exhibit 222. This was  
3 admitted into evidence yesterday by plaintiff's counsel.

4 BY MS. PITZ:

5 Q Mr. Dennis, do you recognize this document?

6 A Yes, I do.

7 Q What is this document?

8 A This document is -- I believe it's from HUD's web page,  
9 and it lists the fiscal year 2024 small area FMRs for the Los  
10 Angeles, Long Beach, Glendale HUD metro area.

11 Q And if I may approach again, I would also like to provide  
12 the following documents just for purposes of identification  
13 only.

14 This is a map published by the Los Angeles County, and  
15 it shows the ZIP code areas within the particular -- what are  
16 the particular ZIP codes within the West Los Angeles area.

17 THE COURT: This is 90049. Are you looking for it  
18 now?

19 BY MS. PITZ:

20 Q Mr. Dennis, I apologize for making you go through this  
21 exercise somewhat again. But I just want to be really clear as  
22 to the math HUD is doing because you are in a room full of  
23 lawyers.

24 Can you please read what the exhibit states as the fair  
25 market rent for a one-bedroom apartment in ZIP code 90024?

1 THE COURT: 24?

2 MS. PITZ: 24. That's Westwood.

3 THE COURT: All right. Thank you. 24.

4 THE WITNESS: I'm sorry. The one-bedroom small area  
5 FMR for ZIP code 90024 is \$3,000.

6 BY MS. PITZ:

7 Q And can you please read what the exhibit states as the  
8 fair market rent for a one-bedroom apartment in ZIP code 90025?

9 A The one-bedroom small area FMR for ZIP code area 90025 is  
10 also \$3,000.

11 Q And would you please read what the fair market rent is for  
12 a one-bedroom apartment in ZIP code 90049, which I believe is  
13 the ZIP code we discussed yesterday.

14 A The one bedroom small area FMR for ZIP code area 90049 is  
15 \$3,010.

16 Q And finally, would you please read what is the fair market  
17 rent for a one-bedroom apartment in ZIP code 90073.

18 A Just the one bedroom small area FMR for ZIP code area  
19 90073 is \$3,010.

20 Q Thank you?

21 And, Mr. Dennis, let's work with ZIP code 90025, so we  
22 have a nice, round number today.

23 Does that mean the baseline for a HUD-VASH voucher  
24 payment standard would be \$3,000 for a one-bedroom apartment?

25 A So the FMR would be \$3,000, and the PHA could establish a

1 payment standard anywhere between 90 percent and 110 percent of  
2 \$3,000.

3 THE COURT: Counsel, would you put up the exhibit  
4 you just handed me. Is it 1625?

5 MS. PITZ: 90025.

6 Oh, the exhibit. Excuse me.

7 THE COURT: Would you put that up. Now would you  
8 show me where 90025 is located on this? So I know where 90049  
9 is, it's the Brentwood area. Help me so I know where 90025 is  
10 so I can match up \$3,000.

11 MS. PITZ: Sure. So, 90025 is highlighted on the  
12 screen, and that's the West Los Angeles area, so it's  
13 immediately south of the campus.

14 THE COURT: Thank you. And then 90024 is right  
15 above it.

16 MS. PITZ: Yes.

17 THE COURT: And so I don't interrupt you, would you  
18 show me when we get to 90073, just so can I match that up.

19 MS. PITZ: Sure. 90073 is immediately to the left  
20 there from 90025. And I believe it looks to include the  
21 campus.

22 THE COURT: Thank you very much. That helps me  
23 match up the documents.

24 MS. PITZ: Of course.

25 BY MS. PITZ:

1 Q So, Mr. Dennis, we were talking about working with that  
2 \$3,000 figure, and you had just stated, if I'm correct, that a  
3 PHA could establish a payment standard between 90 and  
4 110 percent of that \$3,000.

5 Am I stating that correctly?

6 A For the HCV program, they could go --

7 THE COURT: Just a little slower. For the HCV --  
8 once again -- acronyms.

9 THE WITNESS: My bad.

10 THE COURT: No, my bad. I need to keep up with you.  
11 HCV, give me a name.

12 THE WITNESS: Housing Choice Voucher Program.

13 THE COURT: I understand that now.

14 BY MS. PITZ:

15 Q And so, that range in dollar figures tracks to, would you  
16 estimate, doing math in your head, say, \$2,700 to \$3,300 per  
17 month?

18 A Yes, I would.

19 THE COURT: At 110 percent. But if I'm a veteran, I  
20 get another 10 percent. I would be at 120 percent. Because we  
21 are flipping back between veterans and our discussion with what  
22 I'm going to call HUD or Section 8.

23 THE WITNESS: We're making the distinction. Right.

24 THE COURT: Okay.

25 BY MS. PITZ:

1 Q And you anticipated our next line which is just, so for  
2 the HUD-VASH program, a PHA could establish a payment standard  
3 of up to 120 percent of that.

4 So in dollar figures, what would that be? Would that be  
5 \$3,600 per month?

6 A Yes. That would be \$3,600 per month. Again, without HUD  
7 approval. PHA, without HUD approval, could go up to \$3,600.

8 THE COURT: But there is a range again. What is  
9 that range?

10 THE WITNESS: The PHA could go anywhere from 90 and  
11 120 percent of that fair market rent.

12 THE COURT: It would be 3,600 at my 120 percent.  
13 What is my lower range?

14 THE WITNESS: That would also be the 2,700.

15 THE COURT: Okay.

16 BY MS. PITZ:

17 Q And for a veteran with a disability in the HUD-VASH  
18 program, could a PHA establish a payment standard even above  
19 \$3,600?

20 A Yes, they could.

21 Q And if a veteran with disabilities needed to be in close  
22 proximity to the West LA Medical Center, what would that  
23 payment standard about?

24 A The PHA could establish an exception payment standard for  
25 that family as a reasonable accommodation, up to 140 percent of



1 the small area FMR. And that would be \$4,200.

2 Q Thank you.

3 MS. PITZ: If it's all right with Your Honor, this  
4 is a convenient moment for us to take a break.

5 THE COURT: Perfect. 20 minutes.

6 Thank you very much.

7 (Morning recess.)

8 THE COURT: Before you continue on so I don't  
9 forget. We put out a notice that you will see on the docket  
10 that, first, we haven't updated the time from 5:30 to 5 and we  
11 will put that out on the docket. And I'm going to ask if you  
12 would help me because I would like to -- I will be there  
13 earlier than that, by the way, you don't have to be there until  
14 5, okay? Well, you don't have to be there, but somebody, you  
15 don't need the whole group from the plaintiffs' side, you don't  
16 need the whole group from -- okay, two.

17 But I appreciate that we're able to start at  
18 either Building 208 or 209, and while it's 5 o'clock, if I was  
19 a veteran to take that route described by the witness  
20 yesterday, that doesn't approximate what would be in January or  
21 maybe with longer hours, but if we could go up that either  
22 trail or road to the 22 acres, see the aquatic center, the  
23 tennis club -- or the tennis courts, the field, and the track,  
24 and then if we could come out along Barrington and look at the  
25 parking lots and come down that route. If you have a map, down

1 Barrington, maybe go back through the gardens and then I don't  
2 care from that point, because the UCLA baseball diamond you can  
3 open up anytime.

4           You can go by the -- I'm going to call them "the  
5 fields," the construction. But the oil is just south of the  
6 baseball diamond, so after the baseball diamond I think it  
7 would make sense just to go down to the Bridgeland.

8           Now, beyond that I don't care how you organize it.

9           The second is one of you approached my clerk and asked  
10 about golf carts. That's fine, if you want to bring a golf  
11 cart that's acceptable to me. I prefer just to walk it or at  
12 least of the first portion.

13           The second thing is last -- yesterday just after we left  
14 court the clerk showed me the following.

15           She had received a media request regarding a site visit  
16 at the West LA VA grounds, and "Dear Judge Carter," and we just  
17 docketed this so you haven't seen it yet. "I am leading a team  
18 of journalists who have been covering veteran housing issues at  
19 the West Log Angeles Veterans Affairs Campus over the past  
20 three years. It is our goal to report a single comprehensive  
21 account of the property from its founding to its present day.  
22 To that end, we recently produced a multimedia feature, 'Home  
23 of the Brave'-- longlead.com on the top, and we're currently  
24 covering the Court proceedings with a reporter in the courtroom  
25 every day the trial has been in session.

1           It's come to our attention that there will be a site  
2 visit at the West LA VA grounds on Thursday, August 22nd at  
3 5:30 a.m."

4           Well, they've got -- it's been updated.

5           "I'm writing to request permission for a journalist to  
6 attend and cover the site visit (it's our aim to report on this  
7 off-site visit in a way that would not be disruptive, as we  
8 have done with our daily in-court briefings). Though cameras  
9 are not typically allowed in federal court, we also request to  
10 bring a professional photojournalist to document the visit.  
11 However, Your Honor, we understand granting that request would  
12 be up to your discretion. We would also be willing to follow  
13 any specific parameters the Court requires in reporting this  
14 off-site visit.

15           It's our goal as journalists to report on this historic  
16 case fairly and fully to inform the veteran community and  
17 everyone connected to it as best we can -- as best as possible.

18           As you yourself have noted in the past and during these  
19 proceedings, there's been a considerable lack of transparency  
20 in this issue. Allowing a journalist to document the off-site  
21 visit would ensure fairness to both parties in this case."

22           I think one of my reasons initially I wasn't going to  
23 inform you until the night before was to just cut down on the  
24 people out there, but it occurred to me, as I said, over the  
25 weekend Saturday morning, how could we open up the UCLA diamond

1 by simply knocking at the door or how could we go to the  
2 Brentwood Center at 5 o'clock in the morning and say, Hi, I'm  
3 Judge Carter with DOJ and the plaintiffs', I think they should  
4 turn us away, probably.

5 So out of courtesy now, we've created a situation of  
6 some notoriety at times, so here are some rough parameters. I  
7 don't think we are going to have a lot of people out there at  
8 5 o'clock.

9 But you have different folks in journalism covering  
10 events in different ways, versus if a local TV channel showed  
11 up they have an entirely different need than a journalist or  
12 newspaper person.

13 So, I think that one of the parameters should be I'm  
14 amenable to them accompanying us, I have no issue, but I don't  
15 know what the lessors or now the lessees, Brentwood, feel about  
16 that.

17 I'm going to leave that to the Government to make that  
18 inquiry and if you have some pushback, let me know. I don't  
19 know how Bridgeland feels about that, but as far as the Court  
20 is concerned, I think transparency is best and I would  
21 encourage us all just to stipulate that whatever mode of press  
22 wants to be present, they can.

23 But I'd like not to have them around us in a sense.  
24 Maybe 10 yards back so that there's no temptation to enter any  
25 idle chatter and if there is, you know, it's something we

1 control as counsel in the Court.

2 I'm going to docket any request we get, but maybe this  
3 is the only one.

4 If we get a number of folks, for instance, from  
5 newspapers, we ought to designate a go-to person where those  
6 newspaper people who want coverage or want to accompany us has  
7 somebody that they can go to that can come to you, rather than  
8 three, four, or five calls.

9 I don't expect the notoriety I've had in some other  
10 cases where we have the BBC and everybody across the world in  
11 some of the cases and there we have a designated person -- or I  
12 designated a person from the newspaper, but a different person  
13 from television, this was state court days, okay.

14 I will leave that to you, because the request comes from  
15 the Government, you have exceeded to this, but I'd like not to  
16 take any testimony, I don't want to bring a court reporter, I  
17 don't want to take the time out there for that, but I do want  
18 to view the scenes and that would include opening the aquatic  
19 center, obviously the baseball diamond, any of the weight rooms  
20 that the veterans might use, a portion of the track, and I  
21 think we can easily view the fields.

22 Once we're done with Brentwood I think we can go out  
23 through the parking lots, back in through the garden or along  
24 Barrington, back across, if you will, I forget the road, over  
25 to the UCLA baseball diamond, have that opened up and then let

1 those folks go back to work, and down to Bridgeland. And  
2 anything you want to show me along the way in terms of any of  
3 the projects, just stipulate what those are but I think we can  
4 cover that.

5 Would that meet with your approval?

6 MR. SILBERFELD: Yes.

7 THE COURT: So for any of the folks in the press out  
8 there, I know a few of you, if you're accompanying us maybe  
9 five yards behind us or so that -- but you are more than  
10 welcome. And I think, counsel, will you stipulate that is  
11 acceptable to have the press?

12 MR. ROSENBERG: Yes, Your Honor.

13 MR. SILBERFELD: Yes.

14 THE COURT: I commend you for it, let's get some  
15 transparency.

16 Okay. Counsel, thank you very much.

17 MS. PITZ: Thank you. And the record, Taylor Pitz  
18 for the federal defendants.

19 Welcome back, Mr. Dennis.

20 BY MS. PITZ:

21 Q Next I'd like to just run through quickly a couple of the  
22 other changes made to the updated HUD-VASH operating  
23 requirements.

24 So, for reference, we're back on Exhibit 11 -- 1624.

25 Does the update affect the competitive necessary

1 requirement for project-based developments?

2 A Yes, it does.

3 Q And can we unpack that just a little bit?

4 What are the competitive requirements for  
5 project-based housing?

6 A So typically for project-based voucher housing the public  
7 housing agency when selecting a development or a project has to  
8 apply a competitive process and that can either be a  
9 competition that the public housing agency administers or it  
10 could be making an award based on the project winning a  
11 previous competition.

12 Q What's the change to the operating requirements do?

13 A The change to the operating requirements provides that the  
14 PHA may select developments or projects on VA medical grounds  
15 without being subject to competition, so they can  
16 noncompetitively select those projects.

17 Q Would that affect housing development in locations like  
18 the West Los Angeles VA Campus?

19 A It should, it should speed the process by which those  
20 developments can be selected.

21 Q And I think you just touched on that a bit, but what is  
22 the practical effect of this change?

23 A Essentially by removing the competitive process it should  
24 allow the public housing agency to select units, projects on  
25 the VA Medical Center grounds in a much more expeditious

1 manner.

2 Q What prompted HUD --

3 THE COURT: Would this then obviously be a  
4 nationwide mandate?

5 THE WITNESS: Yes.

6 THE COURT: In other words, you referred to the West  
7 LA grounds, which is the center of this lawsuit, but this would  
8 be a national mandate then?

9 THE WITNESS: This goes across the country any  
10 medical --

11 THE COURT: Alabama, New Jersey.

12 THE WITNESS: Yes, sir.

13 BY MS. PITZ:

14 Q So we are on page 65778 on the top left corner.

15 And, Mr. Dennis, would you be able to read the text that  
16 is highlighted on the screen?

17 A Yes. The highlighted text reads: "HUD is establishing an  
18 alternative requirement under 24 CFR 983.519(c) to permit  
19 noncompetitive selection of one or more PBV projects with units  
20 made exclusively available to HUD-VASH families on the site of  
21 a VA facility."

22 THE COURT: Does this text reflect the change we  
23 were just discussing?

24 THE WITNESS: Yes, it does.

25 BY MS. PITZ:



1 Q I don't think I asked, but what prompted HUD to make this  
2 change?

3 A We had received a number of concerns from PHAs that this  
4 competitive process was hindering their efforts to develop PBV  
5 units on VA Medical Center grounds.

6 Q Thank you.

7 And I would like to move to another change to the  
8 updated operating requirements.

9 Did the updated operating requirements change the  
10 Housing Assistance Payment requirement?

11 A Yes, it did.

12 Q Does the Housing Choice Voucher Program generally or the  
13 HUD-VASH program specifically have a Housing Assistance Payment  
14 requirement?

15 A Yes. Typically to be eligible to move into a PBV project,  
16 the family has to qualify for Housing Assistance Payment, which  
17 means their share of the rent can't be the same or higher than  
18 the gross rent of the unit.

19 Q And historically has that applied to project-based voucher  
20 programs?

21 A Yes, it has.

22 Q What change has been made to this requirement through the  
23 updated operating requirements?

24 A So the updated operating requirements provide two changes.

25 The first is it allows either a unit to be selected

1 where someone is already living or allow a PHA to refer a  
2 veteran to a PBV unit even though there would be no HAP payment  
3 in cases where the PBV project is either on the VA Medical  
4 Center grounds or HUD-VASH provided services on-site.

5 So the idea here is to ensure the HUD-VASH eligible  
6 family is able to avail themselves of those services of that  
7 location, even though there isn't a housing assistance being  
8 paid on their behalf.

9 And then the second change would be to the extent that  
10 we have HUD-VASH veterans in PBV units and their income  
11 increases, typically what happens is when your income increases  
12 to the point you are covering the full amount of the rent,  
13 eventually that unit is removed from the contract.

14 This change basically allows the PHA to waive that  
15 requirement and keep the unit under the contract and allow that  
16 family to continue to participate in the HUD-VASH program, both  
17 as a HUD-VASH housing participant as well as HUD-VASH  
18 supportive service recipient.

19 THE COURT: I want to be clear for my record because  
20 I've got other cases involving what I call your Section 8.  
21 This is HUD-VASH?

22 THE WITNESS: This is a change for HUD-VASH only,  
23 that is correct, sir.

24 THE COURT: I want to be absolutely clear about  
25 that. Okay.

1 BY MS. PITZ:

2 Q Just at a very high level, why did HUD make that change?

3 A Again, you know, understanding the need for the veterans  
4 to be close either on the grounds of the medical facility or to  
5 be able to be admitted to and remain in project-based voucher  
6 developments where HUD-VASH supportive services are on-site, we  
7 thought that was an important change that would allow them to  
8 access those services and remain in those projects.

9 Q And, Mr. Dennis, can you please flip to page 9.

10 MS. PITZ: Noah, would you be able to pull up that  
11 highlighted portion. Okay.

12 So this is page 65777 the top right-hand corner.

13 BY MS. PITZ:

14 Q Mr. Dennis, would you read the highlighted portion please?

15 A Yes. The highlighted portion reads: "However, if the PBV  
16 project is either on the grounds of a VA facility or there are  
17 HUD-VASH supportive services provided on-site at the project,  
18 the PHA may opt to select a unit -- sorry. May opt to select a  
19 unit occupied by a zero HAP HUD-VASH eligible family or admit a  
20 zero HAP HUD-VASH family to a unit if such unit is made  
21 exclusively available to HUD-VASH families."

22 Q Does this accurately reflect the change that you just  
23 described?

24 A Yes, it does.

25 Q Thank you.

1 I'd like to turn a little bit and discuss a few  
2 constraints that HUD is working with.

3 Is there a cap on the number of project-based vouchers  
4 or on the number of vouchers that a PHA can project-base?

5 A Yes. There is a statutory cap on the amount of units that  
6 can be project-based by a public housing agency.

7 Q And what is that cap?

8 A That cap is in general 20 percent of the PHA's authorized  
9 units.

10 There is exception authority to do an additional  
11 10 percent of units for certain units.

12 And then there is also a complete exclusion from the cap  
13 for any PBV units that basically are project-based on projects  
14 that were formerly federally assisted housing. So in support  
15 of preservation efforts, PBV units by its statute do not count  
16 against the cap.

17 Q And, Mr. Dennis, why is there a cap?

18 THE COURT: Just one moment, let me absorb that for  
19 a moment.

20 I don't understand that. Would you state that  
21 again?

22 THE WITNESS: Sure. So in general a public housing  
23 agency has a certain public of authorized units, say 100 units,  
24 okay?

25 What this basically says is the PHA is authorized to

1 project-base 20 of those units and then they're at their limit.

2           However, if they are project-basing units that are  
3 designated for certain types of families, veterans, formerly  
4 homeless families, they have an extra 10 percent authority, so  
5 they could go up to 30 percent, right?

6           THE COURT: Hypothetical 120 add 10, certain  
7 exception.

8           THE WITNESS: Yes.

9           THE COURT: Okay.

10           THE WITNESS: And then there's a whole category that  
11 don't count against the HAP -- I'm sorry, the cap at all.

12           THE COURT: That's what I don't understand.

13           THE WITNESS: Right. So let's say, you know,  
14 there's -- I have my hundred-unit program, right, and that  
15 already project-based 30 percent of my units, so normally I  
16 couldn't do any more project basing, but there's a 50-unit  
17 project that was formerly federally assisted housing, maybe  
18 it's a public housing project that's going out of the public  
19 housing inventory, maybe it was a Section 236 project or  
20 something.

21           THE COURT: I don't know what a Section 236 project  
22 is.

23           THE WITNESS: It's a subsidy program that HUD runs  
24 that's outside of public housing, right, but it's --

25                           (Reporter Clarification.)

1 THE WITNESS: A subsidy program. So basically it's  
2 providing assistance, you know, it's providing low-income  
3 housing through the private owners.

4 THE COURT: Okay.

5 THE WITNESS: Okay. And as these -- these were  
6 basically projects where, you know, the owner after a certain  
7 period of time could opt out of the program or prepay their  
8 mortgage, right?

9 So the assistance that's already --

10 THE COURT: The developer can opt out?

11 THE WITNESS: In -- now we're talking about PBV at  
12 this point, okay, we're talking about -- I'm making this too  
13 complicated.

14 THE COURT: Okay. Who's opting out?

15 THE WITNESS: The owner.

16 THE COURT: Is that oftentimes because on these  
17 projects because of the tax benefits that they get when we  
18 reach hypothetically let's say 15 years, it pays for them to  
19 cash out because now they can move from a basis of let's say 20  
20 million and after a certain period of time when the tax credits  
21 let's say are extended, they then are inclined to opt out and  
22 sell at fair market value for 50 million?

23 THE WITNESS: Yes.

24 THE COURT: Simple as that.

25 THE WITNESS: Yes.

1 THE COURT: Now that I understand.

2 THE WITNESS: That's a perfect example. So let's  
3 look at Low-Income Housing Tax Credit project, right?

4 (Reporter Clarification.)

5 THE WITNESS: A Low-Income Housing Tax Credit  
6 project. I'm sorry, I will slow down.

7 THE COURT: I will be right with you, by the way.

8 THE WITNESS: So let's say the tax credit period has  
9 ended, and --

10 THE COURT: Let's say 12 years, 15 years, whatever  
11 our funding stream is --

12 THE WITNESS: It's over.

13 THE COURT: Based upon the tax credits that I have  
14 put together.

15 THE WITNESS: I no longer have an obligation, right,  
16 to rent units at are at these low rents.

17 THE COURT: Well, I've actually got the simple thing  
18 for me is that however these credits are put together,  
19 eventually there's a real incentive for me to opt out.

20 And what we're able to do in this program is  
21 we're able to keep the -- we're able to keep it let's say at a  
22 modest level for our intake, whether Section 8 or VASH, because  
23 of these tax credits.

24 But at some point, whether it's 12 years or  
25 15 years, depending upon my stream of financing and the credits

1 that I've been incentivized to get so you don't have to front  
2 the money, by the way, they front the money on the tax credits,  
3 I want to get out of this at some point because I want the  
4 basis of my building at 20 million to move to 100 million.

5 Simple as that, right?

6 THE WITNESS: And there can be financial  
7 considerations.

8 THE COURT: I get it overall.

9 Counsel?

10 THE WITNESS: With your indulgence, Your Honor?

11 THE COURT: Sure.

12 THE WITNESS: So, let's assume that was happening,  
13 right, and a public housing agency said I'm going to project  
14 base vouchers there to preserve the affordability of it.

15 THE COURT: Sure.

16 THE WITNESS: Those units would not count at all  
17 against the cap, so those are completely exempt from the cap.

18 THE COURT: I understand that on the front side, I'm  
19 talking about the incentive to eventually get out, because at  
20 some point my tax credits are going to outweigh the ability to  
21 move to fair market on my building.

22 And the benefit that we get with HUD or whomever  
23 is we're not putting out any frontside cost, we're having the  
24 developer put that stream together based upon tax credit so we  
25 don't have to front that in our budget. It's as simple as



1 that.

2 THE WITNESS: Yes, sir.

3 THE COURT: Tell me about 236. I'm just joking with  
4 you, okay?

5 All right, counsel?

6 BY MS. PITZ:

7 Q Mr. Dennis, why is there a cap on project-based vouchers  
8 to begin with?

9 A So, again, historically the Housing Choice Voucher program  
10 was exclusively a tenant-based program.

11 And then starting I think in the mid to late '90s  
12 Congress added a project-based component and this, again, was  
13 to address cases where, again, the tenant-based program really  
14 is addressing the affordability gap, right? We have units --

15 THE COURT: Yeah, but just a moment. In the  
16 tenant-based program you are actually -- not "you," I'm sorry,  
17 the Government was fronting more money on a tenant-based  
18 program. When I go to project-based I've got that developer  
19 fronting the money based upon tax credits.

20 In other words, in my budget when I go in for  
21 appropriations, don't I get on -- a tenant-based program aren't  
22 I having to come up with some kind of appropriation that says  
23 it's worth this much, whereas, when I give a project-based  
24 developer, from want of a better word, that's not coming in my  
25 appropriation budget, that's on that developer to put together

1 those tax credits.

2 So if I have \$407 billion I don't have to add  
3 another \$20 billion to it, it's on the developer. And,  
4 therefore, the developer has a lot of control about who is  
5 coming in to that project-based...

6 THE WITNESS: So the cost, when you look at just the  
7 Housing Choice Voucher Program, tenant-based and project-based,  
8 it is the same.

9 THE COURT: It's the same, but the difference is  
10 that you have to have an item in your budget on a tenant-based,  
11 I think, and please correct me. On the tenant-based, you've  
12 got to have \$150 million, hypothetically. On project-based  
13 we're putting that back on the developer because that  
14 developer's benefit is going to be the tax credit that they  
15 get, that's why they're incentivized.

16 THE WITNESS: So I would explain it slightly  
17 differently.

18 THE COURT: Okay.

19 THE WITNESS: I would say for tenant-based, there  
20 aren't any development costs, period, because you are looking  
21 at existing housing.

22 THE COURT: I know that.

23 THE WITNESS: Housing's already developed.  
24 Project-based --

25 THE COURT: That's not what I'm saying.

1 THE WITNESS: Okay.

2 THE COURT: In your budget when you put together 400  
3 million or \$300 million -- billion, I'm sorry, when you have a  
4 tenant-based you've got to account for that in the budget.  
5 You've got to say I've got \$200 million or \$2 billion on a  
6 tenant-based project, that's money that you know you have to  
7 put out, right?

8 THE WITNESS: Well, again, tenant-based is not  
9 assigned to a particular project, it goes wherever the family  
10 goes.

11 THE COURT: I know that. It's not project-based, I  
12 know that. But in your budget you have to have some kind of  
13 item that says we're going to set aside this amount of money.

14 THE WITNESS: Yes.

15 THE COURT: Yeah. Now, hold on. Project-based  
16 doesn't work that way.

17 THE WITNESS: You still have to set aside the  
18 project-based subsidy.

19 THE COURT: Yes, but substantially less because we  
20 put that back on the developer in an entrepreneurial way to be  
21 incentivized by our tax credits.

22 THE WITNESS: In terms of developing new projects,  
23 project-based vouchers incentivizes owners to develop projects.

24 THE COURT: Absolutely. Based upon what?

25 THE WITNESS: Based upon the long-term subsidy

1 contract that's been attached. Tenant-based is not a  
2 development project program.

3 THE COURT: The only difference is the way  
4 Government has to front money or not front money. Or -- it's a  
5 bad way of saying it. It's the way we have to put it into a  
6 budget when we go to Congress and I'm saying just that either  
7 HUD or whomever is involved, whatever agency, that's an  
8 appropriation that goes into our budget. We have to put less  
9 in when we go to the private market because we put that  
10 incentive on the project-based development.

11 THE WITNESS: If we're comparing project-based  
12 voucher development versus traditional public housing, right,  
13 where the Government fronted the entire cost of the development  
14 plus the operating subsidy, yes, it is much more expensive.

15 THE COURT: Absolutely. All right.

16 Counsel, thank you.

17 I grew up in a Navy housing project, by the way,  
18 up in Alameda over on Chipman. You don't know that, but as a  
19 young kid I was in public housing. They did a good job, by the  
20 way.

21 THE WITNESS: Good.

22 THE COURT: Counsel?

23 MS. PITZ: Thank you.

24 BY MS. PITZ:

25 Q Mr. Dennis, are you aware of the percentage of vouchers

1 that are project-based nationwide?

2 A Currently the percentage nationwide is little over I  
3 believe 13 percent.

4 Q And if for some reason a particular market was interested  
5 in requesting a waiver of the statutory cap that you were  
6 referring to, would HUD be able to grant just that public  
7 housing agency such a waiver?

8 A No. HUD could not grant an individual waiver to address  
9 increases in the project-based voucher cap.

10 THE COURT: I don't understand that.

11 Say that again, counsel. Re-ask the question.  
12 Make me understand that.

13 MS. PITZ: Sure.

14 BY MS. PITZ:

15 Q If an LA public housing agency -- or any public housing  
16 agency for that matter, requested that HUD use its HUD-VASH  
17 waiver authority, would HUD be able to grant just that  
18 particular public housing agency a waiver of the project-based  
19 cap?

20 THE COURT: Thank you.

21 THE WITNESS: And the answer to that question is  
22 "no," because it involves waiving a statute. And while under  
23 HUD-VASH we have authority to waive statute, we have to do that  
24 for the HUD-VASH program as a whole, we can't waive statute for  
25 an individual agency.

1 BY MS. PITZ:

2 Q So that's not a change that could be made regionally; is  
3 that correct?

4 A Using the HUD-VASH authority, no.

5 Q And if there was a push from public housing agencies  
6 nationwide to increase the cap, would HUD consider that?

7 A Yes.

8 Q Is HUD considering that currently?

9 A Yes. HUD is looking at options in terms of how, No. 1, we  
10 could and if we could what we should do in terms of increasing  
11 the cap. That may require legislative action and a legislative  
12 proposal, but that is something we are currently engaged in  
13 discussing.

14 Q And what would be some of the drawbacks to increasing the  
15 cap on project-based vouchers?

16 A The major drawback to increasing the cap has to do with  
17 the impact on tenant-based assistance and the mobility  
18 component of project-based vouchers.

19 So project-based vouchers are unique in that if as a  
20 family I live in the project-based unit for a year, I have the  
21 option to move with continued tenant-based assistance.

22 So the next available voucher that the PHA has they  
23 would issue to me to move if I wanted to move from that project  
24 to go to a different area, right?

25 So as you increased the number of project-based units in

1 a PHA inventory, more and more turnover vouchers, vouchers that  
2 become available for re-issuance are going to the mobility  
3 component to PBV, and what happens is it's very difficult to  
4 reach your tenant-based waiting list.

5 And if you project-base enough of your program, you  
6 don't have vouchers available when families want to move,  
7 right?

8 So if you were a family and you wanted to move from a  
9 project because you had an employment opportunity or something,  
10 you might have to wait for a year or something until they could  
11 get you a voucher.

12 So the concern is this tension between trying to find  
13 that sweet spot to increase the opportunities for PHAs in  
14 really tight markets where there isn't a lot of affordable  
15 housing and we need production against inadvertently taking  
16 away one of the most singular important, for many of us,  
17 aspects of PBV assistance, which is that mobility aspect.

18 So we're looking for a way to sort of thread that  
19 needle.

20 Q All right. I'd like to shift a little bit and talk to  
21 you, Mr. Dennis -- I'll ask you a different question instead.

22 Why are project-based vouchers limited in the Housing  
23 Choice Voucher Program?

24 A Well, again, it's -- the Housing Choice Voucher Program  
25 funding is what is funding the project-based voucher units. So

1 to the extent that I am funding PBV, it's reducing the number  
2 of tenant-based vouchers that are part of my assistance  
3 program.

4 And as we talked about, in cases where -- and we have  
5 some cases where we have PHAs that, because of this exemption  
6 or project basing, you know, more than 50 percent of their  
7 program, what happens is you never can reach the tenant-based  
8 waiting list. The only way families can access the subsidized  
9 housing through the program is to go to a project-based voucher  
10 development, where they don't really want to live, and then  
11 leave after a year.

12 And so now not only are you not getting to people in the  
13 tenant-based waiting list, you are creating tenant turnover  
14 issues at those projects, right? As a property manager, the  
15 last thing you want is a high percentage of your units turning  
16 over all the time.

17 That is another sort of complicating factor when we talk  
18 about this particular issue.

19 Q Okay. Now I would like to turn a little bit to some of  
20 the administrative hurdles that veterans applying for HUD-VASH  
21 assistance might face.

22 When a veteran applies for HUD-VASH, do they have to  
23 complete an application?

24 A Yes, they do.

25 Q Can that application be relatively involved?



1 A It certainly can, yes.

2 Q What types of information must be included in that  
3 application?

4 A Information on the family's income. Primarily, that's --  
5 we also need information, you know, verifying Social Security  
6 numbers, date of birth.

7 Q And why is that information required to be provided for  
8 consideration of whether an applicant is eligible for HUD-VASH  
9 assistance?

10 A So, that information is important for purposes of ensuring  
11 that the families that are being admitted are eligible and that  
12 the income they are reporting is true and correct and can be  
13 verified.

14 Like a lot of programs, we have challenges with what are  
15 known as improper payments, where PHAs are paying subsidy  
16 either for an ineligible family or overpaying subsidy because  
17 somebody, whether through negligence or on purpose, didn't  
18 report income.

19 So, again, that is a problem for a couple of reasons.

20 From my perspective, the most important one is we have a  
21 limited amount of funding, a limited amount of resources. To  
22 the extent we're making payments on behalf of someone or  
23 subsidizing someone who may not be eligible for those payments,  
24 that is taking money that could be used for somebody who  
25 desperately needs housing, and we're misusing it.

1           And obviously, we, as a government, have an obligation  
2 to be responsible stewards of taxpayer dollars.

3       Q     So this information really gets at the integrity of the  
4 entire program?

5       A     From -- certainly from a payments -- improper payments  
6 perspective, yes.

7       Q     But can obtaining or verifying that information sometimes  
8 be difficult for homeless veterans?

9       A     Obtaining that information, having that information on  
10 hand can be extremely challenging for a veteran who is  
11 experiencing homelessness.

12       Q     With that in mind, has HUD taken any action to make it  
13 easier for homeless veterans to complete their applications and  
14 recertifications?

15       A     Yes, we have. We have made a number of changes in the  
16 August HUD-VASH operating requirements to try to address some  
17 of those concerns.

18       Q     And what are some of those changes?

19       A     So, you know, one of the most important changes, in my  
20 opinion, is to require public housing agencies to accept  
21 self-certifications from veterans who do not have the  
22 documentation necessary to demonstrate their income.

23           And the idea here is sort of a housing first approach,  
24 that we would process that family, we issue the voucher, and we  
25 work on the verification either during or after we have housed

1 the family, rather than delaying the family's housing search  
2 until that documentation can be acquired.

3 Q Do any other changes come to mind?

4 A We also -- there is an asset limit in the program where  
5 families cannot have a certain amount of assets in terms of  
6 value.

7 We now require that PHAs accept self-certification from  
8 veterans that they do not have assets greater than \$50,000.

9 Q And why did HUD make these changes?

10 A Again, the intention is the same, is that understanding,  
11 given where many of the VASH veterans are living, their ability  
12 to have this documentation on hand is extremely challenging.  
13 And we don't want to delay unnecessarily providing them housing  
14 while they are acquiring the necessary documentation or  
15 allowing the PHA to verify assets either during or after the  
16 housing search and a family has been housed.

17 Q Thank you.

18 And earlier you testified that one reason for suboptimal  
19 voucher utilization is there being too few referrals to PHAs;  
20 is that correct?

21 A Yes, it is.

22 Q Has HUD or VA taken any action to try to increase the  
23 number of referrals to public housing agencies?

24 A Yes, we have.

25 Q Can you please describe the designated service provider

1 change?

2 A Yes. So the HUD-VASH program previously allowed other  
3 entities to serve as designated service providers. In that  
4 role, the designated service provider takes over some of the  
5 functions that the VA medical center or facility would in terms  
6 of initial intake and initial case management.

7 And I believe it was in March of 2024, that the VA  
8 published, essentially, requirements and application process by  
9 which public housing agencies could apply and be approved as  
10 designated service providers.

11 Q So that last part, this was intended to be an opportunity  
12 for public housing agencies to conduct the initial kind of  
13 steps of program intake. Am I understanding that correctly?

14 A That is correct. Rather than waiting for the referral, to  
15 the extent that they were working with a veteran that they, in  
16 fact, would do the initial intake and then refer the veteran to  
17 the VA medical center. And during the time that the VA medical  
18 center was doing the intake from the VA side, that the PHA --  
19 not in its role as a PHA but in its role as the designated  
20 service provider -- would provide the temporary case management  
21 to that veteran.

22 Q To your understanding, this change was just an  
23 authorization, is that accurate, or was it a requirement?

24 A It is completely voluntary on behalf of the PHA.

25 Q Do you know whether any PHAs are considering becoming

1 direct service providers?

2 A I believe some agencies are considering that possibility.

3 Q And in conjunction with this change, did HUD consider  
4 providing any funding to support PHAs who might take on this  
5 role?

6 A So, again, HUD and the VA wanted to make this opportunity  
7 available to PHAs, period.

8 We did explore whether our administrative fees that HUD  
9 pays the PHA for the administration of the HUD-VASH program  
10 could be used to pay for the costs of the PHA as the designated  
11 service provider.

12 Unfortunately, we have an appropriations issue where  
13 that is not an eligible expense, at this time, of the Housing  
14 Choice Voucher administrative fees. So we were not able to  
15 allow public housing agencies at this time to use admin fees  
16 for that purpose.

17 Q And just at a very high level, do you have any  
18 understanding of why that wasn't an option under the  
19 appropriations?

20 A At a very high level, essentially, when appropriations,  
21 sort of specialist attorneys are looking at whether something  
22 can be an eligible expense, they have to go through a  
23 three-part analysis. And the last part of that analysis is "Is  
24 there appropriation that has already been providing funding for  
25 this particular purpose?"

1           And because, you know, the VA receives appropriations  
2 for the case management services and intake, we had an issue.  
3 So, you know, we would need, essentially -- and working with  
4 our VA colleagues. We're intending on briefing our  
5 appropriations committee staff of this issue related to  
6 administrative fees and advise them that, you know, if they  
7 gave us, you know, authorization to use our fees for this  
8 purpose, that would help in terms of this effort.

9       Q     So, this discussion is ongoing, then?

10      A     Yes, it is.

11      Q     And you described administrative fees in that answer. Can  
12 you just describe what administrative fees are?

13      A     Yes. Administrative fees, they are actually a separate  
14 funding stream. So they are not in any way or shape connected  
15 to the housing assistance payments funds that we provide PHAs.

16           And administration fees are fees that are paid to public  
17 housing agencies for the administrative costs for running the  
18 program.

19      Q     And what are some of those administrative costs?

20      A     So, in the HCV program, probably the largest costs would  
21 be salaries of the staff that work on the voucher program,  
22 obviously equipment that they use. But our largest costs are  
23 salaries.

24      Q     Has HUD made any recent changes regarding what  
25 administrative fees can be used for by a PHA?

1 A Yes, we have. You know, again as rental markets have  
2 really tightened across the country, and we have had  
3 utilization issues -- not just with HUD-VASH, but for the  
4 program as a whole -- we did look at the language in our  
5 appropriations act and we were able to expand the eligible uses  
6 of administrative fees to include landlord incentive payments  
7 as well as security deposit assistance for either veterans or  
8 families, depending on which program we're talking about.

9 Q And can you explain just a little bit what a landlord  
10 incentive might be?

11 A A landlord incentive payment could be an additional  
12 payment to the landlord to either participate in the program or  
13 to retain that landlord's participation in the program.

14 So the public housing agency, not just providing them  
15 rental assistance, this would be separate and apart. It would  
16 be an incentive payment. Are you willing to rent your unit to  
17 a HUD-VASH veteran, for instance? And if so, I will give you a  
18 payment of X amount.

19 This in some way would address some of the issues with,  
20 you know, some of the administrative costs to the owner of the  
21 program that the housing inspection we talked a little bit  
22 about yesterday where the owner could be delayed in being able  
23 to lease the unit.

24 So, we feel it's an important flexibility for public  
25 housing agencies to try to address utilization issues.

1 THE COURT: But to be certain, this landlord  
2 incentive program is aspirational. It's not in effect, is it?

3 THE WITNESS: No. It is in effect.

4 THE COURT: Oh, it is. Explain.

5 THE WITNESS: So, public housing agencies receive  
6 administrative fees, and they can use those administrative fees  
7 today to make landlord incentive payments to owners.

8 THE COURT: And you are doing that here in Los  
9 Angeles?

10 THE WITNESS: I don't know if the Los Angeles PHAs  
11 are doing that, but they have the authority to do that.

12 THE COURT: "They" being HACLA?

13 THE WITNESS: Yes, sir. LACDA and the other  
14 agencies.

15 THE COURT: I'm going to mispronounce it. The Los  
16 Angeles County Development Authority?

17 THE WITNESS: Yes.

18 BY MS. PITZ:

19 Q Mr. Dennis, you also just described security deposit  
20 assistance. Could you provide a little bit more detail there?

21 A Yes. That again, it's beyond security deposit assistance.  
22 The fees that family run into, upfront costs such as -- at  
23 market rate, a security deposit can be a significant amount of  
24 money. So to the extent there aren't existing resources to  
25 help a veteran for instance with that security deposit, and



1 assuming the veteran wouldn't have the resources to cover the  
2 security deposit, the public housing agency can use their  
3 administrative fees to provide security deposit assistance to  
4 allow for that security deposit to be made without the family  
5 having to come up with the money.

6 Q Do you know if LA public housing agencies have applied or  
7 been offered additional administrative fees to help with some  
8 of their voucher utilization challenges?

9 A Yes. The 2023 and 2024 HUD Appropriations Act provided us  
10 with a total of \$20 million for additional HUD-VASH  
11 administrative fees, which also could be used for these other  
12 purposes including landlord incentive payments and security  
13 deposit assistance. Both HACLA and LACDA applied, and both  
14 received funding awards. HACLA, I believe, 1.5 million; and  
15 LACDA, a little bit over a million dollars.

16 THE COURT: So the 20 million was nationwide?

17 THE WITNESS: Yes, sir.

18 THE COURT: And 2.5 was applied for by the two  
19 public housing --

20 THE WITNESS: Was awarded to HACLA and LACDA, yes,  
21 sir.

22 BY MS. PITZ:

23 Q And, Mr. Dennis, today we have talked through a number of  
24 recent changes to the HUD-VASH program that HUD has made.

25 To sum up, just at a high level, why has HUD made those

1 changes?

2 A HUD has made those changes, again, in reaction to what we  
3 understand to be, you know, the challenges that our public  
4 housing agencies and our VA colleagues are facing in terms of  
5 making this program work and making this program work better  
6 and more effectively for the veterans that we -- it's our  
7 responsibility to serve.

8 So we wanted to do whatever we could do to try to  
9 address some of these issues through our operating  
10 requirements.

11 MS. PITZ: Thank you. I have no further questions.

12 THE COURT: Why don't you check with your team.

13 MS. PITZ: Nothing further.

14 THE COURT: Okay. What should we call this?  
15 Cross-examination? You had direct, they then took their own  
16 witness on direct.

17 How about the second round?

18 MS. SAVAGE: That makes sense, Your Honor. May we  
19 have a brief five-minute break for me to print out my  
20 materials?

21 THE COURT: Absolutely. Why don't you take a  
22 ten-minute recess. We're in recess.

23 (Recess.)

24 THE COURT: We're back on the record. All counsel  
25 are present, the parties and the witness is present.

1 Counsel, this would be, I believe -- let' call it  
2 cross-examination or redirect by the plaintiffs  
3 cross-examination as well.

4 MS. SAVAGE: Thank you, Your Honor.

5 For the record, Amanda Mangaser Savage, for the  
6 plaintiff.

7 REDIRECT EXAMINATION

8 (Plaintiffs' Redirect Examination)

9 BY MS. SAVAGE:

10 Q Hello again, Mr. Dennis. How are you doing?

11 A I am okay. Thank you.

12 Q Okay. So why don't we start where government counsel  
13 started. If we could pull up Exhibit 1624 which are the new  
14 operating requirements for HUD-VASH.

15 And I'm looking here at page 65773.

16 I'm looking now at the first full sentence on that page.  
17 It's the same sentence that the government highlighted. It  
18 says -- I will let Tommy highlight it first.

19 It says: In addition, PHAs must serve all income  
20 eligible veterans, including low income veterans, up to  
21 80 percent AMI in HUD-VASH.

22 Do you see that?

23 A Yes, I do.

24 Q Okay. So, I just want to be really clear. At the end of  
25 that sentence it says "in HUD-VASH."

1           So, what we are talking about here applies only to  
2 HUD-VASH eligibility; isn't that right?

3 A       That is correct. Yes.

4 Q       It doesn't apply to Low-Income Housing Tax Credit  
5 restrictions?

6 A       That is correct. Yes.

7 Q       Or to state or local restrictions?

8 A       That is correct. Yes.

9 Q       And the HUD-VASH limitation as we touched on yesterday, is  
10 not actually the problem that is keeping many disabled veterans  
11 out of project-based housing; isn't that right?

12 A       That is my understanding, yes.

13 Q       Okay. And so you mentioned that HUD has encouraged public  
14 housing agencies to consider the impact of other tax credit  
15 programs.

16           And I guess my question is: That changed, then, that  
17 language suggests that the change that is made, again, just  
18 does not apply to these other tax credit programs; is that  
19 right?

20 A       Are you reading the second sentence?

21 Q       No. I'm summarizing what you said, which is that during  
22 your examination by Ms. Pitz, you said that HUD was encouraging  
23 state and local entities to consider the impact of these other  
24 tax credits on the availability of project-based housing.

25           You did say that, correct?

1 A Yes.

2 Q And so what I'd like to establish is that that  
3 demonstrates this HUD-VASH change just doesn't apply, in and of  
4 itself, to those other credits?

5 A That is correct. This change only impacts the HUD-VASH  
6 program. We can't mandate or require a state or a local  
7 government to do something with their programs, yes.

8 Q I really appreciate that, and your patience, so thank you.

9 So I'd like to now bring up Exhibit 35A again.

10 This is the March 1st letter from HUD to the  
11 congressional committee on veterans affairs.

12 I'd like to go to page 4. And I apologize if some of  
13 this is repetitive, but I want to make sure we understand this  
14 fully.

15 So I would like to go to page 4 of that document, the  
16 first full paragraph on that page, the second to last sentence.  
17 And tell me if you could highlight beginning with "in cases,"  
18 all the way down through the end of that paragraph.

19 Thank you.

20 Yes. That's right. So do you see where it says, "In  
21 cases where homeless veterans have been denied access to  
22 permanent supportive housing units with project based HUD-VASH  
23 vouchers, the cause of the denials has primarily been the more  
24 restrictive income limits imposed by LIHTC or other programs  
25 that also subsidize the housing."

1 Do you see that?

2 A Yes, I do.

3 Q And the second sentence, "As discussed in more detail  
4 below, modifying income eligibility for the HUD-VASH program,  
5 via a HUD-VASH waiver, would not affect Low-Income Housing Tax  
6 Credit or LIHTC eligibility requirements."

7 Do you see that?

8 A Yes, I do.

9 Q Okay. And so you have noted previously that the exclusion  
10 of disabled veterans from permanent supportive housing  
11 fundamentally is a Low Income Housing Tax Credit problem, not a  
12 HUD-VASH eligibility problem; isn't that right?

13 A Yes. I mean, there is approximately 3 percent of homeless  
14 veterans based on a VA study, that didn't meet the HUD-VASH  
15 income requirements. But the primary problem has been the  
16 LIHTC eligibility requirements, yes.

17 Q So the real issue, to phrase it a different way, is the  
18 LIHTC and the state and local tax credit programs?

19 A That has been a much larger issue, yes.

20 Q Okay. I'm going to turn to page 5. I'm looking at the  
21 paragraph below the bullet points that begins "In sum."

22 And if you will bear with me, I will read it out:

23 "In sum, if Section 3 of the U.S. HA were amended to  
24 exclude VA service-connected disability benefits from annual  
25 income only for some programs or purposes, such as only for the

1 purpose of determining initial eligibility for veterans  
2 participating in the HUD-VASH program, then the change would  
3 likely have no impact on eligibility under LIHTC or state or  
4 local subsidy programs."

5 Do you see that?

6 A Yes, I do.

7 Q Okay. So, just again, these new operating requirements  
8 that you discussed at length, they don't actually redress the  
9 fundamental reason for many disabled veterans' exclusion from  
10 permanent supportive housing, which is the income restrictions  
11 set by low income tax credit -- the Low Income Housing Tax  
12 Credit Program, excuse me, and state and local tax credit  
13 programs, right?

14 A Right. That is correct. Our intention, again, was to do  
15 what HUD could do and hopefully provide an opening for these  
16 other programs to the extent that they could, to follow suit.

17 Q To the extent that they could?

18 A Yes, ma'am.

19 Q Okay. And so sitting here today, you cannot say with  
20 100 percent certainty that as a result of these changes made by  
21 HUD and discussed by you, a disabled veteran will not be  
22 excluded from project-based permanent supportive housing  
23 because their service-connected benefits place them over one of  
24 these other income restrictions?

25 A To the extent that those projects have those other

1 subsidies in them, in addition to the HUD-VASH PBV, yes.

2 Q Okay. And to your understanding, many of them do?

3 A Yes.

4 Q Okay. So I would like to go back, then, to what we talked  
5 about in terms of encouraging state and local programs to make  
6 changes to align with HUD's recent changes.

7 Let's just go to Exhibit 218. This is HUD's press  
8 release announcing the new housing requirements. It's tricky  
9 with the pagination. I apologize, but I don't have the  
10 pagination. I'm looking for the line that says "HUD will also  
11 encourage state and local governments to make corresponding  
12 changes in their programs." If we could pull that up.

13 Okay. So that is the final sentence, then, of that  
14 paragraph which is on the second page in the middle.

15 THE COURT: What's the exhibit number again?

16 MS. SAVAGE: The exhibit number is 218, Your Honor.  
17 This is HUD's press release, announcing the new operating  
18 requirements just this August.

19 BY MS. SAVAGE:

20 Q So, I would like to talk to you about this encouragement  
21 and what it's going to look like.

22 When we are talking about encouragement to state and  
23 local housing departments, are we talking about public housing  
24 agencies?

25 A No. Because public housing agencies have to follow our



1 requirements for HUD-VASH. We're really talking about state  
2 and local governments.

3 Q Okay. And so, have any materials been prepared with  
4 respect to this encouragement process with respect to, you  
5 know, educating state and local governments about the effect of  
6 their deeper income targeting?

7 A I haven't seen any. There may be some under development,  
8 but that is certainly something that we're working on.

9 Q But none have been issued?

10 A No, none have been issued.

11 Q Okay. Have any trainings been given to state and local  
12 governments as to the effects of these deeper subsidies on  
13 disabled and homeless veterans?

14 A To the best of my knowledge, no.

15 Q Are any scheduled?

16 A Not at this time, to my knowledge.

17 Q Okay. So I guess to put the question more broadly, when  
18 will this encouragement of state and local governments to make  
19 corresponding changes begin, to the best of your knowledge?

20 A I would suspect as soon as we can get materials together  
21 and do the planning for it.

22 Q And do you think that will be by September 1st, which is  
23 the date this trial is scheduled to conclude?

24 A I don't know that.

25 Q Okay. And there is no way to say with certainty that any

1 of the state or local governments that either receive these  
2 materials or engage in these trainings once they are available,  
3 that they will actually make changes to align with HUD's new  
4 requirements; is that right?

5 A There is no guarantee. That is correct.

6 Q Okay. And does HUD have plans to monitor whether state  
7 and local governments are making changes to align with these  
8 requirements?

9 A I don't know of any formal plans underway to do that, but  
10 I certainly think that is something that we would want to do.  
11 We are in the very early stages of this material.

12 Q It would be a good idea to do it?

13 A I would agree.

14 Q Okay. Or to, for example, audit as the program -- as the  
15 training and outreach program continues?

16 A I don't know if I'd say audit. We don't really have  
17 authority to audit them, but to follow up and find out what has  
18 happened, yes, I would agree with you.

19 Q Sure. To monitor. Is that fair?

20 A To be aware of.

21 Q Okay. Fair enough.

22 So you talked a lot about the changes that have not yet  
23 taken place but are being contemplated or considered. I  
24 imagine that a lot of these changes are going to depend on  
25 decisions that are going to be made by a new administration

1 come January; isn't that right?

2 A I'm not a political -- you know, possibly.

3 Q Will you agree that there will be a new administration in  
4 January?

5 A Oh, yes.

6 Q Okay. And that the new administration will have control  
7 over HUD as an executive agency?

8 A Yes.

9 Q Okay. So, then, it is possible that they may change some  
10 of the policies that HUD has recently adopted as part of their,  
11 you know, overall policy strategy?

12 A Yes. That is certainly possible.

13 Q Okay. Thank you.

14 So let's go back to Exhibit 35A.

15 And actually, I'm putting this up here for reference,  
16 but since we quoted from it extensively yesterday, I'm just  
17 going to summarize. And if what I summarize seems not fair to  
18 you for whatever reason, just say so.

19 Okay. Yesterday we saw that in this letter in March,  
20 HUD disclaimed its authority to use different income  
21 definitions for different purposes; is that right?

22 A In terms of Section 3(b), yes.

23 Q Okay. And then in August, HUD adopted different income  
24 definitions for different purposes, namely counting income for  
25 eligibility but not for household rent contributions, right?

1 A Yes. By using our authority to waive 3(b).

2 Q Sure. Okay. And so, also, yesterday, we saw that in  
3 March HUD disclaimed its authority to use different income  
4 definitions for different programs, right?

5 A Under Section 3(b), yes.

6 Q And then in August also, HUD adopted a different income  
7 definition for a different program, namely a separate income  
8 definition for HUD-VASH?

9 A Right. But not using 3(b) authority by waiving 3(b).

10 Q Pursuant to your statutory waiver authority, right?

11 A Under HUD-VASH, yes.

12 Q Understood. Okay.

13 Yesterday, we saw that in March, HUD had made a  
14 determination as to whether the issue that we have been talking  
15 about for many days now was, you know, significant enough for  
16 HUD to exercise that statutory waiver authority.

17 And here I do want to turn to the language, and if you  
18 will bear with me, I will just pull it up here.

19 I am looking now at page 4 where it begins with "In  
20 sum." And I will read this out loud:

21 "In sum, the current HUD-VASH income definition does not  
22 appear to be a significant barrier to veterans' use of  
23 vouchers, at least one that is significant enough to justify  
24 using its statutory waiver authority to modify the program's  
25 most fundamental eligibility rules."

1 Do you see that?

2 A I do.

3 Q Okay.

4 THE COURT: This is dated March 1st, 2024; is that  
5 correct, counsel?

6 MS. SAVAGE: Yes, Your Honor.

7 BY MS. SAVAGE:

8 Q And then in August, the changes we have been speaking  
9 about, HUD used this waiver authority to make those changes,  
10 right?

11 A We did. Yes.

12 Q Okay. So in July you are aware or HUD was aware that  
13 Judge Carter issued a summary judgment opinion regarding the  
14 facial discrimination of VA's current practice of building  
15 through developers who use tax credits like the Low Income  
16 Housing Tax Credit, like state and local tax credits, right?

17 A Yes.

18 Q Are you aware of any intervening actions -- so between  
19 this March letter and the August change -- by Congress that  
20 would have changed HUD's opinion as to the scope of its legal  
21 authority?

22 A What was the starting date? I'm sorry.

23 Q So March 1st, the date of this letter.

24 A Any intervening?

25 Q Any intervening actions by Congress that would have caused

1 HUD to believe that now it could use the statutory waiver  
2 authority to redress the issue we have been speaking about?

3 A There was no congressional action. This was a HUD  
4 determination.

5 Q Okay. Thank you so much.

6 I'd like to turn now to new voucher allocations. And  
7 many of these questions are just to clarify my own  
8 understanding.

9 So one question that I have is how is this split out?

10 So I know that if we're under 70 percent, right, for  
11 voucher utilization at a given public housing agency, that  
12 agency is not eligible for new voucher allocations; is that  
13 right?

14 A With, again, the caveat of the PBV exception, yes.

15 Q I appreciate you raising that.

16 So, is this split out by tenant versus project based  
17 vouchers, or is it based on overall utilization?

18 A It's overall HUD-VASH utilization, both project based and  
19 tenant based.

20 Q Okay. So one question that counsel asked you on direct  
21 was whether HUD had ever denied requests for additional  
22 vouchers from public housing agencies, right?

23 A I believe so, yes.

24 Q And you said that they did not?

25 A To the best of my knowledge -- again, I would qualify that

1 with there are other reasons we deny, right, which would be  
2 performance unrelated to utilization, such as outstanding IG  
3 audit findings.

4 Q But am I right, that a primary reason for these denials --  
5 or not denials, but a primary reason for perhaps a public  
6 agency not even applying for increased vouchers in the first  
7 place is that their utilization rates are below 70 percent; is  
8 that right?

9 A Yes. A PHA is not encouraged to apply because they are  
10 not eligible for funding if they're below 70 percent.

11 Q Okay. And we touched on this yesterday, but your  
12 understanding is that both HACLA and LACDA remain under  
13 70 percent at present?

14 A That is correct, yes.

15 Q To your knowledge, were they under 70 percent in 2023 as  
16 well?

17 A To the best of my recollection, yes.

18 Q Okay. And so just to be clear, the reason they are not  
19 getting additional vouchers is because their voucher  
20 utilization rate is not high enough and, therefore, they can't  
21 even register interest with HUD in a further allocation; is  
22 that right?

23 A To the extent that they are below 70 percent --

24 Q Yes.

25 A -- the PBV exception does not apply, yes, I would agree

1 with that.

2 Q Okay. Thank you. So let's talk about this HACLA offset  
3 of \$38 million that you discussed with counsel.

4 And you will have to forgive me, I'm just trying to  
5 understand exactly how this works.

6 Does this mean that the federal government is taking  
7 money away from HACLA that HACLA previously had?

8 A Yes.

9 Q \$38 million?

10 A Yes.

11 Q Okay. And the reason for this is due to this voucher  
12 utilization problem, right?

13 A This is not just HUD-VASH. So, it's due to the extent --  
14 it's due to two factors.

15 The first factor is we have a lot of agencies that are  
16 running into financial shortfalls, which is the only reason  
17 that we're exercising this offset that we're doing right now.  
18 If we didn't have that, we wouldn't be doing this.

19 And then, in order to be, for lack of a better word I'll  
20 say exposed to this offset, right, this -- is that a PHA has to  
21 have what Congress calls excess reserves.

22 Q Okay. And do the excess reserves have anything to do with  
23 low voucher utilization rates?

24 A Yes. That is how you would accumulate large reserves is  
25 you are not leasing or spending your money.



1 Q Okay. So the reason that HACLA was identified for this  
2 offset is because, A -- and I understand what you are saying  
3 about the funding shortfall -- but, B, HACLA itself had access  
4 reserves because it's not using money that it already has; is  
5 that right?

6 A That's correct, yes.

7 Q Okay. And I understand that you are saying this is not  
8 just about HUD-VASH, but would you agree that one of the  
9 contributing factors to HACLA's low voucher utilization rate is  
10 low referrals from VA?

11 A Yes.

12 Q Thank you.

13 So you spoke with counsel today and we also talked  
14 yesterday about the VA's outsourcing of its intake referral and  
15 case management responsibilities to local public housing  
16 agencies who are willing to take on the job, right?

17 A Yes.

18 Q And we talked about how neither HUD nor VA was providing  
19 training, for example, in case management delivery to these  
20 public housing agencies; is that right?

21 A To the best of my knowledge -- I can't speak for VA, but  
22 to the best of my knowledge, no.

23 Q HUD is not?

24 A HUD is definitely not, no.

25 Q Okay. And you spoke about this a little bit with

1 Ms. Pitz, but there is no funding from either HUD or VA that is  
2 being directed precisely to this purpose, right?

3 A That is correct. Yes.

4 MS. SAVAGE: Okay. So I'd like to pull up -- we  
5 haven't labeled this yet, Tommy, but it's the VA announcement  
6 of this program. And we have copies for the Court and the  
7 government.

8 MR. DU: Your Honor, we're going to mark this as  
9 Exhibit 221.

10 THE COURT: 221. Thank you.

11 BY MS. SAVAGE:

12 Q Mr. Dennis, do you have that in front of you?

13 A Yes, I do.

14 Q Do you recognize this document?

15 A Yes, I do.

16 Q What is it?

17 A This is the VA's announcement of allowing public housing  
18 agencies to serve as HUD-VASH designated service providers.

19 Q And just to be abundantly clear, when you say "HUD-VASH  
20 designated service providers," you mean public housing agencies  
21 serving and stepping into VA's shoes with respect to intake,  
22 referral, and case management?

23 A Yes.

24 Q Okay. Thank you.

25 Let's turn now to page 2 of this -- I'm looking at the

1 last sentence on the page. Tell me if you could bring that up  
2 and highlight it. I'm going to read this out loud.

3 "There is no funding available from VA to sustain the  
4 supportive services and case management required of the PHA.  
5 PHAs" -- public housing agencies --

6 THE COURT: Just one moment, please.

7 MS. SAVAGE: I apologize, Your Honor.

8 THE COURT: I want to go back and refresh my  
9 recollection concerning the date of this.

10 Counsel, I don't know the date on this document.

11 MS. SAVAGE: I don't know the date of this document  
12 either insofar as it is an active web page.

13 THE COURT: He may know. He's familiar with it.  
14 Let's find out when this is dated.

15 MS. PITZ: May I object? The witness is a HUD  
16 employee, not a VA employee.

17 THE COURT: He's familiar with the document,  
18 overruled. What is the approximate dates of this document?

19 THE WITNESS: To the best of my knowledge, I would  
20 say it probably went up in March of 2024.

21 BY MS. SAVAGE:

22 Q So, if you don't mind I'm going to read this again.

23 So, "There" is no funding available from VA to sustain  
24 the supportive services and case management required of the  
25 public housing agency. Public housing agencies must secure

1 other funding to cover these costs and/or explore how services  
2 can be absorbed into existing budgets."

3 Do you see that?

4 A Yes, I do.

5 Q So what I understand that to mean, Mr. Dennis, is that as  
6 we discussed, VA does not intend to put any funds towards this  
7 program; is that right? To the best of your understanding.

8 A To the best my understanding, yes.

9 Q And from what I see here, and your previous testimony, my  
10 understanding is that a public housing agency would essentially  
11 have to raise its hand and volunteer to become a designated  
12 service provider; is that right?

13 A That is correct, yes.

14 Q So, let's go to the next exhibit.

15 This is letter from --

16 MS. SAVAGE: I would like to move Exhibit 221 into  
17 evidence, Your Honor.

18 THE COURT: Received.

19 (Exhibit 221 received into evidence.)

20 MS. SAVAGE: Thank you.

21 BY MS. SAVAGE:

22 Q So this next exhibit, we will mark this 224.

23 Do you recognize this document, Mr. Dennis?

24 A Yes, I do.

25 Q Sorry, I will give Judge Carter a second and you a second.

1 Apologies.

2 And what this is document, Mr. Dennis?

3 A This is a -- what I would call a blast e-mail letter that  
4 went out to public housing agencies administering HUD-VASH  
5 from the Principal Deputy Assistant Secretary --

6 (Reporter Clarification.)

7 THE WITNESS: I'm sorry, ma'am?

8 THE COURT: Just repeat your answer.

9 THE WITNESS: This is a blast e-mail letter that was  
10 sent to public housing agencies administering the HUD-VASH  
11 program from the Principal Deputy Assistant Secretary for the  
12 Office of Public and Indian Housing.

13 BY MS. SAVAGE:

14 Q And this is dated March 19th, 2024, right?

15 A Yes.

16 Q Okay. So, I'd like to look at the second to last  
17 paragraph of this letter beginning with, "It is important."

18 Do you see there, Mr. Dennis, where it says, "It is  
19 important for PHAs to note that serving as a DSP," which I  
20 understand to be Designated Service Provider, "is voluntary and  
21 no additional HUD funding will be provided to PHAs choosing to  
22 take on the role."

23 A Yes, I see that.

24 Q Okay. And just to be abundantly clear, what that means is  
25 HUD is not specifically directing funds towards this program

1 either, right?

2 A HUD is not requiring or providing funding for PHAs taking  
3 on this role, yes.

4 Q Thank you, I appreciate that clarification.

5 I think we do understand that it is voluntary for  
6 a PHA to take on this role.

7 I'd like now to pull up -- I'll have to come up with a  
8 new exhibit number, but essentially the memorandum of agreement  
9 between a VA Medical Center and a public housing agency.

10 MS. SAVAGE: Oh, 225? I'm being told this is 225.

11 I would like to move 224 into evidence, please.

12 THE COURT: Received.

13 (Exhibit 224 received into evidence.)

14 THE COURT: 211 is also received if it wasn't  
15 previously received.

16 BY MS. SAVAGE:

17 Q Mr. Dennis, I know it's many pages, so please take time to  
18 flip through, and take a look.

19 Whenever you've had the opportunity, please let  
20 me know, but there is no rush.

21 Are you all set?

22 A We will find out.

23 Q I see that Judge Carter is still reading.

24 MS. SAVAGE: Judge, I want to make sure you have as  
25 much time as you would like.

1 THE COURT: Give me one moment, please.

2 MS. SAVAGE: Thank you.

3 THE COURT: Thank you.

4 BY MS. SAVAGE:

5 Q Do you know what this document is, Mr. Dennis?

6 A I'm assuming it is a MOU, or memorandum of agreement,  
7 between the VA Medical Center and the PHA for a PHA that is  
8 applying to be a DSP.

9 Q So, to the best of your understanding this is a template  
10 of an agreement between a VA Medical Center and the public  
11 housing agency who applies to participate in this program?

12 MS. PITZ: Objection, assumes facts not in evidence.

13 THE COURT: Overruled.

14 THE WITNESS: I have not seen this document before,  
15 but I assume that's what this is, yes.

16 BY MS. SAVAGE:

17 Q Okay. Can you turn, please, to -- let's start at the  
18 bottom of page 1 where it says, "Responsibilities."

19 I'm looking at Item A, Public Housing Agency  
20 Responsibilities. And let me just start reading.

21 "Public housing agency will serve as the designated  
22 service provider for the purposes of veteran selection and  
23 intake. Public housing agency will refer the veteran to the VA  
24 Medical Center for ongoing case management and supportive  
25 services and will provide temporary case management until VA

1 Medical Center has completed its intake of the veterans as  
2 follows."

3 Okay. So I'm looking now at -- I'm looking now at  
4 Number 4. Do you see Number 4 here on page 2?

5 THE COURT: Veteran Education?

6 THE WITNESS: Yes.

7 BY MS. SAVAGE:

8 Q I will go ahead and read that. "Veteran Education.  
9 Describe how veterans will be provided information on the  
10 design of the HUD-VASH program including the expectation of  
11 case management participation, temporarily through the PHA and  
12 ongoing through the partnering VA MC?"

13 Do you see that?

14 A Yes, I do.

15 Q Move down to 6, Temporary Case Management.

16 I'm looking at the second sentence beginning with  
17 "within."

18 "Within that 180-day window of temporary case  
19 management, describe how the PHA will assess the veteran's case  
20 management and supportive service needs and temporarily provide  
21 or ensure the provision of the case management requirements  
22 outlined in the HUD-VASH operating requirements. Describe  
23 specifically how veterans will be assisted in the housing  
24 search process." Oh, I'm sorry, "with housing search  
25 processes."



1 Do you see that?

2 A Yes, I do.

3 Q Okay. Just taking one more quick look.

4 Okay. Do you see on page 3 bottom where it says, "Both  
5 parties' responsibilities"?

6 A Yes.

7 Q I'm looking at sub 1, Communication. "Describe how the  
8 PHA and VA MC will communicate about the number and rate of  
9 HUD-VASH voucher issuances to ensure there remains adequate  
10 HUD-VASH voucher availability to accommodate VA MC referrals to  
11 the PHA, as well as adequate HUD-VASH case management capacity  
12 to the accommodate PHA referrals to the VA MC."

13 Do you see that?

14 A Yes, I do.

15 Q Moving on to page 4, I'm looking at No. 2, Transfer of  
16 Care, at very top of the page.

17 Do you see where it says, "Describe the process of  
18 transferring case management services from the PHA to the VA MC  
19 to ensure a warm handoff and minimize the risk of a gap in  
20 care.

21 Describe the process for notifying and involving  
22 veterans in this transition.

23 Describe the process of obtaining release of information  
24 forms where necessary."

25 A Yes, I see it.

1 Q Okay. And there is more, but at the risk of reading the  
2 entire contract, I will stop there.

3 I'd just like to clarify, so would you agree that what I  
4 have just read and what is contained -- at least to what you  
5 have seen, right, what you have seen in the document, that  
6 describes certain housing responsibilities -- certain  
7 responsibilities the public housing agencies are going to  
8 undertake as designated service providers. Would you agree  
9 with that?

10 A Yes.

11 Q Okay. And just to be very clear, public housing agencies  
12 would volunteer to do this?

13 A Yes.

14 Q They would receive no funding to do this?

15 A At the present time, no. Yes, that is correct, they would  
16 not receive funding. Right now there is no funding that HUD  
17 could provide them for this, yes.

18 Q Why would a public housing agency do this?

19 A Some public housing agencies do have other resources and  
20 to the extent they thought it would help with their HUD-VASH  
21 utilization they might take that on.

22 Q To your knowledge has any housing agency within the  
23 Greater Metropolitan Los Angeles area determined that they had  
24 more resources to take this on?

25 A To the best of my personal knowledge, no, I don't know

1 that.

2 Q Okay. So, let's transition, then.

3 I would like to talk again about small area fair market  
4 rents, SAFMRs.

5 So Ms. Pitz went over a number of different ZIP codes  
6 with you, is it your understanding that those ZIP codes are ZIP  
7 codes within, let's say, relatively close proximity to the West  
8 LA Campus?

9 A That is my understanding, yes.

10 Q Okay. So just as a starter, do you know how many veterans  
11 are currently using HUD-VASH vouchers in ZIP code 90024?

12 THE COURT: Referring to Exhibit 222?

13 MS. SAVAGE: Oh, yes. I'm not actually looking at  
14 the exhibit, but it's the ZIP codes that Ms. Pitz went through.

15 THE COURT: He's got to look at the document, I  
16 think you are looking at 222?

17 MS. SAVAGE: We can certainly pull up the exhibit  
18 that Ms. Pitz introduced. I think it was supposed to be just a  
19 demonstrative, but it's fine to pull it up and we're fine to  
20 stipulate to its admission.

21 THE COURT: 222, that is what it was referred to,  
22 you are looking at 90024.

23 MS. SAVAGE: I'm apologize, Your Honor, that is not  
24 the exhibit. What I'm talking about is the map that Ms. Pitz  
25 pulled up during her examination.

1 THE COURT: Is it 1625?

2 MS. SAVAGE: Yes, that is the map.

3 THE COURT: It looks like this.

4 MS. SAVAGE: Just give it a second to come up,  
5 please.

6 All right. So these are, as we said, the ZIP codes that  
7 are proximate to the West Los Angeles campus, right?

8 THE WITNESS: Yes.

9 BY MS. SAVAGE:

10 Q So Ms. Pitz described -- well, Ms. Pitz talked with you  
11 about four different ZIP codes, so I'd like to ask you some  
12 questions with respect to those four ZIP codes.

13 Does that make sense?

14 A Yes.

15 Q Do you know how many veterans are currently using HUD-VASH  
16 vouchers in the ZIP code 90024?

17 A I don't know that personally, no.

18 Q And the ZIP code 90025?

19 A I don't know that personally, no.

20 Q And the ZIP code 90049?

21 A I don't know that personally, no.

22 Q And the ZIP code 90073?

23 A I don't know that personally, no.

24 Q Okay. And public housing agencies don't have to actually  
25 implement Small Area Fair Market Rents until January 2025;

1 isn't that right?

2 A That is the operational date that is mandatory, yes.

3 Q And HUD has not projected the impact of the SAFMR  
4 designation with respect to HUD-VASH voucher utilization in ZIP  
5 code 90024, specifically?

6 A No, we have not.

7 Q 90025?

8 A No, we have not.

9 Q 90049?

10 A No, we have not.

11 Q 90073?

12 A No, we have not.

13 Q Now, as of today, does HUD have any Los Angeles-specific  
14 evidence that the use of Small Area Fair Market Rents will, in  
15 fact, impact the number of unhoused veterans able to access  
16 housing in the ZIP code 90024?

17 A Not that I'm aware of, no.

18 Q 90025?

19 A Not that I'm aware of, no.

20 Q 90049?

21 A Not that I'm aware of, no.

22 Q Okay. And 90073?

23 A Not that I'm aware of, no.

24 Q Okay. I appreciate your bearing with me.

25 Again, we talked about this yesterday, but even with

1 small area of fair market rents put into place, as of January,  
2 that still doesn't redress the problem of landlord  
3 unwillingness to rent to either unhoused veterans or voucher  
4 holders more generally, right?

5 A In and of itself, no.

6 Q Okay. And I want to touch back to the referral issue.

7 Is it your understanding that landlord unwillingness  
8 is -- along with the overall shortage of affordable housing and  
9 the extremely tight rental market that we have been talking  
10 about the past few days -- that that's a reason for low voucher  
11 utilization in Los Angeles?

12 A I would say landlord unwilling to participate in the  
13 program is definitely a contributing factor in Los Angeles and  
14 throughout the country, yes.

15 Q Okay. But we never really get to the affordable housing  
16 issue until a referral occurs, right?

17 A Yes.

18 Q And we never really get to the landlord willingness to  
19 rent again until a referral from the VA occurs to the public  
20 housing agency?

21 A Yes. That's correct.

22 Q Thank you.

23 Okay. I have one last question for you, subject to  
24 further questions from my co-counsel.

25 And this is -- you talked about how if a veteran were to

1 get a new job, for example, and their income were to go up,  
2 under these new changes, that wouldn't impact their eligibility  
3 for HUD-VASH, is that a fair characterization? And if not,  
4 feel free to recharacterize.

5 A If they got a job, right, that is not a VA disability  
6 benefit. So, depending on how much income that job created it  
7 could affect their eligibility for the program. Yes.

8 But, again, if we're talking about somebody who was  
9 admitted to a project-based voucher unit, right -- so not  
10 tenant-based, just project-based vouchers, right -- in the VA  
11 medical center or where supportive services were being  
12 provided, the fact that their income increased and there was no  
13 longer a HAP anymore, they could remain under that contract in  
14 that assisted unit, yes, even though there is no longer a HAP  
15 payment. That was what I was trying to convey in my testimony.

16 Q That is very helpful. I appreciate that distinction.

17 And would that be true also at the recertification  
18 stage?

19 A In those particular PBV projects, if the PHA was  
20 exercising its 0 HAP option, yes. They would do the income  
21 calculation at the annual recertification. They would take  
22 into the consideration the change in the income, the increase  
23 in income. But to the extent it wiped out the HAP, that could  
24 allow that family to remain in the HAP contract even though  
25 there was no HAP being paid.

1 Q None of this, just to be clear, is applicable to the  
2 tenant-based program?

3 A There's correct.

4 MS. SAVAGE: Okay. Your Honor, I have been reminded  
5 that I did not admit Exhibit 225. Move to admit.

6 THE COURT: Received.

7 (Exhibit 225 received into evidence.)

8 (Later in the examination, this exhibit was  
9 not received into evidence.)

10 MS. SAVAGE: With Your Honor's permission, I would  
11 like to consult with my co-counsel.

12 THE COURT: Please.

13 MS. SAVAGE: Well, thank you so much for your  
14 patience, Mr. Dennis. I have no further questions.

15 THE COURT: Recross? But since you took the  
16 gentleman on direct, redirect. Any questions?

17 MS. PITZ: May I have just a moment?

18 THE COURT: Sure.

19 MS. PITZ: Thank you.

20 (Pause in the proceedings.)

21 MS. PITZ: Your Honor, if you are ready?

22 THE COURT: Please. Thank you very much.

23 MS. PITZ: Taylor Pitz for the federal defendants.

24 REDIRECT EXAMINATION

25 (Federal defendants' redirect examination)



1 BY MS. PITZ:

2 Q Mr. Dennis, we're almost done.

3 Opposing counsel asked you a few questions regarding  
4 HUD's offsets that were recently announced. I just want to  
5 make clear.

6 You earlier testified there is a special exemption for  
7 HUD-VASH vouchers; isn't that correct?

8 A Yes. We exclude from the calculation of excess reserves  
9 that are eligible for offset, in addition to the reasonable  
10 reserve that we leave for the PHA, the amount of funding  
11 necessary to fully lease their HUD-VASH vouchers.

12 Q And that's to fully lease all HUD-VASH vouchers?

13 A At least their entire allocation of what HUD-VASH  
14 vouchers, all 100 percent of HUD-VASH voucher leasing. Yes.

15 Q Thank you. And then counsel also showed you this document  
16 that, at the top says Memorandum of Agreement. I believe she  
17 marked it Exhibit 225.

18 A Yes.

19 Q Mr. Dennis, have you ever seen this document before?

20 A No, I haven't.

21 Q Is this a HUD document?

22 A I don't believe so.

23 Q Do you know whether this is a draft document?

24 A I don't know.

25 Q Could it be?

1 A It's possible, I don't know.

2 Q And then counsel also spoke with you regarding the letter  
3 to HVAC that we have gone back and forth over a number of  
4 times.

5 In your understanding, does that letter discuss a number  
6 of different, separate legal authorities that HUD was  
7 considering at that time as relates to the HUD-VASH program?

8 A Yes. It was addressing, I believe, three separate  
9 statutory questions that the VA committee had posed to HUD.

10 Q And to your understanding, HUD has only changed its  
11 position, if anything, as to the last of those three  
12 authorities, so that is with respect to the HUD-VASH waiver  
13 authority and not the statutory or regulatory considerations?

14 A That is correct, yes.

15 MS. PITZ: I believe that is all I have for you.

16 THE COURT: All right. Now, counsel, I think I  
17 previously received 225. I think that is a mistake by the  
18 Court. I think it lacks foundation.

19 So I want to put both counsel on notice. I thought --  
20 and it's my mistake. I thought you recognized this document.  
21 You don't recognize 225, this agreement?

22 THE WITNESS: I don't recall ever seeing that  
23 before.

24 THE COURT: It's going to need further foundation  
25 counsel. If I did receive it, I'm going to un-receive it. I

1 don't think the foundation is laid yet for that document.

2 MS. PITZ: Thank you very much.

3 THE COURT: Would you like to go home?

4 THE WITNESS: I would, sir.

5 THE COURT: Okay. Counsel, do you have any further  
6 questions of the gentleman?

7 MS. SAVAGE: No.

8 THE COURT: Sir, thank you very much. Have a safe  
9 trip now.

10 Why don't we take the lunch recess now so we can  
11 present the next witness instead of just for 15 minutes. And  
12 would 12:45 be okay?

13 Excellent. Have a good lunch.

14 (Lunch recess.)

15 THE COURT: We're back on the record. Counsel are  
16 present, the parties are present. Counsel, if you would like  
17 to call your next witness on behalf of the plaintiff.

18 MR. SILBERFELD: Thank you, Your Honor. Plaintiffs'  
19 call Dr. Jonathan Sherin.

20 THE COURT: Dr. Sherin, would you be kind enough to  
21 raise your right hand.

22 (Oath was administered.)

23 THE WITNESS: I do.

24 THE COURT: Please be seated.

25 Counsel, if you want to clean up these documents here,

1 off to the side unless you are going to use them, and represent  
2 them to me.

3 MR. SILBERFELD: That one I'm going to leave there.  
4 But these we can remove.

5 THE COURT: Before you identify yourself and I ask  
6 for your name -- I have done my best with you and Dr. Braverman  
7 and others, to disclose the length and breadth of the  
8 relationship, just for transparency. So I think counsel know  
9 that we have had numerous meetings when you were health  
10 director and afterwards. Okay.

11 Counsel, would you state your full name, please. I  
12 mean, Dr. Sherin, state your full name, please.

13 THE WITNESS: Jonathan Edward Sherin.

14 THE COURT: Would you spell your last name, sir.

15 THE WITNESS: S-H-E-R-I-N.

16 THE COURT: And would you also spell your first  
17 name.

18 THE WITNESS: J-O-N-A-T-H-A-N.

19 JONATHAN EDWARD SHERIN, M.D.,

20 having been duly sworn,

21 testified as follows:

22 THE COURT: Okay. Direct examination.

23 MR. SILBERFELD: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. SILBERFELD:

1 Q Dr. Sherin, good afternoon. You are a medical doctor?

2 A Yes, sir.

3 Q What kind of medical doctor are you?

4 A Psychiatrist.

5 Q You also have a Ph.D. after your name. What is that in,  
6 sir?

7 A Neurobiology.

8 Q And can you briefly describe your educational background  
9 from college forward?

10 A Sure. I was an undergraduate at Brown University. I  
11 majored in neuroscience.

12 From there I went to medical school at the University of  
13 Chicago, then spent four years getting a Ph.D. at Harvard in  
14 neurobiology where I studied neurocircuitry.

15 Then I went back to the University of Chicago to finish  
16 my M.D., came out to UCLA for a residency in psychiatry, which  
17 is when I had the pleasure of starting to work at the West Los  
18 Angeles VA.

19 Q Did you also serve your internship at UCLA?

20 A Yeah. My internship and residency. That's correct.

21 (Court reporter clarification.)

22 MR. SILBERFELD: Speeding up only makes things  
23 slower, John.

24 BY MR. SILBERFELD:

25 Q What was your first formal full-time job after schooling,

1 sir?

2 A My first formal full-time job is actually at the West Los  
3 Angeles VA as a staff psychiatrist.

4 Q And give us a year range of that, if you can.

5 A I believe that I was hired in 2003, and I was hired to run  
6 one of the inpatient psychiatry wards, which was called the  
7 BIP, the Behavioral Improvement Program, which was focusing on  
8 those veterans who had the most refractory-type illnesses.

9 Q What does refractory means?

10 A Refractory means nonresponsive.

11 Q Hard to treat?

12 A Hard to treat illnesses, including mental illnesses,  
13 addictions, lots of comorbid medical problems, as well as  
14 traumatic brain injuries, mild, moderate, and severe.

15 Q Comorbid that means a patient has more than one thing  
16 going on?

17 A That's correct.

18 Q All right. After being a staff psychiatrist for a time --  
19 roughly how many years was that, Dr. Sherin?

20 A I believe I was a staff psychiatrist, technically, for  
21 three years.

22 Q Did you have another position at the West Los Angeles VA  
23 after that, sir?

24 A Yeah. I had a sequence of jobs. Frankly, I spent so much  
25 time and fell in love with the mission so much that I began to

1 get a bit frustrated, along with my staff, taking care of very,  
2 you know, difficult cases -- putting people back together,  
3 trying to get them into the community, and finding that they  
4 would fall through the cracks and return to the ward, to the  
5 streets, to the jails, regularly.

6 And I became outspoken about figuring out ways to better  
7 care for these individuals, and to figure out a way for them to  
8 actually, once they were stable, stay in the community when  
9 they were discharged and continued to get adequate outpatient  
10 care. And based on my, I would say, internal advocacy, I was  
11 asked to do things, like to redesign the emergency department,  
12 which I did.

13 Ultimately, in that period of time, to be the chief of  
14 what were called hospital programs, so, all of the programs  
15 across the multiple hospital wards, as well as the domiciliary  
16 which is a residential treatment program.

17 Q And as the chief of hospital based programs, what did you  
18 do? What was your job?

19 A My job is really to better coordinate not only the  
20 relationship between the different units and the residential  
21 treatment program, but also to begin developing a better  
22 coordination with the outpatient sector at large, as well as a  
23 little bit with the community, and the community facilities  
24 where veterans would often go when they were discharged.

25 Q And after you were the chief of hospital based programs --

1 well, let me ask, what years was that, roughly?

2 A I can't tell you exactly, I believe that would have been,  
3 let's say, for the next three years, following my initial staff  
4 psychiatry role.

5 Q Does the period 2006 through -8 sound right?

6 A It sounds about right.

7 Q And after you were the chief of hospital based programs,  
8 did you then have yet another position at the West LA VA?

9 A Yeah I did. You know, I think based on my advocacy, I  
10 began to raise a lot of interest amongst the leadership team to  
11 figure not a way to just not integrate the hospital programs,  
12 but to bring the outpatient sector into the mix at West LA.

13 So, a new position was created to oversee all mental  
14 health services and addiction services across that campus,  
15 which I used this think of as the mother ship for GLA.

16 Q And what did that new position as the chief of psychiatry  
17 and mental health programs encompass?

18 A Well, it encompassed integrating the full continuum of  
19 care across the mental programs for veterans that received  
20 services at West LA.

21 As I can imagine, many of the veterans who would come  
22 into the hospital programs were receiving care only on that  
23 campus as outpatients, so it involved a lot of interplay with  
24 the CBOCs, with Sepulveda VA as well.

25 Q With what?



1 A Oh. The community based outpatient clinics. We call them  
2 CBOCs.

3 Q And then in about 2010, you left your formal employment at  
4 the West LA VA?

5 A Yes, I did.

6 Q And you went to where?

7 A Well, I was, I think, recruited by the Miami VA to be the  
8 chief of mental health for the Miami VA healthcare system. And  
9 I think a lot of that was due to my insistence that we open up  
10 our healthcare systems to engage the community mental health  
11 services and nonprofit organizations in a much more robust way.

12 Q And how long did you stay at the Miami VA, sir,  
13 approximately?

14 A I would say I was there for about two years, just under  
15 two years.

16 And I also was recruited to the vice chairman of the  
17 department of psychiatry behavioral health for the University  
18 of Miami.

19 Q As a psychiatrist, have you actually treated patients over  
20 the course of your professional life?

21 A Yes, I have.

22 Q And have you treated patients at the West LA VA?

23 A Yes, I have. Many.

24 Q Hundreds?

25 A Certainly.

1 Q Okay. Thousands, maybe?

2 A Maybe.

3 Q You left your formal employment with VA after roughly  
4 2012; isn't that right?

5 A That's correct.

6 Q Okay. And you haven't been employed full-time by the VA  
7 since, in the last 12 years or so?

8 A No, I have not.

9 Q But you have intersected with the West Los Angeles VA in  
10 that last 12 years on multiple occasion, have you not?

11 A Absolutely, yes.

12 Q And in 2015, did you have a special consultancy role that  
13 had to do with the *Valentini* settlement, sir?

14 A Yes, I did. I was brought in as a subject matter expert  
15 by the settlement partners to develop a master plan for the  
16 West LA VA campus as well as to aggressively improve  
17 coordination and collaboration across the county to decrease  
18 veteran homelessness.

19 Q Before we get to that --

20 THE COURT: Just one moment. I don't understand.  
21 Judge Otero had the case at that time. Were you asked to come  
22 in as an expert for both sides, or were you primarily with the  
23 plaintiffs at that time, and consulting in that regard?

24 THE WITNESS: That's a great question, Your Honor.  
25 I was brought in by the plaintiffs and the partnership. And

1 the secretary at the time, Bob McDonough, had his own  
2 specialist as well. And he and I were kind of co-leads on this  
3 effort.

4 THE COURT: Thank you very much. Thank you,  
5 counsel.

6 BY MR. SILBERFELD:

7 Q And that's what was referred to as the settlement  
8 partners?

9 A That's correct. And I would say for a significant part of  
10 that time that we were partners in a very genuine way, working  
11 on the exact same problem that we're here to try to solve.

12 Q And the settlement partners were Ron Olson, who was a  
13 lawyer at Munger Tolles?

14 A Yes.

15 Q And Secretary McDonough; is that right?

16 A Yes, sir.

17 Q We'll talk about that more in a moment, but let's just  
18 fill in the period 2012 to 2015.

19 What did you do professionally, Dr. Sherin, during that  
20 period?

21 A Well, I would like to say that, for personal reasons  
22 involving my child, I left the Miami VA, I would say before I  
23 really wanted to leave to come back, at least professionally,  
24 to come back to Los Angeles. And at that time I took a job  
25 with an organization called Volunteers of America -- which is a

1 very large, national nonprofit that has presence in essentially  
2 all states -- to be their chief medical officer, as well as  
3 their executive vice president for military communities.

4           And during that period of time, I helped them expand  
5 services across the country to deliver more care specifically  
6 to veterans. I did a lot of work developing new programs with  
7 the mental health expertise that hadn't existed previously. I  
8 did a lot of work in D.C. I testified to both the house of  
9 Veteran Affairs Committee, the full committee, on homelessness  
10 once and on veteran suicide once as well. I also got involved  
11 a lot with policy development at local and federal levels.

12           And actually, it was during that employment that I  
13 initially was brought in -- I was on loan to the settlement  
14 partners for a short period of time before they took me on  
15 full-time themselves.

16 Q       So you were asked to become a special consultant to help  
17 implement the *Valentini* settlement; is that right?

18 A       That's correct.

19 Q       And at the time that you were asked to do that, you were  
20 still employed by Volunteers of America?

21 A       That's right.

22 Q       Okay. And let me go back to your work at the VA LA for a  
23 moment.

24           As the national chief medical officer of the Volunteers  
25 of America, what were your duties?

1 A My duties were to really look at the organization, which,  
2 again, is a pretty massive direct service nonprofit that  
3 focuses on vulnerable populations, from kids and child welfare,  
4 to elderly, to developmentally disabled, and to veterans,  
5 particularly veterans who had suffered trauma and homelessness,  
6 and to really figure out ways to expand the reach into the  
7 military community at large. Which as I said, involved getting  
8 access to new resource streams, public and private influencing  
9 policy. Also, advocating, you know, for Volunteers of America  
10 and more broadly for the vulnerable populations in our country  
11 who suffer.

12 Q And do those vulnerable populations include the homeless?

13 A I would say the homeless, the incarcerated, were at the  
14 top of the list.

15 Q And that includes work with homeless veterans?

16 A Yes, I would say homeless veterans is my top priority.

17 Q You were also at the VOA as the executive vice president  
18 for military communities. Please tell the Court what that was  
19 all about.

20 A Well, I was just trying to summarize generally my overall  
21 role there which included both my role as chief medical  
22 officer, overseeing and helping develop specialized programs  
23 with a particular focus on mental health and addictions, as  
24 well as my role as executive vice president for military  
25 communities.

1 Q And again, for a moment, I want to skip over your role in  
2 the *Valentini* settlement. We will come back to it.

3 But I want to ask you what you did next after you  
4 concluded your work as a special consultant to the settlement  
5 partners. What was your next job, sir?

6 A After that role, I was recruited by the County of Los  
7 Angeles, who was looking for a new mental health director. And  
8 I served as the director of mental health after my appointment  
9 in 2016 for about six years, and then stepped down, say, almost  
10 two years ago.

11 Q And describe, if you would, what the Los Angeles County  
12 Department of Mental Health is and how it rates or ranks in  
13 terms of size to other like departments in the United States.

14 A Well, Los Angeles County is a state nation, so, not  
15 surprisingly, it's the largest mental health department in the  
16 country.

17 The County of Los Angeles is the size of Georgia. It's  
18 over 10 million people. The focus of these departments are  
19 safety net, including individuals who are indigent and/or on  
20 Medicaid. Primary population focus would include those with  
21 severe, persist mental illness; addictions; in the streets; in  
22 the jails; in probation; juvenile probation; child welfare,  
23 foster care system.

24 Those are really the primary, target populations,  
25 although we served, generally, anyone across the board in our

1 communities with -- who met criteria for serious mental  
2 illness, according to CMMS Medicaid.

3 Q Did your time as the director of mental health for the  
4 County include work with homeless individuals?

5 A Absolutely.

6 I think I surprised a lot of folks, including primarily  
7 my staff, because I focused on moving the department and its  
8 culture towards those who were the most ill in the streets.  
9 And I did that not just by program design, but I did it myself  
10 as a street psychiatrist, to try to help impress upon people  
11 that that was our primary objective -- those who were the most  
12 ill and most challenging to care for.

13 Q And same question. During that six year period as the  
14 director of mental health for the County, did you work with and  
15 encounter homeless veterans, sir?

16 A I did. Regularly. And one of the programs that I  
17 developed where I was the treating psychiatrist was called the  
18 HOME program, the HOME team -- Homeless Outreach and Mobile  
19 Engagement team.

20 Q Slow down a little bit. HOME is an acronym, H-O-M-E; is  
21 that right?

22 A That's right.

23 Q And it stands for? Slowly.

24 A Homeless Outreach and Mobile Engagement.

25 Q Perfect.

1 A Yeah.

2 Q All right. And that was a program you developed, Doctor?

3 A Well, it was a program that existed before me, but it  
4 didn't focus on individuals who were suffering and most  
5 vulnerable on the streets, and chronically homeless.

6 And as a part of my efforts to redirect the department  
7 towards those who were the most vulnerable, we changed the way  
8 that -- we changed the target population that we were reaching  
9 out to. And we changed a lot of the basic protocols and  
10 policies in place to get access to them and try to bring them  
11 into the community.

12 Q After retiring from the role of director of mental health  
13 at the County, since that time, since 2022 to the present, have  
14 you served on a number of boards?

15 A Yes. I would like to finish with the County though, if I  
16 might, sir.

17 Q Sure.

18 A During that period of time, as the County director, I  
19 created a new program entirely called the -- I will go  
20 slowly -- VPAN, the Veteran Peer Access Network. The Veteran  
21 Peer Access Network was designed to train, certify, and employ  
22 veterans across Los Angeles County to connect with, and bring  
23 out of harms way their brothers and sisters, with a focus on  
24 homelessness and those at risk of suicide.

25 The entire purpose of that program, and the reason why I



1 called it a network, is that it interfaced actively and was  
2 created actively with the County, multiple departments in the  
3 County, the VA, and I would say network 22, not just GLA, the  
4 State Veteran Department, as well as numerous veteran service  
5 organizations.

6 And we convened for a long period of time to ensure that  
7 multiple -- the multiple entities who were sharing a lot of the  
8 responsibility, were coordinating, were pooling resources.

9 And one of the primary goals was to identify veterans  
10 who were not getting care at the VA and get them enrolled at  
11 the VA because the VA has -- for people who engage, has such  
12 great results.

13 Particularly around suicide risk.

14 Q And is VPAN, at least in part, an expression of the Battle  
15 Buddy idea?

16 A The VPAN is Battle Buddy 101, and it's one of the things I  
17 worked on that I'm most proud of. And I actually did that  
18 going back to -- my work at Volunteers of America was to create  
19 Battle Buddy programs in a number of different markets,  
20 including Los Angeles. In Los Angeles, we had one funded by  
21 the UniHealth Foundation. It was our original big investment  
22 to hire veterans.

23 I believe now that that program probably has an annual  
24 budget approaching \$10 million. When I created it through the  
25 Department of Mental Health, my goal was always to hand it off

1 to Military and Veteran Affairs Department in LA County, who  
2 didn't have, I think, the wherewithal at the time, to do it  
3 themselves. And my understanding from my communications with  
4 my successor, that has happened, literally within the past  
5 several months.

6 So the funding and the oversight of that program, which  
7 is overseeing a network of Battle Buddies, is now under the  
8 authority and direction of the Department of Military and  
9 Veteran Affairs For Los Angeles County.

10 THE COURT: What's the Battle Buddy idea,  
11 Dr. Sherin?

12 THE WITNESS: Well, the Battle Buddy idea is really  
13 based on the connection between people in the military  
14 community. The fact that when individuals enlist, they are  
15 assigned a battle buddy who is to look after them under  
16 circumstances where they are at risk.

17 It takes that basic mantra, that ethic in to, you know,  
18 the communities where we live, where it continues to be  
19 critical.

20 A vet engaging a vet is very different from a vet  
21 engaging with a clinician who doesn't understand that  
22 mentality, doesn't have the shared or lived experience that can  
23 be used as a way to connect, because there is credibility,  
24 there is trust.

25 I'm a highly trained clinician. I don't pretend to be

1 able to engage a vet as a vet. My dad, my uncle, my  
2 grandfather were all combat vets. I'm not. I don't pretend to  
3 be, and clinical training can't give that you type of  
4 understanding.

5 Q Okay. After you left the County, you joined a number of  
6 organizations on a for-profit basis -- businesses and boards --  
7 isn't that right, sir?

8 A Yeah. I'm advising a number of start-up companies that  
9 are looking to, really I would say, transform the way that  
10 mental health is delivered with a significant peer component.  
11 So when we talk about vet to vet, that is a peer relationship.  
12 The term peer is more broad, so anyone with lived experience  
13 would be able to engage with another.

14 In addition, I'm on advocacy boards. I'm a member of  
15 the Steinberg Institute, which is based in Sacramento. It's  
16 founded by the current mayor who was the pro tem for the senate  
17 and the author of the millionaires tax across California. And  
18 it is an advocacy board with a great deal of impact across the  
19 state.

20 And in fact, when I was in LA County I worked with this  
21 institute to get the peer certification bill passed so that  
22 these peer programs could be funded by Medicaid. And it took  
23 four legislative seasons to realize that outcome.

24 I'm also a member of the Treatment Advocacy Center which  
25 is a national mental health advocacy group that looks at how to

1 improve engagements, access, and treatment quality for those  
2 suffering from serious mental illness across the country.

3 Q Dr. Sherin, you have contributed, have you not, to the  
4 scientific literature by publishing?

5 A Yes, I have.

6 Q I counted up, from your CV, approximately 20 publications?

7 A That's probably about right. Yeah.

8 Q And you have held a number of clinical appointments at  
9 hospitals and educational institutions?

10 A I have.

11 Q I counted eight.

12 A That sounds about right.

13 Q I counted up that you have received something on the order  
14 of 17 separate awards for your work and for your efforts. Does  
15 that seem right to you, sir?

16 A That is -- I would say that's right. There is one in  
17 particular that I'm quite proud of, if I might.

18 Q Sure.

19 A That involves a finding I had a graduate student on sleep  
20 circuitry and identifying what many call the sleep switch,  
21 which has really driven a lot of the research around the world  
22 for the past couple of decades, and is now a part of textbooks.

23 The reason I bring it up is because sleep is so critical  
24 to mental health. And I believe the field will start, at some  
25 point, hopefully, focusing on sleep as a vital sign in the way

1 that we have vital signs for physical health.

2 Q By my count, from your CV, you have about 11 courses that  
3 you have taught, people that you have supervised, and  
4 individuals that you have mentored over time.

5 Does that seem about right to you, sir, without going  
6 into each one?

7 A Yeah. I would say I have taught lots of different  
8 classes. I have developed dozens and dozens of programs. But  
9 in terms of supervising and mentorship, the number is through  
10 the roof. It's a lot more people than that.

11 Q Well, they may be distinct appointments. And that you  
12 have made something on the order of 22 presentations to various  
13 bodies, whether it's congressional bodies or medical meetings,  
14 for example; is that right?

15 A I think it's a lot more than that, but that number is  
16 fine.

17 MR. SILBERFELD: Okay. Your Honor, we have got  
18 Exhibit 85, which is this document here, sir.

19 THE COURT: Thank you. Is that the CV?

20 MR. SILBERFELD: It's where the tab is. It's a CV.

21 THE COURT: All right. Thank you.

22 BY MR. SILBERFELD:

23 Q Dr. Sherin, take a look for us at the CV, and can you just  
24 verify for us that that's a reasonably current CV of yours?  
25 Does it look reasonably up to date?

1 A It does. And I have a new academic appointment, not here,  
2 very recently. But that is not necessary.

3 Q Well, tell us what that one is just for the record's sake.

4 A There is a new medical school in Las Vegas founded by a  
5 great humanitarian colleague of mine, and I am -- I was  
6 recently appointed as a voluntary clinical professor.

7 Q Okay. And that just happened in a last few weeks?

8 A Maybe a couple of months, but clearly before -- I don't  
9 see it here.

10 MR. SILBERFELD: All right. Your Honor, we offer  
11 Exhibit 85, pages 17 through 37, which are the CV.

12 THE COURT: Received. You may proceed.

13 (Exhibit 85, pages 17 through 37 received into evidence.)

14 MR. SILBERFELD: Thank you, Your Honor.

15 BY MR. SILBERFELD:

16 Q Dr. Sherin, do you have specialized knowledge about  
17 homelessness?

18 A Yes, I believe I do.

19 Q Do you have specialized knowledge about homelessness among  
20 the veteran population?

21 A Yes.

22 Q And do you have specialized knowledge about mental health  
23 and addiction in general?

24 A Yes.

25 Q And mental health and addiction in the veteran population

1 in particular?

2 A Yes.

3 MR. SILBERFELD: Your Honor, we offer Dr. Sherin as  
4 an expert on these topics, as well as, solutions and strategies  
5 to end homelessness in Southern California among veterans.

6 THE COURT: You may proceed.

7 MR. SILBERFELD: Thank you, Your Honor.

8 BY MR. SILBERFELD:

9 Q Dr. Sherin, you have been involved in this case at my  
10 request. Do you remember that?

11 A I do.

12 Q And that was earlier this year, right?

13 A Yes.

14 Q And we sent you some materials to read and review?

15 A Yes.

16 Q And we asked you to write an expert report, correct?

17 A Yes.

18 Q And then you had your deposition taken more recently?

19 A Yes, I did.

20 Q And you brought to this task that we're asking you about  
21 today all of your experience with respect to the subject of  
22 homelessness among veterans, have you not?

23 A Yes, I have.

24 Q I do want to go back and talk about your role with respect  
25 to the *Valentini* settlement, but just before I do that, you

1 said right at the beginning of this examination of you, that  
2 you fell in the love with the mission of VA.

3 Do you remember saying that?

4 A Yeah, I do.

5 Q And how do you feel about VA today, sir?

6 A I feel the same way about the VA and the mission clearly.

7 That's why I continue to advocate on behalf of vets,  
8 particularly those who are suffering and their families.

9 And there are a lot of incredible people who are  
10 committed to the mission of caring for vets who work in the VA.

11 Q And it's with that frame of mind that you formed the  
12 opinions you are prepared to express here today; is that right?

13 A Yeah. I'm -- you know, I mean, I'm not sure exactly what  
14 you are specifically getting at there.

15 I am fully committed to taking care of vets, advocating  
16 for vets, and trying to figure out ways to get our Government  
17 systems, whether it's the VA or the County or any other entity,  
18 to function more effectively.

19 Q Let's go back to now your role as a special consultant  
20 with respect to the *Valentini* case. All right?

21 A Uh-huh.

22 Q What actually did you do in that role?

23 First of all, how long did that role last, roughly?

24 A I would say about a year and a half.

25 Q What was your specific role as a special consultant in



1 regard to the *Valentini* settlement?

2 A Well, my specific role was really to work as a partner  
3 with the VA team to develop strategies across the region to  
4 improve the care for those who were suffering from  
5 homelessness, particularly those who had substance abuse and  
6 mental health challenges.

7 And I would say, predominantly, to help develop a master  
8 plan for the West Los Angeles VA Campus, which I had known for  
9 a number of years and, you know, where I used to run mental  
10 health and my history with that campus actually goes way back.

11 Q Okay. And is there one big idea you wanted to convey to  
12 the settlement partners and to the VA about what to do with  
13 that West Los Angeles Campus to implement the master plan you  
14 were a part of?

15 A Absolutely.

16 Q What is that big idea?

17 A Well, the big idea is to create an intentional community  
18 that would care for, house, provide recovery opportunities, and  
19 reintegration opportunities for vets who had not done well upon  
20 return from service, whether combat or not.

21 Many of whom have been struggling for years, and even  
22 decades, and also to leverage that intentional community as  
23 what I like to call prevention platform so that individuals who  
24 were at risk of becoming homeless, cycling in and out of  
25 addictions, jails, being at risk for self harm would have a

1 change in their life trajectory by accessing a place where they  
2 felt they belonged, a place where they could have purpose, and  
3 in many ways avoid the pitfalls that many suffer when they  
4 leave -- when they leave the military.

5 Q Is your notion of an intentional community composed of  
6 people, place, and purpose?

7 A Yeah, that's one of my old slogans, people, place, and  
8 purpose.

9 Q All right. Would you describe what you mean by people,  
10 place, and purpose?

11 A Yes.

12 Q Slowly.

13 A Okay. People, place, and purpose, for me, are really the  
14 fundamental domains of community.

15 So while it's important, and I say this, as a  
16 psychiatrist and as a neurobiologist, for someone to get  
17 treatment for a condition at the end of the day what really  
18 matters is being connected to family of origin or close friends  
19 who provide kinship and support. A place to live, to relax, to  
20 recreate, and purpose and meaning in life. Because individuals  
21 who have those three domains in place are likely to be  
22 flourishing.

23 Q And what about if they don't?

24 A Well, if they don't, they oftentimes will become quite  
25 isolated or develop worsening conditions.

1 Q Just by way of background, you have looked at a number of  
2 the pleadings and the orders in this case?

3 A Yes.

4 Q And you have met with some of the other experts involved  
5 in this case?

6 A Yes, I have.

7 Q And coordinated your expert work with some of theirs?

8 A Yes. As with the first case, I feel I try to inform,  
9 educate individuals on the team about the basic principles we  
10 need to focus on in dealing with vulnerable populations and  
11 particularly those who are homeless.

12 Q And you visited the site numerous times?

13 A I have toured the West LA VA Campus over 100 times  
14 probably in my life.

15 Q But since you were asked to be an expert witness here,  
16 have you been out there at least on couple of occasions?

17 A Yes, I have.

18 Q And you know the area well?

19 A Very well.

20 Q Who are the other experts you worked with in connection  
21 with your expert work in this case?

22 A In recent months?

23 Q Yes.

24 A In recent months I have met with and I believe toured with  
25 you, with Mr. Rosenbaum, with developers, Steve Soboroff. I

1 think those are the major people that stick out for me as  
2 individuals I have toured the campus with.

3 Q And for purposes of your expert work in this case, have  
4 you made certain assumptions about need?

5 A Well, I think -- I would say yes, I have, and I --  
6 frankly, they're quite similar to what they have been for many  
7 years.

8 Q What are those needs, Dr. Sherin?

9 A Well, there are too many veterans who are frankly homeless  
10 or cycling in between homelessness and the jails and the  
11 hospitals, suffering in many cases, getting sicker, especially  
12 when they have long periods of time homeless, not getting  
13 access to treatment, which is, you know, needed for individuals  
14 to pursue and remain in community.

15 There is not enough housing, there is not enough  
16 support, and there is not enough community, and there is not  
17 enough dedicated community for veterans.

18 A big component of that gets back to my work with Battle  
19 Buddies, because the relationship and the support that  
20 communities of veterans can provide for each other is critical.

21 And I say it's critical, not only for those who are  
22 disconnected and isolated and have been languishing for long  
23 periods of time, but for those who separate from service, where  
24 during service, they've belonged to a team and they've had a  
25 mission that they've shared. And when you separate and you

1 come back to civilian society, it can be quite difficult and  
2 traumatic to make that transition, where you are no longer a  
3 part of the community, the military community, and where you  
4 don't have a clear mission that is being defined for you.

5 And we as a nation and a society I believe have an  
6 obligation to provide platforms such as what was done following  
7 the Civil War, for individuals who are having difficulty  
8 assimilating.

9 Q Okay. What are the consequences from a medical and  
10 psychiatric perspective, Dr. Sherin, of homelessness?

11 A Well, you know, homelessness, in and of itself, is deeply  
12 traumatic for a number of reasons.

13 And I would like to make a short statement about  
14 becoming homeless, and there's a lot of debate about this.

15 I believe that there's a relatively small percentage,  
16 under 20 percent, who become homeless primarily because of the  
17 severity of their mental illness.

18 However, becoming homeless, being homeless for any  
19 extended periods of time, and suffering the trauma of not being  
20 safe, not having sanitary conditions, not having access to good  
21 food, being preyed upon, getting addicted to drugs, either to  
22 stay awake or numb the pain, that these stressors en masse  
23 generate a tremendous amount of serious mental illness,  
24 behavior health conditions.

25 So preventing people from getting into this street in

1 the first place and remaining in the street is paramount.

2 Our systems are not built to manage the amount of  
3 pathology that is being generated, frankly, in our streets and  
4 in our jails.

5 Q Is housing a healthcare issue for you?

6 A Housing is definitely a healthcare issue for me.

7 Q Explain why?

8 A Well, I think there are a number of reasons.

9 First of all, and most fundamentally, it's very  
10 difficult to provide care properly to an individual who is in  
11 an environment such as an encampment or, frankly, even a  
12 shelter.

13 So having a stable environment where someone can rest  
14 and can engage properly, or can get to a clinic and return, is  
15 fundamental to health across the different fields of medicine.

16 It's a healthcare issue, which I was just describing  
17 because -- or a health issue because not having housing is  
18 essentially bathing in a toxic environment.

19 Someone with diabetes, you don't feed them sugar all day  
20 long. Someone with a mental illness or with an addiction, you  
21 don't leave them in the street.

22 Q From the time you got involved in the implementation of  
23 the *Valentini* settlement to today, that's roughly eight years  
24 now, right, 2016 to the present?

25 A Yeah. I believe it goes back longer than that, but that's

1 fine, that is true.

2 Q Well, let's just use that period.

3 Have you formed an opinion, Dr. Sherin, about the speed  
4 and breadth of the Governmental response to veteran  
5 homelessness?

6 A Yes, I have.

7 Q What is that opinion, sir?

8 A Well, I think the speed of the response, having been  
9 involved from the *Valentini* case until now, has been entirely  
10 inadequate.

11 I think the breadth has been narrowed such that the  
12 envisioned intentional community has been largely modified into  
13 a housing project and that many of the components of community  
14 are either being sidelined or, frankly, extracted.

15 Q Okay. Speed is just a function of time, it's taken a long  
16 time by your view, correct?

17 A Yes. It has taken a long time.

18 Q Too long?

19 A Well, I mean, I'm an aspirational guy, so, yeah, it's  
20 taken a long time. I mean, that was eight years ago. We had a  
21 settlement in 2016 and we had a lot of momentum and, frankly,  
22 the momentum wasn't even necessarily entirely with the team,  
23 the momentum was with the community of veterans around this  
24 region and, frankly, across the country who were aware of what  
25 was going on and were the primary architects of what went into

1 that master plan because of the intense amount of stakeholder  
2 engagement that we did for a year.

3 And that momentum, in my opinion, has sputtered  
4 because of a lack of progress, and my fear there, is that you  
5 again lose credibility, you lose the hope and the trust of the  
6 veteran community when there's a movement like this and we  
7 don't deliver.

8 Q So in 2015 and '16 when the draft master plan was devised,  
9 you said there was energy around that and stakeholder  
10 engagement, correct?

11 A Yeah, tremendous amount.

12 Q And stakeholders like veterans?

13 A Primarily veterans, yes. I spent, I would say, a third to  
14 a half of the time working for the settlement partners doing  
15 town halls, engaging with veteran service organizations, even  
16 generating specialty groups from different eras, to make sure  
17 they were trained and aware of all of the things that were  
18 happening and getting them to provide input about what they  
19 wanted on their campus.

20 Q Was there a time with respect to the 2016 draft master  
21 plan where comments were received from the community or  
22 veterans or others?

23 A Every day.

24 Q About how many comments in total came in?

25 A Well, if you are referring to the National Register, the



1 Federal Register, there were over 1,000 comments that came in  
2 and I believe at the time that set a record for stakeholder  
3 engagement, at least that's what I was told, I don't know the  
4 history of the Federal Register.

5 Q But that doesn't count the town halls, for example?

6 A No, no, not at all. The town halls, the community  
7 meetings, the impromptu meetings with individuals on the  
8 campus, in the community, that was separate and apart, but  
9 equally important.

10 And the Federal Register 1,000 comments, let's  
11 just say that the partners got to know each other quite well  
12 going through every page and every line to try to incorporate  
13 what we are being told into the master plan.

14 Q The 2016 draft master plan had a certain scope or breadth,  
15 did it not?

16 A Yeah, it did.

17 Q Okay. And before we get into what that was, did that  
18 scope and breadth get narrowed in the '22 master plan that was  
19 adopted?

20 A I would say yes.

21 Q Can you just give us some examples of the differences?

22 A Well, one of the most important parts of that, the draft  
23 master plan, the 2016 plan, was an area on the North Campus on  
24 the east side, just below UCLA's baseball field, which I have  
25 always called "the reintegration zone." That was meant to

1 bring both civilian and military communities together, it was  
2 meant to be a place for training and trades for education, for  
3 the colleges, the community colleges, UCLA, USC, to come in and  
4 really engage veterans in a very proactive way.

5 There were plans to have lofts for art spaces, there are  
6 a number of different kind of machine shops there that could be  
7 used for certain types of vocational training.

8 And that section -- and this is just one of the major  
9 things was -- disappeared from the plan. I had no idea how  
10 that happened or why or when it happened, but when I was  
11 brought in to take a look at the plan at a later date, that's  
12 the first thing I said is, "Where is the reintegration zone?"

13 THE COURT: Could I see where it is, counsel? If  
14 both counsel could help the Court. We've got a newer map and  
15 an older map, I think you want to take the older map. And the  
16 exhibit number again, counsel, is?

17 MR. SILBERFELD: I think this is Exhibit 1 page 291.

18 THE COURT: Why don't some of you folks help and  
19 move that over towards the witness. That would help me just  
20 see the baseball field, where is this reintegration zone?

21 THE WITNESS: Can you see it here?

22 BY MR. SILBERFELD:

23 Q Is it the area between Constitution and Bonsall?

24 A Yeah, this whole area here, which is quite industrial.

25 Initially, also, the plan was for the MTA -- the MTA was

1 supposed to stop there, feed the reintegration zone, feed the  
2 medical center, somehow that changed. It went right in the  
3 heart of the parking lot.

4 THE COURT: Counsel, could you help me, could you  
5 show me where --

6 MR. SILBERFELD: It's right here.

7 THE COURT: Could you show me where the property is  
8 where the wells are located?

9 THE WITNESS: So the wells are located right there  
10 and there's another well so --

11 MR. GUADIANA: There is the drill site right there  
12 and right there.

13 THE COURT: So 297 --

14 MR. GUADIANA: There is the drill site right around  
15 this area.

16 THE COURT: So 297 and south, or towards Wilshire,  
17 that's easier way to say it, that -- and, Doctor, would you  
18 trace this again roughly reintegration zone.

19 THE WITNESS: This whole area.

20 THE COURT: Does that include the drilling site?

21 THE WITNESS: Yes.

22 THE COURT: Thank you.

23 BY MR. SILBERFELD:

24 Q Dr. Sherin, beyond the reintegration zone were there other  
25 big differences between the draft master plan of 2016 that you

1 were involved with and the '22 plan?

2 A Yeah, there were. I could just list them and I can -- the  
3 ones on the top of my mind and I can go through them if you'd  
4 like.

5 The town center I think was very much downgraded.

6 An area to the northwest, opposite the Brentwood  
7 business district, had been designed as entrepreneurs row,  
8 which would have been specifically for service-disabled veteran  
9 owned small businesses to have space, where there is parking  
10 lots right now and a dog park.

11 The five original buildings from the campus --

12 THE COURT: The historic buildings?

13 THE WITNESS: The five historic buildings with  
14 alternate uses for them with the heavy focus on the chapel,  
15 which still needs work on to this day, which is the beacon of  
16 hope on that campus, in my opinion, and really ought to be  
17 resurrected, not just as a spiritual center, but as a symbol of  
18 hope for veterans and the fact that that campus is going to be  
19 redeveloped.

20 BY MR. SILBERFELD:

21 Q Without regard to your role here as a witness, Dr. Sherin,  
22 you have had a deep and abiding concern about that chapel for  
23 sometime, have you not?

24 A Yeah.

25 Q What is the 1887 Fund, Dr. Sherin?

1 A Well, going back to 2008, when I met with the -- at the  
2 time the matriarch of the family that donated the campus, we  
3 wanted to get -- we wanted that -- we wanted to chapel to be  
4 restored and we wanted to train, certify, and employ vets to  
5 get it done.

6 We developed a nonprofit called the 1887 Fund,  
7 the board members included Mike Mullen, Admiral Mike Mullen,  
8 former --

9 (Reporter Clarification.)

10 THE WITNESS: I'm sorry, I keep speaking fast.

11 Admiral Mike Mullen, who is the former chair of  
12 the Joint Chiefs of Staff, is on our board, the wonderful  
13 former mayor, Dick Riordan, who had got to pony up a lot of  
14 money, was on the board.

15 And we after many, many years of advocacy finally  
16 managed to get a lease for that chapel so we could raise money.  
17 We've almost raised enough money to get the work done to  
18 restore it.

19 What we're hoping there is that it would not be just a  
20 convening site, but also a site to begin addressing moral  
21 injury, which is a phenomenon that traumatized populations  
22 suffer, and particularly veterans and combat veterans.

23 And it's something that the VA -- I applaud for its  
24 focus on moral injury, and I would say this campus ought to  
25 have the big flagship moral injury program in that chapel.

1 BY MR. SILBERFELD:

2 Q What is moral injury?

3 A Moral injury is -- the concept of moral injury is really  
4 articulated by a VA psychiatrist in Boston with a similar name,  
5 Jonathan Shay, who recognized that vets with post-traumatic  
6 stress disorder sometimes had symptoms that would continue to  
7 linger and we often refer to that as chronic PTSD.

8 But some of the injuries that are suffered are  
9 based on the fracture of a belief system, doing things, seeing  
10 things that violate one's code of behavior, one's understanding  
11 of what is right and wrong, can lead to moral distress, moral  
12 injury.

13 And in my opinion, moral injury, which may also be  
14 known, I would say in some circles, as an existential crisis is  
15 one of the primary drivers of suicide in the veteran population  
16 and beyond.

17 So it's very important that we elevate it as a mental  
18 health problem and program or a mental health adjacent program.

19 Q Do you believe that the West LA VA Campus should be  
20 re-imagined as a campus for reintegration of veterans into the  
21 broader community?

22 A I do, passionately, and have for many years.

23 Q Can you explain the concepts of reintegration, please?

24 A Well, earlier I was making comments about the transition  
25 from being a part of the military community to returning as a

1 civilian, which in and of itself, whether there is combat or  
2 not, can be quite traumatic.

3 Re-entering civilian society effectively and flourishing  
4 is essentially the process of reintegration. And we know that  
5 certain populations who are not in civilian communities, will  
6 struggle reintegrating, and I say that about individuals who  
7 have been incarcerated, people who have been homeless, people  
8 who have served in the military.

9 And reintegration, depending upon what challenges are  
10 occurring for an individual, will require certain types of  
11 resources.

12 And if you return to the people, place, and purpose --  
13 I'm trying to slow down -- concept, those are really the  
14 elements that we need to be thinking of.

15 So, that campus, if it was resourced across the board in  
16 the way it was articulated in the 2016 plan, and less so in the  
17 more recent plan, serves as a platform for reintegration for  
18 vets who come together, whether they live there or not, where  
19 there can be intentional deliberate interaction with  
20 surrounding communities, where veterans can stay, live for a  
21 period of time, short period of time, long period of time.  
22 Where access to not just housing and services, but also  
23 opportunities, for example, working on the campus or getting  
24 trained to be a very productive member of our communities, as  
25 well as amenities and environments.

1           But that recipe will foster reintegration broadly for  
2 those who have fallen out of community for long periods of  
3 time, and for those who are at risk of falling out of  
4 community, and being our next generation of homeless veterans.

5 Q       All of these efforts, I think you appreciate, will take  
6 some time, right?

7 A       I worked in the VA in LA County.

8 Q       Is the answer "yes," sir?

9 A       Yes, sir.

10 Q       Do you have an opinion, Dr. Sherin, as to whether or not  
11 there is a need, an urgent need, for temporary housing on the  
12 West LA VA Campus?

13 A       I have very strong feelings about the need for temporary  
14 housing, but if I might, I think of it more as temporary  
15 community. I believe that --

16 Q       Explain that, please.

17 A       Okay. Temporary housing, just like housing in and of  
18 itself is inadequate for people to heal and recover and  
19 reintegrate. So whether it's the building of what the  
20 illustrious Bobby Shriver calls cathedral of the West LA VA or  
21 a temporary version of the community, it's not just the  
22 housing.

23 Q       What are the other components?

24 A       The other components are what I refer to as the  
25 "connective tissue of community," the community fabric that I'm



1 talking about with you, I have been talking about with you.  
2 And, in my opinion, this is something that I did advance  
3 somewhat in the County of Los Angeles, although, I refer to  
4 temporary communities as "triage communities," would be set up  
5 with some type of shelter or housing, with proper food,  
6 hygiene, sanitation services, with opportunities to do work,  
7 even if that means keeping that area clean, cooking the food,  
8 places to recreate, places to socialize, places for  
9 opportunities for self-governance. And I made this argument  
10 very, very aggressively back in 2015 with the VA to develop  
11 temporary or triage communities and it didn't happen.

12           Since then there have been tiny homes, but those tiny  
13 homes are essentially isolated and if you go and talk to the  
14 vets there, and I have, they'll say we don't have anything to  
15 do during the day, that's a major complaint.

16           I would suggest that this is not just the problem with  
17 -- or a solution for vets, this is something that is a  
18 challenge across the homeless populations throughout our  
19 country and certainly across LA. That we have to give people  
20 an opportunity not to live and develop their own communities on  
21 sidewalks, but you have to let them have temporary communities  
22 in places that are -- where healthy behaviors and where  
23 engagement with the healthcare system can occur more  
24 meaningfully, not as a permanent goal, which is the reason why  
25 I like the term triage community, because it's a community

1 where people can come out of harm's way, be engaged, and triage  
2 to resources that will help them in a more permanent way.

3 Q Let's talk about some of those services that you believe  
4 have to be present in addition to temporary housing.

5 All right?

6 A Yeah.

7 Q Do you believe that veterans who return to the campus in  
8 temporary housing will require ready access to on-site  
9 healthcare?

10 A Absolutely.

11 Q And rehabilitative services?

12 A For sure.

13 Q As well as a full range of resources to most effectively  
14 prevent their becoming homeless again or end their experiencing  
15 homelessness period, right?

16 A Yeah.

17 Q What types of services do you have in mind?

18 A Well, I would say that the full range of healthcare  
19 services, medical services across all fields, including mental  
20 health, are critical.

21 We provide those services in people's homes that live  
22 out in -- long distances from the campus, so doing it on the  
23 campus to me is an absolute no-brainer. But, again, it's more  
24 than the healthcare services, the case management, the care  
25 coordination. People who are living on that campus need

1 additional resources, such as -- that fall into the categories  
2 I have already articulated, not just services, but amenities,  
3 and environments.

4 Q What is the rationale and importance of doing this for  
5 veterans who are homeless in Southern California today?

6 A Veterans who are homeless in Southern California today  
7 need housing and they need it now.

8 If we're talking about the temporary components.

9 Q Yes, sir.

10 A And they also need access to community, and resources that  
11 are available to them to be together and to benefit from that  
12 access. That campus could provide that on both the temporary  
13 basis, as well as longer term.

14 Q Well, we have heard estimates of homeless veteran  
15 population that range from as low as 2,000 to as high as 4,200  
16 individuals.

17 What number have you assumed to be the homeless veteran  
18 population for purposes of your expert work in this case?

19 A Well, I think we all look to the Point in Time count as  
20 kind of the bellwether for the number of homeless people in any  
21 category, whether it's a age group, or being a veteran or a  
22 nonveteran.

23 I have never been a big fan of it because I think it's  
24 very inconsistent and an inexact science. But then again, it's  
25 a very challenging thing to do.

1           Essentially, 10 percent of all homeless veterans are in  
2 LA County. The number that has been kicked around for a while  
3 has come down a bit. It was 4,000, now it's down maybe 3,000.

4           To me, I'm not fixated on that number I'm fixated on the  
5 fact that there are a lot of veterans who are languishing in  
6 the streets, whose homes and families are broken and they need  
7 access to housing and community as fast as we can possibly  
8 provide it.

9           Q     At the time that you submitted your expert report in this  
10 case, you operated on the assumption that the homeless veteran  
11 population was around 4,000 individuals; is that right?

12           A     Yeah. I think at the time, the latest PIT count had  
13 suggested there were 4,000 veterans who were homeless in this  
14 region, yes.

15           Q     Okay. And based upon that, did you form an opinion about  
16 an approximate number of temporary housing units that can and  
17 should be put on the West LA Campus?

18           A     Well, the number in either category can be debated all day  
19 long.

20           Q     Sure.

21           A     The number is big. The fact is that there are hundreds  
22 and hundreds of veterans who could probably, with appropriate  
23 outreach, be brought into temporary housing in a temporary  
24 community or a triage community in a very short period of time,  
25 stop suffering, engage with resources, and begin on their

1 recovery pathway, and hopefully permanent housing in a  
2 permanent community.

3 The number, I believe, in the report is 1,000. And that  
4 number is really just to signify that we need to do something  
5 robust and we need to do it quickly. And I have been making  
6 this argument since well before *Valentini*.

7 Q The 2022 master plan trumpets the idea that the housing  
8 that was planned in that plan was intended to have a robust  
9 impact on homelessness among veterans.

10 Do you recall that language?

11 A Yeah.

12 Q And do you believe that roughly 1,000 temporary units, or  
13 less, would have a robust impact on homeless veterans in  
14 Southern California, if such units were placed on the campus?

15 A Absolutely. One of the -- I refer back to the HOME  
16 program. The HOME program was based on the premise that we  
17 needed to -- when we engage someone who had been homeless for a  
18 long period of time and was suffering, immediate access for a  
19 place to go.

20 So when we are out doing outreach to veterans around LA  
21 County and the Southern California region, if we can say that  
22 we have got a place for them to go right away and it's a place  
23 that is inviting and has -- and is resource rich, then that  
24 will have an impact on that person. Not everyone is going to  
25 want it, but a lot will.

1 Q Do you have an opinion, Dr. Sherin, as to whether the  
2 failure to address veteran homelessness, potentially, is a  
3 national security issue?

4 A I believe it is. That's why I started --

5 Q Why is that?

6 A I started trumpeting that again well before *Valentini*.  
7 Well, our first president, George Washington, said the  
8 willingness of our younger generation to serve our country will  
9 directly depend how those before them have been treated  
10 returned when they return.

11 So if we're having trouble recruiting and enlisting  
12 people, and we're realizing that individuals, the younger  
13 generation may be deterred from serving, especially those who  
14 had multiple opportunities, because of how those are cared for  
15 and not cared for when they return. That is a national  
16 security issue. I would say, much like when there is a  
17 hurricane or earthquake or fires and there is a massive  
18 displacement of people, we call in FEMA, we call in the Army  
19 Corp of Engineers, and we basically build temporary  
20 communities.

21 And this is a conversation I have been -- that people  
22 have had. I certainly had it. I had it a lot with Bob  
23 McDonough when he was the secretary. I had it with Eric  
24 Shinseki, when he was the secretary. And I would even say when  
25 we send thousands and thousands of people out into a desert to

1 deploy them, we build temporary communities. Why can't we do  
2 that?

3 This is a displacement of a massive population who are  
4 super vulnerable, and we're not taking it on as a national  
5 emergency, and I find that to be problematic. The time frame  
6 is different. It's not a hurricane that comes through and then  
7 we deal with it within a couple of weeks, but it's the same  
8 fundamental phenomenon.

9 Q Before we go on, let's talk for a moment about the  
10 consequences of doing nothing. Can we do that?

11 A Sure.

12 Q What are the consequences of persistent homelessness in  
13 terms of death?

14 A Well, we know that people who live in the streets die at a  
15 much higher rate. When I started in LA County as the director  
16 of mental health, I believe in 2016, I believe there were  
17 between 6- to 700 people who died in the streets. When I left  
18 six years later, that number had almost tripled. It was in the  
19 1700 range. And I --

20 Q And -- go ahead.

21 A I have already tried to impress upon you that living in  
22 the streets is living in a very toxic, traumatic environment.  
23 And I used to always say to my former bosses, the supervisors,  
24 to my staff, to other departments, to the state, that I'm  
25 overwhelmed as a department with demand. That the department

1 of mental health has nowhere near the resources and efficiency  
2 to address the mental health needs of those who qualify for  
3 services.

4 And we sit there having people stew and languish in the  
5 street, generating more and more customers, when we can't even  
6 take care of those who are already lined up. And if we could  
7 effectively thin out the encampments, thin out the streets, get  
8 people into healthier environments, even incrementally  
9 healthier environments, we would decrease the pressure on a  
10 system that is already broken and overheated.

11 Q Is it understood in the medical science, Dr. Sherin,  
12 whether homelessness impacts shortened life expectancy?

13 A Yeah. Mental illness, serious mental illness and  
14 homelessness decrease lifespan significantly, as well as  
15 livelihood.

16 Q Okay. Let's turn to a brief history of the National Home,  
17 as an idea first envisioned by President Lincoln, and then  
18 bring us forward from there, if you would, sir.

19 A Absolutely.

20 Q Go ahead.

21 A Well, you, know I credit Abraham Lincoln with the concept  
22 of reintegration. When I first started hearing about  
23 reintegration, it was as a VA employee. And thinking about --  
24 I'm going too fast.

25 Q Yes, you are.



1 A I apologize.

2 I first started hearing about, thinking about  
3 reintegration when I was at the VA, and starting to understand  
4 the challenges that the military community faced returning  
5 home, whether they engaged in combat and had combat trauma or  
6 not.

7 And we started talking about reintegration centers,  
8 reintegration programs.

9 But, at the end of the day, Abraham Lincoln charged this  
10 country to develop the National Home, on large properties  
11 across the country, recognizing that individuals who had fought  
12 in the Civil War, many of them particularly those who were  
13 physically disabled or who were traumatized, were not  
14 integrating, were not assimilating back into their communities.

15 So why not create intentional communities on which they  
16 could live and in which they could thrive.

17 And we know, based on historical records, that that  
18 happened. The campus that we're discussing today was the  
19 Pacific Branch of the National Home, and there were thousands  
20 of veterans living on it as a community that was cohesive and  
21 largely self-sustaining.

22 Over time, for a variety of reasons, that changed.

23 And it changed in a way that our focus on medical  
24 challenges, on the medical model and treatment, moved away from  
25 addressing the larger issue, the context of the lives of people

1 who were suffering, and particularly those who were traumatized  
2 and disconnected from people, place, and purpose.

3           There was a distinct difference, I believe, that  
4 occurred in the middle of the 19th century where that campus  
5 lost a lot of its population. It became somewhat fallow. It  
6 was used very sporadically, and it deteriorated.

7           When I showed up on that campus in the late '90s, first  
8 on the golf course, watching veterans engage with each other --  
9 I believe it's on -- I think it's Pattons is the name of the  
10 first hole -- I started to realize at that time, that there was  
11 a lot of potential resource there.

12           But the VA, for a variety of reasons, and I'm sure a lot  
13 of them were budgetary, moved everything off the North Campus  
14 down into the South Campus.

15           Are you wanting me to talk about this campus, or are you  
16 wanting me to talk about the National Home broadly.

17 Q       No. You can talk about the history of the campus too.

18 A       Okay. So, the majority of programs including the mental  
19 health programs on the North Campus were all consolidated on  
20 the South Campus. And the interesting thing about that campus  
21 is that up until, I think the '90s, the North Campus, the  
22 mental health campus was called "the Brentwood VA."

23           And the South Campus which was medical, surgical, was  
24 the Wadsworth VA. They were separate VA's with separate  
25 administrations, separate chains of command back to Washington,

1 D.C.

2 When that consolidation occurred, it left a ton of land  
3 unused. At the same time that the needs for that property,  
4 which was charged, what, 150 years ago, for those who weren't  
5 assimilating, had been lost.

6 But the demand in our communities, in my opinion,  
7 requires it to get reactivated based on needs of the military  
8 community of our veteran population. Which is why I have  
9 pushed to use that campus to help address these problems for  
10 veterans who are currently homeless and those who were likely  
11 to become homeless down the road, or are certainly at risk.

12 Q All right. Before we turn to what can be done, and in  
13 your view should be done, maybe this is a good point for a  
14 short break, Your Honor.

15 THE COURT: About 20 minutes, then, counsel. Thank  
16 you very much, counsel.

17 (Afternoon recess.)

18 THE COURT: Back on the record. All counsel are  
19 present. The parties are present. And, Dr. Sherin, if you  
20 would return to the witness stand.

21 Continue with the examination.

22 BY MR. SILBERFELD:

23 Q Dr. Sherin, in terms of the going forward effective use of  
24 the West Los Angeles VA campus, is the beginning point of doing  
25 that work making the campus more accessible to the veteran

1 population?

2 A Yeah. I believe that access to the campus is critical.  
3 And easy access being welcomed under the community would be our  
4 goal.

5 Q Okay. And when you talk about access, are you talking  
6 about more than just medical services? Or tell us what it is  
7 you mean by access.

8 A Well, by "access," I mean a lot of different things  
9 depending on what any individual veteran may need.

10 For me, at one extreme, that campus, when properly  
11 developed, would be an incredible referral resource for  
12 individuals coming through the emergency department.

13 I mean, I have thought for a long time what it would  
14 have been like as a trainee, up to 36 hours straight, taking in  
15 homeless vets off the street with schizophrenia, for example,  
16 and having a campus that was built out the way we describe, or  
17 certainly the way I think of it, total game changer. So that's  
18 one type of access.

19 A different type of access would be access for  
20 individuals who are not in an urgent or emergency crisis but  
21 are languishing chronically and need a place to go, and not  
22 just a place to sleep. A shelter or housing unit that is  
23 isolated is not the same as a place to live in a community.

24 And then also, as I had said, even for veterans who  
25 aren't necessarily going to be staying on the campus in any

1 residential type way, having access to a place where they can  
2 be with their brothers, their sisters, their military community  
3 family members, accessing community resources -- whether it's  
4 amenities, whether it's entertainment, whether it's recreation,  
5 whether it's treatment.

6           Those are critical things. And we have to make it  
7 accessible, and in a variety different ways, depending on the  
8 needs of a given individual. And just, as a last point, it's  
9 going to take a while, I understand that, to build out what we  
10 would hope for long-term. But from the short run, we ought to  
11 be aggressively putting together temporary or/triage community  
12 in certain sites on that campus as fast as humanly possible.

13 Q       You are aware that there is some housing being constructed  
14 on the campus now?

15 A       I am aware because I still go there. I'm very connected  
16 to that property, and I like to look at the progress.

17           I think some of the housing that is being built is just  
18 spectacular, and I applaud that progress. Of course I would  
19 like to have seen a lot more by now. Some of it is a lot  
20 better than others.

21           I do worry that just building housing and having  
22 individuals living there without anything to do is a setup for  
23 bad outcomes.

24 Q       But when you talk about a temporary community, because  
25 it's urgent to do that now, you wouldn't put that community in

1 the way of anything that is going on there on the campus now,  
2 would you?

3 A Absolutely not. And what I would say to that is it's,  
4 what, 388 acres? There is a lot of ways, I would think -- and  
5 certainly based on the master plan that I contributed to -- to  
6 do stuff temporarily that would not interfere with the  
7 construction of essentially the North Campus and the various  
8 housing services, opportunities, that we're trying to embed and  
9 enrich it with.

10 Q And as you envision the temporary community, would  
11 individuals come off the streets into a temporary community and  
12 then either transition to permanent supportive housing or  
13 off-campus supportive housing, is that the idea?

14 A Whatever is best suited for that individual's needs.  
15 Triage is a basic term.

16 Q And if it came to be, Dr. Sherin, that the temporary units  
17 that would be put there, now or in the next 12 months or so,  
18 were no longer needed for veterans, can you envision a reuse of  
19 those units for other purposes?

20 A Well, I think first off, I would say hallelujah, if there  
21 was no need for them to bring veterans off the street.

22 And I would say absolutely there are other uses for  
23 housing, for temporary housing, for temporary community.

24 I mean, a couple of things --

25 Q Like what?

1 A A couple of things stick out.

2 You know, having worked there and worked at another VA  
3 facility -- which I told you about earlier, the Miami VA --  
4 these are expensive markets. And a lot of the employees, the  
5 lower GS employees don't make enough money to pay for housing.  
6 There are veterans working at the VA, who are either homeless  
7 or unstably housed, so workforce housing, I think, would be a  
8 brilliant potential use.

9 And it's not even just the ability to pay for the  
10 housing -- it's the convenience.

11 I mean, some of the janitors in LA -- the West LA VA,  
12 for example, take a couple of buses, spend an hour and a half,  
13 2 hours each way just getting to the worksite.

14 So that they can actually have a place to live.

15 The other would be -- you know, look, when I was in LA  
16 County, I became very familiar with the community colleges and  
17 the fact that 20 percent of the student body in the community  
18 colleges is homeless or -- frankly, homeless or couch surfing.  
19 And you can guarantee that there is a lot of veterans in there,  
20 and that is just one environment. That is the community  
21 colleges.

22 There are many other colleges and universities, so  
23 students, student veterans -- that land is for veterans. And  
24 it's for a veteran community. It's for housing. So that  
25 housing should be constructed, it should be leveraged, and it

1 should be leveraged for a variety of different populations who  
2 have a need.

3 Q Okay. Increasing access will inevitably cost money, fair?

4 A Yes.

5 Q Doing nothing though also costs a fair amount of money,  
6 does it not? Having to do with the overutilization of medical  
7 services?

8 A Yeah. I would say it has a massive financial cost. And I  
9 was trying to allude to that earlier, telling you that got --  
10 you know, all of our healthcare systems have people lining up  
11 because they are overburdened, particularly in the public  
12 space. And as we let people go from, you know, grade 1, to 2,  
13 to 3, to 4, complexity and severity of illness, we're just  
14 spending and wasting more money. And that doesn't even include  
15 the cost of the suffering for a human being.

16 Q So if proper access and available medical services could  
17 interrupt that cycle of the overutilization, do you have a  
18 view, not in terms of dollars but qualitatively, whether net,  
19 net, the cost would be lower or still higher?

20 A Well, I'm no financial forecaster, but I would be very,  
21 very surprised if much more housing, temporary and permanent --  
22 and in my report, I described a number of different types of  
23 housing that I think needs to be built out, along with services  
24 -- will save a tremendous amount of money. And it will save a  
25 tremendous amount of livelihood and improve the human condition



1 for the population that serves our country.

2 Q Do you have a sense that the human cost and the financial  
3 cost would be lower, if we did the things you are talking  
4 about?

5 A Absolutely. Significantly.

6 Q One of the things that you would like to see on the West  
7 LA Campus is a visible, attractive, and prosperous area, right?

8 A Yes. That's absolutely right. An enriched --

9 Q Why is that important, Dr. Sherin?

10 A Well, I would say an enriched, intentional community is a  
11 -- at a very high level, a signal, a message to our veterans  
12 and their value to us and the importance to our nation.

13 I think that is fundamental. And I don't think that can  
14 be ignored.

15 More concretely, people in general who are suffering  
16 oftentimes either are unable to navigate the systems when they  
17 are not super inviting and convening or centers of gravity or  
18 -- and I would say this particularly of the military community,  
19 there is a reluctance to reach out. So if you make a community  
20 that is inviting, that is alive, that is flourishing, that has  
21 lots and lots of resources, it will be a magnet to bring in  
22 individuals who have different levels of needs, and provide  
23 them direct access to resources across the continuum on-site,  
24 and be able to also help connect them with resources off-site.

25 As you may get to, and is in my report, there is an

1 incredible opportunity to create a Battle Buddy Battalion, that  
2 is, veterans who are hired to work on the navigation, the  
3 wayfinding on that campus and around the community for  
4 individuals who are there, if they are living on there or  
5 visiting.

6 Q Okay. You have formed an opinion, have you not, about a  
7 recommended therapeutic plan for the re-envisioned West LA  
8 Campus?

9 A Yeah.

10 Q You have?

11 A Yes.

12 Q And is the foundation of that plan, the two pillars,  
13 housing and healthcare services?

14 A Housing for people who are homeless is like food for  
15 people that are hungry. So, absolutely, housing.

16 But I would say that services is a piece of the  
17 additional resource, that is, make up a community.

18 Q Okay. And there are, as well, additional parts of the  
19 plan that we should talk about now, are there not?

20 A Yeah. There are a number of them, with the core being  
21 housing and healthcare services.

22 Q What is the basic principal of your therapeutic plan,  
23 Dr. Sherin?

24 A Well, I hate to sound like a broken record, but if we have  
25 a community where individuals have access to people, place, and

1 purpose, they are going to thrive.

2 That campus could be developed as a community  
3 specifically for veterans to get access to the resources that  
4 they need. And as I have said now, several times, the  
5 healthcare services that are there, they probably need to be  
6 expanded.

7 And I have suggestions for things in the mental health  
8 and addictions arena that I don't think are available in my  
9 report.

10 Housing, of a variety of types -- and again, we can go  
11 through them, I've listed them, at least as I conceive of them.  
12 And then a variety of opportunities for people to work, to get  
13 trained and educated. Amenities like we would need in any  
14 community where we are living or where we are visiting.

15 There are communities all over the place that people  
16 live in and that people visit, and environments, environments  
17 for to people to recreate, to relax, to be together, to  
18 socialize.

19 Those are the fundamental components that will support  
20 the well-being of individuals.

21 Q Is part of the idea to not only provide these services for  
22 those on campus, but also attract people from the broader  
23 community to come to campus and interact with those living  
24 there?

25 A Yes. As I - I think that is actually critical. And that

1 is why I have used the term "prevention platform."

2 You create a center of gravity when you have a thriving  
3 community that will bring in vets who may otherwise never  
4 access resources, may never connect with their military  
5 community family members, that will learn about what they are  
6 entitled to -- what resources are on the campus, what resources  
7 are in the community.

8 The existence of a chapel, for example, that is shining  
9 light on the 405 and on Wilshire Boulevard, that tells a whole  
10 different tale about that campus, about veterans, about what it  
11 means to serve in our country.

12 What is the signal that we're getting right now?

13 Q From a human medical and mental health perspective, what  
14 are the benefits to bringing people from the broader community  
15 onto the campus were the environment -- the kind of environment  
16 you are talking about?

17 A Well, I have, I believe, tried to weave into my testimony  
18 today the importance of intentional relations between civilian  
19 and military.

20 And, in fact, the reintegration zone, which we looked at  
21 earlier was specifically designed to do that, and to do that in  
22 a way that wouldn't feel threatening to individuals who are on  
23 the campus.

24 The idea is not to build an island. The idea is to  
25 build a community that has relationships with surrounding

1 communities, and to actually address one of the fundamental  
2 concerns that many of us have, which is the military/civilian  
3 divide.

4 Q Would you talk about that a little bit more?

5 A Well, this is a narrative that has been around for a long  
6 period of time, and I think is real, where there is a  
7 distinction between people who have been in the military and  
8 civilians, and there is, in many cases, a lack of trust.

9 I mean, we often talk about World War II, and the  
10 greatest generation, and how that group came back and were  
11 celebrated as heros, and then were welcomed back into their  
12 communities.

13 And, in fact, during that war, as we all know, our  
14 communities rose up and did things to support the military in  
15 that war.

16 Well, things have changed. And now with Vietnam and  
17 further conflicts, it's not the same. And it's a volunteer  
18 army, and a lot of people end up coming into the military come  
19 in with challenges on the front side. So we're not -- as an  
20 integrated community, society -- working together.

21 And I worry, and people who spend a lot of time taking  
22 care of veterans will oftentimes hear about bad feelings  
23 towards civilians.

24 And if we can figure out a way to safely and in an  
25 enriched and thoughtful way, create dialogue and interchange,

1 that is a good thing.

2 Q Based on your experience, now more than 20 years, maybe  
3 25 years or so, is there a difference, Dr. Sherin, in the needs  
4 of older veterans who may have served in World War II, Korea,  
5 or Vietnam, compared to veterans from Iraq and Afghanistan?

6 A I would say there are significant differences based on the  
7 fact that across the life trajectory, things change.

8 And one of the concerns I have is the growing number of  
9 homeless veterans who are elderly, or unstably housed veterans  
10 who are further along in life and at risk for all kinds of  
11 things, including lots and lots of physical health challenges.

12 I would say for combat veterans that the nature of the  
13 combat is different.

14 Q How so?

15 A Well, it's different because the OEF, identify, and more  
16 recent conflicts have just presented different types of  
17 physical trauma.

18 IEDs, repeated deployments, I mean, what are -- the  
19 numbers of deployments of some of these more recent service  
20 members is outrageous.

21 And then they come back, and they have lots and lots of  
22 invisible, and sometimes visible, wounds, and in many cases,  
23 both.

24 Q And is it important for whatever healthcare services are  
25 provided in the community you have in mind, to make sure those

1 are properly gauged to the needs of different segments of the  
2 veteran population?

3 A Absolutely. The different types of housing need to be  
4 tailored to the different populations.

5 The different type of services need to be tailored to  
6 the population, the different types of opportunities, you know.

7 I mean, a younger veteran might want to learn a trade  
8 and get trained on that campus and do it in a way where they  
9 feel comfortable, and then branch out, leave the campus, and go  
10 and thrive in a community of their choice.

11 An older veteran might want to -- no disrespect to the  
12 elders, including me, because I'm getting there -- play bingo,  
13 run bingo, you know, have a bingo club.

14 Q We're drawing the line at bingo, Dr. Sherin.

15 A I knew I would get you on something.

16 Q Let's talk about housing for a little bit.

17 Your opinions in this case describe different  
18 kinds of housing that you think this community should have,  
19 correct?

20 A Yes.

21 Q Okay. One of them is temporary types of housing, right,  
22 or triage-types, are those the same or different?

23 A I have temporary types of housing, I believe in the report  
24 and then permanent types of housing.

25 I'm not a big fan of that term, but that's what we call

1 them.

2 Q And what are the differences between those two as you see  
3 it?

4 A Well, when I think of temporary housing I think of triage,  
5 which is probably best described as emergency, rescue, or  
6 shelter-type housing that we see that exists in different  
7 places where someone can immediately be brought off the street.

8 But there are other types of temporary housing, many  
9 would call them treatment programs, but, for example -- I think  
10 I'm speaking too quick again.

11 Q You are.

12 A Sorry. Some of the residential treatment programs where  
13 veterans can live for three months, six months, and get  
14 treatment, for example, the Grant and Per Diem program.

15 Q What is your understanding of how the Grant and Per Diem  
16 program works?

17 A Well, the Grant and Per Diem program is just simply a  
18 residential program where someone can live and they get  
19 treatment during the day for a variety of different challenges  
20 they may have, generally in the addictions and mental health  
21 space.

22 But those are temporary, they're designed to be  
23 temporary or transitional in nature.

24 Q And do you have an opinion as to whether permanent  
25 supportive housing should be of different types?



1 A Yeah. I would say that there ought to be different types  
2 of permanent housing for different populations, which is  
3 articulated in the report.

4 One of the things that I am a fan of in both temporary  
5 and permanent realms is congregate housing where people share  
6 space, a home.

7 Q One of the permanent types of housing that you have  
8 described is "high-need housing" which refers to case  
9 management.

10 Would you describe what you mean by that, please?

11 A Well, someone with high needs may have a, let's say,  
12 serious mental illness, say, a psychotic disorder,  
13 schizophrenia. They may also have a comorbid addiction, and  
14 perhaps medical challenges as well; in fact, they tend to go  
15 hand in hand.

16 So, hypertension, diabetes, and dyslipidemias, and maybe  
17 they have, you know, arthritis or some other chronic medical  
18 condition that requires a lot of clinical care, regular  
19 accompaniment to different clinics for those clinics where the  
20 doctors or other clinicians can't come out to visit, a lot of  
21 care coordination to make sure that the different doctors are  
22 speaking and that medications aren't being mixed  
23 inappropriately.

24 Q A medium need for permanent supportive housing is  
25 described as care coordination, is it not?

1 A Well, care coordination would be basically a less  
2 intensive type of case management where the primary function  
3 was to make sure that the different providers were  
4 communicating properly.

5 Q And a low need for permanent supportive housing would be  
6 what level of care?

7 A Well, I think that's one where there's just, you know,  
8 regular check-ins with an individual, because there are not  
9 multiple medical conditions or comorbidities, there is not a  
10 requirement to communicate with numerous different providers.

11 Q Okay.

12 A One of the things I would also say across the board is  
13 that -- and I don't know if this is in the report -- I believe  
14 that many veterans -- people with needs really suffer from not  
15 having a navigator, which is one of the fundamental roles of a  
16 Battle Buddy, which is why I believe that that campus should  
17 have a lot of concierge, a lot of navigation, ombudsmen, call  
18 them what you'd like.

19 Q Yes. In addition to the kinds of housing that you believe  
20 is necessary for the unhoused homeless veterans that we're  
21 dealing with in this case, there is also the allied services  
22 that those people need, correct?

23 A Yeah.

24 Q And we will talk about these in detail, but these  
25 services, by and large, exist within the VA already, do they

1 not? There's nothing new here, is there?

2 A I don't think there's anything particularly new.

3 I would say that what I have listed as relatively  
4 comprehensive set of the resources I believe would generate the  
5 kind of community that our veterans deserve.

6 Q And the first one on the list is medical care, right, that  
7 exists?

8 A Yeah. Yeah. Medical care exists and, like I said  
9 earlier, I mean veterans, in general, who are enrolled in the  
10 VA get great care and love the VA.

11 Q And it provides a very high level of care to its patients,  
12 does it not?

13 A I would say generally, yes.

14 Q Among the services you believe are necessary are  
15 behavioral health services, right?

16 A Yes. That's my profession.

17 Q And that discipline exists within the VA today, does it  
18 not?

19 A Yeah, it does.

20 Q With the possible exception of the moral injury aspect or  
21 does that exist, too?

22 A I believe that the VA is pioneering some of the moral  
23 injury work, but I would say it's nowhere near capacity which  
24 is why I think it would be so important to use this as a  
25 flagship in that chapel, in particular, because it's a much

1 bigger problem than is recognized and in many ways, as I said  
2 earlier, is driving self harm.

3 Q And behavioral hope includes psychopharmacology?

4 A Yes.

5 Q It includes counseling and therapy?

6 A Yeah.

7 Q Which in and of itself has numerous subcomponents?

8 A Yeah, I have got a nice list there, if you want to go down  
9 it, that would be fine.

10 Q Sure. In the counseling and therapy category that you  
11 described as individual, family, or group, you have  
12 trauma-informed care.

13 Is that a service that is available at the VA these  
14 days?

15 A Well, you know, with all due respect to my colleagues in  
16 this space, I believe that the medical care and the surgical  
17 care at the VA is much more comprehensive and accessible than  
18 the behavioral health services.

19 Do the services exist? Absolutely. Are they easily  
20 accessible -- are they at adequate capacity? No.

21 Is that specific to the VA? No.

22 I think it's a problem across our healthcare system for  
23 a variety of reasons that we could talk about, if you want.

24 But parity does not exist between mental health and  
25 physical healthcare.

1 Q Well, what is trauma-informed care?

2 A Trauma-informed care is really just recognizing and  
3 incorporating someone else's experience into the way you engage  
4 them and the way you care for them and recognizing that there  
5 are things you can do to help an individual absorb and respond  
6 to care, and there are other things that can push them away and  
7 not to use -- to use a term I don't like -- trigger them.

8 Q Okay. Among the things you believe the services in the  
9 West LA VA Campus, as reimagined, should include are  
10 integrative care.

11 Do you recall that, sir?

12 A Yeah. Integrative care is something we have been trying  
13 to push worldwide, and certainly in our country, for a long  
14 time.

15 Q What is integrative care?

16 A Well, people have integrated problems and you can't treat  
17 them separately.

18 So someone who has physical health problems, addictions,  
19 and mental health challenges, first of all, they all interact.

20 And in a perfect world you have a team of specialists  
21 who are addressing them all as a team and not independently.

22 Q Does that capability to deliver integrative care exist at  
23 the West LA VA as far as you know today?

24 A I would say the capacity exists, although -- I'm sorry, I  
25 believe that the practice exists, I don't think it's at

1 capacity, and I don't think it's common.

2 And, frankly, having run large organizations, it's not  
3 easy to implement.

4 Q Other services you believe are necessary are self-care  
5 instructional services for formerly, hopefully, homeless vets,  
6 right?

7 A Yeah, there are things --

8 Q What is in that category, sir?

9 A I mean, people can care for themselves, they can care for  
10 themselves by learning to meditate; they can learn to care for  
11 themselves by getting exercise, by connecting with other people  
12 regularly, by eating good food, by avoiding things that are  
13 toxic, and individuals who are kind of trained in the art of  
14 self-care, tend to be healthier.

15 Q We've talked about Battle Buddies and peer support before,  
16 does that program exist on the VA campus these days?

17 A Yeah. In many ways the VA has kind of pioneered the use  
18 of peers as a part of their healthcare approach.

19 That said, in my experience, peers within the VA work  
20 within the confines of the VA and are not actually in many  
21 cases helping to navigate the broader system of resources that  
22 any individual would need.

23 For example, maybe there is a peer who is in one clinic  
24 who works for the person in that clinic, but doesn't really  
25 provide a navigatory role, more broadly.

1           One of the fundamental drivers in creating the Veteran  
2 Peer Access Network was to change that and to get Battle  
3 Buddies across multiple organizations, with governmental and  
4 nongovernmental to work together to communicate about  
5 individuals and to help them navigate Byzantine systems that  
6 are very confusing.

7           Q     Among the services you have in mind for the campus are  
8 occupational services, correct?

9           A     Yes.

10          Q     Why?

11          A     Well, occupational therapy is, I think, a misunderstood  
12 term.

13               Occupational therapy is focused on how you occupy your  
14 time.

15               It's not about getting a trade or an occupation or a job  
16 or employment.

17               And the way that people spend their time is  
18 fundamentally a challenge, particularly individuals who are  
19 suffering from behavioral health challenges.

20               And one of the things -- and this isn't about the VA,  
21 I'd say broadly in our healthcare system, that tends to happen  
22 with people who have serious mental illness or severe  
23 persistent mental illness is that they will spend their time  
24 waiting between smoke breaks and watching TV.

25               That's not necessarily the greatest way to occupy your

1 time.

2 And if we can get individuals who are not connected to a  
3 purpose and a mission, engaged in something meaningful, that is  
4 a good thing.

5 Q Additional services that you have in mind for this  
6 intentional community are legal benefit services and financial  
7 services, right?

8 A Absolutely.

9 Q Why are those things important to you?

10 A Well, those things are important to me because they are  
11 things that fall through the cracks with veterans, and  
12 particularly, with veterans who are challenged with  
13 homelessness, with isolation, with addictions, and mental  
14 health challenges.

15 As I had kind of articulated earlier, being homeless is  
16 a major risk for getting put in jail for a variety of different  
17 reasons, and then you come out, you have got all of these legal  
18 shackles.

19 How do you get rid of them?

20 The original plan that was developed would include not  
21 just a legal clinic, but a veterans' court, especially when  
22 that campus becomes really populated with people who have a  
23 massive legal burden, there ought to be a veterans' court.

24 And that veterans' court not only could serve vets on  
25 the campus that live there, but that are in the community.



1           So that's an example of how this campus serves not just  
2 who live there, but more broadly.

3           In terms of benefits I will tell you that --

4                               (Reporter Clarification.)

5           THE WITNESS: The benefits -- VA has three branches:  
6 Health, benefits, and the cemeteries.

7           The benefits in this region are housed in the federal  
8 building, which is not far away, but really hard to get to for  
9 a lot of people.

10           I went there to try to find out where it was for the  
11 first time and I had a hard time getting to it myself. And a  
12 lot --

13 Q       It's the building on Wilshire, east of the 405, right?

14 A       No. It's west of the 405, but it's south of Wilshire --  
15 but, no, you are right, I'm sorry. It is east of the 405,  
16 correct.

17           It's not easy to get to, so one of the things in  
18 the master plan, which is gone, is why is VBA not in one of  
19 these massive buildings on the campus so that instead of having  
20 someone traverse to a building and paying rent to be in some  
21 brand new high-rise skyscraper, why is it not in one of our  
22 buildings where we can actually literally tell a peer, Hey,  
23 take this individual over to get his benefits or her benefits  
24 right there. It's a golf cart right away. It could be  
25 100 yards away from where they are getting housed.

1           Then there was third, what was the third one? Oh,  
2 financial services.

3           Well, we all need them, you know, I mean, I need them.

4 Q       Okay. If we do these things, the housing and the  
5 services that you have testified about, Dr. Sherin, do you have  
6 an opinion as to whether we improve the lives of homeless  
7 veterans?

8 A       I would say we would improve the lives of homeless  
9 veterans dramatically by creating an intentional community on  
10 that campus.

11               MR. SILBERFELD: I believe that is all of the  
12 questions I have.

13               THE COURT: Why don't you check with your team.

14               MR. SILBERFELD: I have. Thank you, Your Honor.

15               THE COURT: Would you like to start with  
16 cross-examination?

17               MS. PITZ: May we just have five minutes, Your  
18 Honor?

19               THE COURT: Doctor, if you want to step down, come  
20 back in five or ten minutes.

21               THE WITNESS: You bet.

22   (Recess.)

23               THE COURT: We're back in session. All counsel are  
24 present, the parties.

25               Dr. Sherin, will you retake the stand.

1 Cross-examination.

2 MS. PITZ: Thank you. Taylor Pitz for the federal  
3 defendants, for the record.

4 CROSS-EXAMINATION

5 BY MS. PITZ:

6 Q Good afternoon, Dr. Sherin, it's nice to see you.

7 A Nice to see you, too.

8 Q Dr. Sherin, you've testified today that community is  
9 really key to your view of how the West Los Angeles Campus  
10 should be developed; isn't that correct?

11 A Yes.

12 Q In fact, it's your position it would be dangerous for VA  
13 to simply build housing on the West Los Angeles Campus without  
14 sufficient community; isn't that correct?

15 A Yeah. I'd like to expand, if I might?

16 Q Go ahead.

17 A Housing in an area without surrounding resources is a  
18 setup for a housing project. Then with no disrespect to a  
19 famous housing project, I oftentimes think that if we put large  
20 numbers of veterans on that campus without anything else, that  
21 we have Cabrini-Green type setup, which is a big, big mistake,  
22 both for the veterans, which is obviously the key, but also for  
23 the surrounding neighborhoods.

24 Q And it's your position you would rather have 500 units of  
25 housing with really great connective tissue or a community than

1 2,000, 4,000, or 6,000, or any other number of units of housing  
2 without that connective tissue; isn't that correct?

3 A I don't believe I said that today, but I think I have said  
4 that in the past.

5 And I'm trying to make a point, which is that  
6 housing projects that are not embedded in a community are not  
7 good for well-being, they're not adequate.

8 Q Thank you.

9 And today you talked a little bit about your work with  
10 the settlement partners following the *Valentini* settlement; is  
11 that correct?

12 A Yes.

13 Q And that work, did that take place prior to the passage of  
14 the West Los Angeles Leasing Act?

15 A Oh, yeah. That all led up to the Leasing Act.

16 Q And, Dr. Sherin, it's also your position that the  
17 placements of any temporary housing units on the West LA Campus  
18 must not interfere with the long-term development plans or the  
19 operations of that campus; isn't that correct?

20 A That's correct.

21 Q And earlier today, you were talking about some types of  
22 strategies that are successful in terms of the government's  
23 delivery of homeless services.

24 And one of the strategies you described was additional  
25 coordination between the federal government, the County, the

1 City, and other providers.

2 Is that your view?

3 A That is my view. And, if I may, when we were engaged as  
4 partners, one of the things that we did was with the support,  
5 and the bully pulpit of the Secretary, got a change in the  
6 voucher value from 12 -- I believe at the time it was \$1,200  
7 per month to \$1,600 per month.

8 And that had a big impact on the landlords of LA County,  
9 and we found there was an uptick in available housing, and the  
10 numbers actually at that point went down.

11 I don't know whether that was maintained, but I did sit  
12 here this morning waiting to come up here and heard the  
13 conversation about that, and I think that's promising.

14 Q And you viewed that as a success?

15 A We viewed that as a success, although, I think we could  
16 have gone further and it sounds like, frankly, from this  
17 morning's discussion we could have gone further, I didn't know.  
18 I don't run the HACLAS of the world.

19 Q Thank you.

20 In forming your opinion regarding the number of  
21 temporary housing units that should be built or constructed on  
22 the West LA Campus, you did not consider how many formerly  
23 homeless veterans are currently housed in HUD-VASH program in  
24 the Los Angeles, did you?

25 A Well, I think I've tried to consider the totality of the

1 situation for homeless veterans now and going back years.

2 And as a clinician and administrative leader, I have  
3 felt that we need to expand the access to immediately available  
4 housing for people who are languishing in the street as fast as  
5 possible.

6 Q And earlier you acknowledged the most PIT count numbers;  
7 is that right?

8 A Yes.

9 Q And at the time you composed your written opinion -- or  
10 your written report in this case, you were operating under an  
11 assumption there were 4,000 homeless veterans, or approximately  
12 4,000 in the Los Angeles area; isn't that correct?

13 A That's correct.

14 Q And the PIT count data shows there are approximately 3,000  
15 homeless veterans, so a reduction of nearly 1,000.

16 Does that change your opinion with regards to the  
17 appropriate number of temporary housing units?

18 A It's a great question. And I think that number is a  
19 number that is modeled.

20 As I think I have said already today, I'm not a huge fan  
21 of the PIT count for a variety of reasons.

22 I would say that we are engaged in a project which needs  
23 to be built for now and for the future, and especially with an  
24 aging population of veterans. More of them are showing up in  
25 the streets than have historically.

1           We ought to be less worried about that exact number and  
2 make sure we're putting together a robust amount of resources  
3 for housing and a community with healthcare services on that  
4 campus.

5           And I would add, and again, I'm not a developer, but  
6 investing in a massive amount of infrastructure and  
7 capitalizing on economies of scale, I think we would want to  
8 make sure there was enough housing there to take care of our  
9 currently homeless, those at risk of becoming homeless, and  
10 other populations I have already mentioned.

11 Q       But would you acknowledge that a 25 percent decrease in  
12 the population of homeless veterans, that is a substantial  
13 figure, is it not?

14 A       I agree it is a substantial figure, if it's real, for  
15 sure.

16 Q       So with regards to my previous question regarding the  
17 appropriate number of temporary housing units, would it affect  
18 your ultimate conclusion as to that number?

19 A       Well, I think the number of temporary housing units really  
20 is something that has to be driven by the number of homeless  
21 vets who are in the street and in other inappropriate  
22 environments now, which, frankly, would include the shelters.

23           And that that number, if we can't estimate it exactly,  
24 ought to be a big part of driving how much inventory we put on  
25 the campus, but like other things, I worry about over-studying,

1 and spending more and more time in an academic endeavor while  
2 we have people who are suffering in the street.

3 And I would argue that we ought to be aggressively  
4 putting a temporary community together on the campus, and if  
5 the number is 500 and we find we don't have anyone that needs  
6 immediate temporary housing or triage housing, fine. If it's  
7 1,500, then it's 1,500.

8 I think that number is something that depends in many  
9 ways upon the impact and the demand as we find it through  
10 aggressive outreach.

11 Q But would you acknowledge that that demand has changed in  
12 this past year?

13 A I would agree if the PIT count says what it says, and I  
14 recognize that that is -- because it's consistent, it likely  
15 represents a decrement in the number of homeless veterans, yes.

16 Q As a part of forming your opinion for this case, you  
17 didn't perform any independent analysis for the demand of  
18 temporary units to reach the 1,000-unit figure, did you?

19 A I haven't done any detailed analysis, no. I have been  
20 operating on a lot of the principles and the thinking that I  
21 have had for some time, and that number is a number that has  
22 been kicked around and goes back to when we discussed *Valentini*  
23 case.

24 MS. PITZ: Your Honor, may I take one moment?

25 THE COURT: Go check with your team and see if they



1 have any other questions they would like you to ask.

2 Counsel, when you are done I have got a few  
3 questions of the doctor, but before you have redirect and  
4 recross, I think that would be good time to ask those  
5 questions.

6 I've got this many questions, just a few, then you can  
7 follow up.

8 MS. PITZ: Nothing further, Your Honor.

9 THE COURT: Okay. I won't be long with you.

10 The VA has a problem, it's called Congress.

11 And they can't go to Congress with a conceptional idea,  
12 they have to go to Congress with a dollar and cents  
13 appropriation amount, because they can't get a congressional  
14 representative to buy into a concept, no matter how good that  
15 concept is.

16 And let's just all assume that everybody involved is in  
17 good faith. How we get there might be subject to different  
18 viewpoints.

19 In the Mercer report that you're aware of, you wanted to  
20 -- now, this has nothing to do with homeless veterans for a  
21 moment, but by analogy you wanted a pilot program of about 500,  
22 and you were wise enough to know that in that 500, in that  
23 pilot program, all of the acute weren't going to be acute.

24 So you went to the board and said, Give me the pilot  
25 program of 500, but I, Dr. Sherin, was smart enough to know

1 hopefully they stay a week and I need some subacute, but you  
2 also made a request for 3,000 additional bed spaces between the  
3 jail and between those on the street.

4 If your ratio is 500 to 3,000 in the Mercer report, why  
5 wouldn't it, at the most, be 500 to 300 with veterans?

6 In other words, what you are dealing with Mercer, but  
7 we've doubled up on the number of temporary spaces we're asking  
8 to be built, and yet we have the same ratio.

9 Is there some difference in the veterans versus the  
10 general homeless population that you looked at in the Mercer  
11 report?

12 THE WITNESS: That's an interesting question, Your  
13 Honor.

14 And just to make sure I understand, you're referring to  
15 the bed report that I authored with my team in 2017?

16 THE COURT: Yeah, well, it came out in 2019, but the  
17 end result is that the ratio then was a best effort, and all  
18 I'm saying is before you ask the VA to go out there with 1,000  
19 temporary, which may have a good basis, it may be your best  
20 guess, it doesn't seem by comparison that it lines up with the  
21 Mercer report and what you were asking in 2018 and 2019, unless  
22 in some way veterans are substantially different than our  
23 general homeless population.

24 THE WITNESS: I think it's a really interesting  
25 observation, and I think it holds water.

1           What I would say is that those estimates in that ratio  
2 relates to people in need of what I would call an intensive  
3 treatment bed.

4           THE COURT: Sure.

5           THE WITNESS: We're talking about individuals who  
6 are homeless who have treatment needs.

7           So there is a little bit of difference in terms of what  
8 it is on the acuity continuum, but I don't disagree with the  
9 observation, and I think it's -- I appreciate your point about  
10 the VA needing to be very specific with Congress.

11           THE COURT: I think it's a specific credibility  
12 program out there.

13           When they go in, they're going to get rejected unless  
14 they can, you know, back up in good faith what they are asking  
15 for.

16           Okay. I'm going to switch for just a moment to -- in  
17 the nonveteran population, whether it's Orange County or Los  
18 Angeles, we have a huge number of people who live on the street  
19 and they get pneumonia or scabies or knife wounds, and they go  
20 to the emergency room from a cardboard box.

21           Now, we know that they're coming out of those emergency  
22 rooms and going right back to a cardboard box.

23           If we're building temporary shelter, and I mean a little  
24 bit better than the tiny homes, okay? We started there because  
25 we had no place else to go back five years ago and it was

1 Garcetti's idea, that even if we overbuilt not by too much, it  
2 sounds to me like we could employ not only getting homeless  
3 into this temporary module from the street, but we could also  
4 take care of our emergency room folks who are going back to a  
5 cardboard box.

6 And what I want to know is, what is your estimate of the  
7 number of emergency room people coming out in the -- I wish  
8 Dr. Braverman was here, I made a mistake not asking him to  
9 remain and hear some of the questions, but I didn't know I was  
10 going to ask you these questions.

11 What is the number of our homeless population who are  
12 veterans coming out of the West LA center or Long Beach going  
13 back to a cardboard box where we might be able to offer them  
14 some temporary module near the treatment?

15 THE WITNESS: Well, I --

16 THE COURT: If you don't know, just say "I don't  
17 know."

18 THE WITNESS: Well, I don't know the exact number,  
19 but I would make a comment, and I alluded to this earlier.

20 We, in the healthcare industry, have spent an enormous  
21 amount of time trying to get people diverted from the emergency  
22 rooms. Don't go to the emergency room.

23 Well, guess what?

24 THE COURT: They're going to the emergency room.

25 THE WITNESS: The emergency room is the highway.

1           So if we look at it as an access point, and we take it  
2 seriously, and we triage people in meaningful ways to places  
3 and to resources that will provide longer term solutions, that  
4 is a victory.

5           And the reason I bring it up is that this campus is the  
6 pinnacle of that type example.

7           In other words, if you have all of these resources, that  
8 emergency rooms could be funneling in as an access point,  
9 people with all kinds of different problems. And then, rather  
10 than sending them out to the community, where they are very  
11 likely to fail, end up in the streets, in the jails, or come  
12 right back into the emergency department, they will stick and  
13 we can find longer term solutions for them.

14           THE COURT: But the responsibility has to be to have  
15 the VA, you, and other experts get together and come up with a  
16 reasonable figure in the south land, so that you can go to your  
17 Congress person and try to get a sensible budget.

18           They can always turn you down, but you just can't walk  
19 in and say, I want 10,000 people or 1,000 people. You're dead  
20 on arrival.

21           Okay. I'm a homeless person and I live someplace in a  
22 cardboard box, but I choose who to associate with.

23           And I decide that I like her, him, her, and him, and I  
24 have got two or three other veterans out there I can talk to,  
25 but remember, I'm forming my own volunteer association. So in

1 a way, I'm undertaking my own therapy -- because a veteran will  
2 talk to another veteran.

3 Now, we might not talk to our girlfriends or our  
4 boyfriends not in the service. But we all know that veteran in  
5 therapy will talk to another veteran, they won't talk to  
6 anybody else.

7 How are you going to take or convince this Court to  
8 break up those voluntary relationships formed by veterans on  
9 the street, whether it's a cardboard box or some hotel on Skid  
10 Row, and entice me over to Brentwood to a tiny home?

11 Why in the world am I going to give up my best friend  
12 here in the military, who I can talk to, and move to someplace  
13 called Brentwood, especially when a lot of people over there  
14 don't look like me?

15 Now, it's not going to be the Waverley Chapel that we're  
16 going to paint. But what am I going to offer them, or  
17 incentivize you and the VA to get those people over there so we  
18 meaningfully make use, if we ever get there, of increased  
19 housing?

20 THE WITNESS: Well, first of all, I see this campus  
21 and this intentional community as a veteran centric resource,  
22 where veterans will come and largely be in their realm of  
23 military community, which I think is a big asset and I think  
24 that as a center of gravity in that realm.

25 The other thing, and I think many of us would believe

1 that we need to think about how to move groups of people, and  
2 not necessarily individual people, and I think this campus  
3 might offer us opportunities for us to do that.

4 THE COURT: I think all of the us would agree --  
5 you, the VA, and the plaintiffs -- that simply creating a  
6 number in terms of housing or intermediate housing, doesn't  
7 make sense without services.

8 Now, Mr. Kuhn testified about a rather idyllic  
9 community, and you are also telling me about this rather  
10 idyllic community.

11 That person right there is a homeless veteran and he's  
12 psychotic and he's got a knife and we don't know what he's  
13 going to do. And he's got a buddy over there who has a prior  
14 history of slapping women around and having a gun.

15 And now, how are we going to integrate that small but  
16 potentially violent number -- that our police officers approach  
17 on the street occasionally and don't know what to do -- into  
18 what I'm assuming is this kind of idyllic, moderately safe,  
19 community, with some exceptions?

20 Or, is the choice to create this idyllic community so  
21 that we don't have to get as many new law enforcement officers,  
22 which they can't get, and leave the person with the knife and  
23 the gun out in the street for our community to deal with?

24 In other words, what I'm saying is there should be two  
25 models, eventually, if we ever get to more housing, that I have

1 got to deal with.

2 And that is that if I'm going to make an order, I better  
3 be certain that I am making an order that makes some kind of  
4 sense, at least to me.

5 And what I worry about is, if we ever get there, what  
6 this integration looks like.

7 So what am I going to do with the person with the gun,  
8 the past violence, when I have got the rest of the 100 people  
9 living in a rather decent community, with a few flare ups, a  
10 couple of fights, a little bit of drinking.

11 Help me.

12 THE WITNESS: This is a big challenge. And it gets  
13 at --

14 THE COURT: I'm going to have to make that decision,  
15 maybe. Help me.

16 THE WITNESS: Well, it gets to the core of justice  
17 reform. And what I will say is that there are environments,  
18 including treatment environments, particularly if that behavior  
19 is driven by addictions and/or mental illness to provide care  
20 and to mitigate some of the danger.

21 THE COURT: I don't mean to cut you off, but I'm  
22 going to cut you off.

23 With the *Valentini* case, the ruling was basically the  
24 leases were void.

25 There was no injunction, nor was there an affirmative



1 injunction, because everybody went out and settled and came  
2 back and reached a settlement.

3 That is not what's going to be before the Court.

4 If we get there, I'm going to have to decide if there  
5 is, what I call normal injunction, you should not do, or/and  
6 affirmative injunction, not only you shall not do, but you will  
7 do.

8 I'm concerned about what this integration looks like,  
9 because I would be very concerned, if we ever got there, that I  
10 have got the violent who are going to take a decent program for  
11 the hundred with five people in there which is going to  
12 increase their safety costs from 87 to 140, or if we're going  
13 to leave the violent on the street and kind of ignore them, or  
14 if we're going to bring them into this campus, and if we do,  
15 where are we going to put them? A lockdown ward?

16 THE WITNESS: I would say that those who require  
17 that level of care and safety precaution need to be in  
18 environments that can be monitored and that can be safe, and we  
19 have those.

20 THE COURT: On this campus?

21 THE WITNESS: We have a hospital on the campus. And  
22 that hospital is locked and it's secure, and it's able to  
23 manage clients with behavioral problems.

24 As I was saying earlier at the very beginning, I ran the  
25 behavior improvement program which had a lot of these cases of

1 the recalcitrant violence.

2 THE COURT: Because you understand you don't want a  
3 successful program that you and Kuhn probably agree on,  
4 philosophically, and then we get five people in there who are  
5 so violent that our costs are exorbitant, the public reads  
6 about violence going on. It takes this great program and just  
7 denigrates it.

8 Now we can't get tax dollars because the public is  
9 concerned because they read in the front page of the paper the  
10 one incident when you have got a thousand successes.

11 We can make some mistakes, but we can't make a volume of  
12 mistakes.

13 All right. Just a couple more questions.

14 I made a mistake. I wish I would have gotten Braverman  
15 here. I wish I would have kept him. I don't think I need to  
16 keep you or Soboroff, I think he's a housing person of some  
17 kind, and Johnson is also.

18 I don't care if the point-in-time count is accurate or  
19 not, I have got to go by it because it's the only measurement I  
20 have.

21 We have decreased, according to the point-in-time count,  
22 about 25 percent. Now, we can denigrate it.

23 But if we're not going to use that, what is our  
24 measurement standard? It's imperfect.

25 And nationwide, the veterans efforts by the VA seem to

1 be semi-successful compared to our other groups.

2 What has made them successful? What have they done  
3 right and not wrong.

4 THE WITNESS: I would say that the VA's commitment  
5 to homeless veterans has had an impact, different than the rest  
6 of our homeless population, because of programs like HUD-VASH,  
7 and SSVF, which is another national program, Supportive  
8 Services For Veteran and Families, and also programs like the  
9 GPD, although, I think that may be sunsetting.

10 So those programs that are specifically targeting  
11 veterans actually help individuals who are homeless or unstably  
12 housed. And over time, I think we're seeing that show up in  
13 the numbers.

14 THE COURT: Yeah.

15 On the point-in-time count, the way we count people has  
16 varied, you know that there was a little adjustment. We used  
17 to see a tent and there were 10,000 people -- I'm just joking.  
18 But there was a certain ratio for a tent because nobody wanted  
19 to get out and go into the tent.

20 And then they changed that ratio. LAHSA -- never mind.

21 How are we counting veterans?

22 THE WITNESS: Well, I have participated in a lot of  
23 the counts here, and there are several different phases.

24 In one of them there's -- with different levels of kind  
25 of questioning.

1           So, in general, we go out and we look, like you are  
2 saying, there is a van, there is a tent, there is a homeless  
3 person, there is ten people, and we check mark.

4           Then there is a more detailed analysis where questions  
5 are asked of individual people randomly to find out do they  
6 have a serious mental illness, how old are they, are they a  
7 veteran.

8           It's a smaller number of people, but the assessment is  
9 to look at stratifying the population of homeless.

10           THE COURT: I want to talk about different  
11 generations for a moment, and in what you deal with, and I'm  
12 not an expert, you are.

13           I want to pretend that I'm old enough to be in World  
14 War I, and I'm old enough to be in World War I.

15           I go fight the Germans or whatever, and I have got a  
16 fixed battlefield, but I trained for a year, they ship me over  
17 to France, but I'm not in combat for that year, I'm training.

18           Now, I have got intensive conflict, but the enemy is  
19 there, I'm here.

20           Same thing happens in World War II, whether it's the  
21 Marines or the Army or whatever. They train and there is a  
22 sense of intense combat, but there are geographical  
23 demarcations.

24           In Korea -- this is my assumption -- it started to  
25 change a little bit, but still drawing lines with the North

1 Koreans and the Chinese and the Americans.

2 What substantially changed was in Vietnam because there  
3 your Vietnam vet felt that they were in combat 24 hours a day,  
4 because they were in jungle and so was the enemy, so you never  
5 had rest. Your assumption was that the enemy was always there  
6 and that was a whole different set of combat fatigue.

7 Now, we get to the younger generation -- Iraq and  
8 Afghanistan.

9 So in Vietnam, I just shot you with the bullet. But in  
10 Afghanistan and Iraq, they were subject to IEDs. So maybe they  
11 didn't lose an arm or a leg, but when that IED went off, their  
12 brain got fried.

13 I'm assuming, but I'm asking you, as you look at these  
14 different generations, I'm making the assumption that your  
15 traumatic brain injury is significantly higher because of the  
16 IEDs, regardless of the dismemberment, and that you have got a  
17 much more acute and severe population to deal with than what  
18 I'm going to call the traditional Vietnam, Korea, World War II  
19 vet.

20 Is that a safe assumption?

21 THE WITNESS: I would agree 100 percent. I think  
22 it's been underestimated.

23 THE COURT: So, therefore, your suicide rate started  
24 to triple in Vietnam. And now your suicide rate is significant  
25 because people are living longer because you are able to keep

1 them, with good medical care, from going into shock, but you  
2 have got to deal with a whole different kind of veteran.

3 Is there any better therapy than a veteran talking to  
4 another veteran?

5 THE WITNESS: No.

6 THE COURT: And therefore, if we have a community of  
7 veterans, you have got your best therapy, don't you?

8 THE WITNESS: I would say yes.

9 THE COURT: And here is the problem.  
10 Hypothetically, because we may not have built those  
11 communities, whether they are temporary or long-term, most of  
12 the past therapy has been through different organization --  
13 different veterans coming together at the VA or other locations  
14 to talk, and then they scatter, if they will even come in, and  
15 you have no sense of community.

16 And what I hear from you and Kuhn and other people -- I  
17 think we're all on the same page in some regards, how much, or  
18 if any -- is that if we can get veterans together, you know,  
19 and get competent people and counseling, including just  
20 veterans leading veterans, you have got a real chance -- or a  
21 much better chance of success, don't you?

22 THE WITNESS: I think you do have a chance of  
23 success.

24 And again, that is the core component of the people,  
25 place, and purpose. Alongside treatment and housing, that is a

1 home run.

2 THE COURT: And I represent to you I have never had  
3 this conversation with him about veterans. So, we have  
4 discussed homeless what he was the head of the mental health --  
5 I think your budget was, what, it was \$4 billion?

6 THE WITNESS: Just 3.

7 THE COURT: Have any money leftover for --

8 THE WITNESS: Negative.

9 THE COURT: I really fault myself for not keeping  
10 Braverman here. I wish I could get you both in a room  
11 together, and I wish I could get you folks because I'm very  
12 aware of appropriations, what you have to deal with.

13 You -- if you are going to make a suggestion, you have  
14 got to make that with that some kind of absolute credibility or  
15 Congress is just going to ax it.

16 And I'm very sympathetic, also, to some need out there.  
17 I just don't what that is or where it goes.

18 So, I'm going to let you go unless they have some  
19 additional questions, but I'm going to ask, what are you doing  
20 for the next year? I'm just joking.

21 How about the next three weeks? What are you doing for  
22 the next three weeks?

23 THE WITNESS: I'm actually heading back east to Cape  
24 Cod, Nova Scotia to be with family.

25 THE COURT: When will you be back?

1 THE WITNESS: I will be back any time you need me,  
2 sir.

3 THE COURT: I don't interfere with family. I will  
4 growl at people, but I don't interfere with family.

5 When will you be back?

6 THE WITNESS: I will be back at the end of  
7 September, and I'm here now for a couple of weeks.

8 THE COURT: Okay. Don't know if we get there, but  
9 if we do, I might want to talk to you and Braverman on the  
10 record.

11 THE WITNESS: You have got me anytime you want me.

12 THE COURT: Any questions?

13 MR. SILBERFELD: None.

14 MS. PITZ: No, Your Honor.

15 THE COURT: Doctor, thank you very much. I have got  
16 a lot more, but not now, for you and Braverman both.

17 All right. Counsel, your next witness, please.

18 MR. SILBERFELD: Your Honor, the plaintiffs' call  
19 Brett Simms.

20 THE COURT: Thank you very much.

21 MR. ROSENBERG: Judge Carter, while we're waiting  
22 from Mr. Simms to arrive -- he's one of our witnesses from  
23 Washington, and plaintiffs have called him as an adverse  
24 witness as part of their case in chief, which they will  
25 complete this afternoon.



1 Our original expectation was that we would then provide  
2 our direct examination of Mr. Simms.

3 But, of course, it's Thursday afternoon at 4 o'clock and  
4 court is not in session until next week.

5 Mr. Simms is also one of our hybrid witnesses, so we  
6 were going to reserve our right to call him after plaintiffs'  
7 experts testify.

8 So what we would propose is that plaintiffs examine  
9 Mr. Simms as part of their case in chief, and rather than have  
10 him appear early next week, and then potentially fly out again,  
11 you know, the following week, we will conduct our direct  
12 examination of Mr. Simms towards the end of our case, which  
13 would be either toward the end of next week or sometime --

14 THE COURT: That's fine. Is that acceptable to both  
15 of you?

16 MR. ROSENBERG: Yes, sir.

17 THE COURT: If you both agree, the answer is always  
18 yes.

19 Mr. Simms, would you raise your right hand, sir?

20 (Oath was administered.)

21 THE WITNESS: I do.

22 THE COURT: Thank you, sir. Would you please be  
23 seated here in the witness box.

24 Sir, after you are comfortably seated, would you face  
25 the counsel, and would you state your full name, sir?

1 THE WITNESS: Full name is Christopher Brett Simms.

2 THE COURT: Would you spell your last name, sir?

3 THE WITNESS: S-I-M-M-S.

4 THE COURT: And is your first name with two T's in  
5 it?

6 THE WITNESS: Christopher. My middle name is Brett,  
7 and it does have two T's in it.

8 CHRISTOPHER BRETT SIMMS,

9 having been duly sworn,

10 testified as follows:

11 THE COURT: Oh, middle name. Thank you very much.

12 Counsel, direct examination, please, on behalf of  
13 plaintiffs.

14 MR. SILBERFELD: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 (Plaintiffs' Direct Examination)

17 BY MR. SILBERFELD:

18 Q Mr. Simms, good afternoon.

19 I thought we would start by making a little chart of  
20 where you fit into this very complicated story we have here.  
21 Is that all right?

22 A Sure.

23 Q You are the executive director of the Office of Asset  
24 Enterprise Management, correct?

25 A Correct.

1 Q And is that position, executive director, the highest  
2 ranking position in the office?

3 A It is.

4 Q All right. And how long have you had that position, sir?

5 A I have had that position for about four years.

6 Q So, 2020 to the present?

7 A Correct.

8 Q And there may well be other important functions that you  
9 supervise as an executive director, but I think there are four  
10 that are important for our purposes here, but you will correct  
11 me if I get these wrong, all right?

12 A Okay.

13 Q The first one is that you are responsible for --

14 THE COURT: Just put it on the stand for him right  
15 there.

16 THE WITNESS: I will just hold it, if that is okay.

17 BY MR. SILBERFELD:

18 Q You are responsible for the full life cycle management of  
19 the VA real property portfolio, correct?

20 A Correct.

21 Q Another of your functions is that you are responsible for  
22 capital budget requests, correct?

23 A Correct.

24 Q And what is a capital budget request, if you could just  
25 give us an example?

1 A Sure. Each year VA submits, as part of its congressional  
2 budget request, a capital request to fund construction and  
3 renovation activities across the portfolio.

4 Q And you manage that process?

5 A Correct.

6 Q So people give you information, you evaluate it, you apply  
7 certain rules and metrics to it, I imagine, and that becomes  
8 the capital budget request?

9 A Yeah. In a nutshell, that is the process.

10 Q In a crude way, sorry.

11 And that happens annually?

12 A Correct.

13 Q Okay. We're going to talk about it in a little bit, but  
14 there is an acronym, SCIP, S-C-I-P.

15 Would you tell the Court what SCIP is?

16 A SCIP stands for Strategic Capital Investment Planning.

17 Q Okay. And is Strategic Capital Investment Planning part  
18 of the capital budget request process?

19 A Yes. That is the beginning of that process.

20 Q Okay. I just put SCIP in parenthesis there, another of  
21 your function's long range plan, strategic planning?

22 A Correct.

23 Q And what is an example of that?

24 A So, in addition to the annual budget request that comes  
25 out of SCIP, we also do long range planning where we include

1 projects beyond the current budget year that we would  
2 potentially do in future budget years.

3 So it's an out year plan beyond the current budget  
4 cycle.

5 Q Okay. So capital budget requests are current year; long  
6 range, strategic planning is out years, future years?

7 A Yes.

8 Q Which, if they have vitality, become part of some future  
9 capital budget requests; is that right?

10 A Ideally, yes.

11 Q That's the way to think about it anyway?

12 A Yes.

13 Q And the last area of responsibility I think that I want to  
14 talk to you about, but I will ask you if there is anything  
15 else, is you are responsible for the EUL program, correct?

16 A Correct.

17 Q We will get to that in a second.

18 MR. SILBERFELD: Your Honor, I would like to mark  
19 this as 226 and offer it.

20 THE COURT: 226.

21 MR. SILBERFELD: We will put a label on it later.

22 BY MR. SILBERFELD:

23 Q In terms of -- you understand what the issues in this case  
24 are?

25 A Yes.

1 Q Okay. Good. And in terms of the issues in this case  
2 related to the West LA VA property, Mr. Simms, are there any  
3 other aspects of responsibility that you have that we should  
4 know about and put on this chart?

5 A Two. One is sort of a subset of the full life cycle.  
6 Part of my office's responsibility is we do tracking and  
7 collection of the entire portfolio. So we're looking at the  
8 health and status of all of our assets owned and leased across  
9 the country, at all of our campuses.

10 That's part of the life cycle, but it's also a unique  
11 role because there is a lot of reporting requirements  
12 associated with real property that VA has to satisfy.

13 THE COURT: Just a little slower.

14 THE WITNESS: Sure. So within that full life cycle,  
15 a part of that is tracking and reporting on all of our assets.

16 So, all of our owned buildings, all of our leases across  
17 the country, the West LA Campus would be part of that  
18 requirement.

19 And that is both for internal purposes, such as SCIP and  
20 the long range plan, but also reported externally for a lot of  
21 our stakeholders and Congress and other executive branch  
22 agencies.

23 Q Okay. I have put "track" and "report" down here under  
24 full life cycle of the real property portfolio.

25 What is the other one that you wanted to mention, sir?

1 A The other one is I'm responsible for the Energy,  
2 Environment, and Fleet program within VA.

3 So that would include sustainability, for example, of  
4 when we're building buildings, trying to utilize sustainable  
5 principles for the long-term within the portfolio.

6 That also would include some of the program level policy  
7 for things like the National Environmental Protection Act or  
8 the policy act or NEPA, so that falls within that Energy,  
9 Environment, and Fleet area that could have impacts here.

10 Q So if, for example, we waive the magic wand and we say we  
11 are going to build a building on the West LA Campus, that  
12 particular area of responsibility of yours might be implicated  
13 -- the sustainability piece, the environmental piece, and so  
14 forth?

15 A Correct.

16 Q And tell us again what it is called?

17 A Energy, Environment, and Fleet.

18 Q And that's the area of responsibility that relates to  
19 things like NEPA, for example?

20 A Correct.

21 Q Okay. Now, let me go back to yet another one of our  
22 acronyms that we didn't touch on, and that is the EUL program.  
23 That is the Enhanced Use Lease program?

24 A Correct.

25 Q Could you describe to the Court what that is today,

1 because it has changed over time?

2 A Sure. So the Enhanced Use Lease program is a method for  
3 VA to do long-term out leases of our owned property. And that  
4 property could be land or buildings.

5 But it's long-term out leases of that property that VA  
6 no longer has a need for that could be repurposed,  
7 predominantly for housing, but could be for other  
8 veterans-service-type purposes, everywhere except West LA.

9 West LA has some unique requirements when it comes to  
10 EUL, but across the portfolio, we can do other types of  
11 programs beyond housing.

12 Q Now, you touched on this, but I just want to make sure  
13 we're clear.

14 The Enhanced Use Lease program began at about 1991,  
15 right?

16 A Correct.

17 Q And it began as a way for VA to dispose of excess  
18 property, correct?

19 A Not correct.

20 Q Okay. What was its original purpose?

21 A To -- it was a toll that VA could use to repurpose its  
22 assets for other purposes where we didn't have a need for that.

23 Q So, the property was excess, and then the idea was to  
24 repurpose it for some other use?

25 A Correct.



1 Q Okay. I want to put on this chart the statutory authority  
2 -- you are not a lawyer, you are an engineer, as I understand  
3 it?

4 A I am not a lawyer.

5 Q Well, follow along with me, and feel free to disagree if I  
6 get this wrong, okay?

7 The original enabling statute that permitted  
8 enhanced-use leases was 38 United States Code 8162; is that  
9 correct?

10 A Yes. There is a series of 8161 through 8169.

11 Q All right. Let me fix that. 8161?

12 A Correct.

13 Q To 8169, right?

14 A Correct.

15 Q 8162 is the statute specifically about enhanced-use  
16 leasing?

17 A So all of those relate to enhanced-use leasing.

18 Q Okay.

19 A It's different components of the program, but it all  
20 relates to enhanced-use leasing.

21 Q And when this statute was passed, it was 1991, right?

22 A Correct.

23 Q When that statute was passed, essentially what it allowed  
24 was enhanced-use leasing of VA property everywhere except on  
25 the West LA VA campus, right?

1 A Correct, from a different statutory prohibition at West  
2 LA. But yes, it applied everywhere unless there was something  
3 that prevented it.

4 Q Right. And there was something that prevented it at West  
5 LA?

6 A Correct.

7 Q Okay. And do you know what that was?

8 A Commonly referred to as the "Feinstein Amendment," there  
9 is a public law that I do not know what the public law number  
10 is off the top of my head.

11 Q Well, I think it was the Veterans Benefits and Services  
12 Act of 1988.

13 Does that sound familiar?

14 A I don't know for sure.

15 Q Okay. And essentially that legislation said that no  
16 enhanced-use leasing could occur on the West LA VA property?

17 A I believe it was broader than that, but enhanced-use  
18 leasing would have been included in what the prohibition was.

19 Q You called that the Feinstein Amendment?

20 A Correct.

21 Q We will just put down "Feinstein."

22 And that was the case -- what year was the Feinstein  
23 Amendment, do you remember?

24 A I do not remember what year it was.

25 Q But it was sometime before 1991?

1 A There may have been multiple, but it did exist I believe  
2 before 1991.

3 Q And then -- so Feinstein Amendment precludes EUL at West  
4 LA VA?

5 A Correct.

6 Q Okay. And then the next thing that happens in terms of  
7 the enhanced-use lease authority is the West Los Angeles  
8 Leasing Act of 2016?

9 A Specific to West LA?

10 Q Yes, sir, specific. I know that there were changes over  
11 time with regards to 38 U.S.C. 8161, et cetera, but specific to  
12 West LA, the next event was the West Los Angeles Leasing Act of  
13 2016, right?

14 A Correct.

15 Q And describe to the Court in lay terms, if you would, what  
16 that permitted?

17 A There's multiple pieces to the West LA Leasing Act.

18 The part that I particularly focused on was it  
19 explicitly allows for enhanced-use leases for permanent  
20 supportive housing to be executed at West LA.

21 Q And what the Act says specifically is that the Secretary  
22 may enter into enhanced-use leases, correct?

23 A I think that's from - the base statute is the same  
24 language, he may enter into it.

25 Q And 38 U.S.C. 8161 to 8169 has exactly the same language,

1 doesn't it, namely, the Secretary may do something.

2 A That language specifically, correct.

3 Q Okay. I know there are other words after that, but 38  
4 U.S.C. 8161 to 69 doesn't mandate that the Secretary shall do  
5 something, correct? We agree about that?

6 A Yeah, that's correct.

7 Q And it doesn't say that the exclusive way in which the VA  
8 can deal with excess property is through enhanced-use leases.

9 It doesn't say that, does it?

10 A That's correct.

11 Q And, similarly, the West LA Leasing Act of 2016 says the  
12 Secretary may enter into enhanced-use leases, correct?

13 A Correct.

14 Q And, once again, it doesn't say the exclusive way that the  
15 Secretary shall construct permanent supporting housing is  
16 through enhanced-used leases. It doesn't say that, doesn't it?

17 A Yes, it does say that. So we don't have to enter it, it  
18 doesn't mandate that we enter into EULs, but it does say that  
19 housing -- permanent supportive housing specifically would be  
20 delivered through the enhanced-use lease vehicle.

21 Q Okay.

22 MR. SILBERFELD: If we could show the witness  
23 Exhibit 81.

24 Your Honor, I will have a copy for the Court in  
25 just a moment.

1 THE COURT: I didn't hear you, counsel, I'm sorry?

2 MR. SILBERFELD: Having dropped the microphone, I  
3 said we will have a copy for the Court.

4 THE COURT: That's fine, continue on.

5 BY MR. SILBERFELD:

6 Q Let me hand you the Leasing Act of 2016.

7 Mr. Simms, can you tell me where the language  
8 that says that the only way you can build permanent supportive  
9 housing at the West LA Campus is through EULs?

10 A So it would be 2(b)(1).

11 Q Okay. Would you read it?

12 A It says, "Any enhanced-use lease of real property under  
13 Subchapter 5 of Chapter 81 of Title 38, United States Code for  
14 purposes of providing supportive housing, as the term is  
15 defined under 8161, Section 3 of such title, that principally  
16 benefit veterans and their family."

17 So that section refers to enhanced-use leases  
18 specifically for supportive housing.

19 THE COURT: Is that the same document, but the full  
20 document?

21 THE WITNESS: No, sir. So this is the public law  
22 itself, this is the OIG report.

23 THE COURT: Okay. I have seen this document before,  
24 I just don't know when.

25 Continue on, counsel, my apologies.

1 THE WITNESS: That may be it, Your Honor, up there,  
2 that's some type of public law.

3 MS. PETTY: Your Honor, we have an extra copy if you  
4 want us to come up and hand it to you?

5 THE COURT: Will you? I would appreciate that.  
6 Thank you.

7 MS. PETTY: Yes.

8 THE COURT: Now, show me again.

9 Okay. Thank you, counsel.

10 BY MR. SILBERFELD:

11 Q So where we were is that you read Section 2(b)(1) and  
12 that's the language you read, correct?

13 A Correct.

14 Q Do you understand that the leases described in Section B  
15 are the leases generally described in Section A?

16 A Correct.

17 Q And in Section A, the Leasing Act says that the Secretary  
18 of Veteran Affairs may carry out leases, correct?

19 A Correct.

20 Q It doesn't compel him to do it?

21 A Agreed.

22 Q And you have read enough statutes to know that if Congress  
23 or somebody authoring legislation wanted for say "you shall"  
24 there's a way to say that?

25 A That is correct.

1 Q Now, you have interpretive documents, do you not,  
2 Mr. Simms, that you use to interpret laws like the West LA  
3 Leasing Act of 2016?

4 A In this case, no. I mean, the statute in and of itself is  
5 straightforward enough that we don't have separate interpretive  
6 documents for that.

7 Q Well, you have enhanced-use lease program policies, do you  
8 not?

9 A For the entire program, correct.

10 Q Which includes West Los Angeles, right?

11 A Correct.

12 Q Okay. And the enhanced-use lease program policies that  
13 you have include as part of the personnel that support those  
14 policies the Office of General Counsel, correct?

15 A Correct.

16 Q And the Office of General Counsel is, and the person of  
17 the Real Property Law Group, is responsible for providing  
18 proactive full service legal support, advice, and assistance  
19 for VA-related matters involving the areas of real property,  
20 personal property, leases, and other things, correct?

21 A Correct.

22 Q And the person who has that position today is an  
23 individual named Robert Davenport, correct?

24 A He would be the chief of that section, certainly a lot of  
25 other lawyers within that group.

1 Q Mr. Davenport is the chief of the Real Property Law Group?

2 A Correct.

3 Q And did you -- I don't want to know what you talked about,  
4 but did you meet with him in advance of your testimony here  
5 today?

6 A I did not meet with him specifically, no.

7 Q How about before your deposition in this case?

8 A I have met with Mr. Davenport many times.

9 Q Have you met with Mr. Davenport about the question we're  
10 talking about right now, which is whether the use of  
11 enhanced-use leases is either mandatory or permissive?

12 A Yes.

13 Q How many times has that happened?

14 A I wouldn't guess, but certainly multiple. More than once.

15 Q Because you understand that's an issue in this case,  
16 correct?

17 A Actually, no. I mean, you're talking about whether we  
18 have to do a lease or not?

19 I don't think there's a disagreement that we have to do  
20 something, it's the method by which we would deliver permanent  
21 supportive housing.

22 Q Right. The issue is whether enhanced-use leasing is the  
23 only way in which VA can build permanent supportive housing.  
24 You understand that is the question?

25 A Correct.



1 Q And Mr. Davenport has answered that question to you, has  
2 he not?

3 MS. PETTY: Objection, based on privilege to the  
4 extent this answer would reveal information that Mr. Simms  
5 received from Mr. Davenport.

6 THE COURT: Overruled. Can you answer the question?

7 THE WITNESS: Yes.

8 BY MR. SILBERFELD:

9 Q And what has he told you?

10 A That is the only method to deliver housing at the West LA  
11 Campus, supportive housing.

12 Q Has he given you his rational or reasoning for that  
13 answer?

14 MS. PETTY: Objection, based on the same that I just  
15 stated.

16 THE COURT: It's been waived now, counsel, as sword  
17 and shield. Overruled.

18 You can answer the question, you are instructed  
19 to.

20 THE WITNESS: Sure. So normally the way this works  
21 is counsel and the business owner, and in this case the EUL  
22 program business owner is myself, talk about the  
23 interpretation.

24 My reading of it, that he confirmed, was the West  
25 LA Leasing Act explicitly lists out the types of leases that

1 can be done on campus.

2 There is only one place that supportive housing is  
3 listed and it's under the enhanced-use lease section, therefore  
4 that is the only way that could be delivered.

5 BY MR. SILBERFELD:

6 Q That's the only way it could be delivered through an  
7 enhanced-use lease?

8 MS. PETTY: Objection, confusing.

9 THE COURT: Sustained. Proceed.

10 BY MR. SILBERFELD:

11 Q How long has it been that you and Mr. Davenport have  
12 talked about this question?

13 Is it something that's this year or last year or the  
14 year before?

15 A Since Mr. Davenport came to VA, and I do not know exactly  
16 when that was, but it's been multiple years ago.

17 Q Okay. And you rely on his legal advice in testifying here  
18 today that the only way this could be done is through  
19 enhanced-use leasing, namely, the provision of permanent  
20 supportive housing?

21 A Certainly part of it, yes.

22 Q Okay.

23 THE COURT: Just a moment. So this is the legal  
24 advice, the interpretation of your counsel.

25 Is this set out in any type of policy besides this

1 interpretation?

2 In other words, if I picked this up, would I see that  
3 this is the only way?

4 Would there be a document of that kind or is it the  
5 interpretation through your counsel, and, you know, your good  
6 faith in this?

7 THE WITNESS: So, Your Honor, I think it starts with  
8 Congressional intent.

9 THE COURT: Okay. No, that's not my question.  
10 My question is back -- in other words, does it say  
11 someplace: We, in the VA, believe that this is the only way  
12 that we can build through enhanced leasing?

13 THE WITNESS: That would be our policy.

14 THE COURT: I know it's your policy. I'm asking is  
15 it written anyplace?

16 THE WITNESS: It would be in the enhanced-use lease  
17 program policy, so that would be where it talks about...

18 BY MR. SILBERFELD:

19 Q Has Mr. Davenport ever issued a memo as far as you know to  
20 you or anyone in your group about this topic, namely, that the  
21 only way to build permanent supportive housing is through an  
22 EUL?

23 A Not to my knowledge.

24 Q And the program policies you said might contain this  
25 expression of this idea somewhere?

1 A Yeah. In general terms, it's going to talk about the  
2 delivery of permanent supporting housing through the  
3 enhanced-use lease program.

4 Q Well, let's start with -- there is a VA directive I have,  
5 7415 from September of 2017, and let me just show this to you.

6 MR. SILBERFELD: And I have a copy for the Court.

7 THE COURT: What is this?

8 MR. SILBERFELD: We will mark this as 227.

9 MS. PETTY: Counsel, can I have a copy, please?

10 BY MR. SILBERFELD:

11 Q I have handed you a document, Mr. Simms, that is five  
12 pages in length.

13 Do you find the language that you just mentioned in the  
14 testimony?

15 A I have one reference, I haven't gone through the whole  
16 thing so there could be others, but I have one reference.

17 Q Tell us where it is, please?

18 A So on page 3, under the policy section, Subsection A  
19 Program Policies for EUL, it describes the statutory sections  
20 that we talked about earlier, and about halfway down, it says,  
21 "Under this authority VA may lease land or buildings under the  
22 jurisdiction or control of the Secretary to a public or private  
23 entity for a term not to exceed 75 years. The lease property  
24 may be developed for only supportive housing, provided that  
25 such is consistent and does not adversely affect the mission of

1 VA."

2 Q So, again, it says, under this authority VA may lease  
3 land?

4 A Correct.

5 Q It doesn't say --

6 THE COURT: In says "may be developed," doesn't it?  
7 In other words -- let me catch up with you.

8 VA may -- oh, I'm sorry, may lease land, I'm sorry.

9 BY MR. SILBERFELD:

10 Q It's permissive language again, correct?

11 A Correct.

12 Q Is there somewhere else in this document that you think it  
13 says it's mandatory?

14 MS. PETTY: Objection, Your Honor, to the extent  
15 this is not the most recent document and it's not complete.

16 THE COURT: Overruled.

17 THE WITNESS: Yeah, so permanent supportive housing  
18 would be referenced elsewhere, but that's the best policy  
19 statement of --

20 BY MR. SILBERFELD:

21 Q In this document?

22 A In this document.

23 Q All right. Let me show you what we will informally mark  
24 as 228.

25 MR. SILBERFELD: I have a copy for the Court.

1 THE COURT: This is Exhibit 228.

2 MR. SILBERFELD: Oh, I'm sorry, this has already  
3 been marked as 1072. I guess it's in the government set of  
4 documents.

5 THE COURT: That will be 1072.

6 BY MR. SILBERFELD:

7 Q Mr. Simms, same exercise, please, see if in 1072 you can  
8 find a reference to the fact that permanent supportive housing  
9 must be built only through EULs?

10 A So, as I stated, that type of statement doesn't exist.

11 What it would talk about as the enhanced-use lease must  
12 be developed as permanent supportive housing.

13 Q Okay.

14 A So I understand your question is are there other vehicles?  
15 This document is an enhanced-use lease program document, so it  
16 isn't going to touch other areas that may or may not exist on  
17 whether that authority would apply to supportive housing.

18 Q So these two program policy documents that we have just  
19 looked at, really are not helpful in answering the question I'm  
20 asking?

21 A Correct. These are already focused on the enhanced-use  
22 lease program, and it clearly does have limitations to  
23 supportive housing.

24 Q Yes. So if you are going to enter into an enhanced-use  
25 lease, it must be done only for supportive housing purposes,

1 that's the point?

2 A Correct. And the language I pointed out in the West LA  
3 Leasing Act, I think is very clear that the enhanced-use lease  
4 has to be for supportive housing.

5 Q Okay. I'm asking a different question.

6 My question fundamentally is: As the head of  
7 your office, are there other ways in which VA can build  
8 permanent supportive housing other than through an EUL  
9 mechanism?

10 MS. PETTY: Objection, asked and answered.

11 THE COURT: Overruled.

12 THE WITNESS: I do not believe there are.

13 BY MR. SILBERFELD:

14 Q Okay. Why not?

15 A VA's base authority to construct and alter facilities is  
16 based in Title 38, Section 8101.

17 Within that, it grants VA the ability to construct and  
18 alter medical facilities, and within that definition, housing  
19 is not included.

20 Q Okay. But you can build medical centers?

21 A And that is listed in that section.

22 Q And so, you know, for example, there is a new tower being  
23 planned for the West LA Campus?

24 A Yes.

25 Q And there's no question but that VA can build that tower?

1 A Correct.

2 Q And it can build that tower because it has the explicit  
3 authority to either build or add to a medical center?

4 A Correct.

5 Q And one of the definitions of medical center is that a  
6 medical center includes different kinds of services, correct?

7 A Correct.

8 Q One of the services that a medical center provides is  
9 inpatient care?

10 A Correct.

11 Q And another is outpatient care?

12 A Correct.

13 Q Another is skilled nursing care?

14 A Correct.

15 Q And another is residential care?

16 A Correct.

17 Q And residential care is a defined term in a VA Handbook,  
18 is it not?

19 A Yeah, that's not my area of expertise, but I assumed that  
20 it is defined within that program's policies.

21 Q And do you know that residential care as defined in a VA  
22 Handbook includes services for homelessness?

23 A Services for homelessness? That would make sense.

24 Q Okay. I have started a chart here, which we're going to  
25 call Examples of Housing Constructed Or Built Or Renovated By



1 VA.

2 MR. SILBERFELD: And what is our next in order,  
3 Tommy?

4 MR. DU: 228.

5 BY MR. SILBERFELD:

6 Q You're familiar with the West LA Campus?

7 A Yes.

8 Q Maybe not as intimately as some of us, but you are  
9 familiar?

10 A I would say that's fair.

11 Q All right. On the VA campus there's a building that was  
12 renovated by VA, using its funds, not through an EUL, and that  
13 is Building 209, correct?

14 A Correct.

15 Q Another construction project of sorts that was engaged in  
16 by VA, using its funds, not through a lease, EUL or otherwise,  
17 was the purchase of tiny shelters.

18 Do you know that?

19 A I do, but let me go back to Building 209.

20 So the title of your exhibit is "Housing."

21 Building 209 was compensated work therapy program that  
22 VA had explicit congressional authority to do, so it was not  
23 relying on the statute of our base construction authority.

24 So 209 was only allowed because we had explicit  
25 authority to do that compensated work therapy program.

1 Q Right. I was going to get back to it, but since we're  
2 there, let's go ahead and complete our discussion about  
3 Building 209.

4 Building 209 was, in fact, renovated for housing  
5 in part?

6 A No. It was compensated work therapy, which is not the  
7 same as permanent supportive housing.

8 Q I didn't say it was permanent supportive housing. It's  
9 housing. People live in Building 209.

10 A The intent was the compensated work therapy. They would  
11 stay in Building 209 as part of that program.

12 Q As part of the program, human beings lived in Building  
13 209?

14 A Correct.

15 Q Okay. Do we have to fence about the meaning of housing?  
16 I hope we don't.

17 People are housed there.

18 A For that program's purpose, yes.

19 Q Okay. And the way -- since we're going to complete this  
20 idea now -- the way Building 209 was capable of being  
21 constructed for housing and for the compensated work therapy  
22 program was because it was believed that the housing was a part  
23 of healthcare?

24 MS. PETTY: Objection, vague as to what the  
25 definition of housing is in context.

1 THE COURT: Overruled.

2 You can answer the question, sir.

3 THE WITNESS: Sure. No, I don't believe that's the  
4 case.

5 BY MR. SILBERFELD:

6 Q So how is it then that VA was able to build housing in  
7 Building 209?

8 MS. PETTY: Objection, misleading as to build.

9 BY MR. SILBERFELD:

10 Q Or renovate.

11 MR. SILBERFELD: I will accept counsel's friendly  
12 amendment.

13 THE WITNESS: Even under that scenario there, the  
14 definition for housing, they are housed there, they live there,  
15 but it is for that program's purpose. It was not general  
16 purpose housing.

17 BY MR. SILBERFELD:

18 Q I'm not suggesting it was.

19 It's housing, people live in Building 209 who were in  
20 the compensated work therapy program.

21 We agree about that?

22 A Agree.

23 Q Okay. And the way VA was able to accomplish housing as  
24 part of the work therapy program was to call it healthcare?

25 A I don't believe that's the case. They did it because that

1 is part of the compensated work therapy program.

2 Q Which is part of healthcare itself?

3 A No. It's an explicit authority.

4 Q Well, what is the compensated work therapy program then?

5 A I'm not a clinical expert, I can't give the details  
6 underneath of that.

7 Q All right.

8 At some point VA purchased a small number of tiny  
9 shelters.

10 You are familiar with those that are the VA grounds?

11 A I'm familiar with those.

12 Q Okay. And VA used its funds to acquire these tiny  
13 shelters, correct?

14 MS. PETTY: Objection, foundation.

15 THE COURT: Overruled.

16 You may answer the question.

17 THE WITNESS: I don't believe they used their funds  
18 to purchase those.

19 BY MR. SILBERFELD:

20 Q Well, what did they use their funds for?

21 A To do the slight preparation for them to be connected to  
22 utilities and things like that.

23 Q Okay. And what is the authority for VA having spent its  
24 own funds to prepare the sites for and hook up the tiny  
25 shelters?

1 A So that would have been done, I believe, under a license  
2 or an easement.

3 So there's an authority for us leasing out the land that  
4 those were put into. So that authority would grant us the  
5 ability to create the infrastructure needed to support it.

6 Q The work that was done on the tiny shelters was done  
7 because those tiny shelters were also part of a healthcare  
8 program, correct?

9 A I don't -- I'm not a clinical expert, I don't know what  
10 they considered those.

11 Q Do you know what the domiciliary is, Mr. Simms?

12 A I do.

13 Q What is it?

14 A It is a residential rehab function generally for substance  
15 abuse, but not limited to substance abuse.

16 Q It exists on the VA campus in West LA?

17 A It does.

18 Q How many beds or people are housed there?

19 A I do not know exactly. I think it's more than 100, but I  
20 do not know exactly.

21 Q And the domiciliary was created by VA using its funds, not  
22 an enhanced-use lease, correct?

23 A Correct.

24 Q And do you understand how that was accomplished using VA  
25 funds, not an enhanced-use lease?

1 A Domiciliary is explicitly listed as type of medical  
2 facility that we can build with our programs.

3 Q Okay. I've abbreviated all three of these, but I think  
4 what you mean, what are community living centers?

5 A So the old term was nursing home, was what they were  
6 typically called, but it's generally a nursing care facility.

7 Q And VA has, in fact, constructed community living centers,  
8 has it not?

9 A Yes.

10 Q Not through an enhanced-use lease, correct?

11 A Correct.

12 Q Using its proceeds and its construction capabilities,  
13 correct?

14 A Correct.

15 Q And it does so how?

16 A That is another one that is explicitly listed in the  
17 definition of medical facility under 8101.

18 Q And, lastly, we've already talked about medical centers.  
19 There is no doubt that VA has the authority, using its own  
20 funds not through an EUL, to construct medical centers?

21 A Agreed.

22 Q Right.

23 Okay. As the person responsible, Mr. Simms, for the  
24 enhanced-use lease program on the West LA VA Campus, I have a  
25 few questions about that particular authority, all right?

1 A Okay.

2 Q Have there been any decisions made to demolish any of the  
3 buildings that are currently on the campus?

4 A There are some smaller buildings that have been  
5 contemplated for demolition.

6 I do not believe there is any of significant size we  
7 have talked about demolishing.

8 Q Can you give the Court an overview -- and we're not going  
9 to hold you to the exact number, how many total buildings are  
10 on the campus?

11 A Roughly 100 buildings.

12 Q And of that 100 buildings, approximately how many are  
13 either partially or not at all occupied?

14 A I do not know off the top of my head, and I'd rather not  
15 guess on that one.

16 Q In the order or magnitude 10, 20?

17 A Much smaller than there used to be. We put a lot of those  
18 back into housing that are under construction at this point or  
19 open, so a lot less than what there were when we looked at  
20 these originally back in 2016 and '17.

21 Q And you are, likewise, responsible for the infrastructure  
22 at the West LA Campus, are you not?

23 A No. Not on that one. I will leave that one to the  
24 medical center to own the infrastructure.

25 But to the extent that it's needed for supporting the

1 permanent supportive housing, I certainly have a role there,  
2 yes.

3 Q What is your role in connection with that?

4 A So typically when we enter into an enhanced-use lease, the  
5 utility systems are called out in terms of responsibility, and  
6 normally the responsibility of VA is to provide utility service  
7 up to the edge of the parcel that is being developed for  
8 housing, then the developer would be responsible for the  
9 utilities within the parcel.

10 So we have to make sure that we've got access to  
11 utilities systems to support the housing.

12 Q Does the infrastructure plan that is in use today  
13 basically provide infrastructure on a building-by-building  
14 basis as they are about to start construction, or is the  
15 infrastructure being put in across the entire campus so in  
16 future years construction might not be delayed by  
17 infrastructure needs?

18 A So both. We're certainly attempting to do the large scale  
19 infrastructure work in advance, and we have been working on  
20 that for sometime now.

21 But there are generally still utilities that need to be  
22 connected for each individual parcel.

23 Q Have there been any delays that you're aware of in either  
24 the start of construction or the completion of construction of  
25 a particular building because infrastructure wasn't ready to be



1 connected up in the last three or four years, let's say?

2 A So I don't think it resulted in much of a delay, but there  
3 was an issue with Building 205 and 208 with the water pressure  
4 to support the fire suppression systems on the VA campus, the  
5 pressure wasn't enough, so we did have to install some pressure  
6 boosters for those buildings to make them pass the fire safety  
7 codes.

8 Again, I don't think it really resulted in a delay of  
9 getting the building open, but it was related to the utility  
10 infrastructure specifically.

11 Q There have been delays occasioned by any number of reasons  
12 in the completion of some of these original permanent  
13 supportive housing buildings that have been built, correct?

14 A Delay based on what? What is your baseline?

15 Q Based on anything.

16 Isn't it true that Buildings 205 and 208 were opened  
17 about two years behind schedule?

18 A Compared to the original draft master plan in 2016, yes.

19 Q And MacArthur Field Phase 1, that is a project you are  
20 familiar with, is it?

21 A Yes.

22 Q And MacArthur Phase 1 was delayed about two years?

23 A Correct.

24 Q Do you know why?

25 A Generally, financing.

1 Q So not construction related or infrastructure related, but  
2 delayed because the developer couldn't get sufficient financing  
3 through whatever mechanisms they used to be able to put a  
4 shovel in the ground?

5 A In general, once construction started there were not any  
6 significant delays, so the delays were --

7 THE COURT: That's not the question. I'm interested  
8 in that, too.

9 Was there a delay over the funding mechanism in  
10 MacArthur?

11 THE WITNESS: Not a delay over it, but the actual  
12 funding --

13 THE COURT: I'm sorry --

14 THE WITNESS: -- they were denied.

15 THE COURT: It was a bad word, they were denied.

16 THE WITNESS: Understood. They applied for  
17 financing, and were denied financing and had to wait to  
18 reapply.

19 THE COURT: What was that?

20 THE WITNESS: I'm sorry, what was the question  
21 again. Your Honor?

22 THE COURT: What builder was that?

23 THE WITNESS: Core Affordable.

24 THE COURT: Core Affordable. Thank you.

25 BY MR. SILBERFELD:

1 Q We've heard in the course of the trial, Mr. Simms, about a  
2 landfill issue on the Brentwood property or near the Brentwood  
3 property.

4 Are you broadly familiar with that?

5 A Broadly familiar, yes.

6 Q Do you have any new information for us that you can impart  
7 about whether that issue is going to occasion any additional  
8 delays?

9 A Well, I don't know what you have in terms of information,  
10 so what I would say is Building 210 was just pulling permits  
11 for construction when this issue was identified.

12 They were successful in getting their permits, so it  
13 didn't have a delay on the start of Building 210.

14 Next up will be the certificates of occupancy for  
15 MacArthur Phase A later this month.

16 THE COURT: I don't know what Phase A is. Is that  
17 Building 210?

18 THE WITNESS: No.

19 THE COURT: Help me.

20 THE WITNESS: Building 210 is just getting started,  
21 so that is one that we just entered into.

22 THE COURT: What you are referring to in Phase A?

23 THE WITNESS: MacArthur Field is being developed in  
24 two phases.

25 THE COURT: Okay.

1 THE WITNESS: So the first phase of MacArthur is  
2 scheduled to open later this month.

3 THE COURT: Does it have a building name to it or an  
4 address?

5 THE WITNESS: It probably does have an address, but  
6 I'm not sure which one it is right now.

7 THE COURT: How many units in it?

8 THE WITNESS: 75 units.

9 THE COURT: Okay. And does this building have  
10 landfill issues?

11 THE WITNESS: At this point, no. But we have not  
12 applied for the certificate of occupancy.

13 THE COURT: Why?

14 THE WITNESS: That is when construction is done,  
15 they come in and do the final certification. So they are not  
16 quite there.

17 THE COURT: Thank you. Counsel.

18 BY MR. SILBERFELD:

19 Q Thank you. You prepared a chart, did you not, Mr. Simms  
20 of the housing phasing plan and release partial schedule for  
21 West Los Angeles?

22 A Yes. I'm familiar with that document.

23 Q Okay? Great. It's --

24 MR. SILBERFELD: We're going to mark this, Your  
25 Honor, as 229. That is attached to his declaration.

1 THE COURT: What was the number?

2 MR. SILBERFELD: 229, Your Honor.

3 THE COURT: 229. All right. Thank you.

4 MR. SILBERFELD: Counsel tells me there is an  
5 updated version that is 1616. If we could ask --

6 THE COURT: 1615.

7 MR. SILBERFELD: 1616, Your Honor.

8 THE COURT: 1616.

9 MR. SILBERFELD: I didn't know there was an updated  
10 one.

11 BY MR. SILBERFELD:

12 Q So, do you recognize this document, Mr. Simms?

13 A Yes.

14 Q Okay.

15 THE COURT: Do you want to take a moment and look at  
16 this?

17 MR. SILBERFELD: I was just going to walk the  
18 witness through it, Your Honor, if that is all right.

19 THE COURT: Go ahead.

20 BY MR. SILBERFELD:

21 Q This is something you prepared, Mr. Simms?

22 A Not personally, but my office prepares this.

23 Q You've reviewed it, you believe it to be reasonably  
24 accurate?

25 A Yes.

1 MR. SILBERFELD: Offer 1616, Your Honor.

2 THE COURT: Received.

3 (Exhibit 1616 received into evidence.)

4 BY MR. SILBERFELD:

5 Q The left-hand column lists building numbers, correct?

6 A Correct.

7 Q Followed by who the developer is?

8 A Correct.

9 Q Followed by the status of the building?

10 A Correct.

11 Q Followed by the proposed parcel release date?

12 A Correct.

13 Q We will talk about what that means.

14 Construction start, construction finish, official  
15 opening, total units, and cumulative units. Is that the way to  
16 read this?

17 A Yes.

18 Q So let's come down to Building 210, which is roughly in  
19 the middle of the page.

20 The developer is the principal developer, is that what  
21 PD means?

22 A PD stands for principal developer.

23 Q And its status is that it's in construction, correct?

24 A Correct.

25 Q There is no parcel release date because it's already

1 happened, correct?

2 A Correct.

3 Q The construction start was August of '24?

4 A Correct.

5 Q Is that accurate?

6 A Yes. They just now started.

7 Q So the prior version I had, had the start -- construction  
8 start for Building 210 as May, and now it's August.

9 What is the explanation for the delay, sir?

10 A Sure. So when the principal developer team went to close  
11 their financing, part of the financing was done by bonds.  
12 Their bond issuer, which is a step in the financing process,  
13 was not able to issue the bonds because the underlying property  
14 was federal property, so they had to find a different bond  
15 issuer.

16 Q So, not a construction delay?

17 A Correct.

18 Q Not a VA caused delay?

19 A Correct.

20 Q A delay caused by a financing issue?

21 A Financing.

22 Q Okay. In the status column, you see the peach-colored  
23 entries that say "in construction"?

24 A Yes.

25 Q And are those the six buildings that are in one or more

1 phases of construction right now on the property?

2 A Correct.

3 Q Okay. And are you aware, as you sit here today, of any  
4 delays that may be occasioned with respect to the official  
5 opening of those buildings?

6 A Not to my knowledge.

7 Q Okay. When, in the course of things, would you be putting  
8 an official opening date next to a building that is under  
9 construction right now?

10 A Generally, within the last 30 days or so of construction,  
11 we would be looking at the official opening date.

12 Q Okay. So let's talk about MacArthur Field Phase 1,  
13 because that is the next building supposed to be completed this  
14 month, right?

15 A Correct.

16 Q Do we have an official opening date for MacArthur Field  
17 Phase 1?

18 A We do not at this point.

19 Q Is it this year, do you think?

20 A I would expect it to be shortly after August, so either  
21 late August or early September.

22 There is generally not a lot of time lag between the end  
23 of construction and when we can open the building.

24 There are some various inspections and things that need  
25 to get done so that they can be used, but that generally does



1 not take very long.

2 Q Okay. And if we move down beyond the "in construction  
3 buildings" from Building 300 to the end of the chart, are you  
4 aware of any financing glitches or delays that may be  
5 associated with any of these buildings, as you sit here today,  
6 sir?

7 A No. But I would caveat that by saying that the ones in  
8 preliminary planning, specifically Building 300 and Building  
9 408/Parking Lot 20, those have applied for or are applying for  
10 financing, so they are actively seeking that financing.

11 The ones below that, at this point, have not applied for  
12 financing, in most cases.

13 THE COURT: Would you repeat that just a little bit  
14 more slowly so I understand?

15 THE WITNESS: Sure. So Buildings 300 and 408 are  
16 listed as preliminary planning.

17 THE COURT: Okay.

18 THE WITNESS: That preliminary planning includes  
19 applying for and securing financing.

20 THE COURT: Okay.

21 THE WITNESS: So they are actively doing that. I'm  
22 not aware of any glitches or issues at this point for those two  
23 buildings.

24 Starting with Building 256 and going down the rest of  
25 the list, they have not started seeking full financing for

1 those projects, so there wouldn't be any glitches at this point  
2 because they really haven't actively sought financing.

3 THE COURT: Just a moment.

4 BY MR. SILBERFELD:

5 Q Is one of the --

6 THE COURT: Counsel, just one moment, please.

7 MR. SILBERFELD: Yes, Your Honor.

8 THE COURT: Thank you, counsel.

9 BY MR. SILBERFELD:

10 Q There are, in all of these financing arrangements,  
11 significant challenges for the developer to obtain such  
12 financing.

13 Isn't that your experience?

14 A It is a very complex process.

15 Q And it is an iffy process?

16 A There are certainly limited resources, so, yes. That  
17 makes it competitive and, therefore, chance is there that they  
18 wouldn't get funded.

19 Q So, as to the buildings that you have identified for us,  
20 from 256 to the end of the chart, that is 12 properties.

21 The process of obtaining financing hasn't even begun; is  
22 that correct?

23 A For portions of it. They may have some financing lined  
24 up, but for the traditional way that they would apply for  
25 financing, they have a set period of time by which they have to

1 commence construction once they get that financing.

2 So it doesn't make sense for them to apply for those now  
3 when they wouldn't be ready to start construction, and  
4 therefore would lose that financing.

5 Q But one example, Mr. Simms, of the challenges to obtain  
6 financing is what happened with MacArthur Field one, right?

7 A Yes.

8 Q And this is probably not the only time this has happened,  
9 but let's describe to the Court what happened with the  
10 financing for MacArthur Field Phase 1.

11 You know this story, I'm sure.

12 A I do. So, in general, financing that includes either tax  
13 exempt bonds or low-income housing tax credits, there is an  
14 application process that is followed by a selection process.

15 That selection process is extremely competitive because  
16 there is a limited amount of resources that they award in each  
17 of those funding cycles.

18 So in the case of MacArthur, their application did not  
19 get enough points to get above the funding line, and therefore  
20 they didn't get funding in that cycle.

21 Q In MacArthur Phase 1, there was \$100 million of Low Income  
22 Housing Tax Credit financing available?

23 A Roughly. I don't know the exact number.

24 Q Sure. Give or take. And there was \$800 million of  
25 applicants for that \$100 million?

1 A Roughly, correct.

2 Q And that's not an uncommon circumstances, is it?

3 A No. Low Income Housing Tax Credits are extremely  
4 competitive.

5 Q You have responsibility for the full life cycle of the  
6 VA's real property portfolio, correct?

7 A Correct.

8 Q Are you familiar with the California Veteran Home that is  
9 on the VA property?

10 A Yes.

11 Q Okay. And Your Honor -- the CalVet's property, Mr. Simms,  
12 is this sort of the crescent-shaped building over here to the  
13 right of Exhibit 1, page 291, correct?

14 A Correct.

15 Q And that is not a federal building, is it?

16 A It is not.

17 Q It's a State of California building?

18 A Correct.

19 Q It sits on federal land, correct?

20 A I don't know specifically whether that was actually deeded  
21 to the state or whether it was some type of agreement.

22 VA does not treat that as part of our campus there, but  
23 it certainly is on the property overall.

24 Q Well, at some point in time before the CalVets building  
25 was built, this was VA property?

1 A Agreed.

2 Q Okay. And something happened that allowed the CalVets  
3 building to be built?

4 A Agreed.

5 Q And that opened in 2010, correct?

6 A I don't know the specific opening date.

7 Q All right. It houses roughly 400 California veterans?

8 A Correct.

9 Q In three tiers of service -- assisted living, skilled  
10 nursing, memory care. Correct?

11 A Yeah, I'm not specific on how they do their care in there.

12 Q Do you have an explanation for how a state building ended  
13 up on the VA property?

14 A Not specifically that, no.

15 Q Okay. Who would know best?

16 A So, I believe that was funded through our State Home Grant  
17 Program. But they probably would not have the details of the  
18 actual real property underneath of it, so it would likely be  
19 someone at the medical center.

20 THE COURT: You said, I believe, that it was funded  
21 through our State Home Grant Program. Explain that to me.

22 THE WITNESS: VA has a State Home Grant Program that  
23 states can apply to VA to partially fund their State Veteran  
24 Homes. Very similar as there is a ranking process, a scoring  
25 process, and then VA pays a portion of the development costs

1 for State homes.

2 THE COURT: Is this the VA's money used to -- I may  
3 have the wrong word -- renovate or build?

4 THE WITNESS: Well, the State would have led it,  
5 VA's grant --

6 THE COURT: My question is: Was this the VA's  
7 money?

8 THE WITNESS: If it was, it was through the grant  
9 program.

10 THE COURT: My question is: Was this the VA's  
11 money?

12 THE WITNESS: I can't answer that question, sir.

13 THE COURT: Okay. And if it was, it came through a  
14 grant?

15 THE WITNESS: If it was, it would have been through  
16 a grant.

17 THE COURT: Which makes it the VA's money.

18 THE WITNESS: Correct.

19 THE COURT: Okay.

20 BY MR. SILBERFELD:

21 Q Speaking of the property, broadly speaking, Mr. Simms, you  
22 have identified, have you not, a number of parcels on the VA  
23 property that may be suitable for the construction of either  
24 temporary or permanent supportive housing?

25 A So there is one specifically on the document we were just

1 looking at, so there are specific parcels that we're actually  
2 planning that could be for that.

3 There is also work that was done part of the  
4 programmatic environmental impact statement or PEIS process  
5 that looked more broadly at potential uses for lots of  
6 different parcels on campus. And housing was one of those  
7 potential uses.

8 Q If we could put up Exhibit 6. It will be on the screen  
9 there for you in just a second.

10 Can you describe what Exhibit 6 is?

11 MS. PETTY: Counsel, could I have a copy, please.

12 MR. DU: You should have one in your binders there.

13 MR. SILBERFELD: Here.

14 THE WITNESS: So this exhibit is from master plan  
15 2022, and it's one of the maps or the figures provided in the  
16 master plan.

17 BY MR. SILBERFELD:

18 Q And on Exhibit 6, there are roughly 12 parcels of land on  
19 the north and south portions of the campus that may be suitable  
20 for the placement of housing, correct?

21 A Just to be clear, that is not VA's markings -- the 1, 2,  
22 3, up through 12. That is not included in the actual master  
23 plan document. That is something that was overlaid on top of  
24 it.

25 Q It was overlaid for purposes of your deposition testimony.

1 Do you recall that?

2 A Yes. But it was by VA. We didn't do the overlay of that.

3 Q I understand. It was done by a colleague of mine, and he  
4 asked you about these parcels. And I believe that as to all of  
5 them, you agreed that it was at least possible to consider  
6 these 12 parcels as potential sites for housing, correct?

7 A Yes. I think there were a couple of them that I did flag  
8 specific potential issues, but broadly, we could always look at  
9 these, and we have looked at some of these. There would be  
10 impacts if we chose to go down the route of doing housing that  
11 we would need to assess. But there were a couple of them  
12 specifically that I do believe I flagged would be more  
13 problematic than others.

14 Q Do you remember which those were?

15 A Yeah. Parcel 3, specifically.

16 Q Okay. So Parcel 3 is in the upper northwest portion of  
17 the property, right?

18 A Correct.

19 Q And that is an arroyo?

20 A Correct.

21 Q That is how it's labeled. And what was the issue there  
22 for you?

23 A That, in the PEIS process, was identified as an  
24 environmentally sensitive area. And that also happens to be  
25 where the landfill is located, so that could limit its use.



1 Q Fair enough. What is the other one?

2 A So, 11, that you have over there.

3 Q So 11 is the columbarium parking lot?

4 A Yes.

5 Q It's the roughly six and a half acres, just adjacent to  
6 the new columbarium?

7 A Correct.

8 Q And you flagged that for what reason?

9 A Our National Cemetery Administration generally plans their  
10 interments in about 15 years cycles.

11 So the columbarium was built for 15 years. They would  
12 then use that parking lot to further expand the columbarium, if  
13 necessary.

14 Q The existing columbarium, which is beautiful and dignified  
15 and respectful, is relatively new?

16 A Yes.

17 Q It has how many interment spaces, do you know?

18 A I don't know the specific number, no.

19 Q 10,000 sound familiar?

20 A It could be. That is a number they use frequently.

21 Q Okay. And the site that is denominated 11 on Exhibit 6 is  
22 a blacktop asphalt parking lot right now, correct?

23 A Correct.

24 Q And it is intended to be, at some point in the future,  
25 expansion space for the columbarium?

1 A Correct.

2 Q And you understand that the National Cemetery  
3 Administration people think they won't need this particular  
4 parcel for decades to come?

5 A I can't speak to the timing of when they may need it.

6 Q Okay. You mentioned NEPA before and you mentioned the  
7 programmatic environmental impact statement before as well.

8 If something of a temporary nature is put on the  
9 property, in your experience, does that implicate NEPA?

10 MS. PETTY: Objection. Vague as to temporary.

11 THE COURT: Overruled. You can answer the question.

12 THE WITNESS: So the definition under NEPA is so  
13 broad that any activity that the VA would do has to at least be  
14 assessed under the NEPA purview.

15 So temporary, although it may be, it would still have to  
16 at least be assessed under NEPA. It could be quickly  
17 determined that there is no impact that would need any kind of  
18 mitigations, but it would still fall under the umbrella because  
19 the definition under NEPA is an undertaking and it is extremely  
20 broad.

21 BY MR. SILBERFELD:

22 Q So it may -- a temporary building may or may not implicate  
23 NEPA, as you see it?

24 A It would implicate NEPA. What we had to do under NEPA  
25 could be very minimal or more robust.

1 Q Well, when the tiny shelters were put up on the VA  
2 grounds, did somebody assess whether that implicated NEPA or  
3 did you just do it?

4 A It would have been reviewed as to is there a impact that  
5 would need to be further assessed under NEPA.

6 Q Okay. Now, do you have a view -- I want to talk about  
7 leases for a moment.

8 Do you have a view, Mr. Simms, as to whether the  
9 Brentwood School lease is violative of the West Los Angeles  
10 Leasing Act of 2016?

11 A I do not have a view because that is not part of my  
12 portfolio. I don't have much knowledge of that specifically.

13 Q Okay. Same question with regard to the SafetyPark parking  
14 lot. You know which ones I'm talking about?

15 A I do. And same response. I do not have a lot of detail  
16 on those, so no opinion.

17 Q Same question with regard to the UCLA baseball stadium.

18 A Agreed. Same response to that.

19 Q All right. Very good.

20 I want to talk about SCIP. We mentioned it earlier.

21 THE COURT: Counsel, Bridgeland is here also. What  
22 about the oil leases? Same opinion about the oil leases?

23 THE WITNESS: Correct. Same thing.

24 BY MR. SILBERFELD:

25 Q I want to go back -- I want to go back to the capital

1 budget building process with you for a moment, and then we will  
2 be finished.

3           You told us that in your area of responsibility for  
4 capital budget requests, you deal with SCIP, which is the  
5 acronym that stands for --

6 A       Strategic Capital Investment Planning.

7 Q       Okay. And how does that work exactly?

8 A       I'll try to give a high level summary here.

9 Q       Please.

10 A       We start with what we call gaps, and these could be  
11 capacity gaps or they could be service gaps. But we start with  
12 gaps of where we are today to what we're planning to. So,  
13 we're creating a need.

14           And then the facilities that own those needs propose  
15 capital project to fulfill those needs.

16           So, as an example, condition is a very common need out  
17 there. Most of the VA's buildings are very old. Average age  
18 is about 60 years old.

19           They have a condition gap created. The facilities would  
20 then propose one or more projects to address those gaps. And  
21 then once all of a projects are in, the second part of SCIP is  
22 to score and prioritize those projects so we end up with  
23 something that we could fund from sort of a 1 to X. However  
24 much funding we get, we just go down the priority list.

25 Q       Okay. You are aware that in 2016, a draft master plan for

1 the West LA Campus was created?

2 A I'm aware.

3 Q You are aware that a master plan in 2022 was also issued?

4 A Yes.

5 Q And there have been allied reports associated with it?

6 A Correct.

7 Q I know this is before your time, but perhaps you are  
8 familiar from the records, was there a SCIP request to deal  
9 with the expenditures made necessary by the draft 2016 master  
10 plan, as far as you know?

11 A Directly after that, no. There wasn't anything put into  
12 SCIP.

13 More recently, and it would have likely been before the  
14 master plan 2022 or around that same time, there have been  
15 projects put into SCIP to facilitate the development of housing  
16 on West LA.

17 Q The first time that a SCIP request was included about the  
18 master plan was for fiscal year '24; isn't that right?

19 A I don't know exactly what year. But that would have  
20 happened in fiscal year in 2022, because we do our budgeting  
21 two years in advance.

22 Q Fair enough. So in 2022, there may have been, at that  
23 point, a SCIP request for the purpose of funding the master  
24 plan?

25 A So, the master plan in and of itself is very broad.

1 Q Yes.

2 A If you are asking specifically about support for the  
3 housing development, then that could be true.

4 I don't memorize the SCIP list. Much too big to know  
5 exactly what came in in what year.

6 The broader master plan, for example, includes Building  
7 500 and the replacement there, as well as a lot of the clinical  
8 and medical stuff on the South Campus. Those projects have  
9 been submitted through SCIP all along.

10 Q Are you aware of the principles for partnership and  
11 framework for settlement that resulted from the *Valentini*  
12 litigation in 2015?

13 A I am.

14 Q Have you ever read the principles for partnership?

15 A I have.

16 Q Okay. Let me show you Exhibit 152. Do you have it in  
17 front of you, sir?

18 A I do.

19 Q This was dated January 28, 2015.

20 A I see that.

21 MR. SILBERFELD: I don't know if it's been moved in  
22 evidence, Your Honor. I will offer it.

23 THE COURT: Received.

24 (Exhibit 152 received into evidence.)

25 BY MR. SILBERFELD:

1 Q If you turn to the last page you will see a signature of  
2 Robert McDonough. You understand him to have been the  
3 Secretary of VA as of October of -- sorry, January 2015?

4 A Yes.

5 Q And you have read this document?

6 A I have.

7 Q If I could ask you to turn to page 2, Paragraph 9, well,  
8 actually, we should start just above Paragraph 7.

9 Do you see where it says "VA will" just above the  
10 number 7 on page 2?

11 A I do see that.

12 Q Okay. And you understand that what follows is what VA  
13 will do?

14 A Understood.

15 Q Then go down, if you would, and read Paragraph 9.

16 A Okay.

17 Q Would you read it out loud for us?

18 A "Include the objective and goals of the principles  
19 document and the new master plan in VA's annual Strategic  
20 Capital Investment Plan ten-year planning process."

21 Q You know that that did not happen, though, don't you?

22 A I wouldn't agree with that.

23 Q Well, when was the principles document and the new master  
24 plan first included in the Strategic Capital Investment Plan's  
25 ten-year planning process?

1 MS. PETTY: Objection. Misleading to the extent  
2 this document does not state what counsel's saying it does.

3 THE COURT: Overruled.

4 THE WITNESS: From my perspective, this document was  
5 put together prior to the master plan. This document was put  
6 together prior to actually having authority to do anything in  
7 the principles document.

8 It was done prior to the due diligence necessary to  
9 deliver much of this.

10 But keep in mind, the master plan went well beyond  
11 housing. So, to the extent that it was clinical, it's been  
12 included in SCIP all along.

13 To the extent that it's housing related, once we got the  
14 authority, under the West LA Leasing Act, once we completed the  
15 due diligence under the PEIS and had a real plan of what we  
16 were going to do, where VA needed money, it was included in  
17 SCIP.

18 BY MR. SILBERFELD:

19 Q Well, I appreciate your answer. But Paragraph 9 doesn't  
20 say any of that, does it, sir?

21 It just says "the objectives and goals of the principles  
22 document and the new master plan will be included."

23 Correct?

24 A And I believe it does.

25 Q Okay. Going back to legal authority for a second.



1 Other than the statutes we have talked about here today,  
2 did Mr. Davenport ever cite to you any other statute or policy  
3 or rule that justifies the position that VA cannot build  
4 permanent supportive housing?

5 MS. PETTY: Objection. Privilege.

6 THE COURT: Overruled.

7 THE WITNESS: In our discussions we always, again,  
8 focused on congressional intent.

9 That is Congress's policy to us of how they want us to  
10 do stuff. That was the discussion around permanent supportive  
11 housing and how it would be done. First with the broad EUL  
12 program, and then specifically with the West LA Leasing Act  
13 language.

14 Congressional intent and their policy direction to us  
15 was very clear that the EUL program is how that should be  
16 delivered.

17 BY MR. SILBERFELD:

18 Q That is your interpretation and Mr. Davenport's, correct?

19 A Correct.

20 MR. SILBERFELD: Thank you. That is all, Your  
21 Honor.

22 THE COURT: You are going to be coming back to join  
23 us later on, as I understand?

24 THE WITNESS: I believe so, sir.

25 THE COURT: Why don't you get to the airport and get

1 home to see family, then.

2 THE WITNESS: Thank you very much.

3 THE COURT: Thank you, sir. You may step down.

4 Okay. Counsel, anything else this evening?

5 MR. SILBERFELD: I've failed to admit Exhibits 81,

6 227 --

7 THE COURT: Just a minute. 81, 227 --

8 MR. SILBERFELD: 1072 and 6.

9 THE COURT: Counsel, just a moment.

10 81 is received. 287 is received.

11 (Exhibits 81 and 287 received into evidence.)

12 MR. SILBERFELD: 1072 is the next one, Your Honor.

13 THE COURT: I must not have written that in my  
14 notes, counsel. My apologies.

15 What was 1072? Because I -- it's right in front of me.  
16 It's the VA enhanced-use lease agreement, February 22nd -- I'm  
17 sorry. Received.

18 (Exhibit 1072 received into evidence.)

19 MR. SILBERFELD: The last one is Exhibit 6, which is  
20 the map and bubble diagram we just spoke with the witness  
21 about.

22 THE COURT: We have 229 you're referring to next,  
23 the housing phasing plan of West Los Angeles, and then you went  
24 back to 1616.

25 MR. SILBERFELD: I think it's already been received.

1 THE COURT: It has been received, I believe.

2 THE WITNESS: Each of those has been? All right.

3 THE COURT: And we're back to Exhibit 6.

4 MR. SILBERFELD: 6 is the map with the bubble  
5 diagram. We will offer that.

6 THE COURT: Received.

7 (Exhibit 6 received into evidence.)

8 MR. SILBERFELD: And then we are complete, I think.

9 THE COURT: I think you are too. Check with Kerlan,  
10 though.

11 Anything else that you need before we recess?

12 MR. ROSENBERG: Your Honor, if we could actually  
13 have a discussion with the Court as a sidebar to discuss some  
14 of the logistics for the tour next week.

15 THE COURT: Sure.

16 MR. GUADIANA: Your Honor, I know that yesterday you  
17 said -- I believe that yesterday you stated that you wanted a  
18 summary of the settlement agreement between Bridgeland, the  
19 plaintiffs, and defendants. I don't know if you want to do  
20 that now or later, but I figured I would ask.

21 THE COURT: Either way. You can give me a summary  
22 now. You can wait until next week.

23 I need to read the summary -- I need to read the  
24 agreement. I haven't read it yet.

25 The reason I didn't is I needed it docketed, and when

1 you brought it up last night, it hadn't been on the docket.

2 MR. GUADIANA: It might be helpful for me to just  
3 give you a general overview of how it works so that when you  
4 are reading it.

5 THE COURT: You're more than welcome to. Counsel,  
6 is that what you would like to do?

7 MR. SILBERFELD: Sure. That is fine.

8 MR. ROSENBERG: Fine by us.

9 MR. GUADIANA: So, just to give a general overview  
10 of the settlement agreement, the license between Bridgeland and  
11 the VA allows to us directionally drill outside of the VA  
12 grounds, into private property.

13 There is one well that is drilled pursuant to this  
14 license.

15 THE COURT: I call it slant drilling.

16 MR. GUADIANA: Slant drilling. Bridgeland's rights  
17 to be on the VA campus are -- they come from a 1956 BLM lease.  
18 We also entered into a 1969 BLM lease, which gave us right to a  
19 second drill site. That was north of Constitution Avenue --

20 THE COURT: Now, you will have to show me. Now that  
21 we are into this, you will have to go to the map to be certain  
22 -- I don't know if it's a contiguous piece of property or -- I  
23 think it's by Building 297, but I want to be sure.

24 MR. GUADIANA: All right. So, as noted before, here  
25 is the outline of the drill site, of the current drill site.

1           Previously, there was another drill site permitted  
2 through our 1969 BLM lease, just north of this drill site on  
3 Constitution Avenue.

4           THE COURT: What is the size of each of those drill  
5 sites?

6           MR. GUADIANA: I don't know. This, I believe, was  
7 about one and a half acres, this is about three to four acres.

8           THE COURT: Okay.

9           MR. GUADIANA: Now when the columbarium was  
10 permitted to be built, the VA requested that Bridgeland swap  
11 its rights to the drill site under the 1969 BLM lease that is  
12 north of Constitution Avenue, for rights to a drill site just  
13 south of the current drill site.

14           So Bridgeland was allowed -- or Breitburn at the time,  
15 was allowed to expand its current operations into this area,  
16 south of the current drill site.

17           Now, throughout this case, Bridgeland has understood  
18 that what plaintiffs are really seeking is housing and space  
19 for housing on the campus.

20           The VA can't use this property for anything because of  
21 Bridgeland rights.

22           So what we are proposing is to quitclaim that portion  
23 that is outside of the current drill site.

24           THE COURT: Show me that portion.

25           MR. GUADIANA: It's right around here.

1 THE COURT: How large is that portion?

2 MR. GUADIANA: It's about an acre and a half is my  
3 understanding.

4 THE COURT: That would be quitclaimed and that's  
5 just south of the drill site?

6 MR. GUADIANA: Yes.

7 THE COURT: The present drill site where you have --

8 MR. GUADIANA: The present drill site.

9 THE COURT: I think you've got 10 -- you've got a  
10 total of 11.

11 MR. GUADIANA: It would only be quitclaimed for the  
12 purposes of supportive housing or to allow the VA to put  
13 something else there to open up other spots on the campus for  
14 supportive housing.

15 And that is something that the VA could not give  
16 to -- or that is something that the 2017 license, if it was  
17 terminated, could not grant the plaintiffs or the VA.

18 And so as part of the settlement we're trying to free up  
19 additional land for supportive housing on the campus.

20 The royalty is also changing a little bit so that it's  
21 increasing with the price of oil, so that it hopefully will be  
22 a larger royalty throughout time.

23 THE COURT: Is that part of the agreement?

24 MR. GUADIANA: That is part of the agreement.

25 THE COURT: What's that larger royalty?

1 MR. GUADIANA: It goes from 2 and a half to  
2 5 percent, depending on the price of oil. Currently it's 2 and  
3 a half across the board.

4 THE COURT: Okay.

5 MR. GUADIANA: The last point is that the plaintiffs  
6 had issues with the current donee, the entity that received the  
7 payment, the royalty payments, which was the Disabled American  
8 Veterans of California, and so plaintiffs and the VA will  
9 decide on who the money should go to.

10 It will be up to them to reach an agreement. If they  
11 can't reach an agreement, they're going to come before the  
12 Central District.

13 So that's the general overview when you're reading it so  
14 that you can have that in your mind of how the mechanism works.

15 THE COURT: Okay. Thank you very much. I need to  
16 read the agreement.

17 What would that process be, though? This is a  
18 class action, you need preliminary approval, you need -- the  
19 public has to have notification and I need to study this.

20 Before we go any further, though, is there any  
21 environmental impact report that tells us what could be done  
22 with this property, because if the principal benefit turns out  
23 to be long-term supportive housing, which is your argument, and  
24 it turns out to be a non-developed piece of property...

25 MR. GUADIANA: We are unaware of any --

1 THE COURT: What are the veterans getting, what's  
2 the VA getting?

3 So I'm going to ask very simply, is there any  
4 environmental impact report that's done in the past or are we  
5 getting a piece of property that in, you know, good faith looks  
6 like it could be developed, but we have no idea, it could be  
7 worthless.

8 MR. GUADIANA: So if I'm --

9 THE COURT: I mean, I could propose it might be a  
10 dog park, I could propose a lot of things.

11 The second thing is if it was long-term  
12 supportive housing -- and I'm just winging it now -- why would  
13 I put that next to an oil well?

14 MR. GUADIANA: Well, I think the hope, at least from  
15 my client's perspective, is we're making additional land  
16 available to the VA --

17 THE COURT: I know that but --

18 MR. GUADIANA: -- so that it can, you know,  
19 realistically, yes, would a parking lot make more sense there,  
20 100 percent.

21 THE COURT: I don't know, I'm going to ask, is there  
22 an environmental impact report out there?

23 MR. GUADIANA: There is no environmental impact  
24 report, but I can testify that there are no known spills  
25 resulting from the oil field or anything like that.



1 THE COURT: Counsel. If your argument to me is that  
2 this is best used as long-term supportive housing, I'm going to  
3 bear down now just on this brief, why would I put long-term  
4 supportive housing next to an operating oil well, especially if  
5 I have people who are involved with burn pits, asthma, agent  
6 orange?

7 Stand up. Join your colleague over here if you  
8 are joining in this because I'm not going to pre-judge this,  
9 but, whoa, you want an initial impression, I will put it on the  
10 record, whoa.

11 Are you suggesting when you make this overture to me  
12 that this is usable for long-term supportive housing and that  
13 I'm getting something of value principally for the benefit of  
14 veterans, and I'm going to put that next to an oil well?

15 You go home and think about it. I will go read this  
16 with an open mind, but you wanted my initial thought and I will  
17 tell you what my initial thought is, I'm already concerned.

18 Let me back away.

19 You put me in the position tonight when I'm a little  
20 tired, so I want to be fair and look at this, but you are  
21 coming to me with, it might be a dog park, it might be nothing,  
22 or it might be long-term supportive housing and I don't even  
23 have an environmental impact report.

24 I'm not going to be alive when this is developed. Well,  
25 I will be, I'm joking, but I'm buying something in the future

1 on behalf of the veterans that I have no idea is a benefit.

2 I don't even know, first of all, if it's an acre, how  
3 many units can I put on a single story.

4 MR. GUADIANA: So we had a developer go out there,  
5 200.

6 THE COURT: Single story?

7 MR. GUADIANA: I'm not sure, but they said they  
8 believed they could build about 200 units per acre.

9 THE COURT: Okay. I mean, that is good news.

10 MR. GUADIANA: And, of course, nothing can happen  
11 without the VA's consent for leasing this out to be developed.

12 THE COURT: Have they consented?

13 MR. GUADIANA: They have not specifically consented  
14 to any additional housing on the campus, I think that that's  
15 what this whole case is about.

16 THE COURT: Well, this is a full service group here.  
17 If they are not consenting --

18 MR. GUADIANA: They are consenting to the agreement  
19 and I think that the hope is that this will be used to free up  
20 other space on the VA's campus.

21 THE COURT: Hold on, I'm always interested in space,  
22 but now tell me what that space is.

23 In other words, if we have got a cascade that gives us  
24 more land, but you have got to be out front with me on this a  
25 little bit, so what else is going to be freed up here and how

1 much?

2 MR. GUADIANA: Well, so we will be freeing up this  
3 acre and a half.

4 THE COURT: So I've got that.

5 MR. GUADIANA: Which will allow additional space --  
6 which will allow the VA to replace -- let's say, for example,  
7 the parking that they have for the medical center, they can  
8 move some of that parking here, and have housing where the  
9 parking lot -- you know on an acre and a half of where the  
10 current parking lot is.

11 THE COURT: Here's the bind I'm in. This may be a  
12 very good settlement, I don't know yet, but coming to me right  
13 now at this stage of the litigation doesn't give me a comfort  
14 level, just initially, that's why I'm asking the questions with  
15 some passion right now, of what am I getting on behalf of the  
16 veterans, you know, that's in concrete rather than coming back  
17 with litigation ten years from now, or we're getting something  
18 worthless.

19 MR. GUADIANA: I want to put this all in context,  
20 right?

21 At the end of this litigation if my client were to put  
22 its case on and you decided that the license agreement was  
23 invalid, then we would have to plug and abandon a well and no  
24 veterans would get any additional land, my client would not be  
25 required to relinquish its rights to this --

1 THE COURT: If I declare that lease null and void  
2 you won't be slant drilling.

3 MR. GUADIANA: Correct.

4 THE COURT: So you will be down 700 acres, so you  
5 will have to decide how much profit that is or not, I have no  
6 idea, but you won't be slant drilling.

7 And if I approve this, you can come back and  
8 slant drill again in perpetuity, you know, 10 or 15 years from  
9 now?

10 In other words, you can take off on another slant drill  
11 because I have given you permission? And what is the effect on  
12 the veterans out there if I have got burn -- you see, I don't  
13 know.

14 So I don't want to get in an argument in position or  
15 start going down the line where I'm confronting you, but you  
16 asked for an initial impression. If it involves the health and  
17 safety of veterans, and I don't have environmental impact  
18 report, I'm concerned. But I don't know what I'm going to with  
19 that, okay?

20 But if you start telling me that this lease will cascade  
21 to 500 or 600 new units, you've got X amount, and you could  
22 build two stories, and I don't have landfill problems, by the  
23 way, just joking with you.

24 Hey, let's talk, okay? Let's talk. But right now I'm  
25 hearing an acre or an acre a half next to ten producing wells.

1 I'm going to put veterans next to those, or maybe it might be a  
2 dog park or maybe it might be worthless, you know, those are my  
3 concerns.

4 Let me read this with an open mind, though, you don't  
5 want to catch a judge at 5:30 trying to make a snap decision  
6 when I've been trying to pay attention and I'm tired. It's not  
7 fair to you, it's not fair to me, okay? But you wanted a  
8 concern, that is a concern.

9 Line up the veterans to tell me. If this is going  
10 forward then I better have public input. So why am I rushing  
11 through now on a class action that you could have settled a  
12 long time ago, six months ago you could have brought this to  
13 me.

14 Six months ago I could have had time for input from the  
15 public, 21 days, I could have then had a final determination, I  
16 could have had a hearing, but what it really sounds like is you  
17 want me to rush through this process in some way, agree to a  
18 settlement after all of this litigation, give you my blessing  
19 somehow. Where's the transparency in that?

20 Okay. Now, you go home and think about it, let me think  
21 about that also, but I'm concerned.

22 Now, anything else?

23 MR. ROSENBERG: Your Honor, we still actually wanted  
24 to approach to discuss the tour on Wednesday.

25 THE COURT: Oh, come on.

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(Off the record discussion.)  
(Proceedings concluded at 5:52 p.m.)

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**CERTIFICATE OF OFFICIAL REPORTER**

COUNTY OF LOS ANGELES )  
 )  
STATE OF CALIFORNIA )

I, TERRI A. HOURIGAN, Federal Official Realtime Court Reporter, in and for the United States District Court for the Central District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the judicial conference of the United States.

Date: 16th day of August, 2024.

/s/ TERRI A. HOURIGAN

\_\_\_\_\_  
TERRI A. HOURIGAN, CSR NO. 3838, RPR, CRR  
Federal Court Reporter

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